Note: Error noted on page 87 hereof, relating to membership of working party (primary stakeholders). This will be corrected under Confirmation of these Minutes at the Council meeting to be held on 20 July 2004.

MINUTES OF MEETING OF JOINT COMMISSIONERS
HELD ON 29 JUNE 2004

TABLE OF CONTENTS

CITY OF JOONDALUP

MINUTES OF COUNCIL MEETING HELD IN COUNCIL CHAMBER, JOONDALUP CIVIC CENTRE, BOAS AVENUE, JOONDALUP, ON TUESDAY, 29 JUNE 2004

OPEN AND WELCOME

The Chairman declared the meeting open at 1900 hrs.

ATTENDANCES

CMR J PATERSON – Chairman *Absent from 2000 hrs to 2007 hrs*
CMR P CLOUGH – Deputy Chairman
CMR M ANDERSON
CMR S SMITH

Officers:

Acting Chief Executive Officer:	C HIGHAM
Director, Corporate Services and Resource Management:	P SCHNEIDER
Director, Infrastructure & Operations	D DJULBIC
Acting Director, Planning and Community Development:	G HALL
Manager Audit and Executive Services:	K ROBINSON
Manager, Marketing Communications & Council Support:	B ROMANCHUK
Manager, Approvals Planning and Environmental Services:	C TERELINCK
Manager, Strategic & Sustainable Development:	R HARDY
Manager Infrastructure Management and Ranger Services:	P PIKOR
Co-ordinator, Waste Management & Environmental Services:	P HOAR
Principal Building Surveyor:	V ETHERINGTON
Committee Clerk:	J HARRISON
Minute Clerk:	L TAYLOR

There were 42 members of the Public and 1 member of the Press in attendance.

PUBLIC QUESTION TIME

The following questions, submitted by Mr Ron Privilege, Edgewater, were taken on notice at the Meeting of Joint Commissioners held on 8 June 2004.

To the Chairman of Commissioners.

Q1 I refer to your recent public statement heralding the new era of open, accountable and transparent local government in the City of Joondalup. In view of these statements, why have you refused to:

Q1(a) release the legal advice obtained from Mr Harry Dixon QC regarding the CEO issue?

A1(a) This advice is confidential.

Q1(b) publish the independent Governance Review report on the City of Joondalup, particularly given that the persons who prepared that report witnessed first hand what was happening at Council meetings and before Council meetings?

A1(b) At their meeting held on 8 June 2004 the Joint Commissioners resolved to release for public information the recommendations contained in the Governance Review Report with the remainder of the report to be treated confidentially.

Q1(c) reject suspended Mayor Carlos' claim for $16,000 in legal fees?

A1(c) At their meeting held on 8 June 2004 the Joint Commissioners resolved to defer consideration of the request for payment of legal costs until the McIntyre Inquiry has completed its deliberations.

Q1(d) confirm that ratepayers can attend at the interviews for the future CEO and ask questions?

A1(d) This would not be appropriate.

Q1(e) allow the public to attend budget strategy sessions and ask questions?

A1(e) It is not proposed that budget sessions be opened to members of the public.

Q1(f) provide details as to who authorised the former CEO's recent workers' compensation payout?

A1(f) The Deed of Settlement was signed by the Acting CEO and Chairman of Commissioners on advice received from the solicitors to settle.

Q1(g) say what the amount of the payout was?

A1(g) The Deed of Settlement contains a confidentiality clause that prevents disclosure of details of the settlement.

Q1(h) actively sue for the City's wasted legal fees in defending the failed Supreme Court bid by the Mullaloo Progress Association to stop the Mullaloo Tavern?

A1(h) The City is currently seeking the awarding of a costs order following the Supreme Court's decision. A decision is not available at the time of preparing this answer.

Q1(i) conduct a forensic audit of the former suspended Councillors' expense accounts?

A1(i) A forensic audit of these items is considered unwarranted.

Q1(j) enquire into Mayor Carlos' Council funding of a return airfare from Canberra to Perth to enable suspended Cr Hart to attend Council meeting?

A1(j) This is considered unwarranted.

Q1(k) make available to ratepayers copies of instructions and briefing letters to the City's lawyers regarding the CEO issue?

A1(k) At their meeting held on 8 June 2004 the Joint Commissioners resolved, inter alia that *"the releasing of documents for which privilege could be maintained would be evaluated on a case by case basis with the clear expectation that documents that would not prejudice the City would be released to the Inquiry either unconditionally or with appropriate conditions as to their disclosure to others beyond Mr McIntyre and the Inquiry's staff"*.

Q1(l) answer questions regarding the party political independence or otherwise of the Commissioners and the City's new lawyers?

A1(l) Political affiliations are considered irrelevant. Commissioners and contractors are appointed to represent the interests of the City.

Q1(m) take any action against suspended Mayor Carlos following the resounding criticism of him both in the Governance Review inquiry report and the submission made to the Upper House Inquiry by Mr Neil Douglas of Minter Ellison Lawyers?

A1(m) The McIntyre Inquiry will be considering issues relating to the good governance of the City of Joondalup. No other action is considered necessary at this point in time.

Q2 Can you please provide ratepayers with a brief report regarding the nature and extent of your consultation with the community prior to authorising your recent workers' compensation payout to the City's former CEO?

A2 Yes, nil.

Q3 Why do you refuse to allow any suspended Councillors to ask questions regarding the party political affiliations of Commissioners and the City's new lawyer, yet make no comment in response when the Minister himself makes the same or similar comments concerning suspended Councillors?

A3 See A1(l) above.

Q4 I refer to the findings of the City's one and only independent inquiry into the Governance of the City of Joondalup, extracts of which were recently published in the Wanneroo Times newspaper. What action do you propose to take in respect of the damning findings against suspended Mayor Carlos and his supporters, particularly in relation to those findings which indicate that this group of people breached a recommendation of the Wanneroo Inc Royal Commission?

A4 In accordance with the Council decision of 8 June 2004, a detailed report will be submitted on each of the recommendations contained in the Governance Report.

The following questions, submitted by Ms M Moon, Greenwood were taken on notice at the Meeting of Joint Commissioners held on 8 June 2004.

Re: Joondalup Structure Plan – CJ33-02/99

SUMMARY
The Joondalup City Centre Development Plan and Manual were approved and adopted by the City of Wanneroo in August 1990. On 16 October 1996 the Council of the former City of Wanneroo (the former Council) deemed a revised document to be an Agreed Structure Plan.
The Western Australian Planning Commission has asked that it now be revised and formally endorsed as a Structure Plan under Part 10 of the City of Joondalup Town Planning Scheme No 1.
In the process, the Structure Plan has been rearranged in a standard format to eliminate repetition of provisions and relate maps to lot boundaries. Car parking standards are also included.
Approval is recommended for the revised document to be advertised as the JoondalupStructure Plan.

Clause 5.42 (b) of the Scheme states "The Joondalup City Centre Development Plan and the Joondalup City Centre Development Manual adopted by the former Council on 20 December 1995 shall be deemed to be an Agreed Structure Plan and may be changed, subject to such changes being approved under the provisions of Part 10 of the Scheme."

DETAILS
The Western Australian Planning Commission has recently questioned the status of the Joondalup City Centre Development Plan and Manual and now that responsibility for its preparation lies solely with the City, the formal preparation of a revised document is seen as appropriate.

The Joondalup City Centre Structure Plan (Attachment 2) contains an introduction as required by Part 10 of the Scheme; it eliminates repetition of provisions for each district and has been rearranged in a standard Structure Plan format. The maps are now related to lot boundaries and consolidated, ***CAR PARKING STANDARDS ARE INCLUDED*** *and the proposed A4 black and white format will allow more convenient access to the information.*

The draft Structure Plan has been passed to LandCorp, the Ministry for Planning and Council officers and comments received have been acted upon where appropriate.

CITY OF JOONDALUP - MINUTES OF MEETING OF JOINT COMMISSIONERS - 09.02.99
MOVED Cmr Morgan, SECONDED Cmr Buckley that the Joint Commissioners,
pursuant to Clause 10 of the City of Joondalup Town Planning Scheme No 1, ADOPT the modified Joondalup City Centre Structure Plan as satisfactory and make it available for public comment.
The Motion was Put and ***CARRIED***

Q1 When was this resolution of Council acted on?

A1 March 1999.

Q2 What were the dates of advertising and in what medium?

A2 16 March to 15 April 1999. Letters were sent to landowners and advertisements were placed in the Wanneroo Times on 16 March 1999 and 23 March 1999.

Q3 When did the closure of advertising report come before council/commissioners for determination?

A3 Correspondence between LandCorp and the City indicates that the review was not continued following public consultation.

Q4 What was the resolution of Council/Commissioners was this Structure Plan progressed?

A4 The review was not progressed. There is no record of a report to Council following public consultation.

Q5 Could I please be issued with a copy of the correspondence from the WAPC referred to in the interest of orderly and proper planning?

A5 The question requires clarification in order to determine what letter is being sought.

Q6 Could I please be issued with a copy of the attachments of this report in the interest of proper and orderly planning?

A6 See answer to Question 4.

Q7 There is evidence that in 2000 there was a black and white copy of the City of Joondalup Structure Plan on the Joondalup site could I please have a copy?

A7 The Joondalup City Centre Development Plan and Manual was not previously on the City's website, however, the City intends to place the document on its website in the near future.

Q8 On 16 October 1996 the Council of the former City of Wanneroo (the former Council) deemed a revised document to be an Agreed Structure Plan could I have a copy of the resolution of Council to this effect as it is not available on the web and there is no record of a meeting on that date?

A8 The Minutes of the Council meeting on 23/10/1996 contained a report to the Planning Committee meeting held on 14/10/1996 relating to proposed changes to the City North precinct within the Joondalup City Centre Development Plan and Manual (TP235-10/96 refers). These minutes are available on the City's website.

Q9 Clause 5.42 (b) of Town Planning Scheme 1. Could I please be informed of the date and reference no. this amendment to Town Planning Scheme 1 was made?

Correction to response provided in the Agenda:

An updated response, as noted below, was provided at the meeting and for inclusion in the Minutes of the meeting.

A9 The amendment that brought clause 5.42 (b) into Town Planning Scheme No. 1 was Amendment No. 320 and the gazettal date was 14 March 1986.

The following questions, submitted by Mr M Caiacob, Mullaloo were taken on notice at the Meeting of Joint Commissioners held on 8 June 2004.

Re: Mullaloo Beach Tavern

Q1 The City advised me that the laws applied equally to all, the Code of Conduct requires we treat people with rules that apply equally to all, we uphold the laws of the Council of the City of Joondalup and we comply with the State and Federal legislation. Officers' comments and I quote: "Reluctance to issue a building licence that is not in conformity with the development application." The relevant DPS2 clauses such as 6.10, 8.8 and 8.10 and to the extent of the changes previously viewed by the Commissioners, would the Commissioners consider requiring a new development application for the development currently being constructed on site that does not have a valid planning approval as required by the law of the DPS2?

A1 The question contains statements and assertions that are not agreed by the City. The Development Application (as resolved on appeal) is in keeping with the proposal that was approved by the Council and with the conditions of that approval.

Q2 The Commissioners have viewed an illustration of the development as applied for in 2002, the Commissioners have also viewed an illustration of a development currently being constructed in 2004. As these are significant changes from the planning approval granted, will the Commissioners revoke the now redundant development approval and the building licence due to the street scape not conforming to the information provided to Council and the public, used as a basis of petition support, used as officers' recommendation justifications for main street principles and set back, height, bulk and scale justifications, plans submitted of elevations and safety concerns for footpath pedestrians surrounding the time of Council's approval?

A2 Once again, the statements made in the question above are not agreed by the City. The planning approval and building licence for the Mullaloo Tavern are not redundant. The differences in the plans are not considered so substantive as to warrant a new planning application.

The following questions, submitted by Mr K Zakrevsky, Mullaloo were taken on notice at the Meeting of Joint Commissioners held on 8 June 2004.

Q1 Re: Mullaloo Beach Village Mixed Use Development – The plan for the current Building Licence issued was for a development with an NLA of 511 square metres which is in excess of that permitted by law and fails to satisfy the Council's Development Approval. Will the Commissioners uphold the laws of this Council and comply with relevant State and Federal legislation as required by the Code of Conduct?

A1 Yes.

Q2 With reference to my question of 18 May 2004, it was stated that the patronage figures I quoted for the old building were not correct. Officers' stated: "More than 175 and more than 350 persons were permitted." The answer in the Agenda confirms my figures as correct but more importantly the question relating to the potential number of people that will be permissible in the building on this site of 900 persons, if all health provisions are met, has not been answered. Will Council confirm a figure of approximately 900 persons being able to occupy this building if health provisions are met?

A2 Health Regulations only require that the tavern area be provided with a maximum accommodation number. There is no requirement to allocate maximum accommodation numbers under current Health Regulations for the restaurant, bottle shop, convenience store, kitchen, accommodation or office areas of the building.

In order for a determination of the maximum allowable number of persons to be made under Health Regulations, an assessment of the final floor area, number of toilets, number, size and location of exits and ventilation for the building needs to be known.

Details of the internal fit-out of the building have not been provided and the City does not know what proportion of the development will be set aside for bar, entertainment or service areas and what proportion will be accessible to the public.

It is conceivable for the building to be designed and constructed so that health provisions allow for 900 persons, however, the City is not able to confirm that this is relevant for this development because details of the internal fit-out have not been finalised. Planning and building requirements must also be addressed and may affect the number of persons that can occupy the building.

The following questions, submitted by Ms M Macdonald, Mullaloo were taken on notice at the Meeting of Joint Commissioners held on 8 June 2004.

Q1 Re: Building Approval given to the Mullaloo Beach Village on 23 December 2003 – In answer to a question on the Agenda it is stated: "That an acoustic report will be provided at the fit out stage to meet condition 6 of the Health requirements."

Are Commissioners aware that:

(a) an acoustic report for Herring Storer which accompanied the original application states: "It is suggested that the building fabric e.g., type of walls, location and size of windows, requirements for extensions of masonry walls etc may need to be considered and that having living areas directly above bar areas is a demanding requirement which will require construction considerably more than a concrete slab and ceiling"?

A1 (a) The City's noise officers have seen the original Acoustic Report from Herring Storer. An Acoustic Consultant's report is required to be submitted by the applicant prior to the fit-out of the premises.

Q1 (b) this statement by the applicant's technical specialist confirms that an appropriate acoustic report (condition j) and a noise management plan (condition k) are construction engineering issues and not building health issues and that the absence of both reports is a breach of the development approval?

A1 (b) The Development Approval requires that an Acoustic Report be submitted prior to premises fit-out stage. The amount of attenuation works required to be performed on the tavern will be dependant on the amount of noise produced in the premises and sufficient controls can be introduced at fit out stage.

Q2 I refer to the same building approval – At the last Council meeting in answer to a question from Mr Luck a statement was made that the change from dual ramps between levels in the multi-storey car park to a single ramp with traffic lights did not need a new development application because the change was internal to the building and would not affect the performance of the building.

Will Commissioners investigate and confirm that this change which will increase traffic noise and exhaust pollution and will have no adverse effects on the amenity of the local community and in particular the surrounding properties and does not need a new development application, as this is clearly a departure from the dual ramp system as approved?

A2 Ventilation of the car park will need to comply with AS 1668 - The use of mechanical ventilation and air conditioning in buildings. Noise emissions from the premises (including the car park and access ramps) will need to comply with the provisions of the Environmental Protection (Noise) Regulations 1997.

