

minutes

MEETING HELD ON **23 JUNE 2020**

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CITY OF JOONDALUP

**COUNCIL MEETING HELD IN THE COUNCIL CHAMBER, JOONDALUP CIVIC CENTRE,
BOAS AVENUE, JOONDALUP ON TUESDAY 23 JUNE 2020.**

DECLARATION OF OPENING

The Mayor declared the meeting open at 7.00pm.

ANNOUNCEMENT OF VISITORS

Mayor:

HON. ALBERT JACOB, JP

Councillors:

CR KERRY HOLLYWOOD	North Ward	
CR TOM McLEAN, JP	North Ward	
CR PHILIPPA TAYLOR	North Central Ward	
CR NIGE JONES	North Central Ward	
CR CHRISTOPHER MAY	Central Ward	<i>absent from 7.58pm to 8.03pm</i>
CR RUSSELL POLIWKA	Central Ward	<i>absent from 9.16pm to 9.18pm</i>
CR CHRISTINE HAMILTON-PRIME	South-West Ward	
CR JOHN RAFTIS	South-West Ward	
CR JOHN CHESTER	South-East Ward	
CR JOHN LOGAN	South-East Ward	
CR RUSS FISHWICK, JP	South Ward – <i>Deputy Mayor</i>	
CR SUZANNE THOMPSON	South Ward	

Officers:

MR GARRY HUNT	Chief Executive Officer	<i>to 8.45pm</i>
MR JAMIE PARRY	Director Governance and Strategy	
MS DALE PAGE	Director Planning and Community Development	<i>to 8.44pm</i>
MR NICO CLAASSEN	Director Infrastructure Services	<i>to 8.44pm</i>
MR MAT HUMFREY	Director Corporate Services	<i>to 8.44pm</i>
MR BRAD SILLENCE	Manager Governance	
MR CHRIS LEIGH	Manager Planning Services	<i>to 8.13pm</i>
MR DANIEL DAVINI	Media Advisor	<i>to 8.44pm</i>
MRS VIVIENNE STAMPALIJA	Governance Coordinator	<i>absent from 8.44pm to 9.25pm</i>
MRS DEBORAH GOUGES	Governance Officer	<i>absent from 8.44pm to 9.25pm</i>
MRS WENDY COWLEY	Governance Officer	<i>from 7.34pm absent from 8.44pm to 9.25pm</i>

There were 16 members of the public and one member of the press in attendance.

DECLARATIONS OF INTEREST

Disclosures 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.

Name/Position	Mr Garry Hunt, Chief Executive Officer.
Item No./Subject	Notice of Motion – Mayor Albert Jacob, JP – Offer to Vary Expiry Date of Contract of Employment – Chief Executive Officer.
Nature of interest	Financial Interest.
Extent of Interest	Mr Hunt holds the position of Chief Executive Officer and the Notice of Motion deals with the Chief Executive Officer's contract of employment extension.

Disclosures of interest affecting impartiality

Nil.

PUBLIC QUESTION TIME

The following summarised question was taken on notice at the Council meeting held on 19 May 2020:

Ms M Kwok, Ocean Reef:

Re: Glyphosate Spraying.

Q4 *Under the National Registration Scheme for Agricultural and Veterinary Chemicals framework, the APVMA is responsible for the regulation and control of agricultural and veterinary chemicals up to the point of retail sale. If we suspect a batch of glyphosate-based herbicide has toxic contaminants due to number of sick animals after using treated parks, who is responsible for carrying out the testing and will be liable for damages caused?*

A4 The City has contacted the Australian Pesticide and Veterinary Medicines Authority (APVMA) and confirmed the following:

- The APVMA administers Australian agvet legislation and has a duty to not only manage potential risks, but also enforce compliance when required.
- The APVMA is responsible for the regulation of agvet chemicals up to the point of sale or supply.

- The testing of agvet chemicals that have already been purchased also falls within the scope of an APVMA investigation, if there is a genuine reason to test based on available evidence.

If an adverse experience occurs it is recommended that the information be reported to the APVMA via their [website](#).

The following questions were submitted prior to the Council meeting on 23 June 2020:

Ms S Yorke, Mullaloo:

Re: Glyphosate.

Q1 Can the City of Joondalup use non-chemical weed control methods in areas that are frequented by children such as Mullaloo Beach Primary School perimeters, Korella Park and bushland?

A1 The City has an integrated weed management approach which includes the use of physical and chemical weed control methods in accordance with site specific circumstances.

The majority of weed control within the City of Joondalup is managed through the use of physical weed control methods, including mowing, whipper snipping, mulching and manual removal. The City estimates that its proportion of non-chemical methods of weed control is in excess of 90%.

Additional consideration is given to the timing of herbicide application in the vicinity of sensitive facilities by the introduction of a 500 metre zone around all school, kindergarten, childcare centres and community health centre sites where herbicide application is only undertaken between 9.00am and 2.00pm to avoid the time children and patrons may be travelling to and from these sites.

Q2 Can the City of Joondalup add a dye to the weed control chemicals to allow children and community members to see where the chemical/s have been applied?

A2 The City currently uses marker dye with herbicide to indicate where spraying is conducted in natural areas. The purpose of the marker dye is for staff or contractors spraying herbicides to see which areas have been sprayed due to the difficult spraying conditions such as moving through and around plants, and the varying topography.

When undertaking broad acre spraying, a foam marker is used rather than a dye, due to the large areas covered. The foam is released from both sides of the boom to guide the spraying vehicle to ensure uniformity of application.

Neither of these marker types are currently considered to be required when target spraying around park infrastructure, public access ways, footpaths or kerb lines.

- Q3 *Can the City of Joondalup avoid spraying during school times to minimise chemical exposure to the children at Mullaloo Beach Primary School playing in these areas during lunch breaks and sporting activities?*
- A3 This is already the City's practice as chemical weed control on shared ovals is scheduled to coincide with school holidays (as much as practicable). Schools are also registered on the City's *Pesticide Notification Register* and receive prior notification of scheduled spraying events. Signage is displayed in accordance with the Department of Health *Pesticide Regulations 2011 Signage Requirements*.
- Q4 *Can the City of Joondalup leave warning signs on site for the entire day of spraying the weed control chemical?*
- A4 The City displays pesticide notification signage in accordance with the Department of Health *Pesticide Regulations 2011 Signage Requirements*.
- Q5 *Can the City of Joondalup outline their plan to explore and adopt alternative non-chemical weed control methods to reduce the risk of chemical exposure to the children within the City of Joondalup?*
- A5 The City undertakes weed control trials, both chemical and non-chemical, as new products and technologies become available. This requirement is outlined as a management action in the City's *Weed Management Plan*.

Ms M McCallum, Hillarys:

Re: *Glyphosate.*

- Q1 *Are you aware that the Public Health Act 2011 does not cover animals, it only protects humans?*
- A1 Yes.
- Q2 *If Public Health Act 2011 does not protect dogs, why do you remove the signage according to the act for human protection and give no consideration to animals, thereby exposing our beloved pets to it?*
- A2 The City displays pesticide notification signage in accordance with the Department of Health *Pesticide Regulations 2011 Signage Requirements*.
- Q3 *Are you aware that the average field half-life of Weedmaster Duo is 47 days?*
- A3 Yes. This information is available on the current Safety Data Sheet.
- Q4 *If the average field half-life of Weedmaster Duo is 47 days, and my dog eats grass around tree trunks that have been sprayed the day before without my knowledge because the signs were removed after a few hours post spraying, are you responsible if my dog fell ill from the incident?*
- A4 The City is unable to comment on hypothetical scenarios and would only be able to respond to an individual incident based on the relevant circumstances.

Q5 *Given that the use of chemical weeding has posed a risk to dogs, is there a safer option other than using chemicals which are more harmful than the weed itself?*

A5 The City undertakes an integrated weed management approach to its weed control in natural areas, parks, and urban landscaping areas utilising a range of treatment methods, including the use of a variety of approved herbicides, in order to reduce weed infestations to manageable levels or if possible, to eradicate infestations.

The majority of weed control within the City of Joondalup is managed through the use of physical weed control methods, including mowing, whipper snipping, mulching and manual removal. The City estimates that its proportion of non-chemical methods of weed control is in excess of 90%.

With regard to the use of chemical weed control, the City is guided by the Australian Pesticides and Veterinary Medicines Authority (APVMA) who is an independent statutory authority with the responsibility for the regulation of agricultural and veterinary chemicals in Australia.

When the APVMA receives or is made aware of a significant new piece of information that questions the safety (to target animals, humans or the environment) or efficacy of a registered chemical, the APVMA assesses the new information to determine whether there are sufficient scientific grounds to warrant placing the chemical and/or products containing that chemical under formal reconsideration.

In September 2016, the APVMA chose to consider glyphosate for reconsideration following concerns raised about human exposure to glyphosate after the publication of the International Agency for Research on Cancer (IARC) findings in July 2015 that reclassified glyphosate as 'probably carcinogenic to humans'.

Based on the assessment undertaken, the APVMA concluded in March 2017, that based on the scientific weight of evidence that, among other things, that glyphosate would not likely have an unintended effect that is harmful to animals, plants or things or to the environment and there were no scientific grounds for placing glyphosate and products containing glyphosate under formal reconsideration.

The City will continue to abide by any direction given by the APVMA in relation to the use of herbicides including glyphosate.

Ms E Petrus, Hillarys:

Re: Glyphosate.

Q1 *Does the Council understand that the ratepayers don't want glyphosate to be used?*

A1 The opinions of some residents regarding the City's use of glyphosate have been made known to the City.

Q2 *There have been many recent scientific studies which show glyphosate is unsafe for people and animals, what steps / barriers does the Council undertake to stop using glyphosate in our area weekly?*

A2 The City has an integrated weed management approach which includes the use of physical and chemical weed control methods.

The majority of weed control within the City of Joondalup is managed through the use of physical weed control methods, including mowing, whipper snipping, mulching and manual removal. The City estimates that its proportion of non-chemical methods of weed control is in excess of 90%.

The use of glyphosate by the City of Joondalup is undertaken in alignment with the regulatory requirement for the use of herbicides set by the Australian Pesticides and Veterinary Medicines Authority (APVMA) and the Department of Health WA.

It is the role of the APVMA to consider all relevant scientific information when determining the likely risk before registering a product. This includes considering the impact on human health and worker safety - including long and short-term exposure to users, as well as environmental and animal health risks, and residues in food.

In its *Final Regulatory Position* published in March 2017, the APVMA concluded that based on the scientific weight of evidence, glyphosate would not likely have an unintended effect that is harmful to animals, plants or things or to the environment.

As the City is not the regulatory authority for the advising on the use of herbicides, including glyphosate, it is not appropriate for the City to interpret and apply dissenting scientific studies.

Re: 5G Telecommunication.

Q3 By allowing the land to be used for 5G towers, are you saying that the Council is not responsible for the health of people?

A3 Telecommunications infrastructure has been installed and maintained in the residential, commercial and industrial areas of our cities and towns since 1997, under a regulatory framework put in place by the Federal Government.

This framework consists of:

- *Telecommunications Act 1997.*
- *Telecommunications Code of Practice 2018.*
- *Telecommunications (Low-impact Facilities) Determination 2018.*
- *Industry Codes of Practice such as the Industry Code for Mobile Phone Base Station Deployment 2018.*

These documents can be found on the website of the Federal Department of Communications and the Arts, using the following link:
<https://www.communications.gov.au/publications>

The possible grounds for objection by the City do not include grounds relating to perceived health impacts of the facilities as all telecommunications carriers need to comply with Australian Federal Government regulations regarding electromagnetic energy emissions, which is managed by the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA).

Q4 Do you understand that not following medical and legal professional advice might make yourselves liable for future damages?

A4 The City is required to act within the relevant regulatory framework from which advice is provided by the appropriate authority pertaining to the matter at hand.

Mrs N Brammer, Iluka:

Re: *Glyphosate.*

Q1 *Why is our Council still spraying with glyphosate-based herbicides?*

A1 The City undertakes an integrated weed management approach to weed control in natural areas, parks, and urban landscaping areas utilising a range of treatment methods, including the use of a variety of approved herbicides, in order to reduce weed infestations to manageable levels or if possible, to eradicate infestations.

The use of glyphosate by the City of Joondalup is undertaken in alignment with the regulatory requirements for the use of herbicides as set by the Australian Pesticides and Veterinary Medicines Authority (APVMA) and the Department of Health WA.

Ms C Baldwin, Iluka:

Re: *Glyphosate.*

Q1 *Why is the City of Joondalup not minimising pesticide use (in the vicinity of my home) as stated in Western Australia Department of Health "A guide to the management of pesticides in local government pest control programs in Western Australia"?*

A1 The Government of Western Australia Health Department document "A guide to the management of pesticides in local government pest control programs in Western Australia" dated 10 October 2009, refers to a general principle of minimising pesticide use that is consistent with achieving acceptable pest control outcomes. As stated in the disclaimer, "this document is intended as a guide to assist a local government authority to develop policy in relation to pesticide use.... The local government authority should ensure that any policy developed and the use of any pesticide accords with applicable legislation."

The City's *Weed Management Plan* was adopted by Council at its meeting held on 13 December 2016 (CJ211-12/16 refers). As per this plan, the City undertakes an integrated weed management approach to weed control in natural areas, parks, and urban landscaping areas utilising a range of treatment methods, including the use of a variety of approved herbicides, in order to reduce weed infestations to manageable levels or if possible, to eradicate infestations.

In determining the appropriate weed control method for a given situation, the City takes the following into consideration:

- The target weed.
- The season and timing such as before seeding.
- Resistance of the weed to specific herbicides.
- Site location and any special considerations such as near wetlands.
- Weather conditions such as rain and wind.
- Rotation of the type of herbicide used to reduce herbicide resistance.
- Effectiveness of outcomes, labour intensity required, and cost involved.

The majority of weed control within the City of Joondalup is managed through the use of physical weed control methods, including mowing, whipper snipping, mulching and manual removal. The City estimates that its proportion of non-chemical methods of weed control is in excess of 90%.

- Q2 *Why is the City of Joondalup using out of date data (pre 2018 Monsanto court findings) and data supplied by testing carried out only by the company - Monsanto to rate its human and environmental toxicity?*
- A2 The use of glyphosate by the City of Joondalup is undertaken in alignment with the regulatory requirement for the use of herbicides as set by the Australian Pesticides and Veterinary Medicines Authority (APVMA) and the Department of Health WA.
- Q3 *As stated in 2.21 of the Document "Western Australia Department of Health "A guide to the management of pesticides in local government pest control programs in Western Australia", what testing has been carried out by the City of Joondalup to test any residual effects of the pesticide in the environment?*
- A3 The aim of Section 2.0 Risk assessment and management, of the Government of Western Australia Health Department document "*A guide to the management of pesticides in local government pest control programs in Western Australia*" dated 10 October 2019, is to guide the implementation of a risk assessment and management process for pesticide use by the Local Government Authority. Section 2.2.1 lists a number of factors that should be considered in the risk identification and assessment process.

The City's approach to weed management, as outlined in the City's *Weed Management Plan*, utilises a variety of methods to minimising risks in terms of safety and maximising effectiveness. This methodology aligns with the factors for consideration as listed in Section 2.2.1.

As stated in A2 above, the use of glyphosate by the City of Joondalup is undertaken in alignment with the regulatory requirement for the use of herbicides as set by the Australian Pesticides and Veterinary Medicines Authority (APVMA) and the Department of Health WA.

It is the role of the APVMA to consider all relevant scientific information when determining the likely risk before registering a product. This includes considering the impact on human health and worker safety - including long and short-term exposure to users, as well as environmental and animal health risks, and residues in food.

In its *Final Regulatory Position* published in March 2017, the APVMA concluded that based on the scientific weight of evidence, glyphosate would not likely have an unintended effect that is harmful to animals, plants or things or to the environment.

- Q4 *According to the above document, under exposure risks, one has to consider the location of "chemically sensitive" person(s). When asked repeatedly to stop spraying Biocides around chemically sensitive persons such as myself, in my case since 2017, why has the City of Joondalup refused these requests and continued spraying?*
- A4 The City considers chemically sensitive person(s) by providing prior notification of spraying activities directly to registered residents and well as by a public notice on the City's website. Signage is also displayed in accordance with the Department of Health *Pesticide Regulations 2011 Signage Requirements*.

Q5 *What is the proportion of non chemical methods of weed control (as compared to the use of chemicals) used in the City of Joondalup?*

A5 The majority of weed control within the City of Joondalup is managed through the use of physical weed control methods, including mowing, whipper snipping, mulching and manual removal. The City estimates that its proportion of non-chemical methods of weed control is in excess of 90%.

Mr A Baldwin, Iluka:

Re: *Glyphosate.*

Q1 *What (no spray buffer and exclusion zones), as required in 2.3 of the Government of Western Australia Health Department document Western Australia Department of Health “A guide to the management of pesticides in local government pest control programs in Western Australia” are currently in place in the City of Joondalup?*

A1 The Government of Western Australia Health Department document “A guide to the management of pesticides in local government pest control programs in Western Australia” dated 10 October 2009, was developed as a guide to local governments and none of the requirements are mandated by legislation in Western Australia.

Section 2.3 of the document provides examples of risk elimination and/or reduction options in the use of pesticides, as part of a risk assessment process, where its application cannot be controlled by the user. Imposing a buffer/no spray zone where relevant, is only one example of potential elimination methods identified in the guide.

The City’s approach to weed management, as outlined in the City’s *Weed Management Plan*, utilises a variety of methods to minimising risks in terms of safety and maximising effectiveness. In determining the appropriate weed control method for a given situation, the City takes the following into consideration:

- The target weed.
- The season and timing such as before seeding.
- Resistance of the weed to specific herbicides.
- Site location and any special considerations such as near wetlands.
- Weather conditions such as rain and wind.
- Rotation of the type of herbicide used to reduce herbicide resistance.
- Effectiveness of outcomes, labour intensity required, and cost involved.

As the City is able to effectively control the application of pesticides, the establishment of buffer and no spray zones has not been required.

Q2 *Why is the COJ not taking seriously and addressing the problem that spraying Biocides such as Glyphosate is detrimental to the health of certain residents and animals in the City of Joondalup?*

A2 The City takes its responsibilities in the effective management of weeds very seriously by developing and implementing an integrated approach to weed control that is highly transparent and aligns with, and is informed by, all current regulatory requirements.

Q3 *Why is the City of Joondalup not taking action to stop spraying Biocides in the vicinity of our home as repeatedly requested by family members and our Medical Doctor since 2017?*

A3 The City has previously provided multiple responses directly to your family members on this personal matter.

Q4 *With the well documented health risks associated with glyphosate why is the City of Joondalup still using these outdated practices when there are many excellent alternatives as used by other local councils?*

A4 The City undertakes an integrated weed management approach to weed control in natural areas, parks, and urban landscaping areas utilising a range of treatment methods, including the use of a variety of approved herbicides, in order to reduce weed infestations to manageable levels or if possible, to eradicate infestations.

The majority of weed control within the City of Joondalup is managed through the use of physical weed control methods, including mowing, whipper snipping, mulching and manual removal. The City estimates that its proportion of non-chemical methods of weed control is in excess of 90%.

With regard to the use of chemical weed control, the City is guided by the Australian Pesticides and Veterinary Medicines Authority (APVMA) who is an independent statutory authority with the responsibility for the regulation of agricultural and veterinary chemicals in Australia.

When the APVMA receives or is made aware of a significant new piece of information that questions the safety (to target animals, humans or the environment) or efficacy of a registered chemical, the APVMA assesses the new information to determine whether there are sufficient scientific grounds to warrant placing the chemical and/or products containing that chemical under formal reconsideration.

In September 2016, the APVMA chose to consider glyphosate for reconsideration following concerns raised about human exposure to glyphosate after the publication of the International Agency for Research on Cancer (IARC) findings in July 2015 that reclassified glyphosate as 'probably carcinogenic to humans'.

Based on the assessment undertaken, the APVMA concluded in March 2017, that based on the scientific weight of evidence that there were no scientific grounds for placing glyphosate and products containing glyphosate under formal reconsideration. The City will continue to abide by any direction given by the APVMA in relation to the use of herbicides including glyphosate.

The City continues to undertake weed control trials, both chemical and non-chemical as new products and technologies become available. This requirement is also outlined as a management action in the City's *Weed Management Plan*.

- Q5 *Where is the run off catchment for the sump on the corner of St Lucia and Burns Beach Road to contain these pesticides before the poison finds its way into ground water or the ocean?*
- A5 Following the assessment undertaken by the APVAMA as noted in A4 above, the APVAMA concluded in its *Final Regulatory Position* published March 2017, that based on the scientific weight of evidence, glyphosate would not likely have an unintended effect that is harmful to animals, plants or things, or to the environment.

Mr D Blackburn, Kingsley:

Re: *CJ072-06/20 – Proposed Amendment to Local Planning Scheme No. 3 – Private Community Purposes Zone.*

Q1 *As the Western Australian Planning Commission (WAPC) opposes residential land uses in 'Private Community Purposes' zoned sites like that of the Joondalup Resort Connolly, why would the City risk rejection by recommending residential land uses 'Grouped Dwelling' and 'Multiple Dwelling' be listed as additional uses in Table 4 of LPS3 ?*

A1 Irrespective of the WAPC's position, it is open for the City to undertake its own analysis and make its own recommendations for the WAPC and Minister's consideration. The analysis undertaken by the City concludes is it appropriate that most of the Private Community Purposes zoned sites not be developed for residential purposes, but in some site-specific circumstances, residential development may be appropriate. The recommendation presented for Council's determination reflects this.

Q2 *If the recommendation for Joondalup Resort is approved wouldn't this make possible the loss of the golf course with its open space and vegetation to residential development?*

A2 If the recommendation is adopted by Council and subsequently approved by the Minister, a Local Development Plan (LDP) will need to be prepared and approved to guide any residential development on the site.

The location, scale and impact of any residential development that could occur will be taken into account as part of the LDP process.

Any adoption of an LDP requires a decision by Council following a period of public consultation.

Q3 *Why is the Joondalup Resort regarded as an exceptional case for residential land uses among the many sites zoned as 'Private Community Purposes'?*

A3 As outlined in the report, the site differs from other 'Private Community Purposes' sites, given its large size, the existing land uses on it, and the large separation of those uses from surrounding residential development. While it is noted the WAPC is of the view that residential land uses do not accord with the objectives of the 'Private Community Purposes' zone, in this instance and in recognition of the unique nature of this site, residential land uses are considered to be complementary to the existing hotel and serviced apartment uses.

Re: *CJ074-06/20 – Proposed Seven Multiple Dwellings at Lot 945 (12) Northwood Way, Kallaroo (Section 31 Reconsideration).*

Q4 *For the current financial year could the City list the State Administrative Tribunal (SAT) actions it has been involved with including the amounts of money spent on Consultants and Legal Services?*

A4 The following outlines the planning proposals subject to a SAT application that the City has been involved in for the 2019/20 financial year, along with any consultant or legal costs incurred. It is important to note that this expenditure does not reflect the cost of City officer time preparing for and attending SAT proceedings.

<i>Address</i>	<i>Proposal</i>	<i>Decision-maker</i>	<i>Status</i>	<i>Consultant / legal costs incurred</i>
15 Hocking Parade, Sorrento	Additional land use 'Community Purpose' to existing Educational Establishment	Council	Approved	\$11,309 ¹
4 and 6 Brechin Court, Duncraig	13 Multiple Dwellings	Council	Withdrawn	Nil
9 and 11 Davallia Road, Duncraig	13 Multiple Dwellings	JDAP	Approved	Nil
8 and 10 Brechin Court, Duncraig	16 Multiple Dwellings	JDAP	Approved	Nil
2 Barradine Way, Craigie	Three Grouped Dwellings	Delegated authority	Approved	Nil
2 Barradine Way, Craigie	Four Grouped Dwellings	Delegated authority	Approved	Nil
4 Cromer Grove, Kallaroo	Six Multiple Dwellings	Council	Pending	\$7,090.23 ²
12 Northwood Way, Kallaroo	Seven Multiple Dwellings	Council	Pending	\$8,869.00 ²
41 Twickenham Drive, Kingsley	Seven Multiple Dwellings	Council	Pending	Nil ²

Notes:

1 \$44,190.66 incurred in 2018/19 financial year.

2 Costs are year-to-date and further costs may be incurred.

Ms M Kwok, Ocean Reef:

Re: *Glyphosate.*

Q1 *According to SDS on Glyphosate-based Herbicide ACP 450, it states that there is no data on health effects for long term exposure on inhalation, skin contact, eye contact and ingestion. This is insufficient to ensure public health safety, what are the other scientific and medical data that you are using to ensure our safety when spraying in proximity of populated areas?*

Q2 *According to SDS on Glyphosate-based Herbicide Weedmaster Duo, under chronic effects, "no information is available, therefore no chronic effects expected."*

A lack of data does not mean lack of harm. This is insufficient to ensure public health safety, what are the other scientific and medical data that you are using to ensure our safety when spraying in proximity of populated areas?

A1&2 The use of glyphosate by the City of Joondalup is undertaken in alignment with the regulatory requirement for the use of herbicides set by the Australian Pesticides and Veterinary Medicines Authority (APVMA) and the Department of Health WA.

As the City is not the regulatory authority for the advising on the use of herbicides, including glyphosate, it is not appropriate for the City to interpret and apply dissenting scientific studies.

Q3&4 *According to Pesticide Use Notification 6 June to 12 June 2020, in the suburb of Joondalup, Glyphosate-Based Herbicide ACP 450 is to be applied to various locations including City Centre and Pedestrian Accessways.*

- a) *how do we avoid visiting city centre if we don't know which day spraying will occur?*
- b) *how do we avoid where spraying will occur if we are unsure about where these "various locations" and time are?*

A3&4 The City's notification process is intended to provide general information regarding future spraying schedules within the City of Joondalup. This information is available as a Public Notice on the City's website and is provided to registered residents residing within 100 metres of the spraying location. Signage is displayed in accordance with the Department of Health *Pesticide Regulations 2011 Signage Requirements*.

Individuals may wish to adjust their activities according to the available information based on their own perceived concerns. The City does not have the capacity to provide detailed information beyond that which is already publicly available.

Ms M O'Byrne, Kinross:

Re: *Joondalup Performing Arts and Cultural Facility.*

Q1 *Why after more than 987 days has the City failed to report back to Council on the solutions raised in the Performing Arts and Cultural Vision Petition submitted in October 2017 (C72-10/17 refers)?*

A1 It was intended that a report on the petition would be prepared after a review of the Joondalup Performing Arts and Cultural Facility (JPACF) business case. The City was in the process of reviewing the JPACF project, which would have addressed many of the matters raised in the petition report. At this point in time Council has decided to defer the JPACF project.

Q2 *If the City still cannot bring back a report to Council in the very near future on the Performing Arts and Cultural Vision Petition can it at least present the community with an interim report on the work done thus far by the City's administration on the petition's contents?*

A2 It is intended that a report be prepared on the petition and presented to Council for consideration at a future Council meeting.

Q3 *The immediate impact of COVID-19 to employment and wages is working its way through the State with, according to Deloitte, more than 62,300 jobs lost and 30% of those in hospitality. If Joondalup families were afraid of the huge cost to the rates of the original proposal rejected in June 2017 – how is the City going to make future costs palatable to ratepayers recovering from COVID-19 in 2027 - 2028?*

A3 Since June 2017 a new concept plan, with considerably less associated capital and operating cost, has been considered by Council. It is proposed that these matters will be further addressed if Council decide to proceed with the project nearer to 2023 – 2024.

Q4 *The community is manifestly unaware that the City has already sequestered funds from the sale of freehold land in the Performing Arts and Cultural Facility Reserve Fund. Why did the City not put this practice up for full transparent public consultation prior to instigating it?*

A4 Details of the Joondalup Performing Arts and Cultural Facility (JPACF) Reserve, including that the Reserve is funded from proceeds from the sale of surplus land, were included in the JPACF Business Case. Community consultation on the JPACF Business Case was conducted between 16 February 2017 and 30 March 2017.

Approximately 72,500 information packages were posted and each included:

- a covering letter
- a six-page colour brochure containing a summary of the business case and details on how to access further information
- an invitation to comment with instructions on how to do so.

The City collected 1,542 valid responses throughout the 42 day consultation period. 48% of the valid responses indicated support for the proposed JPACF project and Business Case, while 41.9% indicated opposition, 3% were unsure and 7.1% did not respond to that particular question.

Q5 *Will Council please explain when it will be releasing at least some of the sequestered \$16,617,407 JPACF Reserve Funds to enable the Joondalup Arts Community to withstand in the here and now the rigors imposed on their creative purposes by COVID-19?*

A5 The purpose of the Joondalup Performing Arts and Cultural Facility Reserve is for the design and development of the facility. However, at its meeting held on 19 May 2020 (CJ065-05/20 refers), Council resolved in part:

“2 *REQUESTS that a further report be submitted to Council to enable alternative options for the use of the funds assigned to this project and incorporated within the Performing Arts and Cultural Facility Reserve to be considered for alternative purposes as part of the 2020-21 half year budget review.*

It is intended that a report on alternative purposes for these funds will be prepared prior to the 2020-21 half year budget review.

The City of Joondalup presents an annual art and cultural program to promote the development of cultural identity and social harmony through contemporary arts activities. In early 2020, the scheduled program was significantly impacted by the viral pandemic COVID-19 with the closure of City facilities and cancellation of mass gatherings due to public health concerns.

In response to these conditions the City of Joondalup commissioned a new series of online content called Arts in Isolation. The program supported custom-made online content by local artists for families, parents and adults to enjoy from the comfort of their own home. After an expression of interest period, the City invested in ten local artists from Duncraig to Connolly, providing employment opportunities to those who lost employment options.

Ms K Harper, Craigie:

Re: Glyphosate.

Q1 Does the Weekly Pesticide Use Notification include spraying at Pinnaroo Valley Memorial Park, and other areas that are not managed by the City of Joondalup?

A1 No. The City's notification process only relates to land for which the City is responsible for managing. The City does not manage Pinnaroo Valley Memorial Park.

Q2 If the answer to Question 1 is "no", How can we, as residents, avoid pesticide exposure when we use these areas?

A2 The City is unable to comment on behalf of other landowners with regard to their potential use of pesticides.

Q3 I understand the walkway behind our property in Craigie is managed jointly by the City of Joondalup and the Water Corporation.

Is this walkway included on the Weekly Pesticide Use Notification?

A3 The area of land described as "the walkway behind our property" is managed by the Water Corporation and not the City of Joondalup. The City does not undertake spraying on this portion of land.

Again, the City's notification process only relates to land for which the City is responsible for managing.

Q4 Why is the City of Joondalup still using Glyphosate which has had so much bad publicity regarding being a health hazard to humans, domestic pets and wildlife?

A4 The City undertakes an integrated weed management approach to its weed control in natural areas, parks, and urban landscaping areas utilising a range of treatment methods, including the use of a variety of approved herbicides, in order to reduce weed infestations to manageable levels or if possible, to eradicate infestations.

