

CITY OF JOONDALUP

Notice is hereby given that a **SPECIAL MEETING OF JOINT COMMISSIONERS** will be held in the Council Chamber, Joondalup Civic Centre, Boas Avenue, Joondalup on **TUESDAY 4 MAY 1999** commencing at **6.00 pm**.

LINDSAY DELAHAUNTY
Chief Executive Officer
3 May 1999

Joondalup
Western Australia

AGENDA

ATTENDANCES AND APOLOGIES

PUBLIC QUESTION TIME

(Please Note: Section 7(4)(b) of the Local Government (Administration) Regulations 1996 states that a Council at a special meeting is not required to answer a question that does not relate to the purpose of the meeting. It is requested that only questions that relate to items on the agenda be asked).

DECLARATIONS OF FINANCIAL INTEREST

ITEM OF BUSINESS

JSC5-05/99 DISTRICT PLANNING SCHEME NO 2 – [09011] 2

CLOSURE

JSC5-05/99 DISTRICT PLANNING SCHEME NO 2 - [09011]

SUMMARY

The Western Australian Planning Commission (WAPC) has advised that the Minister for Planning has considered District Planning Scheme No2 (DPS2) and determined that it be split into two Schemes for the City of Joondalup and the Shire of Wanneroo, modified and re-advertised. The Minister has required that the documents be modified in accordance with his instructions within 42 days of receipt of the advice and that the Scheme be advertised for a period of 30 days. It is estimated that the Scheme should receive final approval in December 1999.

It is recommended that the Joint Commissioners adopt the modified documents and notify certain landowners that signs should be displayed on site during the advertising period to take advantage of recommended changes to the zoning of their land.

BACKGROUND

At their meeting on 27 April 1999 the Joint Commissioners considered a report regarding District Planning Scheme No2 and resolved to:

- 1 note the advice regarding the Minister for Planning's consideration of District Planning Scheme No2;
- 2 hold a Special Meeting prior to 10 May 1999 to consider the modifications to the Scheme and adopt the modified documents for submission to the Ministry for Planning for authority to place the documents on advertising for a further public consultation period;
- 3 not initiate any further amendments to Town planning Scheme No1 because there is not likely to be sufficient time for any such amendments to become effective.

DETAILS

In its letter regarding DPS2 dated 26 March 1999 the WAPC advised that the Minister for Planning endorsed a number of items, subject certain specific comments contained in the letter:

- The City of Wanneroo DPS2 being split into two separate Schemes for the City of Joondalup and the Shire of Wanneroo;
- the WAPC's recommendations regarding the matters requiring further consideration during advertising;
- Council's recommendations in relation to the submissions received during the advertising period on the basis that this is to be advertised for a further public submission period;
- the proposed Zoning Table, and modifications to Interpretations;

- The inclusion of retail net lettable area limits for Centre and Commercial Zones for further advertising subject to retention of limits for those centres, which Council had proposed to delete. This is however subject to the inclusion of a clause which states that the floor space limits shall be adhered to except where varied by an agreed structure plan;
- The proposed Table of Car Parking Standards.

The Minister has determined that the modifications to DPS2 are substantial and has granted consent to further advertising prior to consideration for final approval subject to a number of further modifications:

- modify the Special Zone provisions to reflect those of the Model Scheme Text;
- devise a suitable zoning for Lot 60 Warburton Avenue Padbury;
- incorporate TPS1 amendments that have received the Minister's approval prior to re-advertising DPS2;
- Modifying Scheme provisions relating to various matters including incidental use, structure plans, environmental conditions and discretionary approvals.

The Minister has required that Council place on advertising the modified Scheme report, text, Scheme maps and Density Code Maps within 42 days of the receipt of his advice, for an advertising period of 30 days. The fully modified Scheme Report and Text is to be available for public submissions but only the modifications to the Scheme Maps and Density Code Maps are to be so available.

The Minister has also required that issues relating to landscape/environment and amenity provisions be further clarified prior to submission of the Scheme for final approval.

COMMENTS

Split of the Scheme Documents

There are a number of zones such as General Industrial, Industrial Development, Marina, Special Rural, with related provisions that are only applicable to areas now contained in the Shire of Wanneroo and these have been deleted from the City of Joondalup documents. The locality of Burns and a number of properties in Woodvale are still included in the Rural Zone in the Metropolitan Region Scheme (MRS) and the Rural zone has been retained in DPS2 to contain these areas until such time as their classification is changed under the MRS. The Special Residential zone in Kingsley also has to be retained as that area is also still included in the Rural zone under the MRS.