The following questions, submitted by Mrs M Zakrevsky, Mullaloo were taken on notice at the Meeting of Joint Commissioners held on 8 June 2004.

Q1 Re: Mullaloo Beach Village Mixed Use Development – The restaurant as approved on 13 August 2002 had a retail NLA of 180 square metres and the restaurant as approved for construction on 23 December 2003 has a retail NLA of 206 square metres. Can you please advise why the increase in NLA and the resulting increase in car bays required under DPS2 did not require consideration by Council and a new development application?

A1 The calculation of parking demand for restaurants is based upon seating capacity and not on the floor area of the tenancy. With respect, it is incorrect to state that an increase in the net lettable area would require additional car parking.

Q2 Re: Mullaloo Beach Village Mixed Use Development – In response to a question at last Council meeting on 18 May 2004, page xiv, City of Joondalup Agenda 8 June 2004 I was advised that Rennet appealed to the Town Planning Appeals Tribunal and that an outcome of a mediation process with the City "resulted in consent orders being issued by the Town Planning Appeals Tribunal":

(a) Are the Commissioners aware that the Town Planning Appeals Tribunal stated on 7 October 2003 that the modifications to the development were by private negotiation and outside the Town Planning Appeals Tribunal mediation process?

A2 (a) The negotiations referred to occurred with the knowledge of the then Council.

Q2 (b) Are the Commissioners aware that the new 2002 R Codes were not considered in the deliberations?

A2 (b) All relevant considerations were included in the negotiations. The Residential Design Codes were not relevant in these negotiations.

The following questions, submitted by Mr M Sideris, President Mullaloo Progress Association were taken on notice at the Meeting of Joint Commissioners held on 8 June 2004.

Q1 Re: Mullaloo Beach Tavern – In response given to a previous question referred to in tonight's agenda Page XVI where and I quote: "The City and the developer are aware that the Building Licence plans indicate carparking bays less than are shown on the Development Approval." This shortfall in car bays represents a 'cash in lieu' value of approximately $200,000 bringing the total cash in lieu value foregone to approximately $1 million when calculated in accordance with the City of Joondalup policy 3.1.12 and at a conservative land value of $500,000 for a prime beachfront lot.

Can the Commissioners please advise why this was not brought to Commissioners for consideration and deliberation, bearing in mind that in Report CJ084-04/04 Lot 708 Joondalup, 13 bays and CJ127-06/04 Mixed Use Joondalup, 12 bays, were all submitted for consideration and deliberation?

A1 It is noted that the remainder of the answer to the question Mr Sideris is referring to is *"These bays are required to be incorporated into the design of the building in order to comply with the planning approval. The City is awaiting fit out plans that will indicate the location of the bays. It should be noted that an applicant would need to conform to both approvals."*

The matter of cash-in-lieu for car parking was reported to Council in Item CJ204-08/02. Council did not require the payment of cash-in-lieu for car parking. It should be noted that the shortfall of available car parking bays between the building approval and the development approval is three bays. This shortfall is being addressed as part of the Tavern's fit-out building licence application.

Q2 Having now put before the Commissioners irrefutable evidence that the development known as Mullaloo Beach Village exceeds the allowable retail Net Lettable Area for this commercial site, failed to provide the required number of specified carparking bays, failed to satisfy the required size (width) of car parking bays, failed to provide the specified noise management report, mislead and failed to provide a suitable mechanical services report and failed to provide a FESA report for the current building, will the Commissioners:

(a) Immediately initiate an independent investigation into the breaches as identified?

(b) Immediately seek independent legal advice as to what course of action is available to Council including the issue of an injunction to cease construction?

(c) Immediately withdraw the Section 40 Certificate issued to the Liquor Licensing Department as the building licence plans do not meet the requirements of the DPS2?

A2 Despite the assertions of Mr Sideris and the Mullaloo Progress Association, and with due respect, it is not believed that there is any evidence of breaches of the Town Planning Scheme and Building Codes.

The issues raised by the Mullaloo Progress Association at a separate meeting with the Commissioners are all under investigation and individual responses will be provided as soon as possible.

The Commissioners note that the issues raised have been the subject of independent investigation by the Hon Minister for Planning and Infrastructure and other legal processes. The Commissioners also note that the assessment of the various applications was assisted at all key points by the City's legal advisors.

The following question, submitted by Ms S Hart, Greenwood was taken on notice at the Meeting of Joint Commissioners held on 8 June 2004.

Q1 Re: JCCDPM – Can I please have a detailed step by step explanation of the process that this has gone through including dates and references to the signing off on the agreed Structure Plan?

A1 This is a question that requires a very detailed response. It is proposed that an invitation be forwarded to Ms S Hart to meet with the Manager, Approvals Planning and Environmental Services, and Acting Coordinator Urban Design & Policy Services in order to discuss the approval process for the Joondalup City Centre Development Plan and Manual.

The following question was submitted by Mr R Privilege, Edgewater:

Q1 *My question is addressed to the Chairman of Commissioners. I refer to the paramount virtues of:*

1. *Open, honest, accountable and transparent local government;*
2. *political independence in the good governance of the City's affairs;*
3. *the Minister for Local Government's publicly aired grave concerns regarding the influence of party politics in the City of Joondalup Council;*
4. *the need for the perception (if not the reality of) a politically independent Local Government Act Inquiry concerning the circumstances giving rise to the recruitment of the former CEO of the City of Joondalup.*

I ask, can you therefore please confirm that the person appointed by the said Minister to head the Local Government Act Inquiry into the City of Joondalup, Mr Greg McIntyre SC, has no party political affiliations and as such, there can be no perception of bias amongst suspended Councillors or the broader ratepaying community?

A1 This question should be directed to the Minister for Local Government.

The following questions were submitted by Mr Chris Baker, Connolly:

My question is addressed to the Chairman of Commissioners. I refer to the abandoned former service station site situated at the intersection of Country Club Boulevard and Fairway Circle in Connolly. I ask:

Q1 *Has the City received any notification from the owners as to their intentions concerning the future of this site?*

A1 An application to rezone the land (scheme amendment) was received by the City on 19 May 2004 to increase the density code applicable to the site from R20 to R40, with no proposed change to the current 'Commercial' zoning of the land. Within this application, there is no specific reference to the future use of the site, however, it is expected that the site is proposed to be redeveloped for residential-type landuses.

Q2 *What measures can the City implement to improve the physical appearance of the site?*

A2 The City has no powers to improve the appearance of land, unless the land is unkempt or contains overgrown vegetation, therefore presenting a fire hazard.

Q3 *Does the City believe the site diminishes the amenity of the shopping centre and surrounding housing?*

A3 The question is subjective in nature. Future development of the site is expected to increase the amenity of the locality.

The following questions were submitted by Mr Martin Dart, Ocean Reef:

Regarding the working party for the design and construction of the Ocean Reef Road extension:

Q1(a) Will there be an opportunity on this working party to continue to oppose road construction?

A1(a) No.

Q1(b) Will you clearly state the objective timelines associated with this working party, and the remaining project up to actual construction, and confirm that no further delays will be tolerated in this process?

A1(b) This cannot be stated as it will be the role of the working party to develop and agree on the process for the consultation.

Q2 Will the Council consider either extending the remit or migrating membership of the Ocean Reef Road working party (after it concludes its road business) to consider preliminary community input towards the Ocean Reef Harbour Development to help fast-track the planning of this project? Does the Council agree that it would be unacceptable for the Harbour Development to suffer from the protracted and polarized debate which has plagued construction of the road, and has done nothing but hurt and hinder the Ocean Reef community?

A2 Depending on any submissions received on the Principal Activities Plan to bring forward the Ocean Reef Harbour Development, the form and composition of a community representative body would need to be addressed.

The following question was submitted by Ms C Ghersinich, Marmion:

Q1 How much public open space has been forgone by development in the City of Joondalup since 2000?

A1 This question was received on 29 June 2004. The question requires a detailed response to be prepared and as such will be taken on notice.

The following question was submitted by Mr K Zakrevsky, Mullaloo:

Q1 Why has Rennet Pty Ltd's multifaceted development on a small 2377 square metre site, referred to as Mullaloo Village Centre in Oceanside Promenade, substantially altered at least twice, been issued with a Building License (23rd December 2003), setting precedences when extremely questionable matters had not been addressed? YET Carine Tavern development proposal, in an acceptable sized village centre, underwent intense scrutiny and required compliance on acoustics, noise, traffic, setbacks, parking etc (Ref Q3 - Answer of 12th Feb 2004 "Indications are that the proposed development application will be substantially different (compared to the plans considered in November 2001 and that fresh assessment is required"), but Mullaloo development has not been made to meet similar requirements?

A1 Both developments referred to have been the subject of extremely detailed assessment by the City. The depth of the technical evaluation for the applications was comparable in each case. The differences between the applications related to the circumstances of the site, the nature of the differences between the development proposals, and the likely planning impacts caused by changes to those proposals.

The Mullaloo development does however have a more complicated history as it was the subject of independent review by the Hon Minister for Planning, and the Supreme Court of WA, as a consequence of separate actions initiated by third parties.

The following questions were submitted by Mr Vincent Cusack, Kingsley.

- *At the special electors meeting held in Greenwood, on 7 February 2002, former Mayor John Bombak "reminded members of the public the rules of defamation applied in this public forum and advised the meeting would be both recorded and video taped and called for accurate and informed discussion".*

Q1(a) Was that the first ever electors meeting (7 February 2002) whereby a reminder/warning was made to the public about the 'rules of defamation' in the history of the City of Joondalup? If no, can Council provide the date(s) of the previous electors meetings?

A1(a) To provide a definitive answer to this question would require a substantial amount of research which is considered unwarranted. Minutes of electors meetings held since 1992 are available on the City's website.

Q1(b) Was any reminder/warning ever made to the public at the commencement of electors meetings at the former Shire of Wanneroo? If yes when?

A1(b) See A1(a) above.

Q2(a) Did the Administration advise the elected Council of policy 2.2.8 Legal Representation… prior to, during, or soon after the license to litigate amendment was passed on 18 February 2003? The amendment read as follows:

Moved Cr Baker seconded Cr Hurst that the Council AUTHORISES the CEO to seek and obtain legal advice from Blake Dawson Waldron, Solicitors or another recognised legal firm, in relation to the allegations made by Cr Don Carlos in his Notice of Motion submitted to Council on 18 February 2003, and other media articles concerning the CEO published in the West Australian newspaper and the Community News given the significant damage being caused to the image and reputation of the City and its senior officers. That Council places an upper limit of expenditure not exceeding $5,000.

A2(a) All elected members would have previously been provided with a copy of Policy 2.2.8.

Q2(b) If not why not? And if yes what was the nature of that advice?

A2(b) See A2(a) above.

Q3 Are the Commissioners aware that this 'licence to litigate amendment' was tied 7/7 and was only passed on the casting vote of former Mayor John Bombak?

A3 Commissioners have previously been advised of the issues surrounding the legal expense reimbursements by the City to Mr Smith.

Q4 Are the Commissioners aware that this was the amendment/motion, which enabled the CEO Mr Smith to initiate proceedings against Don Carlos and the City of Joondalup? And this was also the motion that commenced the unnecessary and extremely costly legal saga that failed so dramatically to resolve anything?

A4 See A3 above.

Q5(a) Did the former CEO Mr Denis Smith make an application to the City, at any stage, for the reimbursement of legal expenses under policy 2.2.8? If so when and how many times?

A5(a) The City approved a number of requests by Mr Smith for reimbursement of legal expenses. The Council resolutions relating to these are included on the public record.

Q5(b) If no under what policy or what criteria did Mr Smith make the applications for reimbursement of legal costs?

A5(b) See A5(a) above.

- *In relation to CJ136 - 06/04 Proposed Policy - Legal Representation for Elected Members and Employees,*

Q6(a) Are the Commissioners aware that clause 3.1(c) as follows:

> *"to enable proceedings to be commenced and/or maintained **by** an Elected Member or Employee to permit him or her to carry out his or her functions – for example, where an Elected Member or Employee seeks a restraining order against a person using threatening behaviour."*
>
> *is extremely vague in its present format and potentially open to various interpretations?*

A6(a) The matter is listed for consideration at the Council meeting to be held on 29 June 2004.

Q6(b) Is different from the model policy (Attachment 2) in so far as it omits the following words "only in circumstances so as to permit him or her to carry out his or her functions"....

A6(b) As detailed in the question, a copy of the draft model policy from the Department of Local Government and Regional Development is also attached for the Commissioners' information.

Q6(c) Can council explain why that clause 3.1(c) is considered necessary?

A6(c) It is not possible to provide an exhaustive list of circumstances where it may be appropriate to access Policy 2.2.8, however one example is detailed in Clause 3.1(c).

Q6(d) Without going into specific details, was there ever an occasion whereby any Councillor or Staff member was prevented from carrying out their duties at the City of Joondalup?

A6(d) There have been occasions which have necessitated the City considering taking action against individuals to enable employees to fulfil their role and also to ensure that the City fulfils its duty of care obligations to employees.

Q7 Out of the 144 Local Government Authorities in WA, does any of them have a similar clause to 3.1(c)? If yes please name one or two?

A7 To the best of the City's knowledge, no.

Q8 Will the Commissioners either consider deleting, or amending clause 3.1(c) to ensure it is only ever used to protect elected members or staff from physical or verbal abuse, as compared to genuine criticism and public scrutiny? To highlight what I mean I refer to the following quote from the Department of Local Government as contained in Attachment 2:

"In relation to public criticism about a local government legal precedent dictates that it is fundamental to public scrutiny that organisations governed by elected bodies be open to criticism by members of the community…..etc see page 3."

A8 The draft policy has been submitted to the Commissioners for consideration. The Joint Commissioners can amend the policy along the lines suggested, but such an amendment is not supported.

Mr Ken Zakrevsky, Mullaloo:

Re: Building licence issued to the Mullaloo Beach Village on 23 December 2003:

Q1 A previous application for a building licence for this development was refused by the City on 18 points on 5 August 2003 and this decision was endorsed by the Minister for Housing on appeal. One of those 18 points was that the building had failed under BCA Section D1.13 which states "Number of persons – Details that will be accommodating each part of the building are required to be provided."

Given that it is a requirement under the Building Codes of Australia to identify the number of persons in each part of a building, can Commissioners tell me how this development could have been given a Building Certificate without meeting this requirement, and why I am also told that the City cannot confirm the number of persons in the building until fit-out has been finalised?

A1 This question will be taken on notice.

Q2 An answer to a question in tonight's agenda, where it is stated that the Development Approval required that an acoustic report is to be submitted prior to the premises fit-out stage, is not correct. Condition (j) of the Development Approval states "The submission of an acoustic consultant's report demonstrating to the satisfaction of the City that the proposed development is capable of containing all noise emissions in accordance with the Environmental Protection Act". And in the body of the report it is stated that this should occur prior to a Building Certificate being issued.

Will the Commissioners confirm that this condition of the Development Approval has not been met and also that BCA Section F5 – Sound Transmission and Insulation Ratings, has not been met which constitutes a breach of the Town Planning and Development Act?

A2 That particular detail is currently being negotiated. The condition of development approval does remain valid for the acoustic consultant's report, and that is a factor that has to be considered when the applicant submits the fit-out application.

- Mr Zakrevsky requested that his second question be given further consideration.

Mrs M Zakrevsky, Mullaloo:

Re: The Building Certificate issued to the development known as the Mullaloo Beach Village:

Q1 In answer to a question in tonight's agenda on the additional parking required because of an increase in the size of the restaurant, it is stated that the parking demand for restaurants is based on seating capacity and not the floor area of the tenancy.