The majority of weed control within the City of Joondalup is managed through the use of physical weed control methods, including mowing, whipper snipping, mulching and manual removal. The City estimates that its proportion of non-chemical methods of weed control is in excess of 90%.

Chemical weed control methods, including the use of glyphosate, is undertaken in alignment with the regulatory requirement for the use of herbicides as set by the Australian Pesticides and Veterinary Medicines Authority (APVMA) and the Department of Health WA.

It is the role of the APVMA to consider all relevant scientific information when determining the likely risk before registering a product. This includes considering the impact on human health and worker safety—including long- and short-term exposure to users, as well as environmental and animal health risks, and residues in food.

In its *Final Regulatory Position* published in March 2017, the APVMA concluded that based on the scientific weight of evidence, glyphosate would not likely have an unintended effect that is harmful to animals, plants or things or to the environment.

The City's integrated weed management approach aligns with the document "*A Guide to the Management of Pesticides Local Government Pest Control Programs in Western Australia*" from the Government of Western Australia Department of Health dated 10 October 2009.

Q5 *Does anyone from the City of Joondalup check on or supervise the sub-contractors who apply Glyphosate around all our suburbs, in order to ensure that they are abiding by safety recommendations for application?*

A5 Yes.

Ms L Arcus, Woodvale:

Re: *Glyphosate.*

Q1 *In regard to large chemical companies and the motivations for profit to hide or skew experimental results, as in the past with Teflon manufacturing as depicting in the movie Dark Waters, does the council not feel it would be better to be safe rather than sorry in regard to reducing glyphosate use where possible?*

Q2 *What is council's view that many of the long term effects of exposure to this chemical has the answer: 'no data' or 'data not available'?*

A1&2 The use of glyphosate by the City of Joondalup is undertaken in alignment with the regulatory requirement for the use of herbicides set by the Australian Pesticides and Veterinary Medicines Authority (APVMA) and the Department of Health WA.

As the City is not the regulatory authority for the advising on the use of herbicides, including glyphosate, it is not appropriate for the City to interpret and apply dissenting scientific studies.

Q3 *If there was evidence that glyphosate was being applied by City employees or contractors in windy conditions, near water ways, over excessively, or without the recommended protective gear, does council feel this is acceptable?*

A3 The City is unable to comment on hypothetical scenarios and would only be able to respond to an individual incident based on the relevant circumstances.

Q4 *Would council simply commit to mulching locally trimmed trees and placing the mulch in park areas to reduce weeds and increase water retention in the soil?*

A4 The City has an integrated weed management approach of which mulching is identified as one of the many options for weed control to be used in conjunction with other options under site specific circumstances.

Q5 *Given that some nature reserve areas have lizards and other small creatures where sprayed, can council adopt different strategies in these areas?*

A5 As A4 above, the City has an integrated weed management approach of which many options may be applied under site specific circumstances.

The majority of weed control within the City of Joondalup is managed through the use of physical weed control methods, including mowing, whipper snipping, mulching and manual removal. The City estimates that its proportion of non-chemical methods of weed control is in excess of 90%.

As per A1, the use of glyphosate by the City of Joondalup is undertaken in alignment with the regulatory requirement for the use of herbicides set by the Australian Pesticides and Veterinary Medicines Authority (APVMA) and the Department of Health WA.

It is the role of the APVMA to consider all relevant scientific information when determining the likely risk before registering a product. This includes considering the impact on human health and worker safety - including long and short-term exposure to users, as well as environmental and animal health risks, and residues in food.

In its *Final Regulatory Position* published in March 2017, the APVMA concluded that based on the scientific weight of evidence, glyphosate would not likely have an unintended effect that is harmful to animals, plants or things or to the environment.

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

Ms M O'Byrne, Kinross:

Re: *Peer Review Micro plan Currambine (Sunlander) – Retail Sustainability Assessment.*

Q1 *On which day were City of Joondalup Elected Members supplied with the Peer Review Micro Plan document ahead of the 10 September 2019 Ordinary Council meeting?*

A1 The Director Planning and Community Development advised that the question would be taken on notice.

Q2 *At what time during that Retail Sustainability Assessment was the Peer Review Micro Plan document sent through to the City of Joondalup Elected Members ahead of the 10 September 2019 Ordinary Council Meeting?*

A2 The Director Planning and Community Development advised that the question would be taken on notice.

Ms M Macdonald, Mullaloo:

Re: *Glyphosate.*

Q1 *Has the City consulted with lawyers on its continuing use of glyphosate or does it hope to rely on the fact that its use is not banned in Australia should it be taken to court about its use?*

- A1 The Director Infrastructure Services advised that the City of Joondalup complies with the regulatory environment regarding the use of glyphosate, including directions from the Australian Pesticides and Veterinary Medicines Authority (APVMA) label instructions and the *Department of Health Regulations 2011*. The Director Infrastructure Services noted that the use of glyphosate has been raised with the City's insurance company but has not been raised with any lawyers.
- Q2 *Can the City state how many times Tom Simpson Park, Mullaloo has been sprayed with glyphosate in the last six months?*
- A2 The Director Infrastructure Services advised that the question would be taken on notice.

Ms M Kwok, Ocean Reef:

Re: *Glyphosate.*

- Q1 *According to the Weed Management Plan 2016, '4.5.4 High Resolution Multi-spectral Imagery' states the City currently acquires high resolution multi-spectral imagery of the City of Joondalup every two years as recommended in the Pathogen Management Plan, when was this last carried out?*
- A1 The Director Infrastructure Services advised that the question would be taken on notice.
- Q2 *Is it correct that the City can carry out glyphosate spraying outside of schools between 9.00am and 2.00pm during recess and lunch hours?*
- A2 The Director Infrastructure Services advised that following specific concerns regarding spraying around school areas, if required spraying is only undertaken between 9.00am and 2.00pm, at times when people are not commuting to and from school.

Mrs C Baldwin, Iluka:

Re: *Glyphosate.*

- Q1 *How many people are on the City of Joondalup 'No Spray Register' for chemically sensitive persons, as stated in the government of Western Australia Health Departments 'A Guide to Management of Pesticide in Local Government Pest Control Programs in Western Australia'?*
- A1 The Director Infrastructure Services advised that the question would be taken on notice.
- Q2 *I have been requested to send video evidence of the dangerous spraying and breaches into the City of Joondalup by City of Joondalup Officers since 2017 but the email system won't deliver them. Is there a process for sending requested videos into the City of Joondalup?*
- A2 Mayor Jacob encouraged Mrs Baldwin to contact the City after the meeting to provide the videos, suggesting that she could provide the City with a thumb drive or possibly provide a link to a Drop Box as the City's email system only allows for emails that are less than 20mb to be received.

PUBLIC STATEMENT TIME

The following summarised statements were submitted verbally at the Council meeting:

Mr S McCallum, Hillarys:

Re: Glyphosate.

Mr McCallum, on behalf of the Mullaloo Beach Primary School Board, spoke with regard to the school's concerns with the application of glyphosate and other chemicals to areas close to Mullaloo Beach Primary School and surrounding bush and park lands. Mr McCallum stated that there has been media coverage in relation to the harmful health and environmental effects of glyphosate, advising that there are current class actions surrounding its link to certain cancers in America and now in Australia.

Mr McCallum advised that the Mullaloo Beach Primary School Board requests that the City explore alternative weed control methods and reduce the risk of chemical exposure to children within the City of Joondalup.

Ms P Skull, Beldon:

Re: Glyphosate.

Ms Skull spoke in relation to the use of glyphosate for weed management in the City of Joondalup advising that the Australian Pesticides and Veterinary Medicines Authority (APVMA) does not independently test products during the licensing process, only relying on studies provided by the manufacturers themselves, where there is a significant conflict of interest.

Ms Skull stated that because of this the APVMA cannot legitimately state that any products they licence for general use are in fact safe. Ms Skull noted that the fundamental issue is that living systems are consistently being assaulted by a toxic agent that has been proven to have serious negative effects for the convenience of using a cheaper short-term quick fix solution for a mostly cosmetic purpose.

Ms M O'Byrne, Kinross:

Re: Time limit for public questions.

Ms O'Byrne spoke with regard to the two minute time limit for electors to make a public question at Briefing Sessions and Council Meetings stating that the two minute limit puts barriers in place for members of the public with general disabilities such as speech and hearing difficulties. Ms O'Byrne advised that electors from diverse backgrounds may be embarrassed and prevented from enjoying a rightful sense of community membership and also may be unable to partake in the rights and duties of a democratic citizenship that we exhibit here due to the time limit.

Ms O'Byrne queried if the two minute time limit for public questions complies with the intentions of the Western Australian Charter of Multiculturalism.

Mr T Needham, Kallaroo:

Re: CJ074-06/20 - Proposed Seven Multiple Dwellings at Lot 945 (12) Northwood Way, Kallaroo (Section 31 Reconsideration).

Mr Needham spoke against the proposed development at 12 Northwood Way, Kallaroo stating that the community is aware that change must come and that they must embrace high population density but requested that the City do it in an intelligent, thoughtful and sensitive manner so that existing standards of lifestyles of the many are not eroded for those who simply want to take advantage of an opportunity. Mr Needham stated that if the proposed development is approved, it would damage the living standards in the surrounding neighbourhood and urged Council to not approve the application.

Mr N Thompson, Kallaroo:

Re: CJ074-06/20 - Proposed Seven Multiple Dwellings at Lot 945 (12) Northwood Way, Kallaroo (Section 31 Reconsideration).

Mr Thompson, on behalf of the Kallaroo Residents' Association Committee, spoke against the proposed development at 12 Northwood Way, Kallaroo stating that the residents' association request that Council support the recommendation for refusal of the development.

Mr Thompson noted that the proposal is unsuitable for the size, access and location on the site and will cause issues with privacy, noise, traffic, vehicle movement, safety and waste management as well as degrading the liveability of Kallaroo and impacting the amenity of the area. Mr Thompson suggested that a more suitable and successful location for apartments would be inside the activity centre and not squeezed into Kallaroo.

Mrs C Baldwin, Iluka:

Re: Glyphosate.

Mrs Baldwin spoke against the spraying of glyphosate which occurred between 3 to 10 June within 50 metres of her home in Iluka. Mrs Baldwin advised that there were at least seven separate spraying events over eight days in the vicinity of her home. Mrs Baldwin noted that during the spraying she documented breaches of safe protocol, advising that she had provided these details via email to all Elected Members.

Mrs Baldwin advised that the spraying causes her health conditions, noting that her doctor has provided her a letter which lists the symptoms she experienced from the spraying on 10 June and advising that City desist from spraying glyphosate within 100 metres of her residence.

Mrs Baldwin stated the community is requesting the City of Joondalup implement a change to its weed management process, similar to other progressive local councils.

Ms M Kwok, Ocean Reef:

Re: Glyphosate.

Ms Kwok spoke in relation to the use of glyphosate for weed management in the City of Joondalup urging Council to phase out the use of glyphosate based herbicides in public places.

Ms Kwok stated that the City of Stirling is using hydrothermal weeding methods in all their sensitive facilities such as within all pre-school and school zones, aged care facilities, childcare centres and hospitals. Ms Kwok advised that the City of Stirling's next stage is to use the same hydrothermal weeding methods in all parks and playgrounds. Ms Kwok felt that this was a great example and suggested that the City of Joondalup do the same.

APOLOGIES AND LEAVE OF ABSENCE**C41-06/20 REQUEST FOR LEAVE OF ABSENCE – MAYOR HON. ALBERT JACOB, JP - [107864]**

Mayor Hon. Albert Jacob, JP requested Leave of Absence from Council duties covering the period 1 to 10 July 2020 inclusive.

MOVED Cr May, SECONDED Cr Jones that Council APPROVES the Request for Leave of Absence from Council Duties FOR Mayor Hon. Albert Jacob, JP covering the period 1 to 10 July 2020 inclusive.

The Motion was Put and

CARRIED (13/0)

In favour of the Motion: Mayor Jacob, Crs Chester, Fishwick, Hamilton-Prime, Hollywood, Jones, Logan, May, McLean, Poliwka, Raftis, Taylor and Thompson.

CONFIRMATION OF MINUTES**C42-06/20 MINUTES OF COUNCIL MEETING HELD 19 MAY 2020, SPECIAL COUNCIL MEETING HELD 26 MAY 2020 AND SPECIAL COUNCIL MEETING HELD 9 JUNE 2020**

MOVED Cr Chester, SECONDED Cr Fishwick that the Minutes of the following meetings of Council be CONFIRMED as a true and correct record:

- 1 Ordinary meeting of Council held on 19 May 2020;**
- 2 Special meeting of Council held on 26 May 2020;**
- 3 Special meeting of Council held on 9 June 2020.**

The Motion was Put and

CARRIED (13/0)

In favour of the Motion: Mayor Jacob, Crs Chester, Fishwick, Hamilton-Prime, Hollywood, Jones, Logan, May, McLean, Poliwka, Raftis, Taylor and Thompson.

ANNOUNCEMENTS BY THE PRESIDING MEMBER WITHOUT DISCUSSION

Health Hub Stairway Taking Shape

Mayor Jacob advised that work is progressing on the centrepiece of the Whitfords Nodes Health and Wellbeing Hub, which consists of a 21-metre-high exercise stairway on the park's northern dune.

Mayor Jacob stated that once completed, later in 2020, the stairway will give users an opportunity to undertake a vigorous exercise regime of running or walking up and down the incline.

Mayor Jacob noted that the stairway will be one of the main attractions in an expansive health and fitness hub, and that the City extends its thanks and gratitude to the Federal Government and Lotterywest for the provision of funds towards this highly anticipated project.

Markyt

Mayor Jacob announced that the City is calling on residents to participate in the MARKYT Community Resilience Scorecard, which is a joint initiative of strategic planning and research company CATALYSE, Local Government Professionals WA and the Department of Local Government, Sport and Cultural Industries to map local government performance and community needs.

Mayor Jacob advised that with 139 local governments and local communities across Western Australia collaborating to gather this information, MARKYT will provide leaders in all sectors of government with timely and relevant data that will help them in their COVID-19 recovery planning.

Mayor Jacob urged residents to complete the MARKYT Community Resilience Scorecard before Friday July 3 at www.research.net/r/MARKYT. More information can be found on the City's Facebook page.

Business Forum

Mayor Jacob advised that the City of Joondalup will host its second business forum of 2020 on Thursday June 25, focusing on the economic recovery of the region.

Mayor Jacob stated that it is an online event, and that the forum will be streamed live between 3.00pm and 4.30pm and will feature a presentation from economist-in-residence, Mark Wallace.

Mayor Jacob commented that Mark will share his analysis of the region's economy, provide insights into current and future economic forecasts and discuss opportunities for local businesses.

Mayor Jacob noted that the forum will also include a panel discussion featuring:

- Gavin Hegney, the Founder and Chair of Hegney Property Group;
- Anthony Rowbottam, General Manager Development, WA for Lendlease; and
- Joondalup Business Association President Neil Gerrard,

who will explore some of the key challenges faced by local businesses in the current economic climate.

Mayor Jacob advised that anyone interested in viewing the online business forum can register on the City's [website](#).

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

- Notice of Motion – Mayor Albert Jacob, JP – Offer to Vary Expiry Date of Contract of Employment – Chief Executive Officer.

C43-06/20 MOTION TO CHANGE ORDER OF BUSINESS – [02154, 08122]

MOVED Mayor Jacob, SECONDED Cr May that Council, in accordance with clause 14.1 of the *City of Joondalup Meeting Procedures Local Law 2013*, suspends the operation of clause 4.3 – Order of Business of the *City of Joondalup Meeting Procedures Local Law 2013*, to enable the consideration of:

- 1 Notice of Motion – Mayor Albert Jacob, JP – Offer to Vary Expiry Date of Contract of Employment – Chief Executive Officer,**

to be discussed after “Urgent Business”.

The Motion was Put and

CARRIED (13/0)

In favour of the Motion: Mayor Jacob, Crs Chester, Fishwick, Hamilton-Prime, Hollywood, Jones, Logan, May, McLean, Poliwka, Raftis, Taylor and Thompson.

PETITIONS

Nil.

The Governance Officer entered the Chamber at 7.34pm.

REPORTS**CJ071-06/20 DEVELOPMENT AND SUBDIVISION APPLICATIONS
– APRIL 2020**

WARD	All
RESPONSIBLE DIRECTOR	Ms Dale Page Planning and Community Development
FILE NUMBER	07032, 101515
ATTACHMENT	Attachment 1 Monthly Development Applications Determined – April 2020 Attachment 2 Monthly Subdivision Applications Processed – April 2020
AUTHORITY / DISCRETION	Information – includes items provided to Council for information purposes only that do not require a decision of Council (that is for ‘noting’)

PURPOSE

For Council to note the number and nature of applications considered under delegated authority during April 2020.

EXECUTIVE SUMMARY

Schedule 2 (deemed provisions for local planning schemes) of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) provide for Council to delegate powers under a local planning scheme to the Chief Executive Officer (CEO), who in turn has delegated them to employees of the City.

The purpose of delegating certain powers to the CEO and officers is to facilitate the timely processing of development and subdivision applications. The framework for the delegations of those powers is set out in resolutions by Council and is reviewed annually, or as required.

This report identifies the development applications determined by the administration under delegated authority powers during April 2020 (Attachment 1 refers), as well as the subdivision application referrals processed by the City during April 2020 (Attachment 2 refers).

BACKGROUND

Clause 82 of schedule 2 (deemed provisions for local planning schemes) of the Regulations enables Council to delegate powers under a local planning scheme to the CEO, and for the CEO to then delegate powers to individual employees.

At its meeting held on 25 June 2019 (CJ078-06/19 refers), Council considered and adopted the most recent Town Planning Delegations.

DETAILS

Subdivision referrals

The number of subdivision and strata subdivision referrals processed under delegated authority during April 2020 is shown in the table below:

Type of subdivision referral	Number of referrals	Potential additional new lots
Subdivision applications	3	3
Strata subdivision applications	6	6
TOTAL	9	9

Of the nine subdivision referrals, seven were to subdivide in housing opportunity areas, with the potential for eight additional lots.

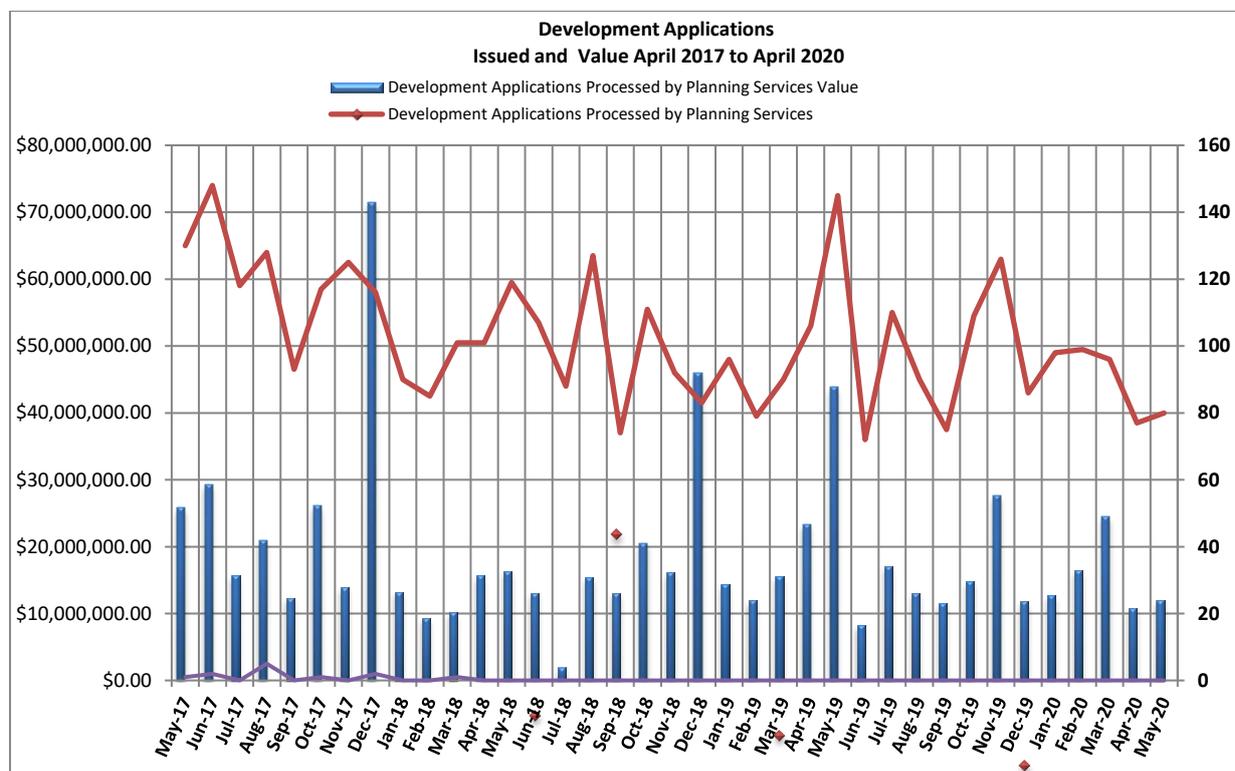
Development applications

The number of development applications determined under delegated authority during April 2020 is shown in the table below:

	Number	Value (\$)
Development applications processed by Planning Services	76	\$9,281,764
TOTAL	76	\$9,281,764

Of the 76 development applications, 12 were for new dwelling developments in housing opportunity areas, proposing a total of 11 additional dwellings.

The total number and value of development applications determined between April 2017 and April 2020 is illustrated in the graph below:



The number of development applications received during April 2020 was 82.

The number of development applications current at the end of April was 165. Of these, 11 were pending further information from applicants and 14 were being advertised for public comment.

In addition to the above, 158 building permits were issued during the month of April with an estimated construction value of \$16,313,999.

Issues and options considered

Not applicable.

Legislation / Strategic Community Plan / Policy implications

Legislation *City of Joondalup Local Planning Scheme No. 3.
Planning and Development (Local Planning Schemes) Regulations
2015.*

Strategic Community Plan

Key theme Quality Urban Environment.

Objective Quality built outcomes.

Strategic initiative Buildings and landscaping is suitable for the immediate environment and reflect community values.

Policy Not applicable. All decisions made under delegated authority have due regard to any of the City's policies that may apply to the particular development.

Clause 82 of schedule 2 of the Regulations permits the local government to delegate to a committee or to the local government CEO the exercise of any of the local government's powers or the discharge of any of the local government's duties. Development applications were determined in accordance with the delegations made under Clause 82 of schedule 2 of the Regulations.

All subdivision applications were assessed in accordance with relevant legislation and policies, and a recommendation made on the applications to the Western Australian Planning Commission.

Risk management considerations

The delegation process includes detailed practices on reporting, checking and cross checking, supported by peer review in an effort to ensure decisions taken are lawful, proper and consistent.

Financial / budget implications

A total of 77 development applications were determined for the month of April with a total amount of \$41,736.79 received as application fees.

All figures quoted in this report are exclusive of GST.

Regional significance

Not applicable.

Sustainability implications

Not applicable.

Consultation

Consultation may be required by the provisions of the R-Codes, any relevant policy and/or LPS3 and the Regulations.

COMMENT

Large local governments utilise levels of delegated authority as a basic business requirement in relation to town planning functions. The process allows for timeliness and consistency in decision-making for rudimentary development control matters. The process also allows the elected members to focus on strategic business direction for the Council, rather than day-to-day operational and statutory responsibilities.

All proposals determined under delegated authority are assessed, checked, reported on and cross checked in accordance with relevant standards and codes.

VOTING REQUIREMENTS

Simple Majority.

MOVED Mayor Jacob, SECONDED Cr Hamilton-Prime that Council NOTES the determinations and recommendations made under delegated authority in relation to the:

- 1 development applications described in Attachment 1 to Report CJ071-06/20 during April 2020;**
- 2 subdivision applications described in Attachment 2 to Report CJ071-06/20 during April 2020.**

The Motion was Put and CARRIED (13/0) by Exception Resolution after consideration of CJ085-06/20, page 126 refers.

In favour of the Motion: Mayor Jacob, Crs Chester, Fishwick, Hamilton-Prime, Hollywood, Jones, Logan, May, McLean, Poliwka, Raftis, Taylor and Thompson.

Appendix 1 refers

To access this attachment on electronic document, click here: [Attach1brf200609.pdf](#)

CJ072-06/20 PROPOSED AMENDMENT TO LOCAL PLANNING SCHEME NO. 3 - PRIVATE COMMUNITY PURPOSES ZONE

WARD	All
RESPONSIBLE DIRECTOR	Ms Dale Page Planning and Community Development
FILE NUMBER	108638, 101515
ATTACHMENT	Attachment 1 Schedule of 'Private Community Purposes' zone sites Attachment 2 Location plan - Craigie Attachment 3 Scheme amendment map Attachment 4 Location plan - Connolly Attachment 5 Additional use table
AUTHORITY / DISCRETION	Legislative - includes the adoption of local laws, planning schemes and policies.

PURPOSE

For Council to consider an amendment to *Local Planning Scheme No. 3* to:

- address the permissibility of residential land uses in the 'Private Community Purposes' zone as requested by the Western Australian Planning Commission
- address a petition received by Council regarding land use permissibility in the 'Private Community Purposes' zone and car parking standards at Sacred Heart College.

EXECUTIVE SUMMARY

As part of the approval of *Local Planning Scheme No. 3* (LPS3), the Western Australian Planning Commission (WAPC) advised that residential development rights in the 'Private Community Purposes' zone need to be addressed to rectify an anomaly in LPS3. Currently, residential development is possible however is not a use that is aligned with the objectives of the zone and no residential density code (R-Code) has been assigned.

A review has been undertaken and an amendment to LPS3 is proposed to:

- change the land use permissibility of 'Grouped Dwelling' and 'Multiple Dwelling' from a 'D' (discretionary) land use to an 'X' (not permitted) land use in the 'Private Community Purposes' zone ('Single House' is already an 'X' land use)
- rezone Lot 19 (2) Barradine Way, Craigie, to 'Residential' and apply the R40 density code
- add additional uses of 'Grouped Dwelling' and 'Multiple Dwelling' to the Joondalup Resort land parcels, subject to conditions.

Sacred Heart petition

Separate and unrelated to the above, a petition has been received requesting Council initiate a scheme amendment to change the land use permissibility in the 'Private Community Purposes' zone from 'P' (permitted) to 'D' (discretionary) for the land uses of Civic Use, Exhibition Centre, Recreation – Private and Small Bar, and to revise the car parking standards used in the determination of the application for the external hire of facilities at Sacred Heart College, Sorrento.

The above land uses are considered to align with the objectives of the 'Private Community Purposes' zone and are therefore appropriate as 'P' (permitted) uses. It is also noted that 'Small Bar' is already a 'D' (discretionary) use in the zone. It is also important to note that if the land use permissibility changes requested in the petition were approved, this would have an impact on all sites throughout the City of Joondalup zoned 'Private Community Purposes' – not just Sacred Heart College. It is unlikely that the owners of the other sites would support the impact on land use rights for their properties.

It is therefore recommended that Council does not change the land use permissibility for the zone as suggested in the petition.

In relation to the car parking standard requested for development at Sacred Heart it is noted that the requested standard is actually a more lenient standard than that used to assess the current 'Community Purposes' land use proposal at Sacred Heart College. The request is therefore not supported as it would result in the requirement for less car parking requirement than is currently the case.

BACKGROUND

The City's current planning scheme, LPS3, was prepared in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* (LPS Regulations) and came into operation on 23 October 2018.

The LPS Regulations introduced a new set of zones and reserves into draft LPS3, including the 'Private Community Purposes' zone which replaced the previous 'Private Clubs/Recreation' zone of the City's former *District Planning Scheme No. 2* (DPS2).

At its meeting held on 16 February 2016 (CJ005-02/16 refers), Council resolved to advertise draft LPS3 and submit it to the WAPC to advise if any modifications were required prior to advertising.

The City received consent from the WAPC to advertise draft LPS3, subject to modifications including a requirement to delete the residential density code (R-Code) from lots zoned 'Private Community Purposes' as the WAPC considered the objectives of this zone did not envisage residential development. However, the issue of land use permissibility of residential uses in the 'Private Community Purposes' zone was not raised by the WAPC at that time.

The modifications requested by the WAPC were undertaken and advertising of draft LPS3 was subsequently carried out between 17 November 2016 and 14 February 2017.

At its meeting held on 27 June 2017 (CJ089-06/17 refers), Council resolved to support draft LPS3, subject to modifications. LPS3 was then forwarded to the WAPC for consideration by the Minister for Planning, who subsequently advised that LPS3 would be supported subject to further modifications.

LPS3 was subsequently approved with 'Grouped Dwelling' and 'Multiple Dwelling' land uses remaining 'D' (discretionary) uses in the 'Private Community Purposes' zone, notwithstanding that it was the WAPC's earlier intent that residential land uses should not occur in this zone. In advising the City of the approval of LPS3, the WAPC requested this anomaly be rectified, following the gazettal of LPS3.

Separately and unrelated to the above, but relevant to the 'Private Community Purposes' zone, a petition has been received requesting Council initiate a scheme amendment to change the land use permissibility in the 'Private Community Purposes' zone from 'P' (permitted) to 'D' (discretionary) for the land uses of Civic Use, Exhibition Centre, Recreation – Private and Small Bar, and to revise the car parking standards used in the determination of the application for external hire of facilities at Sacred Heart College, Sorrento.

DETAILS

An amendment to LPS3 is proposed to address the anomaly whereby grouped and multiple dwellings are discretionary uses in the 'Private Community Purposes' zone (Attachments 1 to 5 refer).

The scheme amendment proposes to:

- change the land use permissibility in Table 3 Zoning Table of 'Grouped Dwelling' and 'Multiple Dwelling' from a 'D' (discretionary) land use to an 'X' (not permitted) land use
- rezone Lot 19 (2) Barradine Way, Craigie, from 'Private Community Purposes' to 'Residential' and apply the R40 density code
- add additional uses of 'Grouped Dwelling' and 'Multiple Dwelling' to Table 4 'Specified additional uses for zoned land in Scheme area' for the Joondalup Golf Course, Country Club and Hotel site, subject to the preparation and approval of a Local Development Plan.

Changes to residential land use permissibility in the 'Private Community Purposes' zone

In reviewing the City's then draft LPS3, it was the WAPC's intent that residential development not be permitted in the 'Private Community Purposes' zone as the WAPC considered that residential development does not align with the objectives for that zone.

In the final version of LPS3, the residential density code was removed from all sites zoned 'Private Community Purposes'; however, 'Grouped Dwelling' and 'Multiple Dwelling' remained 'D' (discretionary) land uses in the zone.

A review of the sites zoned 'Private Community Purposes' indicates that most are developed as places of worship, private schools or private recreation facilities (Attachment 1 refers). None of the sites have been developed for residential uses. Residential land uses would generally not be considered appropriate on these sites as the existing non-residential components could potentially conflict with residential development due to the different nature of the use.

It is therefore recommended that 'Grouped Dwelling' and 'Multiple Dwelling' land uses become 'X' (not permitted) uses on all sites in the City zoned 'Private Community Purposes', with the exception of two sites - discussed in further detail below.