The terms defined in the Text and included in the Zoning Table may be able to be further refined during the advertising period to more adequately reflect the change in the character of the City of Joondalup compared to the former City of Wanneroo.

The Scheme Report, the Scheme Maps, and the Residential Density Code Maps have been modified to reflect the new local authorities.

Matters Requiring Investigation

The Minister, in agreeing to the advertising of DPS2, required that a list of items be further investigated during the advertising period. These matters were investigated and Council recommended responses to the Minister when it considered public submissions. Council's recommendations have been considered by the WAPC and endorsed by the Minister with or without further comment and these are contained in Attachment 1.

Public Submissions

Council, at its meeting held on 22 September 1998, considered and made recommendations regarding all public submissions received. The Minister has endorsed these recommendations except for those affected by the advice in the WAPC letter dated 26 March 1999. The Schedule of Public Submissions and Recommendations is contained in Attachment 2.

Zoning Table, Interpretations, and Car Parking Standards

The Minister endorsed the Zoning Table, Interpretations and Car Parking Standards proposed by Council except where further modified by his advice or further advice from Ministry officers. Further changes have been necessary due to the splitting of the Scheme documents and as a consequence of the Minister's advice. The resultant Zoning Table is contained in Table 1, the Car Parking Standards are contained in Table 2, and the interpretations are included in Schedule 1 to the Scheme Text.

Shopping Centres

The Ministry for Planning (MfP) had previously advised that the Retail Strategy as set out in the North West Corridor Structure Plan (1992) and Schedule 5 of TPS1 should be included in DPS2 as retail floor space limits. Subsequently the MfP advised that all shopping centres (not just those included in the Structure Plan or Schedule 5 of TPS1) should be included and the limits for the additional centres should be based on development approval records.

During the advertising of the Scheme some of these figures were shown to be incorrect and it became obvious that there was no rational explanation for many of the retail limits included in the schedule. When considering the public submissions Council decided to revert to the proposal initially suggested by the MfP relating the Retail Strategy as set out in the Structure Plan and Schedule 5 of TPS1 until a Local Centres Strategy has been completed.

The Minister advises that for consistency reasons, the retention of floor space limits for all shopping centres and centre zones be retained subject to some minor modifications arising out of submissions and the inclusion of a clause allowing the floor space limit to be adjusted by an agreed structure plan. As the figures contained in the Schedule had been based on development records, it would not be possible under DPS2 for any additions to most shopping centres to occur without a scheme amendment to change the floor space limit. Through discussion with Ministry officers, the floor space limits have been rounded up to allow minor additions to occur without the need for further amendments. The proposed floor space limits are set out in Schedule 3 of the Scheme Text.

Special Uses

TPS1 contained provisions for Special Zone (Additional Use) and Special Zone (Restricted Use) to provide respectively for the use of land for specified uses in addition to those permitted in the Zoning Table, and for the use of land only for a specified purpose. These provisions had been intended to be carried over into DPS2, however the Minister has now advised that the Special Zone, Additional Use and Restricted Use provisions should reflect the Model Scheme Text. In general terms the Additional Use provisions equate to the TPS1 Special Zone (Additional Use), and the Special Zone and the Restricted Use provisions together equate to the TPS1 Special Zone (Restricted Use) provision. The Additional Use provision allows a specified use on an identified site in addition to those uses allowed in the Zoning Table. The Restricted Use provision limits the use of an identified site to a subset of those uses allowed in the Zoning Table and the Special Zone sets aside a particular site for a specified purpose when there is not an appropriate zone in which to include the site for that purpose.

The Minister had requested Council investigate the sites included in Special Zones under TPS1 with a view to reducing the number. This was undertaken and a substantial number were recommended for inclusion in the Mixed Business zone. The Minister has further identified a number of these and advised that should Council wish to proceed with the recommendation in respect to these instances it should arrange for a sign to be displayed on site during the advertising period. It is considered that the landowners in these instances together with those identified as a result of investigating options for Lot 60 Warburton Avenue Padbury below, should be given the opportunity to display a sign on site and be included in the recommended zone. Attachment 5 lists those properties the Minister has identified as requiring a sign.