Are Commissioners aware that the developer's application states that car parking for the restaurant is based on 1 per 5 square metre of dining area and that Table 2 of DPS2 states that car parking will be provided on the greater of 1 per square metre of dining room or 1 per 4 guests, and that as the size of the dining area of the restaurant is identified on the building plans, it is possible to estimate that additional car parking is required and that the developer has breached the development approval?

A1 The building licence application, which was for the shell, did not include the kitchen area, whereas the planning approval drawings did include the kitchen area. The kitchen area does not contribute to parking demands. The other statements made about the generators in the evaluation are correct, but it is a nett floor area. It is the dining area that the City is interested in.

Q2 I refer to the same building certificate application. The plans provided to the City clearly identify each numbered car bay and disabled bays and this is not something that is dealt with at fit-out stage.

Will Commissioners confirm that the Engineer dealing with the application queried the non-compliance with the development application with respect to the under provision of car bays and that this is a failure to comply with the Development Approval, and also the failure to provide the required amount of disabled bays, contravenes the Building Codes of Australia and the Discrimination Laws of Australia and will they take the appropriate action under the Metropolitan Planning Scheme?

A2 The building licence is not issued under the Metropolitan Region Planning Scheme. The requirements that do apply in regard to disability and access were checked by the Building Surveyors. The remainder of the question will be taken on notice.

Mrs M Macdonald, Mullaloo:

Q1 I refer to the answer to a question in tonight's agenda regarding the building certificate issued to the Mullaloo Beach Village Development, where it states:

"The issues raised by the Mullaloo Progress Association at a separate meeting with the Commissioners are all under investigation and individual responses will be provided as soon as possible. The Commissioners note that the issues raised have been the subject of independent investigation by the Hon Minister for Planning and Infrastructure and other legal processes. The Commissioners also note that the assessment of the various applications was assisted at all key points by the City's legal advisors."

Are Commissioners aware that:

(a) whatever they have noted could not have applied to the issues raised before them by the Mullaloo Progress Association as none of these issues with respect to the building licence approval have been the subject of any legal proceedings or been the subject of an investigation by the Minister of Planning and Infrastructure and;

(b) there is no evidence in the Freedom of Information documentation received from the City that the City's legal advisors were consulted on this building licence application;

and accordingly will Commissioners remove this misinformation from the minutes of this meeting?

A1 This question will be taken on notice.

Q2 Are the Commissioners aware that the Minister for Planning and Infrastructure has advised the Mullaloo Progress Association that she has recommended:

(a) That the City address as a matter of urgency the absence of explicit guidelines with respect to Residential Buildings in the Scheme; and

(b) that urgent attention be given to the height and bulk of development in commercial zones and in particular for sites in sensitive locations such as those within the coastal view-shed; and

(c) the introduction of measures to guide the development of short stay accommodation in those zones where such development is permissible, such that as a minimum, measures should address the density of those forms of residential development for which there is currently no explicit density control under the residential planning design codes;

and if so, can Commissioners state what steps are being taken to implement those recommendations?

A2 The Commissioners have been advised of the Minister's response to the Section 18 Inquiry and they are aware of the actions that she has requested of the Council. To progress those, a report will be submitted to Council in due course.

Mr M Caiacob, Mullaloo:

Re: Mullaloo Tavern:

Q1 Are the Commissioners aware that Answer 2(a) on page xv is incorrect? I do not make improper use of this information, but I refer the Joint Commissioners to Confidential Report CJ225-09/03 of 30 September 2003, for the purpose of a true and accurate record, and ask if the reply will be corrected for the minutes?

A1 This question will be taken on notice.

Q2 Are the Commissioners aware that the Council has no authority to exceed the DPS2 schedule 3 limit of 500 square metre retail nett lettable area without a structure plan? How has a building licence been issued when the NLA of 511 square metres is ultra vires?

A2 The Council is aware of the 500 square metre limit, and the building licence does not show over 500 square metre NLA. The NLA is yet to be decided and that will be within the fit-out plan.

The following question was submitted in writing by Mr Caiacob:

Q3 Justice Pullin of the Supreme Court found that prosecution could occur for a 42 square metre increase in NLA above that of the DPS2 clause 3.7.3 requirement of 500 square metres maximum. Why is 11 square metre increase in NLA above that of Clause 3.7.3 required 500 square metres, not considered substantive?

A3 This question will be taken on notice.

Mr M Sideris, President of Mullaloo Progress Association:

Re: The Building Licence granted in December 2003 for the Mullaloo tavern site, and not the development approval of 2002.

Q1 On Tuesday 1 June, the Mullaloo Progress Association made a presentation to the Commissioners and lodged a formal complaint which identified to the Commissioners some nine alleged breaches of either the DPS2 or conditions attached to the development approval together with two alleged breaches of undertaking an unlawful development.

(a) Will the Commissioners please advise when this formal complaint will be acknowledged as being received;

(b) when a response will be forthcoming; and

(c) given that the building approval plans clearly indicate a retail NLA of 511 square metres and breaches the DPS2 Schedule 3 provisions, whether or not written advice or direction has been forwarded to the owner or persons undertaking that development placing that person on notice, that the unlawfulness of that development was being investigated, and if not, why not?

Q2 Are Commissioners aware that under the Town Planning and Development Act 1928 Section 10, Power to direct cessation or removal of unlawful development, or restoration or execution of work, and in particular Sub-section 2 – if a development, or any part of a development is undertaken in contravention of a town planning scheme, the responsible authority may give a written direction to the owner or any other person undertaking that development to stop, and not recommence, the development or that part of the development that is undertaken in contravention of the scheme, and that the failure to comply with a direction commits an offence with a penalty of $50,000 and a daily penalty of $5,000?

And that under Section 10AB Requirement to comply with scheme and conditions, a person who contravenes (a) a town planning scheme or (b) any condition imposed with respect to a development by a responsible authority pursuant to its powers under a town planning scheme, commits an offence – penalty $50,000 and a daily penalty of $5,000?

A1-2 These questions will be taken on notice.

C40–06/04 EXTENSION OF PUBLIC QUESTION TIME – [01122] [02154]

MOVED Cmr Anderson, SECONDED Cmr Smith that public question time be extended for a further period.

The Motion was Put and CARRIED UNANIMOUSLY (4/0)

Dr M Apthorpe, Ocean Reef:

Q1 *Why have the toilets in the Iluka foreshore park, which according to a letter of 14 August 2003, ref 01122, were promised as part of the 2003/04 budget, not been built?*

A1 As part of the half year review of the 2003/04 budget, a decision was made to look at design concepts for the toilets and to undertake a consultation process. The construction of the toilets would be put into the 2004/05 financial year.

Q2 *Why does the City of Joondalup consider that it is acceptable that hundreds of people are forced to use the dunes behind the Iluka foreshore park as a public toilet area for their children, while dogs are given orange bags and plastic bins to deposit their excrement in? People are not afforded the same courtesy. What is the Council going to do about it?*

A2 The City does not find this acceptable and hence is working towards building toilets in that location. This is scheduled within the 2004/05 budget.

Mr M Lowry, Iluka:

Q1 *Regarding the proposed extension of the Ocean Reef Marina which has created some expectation by residents over many years. Could the Commissioners advise what the current planning status is in respect of this project as I understand there is some detailed planning required before it can attract a developer?*

A1 The Ocean Reef redevelopment is included in the Council's Principal Activities Plan, and staged over three financial years. It has reached the stage where a detailed structure plan is required to be prepared to enable development to proceed. This will depend on funding to determine how quickly it can occur.

Mr M Tayler, Ocean Reef:

Q1 *Re proposed extension of Ocean Reef Road: If the Commissioners pass this motion tonight unaltered, can you advise what will be the process of selecting other stakeholders, not formerly listed, being residents adjoining the proposed road and not associated with the main group; residents on routes to the proposed road (Resolute Way); residents along Constellation Drive; local business owners; schools; other stakeholders: residents in adjoining suburbs of Iluka, Kallaroo and Burns Beach; and community groups?*

A1 The working group will determine the process and how the wider consultation working groups will be formed, and the wider consultation groups of up to 50 people will work towards the detailed design. The working group being established by tonight's recommendation is purely to set ground rules for the consultation; they are also required to take on board of benefits of participation; members will sort data, deal with issues, take on board the parameters to assist Council to evaluate the process; and monitor the workshops.

Q2 *In last week's question from Ms Reichenberg, a response was provided that a study had been undertaken by the City, approximately 18 months to 2 years ago in relation to the coastal corridor. Can you please advise if this plan is on the website or can you make a copy available to me?*

A2 It is not known whether this document is available on the City's website, however a copy of the Joondalup Coastal Management Plan will be provided.

Mr V Cusack, Kingsley:

- *Mr Cusack registered his concern at the response provided to his earlier questions and asked that they be resubmitted for an amended response.*

Q1 *In light of my earlier question 7 and the answer given which is correct, are the Commissioners aware that if they pass the proposed Policy 2.2.8 as listed and recommended by the officers, they will not only potentially subject the ratepayers of the City to even more unnecessary legal expense, but set a precedent for the other 143 Councils in WA?*

A1 *Response by Cmr Paterson:* The Commissioners have heard this question.

Mr T Thorp, Sorrento:

Q1 *Are the Commissioners aware of the small-disjointed public open space areas within the locality of Marmion that do not come up to the ten per cent requirements of public open space?*

A1 Work is being undertaken on this as part of the report on the CSIRO site, and the City is aware of the pocket parks.

Q2 *Regarding the destruction of bushland at the corner of Moore Drive, Grand Boulevard and Joondalup Drive, adjoining the Curtin University Campus. Why isn't the Council instigating by-laws to save as much natural bush as possible by encouraging landowners and developers with some type of incentive to forego wholesale clearing of land? Isn't the City interested in saving existing natural bushland for future generations, let alone the present one?*

A2 Much of the land within the City Centre is earmarked for City Centre purposes. The balance for that is the land in the Yellagonga Regional Park, which is immediately adjacent to the City Centre.

Response by Cmr Paterson: I am amazed how much parkland is within the City and I believe that good planning has made this happen.

Ms S Hart, Greenwood:

Q1 *Regarding Page xvi, and the response to my question, I request that I have an answer in writing to enable the rest of the City to see the answer.*

A1 This question will be taken on notice.

Mr S Magyar, Heathridge:

Q1 *Re CJ135-06/04 – Delegated Authority Manual: Is there any particular delegated authority regarding the City initiating legal action and if so, is there any restriction to the amount, the types of legal actions and the levels of court, that the staff may commence without the knowledge of the Council or Commissioners?*

A1 This question will be taken on notice.

Q2 *Regarding legal representation for elected members and staff and the Clause that says "To enable proceedings to be commenced or maintained by elected members to permit him or her to carry out their function". Do the Commissioners see any danger of the legal representation policy being too open ended and possibly abused without including the Legal Representation for Elected Members and Employees Local Government Operational Guidelines as part of the policy?*

A2 *Response by Cmr Paterson:* This will be considered by Commissioners tonight.

APOLOGIES AND LEAVE OF ABSENCE

Leave of absence previously approved:

Cmr A Fox 29 June 2004 – 7 July 2004 inclusive

DECLARATIONS OF FINANCIAL INTEREST/INTEREST THAT MAY AFFECT IMPARTIALITY

Cmr J Paterson declared a financial interest in Item CJ136-06/04 – Proposed Policy – Legal Representation for Elected Members and Employees as he is required to consider and approve a policy under which he may be a beneficiary if required to appear before the coming McIntyre Inquiry into the City.

Cmr P Clough declared a financial interest in Item CJ136-06/04 – Proposed Policy – Legal Representation for Elected Members and Employees as he is required to consider and approve a policy under which he may be a beneficiary if required to appear before the coming McIntyre Inquiry into the City.

Cmr M Anderson declared a financial interest in Item CJ136-06/04 – Proposed Policy – Legal Representation for Elected Members and Employees as he is required to consider and approve a policy under which he may be a beneficiary if required to appear before the coming McIntyre Inquiry into the City.

Cmr S Smith declared a financial interest in Item CJ136-06/04 – Proposed Policy – Legal Representation for Elected Members and Employees as she is required to consider and approve a policy under which she may be a beneficiary if required to appear before the coming McIntyre Inquiry into the City. Cmr Smith stated that the extent of this interest was to the limits of the policy, or as approved by Council.

Cmr A Fox stated her intention to declared a financial interest in Item CJ136-06/04 – Proposed Policy – Legal Representation for Elected Members and Employees as she is required to consider and approve a policy under which she may be a beneficiary if required to appear before the coming McIntyre Inquiry into the City. Cmr Fox was not in attendance at this meeting.

Acting Chief Executive Officer, Mr Clayton Higham declared a financial interest in Item CJ136-06/04 – Proposed Policy – Legal Representation for Elected Members and Employees as he may be required to appear before the coming McIntyre Inquiry into the City.

Director, Corporate Services and Resource Management, Mr Peter Schneider declared a financial interest in Item CJ136-06/04 – Proposed Policy – Legal Representation for Elected Members and Employees as he may be required to appear before the coming McIntyre Inquiry into the City.

Director, Infrastructure and Operations, Mr David Djulbic declared a financial interest in Item CJ136-06/04 – Proposed Policy – Legal Representation for Elected Members and Employees as he may be required to appear before the coming McIntyre Inquiry into the City.

Manager, Audit and Executive Services, Mr Kevin Robinson declared a financial interest in Item CJ136-06/04 – Proposed Policy – Legal Representation for Elected Members and Employees as he may be required to appear before the coming McIntyre Inquiry into the City.

Manager, Approval, Planning and Environmental Services, Mr Chris Terelinck declared a financial interest in Item CJ136-06/04 – Proposed Policy – Legal Representation for Elected Members and Employees as he may be required to appear before the coming McIntyre Inquiry into the City.

Exemption from Department of Local Government and Regional Development

In respect of Item CJ136-06/04 – Proposed Policy – Legal Representation for Elected Members and Employees, Acting Chief Executive Officer drew to the attention of Commissioners the correspondence received from the Minister for Local Government dated 29 June 2004, which read as follows:

"I refer to the City's letter of 17 June 2004 and advise that in accordance with authority delegated by the Minister, the Acting Director of Governance and Statutory Support has approved the City's application under section 5.69(3)(a) of the Local Government Act 1995 (the Act) to allow:

(a) Commissioners J Paterson, M Anderson, P Clough and S Smith to fully participate in the consideration of amendments to Council Policy No 2.2.8 relating to Legal Representation for Elected Members and Employees;

(b) Commissioner J Paterson to preside during the Council's consideration of amendments to Council Policy No 2.2.8 relating to Legal Representation for Elected Members and Employees;

subject to the following condition:

The approval is valid for the Ordinary Meeting of Council to be held on the 29 June 2004 and any subsequent meetings required to determine amendments to Council Policy No 2.2.8 relating to Legal Representation for Elected Members and Employees."

Cmr J Paterson declared a financial interest in Item CJ138-06/04 – Joondalup Business Incubator – Request for Financial Assistance as he is a member of the Board of the Joondalup Business Incubator.

In relation to Item CJ145-06/04 – Mindarie Regional Council Draft Establishment Agreement and Deed, Cmr Smith advised she was a member of the Mindarie Regional Council, and she would deal impartially with this matter.

In relation to Item CJ146-06/04 – Proposed Extension of Ocean Reef Road – Reconsideration of CJ101-05/04, Cmr Smith advised her daughter lives in the suburb of Currambine, and she would deal impartially with this matter.