In the event that the scheme amendment proposal progresses and residential land uses are removed from the 'Private Community Purposes' zone, should an owner seek to develop residential uses on a site in the future, a separate scheme amendment application would need to be made to rezone the site to a different, appropriate zone.

Proposed rezoning of Lot 19 (2) Barradine Way, Craigie

Lot 19 (2) Barradine Way, Craigie, is a vacant site zoned 'Private Community Purposes'. The site is next to a child care centre, Whitford Catholic Primary School, a convent, Mercyville Hostel and Church of Our Lady of Mission (Attachments 2 and 3 refer).

Two development applications were approved for three and four grouped dwellings (that is seven in total) on the subject lot on 1 November 2019. The City was required to determine the application in accordance with the current land use permissibility of the 'Private Community Purposes' zone. Although no density code applied to the site, the proposal was designed and determined using the R40 density code of surrounding residential sites (in Housing Opportunity Area 5).

As the site will be wholly developed for grouped dwellings, it is considered appropriate to rezone the site to 'Residential' and apply the R40 density code to reflect the approved land use on the site.

Joondalup Resort, Connolly

This large site is currently subdivided into three lots containing a hotel, resort, serviced apartments and reception centre, the golf club, and the golf course (Attachment 4 refers).

The site differs from other 'Private Community Purposes' sites given its large size, the existing land uses on it, and the large separation of those uses from surrounding residential development. While it is noted the WAPC is of the view that residential land uses do not accord with the objectives of the 'Private Community Purposes' zone, in this instance and in recognition of the unique nature of this site, residential land uses are considered to be complementary to the existing hotel and serviced apartment uses. On this basis, it is proposed to include the land uses 'Grouped Dwelling' and 'Multiple Dwelling' as additional uses in Table 4 of LPS3 for the three subject sites (Attachment 5 refers).

In order to ensure any future residential development on this site is appropriate in terms of location, scale and amenity impacts on the surrounding community, any future residential development will be subject to a Local Development Plan (LDP) which will specify the development requirements such as building height, building setbacks, site area per dwelling or plot ratio, open space and landscaping requirements. The requirement for an LDP can be specified within LPS3 as a precursor to consideration of any residential development.

Petition relating to land use in the 'Private Community Purposes' zone and parking at Sacred Heart College

At its meeting held on 21 April 2020 (CJ24-04/20 refers), Council received a 46-signature petition from residents of the City of Joondalup requesting that Council initiate a scheme amendment for certain land uses within the 'Private Community Purposes' zone and to review parking standards at Sacred Heart College, Sorrento.

While not specifically related to the review of the 'Private Community Purposes' zone required by the WAPC, it is considered appropriate to address the petition in this report as it partly relates to land use and development in the 'Private Community Purposes' zone.

Land use permissibility in the 'Private Community Purposes' zone

The petition requests that Council:

"initiates a scheme amendment to Local Planning Scheme No. 3 to change the land use permissibility in the 'Private Community Purposes' zone from 'P' (permitted) to 'D' (discretionary) for the following uses classes – 'Civic Use', 'Exhibition Centre', 'Recreation – Private' and 'Small Bar';"

No supporting information or reason for the request was included in the petition.

The objectives of the 'Private Community Purposes' zone are:

- to provide sites for privately owned and operated recreation, institutions and places of worship
- to provide for a range of privately owned community facilities, and uses that are incidental and ancillary to the provision of those facilities, which are compatible with surrounding development
- to ensure that the standard of development is in keeping with surrounding development and protects the amenity of the area.

Land uses that are classified as 'P' (permitted) should be those that most closely align with the objectives of that particular zone. Of the land uses listed in the petition which are currently classified as 'P' uses in the 'Private Community Purposes' zone, LPS3 defines these land uses as follows:

Civic Use premises used by a government department, an instrumentality of the State or local government for administrative, recreational or other purposes.

Exhibition Centre premises used for the display, or display and sale, of materials of an artistic, cultural or historical nature, including a museum.

Recreation – Private premises that are used for indoor or outdoor leisure, recreation and sport; and not usually open to the public without charge.

It is considered that 'Civic Use', 'Exhibition Centre', 'Recreation – Private' are land uses that are closely aligned with the objectives of the 'Private Community Purposes' zone and are therefore appropriate as 'P' land uses. It is noted that the land use permissibility for 'Small Bar' is already a 'D' (discretionary) use in the 'Private Community Purposes' zone.

While the reason for the request in the petition to change the land use permissibility in the 'Private Community Purposes' zone is not known, it is important to note that potential issues around specific developments are often related to the design and scale of the development, rather than directly related to the land use. Issues such as building height, scale, building design, car parking provision and traffic movement are appropriately considered and addressed during the development application process and assessed against the City's *Private Community Purposes Zone Local Planning Policy*.

It is also important to note that if the land use permissibility changes requested in the petition were approved, this would have an impact on all sites throughout the City of Joondalup zoned 'Private Community Purposes' – not just Sacred Heart College. It is unlikely that the owners of the other sites would support the impact on land use rights for their properties.

Under the current LPS Regulations, a pathway exists for 'P' (permitted) land uses to be exempt from the need to require planning approval, but only if the use complies with all of the relevant development standards (for example parking). This streamlines the development process in these instances and potentially allows businesses to begin operating sooner. Reclassifying appropriate 'P' (permitted) land uses to 'D' (discretionary) land uses removes this pathway and will mean that these land uses will always require planning approval prior to operating.

This is contrary to the initiatives set out in the State Government's Action Plan for Planning Reform and the Minister for Planning's recent announcement to streamline the approval process to assist small businesses in their recovery from the impacts of the COVID-19 pandemic.

It could also be considered contrary to a Council resolution made at its meeting held on 16 October 2018 where Council requested the City to investigate what additional types of development could be exempt from needing planning approval (CJ170-10/18 refers).

Car parking standards for Sacred Heart College

The petition also requested that Council:

"revises Sacred Heart College's car parking standards to better reflect the school's public use hire, by applying the use class of 'Cinema/Theatre', 'Civic Use', 'Club Premises', 'Place of Worship', 'Reception Centre' and 'Recreation – Private', in order to alter the car parking requirement from one bay per 50m² to one bay per four people accommodated."

No supporting information or reason for the request was included in the petition.

The development application for the additional land use of 'Community Purpose' (external hire of facilities) at Sacred Heart College (CJ098-08/19 refers) was assessed using a car parking standard of one bay per two people accommodated, rather than the 'Community Purpose' car parking standard of one bay per 50m² of floorspace outlined in the City's *Private Community Purposes Zone Local Planning Policy*.

It was determined that the standard of one bay per two people accommodated more appropriately reflected the proposal, particularly as it includes outdoor uses - a parking ratio based on floorspace within a building cannot be used to calculate the amount of parking required for outdoor uses.

Using the car parking standard of one bay per four people accommodated, as requested by the petition is more lenient and would, in effect, reduce the number of car parking bays required on site. The petition's proposal to reduce the parking standard to one bay per four people accommodated is therefore not supported.

Issues and options considered

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

- prepare the amendment to the local planning scheme without modification
- prepare the amendment to the local planning scheme with modifications
- or
- not prepare the amendment to the local planning scheme.

The options available to Council in considering the petition are to:

- support and progress the requests contained in the petition or
- not support the requests contained in the petition.

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 *Private Community Purposes Zone Local Planning Policy.*

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 LPS Regulations, enables a local government to prepare or amend a local planning scheme and sets out the process to be followed.

Under the LPS 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. The proposed amendment is considered to be a standard amendment under the LPS Regulations as it is consistent with the objectives of the 'Private Community Purposes' and 'Residential' zones.

Should Council resolve to proceed with the proposed amendment for the purposes of public advertising, the proposed amendment is required to be referred to the Environmental Protection Authority (EPA) to decide whether or not a formal environmental review is necessary. Should the EPA decide that an environmental review is not required, and notifies the City accordingly, then it will be necessary to proceed to advertise the proposed scheme amendment for 42 days.

Upon closure of the advertising period, Council is required to consider all submissions received and decide whether to support the amendment, with or without modifications, or not support the amendment. The decision is then forwarded to the WAPC, which makes a recommendation to the Minister for Planning. The Minister can either grant final approval to the amendment, with or without modifications, or refuse the amendment.

Local Planning Scheme No. 3

The following extract of Table 2 of LPS3 sets out the objectives of the 'Residential' and 'Private Community Purposes' zones.

Table 2 Zone objectives

Residential	<ul style="list-style-type: none"> • To provide for a range of housing and a choice of residential densities to meet the needs of the community. • To facilitate and encourage high quality design, built form and streetscapes throughout residential areas. • To provide for a range of non-residential uses, which are compatible with and complementary to residential development.
Private Community Purposes	<ul style="list-style-type: none"> • To provide sites for privately owned and operated recreation, institutions and places of worship. • To provide for a range of privately owned community facilities, and uses that are incidental and ancillary to the provision of those facilities, which are compatible with surrounding development. • To ensure that the standard of development is in keeping with surrounding development and protects the amenity of the area.

Clause 19 (1) and Table 4 of LPS3 allow additional uses to be listed for specific sites, which are in addition to those uses that are permissible in the zone in which the site is located.

Risk management considerations

In advising of the approval of LPS3, the WAPC advised the City that the issue of residential development rights in the 'Private Community Purposes' zone is to be addressed. Should Council elect not to progress the amendment, Council may be directed to do so by the Minister for Planning under section 76 of the *Planning and Development Act 2005*.

Financial / budget implications

As the proponent, the City will cover any costs associated with the proposed scheme amendment, which includes the cost of advertising the amendment and publishing a notice in the *Government Gazette*, in the event that the proposal is approved by the Minister for Planning. The costs are estimated to be \$2,000.

Regional significance

Not applicable.

Sustainability implications

Not applicable.

Consultation

If the scheme amendment is initiated, advertising is required for 42 days. It is proposed that advertising will be by way of:

- letters to landowners of all 'Private Community Purposes' zoned properties
- letters to adjoining and nearby residents of Lot 19 (2) Barradine Way, Craigie, and Lot 531 (37) Country Club Boulevard, Connolly
- letters to relevant service authorities
- a notice placed in the *Joondalup Community Newspaper*
- a notice and documents placed on the City's website
- a sign on Lot 19 (2) Barradine Way, Craigie
- a sign at the entrance to Joondalup Country Club, Lot 531 (37) Country Club Boulevard, Connolly.

Direct consultation with landowners and residents surrounding the 'Private Community Purposes' zoned sites is not considered necessary in this instance, given the proposal to remove the ability to develop grouped and multiple dwellings is not considered to have an adverse impact on these properties.

COMMENT

The proposed scheme amendment is considered appropriate as the land use permissibility change aligns with the objectives of the 'Private Community Purposes' zone, which does not include provision of residential development.

The proposed rezoning of Lot 19 (2) Barradine Way, Craigie, to 'Residential' with a density code of R40 acknowledges the approved development application for seven grouped dwellings.

The proposed additional uses of 'Grouped Dwelling' and 'Multiple Dwelling' at the Joondalup Resort will allow the development of residential land uses on this site, which is considered appropriate as it is compatible with the existing land uses and given the large nature of the site, development can be located such that it will not have a negative impact on the surrounding areas.

It is recommended that Council proceeds with the proposed amendment to LPS3.

The change in land use classifications requested in the petition received by Council are not supported as the identified land uses align closely with the objectives of the 'Private Community Purposes' zone and are therefore appropriately classified as 'P' (permitted) uses.

It is also noted that the petition requests that a parking ratio be applied to future 'Community Purpose' proposals at Sacred Heart College is a less onerous standard than that already applied during the assessment of the current 'Community Purpose' approval.

It is recommended that no actions are progressed in response to the petition.

VOTING REQUIREMENTS

Simple Majority.

MOVED Mayor Jacob, SECONDED Cr Hamilton-Prime that Council:

- 1 Pursuant to section 75 of the *Planning and Development Act 2005* and Regulation 35(1) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, resolves to PREPARE an amendment to the City of Joondalup *Local Planning Scheme No. 3* to:
 - 1.1 change the land use permissibility of 'Grouped Dwelling' and 'Multiple Dwelling' in the 'Private Community Purposes' zone in Table 3 Zoning Table from 'D' to 'X';
 - 1.2 rezone Lot 19 (2) Barradine Drive, Craigie, from 'Private Community Purposes' to 'Residential' and apply the R40 density code as depicted in Attachment 2 to Report CJ072-06/20;

- 1.3 insert additional uses No. 15 to 17 in Table 4 ‘Specified additional uses for zoned land in Scheme area’ in accordance with Attachment 5 to Report CJ072-06/20,

and proceed to advertise the amendment for a period of 42 days;
- 2 Pursuant to Regulation 35(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015* DETERMINES that the proposed scheme amendment is a standard amendment as the proposal is consistent with the objectives of the ‘Private Community Purposes’ and ‘Residential’ zones of the City of Joondalup’s *Local Planning Scheme No. 3*;
- 3 In regard to the petition received by Council at its meeting held on 21 April 2020 (CJ24-04/20 refers) requesting the initiation of a scheme amendment to *Local Planning Scheme No. 3* and revision of car parking standards for Sacred Heart College, advises that it:
 - 3.1 will not support an amendment to the City of Joondalup *Local Planning Scheme No. 3* to change the land use permissibility in the ‘Private Community Purposes’ zone for ‘Civic Use’, ‘Exhibition Centre’ and ‘Recreation – Private’ from ‘P’ (permitted) to ‘D’ (discretionary);
 - 3.2 will not support a revision of the car parking standards at Sacred Heart College for the ‘Community Purpose’ land use to one per four people accommodated, as this would result in the calculation of a lower minimum car parking requirement;
- 4 advises the lead petitioner in part 3 above of its decision.

The Motion was Put and CARRIED (13/0) by Exception Resolution after consideration of CJ085-06/20, page 126 refers.

In favour of the Motion: Mayor Jacob, Crs Chester, Fishwick, Hamilton-Prime, Hollywood, Jones, Logan, May, McLean, Poliwka, Raftis, Taylor and Thompson.

Appendix 2 refers

To access this attachment on electronic document, click here: [Attach2brf200609.pdf](#)

CJ073-06/20 PROPOSED CHILD CARE PREMISES (CHANGE OF USE FROM SINGLE HOUSE) AT LOT 47 (23) CURRAMBINE BOULEVARD, CURRAMBINE

WARD	North
RESPONSIBLE DIRECTOR	Ms Dale Page Planning and Community Development
FILE NUMBER	10805, 101515
ATTACHMENTS	Attachment 1 Location Plan Attachment 2 Revised Development Plans Attachment 3 Applicant Response to Reasons for Refusal Attachment 4 Acoustic Report Attachment 5 Bushfire Management Plan Attachment 6 Traffic Impact Report and Additional Justification Attachment 7 Summary of DFES Comments Attachment 8 Previously Considered Development Plans
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 change of use from Single House to Child Care Premises at Lot 47 (23) Currambine Boulevard, Currambine.

EXECUTIVE SUMMARY

An application for development approval has been received for a change of use from a single house to child care premises at Lot 47 (23) Currambine Boulevard, Currambine.

The application was initially considered by Council at its meeting held on 19 September 2019 (CJ116-09/19 refers), where it was resolved to refer the proposal back to the Chief Executive Officer to allow the applicant to consider the issues raised by City's officers in the report and specifically to seek advice on traffic and parking matters.

Following Council's decision, a Traffic Impact Report was provided in December 2019 (Attachment 6 refers) with revised plans received in February 2020 (Attachment 8 refers). The revised plans and additional information were considered at Council's meeting held on 17 March 2020 (CJ021-13/20 refers), where it was again resolved to refer the proposal back to the Chief Executive Officer to allow the applicant to consider the issues raised in the report.

On 8 April 2020, the Minister for Planning released a *Notice of Exemption* (the Notice) to allow temporary exemptions from certain planning requirements and approvals during the current state of emergency and up until 90 days after it has ended.

Schedule 5.1 of the Notice includes an exemption for the provision of car parking where the proposal is for non-residential development and the shortfall is 10 bays or less.

The applicant has elected to utilise this exemption, amending the proposed development plans to retain two parking bays on site and remove on-street parking on Currambine Boulevard and verge parking on Mistral Meander that was previously proposed. Other than this change to car parking, the development plans are the same, however the applicant has also provided a written response to the recommended reasons for refusal (Attachment 3 refers).

The revised information has been considered and assessed against the City's *Child Care Premises Local Planning Policy* (LPP). It is considered that the proposed development will adversely impact the amenity of the surrounding locality, due to the location of the proposed use amongst residential properties. The development also does not satisfy the requirements of *State Planning Policy 3.7 – Planning in Bushfire Prone Areas*.

It is again recommended that the application is refused.

BACKGROUND

Suburb/Location	Lot 47 (23) Currambine Boulevard, Currambine.
Applicant	Natasha O'Neil.
Owner	Natasha O'Neil.
Zoning	LPS Residential, R80.
	MRS Urban.
Site area	340m ² .
Structure plan	Not applicable.

The subject site is bound by Currambine Boulevard to the south, Mistral Meander to the north, residential development to the east and a nine metre wide pedestrian accessway to the west. The site is located approximately 320 metres to the west of the Currambine Train Station. A location plan is provided as Attachment 1 to Report CJ073-06/20.

The subject site contains a single house, constructed in 1996. The site is also located in a bushfire prone area due to the vegetation to the north of the site, with a bushfire attack level (BAL) of 19, being a moderate bushfire risk.

A 6.27 hectare vacant site is located to the north of the subject site. At its meeting on 10 December 2019 (CJ164-12/19 refers), Council resolved to proceed with an amendment to the *City of Joondalup Local Planning Scheme No.3* (LPS3) to rezone a portion of this parcel of land from 'Residential' to 'Commercial and 'Mixed Use'. The area of this amendment is located on the western portion of the lot and not located within the immediate vicinity of the subject site.

At its meeting held on 17 September 2019 (CJ116-09/19 refers), Council considered the subject application and resolved that:

"Item CJ116-09/19 – Proposed Child Care Premises (Change of use from Single House) at Lot 47 (23) Currambine Boulevard, Currambine BE REFERRED BACK to the Chief Executive Officer to allow the applicant / owner to consider the issues and concerns raised in Report CJ116-09/19 and specifically to seek advice on traffic and parking matters."

Following this meeting City officers met the applicant and the applicant's traffic and planning consultants on site to discuss what areas of the proposal needed to be addressed. Following this meeting, a Traffic Impact Report was submitted in December 2019, which provided: justification for the (previous) parking configuration; opinion on the impact of parking on the surrounding area; opinion on the street parking on Currambine Boulevard and a turning template for an emergency vehicle along Mistral Meander. A revised layout, including modified parking and additional comments in support of the proposal from residents in the area, were also provided.

Council considered this additional information at its meeting held on 17 March 2020 (CJ021-13/20 refers) and resolved that:

“Item CJ021-03/20 – Proposed Child Care Premises (change of use from ‘Single House’) at Lot 47 (23) Currambine Boulevard, Currambine BE REFERRED BACK to the Chief Executive Officer to allow the applicant / owner to address the issues and concerns raised by City officers in Report CJ021-03/20.”

On 16 March 2020, a State of Emergency Declaration was made in relation to the State of Western Australia. Changes to the *Planning and Development (Local Planning Schemes) Regulations 2015* have been introduced to allow the Minister for Planning to issue notices to exempt some planning requirements to respond to and recover from an emergency declared under the *Emergency Management Act 2005*.

On 8 April 2020, a Notice of Exemption (the Notice) for certain planning matters was issued in response to the current COVID-19 pandemic.

The Notice has been issued to provide specific guidance to both proponents and local government on a range of temporary exemptions from certain planning requirements and approvals currently required under the local planning framework. These exemptions will remain in effect until 90 days after the end of the State of Emergency. The exemptions are intended to remove barriers within the planning system to ensure flexible and speedy responses to a changing crisis environment, support business and guarantee the provision of essential community services.

An excerpt from the Notice (Schedule 5.1) states:

Column 1 – Requirements	Column 2 – Schemes	Column 3 – Direct Conditions	Column 4 – Discretion to
Schedule 5 – Exemptions from other requirements			
5.1 Where premises are approved for use, or in relation to any application for development approval, proponents are exempted from a requirement to provide car parking facilities.	All local planning schemes.	1. Provided that this exemption only applies to: a) Non-residential development; and b) Where the proponent provides less than the number of parking bays required for the use in question, and the shortfall is 10 parking bays or less. 2. An exemption under this clause will expire 90 days after the date upon which the State of Emergency Declaration ceases to have effect or is revoked.	Proponents

On 12 May 2020 the applicant provided a revised proposal, utilising the exemption for the provision of car parking and reducing the total amount of parking for the proposed child care premises to two bays.

DETAILS

The proposed development comprises the following:

- Change of land use to 'Child Care Premises' (from 'Single House').
- Capacity for 20 children.
- Two full time staff members and one casual staff member for lunch cover.
- Operating hours Monday to Friday between 7.00am – 6.00pm.
- Two on-site car parking bays.
- Minor façade and internal modifications to the existing single house.
- Wall sign facing Currambine Boulevard.

The development plans are provided as Attachment 2 to Report CJ073-06/20.

Notice of Exemption

As outlined above, the intent of the Notice is to temporarily remove barriers in the planning system to respond to and recover from the current COVID-19 pandemic by exempting a range of planning matters from the need to obtain approval or comply with the planning framework.

The exemptions are discretionary; however, the Notice specifies who is afforded the discretion to use an exemption or not. That is, if the exemption specifies that it applies to the proponent, then only the proponent has the discretion to decide whether or not to take advantage of the exemption and, if so, the local government is then bound by the exemption.

The exemptions outlined in the Notice are temporary and expire 90 days from the date the State of Emergency declaration ceases to have effect or is revoked.

At the end of the exemption period a proponent will have to:

- revert a use back to its approved use prior to the exemptions coming in
- comply with relevant development standards that were exempted during the State of Emergency
- make an application to permanently approve development that was temporarily exempted during the State of Emergency or propose a different type development.

Previous reasons for refusal recommendation

The reasons why the officer report recommended that the application be refused at Council's meeting dated 17 March 2020 (CJ021-13/20 refers) include the following:

- Land use.
- Parking.
- Traffic.
- Bushfire Management.

The following summarises the current status of each issue, taking into account the Notice of Exemptions and additional information provided by the applicant.

Land use

No additional information has been provided by the applicant since Council's consideration at its meeting dated 20 March 2020.

The following outlines the City's continuing concerns in relation to the suitability of the use on the site.

The land use 'Child Care Premises' is a discretionary ("D") use under LPS3 in the Residential zone.

The relevant objective of the Residential zone under LPS3 is to provide for a range of non-residential uses, which are compatible with and complementary to residential development.

The *Child Care Premises Local Planning Policy* (LPP) sets out further locational requirements. It states that, where possible, it is preferred to locate child care premises next to non-residential uses such as shopping centres, medical centres/consulting rooms, school sites and community purpose buildings to minimise the impact such centres will have on the amenity of residential areas. The LPP also states that child care premises should also be located on local distributor roads, given they are reasonably high traffic-generators.

The proposed child care premises is located within a predominately residential area and is immediately adjacent to residential properties. While there is a proposal underway for portion of the adjoining site to the north to be rezoned to allow for some commercial purposes, this has not progressed to a stage that it can be considered a 'seriously entertained planning proposal'. The area the subject of the rezoning is also not located opposite the site, which is zoned Residential. Other commercial uses exist in the vicinity of the subject site; however, these are not located in close enough proximity to be co-located with the proposed child care premises. Therefore, the site's context is considered to be residential in nature.

Currambine Boulevard and Mistral Meander are both access roads. It is noted that although Currambine Boulevard is identified as an access road, the linkages with the overall road network and design means it functions in a similar way to a distributor road. Notwithstanding, car parking and traffic associated with the proposed child care premises will predominantly be on Mistral Meander, which will likely have an adverse impact on the surrounding area as discussed further below.

It is considered that the proposed location of the child care premises is contrary to the location requirements of the LPP and, given the close vicinity to residential properties, will likely have an adverse impact on the amenity of the surrounding residential area.

Parking

The proposed child care premises caters for up to 20 children, supervised by three staff (two full-time staff and one casual staff member for lunch cover).

Under the LPP, seven car bays are required for a development of this size.

The previous iteration of the proposal included seven bays on-site, on the crossover and in the Mistral Meander and Currambine Boulevard verges.

The City was not supportive of the previous proposal due to potential traffic and parking issues associated with the verge parking and on-site bays that did not appear to meet Australian Standards.

In responding to this reason for refusal, rather than providing an alternative solution to provide additional, compliant parking for the development, the applicant has elected to use the exemptions under the Notice which allows a proponent to provide up to 10 parking bays less than required.

An amended plan has been provided which shows two parking bays on-site and removes all of the previously proposed crossover and verge parking - this results in a five bay shortfall against the LPP.

However, by virtue of the temporary exemptions, the development now technically complies with amount of parking required for the duration of the Notice and is therefore no longer a valid reason for refusal while the exemptions are in place.

If the application is approved, at the end of the temporary exemption period the applicant will need to:

- provide the number of bays required under the LPP
- make a new planning application to permanently approve the parking shortfall
- stop operating the child care premises.

It is clear that applicant will not be able to provide the number of bays required by the LPP on the subject site with the current building layout, which means the applicant will need to either apply for approval for a parking shortfall at some point in the future – which may or may not be approved – or stop the use altogether at the expiry of the exemption period. The decision in this regard, along with its associated risks and consequences, will ultimately rest with the applicant. The City has queried what the applicant intends to do at the end of the exemption period, however no insight or explanation has been provided.

Traffic

In accordance with the LPP, vehicle access should be from district distributor roads and, only in exceptional circumstances, should access roads be considered. The LPP also requires that the car parking layout should allow for vehicles to leave a site in forward gear.

The previous plans for the development included access to the proposed child care premises from Mistral Meander and Currambine Boulevard – both access roads. The layout for the Mistral Meander car parking area did not allow vehicles to leave the site in forward gear (and encroached into the road reserve). The layout of the Currambine Boulevard car parking bays did allow vehicles to leave the site in forward gear but the bays were positioned in a location/configuration considered by the City to pose safety issues.

The updated proposal includes two on-site parking bays (accessed from Mistral Meander). No additional information has been provided for how the parking configuration will be utilised or how traffic will be managed under the revised configuration; however, it is clear that the updated proposal still does not allow vehicles to leave the site in forward gear.

As outlined above, as a result of the Notice, the number of parking bays is no longer a valid planning concern (at this time); however, the car parking layout and management of traffic on and around the site remains a valid planning concern following the cessation at the temporary exemption period.

The traffic impact report (Attachment 6 refers) prepared for the previous version of the proposal indicated that two bays would be occupied by staff, with other bays (that were proposed at the time) being available for visitors.

The updated proposal still includes two full-time staff members and, in the absence of additional information being provided by the applicant, it is therefore reasonable to assume that the two bays provided on site will be occupied by the two staff members. This means that there will be no parking available for visitors dropping off or picking up children. People will likely park on the verge or in the surrounding area. This has the potential to create unsafe traffic situations and would also be contrary to the requirements of the LPP which actively discourages the use of the verge for parking.

In view of the above it is considered that the proposal still has traffic issues that may result in an unsafe situation or otherwise potentially have adverse impact on the locality.

Bushfire management

The site is located in a Bushfire Prone Area due to the vegetation to the north of the site. The proposal is therefore required to meet the requirements of *State Planning Policy 3.7 – Planning in Bushfire Prone Areas* and the associated *Guidelines for Planning in Bushfire Prone Areas*.

A Bushfire Attack Level (BAL) assessment was undertaken which identifies the site as BAL 19, which is considered to be a moderate bushfire risk. A child care premises land use is considered to be a vulnerable land use and therefore a Bushfire Management Plan (BMP) is required to be endorsed by the local government and the Department of Fire and Emergency Services (DFES). The BMP is provided as Attachment 5 to Report CJ073-06/20.

The BMP was referred to DFES for comment. A summary of the feedback from DFES and officer comment is provided in Attachment 7 to Report CJ073-06/20.

The outstanding item from DFES comments relates to the Mistral Meander carriageway not providing a minimum turning area of 17.5 metres to allow emergency vehicles to manoeuvre. The applicant has provided justification that the area is trafficable as demonstrated by cars which park along the northern verge of Mistral Meander and as per the turning templates included within the traffic technical note (Attachment 6 refers). While noting the area is informally used for parking, and therefore potentially trafficable even if not paved, the fact that this area is used for parking of vehicles would prevent the use of this area for turning of emergency vehicles. It therefore cannot be relied on as a turning area in an emergency situation.

The applicant has advised that discussions have occurred with the owner of the land opposite, to upgrade the turnaround area and has made a proposition to the City regarding the upgrade of the Pedestrian Access Way (PAW), to the west of the subject site, so that it could be used as a second access for bushfire management. While limited detail has been provided for either proposal the utilisation of public access ways for the benefit of one particular landowner/development is generally not supported.

It is therefore considered that the development does not meet the relevant requirements stipulated by *State Planning Policy 3.7 – Planning in Bushfire Prone Areas* and the associated guidelines. Mistral Meander, being the primary access for the child care premises does not meet the technical requirements for vehicle turning and, in the event of an emergency, service vehicles will likely attend by Mistral Meander due to the location of the bushfire threat. Given this situation and because the BMP has not been provided by an accredited bushfire practitioner to justify any potential impact, the proposed vulnerable land use is not considered appropriate.

Other issues taken into consideration by the City are as follows:

Noise

As required by the LPP, an acoustic assessment was submitted as part of the application (Attachment 4 refers). The acoustic assessment demonstrated that the development could meet the requirements of the *Environmental Protection (Noise) Regulations 1997* under the following parameters:

- While in operation, all windows and doors are to be kept closed, except when being used for ingress or egress.
- Each outdoor play session to be no longer than 1.5 hours in duration.
- No more than 10 children to be allowed to participate in any outdoor play session.
- The behaviour and style of play of children should be monitored to prevent particularly loud activity, for example loud banging or crashing of objects, and shouting or yelling.
- The quietest possible plant and equipment is to be used. As doors and windows of the centre are required to be kept closed, evaporative air conditioning should not be considered an option.
- Signage to be displayed in the parking bays asking for parents to consider neighbours when dropping off or picking up children.

It is not uncommon for child care premises to operate in this manner in residential areas to minimise noise impacts. In addition to the above, further measures could be taken to minimise the noise impact, including the management of children and toys in the outdoor areas.

Compliance with building and environmental health legislation

Through the planning assessment a number of potential issues were raised with the development being able to satisfy the *National Construction Code, Building Code of Australia 2019* and *Food Act 2008*, including:

- fire separation
- standards for laundry and kitchen facilities
- food handling activities
- fire exits.

While noting that such issues cannot be included as reasons for refusal of a planning application, as they are dealt with under separate legislation, the modifications required to address these requirements could alter the proposal to such an extent that it fundamentally changes the planning application or potentially makes the development unviable.