Lot 60 Warburton Avenue, Padbury

The Minister has advised that the proposed zoning of Lot 60 Warburton Avenue Padbury, Residential with the additional use squash courts, will significantly reduce the range of uses currently permissible under the Special Development A zone. He considers more thought should be given to the zoning and the suite of uses suitable for this lot. A detailed examination of this matter has been conducted (see Attachment 3) which also identified a number of other lots likely to be similarly affected. As a result it is considered that a new zone (Mixed Use) should be introduced into DPS2 to address this shortcoming.

TPS1 Amendments

When Council considered DPS2 at its meeting on 22 September 1998 it recommended inclusion of all TPS1 amendments that had been completed at that time. The Minister has endorsed the inclusion of these amendments and others that have received the approval of the Minister since that time and those that have received the final approval of the Council to date. Attachment 4 contains a schedule of such amendments to TPS1 that have been included in DPS2.

Incidental Use

It had been intended to include a definition of incidental use containing measurable criteria to avoid confusion in the practical application of the concept. The Minister has advised that the measurable criteria should be deleted. Without these criteria the term loses precision and is therefore recommended to be deleted from the interpretations.

Structure Plans

TPS1 contains provisions for the preparation and adoption of structure plans and a number have been finalised and others initiated at this stage. DPS2 contains similar provisions relating to structure plans and the Minister has advised that additional provisions should be included to adopt structure plans agreed or progressed under TPS1. This has been done however all structure plans will have to be reviewed prior to the final adoption of DPS2 to ensure they properly reflect the provisions of DPS2 rather than TPS1.

Provisions Relating to Environmental Conditions and Restrictive Covenants

The Minister has advised that the Model Scheme Text (MST) provisions relating to environmental conditions and restrictive covenants should be included. Council has considered the issue of restrictive covenants in considerable detail and has concluded that the MST provisions are not suitable for the City's purpose and has initiated an amendment with alternative provisions (Amendment 824) instead. The MST provisions for environmental conditions and Amendment 824 provisions relating to restrictive covenants have been included.

Mandatory Advertising of Applications

The MST contains provisions for identified combinations of zones and uses to require advertising for public comment prior to consideration for the granting of approval. Experience in the City has been that this approach is unnecessarily restrictive and that it is preferable to have a policy setting out the criteria for determining those applications that should be advertised for public comment prior to the granting of approval. The Minister has advised that DPS2 should contain provisions that would require mandatory advertising (A uses) and these provisions have been included. At this stage no uses are identified as requiring this treatment.

Other Matters

A number of further changes have been implemented as required by the Minister including:

- Provisions allowing the variation of conditions;
- Provisions to enable approvals to be revoked;
- Extension of period for consideration of structure plan;
- Provisions relating to betterment and appeals.

Advertising

The Minister required that the modified Scheme Documents be placed for advertising within 42 days of receipt of his advice (that is by 10 May 1999). It is anticipated that it will be necessary to allow a period of time (estimated four weeks) following the lodgement of the modified documents with the MfP for the documents to be accepted for advertising. The Minister has advised that the Scheme be advertised for 30 days. At this stage it is estimated that Council will consider public submissions on the Scheme in September and that the Minister's Final Approval and Gazettal of the Scheme will occur in December 1999.

Minister's Advice

In a number of areas the advice from the Minister is not precise particularly when combined with the requirement to split the Scheme into two. There has not been opportunity to confer in detail on all of the proposed changes and the resultant documents so there may be some further modifications required.

As a result of carrying out the modifications and variations, a number of anomalies has been identified (Attachment 6). It would be desirable if these could be corrected prior to advertising but they may be considered to be too significant to be dealt with in this way. If they cannot be dealt with at this stage they can be addressed as a result of public submissions but would most likely have to be resolved in a separate amendment following approval of DPS2.

RECOMMENDATION

That the Joint Commissioners:

- 1 **ADOPT the City of Joondalup District Planning Scheme No 2 modified in accordance with the Minister for Planning's advice for submission to the Ministry for Planning for authority to place the documents on advertising for a further public consultation period;**
- 2 **ADVISE the landowners involved in the identified Special Zone and Non-Conforming use situations that should they wish their land to be included in the recommended zone they should display an appropriate sign on site during the advertising period.**