CONFIRMATION OF MINUTES

C41-06/04 MINUTES OF MEETING OF JOINT COMMISSIONERS – 8 JUNE 2004

MOVED Cmr Anderson, SECONDED Cmr Clough that the Minutes of the Meeting of Joint Commissioners held on 8 June 2004, be confirmed as a true and correct record.

The Motion was Put and CARRIED UNANIMOUSLY (4/0)

ANNOUNCEMENTS BY THE CHAIRMAN WITHOUT DISCUSSION

FREE NAIDOC CONCERT

NAIDOC Week is 4 July to 11 July 2004 and celebrates Aboriginal and Torres Strait Islander peoples and culture.

The City of Joondalup will be hosting a free concert by the 'Songman' Bob Tandall to celebrate NAIDOC Week at Arena Joondalup at 7.30 pm on 5 July 2004.

Bob Randall was '1999 Indigenous Person of the Year' and is an elder and a registered traditional owner of Uluru. He uses his music as an educational tool for promoting cultural awareness and sensitivity, incorporating aboriginal language and musical instruments such as the didgeridoo and clap sticks.

The City of Joondalup invites everyone to join in celebrations for NAIDOC Week 2004.

CUSTOMER SERVICE AWARD

Congratulations to Kicks Fitness Club of Whitfords and Manager, Louise Roberts and staff.

On behalf of the City, I recently had the pleasure of presenting Louise with the Customer Service Award at the Small Business Awards.

It is fitting that the City of Joondalup sponsors this Award because the administration has put in considerable effort over the years towards improving services to residents, winning local government awards for customer service.

CONGRATULATIONS ON STAFF ADVANCEMENT

On behalf of the City, I would like to congratulate Vic Etherington, Principal Building Surveyor, for his recent advancement to Fellow within the Australian Institute of Building Surveyors.

Vic commenced local government work as a Building Surveyor at Kalgoorlie during 1990. He became a Member of the Australian Institute of Building Surveyors in June 1995 and has progressed through the grades of the Institute. He has worked at the Cities of Stirling and Cottesloe and is currently the Principal Building Surveyor for the City of Joondalup.

Since 1993 Vic has been on the Institute's State Executive in many roles such as Chapter Newsletter Editor and assistant to the Conference Convener. In 1998 Vic created the WA Chapter's first website and since 1999 has been the National Website Manager. In 1999 Vic was elected Vice President of the WA Chapter and in 2001 he was elected President, a position he still holds. As a State President, he also holds a position as Director of the National Office of the Australian Institute of Building Surveyors.

The City congratulates Vic on his advancement to a Fellow within the Institute.

PETITIONS

Nil.

CJ134 - 06/04 SCHEDULE OF DOCUMENTS EXECUTED BY MEANS OF AFFIXING THE COMMON SEAL - [15876]

WARD - All

CJ040622_BRF.DOC:ITEM 1

PURPOSE

To provide a listing of those documents executed by means of affixing the Common Seal for noting by Joint Commissioners.

Document:	Structure Plan
Parties:	City of Joondalup
Description:	Caridean Street Structure Plan (No 4) – Lots 742 and 743 Caridean Street, Heathridge
Date:	11.05.04

Document:	Agreement
Parties:	City of Joondalup and Edith Cowan University (ECU)
Description:	Legal Agreement to satisfy outstanding road construction requirements under Condition 3 of WAPC Subdivision Approval (Ref 114047)
Date:	11.05.04

Document:	Covenant
Parties:	City of Joondalup and Peet and Co Ltd
Description:	Restrictive Covenant to restrict vehicular access to Sunlander Drive and Citadel Way, Currambine
Date:	18.05.04

Document:	Copyright
Parties:	City of Joondalup and Christine Goodall
Description:	Recording of historical importance
Date:	25.05.04

Document:	Copyright
Parties:	City of Joondalup and Robert Hart
Description:	Recording of historical importance
Date:	25.05.04

Document:	Copyright
Parties:	City of Joondalup and Beth Bail
Description:	Recording of historical importance
Date:	25.05.04

Document:	Subdivision Approval
Parties:	City of Joondalup and Foodland Property Holdings P/L
Description:	Application for approval of subdivision – Lot 3 (5) Trappers Drive, Woodvale
Date:	25.05.04

Document:	Contract
Parties:	City of Joondalup and Malco Civic Pty Ltd
Description:	Execution of Contract No 027-03/04 – Construction of dual use path – Tom Simpson Park, Mullaloo
Date:	25.05.04

Document:	Caveat
Parties:	City of Joondalup and Sizzler Australia P/L
Description:	Withdrawal of caveat over Lot 1 (46) Gwendoline Drive, Beldon
Date:	25.05.04

Document:	Contract
Parties:	City of Joondalup and Downer Electrical PL
Description:	Execution of Contract No 033-03/04 – Agreement for traffic signal installation – Grand Boulevard/Collier Pass, Joondalup
Date:	28.05.04

Document:	Contract
Parties:	City of Joondalup and ASG (Asia Pacific) PL
Description:	Execution of Contract No 035-03/04 – Agreement for the supply of Oracle database and Unix Admin Support
Date:	01.06.04

ATTACHMENTS

Nil.

VOTING REQUIREMENTS

Simple Majority

MOVED Cmr Clough, SECONDED Cmr Anderson that the Schedule of Documents executed by means of affixing the Common Seal be NOTED.

The Motion was Put and **CARRIED UNANIMOUSLY (4/0)**

CJ135 - 06/04 REVIEW OF THE CORPORATE DELEGATED AUTHORITY MANUAL - [07032]

WARD - All

CJ040622_BRF.DOC:ITEM 2

PURPOSE

To review and make the necessary changes to the City's Delegated Authority Manual.

EXECUTIVE SUMMARY

The Local Government Act 1995 requires that, at least once each financial year the delegator reviews its delegations. The Council last reviewed its delegations on 29 April 2003 to meet the legislative requirements (Item CJ078-04/03 refers)

This report details the suggested changes to the Delegated Authority Manual, which require consideration by Council.

BACKGROUND

The Local Government Act 1995 requires the delegator (in most cases either the Local Government or the Chief Executive Officer) to review each of its delegations at least once each financial year. The review of the Delegated Authority Manual for the last financial year was submitted to the Council meeting held on 29 April 2003 (Item CJ078-04/03 refers).

At the Council meeting held on 8 June 2004 it was resolved that consideration of the review of the Corporate Delegated Authority Manual be deferred until the next Ordinary meeting of Council scheduled to be held on 29 June 2004.

DETAILS

A review was undertaken of the City's Delegated Authority Manual and a report was submitted to the Council meeting held on 8 June 2004, where it was resolved that consideration of the review of the Corporate Delegated Authority Manual be deferred until the next Ordinary meeting of Council scheduled to be held on 29 June 2004. Additional amendments are now recommended to be made to the Manual.

An explanation of the suggested changes is provided on Attachment 1 hereto. Attachment 2 to this Report gives the relevant pages of the Delegated Authority Manual, with revisions marked.

The Local Government Act 1995 (the Act) assigns certain powers and duties directly to the Chief Executive Officer. Whilst powers and duties assigned directly to the Chief Executive Officer are included in the manual for ease of reference, the Council's approval is not sought in relation to these delegations. The Chief Executive Officer has undertaken a review of his powers and duties, which are as follows:

Entry in an emergency	Page 16
Annual Review of Employees' performances	Page 31
Powers and Functions by the Chief Executive Officer	Pages 33-36
Register of Financial interest	Page 45
Representing local government in Court	Page 67
Evidence in legal proceedings – definitions	Page 68
Receiving and opening tenders	Page 80
Tender register	Page 81
Tenderers to be notified of outcome	Page 83
Persons expressing an interest to be notified of outcome	Page 86
Financial Management duties of the Chief Executive Officer	Pages 87-88
Payment from the municipal fund and trust fund	Page 90
Occupational Safety and Health	Page 93
Redundancy and severance pay	Page 94
Selective voluntary severance	Page 95
Staff uniforms	Page 96
Payment of fees, allowances and expenses and the provision of facilities to the Mayor, Deputy Mayor and Councillors	Pages 97-98
Elected Members' advertising	Page 101
Nomenclature – public facilities	Page 104

Uniform fencing – subdivision	Pages 105-106
Retaining Walls	Page 107
Authority to waive fees	Page 109
Emergency closure of public libraries	Page 111
Council owned stock – public libraries	Page 112
Assessment – Community Funding	Page 113
Acquisition of the City's Art Collection	Page 115
Procurement of Council buildings	Page 116
Access to information for people with disabilities	Page 117
Domestic Waste Collection and Recycling Service	Page 118
Verge treatments – protective devices	Page 119
Sand drift control	Page 120
Subsidy – vehicle crossing	Page 121
Roadworks – opening up	Page 122
Acknowledgement of Service – elected members	Page 123
Freedom of information	Page 126
Media contact	Page 129
Council meetings – electronic sound recording	Page 130
Use of Council vehicles	Page 131
On-line service provision	Page 133
Council reserves and parks	Page 134

COMMENT

As previously stated, the Local Government Act 1995 requires each delegator to review its delegations at least once every financial year. As required by the Act, the Chief Executive Officer has reviewed his delegations and made the necessary amendments.

This review will ensure that the Council has a Delegated Authority Manual that reflects the focus of the Council. This manual will continue to be reviewed, with items submitted to the Council where necessary. An annual review will continue to occur.

Governance Review

The outcome of the Governance Review may necessitate some further amendments to the Delegated Authority Manual. If that is the case, a further review will be conducted and a report submitted to the Joint Commissioners.

Town Planning Delegations – Pages 136 and 137

A report was presented to the Council meeting held on 18 May 2004 to review the Town Planning Delegations in accordance with District Planning Scheme No 2 which requires delegations to be renewed annually.

At that meeting the Joint Commissioners resolved to *"AMEND and ADOPT the Town Planning Delegations as outlined at Attachment 1 to Report C34-05/04 with this delegation to last for a term of two months only, when the report is to be represented with the benefit of being processed through a Council briefing session."* Accordingly a separate report will be submitted to Council to give consideration to the Town Planning Delegations.

ATTACHMENTS

Attachment 1	Explanation of proposed changes
Attachment 2	Required changes to Delegated Authority Manual

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION: That the Joint Commissioners BY AN ABSOLUTE MAJORITY:

1 ENDORSE the review of the delegations in accordance with the Local Government Act 1995;

2 NOTE that the Chief Executive Officer has reviewed those powers and duties assigned to him by the Local Government Act 1995 in relation to the following:

- Entry in an emergency
- Annual Review of Employees' performances
- Powers and Functions by the Chief Executive Officer
- Register of Financial interest
- Representing local government in Court
- Evidence in legal proceedings – definitions
- Receiving and opening tenders
- Tender register
- Tenderers to be notified of outcome
- Persons expressing an interest to be notified of outcome
- Financial Management duties of the Chief Executive Officer
- Payment from the municipal fund and trust fund
- Occupational Safety and Health
- Redundancy and severance pay
- Selective voluntary severance
- Staff uniforms
- Payment of fees, allowances and expenses and the provision of facilities to the Mayor, Deputy Mayor and Councillors
- Elected Members' advertising
- Nomenclature – public facilities
- Uniform fencing – subdivision
- Retaining Walls
- Authority to waive fees
- Emergency closure of public libraries
- Council owned stock – public libraries
- Assessment – Community Funding
- Acquisition of the City's Art Collection
- Procurement of Council buildings
- Access to information for people with disabilities
- Domestic Waste Collection and Recycling Service

- Verge treatments – protective devices
- Sand drift control
- Subsidy – vehicle crossing
- Roadworks – opening up
- Acknowledgement of Service – elected members
- Freedom of information
- Media contact
- Council meetings – electronic sound recording
- Use of Council vehicles
- On-line service provision
- Council reserves and parks

3 AMEND the Delegated Authority Manual as outlined on Attachment 2 to Report CJ135-06/04.

MOVED Cmr Smith, SECONDED Cmr Anderson that the Joint Commissioners:

1 ENDORSE the review of the delegations in accordance with the Local Government Act 1995;

2 NOTE that the Chief Executive Officer has reviewed those powers and duties assigned to him by the Local Government Act 1995 in relation to the following:

- **Entry in an emergency**
- **Annual Review of Employees' performances**
- **Powers and Functions by the Chief Executive Officer**
- **Register of Financial interest**
- **Representing local government in Court**
- **Evidence in legal proceedings – definitions**
- **Receiving and opening tenders**
- **Tender register**
- **Tenderers to be notified of outcome**
- **Persons expressing an interest to be notified of outcome**
- **Financial Management duties of the Chief Executive Officer**
- **Payment from the municipal fund and trust fund**
- **Occupational Safety and Health**
- **Redundancy and severance pay**
- **Selective voluntary severance**
- **Staff uniforms**
- **Payment of fees, allowances and expenses and the provision of facilities to the Mayor, Deputy Mayor and Councillors**
- **Elected Members' advertising**
- **Nomenclature – public facilities**
- **Uniform fencing – subdivision**
- **Retaining Walls**
- **Authority to waive fees**
- **Emergency closure of public libraries**
- **Council owned stock – public libraries**
- **Assessment – Community Funding**

- **Acquisition of the City's Art Collection**
- **Procurement of Council buildings**
- **Access to information for people with disabilities**
- **Domestic Waste Collection and Recycling Service**
- **Verge treatments – protective devices**
- **Sand drift control**
- **Subsidy – vehicle crossing**
- **Roadworks – opening up**
- **Acknowledgement of Service – elected members**
- **Freedom of information**
- **Media contact**
- **Council meetings – electronic sound recording**
- **Use of Council vehicles**
- **On-line service provision**
- **Council reserves and parks**

3 AMEND the Delegated Authority Manual as outlined on Attachment 2 to Report CJ135-06/04, with the inclusion of an additional amendment to "Write off of Monies" – on Page 52 of the Manual – to read:

"Chief Executive Officer – individual items to $20,000 *subject to a report being provided to the Audit Committee on a six monthly basis on the exercise of this delegation";*

4 EXTEND the Town Planning Delegations for a further two months.

Cmr Smith outlined reasons for her change to the officer's recommendations.

The Motion was Put and **CARRIED BY AN ABSOLUTE MAJORITY (4/0)**

Appendix 1 refers

To access this attachment on electronic document, click here: Attach1brf220604.pdf

Cmr J Paterson declared a financial interest in Item CJ136-06/04 – Proposed Policy – Legal Representation for Elected Members and Employees as he is required to consider and approve a policy under which he may be a beneficiary if required to appear before the coming McIntyre Inquiry into the City.

Cmr P Clough declared a financial interest in Item CJ136-06/04 – Proposed Policy – Legal Representation for Elected Members and Employees as he is required to consider and approve a policy under which he may be a beneficiary if required to appear before the coming McIntyre Inquiry into the City.

Cmr M Anderson declared a financial interest in Item CJ136-06/04 – Proposed Policy – Legal Representation for Elected Members and Employees as he is required to consider and approve a policy under which he may be a beneficiary if required to appear before the coming McIntyre Inquiry into the City.

Cmr S Smith declared a financial interest in Item CJ136-06/04 – Proposed Policy – Legal Representation for Elected Members and Employees as she is required to consider and approve a policy under which she may be a beneficiary if required to appear before the coming McIntyre Inquiry into the City. Cmr Smith stated that the extent of this interest was to the limits of the policy, or as approved by Council.

Acting Chief Executive Officer, Mr Clayton Higham declared a financial interest in Item CJ136-06/04 – Proposed Policy – Legal Representation for Elected Members and Employees as he may be required to appear before the coming McIntyre Inquiry into the City.