Signage

The proposal includes a wall sign on the Currambine Boulevard elevation. The proposed sign size is 2.25m². Under the City's *Signs Local Planning Policy* wall signs in the Residential zone should be limited to 1.2m² when associated with a non-residential building. It is noted that the sign could be modified to comply with City's policy.

Issues and options considered

Council is required to determine whether the proposed change of use from single house to child care premises at Lot 47 (23) Currambine Boulevard, Currambine is appropriate.

Council 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 (Regulations).*

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 *Child Care Premises Local Planning Policy.
Signs Local Planning Policy.
State Planning Policy 3.7 – Planning in Bushfire Prone Areas
(SPP3.7).*

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

Clause 16 (2) of LPS3 sets out the objectives for development within the Residential zone:

- *“to provide for a range of housing and a choice of residential densities to meet the needs of the community;*
- *to facilitate and encourage high quality design, built form and streetscape throughout residential areas;*
- *to provide for a range of non-residential uses, which are compatible with and complimentary to residential development.”*

Planning and Development (Local Planning Schemes) Regulations 2015 (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, landslip, 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;*
- (zc) *include any advice of a Design Review Panel.”*

Child Care Premises Local Planning Policy (Child Care LPP)

This policy provides assessment criteria for 'Child Care Premises' developments.

The objectives of the policy are:

- *to provide development standards for the location, siting and design of child care premises*
- *to ensure that child care premises do not have an adverse impact on the amenity of surrounding area, particularly residential areas.*

The statement within the policy also sets out:

“In considering applications for child care premises, the location, siting and design of the child care premises will be taken into consideration with the aim of ensuring that the development is compatible with, and avoids adverse impacts on, the amenity of adjoining and surrounding areas.”

Signs Local Planning Policy

The policy provides assessment criteria for advertising signage within the City.

The objectives of the policy are:

- *“to provide guidance on the design and placement of signs located within the City of Joondalup*
- *to protect the quality of the streetscape and the amenity of adjoining and nearby residents by minimising the visual impact of signs*

- *to encourage signs that are well-designed and well-positioned and appropriate to their location, which enhance the visual quality, amenity and safety of the City of Joondalup*
- *to facilitate a reasonable degree of signage to support business activities within the City of Joondalup*
- *to establish a framework for the assessment of applications for development within these zones.”*

State Planning Policy 3.7 – Planning in Bushfire Prone Areas (SPP3.7)

SPP3.7 was prepared by the Western Australian Planning Commission and gazetted on 7 December 2015. SPP3.7 outlines how development and / or land uses should address bushfire risk in Western Australia, and it applies to all land which has been designated as a bushfire prone area. In accordance with clause 6.2 (a), development applications within a designated bushfire prone area that have a Bushfire Attack Level (BAL) rating above BAL-LOW are to comply with the relevant provisions of SPP3.7.

In accordance with clause 6.5, a BAL assessment has been prepared by an accredited BAL Assessor for the proposal. This BAL assessment identifies a BAL rating of BAL- 19, which is considered to be a moderate risk.

A Child Care Premises is identified as a vulnerable land use as it incorporates persons who may be less able to respond in a bushfire emergency (children). In accordance with clause 6.6, an application should not be supported unless it is accompanied by a Bushfire Management Plan (BMP). SPP3.7 does not specify that the BMP must be prepared by an accredited person and, as such, it has been prepared by the applicant.

The BMP, including BAL, is included in Attachment 5 to Report CJ073-06/20.

Should the application be approved, a condition imposing a notification on the title is recommended. Any subsequent building permit will be required to meet the relevant Australian Standards for construction of buildings in bushfire prone areas.

Risk management considerations

The proponent has a right of review against Council's 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 (excluding GST) for assessment of the application, in accordance with the City's *Schedule of Fees and Charges*.

Regional significance

Not applicable.

Sustainability implications

Not applicable.

Consultation

The application was advertised by way of a sign on site, information on the City's website and letters to 19 property owners and occupiers adjoining and along Currambine Boulevard and Doncaster Square, for a period of 14 days, concluding on 5 July 2019. A total of three responses were received, being two objections and one that supported the proposal.

In addition to this consultation the applicant provided comments from 14 residents of Currambine Boulevard and surrounding streets in support of the proposal, identifying the need for the facility. Five of these comments were provided as part of the additional information submitted by the applicant following the Council meeting dated 19 September 2019.

Further consultation was not undertaken after the matter was deferred at either the 19 September 2019 or 20 March 2020 Council meetings.

The issues raised during the initial public consultation are included below, along with a summary of the City's comments.

Issues raised in submissions	Officer comments
The development does not have enough parking on the property. Mistral Meander is used by people who use the train station and verge bays are generally full. This will result in people parking illegally in front of other people's driveways.	The Notice has removed the statutory requirement for car parking. Notwithstanding, and as discussed above, the impact on the surrounding area is still considered to be negatively impacted by the proposed use.
Currambine Boulevard is a busy street as it gives access to the train station. It is busy in the morning and afternoon peak hours, as well as school times.	No information on the management of parking has been provided given the revised parking configuration. Notwithstanding it is anticipated that most users of the child care premises would use Mistral Meander rather than Currambine Boulevard.
The intersection of Currambine Boulevard and Doncaster Square caters for the majority of vehicles from the development to the south as it is generally the only way to the major road network.	It is anticipated that most users of the child care premises would use Mistral Meander rather than Currambine Boulevard.
Parents deciding to drop off and pick up along Doncaster Square will have to navigate Currambine Boulevard which is busy.	It is anticipated that most users of the child care premises would use Mistral Meander rather than Currambine Boulevard.
Child care drop off and pick up will not be limited to simple drop off and pick up as a lot more is involved.	No information on the management of parking has been provided given the revised parking configuration.

Further consultation on the revised proposal and additional supporting documentation was not undertaken as it was not deemed to materially alter the previous proposal.

COMMENT

The proposed child care premises has not been altered from that previously considered by Council other than to reduce the amount of parking and choosing to utilise temporary exemptions introduced by the Minister for Planning on 8 April 2020. The proposal is still considered to have issues in relation to land use, traffic and bushfire which are likely to have an adverse impact on the amenity of the surrounding residential area. As a result, the proposal also does not meet the objectives of the Residential zone due to its incompatibility with surrounding residential development and as such the application is recommended for refusal.

VOTING REQUIREMENTS

Simple Majority.

MOVED Cr McLean, **SECONDED** Cr Hollywood that Council **REFUSES** under clause 68(2) of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* the application for development approval, dated 25 March 2019 submitted by Natasha O'Neil, the applicant and owner, for a proposed change of use from single house to child care premises at Lot 47 (23) Currambine Boulevard, Currambine, for the following reasons:

- 1 In accordance with clause 67(j) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, the development is not compatible with the objectives of the Residential zone under *Local Planning Scheme No. 3* and the *Child Care Premises Local Planning Policy* as:
 - 1.1 The non-residential use is not compatible with and complementary to the existing residential development and will have an adverse impact on the amenity of the surrounding residential development due to traffic and car parking;
- 2 In accordance with clause 67(q) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, the proposed development is not considered to meet *State Planning Policy 3.7 Planning in Bushfire Prone Areas* as:
 - 2.1 Mistral Meander is not constructed to the standards required under the *Guidelines for Planning in Bushfire Prone Areas* to support the intensification of the land use.

The Motion was Put and

CARRIED (12/1)

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

Against the Motion: Cr Raftis.

Appendix 3 refers

To access this attachment on electronic document, click here: [Attach3brf200609.pdf](#)

CJ074-06/20 PROPOSED SEVEN MULTIPLE DWELLINGS AT LOT 945 (12) NORTHWOOD WAY, KALLAROO (SECTION 31 RECONSIDERATION)

WARD	Central
RESPONSIBLE DIRECTOR	Ms Dale Page Planning and Community Development
FILE NUMBER	66264, 101515
ATTACHMENTS	Attachment 1 Location Plan Attachment 2 Development Plans Attachment 3 Building Perspectives Attachment 4 Landscaping Plan Attachment 5 Waste Management Plan Attachment 6 Environmental Acoustic Report Attachment 7 Applicant's Submission Attachment 8 Planning Report Prepared by Council's Planning Representatives (Consultants) Attachment 9 Planning Assessment Undertaken by Council's Planning Representatives (Consultants) Attachment 10 Summary of Objections
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 reconsider a development application (amended plans) for seven multiple dwellings at Lot 945 (12) Northwood Way, Kallaroo following a directive from the State Administrative Tribunal.

EXECUTIVE SUMMARY

In May 2019 the City received the original application for seven multiple dwellings at the subject site.

At its meeting held 10 December 2019 (CJ168-12/19 refers), Council refused the application for the following reason:

"1 the proposal exceeds the maximum plot ratio for the site."

Following this the applicant sought a review of Council's decision via the State Administrative Tribunal (SAT).

Given that Council's decision was different to the officer recommendation on the application, in line with the City's policy on *Development Proposals before the State Administrative Tribunal* and standard City practice in situations like this, a planning consultant was appointed to represent and defend the Council's decision in the SAT process.

During the SAT mediation process, and in response to the reason for refusal, the applicant submitted amended plans, an Acoustic Report, a Traffic Management Plan and further landscaping information on 20 April 2020. The amended plans do not change the dwelling yield, building height or parking provision but reduce the plot ratio to (0.60), among other minor modifications.

Community consultation was undertaken on the latest proposal between 5 May 2020 and 19 May 2020. A total of 109 submissions was received, being 22 objections and 87 submission/s of support.

In accordance with the *State Administrative Tribunal Act 2004*, the SAT has invited the City to reconsider the application, based on the amended information, at the Council Meeting to be held on 23 June 2020.

Council's planning representative (consultant) has assessed the amended proposal and has recommended that it be refused.

It is considered appropriate that the recommendation of Council's planning representative is adopted.

BACKGROUND

Suburb/Location	Lot 945 (12) Northwood Way, Kallaroo.
Applicant	Duncan Bradshaw, Sharon Bradshaw and Brodie Bradshaw.
Owner	Duncan Bradshaw, Sharon Bradshaw and Brodie Bradshaw.
Zoning	LPS 3 Residential R20/R40.
	MRS Urban.
Site area	1017.61m ² .
Structure plan	Not Applicable.

Site context

The site is a battleaxe lot, with a four-metre wide access leg, and is occupied by a single storey, detached dwelling. Belrose Park is located to the western and north-western boundaries, Whitfords Avenue to the southern boundary, and residential properties to the north-east and east. Whitfords Shopping Centre, a large secondary centre, is located an approximate walkable distance of 270 metres to the south-east of the site.

The development site and surrounding properties are zoned 'Residential' under the City's *Local Planning Scheme No. 3 (LPS3)*, with a density coding of R20/R40 and are located within Housing Opportunity Area 5 (HOA).

The immediate locality is developed with predominantly single dwellings, both single and two storeys. New development in the surrounding streets at the higher density comprises two storey grouped dwelling and two storey multiple dwelling developments, ranging in scale from two to six dwellings per development.

SAT process

The SAT is an independent body that makes and reviews a range of administrative decisions, including planning decisions made by local government. If an applicant or owner is aggrieved by the determination of their application, there is a right of review by the SAT in accordance with the *Planning and Development Act 2005* Part 14.

In a typical appeal process, the SAT will first try to mediate an outcome between the two parties. This often involves changes to the plans or providing additional information to address the decision-maker's issues. If changes are made or additional information provided, the SAT will usually invite the decision-maker to reconsider its earlier decision, taking into account the changes to the plans or new information provided.

If the applicant is still unhappy with the decision-maker's reconsidered decision the matter may proceed to a final hearing. In these instances, the SAT effectively steps into the shoes of the decision-maker and the SAT makes its own decision on the proposal.

Amended proposal

As outlined above, the applicant has made changes to the plan and provided additional information to support the proposal. In view of this, the SAT has invited Council to reconsider its previous decision to refuse the application. A final hearing date has also been reserved for 29 July 2020 in the event the applicant wishes the SAT to make a final decision on the application after Council's reconsideration.

The changes to the original application include:

- a reduced plot ratio to meet the Acceptable Outcome requirements (0.6) of *State Planning Policy 7.3 – Residential Design Codes Volume 2* (SPP7.3)
- the reconfiguration of the foyer/storeroom area
- increased setbacks to the southern boundary
- the reconfiguration of the communal space
- pedestrian access to Whitfords Avenue
- fencing along Whitfords Avenue modified to include sections of visual permeability
- increased landscaped areas and increased separation between bedroom windows of units five and six to the common foyer area on the first floor
- modified waste management to include pickup from the verge adjacent to the adjoining park.

Draft new development standards for infill development in Housing Opportunity Areas

At its Special Council meeting held on 24 March 2020 (JSC02-03/20 refers), Council adopted the new draft *Development Standards for Housing Opportunity Areas*. The *Local Planning Policy* and *Scheme Amendment* have now been forwarded to the Western Australian Planning Commission (WAPC) to request approval. The WAPC may grant approval, with or without modifications or elect not to grant approval. The scheme amendment is also required to be approved by the Minister.

The current status of the draft *Local Planning Policy* and *Scheme Amendment* is such that they have not yet reached a stage where they can be considered certain or imminent and, on this basis, do not yet meet the requirements to be considered a seriously entertained planning proposal. Therefore, the current application is required to be assessed wholly on the current planning framework.

DETAILS

The amended development comprises the following:

- Seven multiple dwellings within a two-storey building.
- Two dwellings are located on the ground floor next to the public open space, with five dwellings located on the upper floor, with access via a communal foyer.
- Six dwellings contain two bedrooms, and one dwelling is a one-bedroom dwelling.
- The site is a battleaxe lot, with a four-metre wide access leg from Northwood Way, next to Belrose Park.
- The proposed dwellings to the western boundary of the site are orientated to face Belrose Park, with the provision of balconies and courtyards, as well as open style fencing.
- Ten resident bays and two visitor bays.
- The building façade incorporates rendered brickwork and cladding. Private balconies contain clear glazed balustrading. A mixture of rendered brickwork and fixed obscured louvre screens is provided to the northern elevation of the common foyer.
- Bin storage is located on the ground floor. Bin collection is proposed to be on the verge adjacent to Belrose Park, as per the proposed Waste Management Plan.

The development plans and supporting information for the development are provided in Attachments 2 to 6 of Report CJ074-06/20.

Planning assessment

An assessment has been undertaken by Council's planning representative against the relevant provisions of LPS3, SPP7.3 and City's *Residential Development Local Planning Policy* (RDLPP). A report prepared by the Council's planning representative is included in Attachment 8 to Report CJ074-06/20 with an assessment against the Acceptable Outcomes and Element Objectives of SPP7.3 included as Attachment 9 to Report CJ074-06/20.

The report and assessment undertaken by Council's planning representative raises concern with several aspects of the proposal, including:

- side and rear setbacks
- access to direct sunlight for outdoor living areas and living rooms
- the amount of deep soil area
- the inability for proposed landscaping to achieve an appropriate level of tree canopy.

As a result of these concerns Council's planning representative is of the view that the application should be refused for the reasons set out in the recommendation below.

Issues and options considered

Council has been invited to reconsider its previous decision and determine whether the proposed development of seven multiple dwellings at Lot 945 (12) Northwood Way, Kallaroo (as amended) is appropriate.

In reconsidering the application, Council may:

- affirm its previous decision to refuse the application
- vary the decision
or
- set aside the previous decision and substitute it with a new decision.

Legislation / Strategic Community Plan / Policy implications

Legislation *City of Joondalup Local Planning Scheme No. 3 (LPS3).
Planning and Development (Local Planning Schemes) Regulations
2015 (Regulations).
State Administrative Tribunal Act 2004.*

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 *Residential Development Local Planning Policy (RDLPP).
Environmentally Sustainable Design Policy.
State Planning Policy 7 Design of the Built Environment (SPP7).
State Planning Policy 7.3 Residential Design Codes Volume 2 –
Apartments (SPP7.3).*

Local Planning Scheme No.3

Clause 16 (2) of LPS3 sets out the objectives for development within the 'Residential' zone:

- *To provide for a range of housing and a choice of residential densities to meet the needs of the community.*
- *To facilitate and encourage high quality design, built form and streetscapes throughout residential areas.*
- *To provide for a range of non-residential uses, which are compatible with and complementary to residential development.*

Clause 26 (5) of LPS3 states:

Clause 5.1.1 of the R-Codes is modified by inserting the additional 'deemed-to-comply' criteria:

C1.5 In areas where dual coding applies, site areas under the higher coding may be applied subject to the following:

- (i) Development which complies with a minimum frontage of 10 metres at the setback line, with the exception of multiple dwelling sites.*
- (ii) Development of multiple dwelling sites which complies with a minimum site width of 20 metres at the street boundary.*

Planning and Development (Local Planning Schemes) Regulations 2015

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, landslip, 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;*
- (zc) *include any advice of a Design Review Panel.*

Residential Development Local Planning Policy

The overall objectives of this policy are to encourage the following:

- *An improved streetscape outcome, which is attractive and enhances and complements the visual character, bulk and scale of the surrounding built form.*
- *High quality built development outcomes in relation to building design and site layout.*
- *Residential subdivision and development with safe, functional and attractive access arrangements in and out of sites, which contribute to the overall aesthetics of developments.*
- *New development that is designed having regard to the issue of crime prevention and surveillance of the street and housing entrances.*
- *Varying density development, inclusive of development within dual density coded areas that are integrated into the surrounding built environment.*

State Planning Policy 7.3 Residential Design Codes Volume 2 – Apartments

The overall policy objectives for multiple dwellings as follows:

- *To provide residential development of an appropriate design for the intended residential purpose, land tenure, density, place context and scheme objectives.*
- *To encourage design consideration of the social, environmental and economic opportunities possible from new housing, and an appropriate response to local context.*
- *To encourage design that considers and respects local heritage and culture.*
- *To facilitate residential development that offers future residents the opportunities for better living choices and affordability when seeking a home, as well as reduced operational costs and security of investment in the long term.*

The overall policy objectives for the planning, governance and development processes are as follows:

- *To encourage design that is responsive to site, size and geometry of the development site.*
- *To allow variety and diversity of housing choices where it can be demonstrated this better reflects context or scheme objectives.*
- *To ensure clear scope for scheme objectives to influence the assessment of proposals.*
- *To ensure certainty in timely assessment and determination of proposals, applied consistently across State and local government.*

Risk management considerations

As this proposal is currently being considered by SAT, should Council resolve to approve the application the applicants are able to withdraw from proceedings if they are satisfied with the decision made by Council. However, if the applicants are not satisfied with the decision, they may request that the matter be determined by SAT through a formal hearing. In this case, any decision by Council would be set aside and SAT would determine the application on its merits in accordance with the *State Administrative Tribunal Act 2004* and the Regulations.

Financial / budget implications

The applicant paid a fee of \$3,756 (excluding GST) for assessment of the original application in accordance with the City's *Schedule of Fees and Charges*.

A planning consultant has been engaged to represent Council in the SAT process. The total cost of this engagement cannot be confirmed until the appeal process has concluded; however, to date the City has paid \$7,219 (excluding GST) in consultant fees. If the application proceeds to a final hearing by the SAT, further costs in the order of \$30,000 could be incurred.

Regional significance

Not applicable.

Sustainability implications

The applicant has completed the City's *Environmentally Sustainable Design Checklist* to the extent that it is applicable to the development. The applicant has indicated that the following will be achieved as part of the development:

- Development includes:
 - northerly orientation of daytime living/working areas with large windows, and minimal windows to the east and west
 - passive shading of glass
 - sufficient thermal mass in building materials for storing heat
 - insulation and draught sealing
 - floor plan zoning based on water and heating needs and the supply of hot water
 - advanced glazing solutions.
- Development is to incorporate:
 - renewable energy technologies
 - low energy technologies and/or
 - natural and/or fan forced ventilation.
- Development is to incorporate water efficient technologies.
- Recycled materials – reusing existing brick fencing adjacent to Whitfords Avenue.
- Low-VOC products.

Consultation

Community consultation for the initial application was undertaken for a period of 14 days by way of letters to surrounding landowners/occupiers, a sign on site and notice on the City's website, concluding on Monday 28 October 2019. A total of 48 submissions were received, being 47 objections and one submission of support.

The revised application was advertised for a period of 14 days, commencing on 4 May 2020 and concluding on 19 May 2020. Consultation was undertaken in the following manner:

- A letter was sent to owners and occupiers of 41 properties in the vicinity of the subject site.
- A letter was sent to an additional 33 residents who made a submission on the original proposal but fall outside of the immediate vicinity of the site.
- Development plans and information were made available for public viewing on the City's website.

At the conclusion of the consultation period, a total of 109 submissions were received, being 22 objections and 87 submissions in support (from 67 properties). Of the 22 objections, all were received from Kallaroo residents. Two of the objections were proforma submissions.

Of the 87 submissions of support, 19 were received from Kallaroo residents and 68 were received from other areas – both within the City of Joondalup as well as outside of the City of Joondalup, including interstate. Two of the submissions of support were proforma submissions.

The key concerns raised in the objections are:

- application does not have due regard to adopted draft development standards for Housing Opportunity Areas recently adopted by Council
- the proposal is not in keeping with the existing housing stock and is inconsistent with the character of the area
- size of development is excessive and should be reduced in size
- the proposal will overlook surrounding residences and limit privacy and sunlight
- layout of subject lot (battlease) is not suitable for the development. Plot ratio should not include the area taken up by the access leg
- increased traffic and noise
- parking is inadequate and will result in street/verge parking

- setbacks to side and rear boundary are inconsistent with setbacks in the area
- safety concerns with regard to location of subject site from park and nearby schools
- loss of tree canopy
- concerns regarding the impact of bins being located on the verge adjacent to the park during bin day.

The key items raised in the supporting submissions are:

- modern attractive design
- great location close to the shopping centre, amenities, beaches, schools and public transport
- complements surrounding area
- provides housing choice within a highly sought-after area
- provides an opportunity to downsize while staying in the area
- consistent with the future vision for Kallaroo
- the proposal is consistent with the zoning and there should be an increase in this type of development.

A detailed summary of the objections, against the specific design elements of SPP7.3 and general comments on the development, is provided at Attachment 10 to Report CJ074-06/20.

COMMENT

Council's planning representative (consultant) has assessed the application and considered the submissions received during consultation. A report detailing the consultant's recommendation is provided as Attachment 8 to Report CJ074-06/20. The consultant's assessment of the development against the planning framework is provided as Attachment 9 to Report CJ074-06/20.

It is considered appropriate that Council adopt the recommendation provided by its consultant and refuses the application for the reasons outlined.

VOTING REQUIREMENTS

Simple Majority.

OFFICER'S RECOMENDATION

That Council, in accordance with the recommendation of its planning representative set out in Attachment 8 to Report CJ074-06/20, REFUSES under clause 68 of schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, the application for development approval, dated 21 April 2020 submitted by Mark Anthony Design for the proposed seven multiple dwellings at Lot 945 (12) Northwood Way, Kallaroo for the following reasons:

- 1 The proposal does not satisfy element objectives of *State Planning Policy 7.3 Volume 2 - Apartments* with regard to Element 2.4 'side and rear setbacks'. It is considered that the proposed lot boundary setbacks contribute towards adverse building bulk and lack of building separation to adjoining properties, in particular due to the associated inadequacy of being able to provide sufficient tree canopy and deep soil areas within the building setback areas;

- 2 The proposal does not satisfy element objectives of *State Planning Policy 7.3 Volume 2 - Apartments* with regard to Element 3.2 'orientation'. It is considered that the orientation of the development compromises the amenity levels of units by way of not satisfactorily achieving direct sunlight to outdoor living areas and living rooms;
- 3 The proposal does not satisfy element objectives of *State Planning Policy 7.3 Volume 2 - Apartments* with regard to Element 3.3 'tree canopy and deep soil areas' and Element 4.12 'landscape design'. The proposal does not provide sufficient deep soil areas to accommodate the required number of medium and large trees and thereby achieve an appropriate level of canopy cover within the subject site;
- 4 The proposal does not satisfy element objectives of *State Planning Policy 7.3 Volume 2 - Apartments* with regard to Element 4.1 'solar and daylight access'. It is considered that the orientation of the units do not achieve north-facing living rooms and primary outdoor living areas in order to obtain at least two hours of direct sunlight between 9.00am and 3.00pm on 21 June;
- 5 Having regard to clause 2.8 'development incentives for community benefit' of *State Planning Policy 7.3 Volume 2 - Apartments*, the development does not demonstrate a level of design excellence commensurate to the proposed variations sought to the element objectives associated with 2.4 - side and rear setbacks, 3.2 - orientation, 3.3 - tree canopy and deep soil areas, 4.12 - landscape design and, 4.1 - solar and daylight access;
- 6 The development does not satisfy the following design principles of *State Planning Policy 7.0 'Design of the Built Environment'*:
 - 6.1 Landscape quality;
 - 6.2 Built form and scale;
 - 6.3 Sustainability;
 - 6.4 Amenity;
- 7 Approval of the proposed development being contrary to clause 67 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* with particular reference to the following subclauses:
 - “(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;*
 - (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;*

- (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;*
- (zb) *any other planning consideration the local government considers appropriate.”.*

MOVED Cr Thompson, **SECONDED** Cr Poliwka that Council, in accordance with the recommendation of its planning representative set out in Attachment 8 to Report CJ074-06/20, **REFUSES** under clause 68 of schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, the application for development approval, dated 21 April 2020 submitted by Mark Anthony Design for the proposed seven multiple dwellings at Lot 945 (12) Northwood Way, Kallaroo for the following reasons:

- 1 The proposal does not satisfy element objectives of *State Planning Policy 7.3 Volume 2 - Apartments* with regard to Element 2.4 ‘side and rear setbacks’. It is considered that the proposed lot boundary setbacks contribute towards adverse building bulk and lack of building separation to adjoining properties, in particular due to the associated inadequacy of being able to provide sufficient tree canopy and deep soil areas within the building setback areas;
- 2 The proposal does not satisfy element objectives of *State Planning Policy 7.3 Volume 2 - Apartments* with regard to Element 3.2 ‘orientation’. It is considered that the orientation of the development compromises the amenity levels of units by way of not satisfactorily achieving direct sunlight to outdoor living areas and living rooms;
- 3 The proposal does not satisfy element objectives of *State Planning Policy 7.3 Volume 2 - Apartments* with regard to Element 3.3 ‘tree canopy and deep soil areas’ and Element 4.12 ‘landscape design’. The proposal does not provide sufficient deep soil areas to accommodate the required number of medium and large trees and thereby achieve an appropriate level of canopy cover within the subject site;
- 4 The proposal does not satisfy element objectives of *State Planning Policy 7.3 Volume 2 - Apartments* with regard to Element 4.1 ‘solar and daylight access’. It is considered that the orientation of the units do not achieve north-facing living rooms and primary outdoor living areas in order to obtain at least two hours of direct sunlight between 9.00am and 3.00pm on 21 June;
- 5 Having regard to clause 2.8 ‘development incentives for community benefit’ of *State Planning Policy 7.3 Volume 2 - Apartments*, the development does not demonstrate a level of design excellence commensurate to the proposed variations sought to the element objectives associated with 2.4 - side and rear setbacks, 3.2 - orientation, 3.3 - tree canopy and deep soil areas, 4.12 - landscape design and, 4.1 - solar and daylight access;
- 6 The development does not satisfy the following design principles of *State Planning Policy 7.0 ‘Design of the Built Environment’*:
 - 6.1 Landscape quality;
 - 6.2 Built form and scale;
 - 6.3 Sustainability;
 - 6.4 Amenity;

- 7 Approval of the proposed development being contrary to clause 67 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* with particular reference to the following subclauses:
- “(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;*
 - (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;*
 - (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;*
 - (zb) any other planning consideration the local government considers appropriate.”;*
- 8 The proposal for waste collection from the verge adjoining Belrose Park will cause safety issues for pedestrians using Northwood Way and will affect the sight lines for vehicles exiting the subject site.

It was requested that Part 8 of the Motion be voted upon separately.

MOVED Cr Thompson, **SECONDED** Cr Poliwka that Council, in accordance with the recommendation of its planning representative set out in Attachment 8 to Report CJ074-06/20, **REFUSES** under clause 68 of schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, the application for development approval, dated 21 April 2020 submitted by Mark Anthony Design for the proposed seven multiple dwellings at Lot 945 (12) Northwood Way, Kallaroo for the following reasons:

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- 2 The proposal does not satisfy element objectives of *State Planning Policy 7.3 Volume 2 - Apartments* with regard to Element 3.2 'orientation'. It is considered that the orientation of the development compromises the amenity levels of units by way of not satisfactorily achieving direct sunlight to outdoor living areas and living rooms;
- 3 The proposal does not satisfy element objectives of *State Planning Policy 7.3 Volume 2 - Apartments* with regard to Element 3.3 'tree canopy and deep soil areas' and Element 4.12 'landscape design'. The proposal does not provide sufficient deep soil areas to accommodate the required number of medium and large trees and thereby achieve an appropriate level of canopy cover within the subject site;
- 4 The proposal does not satisfy element objectives of *State Planning Policy 7.3 Volume 2 - Apartments* with regard to Element 4.1 'solar and daylight access'. It is considered that the orientation of the units do not achieve north-facing living rooms and primary outdoor living areas in order to obtain at least two hours of direct sunlight between 9.00am and 3.00pm on 21 June;
- 5 Having regard to clause 2.8 'development incentives for community benefit' of *State Planning Policy 7.3 Volume 2 - Apartments*, the development does not demonstrate a level of design excellence commensurate to the proposed variations sought to the element objectives associated with 2.4 - side and rear setbacks, 3.2 - orientation, 3.3 - tree canopy and deep soil areas, 4.12 - landscape design and, 4.1 - solar and daylight access;
- 6 The development does not satisfy the following design principles of *State Planning Policy 7.0 'Design of the Built Environment'*:
 - 6.1 Landscape quality;
 - 6.2 Built form and scale;
 - 6.3 Sustainability;
 - 6.4 Amenity;
- 7 Approval of the proposed development being contrary to clause 67 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* with particular reference to the following subclauses:
 - “(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;*
 - (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;*

- (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;*
- (zb) *any other planning consideration the local government considers appropriate.”;*

The Motion was Put and

CARRIED (13/0)

In favour of the Motion: Mayor Jacob, Crs Chester, Fishwick, Hamilton-Prime, Hollywood, Jones, Logan, May, McLean, Poliwka, Raftis, Taylor and Thompson.

MOVED Cr Thompson, SECONDED Cr Poliwka that Council, in accordance with the recommendation of its planning representative set out in Attachment 8 to Report CJ074-06/20, REFUSES under clause 68 of schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, the application for development approval, dated 21 April 2020 submitted by Mark Anthony Design for the proposed seven multiple dwellings at Lot 945 (12) Northwood Way, Kallaroo for the following reasons:

- 8 The proposal for waste collection from the verge adjoining Belrose Park will cause safety issues for pedestrians using Northwood Way and will affect the sight lines for vehicles exiting the subject site.**

The Motion was Put and

CARRIED (9/4)

In favour of the Motion: Mayor Jacob, Crs Fishwick, Jones, Logan, May, McLean, Poliwka, Raftis and Thompson.
Against the Motion: Crs Chester, Hamilton-Prime, Hollywood and Taylor.