Director, Corporate Services and Resource Management, Mr Peter Schneider declared a financial interest in Item CJ136-06/04 – Proposed Policy – Legal Representation for Elected Members and Employees as he may be required to appear before the coming McIntyre Inquiry into the City.

Director, Infrastructure and Operations, Mr David Djulbic declared a financial interest in Item CJ136-06/04 – Proposed Policy – Legal Representation for Elected Members and Employees as he may be required to appear before the coming McIntyre Inquiry into the City.

Manager, Audit and Executive Services, Mr Kevin Robinson declared a financial interest in Item CJ136-06/04 – Proposed Policy – Legal Representation for Elected Members and Employees as he may be required to appear before the coming McIntyre Inquiry into the City.

Manager, Approval, Planning and Environmental Services, Mr Chris Terelinck declared a financial interest in Item CJ136-06/04 – Proposed Policy – Legal Representation for Elected Members and Employees as he may be required to appear before the coming McIntyre Inquiry into the City.

Earlier in the meeting under "Declarations of Financial Interest/Interest that May Affect Impartiality, Acting Chief Executive made reference to the exemption received from the Department of Local Government and Regional Development in respect of those interests declared by Cmrs Paterson, Clough, Anderson and Smith – Page 23 refers

CJ136 - 06/04 PROPOSED POLICY - LEGAL REPRESENTATION FOR ELECTED MEMBERS AND EMPLOYEES – [13399] [07032]

WARD - All

CJ040622_BRF.DOC:ITEM 3

PURPOSE

To provide for consideration by the Joint Commissioners, the proposed Policy No 2.2.8 Legal Representation for Elected Members and Employees, which has undergone further review in keeping with Council's resolution.

EXECUTIVE SUMMARY

The proposed new Policy No 2.2.8 Legal Representation for Elected Members and Employees has undergone further review as required by Council when the matter was last considered on 9 September 2003.

The proposed new policy is closely aligned to the model policy on the same subject, recently produced by the Department of Local Government and Regional Development, for application by all local governments within the State. The proposed policy details the level of assistance, circumstances and conditions under which the City will provide legal representation to elected members and employees of the City.

BACKGROUND

Council at its meeting held on 9 September 2003, considered a report and recommendations from the Policy Manual Review Committee to amend several Council Policies and resolved in part, to undertake a further review of policy 2.2.8 Legal Representation for Present and Former Elected Members and Staff of the City. (Report C189-09/03 Meeting of the Policy Manual Review Committee held on 26 August 2003 refers)

DETAILS

Statutory Provision:

In accordance with Section 5.69 of the Local Government Act 1995, application has been made to the Minister for Local Government and Regional Development to grant an exemption to the Commissioners, from having to declare an interest when having to consider the policy and its application.

The application requested that the exemption apply to all instances where Commissioners are to consider the policy and its application during the remaining period of their appointment.

Consultation:

Since Council's decision of 9 September 2003, for the proposed policy to be further reviewed, work has progressed with the assessment and comparison of similar policies from interstate and local Councils. The Department of Local Government and Regional Development has also been consulted and it has provided a copy of the most recent draft policy it recommends for adoption by local governments throughout the State. In comparing both draft documents it can be readily determined that there are relatively few differences between them.

Policy Implications:

Proposed new policy would replace existing Policy No 2.2.8 Legal Representation for Present and Former Elected Members and Staff of the City.

COMMENT

All applications for assistance in provision of legal representation are to be assessed in accordance with the proposed policy with reports to be submitted to Council.

The proposed policy includes provisions relating to:

1 A declaration by an applicant for legal representation, that they acted in good faith and not unlawfully or in a way that constitutes improper conduct in relation to the matter to which the application relates;

2 A determination that the elected member or employee whose application for legal representation costs has been approved, did not act in good faith, acted unlawfully to constitute improper conduct or gave false or misleading information in their application, may be made by the Council only on the basis of, and consistently with, the findings of a court, tribunal or inquiry.

3 In relation to the powers of the CEO in cases of urgency approving an application, the amount has been reduced from $5,000 to $2,000, and

4 Where the applicant is the CEO, then in cases of urgency the application is to be assessed by the Director Corporate Services and Resource Management.

Applications Expected

In light of the McIntyre Inquiry it is expected that Council will receive applications for legal representation. It is therefore highly pertinent that the City has in place a comprehensive policy that facilitates the effective management of such requests.

It should be noted that summonses have already been issued for individuals to appear before the Inquiry and for production of documents to the Inquiry. In an advertisement in the Western Australian newspaper of Saturday, 12 June 2004, the date of 2 July 2004 has been identified as the day:

(a) written submissions are to be received from the public;

(b) after which public hearings will commence, and

(c) notice is to be received by the Inquiry from persons wanting to appear before it.

Department of Local Government and Regional Development Draft Model Policy

The Department of Local Government and Regional Development has prepared a draft model policy on Legal Representation for Elected Members and Employees.

The preamble to the Department draft model policy notes that:

"If people are exposed or not protected from threats or not given proper legal representation then it is very likely that their performance and behaviour will be adversely influenced. Accordingly, it is appropriate and prudent for local governments to assist elected members and employees by adopting policies to fund or partly fund the cost of providing protection against legal action where functions are being performed in good faith. At the same time, it is important to make it very clear that such assistance will not be given in inappropriate situations."

ATTACHMENTS

Attachment 1	Proposed Policy No 2.2.8 - Legal Representation for Elected Members and Employees.
Attachment 2	Draft Model Policy - Legal Representation for Elected Members and Employees prepared by Department of Local Government and Regional Development.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION: That the Joint Commissioners ADOPT Policy No 2.2.8 - Legal Representation for Elected Members and Employees, as outlined in Attachment 1 to Report CJ136-06/04.

MOVED Cmr Clough, SECONDED Cmr Anderson that the Joint Commissioners ADOPT Policy No 2.2.8 - Legal Representation for Elected Members and Employees, as outlined in Attachment 1 to Report CJ136-06/04, subject to the following amendments in relation to Clause 3.1(c):

1 after the words *"elected member or employee"* where first mentioned, the addition of the words *"only in circumstances so as "* ;

2 after the words *"his or her functions"*, the addition of the words *"however this shall not extend to proceedings against another elected member or employee."*

Discussion ensued.

AMENDMENT MOVED Cmr Smith, SECONDED Cmr Paterson that:

1 Clause 3.1 (c) be DELETED and REPLACED with the following statement:

> ***"This policy does not relate to situations where legal proceedings are commenced by an elected member or employee and there is a presumption that the City will not pay for legal representation costs in these circumstances. However this policy does not preclude such a request being submitted and considered by the Council for extenuating circumstances where the elected member or employee is the subject of threatening behaviour by another person."***

2 Clause 1 - "Statement of Principle" be DELETED;

3 Clause 4.2 (b) (vi) be DELETED;

4 the following words be INSERTED at the end of Clause 7.1:

> ***"where a delay in approving an application would be detrimental to the legal rights of an elected member or employee";***

Cmr Smith spoke to the Amendment and outlined her reasons for the proposed changes.

Discussion ensued.

The Amendment was Put and **CARRIED UNANIMOUSLY (4/0)**

The Original Motion, as amended, being:

That the Joint Commissioners ADOPT Policy No 2.2.8 - Legal Representation for Elected Members and Employees, as outlined in Attachment 1 to Report CJ136-06/04, subject to the following amendments:

1 Clause 3.1 (c) be DELETED and REPLACED with the following statement:

"This policy does not relate to situations where legal proceedings are commenced by an elected member or employee and there is a presumption that the City will not pay for legal representation costs in these circumstances. However this policy does not preclude such a request being submitted and considered by the Council for extenuating circumstances where the elected member or employee is the subject of threatening behaviour by another person."

2 Clause 1 - "Statement of Principle" be DELETED;

3 Clause 4.2 (b) (vi) be DELETED;

4 the following words be INSERTED at the end of Clause 7.1:

"where a delay in approving an application would be detrimental to the legal rights of an elected member or employee";

was Put and **CARRIED UNANIMOUSLY (4/0)**

Appendix 16 refers

To access this attachment on electronic document, click here: Attach16agn290604.pdf

CJ137 - 06/04 APPOINTMENT OF REPRESENTATIVES TO INTERNAL AND EXTERNAL COMMITTEES – [02153] [00046]

WARD - All

CJ040622_BRF.DOC:ITEM 4

PURPOSE

To give consideration to amending representation on various committees.

EXECUTIVE SUMMARY

This report recommends amendments and additions to the:

- Committee to appoint an Acting Chief Executive Officer
- Audit Committee
- Budget Committee 2004/2005
- Mindarie Regional Council

BACKGROUND

Cmr Allan Drake-Brockman was appointed to the following Commissioner-only committees:

- Committee to appoint an Acting Chief Executive Officer
- Audit Committee
- Budget Committee 2004/2005

On 8 June 2004, Allan Drake-Brockman resigned from his position as Commissioner at the City of Joondalup and was replaced by Cmr Peter Clough.

DETAILS

Audit Committee and Budget Committee 2004/2005

Following the appointment of Cmr Peter Clough on 8 June 2004, consideration is required to be given to appointing Cmr Peter Clough to replace Cmr Drake-Brockman on these Council committees.

Committee to appoint an Acting Chief Executive Officer

Following the appointment of Mr Clayton Higham as Acting Chief Executive Officer, this committee has fulfilled its function and it is recommended that it now be disbanded.

Mindarie Regional Council

The City has two voting representatives on the Mindarie Regional Council. It is considered appropriate that deputies be appointed for the two representatives on the Mindarie Regional Council, as has been the practice in the past.

ATTACHMENTS

Nil

VOTING REQUIREMENTS

Absolute Majority

MOVED Cmr Anderson, SECONDED Cmr Smith that the Joint Commissioners:

1 APPOINT Cmr Peter Clough to replace Cmr Allan Drake-Brockman on the following committees:

- **Audit Committee**
- **Budget Committee 2004/2005**

2 DISBAND the Committee to Appoint an Acting Chief Executive Officer;

3 APPOINT the following deputy delegates on the Mindarie Regional Council as follows:

Delegate	1st Deputy	2nd Deputy
Cmr A Fox	Cmr P Clough	Cmr J Paterson
Cmr S Smith	Cmr P Clough	Cmr J Paterson

The Motion was Put and **CARRIED BY AN ABSOLUTE MAJORITY (4/0)**

Cmr J Paterson declared a financial interest in Item CJ138-06/04 – Joondalup Business Incubator – Request for Financial Assistance as he is a member of the Board of the Joondalup Business Incubator.

Cmr Paterson left the Chamber at this point, the time being 2000 hrs. Cmr Clough assumed the Chair.

CJ138 - 06/04 JOONDALUP BUSINESS INCUBATOR - REQUEST FOR FINANCIAL ASSISTANCE – [51024] [03082]

WARD - All

CJ040622_BRF.DOC:ITEM 5

PURPOSE

To consider a request from the Joondalup Business Incubator for a contribution from the City of Joondalup of $3,000 to provide short-term support to maintain day-to-day operations.

EXECUTIVE SUMMARY

The City of Joondalup is a foundation member of the Joondalup Business Incubator (JBI), in conjunction with Edith Cowan University (ECU) and the Joondalup Business Association (JBA). As such, the City has contributed significant financial resources.

The City has previously contributed $51,000 to the fitout of the JBI, a further $35,000 to operating costs, an amount of $9,900 for the purpose of marketing and promotion and $2,000 in sponsorship of its Launch. Total financial assistance to date amounts to $97,900.

The JBI has made a written request for additional funding of $3,000 to provide short-term support to the Incubator to maintain day-to-day operations and assist in the development of a Marketing Plan and materials (see Attachment 1). This follows the loss of its Manager and the Incubator is requesting assistance from founding members while the recruitment process is undertaken for a replacement.

The JBI has indicated that ECU has agreed to match the contribution being requested and the JBA will provide in-kind day-to-day management contribution to the same order. It is important to note however, that the request from the JBI indicates this support will be for a period of approximately four weeks.

The JBI's Committee of Management is considering a number of options to address the current situation, including restructure of the Manager position to attract a person with a strong marketing and public relations background, whose key focus will be on attracting and retaining tenants. There is an intention to develop a Marketing Plan and associated marketing materials to provide greater leverage and support the attraction of new tenants by July 2004. Another option is to contract out the management of the Incubator. These concepts are currently under consideration and only at a conceptual stage at this point in time. A review of its Business Plan has also occurred, with a new plan will support the new directions planned for the incubator when adopted.

It is recommended that the Joint Commissioners by an ABSOLUTE MAJORITY:

1 **Authorise a contribution of $3,000 to the Joondalup Business Incubator to provide short-term support to maintain day-to-day operations, subject to this contribution being matched by Edith Cowan University and to the Joondalup Business Association providing in-kind day-to-day management contribution to the same order;**

2 Approve reallocation of funds as follows:

1.2110.3320.0001.9999	**Contract/Agency Labour**	**$2,000**
1.2110.4102.0001.9999	**Promotions**	**$1,000**

BACKGROUND

The Joondalup Business Incubator (JBI) premises were completed in October 2002 using seeding capital from:

(a) $200,000.00 Edith Cowan University contribution in land on which the JBI premises are located;
(b) $550,000.00 Commonwealth Government "Ausindustry" contribution towards construction of premises;
(c) $60,000.00 Lotteries Commission contribution toward furnishing the facilities;
(d) $51,000.00 City of Joondalup contribution toward fitting/furnishing costs

On 15 October 2002, Council authorised a contribution of $35,000 for the operational purpose of the Incubator project subject to being provided an audited statement verifying what the funds have been expended on and confirming this to be for the purpose for which those funds were provided (CJ250-10/02 refers).

In June 2003, a written request was received from the Joondalup Business Incubator (JBI) for approximately $10,077.60 as an offset against their rate assessment. The JBI indicated they would request a similar contribution on a year-to-year basis.

The Administration instead suggested that Council consider establishing a one-off $9,900 grant in 2003/2004 draft budget to assist six business incubator clients in meeting their first three months rental payments. It was believed this would assist in promoting the JBI whilst at the same time helping it become self-sufficient.

At its meeting of 8 July 2003, Council resolved to provide $9,900 in its draft 2003/2004 Budget for grants of $1,650 each to offset the lease costs of users of the Joondalup Business Incubator (C125-07/03 refers).

Following Council's decision, the Executive Management Team, together with a Councillor, received a deputation from the JBI regarding the method of assistance authorised by Council.

The members representing the JBI explained that their needs were more immediate than would be provided for by the grant proposal and believed that they would be better placed to attract clients via their own initiatives. As this was not strictly in keeping with Council's resolution of 8 July 2003, the matter was brought back to Council for determination.

At its meeting of 19 August 2003, Council resolved to authorise $9,900 in grant funds previously approved to offset the lease costs of users of the Joondalup Business Incubator, to be provided directly to the Joondalup Business Incubator for the purpose of marketing and promotion (C161-08/03 refers).

Strategic Plan:

Strategy 3.5 of the City's Strategic Plan 2003-2008 is "To provide and maintain sustainable economic development." To achieve this we will develop partnerships with stakeholders to foster business development opportunities and assist the facilitation of local employment opportunities.

DETAILS

In 2000 the City of Joondalup entered into a partnership with Edith Cowan University (ECU) and North West Metropolitan Business Association (NWMBA) to seek government funding from the Commonwealth Government for the construction of an Incubator.

The Commonwealth Government, under its Department of Employment, Workplace Relations and Small Business (DEWRSB) granted the entity $550,000 to administer for the purposes of a building. The funding agreement also stipulates that if the Incubator ceases to function for the purpose of an Incubator within 10 years after it became operational then the Federal Government has right to recall its grant on a pro rata basis.

The City, NWMBA and ECU agreed to create a separate legal entity which was named the Business Development Association (North West Metropolitan) Inc. and holds the trading name of The Joondalup Business Incubator which is now located at Barron Parade, Joondalup. Construction of a 27-office space building was finished in March 2003 and the Incubator has been operating for 12 months. The Incubator currently has 5 tenants and is managed by a full-time manager.

The Manager has recently resigned and the Board is now considering a number of options for addressing the situation. These options included the position of Manager being restructured as a Business Development Manager with a key focus on sales and finding tenants. Another option is to strengthen its marketing position and the Board is also considering raising its profile within the community and other options such as contracting out the management of the Incubator. All concepts are still at a very preliminary stage and hence why the incubator is seeking short-term support from its Foundation Members.

Under the constitution of the Business Development Association (North West Metropolitan) Inc. it is stated that a Committee of Management will govern the incorporated body and that foundations members, being the City, ECU and the JBA shall be entitled to appoint two members to the committee.

The objectives of the Joondalup Business Incubator as stated in its original business plan are:

- To provide proactive and efficient business and administrative support to enhance the business success of its tenants;
- To create a centre that will become the hub and reference point for small business in the Joondalup/Wanneroo area;
- To act as a tool and catalyst in the information and development of new businesses and business concepts;
- To operate a self-sustaining business incubator within 18 months of establishment;
- To continuously improve the type and quality of services offered;
- To create strong links with the varied business sectors of the area;
- To extend the incubator tenants categories to that of light manufacturing within 18 months of operations.

It should be noted that the Committee of Management has recently reviewed these objectives and a revised Business Plan will soon be adopted to facilitate the new directions the Incubator is pursuing.

The Incubator has funds in its bank account, however the Committee of Management considers it important these funds are not spent as they are tied to a sponsorship from Westpac and other contingent liabilities.

It is recommended that the City agree to the contribution of $3,000 to the Joondalup Business Incubator to provide short-term support to maintain day-to-day operations, subject to this contribution being matched by Edith Cowan University and to the Joondalup Business Association providing in-kind day-to-day management contribution to the same order.

COMMENT

A key objective in the City's Strategic Plan 2003-2008 is "To provide and maintain sustainable economic development." The City's support of the Joondalup Business Incubator is consistent with its stated objective to develop partnerships with stakeholders to foster business development opportunities and assist the facilitation of local employment opportunities.

The financial support requested for the Incubator is considered important to the ongoing success of this fledgling organisation. The Incubator has been a key economic development initiative for the City and the City is a foundation member.

To date the City has provided funding totalling $97,900 in support of this project. The proposal being submitted will show the City's ongoing support to the Incubator and enable the Incubator to concentrate on recruiting a new manager to focus effort on its fundamental role of attracting and retaining tenants.

ATTACHMENTS

Letter from Joondalup Business Incubator dated 31 May 2004

VOTING REQUIREMENTS

Absolute Majority

MOVED Cmr Anderson, SECONDED Cmr Smith that the Joint Commissioners:

1 AUTHORISE a contribution of $3,000 to the Joondalup Business Incubator to provide short-term support to maintain day-to-day operations, subject to this contribution being matched by Edith Cowan University and to the Joondalup Business Association providing in-kind day-to-day management contribution to the same order;

2 APPROVE reallocation of funds as follows:

1.2110.3320.0001.9999	**Contract/Agency Labour**	**$2,000**
1.2110.4102.0001.9999	**Promotions**	**$1,000**

Discussion ensued.

Cmr Anderson believed it was appropriate that a more detailed mentoring and marketing program be established.

The Motion was Put and **CARRIED BY AN ABSOLUTE MAJORITY (3/0)**

Appendix 2 refers

To access this attachment on electronic document, click here: Attach2brf220604.pdf

Cmr Paterson entered the Chamber at this point, the time being 2007 hrs and resumed the Chair.

CJ139 - 06/04 MINUTES OF CBD ENHANCEMENT PROJECT STEERING COMMITEE MEETING 19 MAY 2004 – [54369]

WARD - Lakeside

CJ040622_BRF.DOC:ITEM 6

PURPOSE

The unconfirmed minutes of the CBD Enhancement Project Steering Committee meeting held on 19 May 2004 are submitted for noting by Council.

EXECUTIVE SUMMARY

The CBD Enhancement Project Steering Committee met on Wednesday 19 May 2004.

The main issues of discussion were updates on projects being undertaken as part of the CBD Enhancement Project including:

1 Edith Cowan University (ECU) collaborative research project for the Joondalup CBD
2 New committee members and terms of reference review
3 Joondalup Night Markets and 2004 Joondalup Festival review
4 Provision of public toilet facilities in the Joondalup CBD
5 AussieHost customer service training courses for small businesses
6 Armed hold-up prevention training for small businesses

A brief update was provided on the business outstanding from previous minutes, which included the Inner City Public Transport item concerning a Central Area Transit (CAT) service. This item will remain on the business outstanding list for regular updates to the Committee until further notice.

This report recommends that the Joint Commissioners:

1 NOTE the unconfirmed minutes of the CBD Enhancement Project Steering Committee meeting held on 19 May 2004, shown at Attachment 1 to this Report;

2 AMEND the membership of the CBD Enhancement Project Steering Committee to read:

- *Chairman of Commissioners*
- *President, Joondalup Business Association (JBA)*
- *Executive Officer, Perth Area Consultative Committee*
- *Regional Employment Coordinator, Department of Education and Training (North Metro)*

- *Manager, North West Metro Business Enterprise Centre (BEC)*
- *Representative, Joondalup Youth Advisory Council (YAC)*
- *Centre Manager, Lakeside Joondalup Shopping City*
- *One Joondalup CBD business owner*
- *One Joondalup CBD building owner/land owner*
- *Representative, Joondalup Learning Precinct (JLP)*
- *Representative, Joondalup Inner City Residents Association*

3 APPOINT the following representatives to the CBD Enhancement Project Steering Committee:

- *Ms Pandora Court, Centre Manager, Lakeside Joondalup Shopping City*
- *Mr Alan Vlahov, President, The Inner City Residents of Joondalup (ICRJ) Inc.*
- *Mr Barry McEloney, Director, Joondalup Business* Services

4 AGREE to extend the invitation to submit a nomination to join the Committee from the Joondalup Learning Precinct (JLP) and a Joondalup CBD land/building owner;

5 ENDORSE the revised Terms of Reference as shown at Attachment to this Report.

DETAILS

The minutes of the CBD Enhancement Project Steering Committee meeting held on Wednesday 19 May 2004 are provided at Attachment 1.

COMMENT

To assist the Committee in making decisions it was proposed that the membership of the Committee and the terms of reference be reviewed. This review was designed to ensure that all relevant Joondalup CBD stakeholders are represented on the Committee and that recommendations to Council are made with the input of these stakeholders.

The current membership consists of six voting members:

- Chairman of Commissioners
- President, Joondalup Business Association
- Manager, North West Metro Business Enterprise Centre
- Executive Officer, Perth Area Consultative Committee
- Regional Employment Co-ordinator, Department of Employment & Training
- Representative, Joondalup Youth Advisory Council

It is recommended that the Committee membership be modified to include representatives from the following areas:

- One Joondalup CBD Business Owner
- One Joondalup CBD Building owner/landlord
- One representative from the Joondalup Learning Precinct
- Other representatives as deemed appropriate by the Committee
- Centre Manager, Lakeside Joondalup Shopping City

The City advertised in the Community Newspapers and through relevant networks to fill these new positions. The advertising process was successful with written applications being received for three of the new positions and verbal interest for the remaining two positions.

The City would now like to extend the nomination period to invite a Joondalup Learning Precinct member and a Joondalup Land owner/landlord to submit written nominations to fill the vacancies

The terms of reference for the CBD Enhancement Project Steering Committee required updating to more accurately reflect the role of the Committee. The current terms of reference have become outdated as they refer to milestones that have now been completed and no longer reflect the role of the Committee in 2004. The revised terms of reference for the CBD Enhancement Project Steering Committee are provided at Attachment 2. The current terms of reference are shown at Attachment 3.

ATTACHMENTS

Attachment 1	Unconfirmed minutes – CBD Enhancement Project Steering Committee meeting held on 19 May 2004.
Attachment 2	Revised Terms of Reference – CBD Enhancement Project Steering Committee.
Attachment 3	Current Terms of Reference – CBD Enhancement Project Steering Committee

VOTING REQUIREMENTS

Absolute Majority

MOVED Cmr Anderson, SECONDED Cmr Clough that the Joint Commissioners:

1 NOTE the unconfirmed minutes of the CBD Enhancement Project Steering Committee meeting held on 19 May 2004, shown at Attachment 1 to Report CJ139-06/04;

2 AMEND the membership of the CBD Enhancement Project Steering Committee to read:

- **Chairman of Commissioners**
- **President, Joondalup Business Association (JBA)**
- **Executive Officer, Perth Area Consultative Committee**
- **Regional Employment Coordinator, Department of Education and Training (North Metro)**
- **Manager, North West Metro Business Enterprise Centre (BEC)**
- **Representative, Joondalup Youth Advisory Council (YAC)**

- **Centre Manager, Lakeside Joondalup Shopping City**
- **One Joondalup CBD business owner**
- **One Joondalup CBD building owner/land owner**
- **Representative, Joondalup Learning Precinct (JLP)**
- **Representative, Joondalup Inner City Residents Association**

3 APPOINT the following representatives to the CBD Enhancement Project Steering Committee:

- **Ms Pandora Court, Centre Manager, Lakeside Joondalup Shopping City**
- **Mr Alan Vlahov, President, The Inner City Residents of Joondalup (ICRJ) Inc.**
- **Mr Barry McEloney, Director, Joondalup Business Services**

4 AGREE to extend the invitation to submit a nomination to join the Committee from the Joondalup Learning Precinct (JLP) and a Joondalup CBD land/building owner;

5 ENDORSE the revised Terms of Reference as shown at Attachment 2 to Report CJ139-06/04.

The Motion was Put and **CARRIED BY AN ABSOLUTE MAJORITY (4/0)**

Appendix 3 refers

To access this attachment on electronic document, click here: Attach3brf220604.pdf

CJ140 - 06/04 WARRANT OF PAYMENTS 31 MAY 2004 – [09882]

WARD - All

CJ040622_BRF.DOC:ITEM 7

PURPOSE

The Warrant of Payments as at 31 May 2004 is submitted to the Joint Commissioners for approval.

EXECUTIVE SUMMARY

This report details the cheques drawn on the funds during the month of May 2004. It seeks approval by the Joint Commissioners for the payment of the May 2004 accounts.

FUNDS	DETAILS	AMOUNT
Director Corporate Services & Resource Management Advance Account	64017-64586 & EFT 143- 237	$ 5,386,335.85
Municipal	000493 - 000497 & 7A –9A	$ 6,402,030.44
Trust Account	Nil	$ Nil
	TOTAL	**$11,788,366.29**

The difference in total between the Municipal and Director of Corporate Services & Resource Management Advance Account is attributable to the direct debits by the Commonwealth Bank for bank charges, credit card charges, investments and dishonoured cheques being processed through the Municipal Fund.

It is a requirement pursuant to the provisions of Regulation 13(4) of the Local Government (Financial Management) Regulations 1996 that the total of all other outstanding accounts received but not paid, be presented to the Joint Commissioners. At the close of May 2004, the amount was **$950,258.76.** The cheque register is appended as Attachments A & B.

CERTIFICATE OF THE DIRECTOR OF CORPORATE SERVICES & RESOURCE MANAGEMENT

This warrant of payments to be passed for payment, covering vouchers numbered as indicated and totalling **$11,788,366.29** which is to be submitted to the Joint Commissioners on 29 June 2004 has been checked, is fully supported by vouchers and invoices and which have been duly certified as to the receipt of goods and the rendition of services and as to prices, computations and costing and the amounts shown are due for payment.

PETER SCHNEIDER
Director Corporate Services & Resource Management

CERTIFICATE OF CHAIRMAN OF COMMISSIONERS

I hereby certify that this warrant of payments covering vouchers numbered as indicated and totalling **$11,788,366.29** was submitted to the Joint Commissioners on 29 June 2004.

.....
JOHN PATERSON
Chairman of Commissioners

ATTACHMENTS

Attachment A Warrant of Payments for Month of May 2004
Attachment B Municipal Fund Vouchers for Month of May 2004

VOTING REQUIREMENTS

Simple Majority

MOVED Cmr Smith, SECONDED Cmr Clough that the Joint Commissioners APPROVE for payment the following vouchers, as presented in the Warrant of Payments to 31 May 2004, certified by the Chairman of Commissioners and Director Corporate Services & Resource Management and totalling $11,788,366.29.

FUNDS	DETAILS	AMOUNT
Director Corporate Services & Resource Management Advance Account	64017-64586 & EFT 143- 237	$ 5,386,335.85
Municipal	000493 - 000497 & 7A –9A	$6,402,030.44
Trust Account	Nil	$ Nil
	TOTAL	$11,788,366.29

The Motion was Put and **CARRIED UNANIMOUSLY (4/0)**

Appendix 4 refers

To access this attachment on electronic document, click here: Attach4brf220604.pdf

CJ141 - 06/04 FINANCIAL REPORT FOR THE PERIOD ENDING 31 MAY 2004 – [07882]

WARD - All

CJ040622_BRF.DOC:ITEM 8

PURPOSE

The May 2004 financial report is submitted to Council to be noted.

EXECUTIVE SUMMARY

The May 2004 year to date report shows an overall variance (under spend) of $14.0m when compared to the year to date revised budget.

This variance can be analysed as follows:

- The **Operating** position (Change in Net Assets Before Reserve Transfers) shows an actual surplus of $6.0m compared to a budgeted surplus of $2.9m at the end of May 2004. The $3.1m variance is due to the timing of contribution and grant income related to capital works projects and an under spend driven primarily by consultancy costs associated with proposals.

- **Capital Expenditure** is $2.4m compared to a budget of $2.3m at the end of May 2004. The $0.1m overspend is due to the capitalisation of Kingsley Memorial Clubrooms. This is, however, partially offset by timing under spends associated with the computer network upgrade and some items of equipment.

- **Capital Works and Corporate Projects** expenditure is $7.9m against a budget of $18.9m, an under spend of $11.0m at the end of May 2004. This is a timing difference of which $4.7m relates to normal Capital Works while $6.3m relates to Capital Works classified as Corporate Projects. Total committed funds in relation to all Capital Works are $3.7m. It is expected that $3.7m for normal Capital Works and $5.3m relating to Capital Works classified as Corporate Projects will be carried forward to complete these projects in 2004/05.

DETAILS

The financial report for the period ending 31 May 2004 is appended as Attachment A.

ATTACHMENTS

Attachment 1 Financial Report for the period ending 31 May 2004.

VOTING REQUIREMENTS

Simple Majority

MOVED Cmr Anderson, SECONDED Cmr Clough that the Financial Report for the period ending 31 May 2004 be NOTED.