Appendix 4 refers

To access this attachment on electronic document, click here: [Attach4brf200609.pdf](#)

CJ075-06/20 EXECUTION OF DOCUMENTS

WARD	All
RESPONSIBLE DIRECTOR	Mr Garry Hunt Office of the CEO
FILE NUMBER	15876, 101515
ATTACHMENT	Attachment 1 Documents sealed by affixing the Common Seal during the period 5 May 2020 to 26 May 2020
AUTHORITY / DISCRETION	Information - includes items provided to Council for information purposes only that do not require a decision of Council (that is for 'noting').

PURPOSE

For Council to note the documents executed by means of affixing the Common Seal for the period 5 May 2020 to 26 May 2020.

EXECUTIVE SUMMARY

The City enters into various agreements by affixing the Common Seal. The *Local Government Act 1995* states that the City is a body corporate with perpetual succession and a Common Seal. Those documents that are to be executed by affixing the Common Seal or signed by the Mayor and the Chief Executive Officer are reported to Council for information on a regular basis.

It is therefore recommended the Council NOTES the Schedule of Documents executed by means of affixing the Common Seal for the period 5 May 2020 to 26 May 2020, as detailed in Attachment 1 to Report CJ075-06/20.

BACKGROUND

For the period 5 May 2020 to 26 May 2020, six documents were executed by affixing the Common Seal. A summary is provided below:

Type	Number
Replacement of Legal Agreement	1
Section 70A Notification	5

DETAILS

Issues and options considered

Not applicable.

Legislation / Strategic Community Plan / Policy implications

Legislation *Local Government Act 1995.*

Strategic Community Plan

Key theme Governance and Leadership.

Objective Corporate capacity.

Strategic initiative Demonstrate accountability through robust reporting.

Policy Not applicable.

Risk management considerations

Not applicable.

Financial / budget implicationsCurrent financial year impact

Not applicable.

Future financial year impact

Not applicable.

Regional significance

Not applicable.

Sustainability implications

Not applicable.

Consultation

Not applicable.

COMMENT

The documents that have been executed by affixing the Common Seal of the City of Joondalup are submitted to Council for information (Attachment 1 refers).

VOTING REQUIREMENTS

Simple Majority.

MOVED Mayor Jacob, SECONDED Cr Hamilton-Prime that Council NOTES the Schedule of Documents executed by means of affixing the Common Seal for the period 5 May 2020 to 26 May 2020, as detailed in Attachment 1 to Report CJ075-06/20.

The Motion was Put and CARRIED (13/0) by Exception Resolution after consideration of CJ085-06/20, page 126 refers.

In favour of the Motion: Mayor Jacob, Crs Chester, Fishwick, Hamilton-Prime, Hollywood, Jones, Logan, May, McLean, Poliwka, Raftis, Taylor and Thompson.

Appendix 5 refers

To access this attachment on electronic document, click here: [Attach5brf200609.pdf](#)

CJ076-06/20 PROPOSED DISPOSAL OF LOT 803 (15) BURLOS COURT, JOONDALUP

WARD	North
RESPONSIBLE DIRECTOR	Mr Garry Hunt Office of the CEO
FILE NUMBER	63627, 104930, 101515
ATTACHMENT	Attachment 1 Lot 803 (15) Burlos Court, Joondalup
AUTHORITY / DISCRETION	Executive - The substantial direction setting and oversight role of Council, such as adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.

PURPOSE

For Council to consider the disposal by private treaty of Lot 803 (15) Burlos Court, Joondalup (Attachment 1 refers) following a public notice period in line with section 3.58 of the *Local Government Act 1995*.

EXECUTIVE SUMMARY

The City's freehold land rationalisation project commenced in 2010 with the examination for disposal of 14 community purpose sites. Two sites were withdrawn from the project, and 11 sites have now been sold. Lot 803 (15) Burlos Court, Joondalup (Lot 803) is the remaining site and is zoned 'Residential - Restricted Uses - 'Aged and Dependent Persons' Dwellings' with a density code of R60.

The disposal of Lot 803 was advertised for public tender in August 2016 and to auction in June 2018 and did not sell. Since the two land disposal processes, two private treaty offers were received however, were significantly short of the market valuations at the time.

An offer, received from Bermen Property 5 Pty Ltd in the amount of \$1,675,000 inclusive of GST under the margin scheme, was considered by Council at its meeting held on 17 March 2020 (CJ040-03/20 refers). Council supported the offer subject to the outcome of a public notice period of not less than two weeks in order to comply with section 3.58 of the *Local Government Act 1995*. A 15-day public notice period closed on 9 April 2020 without any public submissions being received.

In the interim, and cited as being due to the uncertainty caused by the current COVID-19 pandemic, Bermen Property 5 Pty Ltd has requested a number of changes to the contract. These changes are that the City will allow Bermen Property 5 Pty Ltd to terminate the contract at any time within six months from acceptance of the offer and that in the event of termination, the City refunds the 10% deposit of \$167,500 within 30-days. Additionally, that settlement is within 60 days of the foregoing condition coming to an end.

The City's agreement to these amendments could be viewed as risking the sterilisation of a development site for up to six months, however, Council may decide that due to the prevailing economic conditions brought upon by the COVID-19 pandemic it is prepared to see this negotiation through to its finalisation.

Council may consider that agreement to the requested amendments are unusual rather than unacceptable, as agreement to the conditions has the potential to realise the development of Lot 803. Should this be the outcome, it would create local economic benefits including the employment opportunities that comes with the development of a number of residential units.

It is therefore recommended that Council:

- 1 *NOTES that no submissions were received during the 15-day public notice period regarding the offer received by Bermen Property 5 Pty Ltd for Lot 803 (15) Burlos Court, Joondalup;*
- 2 *SUPPORTS the offer received from Bermen Property 5 Pty Ltd of \$1,675,000 inclusive of GST under the margin scheme;*
- 3 *SUPPORTS the requested changes by Bermen Property 5 Pty Ltd to the contract of sale as follows:*
 - 3.1 *that Bermen Property 5 Pty Ltd may terminate the contract at any time within six months from acceptance of the offer;*
 - 3.2 *in the event of termination of the contract, the 10% deposit is returned to Bermen Property 5 Pty Ltd within thirty days;*
 - 3.3 *settlement is to be within 60 days of the condition detailed in item 3.1 above coming to an end;*
- 4 *APPROVES that the funds received from the sale of Lot 803 (15) Burlos Court, Joondalup being allocated to the Strategic Asset Reserve.*

BACKGROUND

In August 2016, via a public tender process, Council declined (CJ167-10/16 refers) the offer received due to it not providing value to the City. The offer received was \$150,000, or 8.33% short of the market valuation at the time.

Lot 803 went to auction in June 2018 without being sold. Private treaty offers received in September 2018 and November 2018 again proved unacceptable due to the shortfall from the market valuation held at the time. The market valuation was \$1,682,000 exclusive of GST, and both offers were for \$1,200,000, therefore a shortfall of \$482,000, or 28.66%.

Authorisation for the CEO to dispose of Lot 803 by any of the three methods available being private treaty, public tender or public auction under section 3.58 of the *Local Government Act 1995* was provided by Council at its meeting held on 19 March 2019 (CJ032-03/19 refers).

A real estate agent that had previously worked with the City facilitated an offer from Bermen Property 5 Pty Ltd of \$1,600,000 during November 2019. The offer was short of the January 2019 valuation held, but sufficiently close to consider obtaining a new market valuation. In the interim, Bermen Property 5 Pty Ltd increased his offer by \$75,000.

The City obtained a new market valuation dated 28 November 2019 of \$1,720,000 including GST under the margin scheme which was the same as the January 2019 valuation held. The new market valuation and the updated offer dated 20 November 2019 of \$1,675,000 including GST under the margin scheme resulted in a deficit of \$45,000 or approximately 2.6%. The City considered that this was of such small significance that Council may decide that the offer is acceptable.

The offer from Bermen Property 5 Pty Ltd was submitted to Council at its meeting held on 17 March 2020 (CJ040-03/20 refers). Council resolved that it:

- “1 *SUPPORTS in-principle the offer received from Bermen Property 5 Pty Ltd of \$1,675,000 inclusive of GST under the margin scheme subject to a public notice period of not less than two weeks;*
- 2 *REQUESTS at the end of the public notice period, a report be submitted to the next available Council meeting dealing with any submissions received.”*

A public notice was included in a local community newspaper on Thursday 26 March 2020 until close of business on 9 April 2020. At the end of this 15-day advertising period, the City had not received any public submissions.

DETAILS

At its meeting held on 17 March 2020 (CJ040-03/20 refers), Council provided its in-principle conditional support to the offer received from Bermen Property 5 Pty Ltd of 1,675,000 inclusive of GST under the margin scheme. In the interim, the COVID-19 pandemic has occurred and stating the deteriorating economic conditions caused by this, Bermen Property 5 Pty Ltd advised that it needed to reconsider the offer.

Through negotiations with Bermen Property 5 Pty Ltd, the City’s real estate agent advised that Bermen Property 5 Pty Ltd was still interested in purchasing the site, it was the uncertainty due to the COVID-19 pandemic that was causing concern. The outcome of the negotiations was received on 22 May 2020 which was that Bermen Property 5 Pty Ltd request that:

- the seller agrees the buyer may terminate the contract at any time without explanation within six months from acceptance of offer. In the event of termination the seller agrees to refund the 10% deposit to buyer within 30 days
- settlement is within 60 days of the above condition coming to an end.

Issues and options considered

Acceptance of the Offer

Council may consider that the amendments requested by Bermen Property 5 Pty Ltd are not unreasonable and that the benefits associated with the development of Lot 803 are of a significance that makes it worth waiting for six months for a definite outcome.

Non-acceptance of the Offer

Council may take the view that it is not prepared to consider the amended conditions requested by Bermen Property 5 Pty Ltd, as it will result in the City being unable to accept offers on the property for six months.

Legislation / Strategic Community Plan / Policy implications

Legislation Sections 3.58 and 3.59 of the *Local Government Act 1995*, together with the *Local Government (Functions and General) Regulations 1996* determine how a local government may dispose of property.

Strategic Community Plan

Key theme Quality Urban Environment.

Objective Quality built outcomes.

Strategic initiative Buildings and landscaping are suitable for the immediate environment and reflect community values.

Key theme Financial Sustainability.

Objective Financial Diversity.

Strategic initiative Identify opportunities for new income streams that are financially sound and equitable.

Policy *Asset Management Policy.*
Sustainability Policy.

Risk management considerations

Property disposal needs to comply with sections 3.58 and 3.59 of the *Local Government Act 1995*, which are designed to ensure openness and accountability in the disposal process.

There is always the potential that the reserve price or latest market valuation on a City property will not be realised. Valuations are obtained from a licensed valuer. Sale of freehold land below current market valuations should not take place without the approval of Council.

Recommendations for disposal of land are based on a combination of the best financial return, planning outcomes, and community benefit.

Financial / budget implications

Council previously agreed that the proceeds from the sale of freehold land as part of the land disposal project are to be transferred to the Joondalup Performing Arts and Cultural Facility Reserve Fund. However, at this time, it may be more appropriate to allocate the sale proceeds to the Strategic Asset Reserve Fund.

The associated main expenditure costs related to freehold land disposals are real estate commissions, legal and settlement fees, advertising costs, valuation costs, land surveying and costs related to subdivision / amalgamations.

Regional significance

Not applicable.

Sustainability implications

City freehold land that has been set aside for community use should not be disposed of without there being a nominated purpose addressing a community need.

Concerning the freehold land disposal project to-date, Council has supported the restricted use of 'Aged or Dependent Persons' Dwellings' providing alternative housing choices for the City's ageing population.

Consultation

Public auction, public tender and private treaty methods have been used regarding the City's land disposal project. Lot 803 (15) Burlos Court, Joondalup has been through two public disposal processes. Advertising is a requirement with all three methods unless, in respect of private treaty, the disposal is exempt under Regulation 30 of the *Local Government (Functions and General) Regulations 1996*.

A 42-day statutory advertising period associated with amendments to *Local Planning Scheme No 3* provided an opportunity for the community to forward submissions on the future land use of the subject site.

A public notice period regarding the private treaty offer received from Bermen Property 5 Pty Ltd commenced on Thursday 26 March 2020 until close of business on 9 April 2020.

COMMENT

Decision-making for businesses during the COVID-19 pandemic situation has created additional and varying levels of difficulty. It appears that Bermen Property 5 Pty Ltd has the ability to continue to operate. Council may decide that the potential development of Lot 803 (15) Burlos Court, Joondalup is worth the risk of the waiting period involved.

Should unforeseen circumstances arise for Bermen Property 5 Pty Ltd where it withdraws its offer, Lot 803 (15) Burlos Court, Joondalup will return to being available for sale by the City.

VOTING REQUIREMENTS

Simple Majority.

OFFICER'S RECOMMENDATION

That Council:

- 1 NOTES that no submissions were received during the 15-day public notice period regarding the offer received by Bermen Property 5 Pty Ltd for Lot 803 (15) Burlos Court, Joondalup;
- 2 SUPPORTS the offer received from Bermen Property 5 Pty Ltd of \$1,675,000 inclusive of GST under the margin scheme;
- 3 SUPPORTS the requested changes by Bermen Property 5 Pty Ltd to the contract of sale as follows:
 - 3.1 that Bermen Property 5 Pty Ltd may terminate the contract at any time within six months from acceptance of the offer;
 - 3.2 in the event of termination of the contract, the 10% deposit is returned to Bermen Property 5 Pty Ltd within thirty days;

- 3.3 settlement is to be within 60 days of the condition detailed in Part 3.1 above coming to an end;
- 4 APPROVES that the funds received from the sale of Lot 803 (15) Burlos Court, Joondalup being allocated to the Strategic Asset Reserve.

Cr May left the Chamber at 7.58pm and returned at 8.03pm.

MOVED Cr McLean, SECONDED Cr Hollywood that Council:

- 1 **NOTES** that no submissions were received during the 15-day public notice period regarding the offer received by Bermen Property 5 Pty Ltd for Lot 803 (15) Burlos Court, Joondalup;
- 2 **SUPPORTS** the offer received from Bermen Property 5 Pty Ltd of \$1,675,000 inclusive of GST under the margin scheme;
- 3 **SUPPORTS** the offer received by Bermen Property 5 Pty Ltd being accepted on the following basis:
- 3.1 **Bermen Property 5 Pty Ltd enters into an option to purchase Lot 803 (15) Burlos Court, Joondalup within a six month period of the City's acceptance;**
- 3.2 **The option be granted on the basis a \$50,000 non-refundable deposit is payable to the City, should Bermen Property 5 Pty Ltd not enter into a binding contract and settlement within six months of their offer being accepted;**
- 3.3 **A binding contract and settlement can be entered into earlier than the time stipulated in part 3.2 above with mutual agreement between the City and Bermen Property 5 Pty Ltd, and should this occur the sum of \$50,000 would be credited to the purchase price;**
- 3.4 **If the option is not taken up, then the property be reviewed and readvertised at an appropriate time;**
- 4 **APPROVES** that the funds received from the sale of Lot 803 (15) Burlos Court, Joondalup being allocated to the Strategic Asset Reserve.

The Motion was Put and

CARRIED (13/0)

In favour of the Motion: Mayor Jacob, Crs Chester, Fishwick, Hamilton-Prime, Hollywood, Jones, Logan, May, McLean, Poliwka, Raftis, Taylor and Thompson.

**Amended 20.10.2020
C99-10/20 refers**

Appendix 6 refers

To access this attachment on electronic document, click here: [Attach6brf200609.pdf](#)

CJ077-06/20 STATUS OF PETITIONS

WARD	All
RESPONSIBLE DIRECTOR	Mr Jamie Parry Governance and Strategy
FILE NUMBER	05386, 101515
ATTACHMENT	Attachment 1 Status of Petitions – 16 August 2016 to 19 May 2020
AUTHORITY / DISCRETION	Information - includes items provided to Council for information purposes only that do not require a decision of Council (that is for 'noting').

PURPOSE

For Council to note the status of outstanding petitions.

BACKGROUND

At its meeting held on 16 December 2008 (CJ261-12/08 refers), Council considered a report in relation to petitions.

As part of that report, it was advised that quarterly reports would be presented to Council in the future.

DETAILS

Issues and options considered

Attachment 1 provides a list of all outstanding petitions, which were received during the period 16 August 2016 to 19 May 2020, with a comment on the status of each petition.

Legislation / Strategic Community Plan / policy implications

Legislation *City of Joondalup Meeting Procedures Local Law 2013.*

Strategic Community Plan

Key Themes Governance and Leadership.

Objective Active democracy.

Strategic Initiatives

- Fully integrate community consultation practices into City activities.
- Optimise opportunities for the community to access and participate in decision-making processes.
- Adapt to community preferences for engagement formats.

Policy Implications

Each petition may impact on the individual policy position of the City.

Risk Management Considerations

Failure to give consideration to the request of the petitioners and take the appropriate actions may impact on the level of satisfaction of the community.

Financial/Budget Implications

Individual requests made by the way of petitions may have financial implications.

Regional Significance

Not applicable.

Sustainability Implications

Not applicable.

Consultation

Not applicable.

COMMENT

The list of petitions is presented to Council for information, detailing the actions taken to date and the actions proposed to be undertaken for those petitions that remain outstanding.

VOTING REQUIREMENTS

Simple Majority.

MOVED Cr Raftis, SECONDED Cr Hamilton-Prime that Council NOTES:

- 1 the status of outstanding petitions submitted to Council during the period 16 August 2016 to 19 May 2020, forming Attachment 1 to Report CJ077-06/20;
- 2 in relation to the petition requesting Council create a working group to review and develop appropriate signage guidelines and policy to allow small business to have a say on signage and place-making within the City of Joondalup, *Local Planning Scheme No. 3* was gazetted on 23 October 2018, a review of the *Signs Policy* is continuing, and the petition will be considered as part of that review;
- 3 in relation to the petition requesting that Council to introduce the following to drive growth and success in the Performing Arts and Cultural sector, thereby making opportunities available to our families and businesses:

- 3.1 establish a formal subcommittee of Council to manage and deliver all performing arts and cultural growth / events in the City with 80% of members drawn from this City's community;
- 3.2 establish safe, secure and accessible equipment storage for groups along with a dedicated, City supplied, equipment library to supply (free of charge) key equipment;
- 3.3 the City of Joondalup to have a professional Performing Arts and Cultural team that will:
 - 3.3.1 act as the production and support for all suburbs with activities being centralised;
 - 3.3.2 support all groups with fundraising applications, professional PR and memberships;
 - 3.3.3 facilitate access to all current facilities in the City of Joondalup such as school theatres, churches, parks or empty business units for all groups and activities;
 - 3.3.4 raise cross-cultural understanding and accessibility for families / disadvantaged groups;
- 3.4 source a Performing Arts and Cultural Facility that is fully funded by grants and donations,

that the City will consider a report following Council's decision at its meeting held on 19 May 2020 (CJ066-05/20 refers) to defer the Joondalup Performing Arts Cultural Facility project;

- 4 in relation to the petition requesting a skate park facility be built at Chichester Park, Woodvale, the draft BMX, Skate and Youth Outdoor Recreation Strategy is continuing to be progressed and it is anticipated that a report will be presented to a future Council meeting;
- 5 in relation to the petition requesting the installation of a BMX dirt track at Kallaroo Park, the draft BMX, Skate and Youth Outdoor Recreation Strategy is continuing to be progressed and it is anticipated that a report will be presented to a future Council meeting;
- 6 in relation to the petition requesting investigation of the installation of a small, family based play space within Lacedpede Park, Sorrento and make provision for the installation within the City's forward works program, a report was presented to Council at its meeting held on 18 February 2020 (CJ017-02/20 refers) and the lead petitioner has been advised of Council's decision;
- 7 in relation to the petition requesting that Council:
 - 7.1 revise and phase out the use of glyphosate in public places considering the mounting evidence of its toxicity to workers, public health and environment;
 - 7.2 conduct and repeat alternative non-chemical weed control trials especially in areas where children and pets are exposed;

7.3 immediately introduce marker dye in herbicide so public can avoid the recently sprayed areas,

it is anticipated that a report will be presented to Council in July 2020 subject to the availability of members of the public to attend the meeting in person;

8 in relation to the petition requesting the playground at Beldon Park, Beldon remains where it is and that the Management Orders are changed in order to erect shade cloth over the existing playground, feedback has been received from the Department of Education and it is anticipated that a report will be presented to Council in August 2020;

9 in relation to the petition requesting that Council reinstate the Braden Park Playspace Renewal Project in the 2019-20 schedule of the City's *Five Year Capital Works Program* and take account of community feedback in the planning and design of the playspace, a report was presented to Council at its meeting held on 19 May 2020 (CJ063-05/20 refers) and the lead petitioner has been advised of Council's decision;

10 in relation to the petition requesting that:

10.1 provision be made in the next upcoming budget to install traffic light controls, including pedestrian controls at the intersection of Walter Padbury Boulevard and Hepburn Avenue, Padbury;

10.2 Council resolutely lobby the State Government's Main Roads Department, as the regulator for such installations, so that permission can be obtained for such an installation to proceed,

a report was submitted to Council at its meeting held on 17 March 2020 (CJ032-03/20 refers) and was referred back to the Chief Executive Officer to investigate alternate access and egress options to Hepburn Heights. It is anticipated that a report will be presented to Council in August 2020;

11 in relation to the petition requesting that Council investigate lighting options for Mirror Park Skate Park Ocean Reef to allow residents and their families to fully utilise this facility in the evening in a safe and secure manner. Consideration to include:

11.1 push button timers for lights like those at Wanneroo Skate Park to conserve energy;

11.2 times of operation, including maximum time limits and consideration of local residents;

11.3 a solar powered USB and proximity charging station like the one installed at Tom Simpson Park,

a report was presented to Council at its meeting held 19 May 2020 (CJ055-05/20 refers) and the lead petitioner has been advised of Council's decision;

12 in relation to the petition requesting that all possible steps to prevent the proposed installation of Optus small cell radio-communication facilities in Iluka, including those on Romano Crescent:

- 12.1 the City can confirm that a formal Withdrawal Notice has been received from Optus confirming they will not proceed with the deployment of works in this location;
- 12.2 the lead petitioner will be notified of this outcome;
- 13 in relation to the petition requesting that Council reconsider and rescind their decision to spend \$2.15 million on a Chinese Garden for Jinan, to be located in Central Park and instead, redeploy the funds for community gardens across the City of Joondalup and for the benefit of all residents and ratepayers, the City will consider a future report following Council's decision to defer the Jinan project, at its meeting held on 19 May 2020 (CJ065-05/20 refers);
- 14 in relation to the petition requesting that Council change the regulation that bans dogs from all beaches, apart from the dog beach, it is anticipated that a report will be presented to Council in July 2020;
- 15 in relation to the petition requesting that Council change the parking regulations in Bonneville Way, Abitibi Turn and Curran Court, Joondalup to make these streets 'resident only' parking, it is anticipated that a report will be presented to Council in August 2020;
- 16 in relation to the petition requesting that Council:
- 16.1 initiates a scheme amendment to Local Planning Scheme No. 3 to change the land use permissibility for the Private Community Purpose Zone from 'P' (permissible) to 'D' (discretionary) for the following use classes – Civic Use, Exhibition Centre, Recreation – private and Small Bar;
- 16.2 revises Sacred Heart College's Car Parking Standards to better reflect the school's public hire use, by applying the 'Use Class' of Cinema / Theatre, Civic Use, Club Premises, Place of Worship, Reception Centre, Recreation – Private, in order to alter the number of on-site parking bay requirement from one car per 50m² to one car per four people accommodated;
- it is anticipated that a report will be presented to Council in June 2020;
- 17 in relation to the petition requesting that Council install or construct traffic calming measures on Sherington Road, Greenwood, the City is currently reviewing the request and a report will be presented to a future Council meeting;
- 18 in relation to the petition requesting that Council invest in the improvement of Clifford Coleman Park, Marmion, the City is currently reviewing the request and a report will be presented to a future Council meeting.

The Motion was Put and

CARRIED (13/0)

In favour of the Motion: Mayor Jacob, Crs Chester, Fishwick, Hamilton-Prime, Hollywood, Jones, Logan, May, McLean, Poliwka, Raftis, Taylor and Thompson.

Appendix 7 refers

To access this attachment on electronic document, click here: [Attach7brf200609.pdf](#)

CJ078-06/20 COUNCIL MEETING – 18 AUGUST 2020 – CHANGE TO COMMENCEMENT TIME

WARD	All
RESPONSIBLE DIRECTOR	Mr Jamie Parry Governance and Strategy
FILE NUMBER	08122, 101515
ATTACHMENT	Nil
AUTHORITY / DISCRETION	Executive - The substantial direction setting and oversight role of Council, such as adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.

PURPOSE

For Council to change the commencement time for the meeting to be held on the 18 August 2020 from 12.00 noon to 7.00pm.

EXECUTIVE SUMMARY

At its meeting held on 19 November 2019 (CJ147-11/19 refers), Council adopted the meeting dates for the 2020 calendar year. As has been tradition for a number of years, the August Council meeting has been scheduled to occur at 12.00 noon to facilitate the participation of high school students throughout the City's district at the Council meeting.

However, based on the Australian Government Health advice in relation to social distancing restrictions it has been determined that the August Council meeting cannot proceed to the same level of participation, and overall benefit, as what has been achieved in previous years.

It is therefore recommended that Council amend the meeting time for the August 2020 Council meeting from 12.00 noon to 7.00pm, in line with the time set for other Council meetings during the year.

BACKGROUND

At its meeting held on 19 November 2019 (CJ147-11/19 refers), Council adopted the following meeting dates for 2020:

Briefing Sessions To be held at 6.30pm in the Council Chamber	Council meetings To be held in the Council Chamber
Tuesday 11 February 2020	7.00pm on Tuesday 18 February 2020
Tuesday 10 March 2020	7.00pm on Tuesday 17 March 2020
Tuesday 14 April 2020	7.00pm on Tuesday 21 April 2020
Tuesday 12 May 2020	7.00pm on Tuesday 19 May 2020
Tuesday 9 June 2020	7.00pm on Tuesday 23 June 2020

Briefing Sessions To be held at 6.30pm in the Council Chamber	Council meetings To be held in the Council Chamber
Tuesday 14 July 2020	7.00pm on Tuesday 21 July 2020
Tuesday 11 August 2020	12.00 noon on Tuesday 18 August 2020
Tuesday 8 September 2020	7.00pm on Tuesday 15 September 2020
Tuesday 13 October 2020	7.00pm on Tuesday 20 October 2020
Tuesday 10 November 2020	7.00pm on Tuesday 17 November 2020
Tuesday 1 December 2020	7.00pm on Tuesday 8 December 2020

DETAILS

In March 2020, following the public health state of emergency being declared as a result of the COVID-19 pandemic, the Department of Health introduced social distancing restrictions including the maximum number of participants and personal space required in enclosed areas. In 2019 the August Council meeting resulted in the participation of 14 schools with 139 students attending.

Under the prevailing circumstances and due to the restricted number of participants in the Council Chamber it is recommended the August Council meeting should not proceed at 12.00 noon but revert back to the usual times of 7.00pm.

Issues and options considered

Council can either:

- adopt the amended meeting time to 7.00pm
or
- adopt an alternate meeting time.

Legislation / Strategic Community Plan / policy implications

Legislation *Local Government Act 1995.
Local Government (Administration) Regulations 1996.*

Strategic Community Plan

Key theme Governance and Leadership.

Objective Corporate capacity.

Strategic initiative Not applicable.

Policy Not applicable.

Risk management considerations

Not applicable.

Financial / budget implicationsCurrent financial year impact

Account no.	1.526.A5202.3277.0000.
Budget Item	Advertising – Public and Statutory.
Budget amount	\$ 4,000
Amount spent to date	\$ 1,698
Proposed cost	\$ 340
Balance	\$ 1,962

All amounts quoted in this report are exclusive of GST.

Regional significance

Not applicable.

Sustainability implications

Not applicable.

Consultation

Not applicable.

COMMENT

It is recommended the Council meeting to be held on 18 August 2020 be changed to commence at 7.00pm and public notice be given.

VOTING REQUIREMENTS

Absolute Majority.

CALL FOR ONE-THIRD SUPPORT

One-third support is required for the Motion, as per Regulation 10 of the *Local Government (Administration) Regulations 1996*, which 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. Support to revoke Council’s resolution in relation to Item CJ147-11/19 was given by Crs Chester, Fishwick, Hamilton-Prime, Logan, Raftis and Thompson.

MOVED Mayor Jacob, SECONDED Cr Fishwick that Council:

- 1 BY AN ABSOLUTE MAJORITY AMENDS part 1 of its decision of 19 November 2019 (CJ147-11/19) as follows:**

“1 SETS the following meeting dates and times for the Council of the City of Joondalup to be held at the Joondalup Civic Centre, Boas Avenue, Joondalup:

<i>Briefing Sessions To be held at 6.30pm in the Council Chamber</i>	<i>Council meetings To be held in the Council Chamber</i>
<i>Tuesday 11 February 2020</i>	<i>7.00pm on Tuesday 18 February 2020</i>
<i>Tuesday 10 March 2020</i>	<i>7.00pm on Tuesday 17 March 2020</i>
<i>Tuesday 14 April 2020</i>	<i>7.00pm on Tuesday 21 April 2020</i>
<i>Tuesday 12 May 2020</i>	<i>7.00pm on Tuesday 19 May 2020</i>
<i>Tuesday 9 June 2020</i>	<i>7.00pm on Tuesday 23 June 2020</i>
<i>Tuesday 14 July 2020</i>	<i>7.00pm on Tuesday 21 July 2020</i>
<i>Tuesday 11 August 2020</i>	<i>7.00pm on Tuesday 18 August 2020</i>
<i>Tuesday 8 September 2020</i>	<i>7.00pm on Tuesday 15 September 2020</i>
<i>Tuesday 13 October 2020</i>	<i>7.00pm on Tuesday 20 October 2020</i>
<i>Tuesday 10 November 2020</i>	<i>7.00pm on Tuesday 17 November 2020</i>
<i>Tuesday 1 December 2020</i>	<i>7.00pm on Tuesday 8 December 2020</i>

- 2 in accordance with Regulation 12(2) of the *Local Government (Administration) Regulations 1996*, GIVES local public notice of the change in commencement time for the 18 August 2020 Council Meeting.**

The Motion was Put and

CARRIED (13/0)

In favour of the Motion: Mayor Jacob, Crs Chester, Fishwick, Hamilton-Prime, Hollywood, Jones, Logan, May, McLean, Poliwka, Raftis, Taylor and Thompson.

CJ079-06/20 2020 ANNUAL REVIEW OF REGISTER OF DELEGATION OF AUTHORITY

WARD	All
RESPONSIBLE DIRECTOR	Mr Jamie Parry Governance and Strategy
FILE NUMBER	07032, 101515
ATTACHMENT	Attachment 1 Amended Register of Delegation of Authority (marked-up version)
AUTHORITY / DISCRETION	Executive - The substantial direction setting and oversight role of Council, such as adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.