The Motion was Put and CARRIED UNANIMOUSLY (4/0)

Appendix 5 refers

To access this attachment on electronic document, click here: Attach5brf220604.pdf

CJ142 - 06/04 TENDER NUMBER 032-03/04 PROVISION OF BANKING FACILITIES – [66556]

WARD - All

CJ040622_BRF.DOC:ITEM 9

PURPOSE

To seek the approval of the Joint Commissioners to choose the tender submitted by Westpac Banking Corporation for the provision of Banking Facilities (in accordance with the Schedule of Rates as outlined in Attachment 1), Tender Number 032-03/04, for an initial period of twelve (12) months with an option to extend, subject to satisfactory performance reviews, for a further maximum period of twenty four (24) months. The maximum term of the contract shall be three (3) years.

EXECUTIVE SUMMARY

Tenders were advertised on 21 April 2004 through statewide public tender for the provision of Banking Facilities. Tenders closed on 6 May 2004. Four submissions were received from Westpac Banking Corporation, Commonwealth Bank of Australia, ANZ Banking Group Ltd and National Australia Bank Ltd.

It is recommended, in relation to Tender Number 032-03/04 for the provision of Banking Facilities, that the Joint Commissioners:

1 reject the tenders submitted by the Commonwealth Bank of Australia, ANZ Banking Group Ltd and National Australia Bank Ltd under regulation 18(2) of the Local Government (Functions and General) Regulations 1996 without considering the merits of those tenders because they each fail to comply with requirements specified in the RFT;

2 choose Westpac Banking Corporation as the successful tenderer for the provision of Banking Facilities (Tender No. 032-03/04) in accordance with the price schedule as outlined in Attachment 1 to this Report;

3 authorise the Acting Chief Executive Officer (CEO), on behalf of the City, to enter into a contract with Westpac Banking Corporation in accordance with the tender submitted by Westpac Banking Corporation, subject to any minor variations that may be agreed between the CEO and Westpac Banking Corporation;

4 determine that the contract is to be for an initial period of 12 months with an option to extend, subject to satisfactory annual performance reviews, for a further maximum period of 24 months, in 12 month increments, with the total term of the contract not to exceed 3 years.

BACKGROUND

The City of Joondalup's current banking facility with the Commonwealth Bank expires on 30 June 2004. The current facility was provided on a 5-year basis from 1 July 1999 to 30 June 2004.

The City sought banking facilities for a 3-year period with an annual review.

The City prepared a comprehensive Banking Specification to best meet the needs of the City and the community. The banking specification seeks to develop a partnership approach between the City and its bankers which provides the City with its banking needs and which also encourages support for the community by providing banking facilities reasonably required by the community and small business, through local employment and participation in local community initiatives.

The specifications included consideration of banking qualifications, banking systems and tools, support of those systems, community / customer support, provision of training for banking systems provided, support for City of Joondalup initiatives and pricing.

DETAILS

The first part of the tender assessment was the Conformance Audit Meeting. The purpose of this meeting is to ensure that all essential requirements have been met. Tenders not meeting all the essential criteria are deemed to be non-conforming and are eliminated from consideration. Additionally, other criteria that is not mandatory is assessed and if not met the City may eliminate the tender from consideration. The extent of non-compliance in this section would determine if the tender was further considered.

Westpac Banking Corporation was the only tenderer that met all the essential criteria. Both the Commonwealth Banking Corporation and National Australia Bank Ltd failed to address the use of a night safe/after hours deposit facility in the Joondalup CBD. Currently a night safe outside the City's boundaries is utilised when required. ANZ Banking Group Ltd did not offer any Equipment Financing Options. Additionally both the National Australia Bank Ltd and ANZ Banking Group Ltd failed to comply with a number of other requirements specified in the Request for Tender.

The only criteria the Westpac Banking Corporation did not meet was the Quality Assurance Criteria. As this was not an essential criteria the assessment panel did not consider this to be a sufficient reason to eliminate the tender from consideration.

The essential requirement for a nightsafe/after hours deposit facility in the Joondalup CBD was included for two reasons. Firstly, the City currently has operations that require the collection of cash out of hours by staff. Cash collected is either taken to the nearest Commonwealth Bank nightsafe that is outside the City's boundaries. Having the use of a nightsafe in the Joondalup CBD will resolve these safety and security concerns. Secondly, having a facility within the Joondalup CBD is viewed as a benefit to many small businesses within the City that also require this type of facility.

Accordingly, under the City's Contract Management Framework, the tender from Westpac Banking Corporation was assessed by the Evaluation Team using a weighted multi-criterion assessment system and AS 4121-1994 'code of ethics and procedures for the selection of consultants'.

Each member of the Evaluation Team assessed the Tender submission individually against the selection criteria using the weightings determined during the tender planning phase. The Evaluation Team convened to submit and discuss their assessments.

The Qualitative Selection Criteria for this tender was as follows:

Qualifications and Systems:

- "A" rated or higher rated banking institution.
- Banking facility support during business hours.
- Bank to nominate a business account manager and a customer services liaison officer.
- To provide a service for the period of 3 years from 01/07/04 to 30/06/2007.
- To provide 3 business accounts – Municipal Advance and Trust.
- Overdraft Facility $500,000.
- Set off arrangement Municipal, Advance and Trust accounts.
- Credit Card facility limit of $30,000 (no new cards or increased limits have been included in this requirement).
- Eftpos terminals including downtime stationery and equipment.
- Online banking system that generates daily statements.
- The contractor will provide appropriate security systems.
- Systems to support methods of payments and receipts facilities.
- Telephone and email access within business hours.
- Electronic access at all times.

Community/Customer Service:

- Branch access within the CBD of Joondalup.
- Have branches within the City's boundaries.
- Bank locations within the City's boundaries creates economic growth for the City of Joondalup.
- Creation of employment opportunities for the community of the City of Joondalup.
- Banking service provider is encouraged to be involved with the festival of Joondalup as a non-financial venture.
- Provide incentives for the City's early payment structure.
- To develop opportunities and innovative ideas which improve efficiency and cost effectiveness.

Training Cost and Internal Cost to the City:

- If the City were to install new banking software staff would require training on the new products. Processes and procedures are documented on current banking software. If software were to change all the documentation would have to be re-developed and re-written.
- Provide estimated time and cost of procedure development.

Tendered Price/s:

- The price to supply the specified goods or services, licensing and training.
- Schedule of rates for additional goods or services, variations and disbursements.
- Discounts, settlement terms.

The submission from the Westpac Banking Corporation clearly demonstrated their ability to provide the Banking Facilities required by the City. In addition their offer allows the City to utilise the services of Australia Post without the need to enter into a formal contract with Australia Post. The fees for over the counter collections via Australia Post will cost the City less per transaction compared to the charge that Australia Post has advised that the City will have to pay through a direct contract. Current usage of the over the counter services is approximately 25,000 transactions per annum giving a saving of $5,000 per annum.

The fees that will be charged by Westpac Banking Corporation, assuming similar transaction patterns, indicates that the City will save approximately $1,500 per annum excluding the Australia Post savings, in comparison to the existing contract. Westpac Banking Corporation also offers higher interest rates for investments.

Statutory Provision:

The statewide public tender was advertised, opened and evaluated in accordance with the *Local Government (F&G) Regulation 1996.* Advertising this tender also ensures compliance with the *Local Government (F&G) Regulation 1996,* where tenders are required to be publicly invited if the consideration under a contract is expected to be or worth more than $50,000. The consideration for this contract exceeds the Chief Executive Officer's Delegated Authority limit of $100,000 for the acceptance of tenders.

Policy 2.5.7 Purchasing Goods and Services

The City's Policy on purchasing goods and services encourages local business in the purchasing and tendering process; all tenderers have a number of bank branches within the City of Joondalup.

FINANCIAL IMPLICATIONS

The 2004/05 bank charges will be budgeted in the following accounts:

1.3220.3901.000.9999 – Bank Charges
1.3240.3910.000.9999 – Credit Card Charges

The tendered fees & charges compares favourably to the current bank charges. The tender also provides an opportunity to utilise Westpac's transaction pricing agreement for the over counter collections by Australia Post which will result in an additional saving to the City.

COMMENT

As a part of contract management processes, the City will regularly review/monitor the Contractor's performance and service quality to ensure services meet the City's standards.

Subject to Council approval, the contract term will be for an initial period of twelve (12) months. There will be an option to extend the contract for a further twenty four (24) months that will be subject to suitable performance by the Contractor in annual performance reviews that ensure that the requirements of the contract have been met. Subject to a satisfactory outcome of each review an extension, in increments of twelve-month periods, will be made. The duration of the contract will not exceed three (3) years.

Notwithstanding any statutory changes, the City may negotiate a price variation on the Lump Sum Price submitted for extending the Contract. The price variation shall not be more than the change in the consumer price index for the construction material and labour for Perth Metropolitan region as published by Australian Bureau of Statistics for a period of the previous 12 months.

The tender submitted by Westpac Banking Corporation demonstrated that they have the ability to provide the required services to the City on a value for money basis.

ATTACHMENTS

Attachment 1 Schedule of Rates

VOTING REQUIREMENTS

Simple Majority

MOVED Cmr Anderson, SECONDED Cmr Smith that in relation to Tender Number 032-03/04 for the provision of Banking Facilities, the Joint Commissioners:

1 REJECT the tenders submitted by the Commonwealth Bank of Australia, ANZ Banking Group Ltd and National Australia Bank Ltd under regulation 18(2) of the Local Government (Functions and General) Regulations 1996 without considering the merits of those tenders because they each fail to comply with requirements specified in the RFT;

2 CHOOSE Westpac Banking Corporation as the successful tenderer for the provision of Banking Facilities (Tender No. 032-03/04) in accordance with the price schedule as outlined in Attachment 1 to Report CJ142-06/04;

3 AUTHORISE the Acting Chief Executive Officer (CEO), on behalf of the City, to enter into a contract with Westpac Banking Corporation in accordance with the tender submitted by Westpac Banking Corporation, subject to any minor variations that may be agreed between the CEO and Westpac Banking Corporation;

4 DETERMINE that the contract is to be for an initial period of 12 months with an option to extend, subject to satisfactory annual performance reviews, for a further maximum period of 24 months, in 12 month increments, with the total term of the contract not to exceed 3 years.

Discussion ensued.

The Motion was Put and **CARRIED UNANIMOUSLY (4/0)**

Appendix 15 refers

To access this attachment on electronic document, click here:Attach15brf220604.pdf

CJ143 - 06/04 RENEWAL OF MOTOR VEHICLE AND PLANT INSURANCE AND VARIOUS ANCILLARY LINES OF INSURANCES FOR 2004/2005 – [05581]

WARD - All

CJ040622_BRF.DOC:ITEM 10

PURPOSE

This report provides details of insurance premiums from Municipal Insurance Broking Service, obtained through the tender of Motor Vehicle and Plant insurance and quotations, for the City's ancillary lines of insurance for the 2004/2005 financial year.

EXECUTIVE SUMMARY

The City's insurance cover for Motor Vehicle and Plant insurance and its ancillary lines of insurance expires at 4.00pm 30 June 2004.

Municipal Insurance Broking Service (MIBS) were engaged to act on behalf of the City to seek terms and conditions from underwriters for insurance cover for Motor Vehicle and Plant insurance and ancillary lines of insurance for the 2004/2005 financial year through a tender process.

Following an evaluation of the tender received it is recommended that the City places its 2004/2005 insurance cover for Motor Vehicle and Plant with Zurich Australian Insurance Ltd.

It is recommended that the City place its 2004/2005 ancillary lines of insurance as follows:

Contract Works	Allianz Australia Insurance Ltd
Fidelity Guarantee	Ace Insurance Ltd
Personal Accident and Travel	Ace Insurance Ltd
Councillors' and Officers Liability	Ace Insurance Ltd
Councillors' and Officers Liability-Employment Practices	Ace Insurance Ltd
Journey Injury	American International Group
Casual Hirers Insurance	MLS

BACKGROUND

The City authorised MIBS to seek tenders for the City's insurance cover for Motor Vehicle and Plant insurance for the 2004/2005 financial year.

MIBS was also requested to seek quotations for the City's following lines of ancillary insurance for 2004/2005:

- Contract Works
- Fidelity Guarantee
- Personal Accident and Travel
- Councillors' and Officers Liability
- Casual Hirers Liability
- Journey Injury

MIBS placed the advertisement seeking tenders for Motor Vehicle and Plant insurance for the 2004/05 financial year in the West Australian newspaper on Saturday 15 May 2004. This was a joint advertisement that simultaneously sought tenders for other local governments. Tenders closed at 4.00pm on Wednesday 2 June 2004.

DETAILS

The following tender was received and recommended by MIBS:

Motor Vehicles and Plant

The Combined Declared Market Value for 2004/2005 is $5,056,075 comprising:

Light Vehicles	$3,135,000
Heavy Vehicles	$ 753,000
Mobile Plant	$1,168,075

Only one tender was received for 2004/2005 as follows:

	Premium	**GST**	**Total**
	$	**$**	**$**
Zurich Australian Insurance Ltd	80,897.20	8,089.72	88,986.92

GST will be claimed back from the Australian Taxation Office as an input tax credit.

In 2003/2004 the total declared value was $7,626,415. This valuation was based on replacement value. The 2004/05 valuation is based on market value in accordance with policy requirements. The City's Motor Vehicle and Plant insurance premium for the 2003/2004 financial year was $70,249.50 exclusive of GST. The insurer was Zurich Australia Insurance Ltd.

Ancillary Lines of Insurance

Municipal Insurance Broking Service (MIBS) also sought quotations for the ancillary lines of insurance cover through a bulk purchasing arrangement with other local governments. This effectively reduces the premiums applicable.

The quotations received were:

	Premium	**GST**	**Total**
	$	**$**	**$**
Contract Works	12,075.00	1207.50	13,282.50
Fidelity Guarantee	3,360.00	336.00	3,696.00
Personal Accident and Travel	1,402.47	140.25	1,542.72
Councillors and Officers Liability	10,258.00	1025.80	11,283.80
Councillors and Officers Liability - Employment Practices	10,725.00	1072.50	11,797.50
Casual Hirers Insurance	1,800.00	180.00	1,980.00
Journey Injury Insurance	5,051.66	505.17	5,556.83

COMMENT/FUNDING

Motor Vehicles and Plant

This policy covers all Motor Vehicles and Plant, owned by the City or for which the City is responsible or has accepted responsibility to insure and includes items leased, hired, rented, borrowed or used by the City or purchased by the City under any form of contract or agreement.

The term "Motor Vehicles and Plant" used is deemed to include vehicles and trailers of every description including accessories, apparatus and equipment of the insured and/or their employees used in or on vehicles and trailers insured.

Sums Insured

- All Vehicles and Plant — Market Value
- Third Party — Limit of Liability $25,000,000
- Councillors, Employees and Volunteers (whilst being used on Council business) — Market Value

Deductibles

- Standard — $500
- Councillors/ Employees/ Volunteers — NIL

Extensions

- Employee Personal Effects $2,000
  (employees' personal effects left in Council vehicle at time of accident or theft but only when on Council business)

Ancillary Lines of Insurance

Contract Works

This policy provides indemnity for accidental physical loss or damage to buildings and other works during construction, renovation or extension. Demolition costs, tools and equipment used at the contract site and professional fees can be included.

Section 1 – Material Damage

Limit any one Contract		$8,470,000
Including -	Professional Fees	- 10% Contract Value
-	Removal of Debris	- 10% Contract Value

Section 2 – Public Liability

Limit of Liability	Not Applicable

Deductibles:

- Major Perils	$15,000 (min) or 1% of the contract price whichever is the greater.
- Cyclone	$1,000 (min) or 1% of the contract price whichever is the greater.
- Minor Perils	$1,000
- Theft/Malicious Damage	$1,000

It is recommended that the City places its 2004/2005 Contract Works insurance with Allianz Australia Insurance Ltd via MIBS at a premium of $13,282.50 (GST inclusive). The GST is claimed back from the Australian Taxation Office as an input tax credit.