PURPOSE

For Council to undertake a formal review of its delegations within the *Register of Delegation of Authority*.

EXECUTIVE SUMMARY

Sections 5.18 and 5.46 of the *Local Government Act 1995* (the Act) requires at least once every financial year, delegations are to be reviewed by the delegator. The Council last performed its annual review of delegations at its meeting held on 25 June 2019 (CJ078-06/19 refers).

The *Register of Delegation of Authority*, incorporating the proposed amendments, is submitted as Attachment 1 to Report CJ079-06/20.

It is therefore recommended that Council:

- 1 *ENDORSES the review of its delegations in accordance with sections 5.18 and 5.46 of the Local Government Act 1995;*
- 2 *BY AN ABSOLUTE MAJORITY and in accordance with sections 5.16 and 5.42 of the Local Government Act 1995, section 127 of the Building Act 2011, section 48 of the Bush Fires Act 1954, section 44 of the Cat Act 2011, section 10AA of the Dog Act 1976, section 118(2)(b) of the Food Act 2008, section 16 and 17 of the Graffiti Vandalism Act 2016, sections 214(2), (3) and (5) of the Planning and Development Act 2005, clause 82 of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 and section 21 of the Public Health Act 2016 DELEGATES the local government functions as listed in the amended Register of Delegation of Authority forming Attachment 1 to Report CJ079-06/20.*

BACKGROUND

In accordance with sections 5.16 and 5.42 of the Act, a local government can delegate certain functions to a committee of Council, or the Chief Executive Officer. A variety of other legislation also permits the delegations of functions to the Chief Executive Officer, as well as other officers.

Sections 5.18 and 5.46 of the Act require that at least once every financial year, delegations are to be reviewed by the delegator for those delegations under the Act, but opportunity is also presented to review other delegations made under other legislation.

At its meeting held on 24 June 2014 (CJ091-06/14 refers), Council undertook a comprehensive review of the *Register of Delegation of Authority*, incorporating the following measures:

- A revised layout for each instrument of delegation.
- Improvements to the wording and referencing of individual delegations.
- New and increased scope of individual delegations.

The Council last performed its annual review of its delegations at its meeting held on 25 June 2019 (CJ078-06/19 refers) and therefore, a formal review by Council is required. The 2020 review has focused on assessing the suitability and relevance of delegations as well as any new delegations that need to be made.

DETAILS

The 2020 annual review of the *Register of Delegation of Authority* was undertaken to determine:

- the appropriateness of the existing delegations and whether to amend or delete any delegations
- the need for any additional delegations.

The proposed amendments reflect:

- amending existing delegations to improve workflow processes and service delivery
- deletion of delegations that are no longer required
- new delegations that will assist with workflow processes as well as ensuring Council focuses on strategic issues.

Other than minor wording and formatting changes including a new numbering system for delegations within the document for ease of reference, details of the main proposed changes are as follows:

1.9.1 Choice of Tender – Works Operations Centre (Attachment 1, page 16 refers)

The deletion of “Choice of Tender – Works Operations Centre” delegation from the Delegation Manual, as it is no longer required.

At its meeting held on 11 December 2018 (CJ228-12/18 refers) delegated authority was given from Council to the Chief Executive Officer to accept tenders valued at less than \$1,100,000, for the proposed construction works at the City Works Operations Centre in Craigie. This delegation is no longer required as the purpose of the delegations was for the awarding of the tender for the Works Operations Centre extension, this tender was awarded by the Chief Executive Officer on the 29 October 2019, with the total contract price being \$869,357.

1.14 Extension of Existing Contracts (Attachment 1, page 21 refers)

An amendment to part three of the conditions of delegation to include a change in committee name from Audit Committee to Audit and Risk Committee, which was changed after the 2017 Council elections.

1.18 Payments from Municipal Fund – Incurring Liabilities and Making Payments (Attachment 1, page 25 refers)

An amendment to part four of the conditions of delegation to include the category thresholds including Goods and Service Tax (GST), in order to explicitly clarify the threshold limits both including and excluding GST, for additional guidance to Officers.

1.26 Write Off of Monies (Attachment 1, page 39 refers)

An amendment to part B of the conditions of delegation to include a change in committee name from Audit Committee to Audit and Risk Committee, which was changed after the 2017 Council elections.

3.3 Building Act 2011 – Issuing Certificates of Building Compliance, Construction Compliance and Design Compliance (Attachment 1, page 44 refers)

An amendment to the title of the delegation and the function delegated, to remove the reference to 'construction compliance' as the City does not offer a private certification service to issue Certificates of Construction Compliance.

3.4 Building Act 2011 – Granting Building and Demolition Permits, Building Approval Certificates, Building Approval Certificate Strata, Occupancy Permits (Attachment 1, page 45 refers)

An amendment to the title of the delegation and the function delegated, to remove the reference to 'Building Approval Certificate Strata' as the *Strata Titles Amendment Act 2019* commenced operations from 1 May 2020 which has resulted in applications for building approval certificate strata being discontinued.

3.5 Building Act 2011 – Refusing Building and Demolition Permits Applications, Building Approval Certificates, Building Approval Certificate Strata, Occupancy Permits (Attachment 1, page 46 refers)

An amendment to the title of the delegation and the function delegated, to remove the reference to 'Building Approval Certificate Strata' as the *Strata Titles Amendment Act 2019* commenced operations from 1 May 2020 which has resulted in applications for building approval certificate strata being discontinued.

3.12 Local Planning Scheme No. 3 – Delegations General (Attachment 1, page 54-55 refers)

An amendment to Part 1 (a) (vi) (b) of the delegation to include the words 'retaining walls' in building setbacks and reference to 'Table 2.1' of the *Residential Design Codes*. There is no change to the degree of delegation, the suggested change provides greater clarity regarding delegation for clause 5.3.8 of the R-Codes as retaining walls are also required to meet setback criteria. The inclusion of 'Table 2.1' reflects the introduction of an additional volume of the R-Codes and the need to now also reference its standards in the delegations.

An amendment to Part 1 (b) (vi) of the delegation to modify the wording to ‘The shortfall in car parking is not increasing from that previously approved’ for better readability and clarity. There is no change to the degree of delegation, the change merely simplifies the wording of the provision.

A deletion of Part 1 (b) (viii) of the delegation, the section the ‘application is for renewal of a Home Occupation or Home Business, where no complaints or objections have been received since the previous approval was issued’, is considered superfluous. The City’s recently adopted *Planning Consultation Local Planning Policy* which requires consultation to be undertaken for new Home Occupation or Home Business applications and renewal applications instances where complaints have been received. Where an objection is received through the consultation process, delegation 1 (b)(i) already requires the matter to be determined at a higher level.

3.15 Planning and Development (Local Planning Schemes) Regulations 2015 – Determine Development Applications for Ocean Reef Marina (Breakwaters, Signage, Road Works and Related Infrastructure) (Attachment 1, page 61 refers)

At its meeting held on 18 February 2020 (CJ003-02/20 refers) delegated authority was given from Council to the Chief Executive Officer for authority to determine development applications for Ocean Reef Marina relating to breakwaters, signage, road works and related infrastructure. The inclusion of this delegation in the Delegation Manual reflects Council’s decision.

Issues and options considered

Council can either:

- accept the proposed amendments
- vary the proposed amendments
- or
- reject the proposed amendments

and adopt the Register of Delegation of Authority accordingly.

Legislation / Strategic Community Plan / policy implications

Legislation	Sections 5.16 – 5.18 and 5.42 – 5.46 of the <i>Local Government Act 1995</i> . Section 127 of the <i>Building Act 2011</i> . Section 48 of the <i>Bush Fires Act 1954</i> . Section 44 of the <i>Cat Act 2011</i> . Section 10AA of the <i>Dog Act 1976</i> . Section 118(2)(b) of the <i>Food Act 2008</i> . Section 16 and 17 of the <i>Graffiti Vandalism Act 2016</i> Sections 214(2), (3) and (50) of the <i>Planning and Development Act 2005</i> . Clause 82 of Schedule 2 of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> . Section 21 of the <i>Public Health Act 2016</i> .
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Strategic Community Plan

Key theme	Governance and Leadership.
Objective	Corporate capacity.

Strategic initiative Continuously strive to improve performance and service delivery across all corporate functions.

Policy Not applicable.

Risk management considerations

Council is required to review its delegations under the *Local Government Act 1995* at least once every financial year and to review its delegations made under clause 82 of schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* every two years. Failure to complete the review would result in non-compliance with its statutory responsibilities under these legislative frameworks.

Financial / budget implications

Not applicable.

Regional significance

Not applicable.

Sustainability implications

Not applicable.

Consultation

Not applicable.

COMMENT

Where legislation confers a function or power in a “local government” it was generally intended by Parliament to mean Council. However, there are many instances within the Act and other legislation that a function given to a local government is not exercisable, at least on a day to day basis by a Council but by the Chief Executive Officer or the local government’s administration. The Act itself makes it clear that:

- 1 a Council’s role is not to exercise administrative (or management powers) but to exercise broader governance powers (section 2.7 of the Act)
- 2 a Chief Executive Officer has the principal administration or management role of the local government – reflected in the specific statutory function to ‘manage the day to day operations of the local government (section 5.4(e) of the Act).

In view of this local governments utilise levels of delegated authority to allow the Chief Executive Officer (and other officers) to undertake day-to-day statutory functions, thereby allowing Council to focus on policy development, representation, strategic planning and community leadership.

The use of delegated authority means the large volume of routine work of a local government can be effectively managed and acted on promptly, which in turn facilitates efficient service delivery to the community. The 2020 review has resulted in refining delegations to ensure the City’s continued ability to maintain high standards of service delivery and improved workflow processes.

VOTING REQUIREMENTS

Absolute Majority.

MOVED Cr Raftis, SECONDED Cr Hamilton-Prime that Council:

- 1** ENDORSES the review of its delegations in accordance with sections 5.18 and 5.46 of the *Local Government Act 1995*;
- 2** BY AN ABSOLUTE MAJORITY and in accordance with sections 5.16 and 5.42 of the *Local Government Act 1995*, section 127 of the *Building Act 2011*, section 48 of the *Bush Fires Act 1954*, section 44 of the *Cat Act 2011*, section 10AA of the *Dog Act 1976*, section 118(2)(b) of the *Food Act 2008*, section 16 and 17 of the *Graffiti Vandalism Act 2016*, sections 214(2), (3) and (5) of the *Planning and Development Act 2005*, clause 82 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* and section 21 of the *Public Health Act 2016* DELEGATES the local government functions as listed in the amended *Register of Delegations of Authority* forming Attachment 1 to Report CJ079-06/20.

The Motion was Put and

CARRIED (13/0)

In favour of the Motion: Mayor Jacob, Crs Chester, Fishwick, Hamilton-Prime, Hollywood, Jones, Logan, May, McLean, Poliwka, Raftis, Taylor and Thompson.

Appendix 8 refers

To access this attachment on electronic document, click here: [Attach8agn200623.pdf](#)

CJ080-06/20 APPOINTMENT OF AN ALTERNATE MEMBER TO MINDARIE REGIONAL COUNCIL

WARD	All
RESPONSIBLE DIRECTOR	Mr Jamie Parry Governance and Strategy
FILE NUMBER	03149, 101515
ATTACHMENT	Nil
AUTHORITY / DISCRETION	Executive - The substantial direction setting and oversight role of Council, such as adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.

PURPOSE

For Council to appoint an alternate member to act on behalf of Mayor Hon. Albert Jacob, JP at any meetings of the Mindarie Regional Council held between 1 and 10 July 2020, inclusive.

EXECUTIVE SUMMARY

The Mindarie Regional Council (MRC) was established for the management of waste and comprises the following local governments:

- City of Joondalup
- City of Perth
- City of Stirling
- City of Wanneroo
- Town of Vincent
- Town of Victoria Park
- Town of Cambridge.

Each local government is represented on the MRC, with the City of Joondalup being represented by Mayor Hon. Albert Jacob, JP and Cr Russ Fishwick, JP.

Mayor Hon. Albert Jacob, JP is intending to apply for leave of absence for the period 1 to 10 July 2020 inclusive, which includes an Ordinary Council Meeting of the MRC to be held on 2 July 2020, at the City of Stirling, commencing at 6.30pm. Previous legal advice requires that where the City is required to be represented in the absence of a nominated member to the MRC it must do so by specific resolution for a specified period.

It is therefore recommended that Council:

- 1 *In the absence of Mayor Hon. Albert Jacob, JP and in accordance with the provisions of section 52 of the Interpretation Act 1984, APPOINTS an Elected Member as an alternate member to act on behalf of Mayor Hon. Albert Jacob, JP and represent the City at any meetings of the Mindarie Regional Council to be held between 1 and 10 July 2020, inclusive;*
- 2 *ADVISES the Mindarie Regional Council of its decision.*

BACKGROUND

The Mindarie Regional Council (MRC) was established for the management of waste and comprises the following local governments:

- City of Joondalup
- City of Perth
- City of Stirling
- City of Wanneroo
- Town of Vincent
- Town of Victoria Park
- Town of Cambridge.

Each local government is represented on the MRC, with the City of Joondalup being represented by Mayor Hon. Albert Jacob, JP and Cr Russ Fishwick, JP.

DETAILS

Mayor Hon. Albert Jacob, JP is intending to apply for leave of absence for the period 1 to 10 July 2020 inclusive, which includes an Ordinary Council Meeting of the MRC to be held on 2 July 2020, at the City of Stirling, commencing at 6.30pm. Previous legal advice requires that where the City requires to be represented in the absence of a nominated member to the MRC it must do so by specific resolution for a specified period.

This advice indicated that there is no power for member Councils to appoint permanent deputies to the MRC. Consequently, if the City's appointed member to the MRC is unable to attend the meeting, a nominated deputy cannot just attend in his or her place. Instead, the City needs to appoint an alternate member to act in place of the member on each occasion when the member cannot attend.

Issues and options considered

The options available to the Council are to:

- agree to appoint an alternate member to act on behalf of Mayor Hon. Albert Jacob, JP during his leave of absence
or
- not agree to appoint an alternate member.

Legislation / Strategic Community Plan / policy implications

Legislation

Interpretation Act 1984.

Section 52(1) and (2) of the *Interpretation Act 1984* states:

“Where a written law confers a power or imposes a duty upon a person to make an appointment to an office or position, including an acting appointment, the person having such a power or duty shall also have the power:

Where a person so appointed to an office or position is suspended or unable, or expected to become unable, for any other cause to perform the functions of such office or position, to appoint a person to act temporarily in place of the person so appointed during the period of suspension or other inability but a person shall not be appointed to so act temporarily unless he is eligible and qualified to be appointed to the office or position; and To specify the period for which any person appointed in exercise of such a power or duty shall hold his appointment.

For the purposes of subsection (1)(b), “cause” includes:

- *Illness*
- *Temporary absence from the State*
- *Conflict of interest.*

The key provisions, which create problems for the appointment of deputies, are the word ‘unable’ in subsection 1(b) and the requirement to specify the period of appointment in subsection 1(c)”.

Strategic Community Plan

Key theme	Governance and Leadership.
Objective	Strong leadership.
Strategic initiative	Seek out City representation on key external and strategic bodies.
Policy	Not applicable.

Risk management considerations

The risk to the City of Joondalup is that if an alternate member is not appointed to represent the City in the absence of Mayor Hon. Albert Jacob, JP, then the City will not be fully represented and therefore not have its allocated voting rights on matters before the MRC.

Financial / budget implications

Not applicable.

Regional significance

The Mindarie Regional Council is the primary Waste Management Authority for a number of metropolitan local government authorities. The City’s representation at MRC meetings is of critical importance to the regional management of waste.

Sustainability implications

Not applicable.

Consultation

Not applicable.

COMMENT

It is considered to be of regional and strategic importance that Council exercises its ability to be represented at each and every meeting of the MRC. It is recommended that an alternate member be appointed to represent the City at any meetings of the Mindarie Regional Council to be held during the period of Cr Fishwick's leave of absence.

At the Ordinary Council meeting of the MRC held on 21 November 2019, the MRC removed from its *Annual Fees, Allowances and Expenses for Councillors Policy*, the ability to pay meeting fees for alternate members so appointed to the MRC by its member Councils. Therefore, any alternate member will not receive any meeting fees previously afforded under the MRC policy.

VOTING REQUIREMENTS

Simple Majority.

OFFICER'S RECOMMENDATION

That Council:

- 1 In the absence of Mayor Hon. Albert Jacob, JP and in accordance with the provisions of section 52 of the *Interpretation Act 1984*, APPOINTS an Elected Member as an alternate member to act on behalf of Mayor Hon. Albert Jacob, JP and represent the City at any meetings of the Mindarie Regional Council to be held between 1 and 10 July 2020, inclusive;
- 2 ADVISES the Mindarie Regional Council of its decision.

MOVED Cr Fishwick, SECONDED Cr McLean that Council:

- 1 **In the absence of Mayor Hon. Albert Jacob, JP and in accordance with the provisions of section 52 of the *Interpretation Act 1984*, APPOINTS Cr Philippa Taylor as an alternate member to act on behalf of Mayor Hon. Albert Jacob, JP and represent the City at any meetings of the Mindarie Regional Council to be held between 1 and 10 July 2020, inclusive;**
- 2 **ADVISES the Mindarie Regional Council of its decision.**

The Motion was Put and

CARRIED (12/1)

In favour of the Motion: Mayor Jacob, Crs Chester, Fishwick, Hamilton-Prime, Hollywood, Jones, Logan, McLean, Poliwka, Raftis, Taylor and Thompson.

Against the Motion: Cr May.

The Manager Planning Services left the Chamber at 8.13pm.

CJ081-06/20 LIST OF PAYMENTS MADE DURING THE MONTH OF APRIL 2020

WARD	All
RESPONSIBLE DIRECTOR	Mr Mat Humfrey Corporate Services
FILE NUMBER	09882, 101515
ATTACHMENTS	Attachment 1 Chief Executive Officer's Delegated Municipal Payment List for the month of April 2020 Attachment 2 Chief Executive Officer's Delegated Trust Payment List for the month of April 2020 Attachment 3 Municipal and Trust Fund Vouchers for the month of April 2020
AUTHORITY / DISCRETION	Information – includes items provided to Council for information purposes only that do not require a decision of Council (that is for 'noting').

PURPOSE

For Council to note the list of accounts paid under the Chief Executive Officer's delegated authority during the month of April 2020.

EXECUTIVE SUMMARY

This report presents the list of payments made under delegated authority during the month of April 2020, totalling \$12,035,928.33.

It is therefore recommended that Council NOTES the Chief Executive Officer's list of accounts for April 2020 paid under delegated authority in accordance with regulation 13(1) of the Local Government (Financial Management) Regulations 1996 forming Attachments 1, 2 and 3 to Report CJ081-06/20, totalling \$12,035,928.33.

BACKGROUND

Council has delegated, to the Chief Executive Officer, the exercise of its power to make payments from the City's Municipal and Trust funds. In accordance with Regulation 13 of the *Local Government (Financial Management) Regulations 1996* a list of accounts paid by the Chief Executive Officer is to be provided to Council, where such delegation is made.

DETAILS

The table below summarises the payments drawn on the funds during the month of April 2020. Lists detailing the payments made are appended as Attachments 1 and 2 to Report CJ081-06/20.

The vouchers for the month are appended as Attachment 3 to Report CJ081-06/20.

FUNDS	DETAILS	AMOUNT
Municipal Account	Municipal Cheques & EFT Payments 109814 - 109893 & EF084809 -EF085395 Net of cancelled payments.	\$7,422,637.16
	Vouchers 2789A -2805A	\$4,609,874.37
Trust Account	Trust Cheques & EFT Payments TEF001775 – TEF001776 Net of cancelled payments.	\$3,416.80
Total		\$12,035,928.33

Issues and options considered

There are two options in relation to the list of payments.

Option 1

That Council declines to note the list of payments paid under delegated authority. The list is required to be reported to Council in accordance with Regulation 13(1) of the *Local Government (Financial Management) Regulations 1996*, and the payments listed have already been paid under the delegated authority. This option is not recommended.

Option 2

That Council notes the list of payments paid under delegated authority. This option is recommended.

Legislation / Strategic Community Plan / policy implications

Legislation

The Council has delegated to the Chief Executive Officer the exercise of its authority to make payments from the Municipal and Trust Funds, therefore in accordance with Regulation 13(1) of the *Local Government (Financial Management) Regulations 1996*, a list of accounts paid by the Chief Executive Officer is prepared each month showing each account paid since the last list was prepared.

Strategic Community Plan

Key theme

Financial Sustainability.

Objective

Effective management.

Strategic initiative

Not applicable.

Policy

Not applicable.

Risk management considerations

In accordance with section 6.8 of the *Local Government Act 1995*, a local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure is authorised in advance by an absolute majority of Council.

Financial / budget implications

All expenditure from the Municipal Fund was included in the Annual Budget as adopted or revised by Council.

Regional significance

Not applicable.

Sustainability implications

Expenditure has been incurred in accordance with budget parameters, which have been structured on financial viability and sustainability principles.

Consultation

Not applicable.

COMMENT

All Municipal Fund expenditure included in the list of payments is incurred in accordance with the *2019-20 Revised Budget* as adopted by Council at its meeting held on 18 February 2020 (CJ018-02/20 refers) or has been authorised in advance by the Mayor or by resolution of Council as applicable.

VOTING REQUIREMENTS

Simple Majority.

MOVED Mayor Jacob, SECONDED Cr Hamilton-Prime that Council NOTES the Chief Executive Officer's list of accounts for April 2020 paid under Delegated Authority in accordance with Regulation 13(1) of the *Local Government (Financial Management) Regulations 1996* forming Attachments 1, 2 and 3 to Report CJ081-06/20, totalling \$12,035,928.33.

The Motion was Put and CARRIED (13/0) by Exception Resolution after consideration of CJ085-06/20, page 126 refers.

In favour of the Motion: Mayor Jacob, Crs Chester, Fishwick, Hamilton-Prime, Hollywood, Jones, Logan, May, McLean, Poliwka, Raftis, Taylor and Thompson.

Appendix 9 refers

To access this attachment on electronic document, click here: [Attach9brf200609.pdf](#)

CJ082-06/20 FINANCIAL ACTIVITY STATEMENT FOR THE PERIOD ENDED 30 APRIL 2020

WARD	All
RESPONSIBLE DIRECTOR	Mr Mat Humfrey Corporate Services
FILE NUMBER	07882,101515
ATTACHMENT	Attachment 1 Financial Activity Statement Attachment 2 Investment Summary Attachment 3 Supporting Commentary
AUTHORITY/ DISCRETION	Information - includes items provided to Council for information purposes only that do not require a decision of Council (that is for 'noting').

PURPOSE

For Council to note the Financial Activity Statement for the period ended 30 April 2020.

EXECUTIVE SUMMARY

At its meeting held on 25 June 2019 (CJ073-06/19 refers), Council adopted the Annual Budget for the 2019-20 financial year. Council subsequently revised the budget at its meeting held on 18 February 2020 (CJ018-02/20 refers) and 21 April 2020 (CJ050-04/20 refers). The figures in this report are compared to the revised budget (as amended).

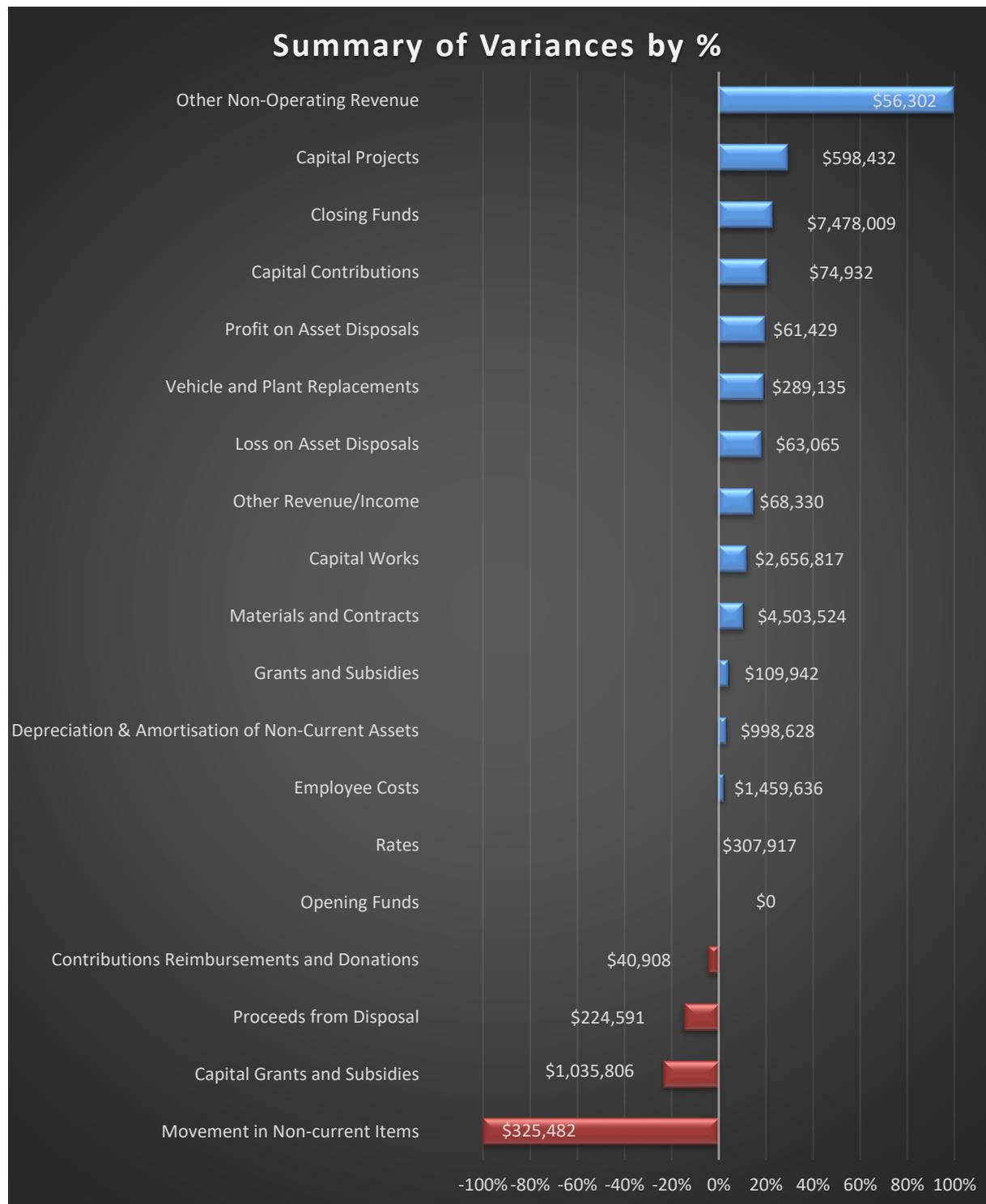
The April 2020 Financial Activity Statement Report shows an overall favourable variance from operations and capital, after adjusting for non-cash items, of \$7,478,009 for the period when compared to the revised budget.

It should be noted that this variance does not represent a projection of the end of year position or that these funds are surplus to requirements. It represents the year to date position to 30 April 2020 and results from a number of factors identified in the report.

There are a number of factors influencing the favourable variance, but it is predominantly due to the timing of revenue and expenditure compared to the budget estimate. The notes in Attachment 3 identify and provide commentary on the individual key material revenue and expenditure variances to date.

The pandemic impact had only begun with the closure of leisure and library facilities in late March. Revenue from leisure centres and facility bookings will be virtually non-existent as long as the current COVID-19 measures remain in place, expected to be for most of the remainder of the financial year. In addition, reduction in economic activity and social distancing measures has resulted in a fall in parking revenues as well.

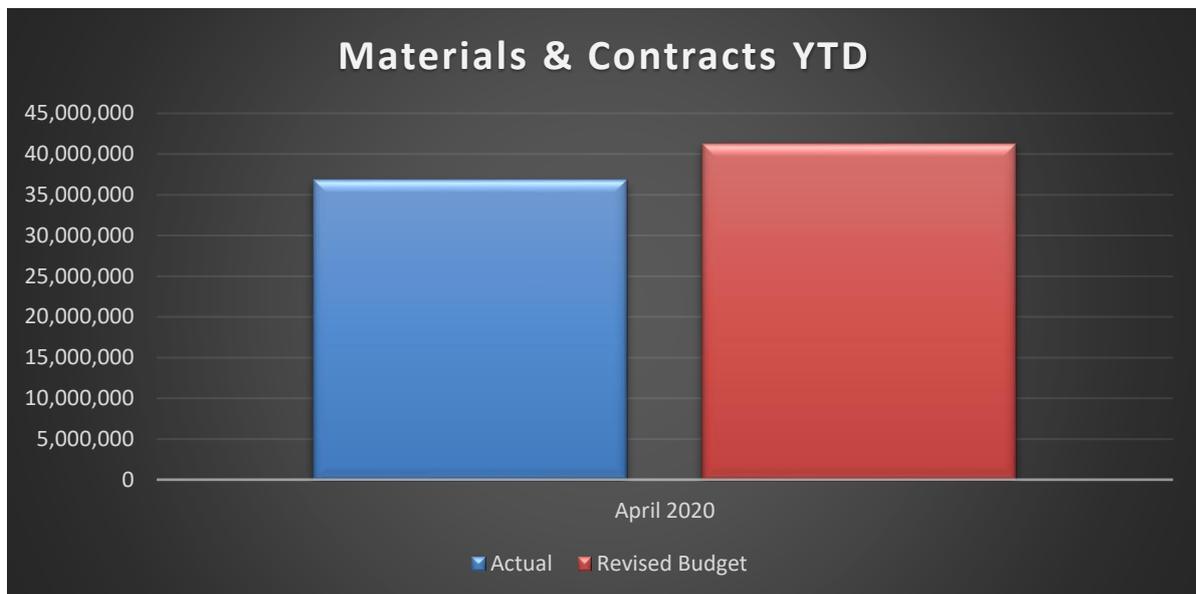
The key elements of the variance are summarised below:



The significant variances for April were:

Materials & Contracts

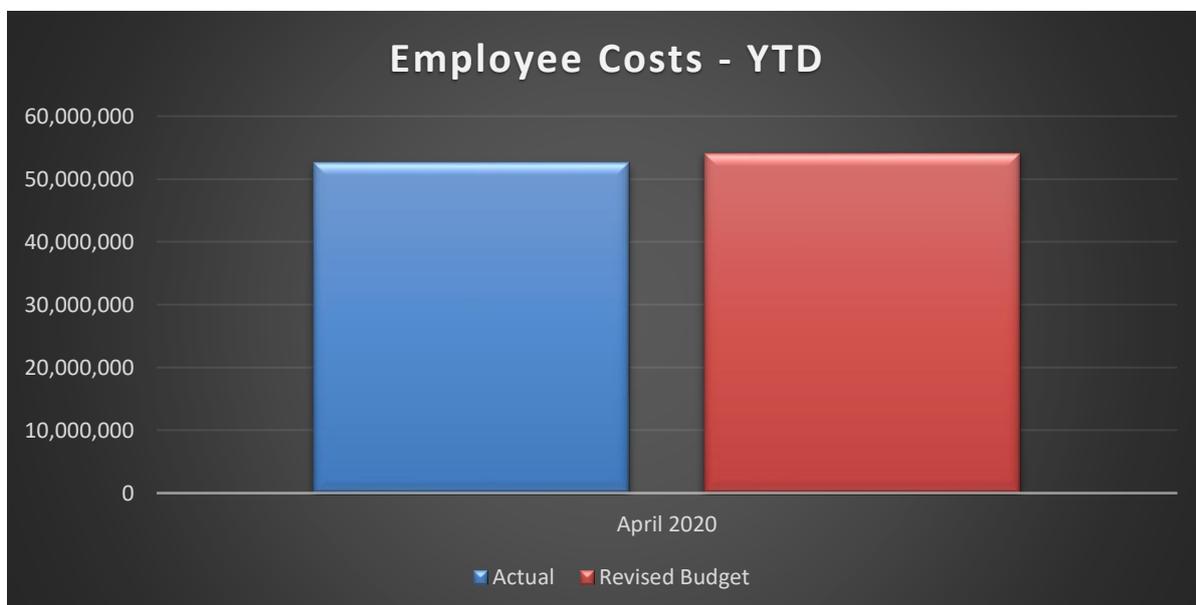
\$4,503,524



Materials and Contracts expenditure is \$4,503,524 below budget. This is spread across a number of different areas including favourable timing variances for External Service Expenses \$1,966,126, Professional Fees & Costs \$742,675 and Furniture, Equipment and Artworks \$369,203.

Employee Costs

\$1,459,636



Employee Costs expenditure is \$1,459,636 below budget. Favourable variances predominantly arose from vacancies in various areas.

It is therefore recommended that Council NOTES the Financial Activity Statement for the period ended 30 April 2020 forming Attachment 1 to Report CJ082-06/20.

BACKGROUND

The *Local Government (Financial Management) Regulations 1996* requires a monthly Financial Activity Statement. At its meeting held on 11 October 2005 (CJ211-10/05 refers), Council approved to accept the monthly Financial Activity Statement according to nature and type classification.

DETAILS

Issues and options considered

The Financial Activity Statement for the period ended 30 April 2020 is appended as Attachment 1 to Report CJ082-06/20.

Legislation / Strategic Community Plan / policy implications

Legislation

Section 6.4 of the *Local Government Act 1995* requires a local government to prepare an annual financial report for the preceding year and such other financial reports as are prescribed.

Regulation 34(1) of the *Local Government (Financial Management) Regulations 1996* requires the local government to prepare each month a statement of financial activity reporting on the source and application of funds as set out in the annual budget.

Strategic Community Plan

Key theme Financial Sustainability.

Objective Effective management.

Strategic initiative Not applicable.

Policy Not applicable.

Risk management considerations

In accordance with section 6.8 of the *Local Government Act 1995*, a local government is not to incur expenditure from its municipal funds for an additional purpose except where the expenditure is authorised in advance by an absolute majority of Council.

Financial / budget implications

All amounts quoted in this report are exclusive of GST.

Regional significance

Not applicable.

Sustainability implications

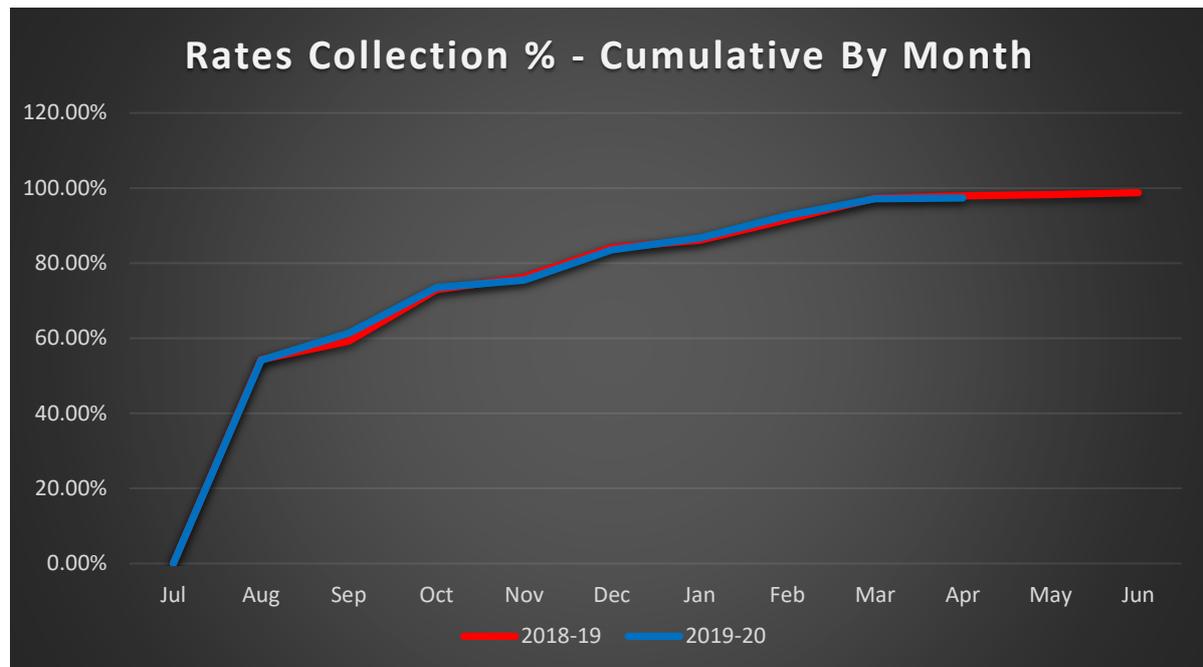
Expenditure has been incurred in accordance with adopted budget parameters, which have been structured on financial viability and sustainability principles.

Consultation

In accordance with section 6.2 of the *Local Government Act 1995*, the annual budget was prepared having regard to the *Strategic Financial Plan*, prepared under Section 5.56 of the *Local Government Act 1995*. The Mid Year Review Budget was prepared in accordance with Regulation 33A of the *Local Government (Financial Management) Regulations 1996*.

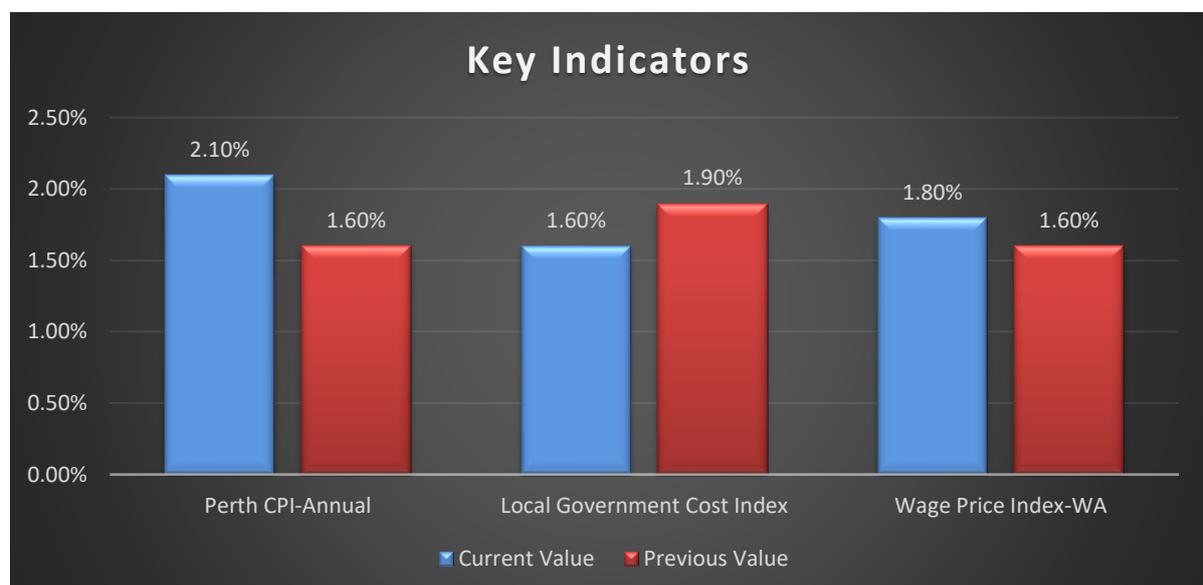
KEY INDICATORS

Rates Collection



Rates collections as a percentage of rates issued (debtors) continues approximately on par with the prior year at the end of April. This trend was expected to continue to the end of the financial year. In the current environment, this appears increasingly unlikely especially as further debt collection activity has been ceased for the remainder of the financial year.

Economic Indicators



Wage inflation rose from the December Quarter but continues to lag the national wage price index which is 2.2% for the same period. The Local Government Cost Index is lower mainly driven by reduced electricity and street lighting costs, but CPI grew significantly.

In the current environment where significant disruption to economic activity has occurred as a result of measures taken by government to combat the COVID-19 pandemic, there is a high level of uncertainty about key indicators as this latest data was collected before the full impact of the pandemic measures was felt.

COMMENT

All expenditure included in the Financial Activity Statement is incurred in accordance with the provisions of the 2019-20 revised budget (as amended) or has been authorised in advance by Council where applicable.

VOTING REQUIREMENTS

Simple Majority.

MOVED Mayor Jacob, SECONDED Cr Hamilton-Prime that Council NOTES the Financial Activity Statement for the period ended 30 April 2020 forming Attachment 1 to Report CJ082-06/20.

The Motion was Put and CARRIED (13/0) by Exception Resolution after consideration of CJ085-06/20, page 126 refers.

In favour of the Motion: Mayor Jacob, Crs Chester, Fishwick, Hamilton-Prime, Hollywood, Jones, Logan, May, McLean, Poliwka, Raftis, Taylor and Thompson.

Appendix 10 refers

To access this attachment on electronic document, click here: [Attach10brf200609.pdf](#)

CJ083-06/20 AMENDMENTS TO LOCAL GOVERNMENT HOUSE TRUST DEED

WARD	All
RESPONSIBLE DIRECTOR	Mr Mat Humfrey Corporate Services
FILE NUMBER	00033, 101515
ATTACHMENTS	Attachment 1 Draft Deed of Variation Attachment 2 Clause 12 of Trust Deed (Excerpt)
AUTHORITY / DISCRETION	Executive - The substantial direction setting and oversight role of Council, such as adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.

PURPOSE

To seek Council's approval of the amendments proposed by the Western Australian Local Government Association (WALGA) to the Local Government House Trust Deed.

EXECUTIVE SUMMARY

The Local Government House Trust was created in 1980 primarily to provide building accommodation for the Western Australian Local Government Association (WALGA). Since January 2014, the Trust has provided WALGA with accommodation at 170 Railway Parade, West Leederville.

The current Trust Deed was last amended in 2002 upon the merger of metropolitan and country associations into WALGA. This Trust Deed prescribes WALGA as the Trustee and unit holders as Beneficiaries.

The proposed amendments are required to strengthen the Trust's current status as exempt from income tax and will result in increased power to the Beneficiaries through the Board of Management.

BACKGROUND

The Local Government House Trust (the Trust) is a unit trust that was created in 1980 primarily to provide building accommodation to WALGA, which has been at the ONE70 building at 170 Railway Parade, West Leederville since January 2014. The Trust presently owns 60% of the building through a joint venture investment with Qube Railway Parade Pty Ltd¹, which is considered suitable to accommodate WALGA and its staff as well as third party tenants.

¹ WALGA Annual Report 2019

The current Trust Deed defines the following:

- The Trustee, WALGA, who holds property and associated monies “upon Trust”.
- The Beneficiaries, being the unit holders in the Trust, namely the 132 local governments that contributed towards the creation of the Trust.

The current Trust Deed commenced in 1994 with a vesting date in 2072. The City is a unit holder, holding five of the 620 units comprising the Trust, and a beneficiary of the Trust. The value of the City’s unit holdings reflected in the City’s Annual Financial Statements at 30 June 2019 was \$87,586.

DETAILS

WALGA has advised that the Trust is currently exempt from income tax by virtue of being classified as a State/Territory Body (STB) in accordance with Division 1AB of the *Income Tax Assessment Act 1936*.

Legal advice was recently obtained by WALGA to the effect that, under the current Trust Deed, the ability of the Trustee to retire and appoint a new Trustee could affect the Trust’s classification as a STB. While this view may be considered to be based on a highly technical interpretation, WALGA nevertheless believes that there is a risk to the Trust’s tax-exempt status that requires mitigation.

Accordingly, WALGA as the Trustee proposes to execute a Deed of Variation (Attachment 1 refers) to the current Trust Deed to strengthen the Trust’s position as a STB for purposes of exemption from income tax, to give effect to the following amendments, as articulated:

Amendment 1 – Varying the Trustee’s power to retire and appoint a new Trustee

Existing clause 22.1 of the Trust deed is proposed to be varied pursuant to the insertion of a new clause 22.3.

Clause 22.1 is proposed to be amended as follows (amendment underlined and in bold):

*“Any trustee of the Trust may retire as Trustee of the Trust. **The Subject to clause 22.3, the right to appoint a new or additional trustees of the Trust is hereby vested in the retiring or continuing trustee. A corporation or incorporated association may be appointed as Trustee of the Trust**”*

Amendment 2 – Enabling Beneficiaries to appoint or remove a Trustee

It is proposed to insert two new clauses, 22.3 and 22.4, that empower the Beneficiaries to appoint and remove Trustees, as follows:

22.3 ***The retiring or continuing trustee shall only be entitled to appoint any new or additional trustee of the Trust with the consent of not less than 75% of the Beneficiaries.***

22.4 ***The Beneficiaries may at any time by Special Resolution:***
(a) ***remove a Trustee from the office as Trustee of the Trust***
(b) ***appoint such new or additional Trustee.***

The above amendments serve to remove powers granted to the Trustee in the last variation to the Deed in 2002 that was necessary to facilitate transfer of trusteeship at the time to the newly constituted Western Australian Local Government Association. The proposed amendments limit the power of the Trustee to appoint new trustees to be subject to the consent of the beneficiaries.

Amendment 3 – Ensuring that the Board of Management is the ‘governing body’ of the Trust

It is also proposed to insert a new clause 13A as follows:

13A Delegation to the Board of Management

Unless the Beneficiaries otherwise direct (such direction to be given by not less than 75% of the Beneficiaries), the Trustees shall delegate all of the powers, authorities and discretions contained in subclauses (a) to (x) of clause 12 to the Board of Management. The Trustees shall, at the direction of the Board of Management, do such things as may be necessary to give effect to the exercise of a power, authority or discretion by the Board of Management.

Attachment 2 sets out clause 12 of the Trust Deed, which outlines all the powers of the Trustee. The proposed clause 13A is intended to confirm that power rests with the Board of Management, which comprises the member local governments.

Issues and options considered

In accordance with the legal advice that WALGA sought, the variation and additional clauses proposed to the Trust Deed are intended to limit the Trustee’s ability to retire and appoint new trustees without majority consent of the beneficiaries and to confirm that the Trustee’s powers are exercised through the Board of Management.

Option 1 – Do not agree to the proposed amendments to the Trust Deed

Council can choose not to endorse the proposed amendments to the Trust Deed. Given that the nature of the amendments proposed serve to strengthen the position of the beneficiaries of the Trust (namely, the member local governments), it is not considered that there are particular risks to the City, as one of the beneficiaries of the Trust.

This option is not recommended.

Option 2 – Agree to the proposed amendments to the Trust Deed

The proposed amendments have been identified as necessary to strengthen the Trust’s income tax-exempt status as a STB under the *Income Tax Assessment Act 1936* and also serve to improve the position of beneficiaries with respect to the appointment and removal of new trustees as well as affirming the exercise of the Trust’s powers through a Board of Management. It is not considered that the proposed amendments will detrimentally impact the City’s position.

This option is recommended.

Legislation / Strategic Community Plan / Policy implications

Legislation *Trustees Act 1962.*
 Income Tax Assessment Act 1936.

Strategic Community Plan

Key theme Not applicable.

Objective Not applicable.

Strategic initiative Not applicable.

Policy Not applicable.

Risk management considerations

There are no particular risks to the City *per se*. The amendments are necessary to strengthen the Trust's tax-exempt status as a STB under income tax legislation and do not adversely impact the City. The City's position as one of the beneficiaries of the Trust appears to be strengthened by the proposed amendments.

Financial / budget implications

Not applicable.

Regional significance

Not applicable.

Sustainability implications

Not applicable.

Consultation

While no consultation has been undertaken by the City, WALGA has provided the following advice with regard to the proposed amendments:

- The first two amendments remove powers granted to the Trustee following the 2002 amendment that resulted from mergers into a single association, WALGA.
- The third amendment confirms that power rests with the Board of Management of the Trust. As the Board comprises local governments that are unit holders, it is considered that this satisfies the requirements of a STB for exemption from income tax.

COMMENT

The City holds five units in the Local Government House Trust. The proposed amendments serve to enhance the powers of unitholders *via-a-vis* that of the trustee when it comes to control over appointment and removal of trustees and the ability to direct operational decisions through the Board of Management.

The amendments proposed are considered to be reasonable, appropriate and consistent with current legislation.

VOTING REQUIREMENTS

Simple Majority.

MOVED Mayor Jacob, SECONDED Cr Hamilton-Prime that Council:

- 1** AGREES to the amendments proposed to the Local Government House Trust Deed as contained in the proposed Deed of Variation detailed in Attachment 1 to Report CJ083-06/20;
- 2** AGREES to the execution, by the Trustee of the Local Government House Trust, of the proposed Deed of Variation as detailed in Attachment 1 to Report CJ083-06/20 in accordance with all applicable legislative requirements;
- 3** ADVISES the Western Australian Local Government Association (WALGA) of its decision.

The Motion was Put and CARRIED (13/0) by Exception Resolution after consideration of CJ085-06/20, page 126 refers.

In favour of the Motion: Mayor Jacob, Crs Chester, Fishwick, Hamilton-Prime, Hollywood, Jones, Logan, May, McLean, Poliwka, Raftis, Taylor and Thompson.

Appendix 11 refers

To access this attachment on electronic document, click here: [Attach11brf200609.pdf](#)

CJ084-06/20 TENDER 009/20 PROVISION OF LANDSCAPE AND IRRIGATION MAINTENANCE SERVICES – ‘NEW’ BURNS BEACH ESTATE

WARD	North
RESPONSIBLE DIRECTOR	Mr Mat Humfrey Corporate Services
FILE NUMBER	108609, 101515
ATTACHMENTS	Attachment 1 Schedule of Items Attachment 2 Summary of Tender Submissions
AUTHORITY / DISCRETION	Executive - The substantial direction setting and oversight role of Council, such as adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.

PURPOSE

For Council to accept the tender submitted by Greenworx Commercial Maintenance Pty Ltd for the provision of landscape and irrigation maintenance services - ‘New’ Burns Beach Estate.

EXECUTIVE SUMMARY

Tenders were advertised on Saturday 7 March 2020 through state-wide public notice for the provision of landscape and irrigation maintenance services - ‘New’ Burns Beach Estate. A submission was received from each of the following:

- Baileys Landscaping Group Pty Ltd (Renoscape WA).
- ELM (WA) Pty Ltd (E.L.M. Estate Landscape Maintenance).
- Environmental Industries Pty Ltd.
- Greenworx Commercial Maintenance Pty Ltd.
- Horizon West Landscape & Irrigation Pty Ltd.
- The Trustee for The Lochness Unit Trust (Lochness Landscape Services).
- Landscape and Maintenance Solutions Pty Ltd.
- Landscape Elements Pty Ltd.
- Sanpoint Pty Ltd t/as LD Total Pty Ltd.
- Skyline Landscape Services Group Pty Ltd.
- Total Eden Pty Ltd.

The submission from Greenworx Commercial Maintenance Pty Ltd represents best value to the City. It demonstrated a sound understanding and appreciation of the required tasks. It provided a methodology that addressed the key components of turf, landscape and irrigation maintenance and allocated sufficient hours to undertake each. It has previous experience in undertaking similar landscaping maintenance services for South Metropolitan TAFE, National Trust (WA) and Clontarf Aboriginal College. The company is also fully familiar with the estate, being the current contractor of landscape services at the ‘new’ Burns Beach estate since July 2017. Greenworx Commercial Maintenance Pty Ltd has the capacity in terms of personnel and equipment to carry out the services to the standards required.

It is therefore recommended that Council ACCEPTS the tender submitted by Greenworx Commercial Maintenance Pty Ltd for the provision of landscape and irrigation maintenance services – ‘New’ Burns Beach Estate as specified in Tender 009/20 for a period of three years for the fixed lump sum of \$437,880 (GST exclusive), with an option for a further two years and schedule of rates for any modifications with annual price variations subject to the percentage change in the Perth (All Groups) CPI.

BACKGROUND

The City has a requirement for the provision of landscape and irrigation maintenance services in designated public open space and landscaped areas within the “New” Burns Beach Estate. The service required in this contract includes the service standard generally applied to the City’s public open space and landscaped areas, as well as an additional level of service above the standard level that is funded by a Specified Area Rating (SAR) and which is subject to service level agreement standards agreed between the City and the residents of Burns Beach.

The scope of work includes, but is not limited to the following:

- turf maintenance
- mowing
- removal of grass clippings and green waste
- garden bed maintenance
- weed control and reporting
- irrigation maintenance
- administrative reporting and routine site inspections
- landscape upgrades.

The City currently has a single contract for these services with Greenworx Commercial Maintenance Pty Ltd, which will expire on 30 June 2020.

Tender assessment is based on the best value for money concept. Best value is determined after considering whole of life costs, fitness for purpose, tenderers’ experience and performance history, productive use of City resources and other environmental or local economic factors.

DETAILS

The tender for the provision of landscape and irrigation maintenance services - ‘New’ Burns Beach Estate was advertised through state-wide public notice on 7 March 2020. The tender period was for two weeks and tenders closed on 24 March 2019.

Tender Submissions

A submission was received from each of the following:

- Baileys Landscaping Group Pty Ltd (Renoscape WA).
- ELM (WA) Pty Ltd (E.L.M. Estate Landscape Maintenance).
- Environmental Industries Pty Ltd.
- Greenworx Commercial Maintenance Pty Ltd.
- Horizon West Landscape & Irrigation Pty Ltd.
- The Trustee for The Lochness Unit Trust (Lochness Landscape Services).
- Landscape and Maintenance Solutions Pty Ltd.
- Landscape Elements Pty Ltd.
- Sanpoint Pty Ltd t/as LD Total Pty Ltd.

- Skyline Landscape Services Group Pty Ltd.
- Total Eden Pty Ltd.

The schedule of items listed in the tender is provided in Attachment 1 to Report CJ084-06/20.

A summary of the tender submissions including the location of each tenderer is provided in Attachment 2 to Report CJ084-06/20.

Evaluation Panel

The evaluation panel comprised of three members:

- One with tender and contract preparation skills.
- Two with the appropriate operational expertise and involvement in supervising the contract.

The panel carried out the assessment of submissions in accordance with the City's evaluation process in a fair and equitable manner.

Evaluation Method and Weighting

The comprehensive weighting method of tender evaluation (includes weighting to each selection criterion and price) was selected to evaluate the offers for this requirement.

The qualitative criteria and weighting used in evaluating the submissions received were as follows:

Qualitative Criteria		Weighting
1	Demonstrated understanding of the required tasks	35%
2	Demonstrated experience providing similar services	25%
3	Capacity	20%
4	Price	15%
5	Social and economic effects on the local community	5%

Compliance Assessment

All offers received were fully compliant and were considered for further evaluation.

Qualitative Assessment

Renoscape WA scored 35.9% and was ranked eleventh in the price and qualitative assessment. It demonstrated some capacity to undertake the work however it did not provide a list of current work commitments, the availability of additional resources, after-hours contacts or safety record. The company demonstrated limited experience undertaking similar services. It has provided garden maintenance and irrigation to the Shorehaven Estate Alkimos since September 2016. No further examples of similar work were provided. It did not fully demonstrate its understanding of the requirements. The response addressed the vehicles used for various tasks and the allocation of hours to the three maintenance service components. No specific work methodology that would be applied to the City's requirements was provided.

Lochness Landscape Services scored 53.8% and was ranked tenth in the price and qualitative assessment. The company demonstrated its capacity in terms of key personnel and equipment to deliver the services. It demonstrated current experience providing lawn mowing services to the Cities of Joondalup, Gosnells and Kwinana, the Town of Victoria Park and Department of Education.

Examples of other work include turf, garden and irrigation maintenance for the City of Rockingham and Town of Cambridge. It demonstrated some understanding of the required tasks, providing a general work procedure not specific to the City's requirements, information on safety, scheduling, traffic management and the hours allocated for each work component.

Skyline Landscape Services Group Pty Ltd scored 59.5% and was ranked ninth in the price and qualitative assessment. It has adequate capacity to provide the services. It demonstrated experience providing various streetscape/landscape services to local governments. Examples of current works include landscape maintenance for the Cities of Wanneroo, Gosnells, Nedlands and Belmont. It demonstrated a reasonable understanding of the City's requirements providing its proposed methodology for turf and garden maintenance, traffic management and rubbish removal and irrigation maintenance.

Landscape Elements Pty Ltd scored 61% and was ranked equal seventh in the price and qualitative assessment. The company demonstrated a good understanding of the required tasks. It has sufficient capacity to undertake the works. It demonstrated experience in landscape maintenance services to various organisations including the City of Cockburn, Town of Cambridge and PEET.

Total Eden Pty Ltd scored 61% and was ranked equal seventh in the price and qualitative assessment. It demonstrated an adequate understanding of the required tasks; however, irrigation maintenance was not addressed in either the methodology or hours allocated to the tasks. The company demonstrated the capacity in terms of personnel and equipment to undertake the works. It demonstrated experience providing similar services to various organisations including Lendlease, Satterley Property Group and Eastcourt Property Group. It has also undertaken work at Burns Beach Estate locations, Marmion Avenue Entry and McIntyre Park.

Horizon West Landscape & Irrigation Pty Ltd scored 61.2% and was ranked sixth in the price and qualitative assessment. It demonstrated its capacity to undertake the services in terms of personnel and equipment. The company demonstrated a good understanding of the required tasks. It has experience providing similar services at The Village at Wellard on behalf of PEET Limited/EPCAD, maintaining Capricorn Estate on behalf of Acumen and Skeet, Warton and Ranford Road maintenance contracts for the City of Armadale.

E.L.M. Estate Landscape Maintenance scored 62.4% and was ranked fifth in the price and qualitative assessment. It demonstrated experience providing estate maintenance services to multiple locations for Stockland, the City of Armadale (Piara Waters South) and Jindalee estate for Heath Development. The volume of work or contract value was not provided for any example contract to ascertain similarity in scale to the City's requirement. The company demonstrated an adequate understanding of the City's requirements; however, its hours allocated to irrigation maintenance were not supplied. It has capacity to undertake the services; although its response did not include its safety record and the supplied plant and equipment register showed expired service due dates.

Landscape and Maintenance Solutions Pty Ltd scored 66.8% and was ranked fourth in the price and qualitative assessment. It has sufficient capacity to undertake the works. The company demonstrated experience undertaking landscape maintenance to clients including LWP Property Group (Trinity and Glades estates), City of Busselton (Provence estate) and Metropolitan Redevelopment Authority (Elizabeth Quay and Perth Cultural Centre). It demonstrated a satisfactory understanding of the required tasks.

LD Total scored 69.7% and was ranked third in the price and qualitative assessment. It demonstrated a good understanding of the required tasks. The company has the capacity to provide the required personnel and equipment for successful delivery of the services. LD Total demonstrated experience providing landscape maintenance services at various sites for the Cities of Wanneroo, Stirling and Kwinana.

Greenworx Commercial Maintenance Pty Ltd scored 77.1% and was ranked second in the price and qualitative assessment. The company has the capacity to provide the required personnel, equipment for successful delivery of the services.

The company has been providing landscape services to the City at Burns Beach Estate and Woodvale Waters Estate since 2017. It demonstrated a thorough understanding and appreciation of the City's requirements. Its submission included a proposed methodology addressing the three key maintenance operations: turf, landscape and irrigation.

Environmental Industries Pty Ltd scored 78.5% and was ranked first in the price and qualitative assessment. It demonstrated a thorough understanding of the City's requirements, providing an in-depth response and proposed methodology, which included turf maintenance, garden bed maintenance, minor tree works and irrigation maintenance. The company has the capacity to provide the required personnel, equipment for successful delivery of the services. It demonstrated experience undertaking public open space, streetscape and landscape maintenance for various organisations including the Cities of Wanneroo, Belmont and Stirling and has in the past completed works for the City at Iluka estate.

Price Assessment

The panel carried out a comparison of the lump sum prices and rates offered by each tenderer in order to assess value for money to the City.

The contract price is a fixed lump sum per year to undertake the scheduled landscape services. All tenderers have factored in their price increase for years two and three.

Tenderer	Year 1	Year 2	Year 3	Total
E.L.M. Estate Landscape Maintenance	\$96,342	\$96,342	\$96,342	\$289,026
Total Eden Pty Ltd	\$117,406	\$119,754	\$122,149	\$359,310
Landscape and Maintenance Solutions Pty Ltd	\$139,755	\$139,755	\$139,755	\$419,265
Greenworx Commercial Maintenance Pty Ltd	\$145,960	\$145,960	\$145,960	\$437,880
LD Total	\$144,309	\$148,637	\$153,097	\$446,043
Environmental Industries Pty Ltd	\$156,077	\$159,199	\$162,382	\$477,658
Lochness Landscape Services	\$171,206	\$171,206	\$174,631	\$517,043
Landscape Elements Pty Ltd	\$203,032	\$207,093	\$211,316	\$621,442
Skyline Landscape Services Group Pty Ltd	\$230,876	\$235,493	\$240,203	\$706,572
Horizon West Landscape & Irrigation Pty Ltd	\$258,291	\$258,291	\$258,291	\$774,873
Renoscape WA	\$258,520	\$269,935	\$281,940	\$810,395

During 2018-19, the City incurred \$142,715 for landscaping services in the 'New' Burns Beach Estate (excluding the irrigation component which does not form part of the existing contract) and the expenditure is estimated at \$740,730 (including irrigation maintenance services) over a five year period if the extension option is exercised.

Evaluation Summary

Tenderer	Qualitative Weighted Score	Price Weighted Score	Total Weighted Percentage Score	Ranking	Total Lump Sum Price
Environmental Industries Pty Ltd	69.4%	9.1%	78.5%	1	\$477,658
Greenworx Commercial Maintenance Pty Ltd	67.2%	9.9%	77.1%	2	\$437,880
LD Total	60.0%	9.7%	69.7%	3	\$446,043
Landscape and Maintenance Solutions Pty Ltd	56.4%	10.4%	66.8%	4	\$419,265
E.L.M. Estate Landscape Maintenance	47.4%	15.0%	62.4%	5	\$289,026
Horizon West Landscape & Irrigation Pty Ltd	55.6%	5.6%	61.2%	6	\$774,873
Total Eden Pty Ltd	48.9%	12.1%	61%	7	\$359,310
Landscape Elements Pty Ltd	54.0%	7.0%	61%	7	\$621,442
Skyline Landscape Services Group Pty Ltd	53.3%	6.2%	59.5%	9	\$706,572
Lochness Landscape Services	45.4%	8.4%	53.8%	10	\$517,043
Renoscape WA	30.5%	5.4%	35.9%	11	\$810,325

Based on the evaluation result the panel concluded that the tender from Greenworx Commercial Maintenance Pty Ltd Pty Ltd provides best value to the City and is therefore recommended.

While the tender evaluation utilising the comprehensive weighted method resulted in Environmental Industries Pty Ltd achieving the highest combined price and qualitative score, the City must consider value for money in the current economic conditions as a result of the COVID-19 pandemic.

The offer from Environmental Industries Pty Ltd was more expensive by \$39,778 (9.1%) over a three-year period or \$78,943 (10.65%) over a five-year period if the extension option is exercised) when compared to Greenworx Commercial Maintenance Pty Ltd. With a nominal (2.1%) difference between the qualitative scores of the top two ranked tenderers, a high-quality outcome will still be achieved while reducing the cost of the service to the City.

It is acknowledged that three other tenderers (E.L.M. Estate Landscape Maintenance, Total Eden Pty Ltd, and Landscape and Maintenance Solutions Pty Ltd) submitted lower priced offers than Greenworx Commercial Maintenance Pty Ltd. While these also offer a cost-saving to the City, all three scored between 10.8% and 19.8% lower in the qualitative assessment.

Issues and options considered

The City has a requirement for the provision of landscape and irrigation maintenance services for designated public open space and landscaped areas within the “New” Burns Beach Estate to satisfy the service level agreement standards agreed between the City and the residents of Burns Beach. The City does not have the internal resources to provide the required services and requires the appropriate external contractor to undertake the works.

Legislation / Strategic Community Plan / Policy implications

Legislation A state-wide public tender was advertised, opened and evaluated in accordance with regulations 11(1) and 18(4) of Part 4 of the *Local Government (Functions and General) Regulations 1996*, where tenders are required to be publicly invited if the consideration under a contract is, or is estimated to be more, or worth more, than \$250,000.

Strategic Community Plan

Key theme Quality Urban Environment.

Objective Quality open spaces.

Strategic initiative Adopt consistent principles in the management and provision of urban community infrastructure.

Policy *Specified Area Rating Policy.*

Risk management considerations

Should the contract not proceed, the risk to the City will be high as the estate would not have the additional services implemented to the levels agreed which would result in community and customer dissatisfaction. These services are funded in part from specified area rates and subject to a service level agreement between the City and the Burns Beach Residents Association.

It is considered that the contract will represent a relatively low risk to the City. The recommended tenderer is a well-established company with significant industry experience and proven capacity to provide the services to the City.

Financial / budget implications

Future financial year impact (2020-21)

Account no.	1-633-P3815-3359-6414 Operating Maintenance. 1-633-P3815-3359-6410 Operating Irrigation. 1-623- P3815-3359-6413 SAR.
Budget Item	Specified Area Rating (SAR) Landscape and Irrigation Services.
Proposed Budget amount	\$ 177,585 (Subject to 2020-21 Budget being adopted)
Amount spent to date	\$ 0
Proposed cost	\$ 145,960
Balance	\$ 31,625

The balance does not represent a saving at this time. The SAR landscaping budget is set annually following negotiation with the Burns Beach Residents Association. The operating maintenance and irrigation budgets include provision for repairs and maintenance elements that are not part of the fixed contract cost for landscaping and irrigation maintenance.

All amounts quoted in this report are exclusive of GST.

Regional significance

Not applicable.

Sustainability implications

The provision of landscape maintenance services in the 'New' Burns Beach Estate enhances the amenity of public open space for residents.

Consultation

The schedule of maintenance services that will form part of the annual service level agreement will be negotiated annually with the Burns Beach Residents Association.

COMMENT

The evaluation panel carried out the evaluation of the submissions in accordance with the City's evaluation process and concluded that the offer submitted by Greenworx Commercial Maintenance Pty Ltd represents best value to the City.

VOTING REQUIREMENTS

Simple Majority.

OFFICER'S RECOMMENDATION

That Council ACCEPTS the tender submitted by Greenworx Commercial Maintenance Pty Ltd for the provision of landscape and irrigation maintenance services – 'New' Burns Beach Estate as specified in Tender 009/20 for a period of three years for the fixed lump sum of \$437,880 (GST exclusive), with an option for a further two years and schedule of rates for any modifications with annual price variations subject to the percentage change in the Perth (All Groups) CPI.

MOVED Mayor Jacob, SECONDED Cr Hollywood that Council ACCEPTS the tender submitted by Total Eden Pty Ltd for the provision of landscape and irrigation maintenance services – 'New' Burns Beach Estate as specified in Tender 009/20 for a period of three years for the fixed lump sum of \$359,310 (GST exclusive), with an option for a further two years and schedule of rates for any modifications with annual price variations subject to the percentage change in the Perth (All Groups) CPI.

The Motion was Put and

CARRIED (9/4)

In favour of the Motion: Mayor Jacob, Crs Fishwick, Hamilton-Prime, Hollywood, Jones, Logan, May, McLean and Taylor.

Against the Motion: Crs Chester, Poliwka, Raftis, Thompson.

REASON FOR DEPARTURE FROM OFFICER'S RECOMMENDATION

In accordance with Regulation 11 (da) of the *Local Government (Administration) Regulations 1996*, the reason Council made its decision which was significantly different to what the administration recommended is because having demonstrated a capacity to perform the contract and in reviewing the schedule of rates, Total Eden Pty Ltd offer the City and the residents of Burns Beach a significant discount on the preferred tenderer.

Appendix 12 refers

To access this attachment on electronic document, click here: [Attach12brf200609.pdf](#)

CJ085-06/20 DEPARTMENT OF TRANSPORT – LONG TERM CYCLE NETWORK

WARD	All
RESPONSIBLE DIRECTOR	Mr Nico Claassen Infrastructure Services
FILE NUMBER	107357, 56534, 101515
ATTACHMENTS	Attachment 1 DoT LTCN for Joondalup Attachment 2 <i>Bike Plan 2016-21 Appendix 2</i>
AUTHORITY / DISCRETION	Executive – The substantial direction setting and oversight role of Council, such as adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.

PURPOSE

For Council to consider and endorse the Department of Transport's Long Term Cycling Network plan.

EXECUTIVE SUMMARY

The aim of the Department of Transport's Long Term Cycle Network (LTCN) project is to develop an aspirational blueprint to ensure that State and local governments work together towards the delivery of one continuous cycle network.

The vision is for a network of safe and attractive bicycle routes:

- to provide continuous routes along major corridors
- to establish links between strategic, secondary, district, specialised activity centers and public transport services
- to provide connections to schools, education sites and local centers.

It is therefore recommended that Council:

- 1 *ENDORSES the Department of Transport's Long Term Cycle Network plan for the City of Joondalup forming Attachment 1 to Report CJ085-06/20;*
- 2 *NOTES that endorsement of the Department of Transport's Long Term Cycle Network plan for the City of Joondalup does not commit:*
 - 2.1 *the City, nor state government agencies to deliver all or any part of the Long Term Cycle Network within a particular time frame;*
 - 2.2 *the City or any state government agency to fund any specific route identified within the Long Term Cycle Network;*
- 3 *SUPPORTS the collaboration of local and state government agencies to deliver the Department of Transport's Long Term Cycle Network plan over time.*

BACKGROUND

On 1 May 2015, the Western Australian Planning Commission (WAPC) released a suite of draft strategic land use planning documents for public comment, including the draft Perth and Peel @ 3.5 Million Strategy (PP3.5) and four draft planning frameworks for the Central, North-West, North-East and South Metropolitan Peel sub-regions.

The overarching PP3.5 report provided a snapshot of where Perth and Peel are currently at and expanded on the vision set out in the WAPC's Directions 2031 and Beyond (Directions 2031) for a more consolidated, connected City. It provided an updated spatial plan outlining where development should occur over the next 35 - 40 years.

At its meeting held on 28 July 2015 (CJ127-07/15 refers), Council endorsed the City of Joondalup's submission on the draft Perth and Peel @ 3.5 Million suite of documents.

In support of the land use strategies, the Minister for Transport released the Perth Transport Plan on 29 July 2016 for public comment. The Perth Transport Plan was prepared by the State transport agencies, being the Department of Transport (DoT), the Public Transport Authority (PTA) and Main Roads Western Australia (MRWA) and was modelled on the draft Perth and Peel @ 3.5 Million planning frameworks of where people will live and work and aligns to the Perth and Peel Green Growth Plan for 3.5 Million. The DoT's Cycling Network Plan was released as a sub-document of the Perth Transport Plan.

At its meeting held on 15 November 2016 (CJ197-11/16 refers) Council endorsed the City of Joondalup's submission on the Perth Transport Plan. The City's submission included the following comments specifically related to the cycling network:

- The City supported the aspirations of the proposed cycling infrastructure, and in particular, Bike Boulevards.
- The City is enhancing the cycling network within the Joondalup City Centre with a view to providing a higher standard of connectivity both within the centre and to the regional network outside the centre. As such, the City is keen to explore opportunities to improve the cycling network to encourage additional mode shift.
- The City supported the addition of green bridges across Lakes Joondalup and Goollelal to connect the Joondalup City Centre with Wanneroo which would improve east-west connectivity but requested due consideration be given to the potential environmental impact/s of these bridges.
- The off road cycling route along Gngangara and Ocean Reef Roads should be extended west of Mitchell Freeway to connect with the north-south principle shared path (PSP) along the coast, rather than the proposal for it to be an on-road cycle route.
- The long term plan for cycling should align with the Perth Bike Plan, Connecting Stations Program, population and employment growth areas and take into consideration the City of Joondalup *Bike Plan 2016-2021*.

The City's submission relating to cycling was based on the City of Joondalup *Bike Plan 2016-2021* which was adopted by Council at its meeting held on 19 April 2016 (CJ061-04/16 refers). This plan identified the vision for the City to be recognised as *the bike friendly city* where riding a bike is considered an easy and convenient way to get around, part of a normal everyday healthy lifestyle and where all types and abilities of riders are catered for. The plan identifies the Four P's – *people, pathways, places* and *promotions* which represents the four approached with City will take to increase bike riding within the City. Each of the Four P's is an essential, integrated and equally important component of creating a bike friendly city.

DETAILS

In March 2018, the State Government released Perth and Peel@3.5million, a strategic suite of documents which present a long-term growth strategy for land use and infrastructure provision for the Perth and Peel regions.

Following this release, the Department of Transport (DoT) commenced the development of a Long Term Cycle Network (LTCN) which involved engagement with local government officers across Perth and Peel to agree on a long-term aspirational bicycle network for the region that supports and addresses local and regional bicycle connections which aligned with LGAs' own Bike Plans.

The DoT and local government officers have worked together to identify cycling routes and categorised these routes using a three-tier route hierarchy as depicted below:

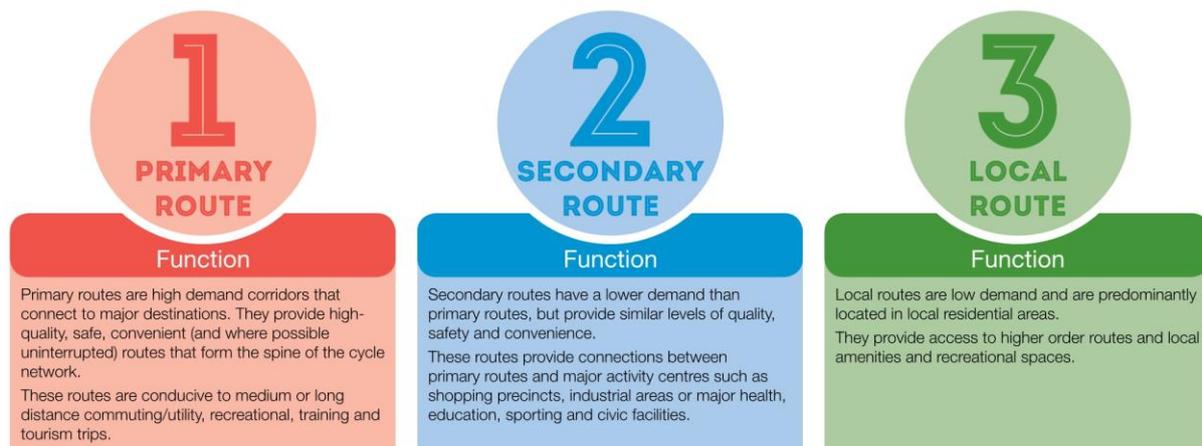


Figure 1: Route Categories Courtesy of WA Department of Transport 2019

The DoT's draft LTCN plan was provided to and reviewed by Main Roads WA and the Public Transport Authority / Metronet teams which ensured that these State agencies are aware of the LTCN routes proposed and feedback provided assisted in shaping the network in relation to their State controlled assets.

The DoT's LTCN plan for the Perth and Peel region will assist with the following:

- Leveraging additional funding for bicycle infrastructure and planning of the bicycle network and routes.
- State Government discussions/applications regarding Federal funding for bike riding (infrastructure/programs/campaigns).
- The DoT leveraging additional funding for bicycle infrastructure – including funding made available to local governments via the WA Bicycle Network Grants Program administered by the DoT.
- State agencies (Main Roads/PTA/Metronet) in infrastructure planning and delivery.
- Local government's network planning, cross boundary connectivity and bicycle route prioritisation.

The DoT is now seeking its LTCN to be endorsed by Councils across the 33 local governments making up Perth and Peel. From July 2020 all WA Bicycle Network Grants for Perth and Peel local governments will be linked to the endorsed LTCN. As such, only routes within the endorsed LTCN will be eligible for grants and only local governments who endorse the LTCN can apply. The DoT's LTCN plan in relation to the City of Joondalup forms Attachment 1 to Report CJ085-06/20.

The City's *Bike Plan 2016-2021* identified 13 priority bike infrastructure upgrades (Attachment 2 refers) of which there are currently eight projects still to be constructed. As these projects also form part of the proposed LTCN they will be eligible for WA Bicycle Network Grant funding submissions. The projects are tabled below:

Street	Suburb	In CoJ Bike Plan?	In LTCN	Route Category in LTCN
Davallia Road	Duncraig	Yes	Yes	Secondary Route
Warwick Road	Duncraig	Yes	Yes	Secondary Route
Glengarry Drive	Duncraig	Yes	Yes	Local Route
Gibson Avenue	Padbury	Yes	Yes	Local Route
Eddystone Avenue	Craigie	Yes	Yes	Local Route
Venturi Drive	Ocean Reef	Yes	Yes	Local Route
Hodges Drive	Heathridge	Yes	Yes	Secondary Route
Trappers Drive	Woodvale	Yes	Yes	Secondary Route

These projects represent 18.5km in total and will require approximately \$6 million to construct. Funding opportunities from the state government are crucial to assist the City in delivering these projects.

Issues and options considered

Council may either consider the following options:

Option 1

Endorse the Department of Transport's Long Term Cycle Network plan for the City of Joondalup forming Attachment 1 to Report CJ085-06/20.

This is the recommended option as the DoT's LTCN plan aligns with the City's adopted *Bike Plan* and will enable the City to maximise grant funding opportunities for the development of its cycle network. Endorsement of the DoT's LTCN plan will not commit the City, nor the State Government, to deliver all or any part of the plan within a particular timeframe. Nor does the endorsement commit any party to fund any specific route within the LTCN.

Option 2

Endorse the Department of Transport's Long Term Cycle Network plan for the City of Joondalup subject to changes.

Option 3

Not endorse the Department of Transport's Long Term Cycle Network plan for the City of Joondalup.

Legislation / Strategic Community Plan / Policy implications

Strategic Community Plan

Key theme Quality Urban Environment.

Objective Integrated spaces.

Strategic initiative Provide for diverse transport options that promote enhanced connectivity.

Enable safe, logical and accessible pedestrian movements throughout public spaces.

Risk management considerations

Should Council not endorse the DoT's LTCN plan, the City will be ineligible for grant funding from the WA Bicycle Network (WABN) program (administered by the DoT) from July 2020. It should be noted that over the previous five financial years, the City has received an average of \$150,000 funding from the DoT for cycling infrastructure projects.

Financial implications

The WABN grants program is available to local governments in WA, up to 50 per cent of the total project cost, for the planning and implementation of bicycle network infrastructure in accordance with State Government priorities set out in the WA Bike Network Plan.

Regional significance

The DoT's LTCN provides an integrated cycling network across local government boundaries.

Sustainability implications

The bike as a form of transport provides many benefits for individuals, the community, the economy and the environment. Bike riders can be any age and any fitness level. Bikes are more affordable than a car to purchase and maintain. Bike riding is 100% greenhouse friendly and emits no noxious fumes or particulate matter.

Bike riding improves the health of those who ride and will make local streets and suburbs safer and more liveable. By creating a bike friendly city, the City of Joondalup can create a healthier, safer and more liveable environment for everyone.

Consultation

Consultation with the community was undertaken as part of the City's *Bike Plan 2016-2021* where the strategic list of projects was established.

The DoT consulted with the City and other local governments to develop its LTCN plan which includes the cycle routes identified in the City of Joondalup's *Bike Plan 2016-2021*.

COMMENT

The DoT's LTCN plan provides a coordinated approach for bike route planning across local governments within the Perth and Peel regions. Endorsement of this plan will enable the City to apply for grant funding to assist in delivering the projects identified in the City's *Bike Plan* which will improve cycling networks within our borders.

The DoT will be updating the guidance for local governments in relation to developing local bicycle plans. It is expected that the new guidance will require local governments to review their existing bike plans to ensure alignment with the DoT guidelines and can include the following amendments to the DoT's LTCN plan:

- The potential additional of new routes.
- The potential realignment of existing routes.

The City of Joondalup will review its Bike Plan in 2021 and, as part of this review will collaborate with the DoT in relation to the LTCN plan.

VOTING REQUIREMENTS

Simple Majority.

MOVED Cr Chester, SECONDED Cr Logan that Council:

- 1 ENDORSES the Department of Transports Long Term Cycle Network plan for the City of Joondalup forming Attachment 1 to Report CJ085-06/20;**
- 2 NOTES that endorsement of the Department of Transports Long Term Cycle Network plan for the City of Joondalup does not commit:**
 - 2.1 the City, nor state government agencies to deliver all or any part of the Long Term Cycle Network within a particular time frame;**
 - 2.2 the City or any state government agency to fund any specific route identified within the Long Term Cycle Network;**
- 3 SUPPORTS the collaboration of local and state government agencies to deliver the Department of Transports Long Term Cycle Network plan over time.**

The Motion was Put and

CARRIED (13/0)

In favour of the Motion: Mayor Jacob, Crs Chester, Fishwick, Hamilton-Prime, Hollywood, Jones, Logan, May, McLean, Poliwka, Raftis, Taylor and Thompson.

Appendix 13 refers

To access this attachment on electronic document, click here: [Attach13brf200609.pdf](#)

C44-06/20 COUNCIL DECISION – ADOPTION BY EXCEPTION RESOLUTION - [02154, 08122]

MOVED Mayor Jacob, **SECONDED** Cr Hamilton-Prime that pursuant to the *City of Joondalup Meeting Procedures Local Law 2013* – Clause 4.8 – Adoption by exception resolution, Council **ADOPTS** the following items:

CJ071-06/20, CJ072-06/20, CJ075-06/20, CJ081-06/20, CJ082-06/20 and CJ083-06/20.

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

In favour of the Motion: Mayor Jacob, Crs Chester, Fishwick, Hamilton-Prime, Hollywood, Jones, Logan, May, McLean, Poliwka, Raftis, Taylor and Thompson.

URGENT BUSINESS

Nil.

C45-06/20 MOTION TO CLOSE MEETING TO MEMBERS OF THE PUBLIC – [02154, 08122]

MOVED Mayor Jacob, **SECONDED** Cr Fishwick that Council:

- 1** in accordance with Section 5.23(2)(a) of the *Local Government Act 1995* and clause 5.2(2) of the *City’s Meeting Procedures Local Law 2013*, **RESOLVES** to close the meeting to members of the public to consider the following item:
 - 1.1** Notice of Motion – Mayor Albert Jacob, JP – Offer to Vary Expiry Date of Contract of Employment – Chief Executive Officer;

- 2** **PERMITS** the following employees to remain in the Chamber during discussion on Item Notice of Motion – Mayor Albert Jacob, JP – Offer to Vary Expiry Date of Contract of Employment – Chief Executive Officer while the meeting is sitting behind closed doors as detailed in Part 1.1 above:
 - 2.1** Chief Executive Officer, Mr Garry Hunt;
 - 2.2** Director Governance and Strategy, Mr Jamie Parry;
 - 2.3** Manager Governance, Mr Brad Sillence.

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

In favour of the Motion: Mayor Jacob, Crs Chester, Fishwick, Hamilton-Prime, Hollywood, Jones, Logan, May, McLean, Poliwka, Raftis, Taylor and Thompson.

Members of the staff (with the exception of the Chief Executive Officer, Director Governance and Strategy and Manager Governance) left the Chambers at this point; the time being 8.44pm.

The Chief Executive Officer left the Chamber at 8.45pm.

MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**Disclosures of Financial / Proximity Interest**

Name/Position	Mr Garry Hunt, Chief Executive Officer.
Item No./Subject	Notice of Motion – Mayor Albert Jacob, JP – Offer to Vary Expiry Date of Contract of Employment – Chief Executive Officer.
Nature of interest	Financial Interest.
Extent of Interest	Mr Hunt holds the position of Chief Executive Officer and the Notice of Motion deals with the Chief Executive Officer's contract of employment extension.

C46-06/20 **NOTICE OF MOTION – MAYOR ALBERT JACOB, JP – OFFER TO VARY EXPIRY DATE OF CONTRACT OF EMPLOYMENT – CHIEF EXECUTIVE OFFICER**

In accordance with clause 4.6 of the *City of Joondalup Meeting Procedures Local Law 2013*, Mayor Albert Jacob, JP has given notice of his intention to move the following Motion at the Council meeting to be held on 23 June 2020:

“That Council:

- 1** ***pursuant to clause 18.5 of the Contract of Employment of the Chief Executive Officer of the City of Joondalup (Contract) and section 5.39(4) of the Local Government Act 1995, OFFERS the Chief Executive Officer a variation of the current Contract by inserting a new expiry date of 30 October 2020, under the same terms and conditions as the current Contract;***

- 2** ***REQUESTS a further report be submitted to Council for its consideration, to vary the existing Contract should part 1 above be agreeable to the Chief Executive Officer.”***

REASON FOR MOTION

At its meeting held on 20 November 2018, Council authorised a variation to the term of the existing employment contract of the City's current Chief Executive Officer, so that the employment contract would expire on 31 July 2020. Prior to this extension, the City's original contract with the Chief Executive Officer was for a term of three years, from 21 December 2016 to 20 December 2019.

The first half of the 2020 calendar year has seen the unfortunate development of the COVID-19 pandemic, which has resulted in unprecedented health and economic impacts across the entire world. The pandemic has affected all parts of society including the services, activities and operations of the City of Joondalup and this impact is more than likely to be in place, and felt, for the foreseeable future.

The stability of both the political and administrative leadership of the City of Joondalup is a critical success factor to ensure the City's community, and indeed the City's operations and services, come out of these challenging times stronger and healthier. In this regard the City's transition must not be adversely affected through the departure of the City's chief executive officer, in a time where such stability is paramount for the City to transition through such a significant social, health and economic challenge.

Council, through the recommendations of the Chief Executive Officer Recruitment and Performance Review Committee, coupled with the leadership of its Presiding Member, Deputy Mayor Cr Russ Fishwick, JP, is progressing the recruitment process for a new chief executive officer which will be this Council's most important recruitment decision in recent times. However, such a process, and indeed the commencement of a new chief executive is likely to take in the vicinity of six months.

In view of this and considering the extenuating circumstances the City finds itself in, I submit this motion to Council for its consideration, to make an offer to the City's Chief Executive Officer to extend his existing contract, under the same contract terms, until 30 October 2020. If this is agreeable to the Chief Executive Officer, a further report will need to be submitted to Council to authorise any such variation to the term of the employment contract.

The suggested change of the contract expiry term is less than five years from the commencement of the current contract, being 21 December 2016. Five years is the maximum term of a contract of employment for a chief executive officer (section 5.39(2)(b) of the *Local Government Act 1995*), it is proposed therefore the current contract be amended by a Contract Variation.

Notwithstanding, the activities of the recruitment process for a new chief executive officer, must continue during this time and be undertaken with speed, care and of course due diligence so that an appointment is made that will benefit this Council, the City's administration and the Joondalup community.

OFFICER'S RECOMMENDATION

A report can be prepared.

MOVED Mayor Jacob, SECONDED Cr McLean that Council:

- 1** pursuant to clause 18.5 of the Contract of Employment of the Chief Executive Officer of the City of Joondalup (Contract) and section 5.39(4) of the *Local Government Act 1995*, OFFERS the Chief Executive Officer a variation of the current Contract by inserting a new expiry date of 30 October 2020, under the same terms and conditions as the current Contract;
- 2** REQUESTS a further report be submitted to Council for its consideration, to vary the existing Contract should part 1 above be agreeable to the Chief Executive Officer.

AMENDMENT MOVED Cr Raftis, SECONDED Cr Poliwka that an additional Part 3 be ADDED to the Motion to read as follows:

- “3** *REQUESTS a further report be submitted to the Chief Executive Officer Recruitment and Performance Review Committee detailing the options to appoint an Acting Chief Executive Officer.*”

The Amendment was Put and

LOST (3/10)

In favour of the Amendment: Crs Poliwka, Raftis and Thompson.

Against the Amendment: Mayor Jacob, Crs Chester, Fishwick, Hamilton-Prime, Hollywood, Jones, Logan, May, McLean and Taylor.

Cr Poliwka left the Chamber at 9.16pm and returned at 9.18pm.

AMENDMENT MOVED Cr Fishwick, SECONDED Cr McLean that Part 1 of the Motion be AMENDED to read as follows:

“1 Pursuant to clause 18.5 of the Contract of Employment between the Chief Executive Officer and the City of Joondalup as varied by the parties on 30 November 2018 (Contract) and section 5.39(4) of the Local Government Act 1995, OFFERS the Chief Executive Officer a variation of the Contract by deleting clause 2.2(a) and replacing it with the following new subclause 2.2(a) and inserting a new subclause 2.2(c) as set out below:

“2.2(a) Subject to the terms and conditions of this Contract, the Executive’s employment is for a maximum term of four (4) years (“Term”) commencing on 21 December 2016 and expiring on either:

- (i) 18 December 2020; or***
- (ii) if a successful replacement candidate for the role of CEO is recruited by the City of Joondalup and commences employment prior to the 18 December 2020, the date which is the business day immediately prior to that replacement candidate’s commencement date,***

whichever occurs first.

2.2 (c) If the City of Joondalup recruits a successful replacement candidate before 18 December 2020, the City of Joondalup will immediately notify the Executive of this and advise the Executive of the:

- (i) date the replacement candidate’s employment will commence employment; and***
- (ii) date the Executive’s employment will terminate in accordance with clause 2.2(a)(ii).””.***

The Amendment was Put and

CARRIED (8/5)

In favour of the Amendment: Mayor Jacob, Crs Chester, Fishwick, Hamilton-Prime, Hollywood, Logan, McLean and Taylor.

Against the Amendment: Crs Jones, May, Poliwka, Raftis and Thompson.

The original motion as amended, being:

That Council:

1 Pursuant to clause 18.5 of the Contract of Employment between the Chief Executive Officer and the City of Joondalup as varied by the parties on 30 November 2018 (Contract) and section 5.39(4) of the Local Government Act 1995, OFFERS the Chief Executive Officer a variation of the Contract by deleting clause 2.2(a) and replacing it with the following new subclause 2.2(a) and inserting a new subclause 2.2(c) as set out below:

“2.2(a) Subject to the terms and conditions of this Contract, the Executive’s employment is for a maximum term of four (4) years (“Term”) commencing on 21 December 2016 and expiring on either:

- (i) 18 December 2020; or**
- (ii) if a successful replacement candidate for the role of CEO is recruited by the City of Joondalup and commences employment prior to the 18 December 2020, the date which is the business day immediately prior to that replacement candidate’s commencement date,**

whichever occurs first.

2.2 (c) If the City of Joondalup recruits a successful replacement candidate before 18 December 2020, the City of Joondalup will immediately notify the Executive of this and advise the Executive of the:

- (i) date the replacement candidate’s employment will commence employment; and**
- (ii) date the Executive’s employment will terminate in accordance with clause 2.2(a)(ii).””;**

2 REQUESTS a further report be submitted to Council for its consideration, to vary the existing Contract should part 1 above be agreeable to the Chief Executive Officer.

was Put and

CARRIED (10/3)

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

Against the Motion: Crs Poliwka, Raftis and Thompson.

C47-06/20 MOTION TO OPEN MEETING TO MEMBERS OF THE PUBLIC – [02154, 08122]

MOVED Mayor Jacob, SECONDED Cr Hamilton-Prime that in accordance with clause 5.2(3)(b) of the *City of Joondalup Meeting Procedures Local Law 2013*, the Council meeting now be REOPENED TO THE PUBLIC.

The Motion was Put and

CARRIED (13/0)

In favour of the Motion: Mayor Jacob, Crs Chester, Fishwick, Hamilton-Prime, Hollywood, Jones, Logan, May, McLean, Poliwka, Raftis, Taylor and Thompson.

Doors opened at 9.25pm. No members of the public or press entered the Chamber.

The Governance Coordinator and two Governance Officers entered the Chamber at 9.25pm.

C48-06/20 MOTION TO RESUME ORDER OF BUSINESS – [02154, 08122]

MOVED Mayor Jacob, SECONDED Cr Jones that Council RESUMES the operation of clause 4.3 of the *City of Joondalup Meeting Procedures Local Law 2013 – Order of Business*.

The Motion was Put and

CARRIED (13/0)

In favour of the Motion: Mayor Jacob, Crs Chester, Fishwick, Hamilton-Prime, Hollywood, Jones, Logan, May, McLean, Poliwka, Raftis, Taylor and Thompson.

ANNOUNCEMENTS OF NOTICES OF MOTION FOR THE NEXT MEETING

Nil.

CLOSURE

There being no further business, the Mayor declared the Meeting closed at 9.28pm the following Elected Members being present at that time:

MAYOR HON. ALBERT JACOB, JP
CR KERRY HOLLYWOOD
CR TOM McLEAN, JP
CR PHILIPPA TAYLOR
CR NIGE JONES
CR CHRISTOPHER MAY
CR RUSSELL POLIWKA
CR CHRISTINE HAMILTON-PRIME
CR JOHN RAFTIS
CR JOHN CHESTER
CR JOHN LOGAN
CR RUSS FISHWICK, JP
CR SUZANNE THOMPSON