For 2003/04, the insurer was Allianz Australia Insurance Ltd. The premium was $2,200.00 (GST inclusive). The increase in premium is a consequence of the estimated total value of contracts increasing from $4.858m to $21.0m, with the value of any single contract amount increasing from $1.0m to $8.470m.

Fidelity Guarantee

This policy covers fraudulent embezzlement or fraudulent misappropriation of money and or negotiable instruments or goods belonging to the City or for which the City is legally liable.

Limit any one person	$100,000
Aggregate Limit any one period of insurance	$250,000

Deductible/Excesses	The City shall bear the first $5,000 of each and every loss or series of losses arising from the one source or original cause irrespective of whether they were committed during more than one period of insurance.

It is recommended that the City places its 2004/2005 Fidelity Guarantee insurance with Ace Insurance Ltd via MIBS at a premium of $3,696.00 (GST inclusive). The GST is claimed back from the Australian Taxation Office as an input tax credit.

For 2003/04, the insurer was Ace Insurance Limited. The premium was $3,520.00 (GST inclusive).

Personal Accident and Travel

This policy covers Councillors, Officers and spouses as follows: -

Personal Accident:

Loss of Income and selected benefits resulting from an accident or illness causing death or permanent / temporary disability while the Insured Person is carrying out Official Duties from any of the insured events as set out in the policy.

Corporate Travel:

Personnel whilst on Authorised Business Travel are covered for a range of selected exposures such as medical expenses, baggage, loss of Deposits and the like. Personal Computers are not covered.

Insured Persons:

Councillors/Elected Members/Mayor	$100,000	
Commissioners	$100,000	
All Employees	$100,000	
Accompanying Partner/Spouse	$100,000	
Voluntary Workers	$100,000	
When on Insured Travel	$100,000	
Weekly Benefit for Temporary Total Disablement	$ 1,500	(Income Earners Only)

It is recommended that the City places its 2004/2005 Personal Accident and Travel insurance with Ace Insurance Ltd through MIBS at a premium of $1,542.72 (GST inclusive).

For 2002/03, the insurer was Ace Insurance Ltd. The premium was $1,469.26 (GST inclusive).

Councillors' and Officers' Liability

This insurance covers Councillors and Officers for legal costs, which could arise from a claim which may not be covered under the terms and conditions of a Public Liability/Professional Indemnity insurance policy with the Municipal Liability Scheme.

This policy doesn't cover judgement costs arising from a claim.

Limits of Liability - Councillors and Officers

Section 1	Councillors and Officers Liability	$ 2,000,000
Section 2	Council Reimbursement	$ 2,000,000

Deductibles/Excesses

Section 1	Councillors and Officers Liability	Nil
Section 2	Council Reimbursement	$ 5,000

It is recommended that the City places its 2004/2005 Councillors and Officers' Liability insurance with Ace Insurance Ltd through MIBS at a premium of $11,283.80 (GST inclusive).

For 2003/04, the insurer was Ace Insurance Ltd. The premium was $10,258.14 (GST inclusive).

Councillors' and Officers' Liability - Employment Practices Extension

This ancillary insurance cover is an extension to the Councillors and Officers Liability policy and covers the legal expenses of Councillors, Officers and the City to defend employment related claims such as:

- Sexual harassment by Councillors, Management or Staff
- Unfair dismissal by Councillors or Management
- Promotion prospects due to friction between Councillors, Management and Staff

Limit of Liability	$1,000,000	any one claim and in the aggregate
Deductibles/Excesses	$12,500	employment practice claims
	$5,000	each claim for loss which the Organisation may advance or for which the Organisation may indemnify the Insured(s)

It is recommended that the City places its 2004/2005 Councillors and Officers' Liability Employment Practices insurance with Ace Insurance Ltd through MIBS at a premium of $11,797.50 (GST inclusive).

This policy was added to the City's insurance portfolio on 1st March 2004.

Casual Hirers Liability

This policy covers the groups/people who may hire the City's facilities and are unable to obtain Public Liability Insurance and parties are injured by the fault of the casual hirer and a claim cannot be made against the City's Public Liability/ Professional Indemnity Insurance policy. This would cover, for example weddings, birthday parties, one off meetings, bi monthly meetings, quarterly meetings or bi annual meetings.

There are some exceptions to the definition of casual hirer and the following groups/people would not be covered by this policy: -

Incorporated bodies, Clubs, Sporting Groups, Associations and the like and any group who would hire the City's facilities more than ten times per year. These hirers should have their own Public Liability Insurance.

Limits of Liability	$10,000,000	
Deductible/Excesses	$2,000	the insured shall bear the first $2,000 of each and every loss or series of losses arising out of any one event.

It is recommended that the City places its 2004/2005 Casual Hirers insurance with MLS through MIBS at a premium of $1,980.00 (GST inclusive).

This policy was added to the City's insurance portfolio on 1st March 2004.

Journey Injury Insurance

This policy covers all non ASU and MEU members for Death, Capital Benefits and a weekly benefit for an injury they may suffer on the way to or on the way from their place of employment.

As both the ASU and MEU members are provided with cover as part of their membership, the City will only effect insurance for non union members. Currently approximately one quarter of the City's employees are members of the above unions.

Limit of Liability	$1,000,000	
Death and Capital Benefit	$100,000	
Maximum Weekly Benefit	$1,000	for a maximum of 104 weeks

It is recommended that the City places its 2004/2005 Journey Injury insurance with American International Group through MIBS at a premium of $3,696.00 (GST inclusive).

This policy was added to the City's insurance portfolio on 1st March 2004.

ATTACHMENTS

Nil

VOTING REQUIREMENTS

Simple Majority

MOVED Cmr Anderson, SECONDED Cmr Smith that the Joint Commissioners CHOOSE the:

1 tender as submitted by Zurich Australian Insurance Ltd through Municipal Insurance Broking Service for the City's 2004/2005 Motor Vehicle and Plant Insurance cover at a premium of $ 88,986.92 - GST inclusive;

2 quotation submitted by Allianz Australia Insurance Ltd through Municipal Insurance Broking Service for the City's 2004/2005 Contract Works insurance cover at a premium of $13,282.50 - GST Inclusive;

3 quotation submitted by Ace Insurance Ltd through Municipal Insurance Broking Service for the City's 2004/2005 Fidelity Guarantee insurance cover at a premium of $3,696.00 - GST Inclusive;

4 quotation submitted by Ace Insurance Ltd through Municipal Insurance Broking Service for the City's 2004/2005 Personal Accident and Travel insurance cover at a premium of $1,542.72 - GST Inclusive;

5 quotation submitted by Ace Insurance Ltd through Municipal Insurance Broking Service for the City's 2004/2005 Councillors and Officers' Liability insurance cover at a premium of $11,283.80 - GST Inclusive.

6 quotation submitted by MLS Insurance Ltd through Municipal Insurance Broking Service for the City's 2004/2005 Casual Hirers Liability insurance cover at a premium of $1,980.00 - GST Inclusive;

7 quotation submitted by American International Group through Municipal Insurance Broking Service for the City's 2004/2005 Journey Injury insurance cover at a premium of $5,556.83 - GST Inclusive;

8 quotation submitted by Ace Insurance Ltd through Municipal Insurance Broking Service for the City's 2004/2005 Councillors and Officers' Liability – Employment Practices insurance cover at a premium of $11,797.50 - GST Inclusive.

The Motion was Put and CARRIED UNANIMOUSLY (4/0)

CJ144 - 06/04 RENEWAL OF WORKERS COMPENSATION INSURANCE 2004/2005 PUBLIC LIABILITY/PROFESSIONAL INDEMNITY INSURANCE FOR 2004/2005 AND PROPERTY (ISR) INSURANCE FOR 2004/2005 – [02882]

WARD - All

CJ040622_BRF.DOC:ITEM 11

PURPOSE

The purpose of this report is for Council to give consideration to the renewal of Workers' Compensation Insurance, Public Liability/Professional Indemnity Insurance and Property (ISR) Insurance for 2004/2005.

EXECUTIVE SUMMARY

This report provides details of insurance premiums from Local Government Insurance Services for the 2004/2005 financial year for: -

Workers Compensation Insurance	- Municipal Workcare Scheme
Public Liability/Professional Indemnity Insurance	- Municipal Liability Scheme
Property (ISR) Insurance	- Municipal Property Scheme

This report provides Council with a summary of costs and changes in relation to renewal of the City's insurance policies for Workers Compensation Insurance, Public Liability/Professional Indemnity Insurance and Property (ISR) Insurance for the 2004/2005 financial year.

This report recommends that the Joint Commissioners ADVISE Local Government Insurance Services that Council:

1 CONTINUES with its burning cost scheme of Workers Compensation insurance premium calculation (including the Govt HIH surcharge) for the 2004/2005 financial year based on the following:

Minimum Payment	*1.63% of payroll*
Deposit Payment	*2.03% of payroll*
Maximum Payment	*3.53% of payroll*

with payment of the deposit premium total $496,886 (excluding GST) to be in equal instalments including GST with the First Instalment on 15 August 2004 and Second Instalment due on 15 November 2004;

2 ACCEPTS the 2004/2005 premium for Public Liability/Professional Indemnity insurance cover of $463,890 (exclusive of GST) with payment to be in equal instalments including GST with the First Instalment on 15 August 2004 and the Second Instalment due on 15 November 2004;

3 ACCEPTS the 2004/2005 premium for Property (ISR) insurance cover of $278,525 (exclusive of GST) with payment to be in equal instalments including GST with the First Instalment on 15 July 2004 and the Second Instalment due on 15 September 2004.

BACKGROUND

In 1995/96 the former City of Wanneroo became an inaugural member of the Local Government Insurance Services insurance scheme operated under the auspices of WALGA. One of the main purposes of the scheme was to gain group purchasing power for all participating local governments in the areas of:

- Workers Compensation insurance (commenced 1995/1996)
- Public Liability/Professional Indemnity insurance (commenced 1995/1996)
- Property (ISR) Insurance (commenced 2002/2003)

As a member of these schemes, the provisions of the Local Government (Functions and General) Regulations 1996 apply. This effectively obviates the need for the City to call tenders for Workers Compensation, Public Liability/Professional Indemnity and Property (ISR) insurances.

DETAILS

Workers Compensation Insurance

From 1 July 2001 the City elected to operate its workers compensation insurance through a "Burning Cost" arrangement. A burning cost arrangement operates where the annual premium is directly related to claims experience with a portion of the premium paid as a deposit and the remainder paid (if applicable) based on claims experience. The premium is based on claims paid and varies between Minimum and Maximum payments. It is capped at the maximum of 3.53% (inclusive of the government HIH surcharge) of total salaries/wages and superannuation paid to employees for the year.

By way of a simple example a burning cost insurance scheme works as follows:

> The insured pays an initial deposit to the insurer based on a deposit premium. The remaining funds (to the limit of the maximum premium) are shown as a liability in the insured's (City of Joondalup) balance sheet pending further premium calls. The total expense of 3.53% (inclusive of the government HIH surcharge) of salaries/wages and superannuation is shown as an expense in the operating statement for that year.
>
> The period of the burning cost contract is usually between three to five years depending on claims experience and can be settled at any time.
>
> Should the cost of claims paid exceed the deposit premium then a further call is made against the City up to the maximum premium payable and charged against the unpaid balance of the maximum in the liability account in the balance sheet. Should the total cost of claims exceed the maximum, the insurer carries the additional cost. If the cost of claims are lower than the maximum at the end of the burning cost period then the City benefits and the savings are transferred from the liability account in the balance sheet to the operating statement when settlement has been finalised.

Municipal Workcare Scheme has indicated the following rates, including Govt HIH surcharge, will apply for 2004/2005:

Burning Cost Premium	Minimum	1.63 % of payroll
	Deposit	2.03 % of payroll
	Maximum	3.53 % of payroll

Estimated salaries/wages and superannuation for 2004/05 is $24,477,158.

The government surcharge for the HIH collapse is payable on both the burning cost and the single rate premiums. It represents 0.03% of the City's estimated payroll for 2004/05.

Public Liability/Professional Indemnity Insurance

The former City of Wanneroo (and the City of Joondalup since 1 July 1999) has been a member of the Municipal Liability Scheme since its inception on 1 July 1995.

Participants of the scheme since that time have enjoyed the benefits of lower premiums, enhanced insurance coverage and a more personalised service.

The scheme has indicated its 2004/2005 terms and conditions and premium contribution will be $463,890.00 excluding GST. The equivalent premium for 2003/2004 was $471,730 excluding GST and for 2002/2003 $372,300 excluding GST.

Payment of the contribution will be:

50% of contribution	$231,945 plus GST	Payable 15 August 2004
50% of contribution	$231,945 plus GST	Payable 15 November 2004

The GST will be claimed back from the Australian Taxation Office as an input tax credit.

Property (ISR) insurance

This scheme is a new scheme set up by Local Government Insurance Services, which commenced on 1 July 2002. Previously the City requested Municipal Insurance Broking Services (MIBS) to seek tenders on the City's behalf.

The City's buildings were valued by the Valuer General's Office during 2003/2004 with the total valuation increasing by 2%. Additionally the City has conducted an internal review of the valuation of the following insured asset classes, ie ornamental street lighting, library book stocks, artefacts and artworks, computer equipment, furniture and office equipment and other plant and equipment. Consequently the overall Declared Replacement Value has increased to $133,304,431. The 2003/04 declared value was $123,150,880 with a premium of $352,340.00 excluding GST.

The scheme has indicated its 2004/2005 terms and conditions and premium contribution at $278,525.00 excluding GST, a saving of $73,815.00.

COMMENT/FUNDING

Workers Compensation Insurance

The scheme has been notified that the City's estimated Salaries/Wages and Council Contribution for Superannuation for the 2004/2005 financial year is $24,477,158.

There are two options open to Council in relation to Workers Compensation Insurance.

1 Single Rate option
2 Burning Cost option

Under the Burning Cost Council's maximum premium is capped at the single rate premium, however savings are possible as outlined in the details section of this report, depending on the City's claims history.

Using the two methods of calculation the premiums are as follows: -

a) Single Rate

Total	3.53 % of payroll	$864,044	plus GST

b) Burning Cost Rating

Minimum	1.63 % of payroll	$398,978 plus GST
Deposit	2.03 % of payroll	$496,886 plus GST
Maximum	3.53 % of payroll	$864,044 plus GST

(The deposit premium payment and the single rate payment includes the government HIH surcharge and is payable in two payments 15 August 2004 and 15 November 2004)

An assessment of the claims history and risk profiles over the last few years indicates that it is more cost advantageous for the City to continue with a performance rating method for Workers Compensation insurance premium calculation (burning cost).

Based on the above calculations the maximum insurance cost exposure is $864,044 (depending on final payroll calculations at end of financial year) with the distinct ability to have savings at the end of the burning cost period based on a reduction in claims experience.

The maximum insurance cost exposure for 2003/04 was $793,537 with a deposit of $460,251. The reason for the overall increase in maximum exposure is the increase in the value of the City's wages and salaries estimate.

Public Liability/Professional Indemnity Insurance

The City's contribution for these liability insurances for 2004/2005 will be $463,890 exclusive of GST, a decrease of approximately 2% over 2003/2004.

Acceptance of this quotation is recommended.

Property (ISR) Insurance

In previous years the City called tenders for this insurance cover through brokers Municipal Insurance Broking Service. Due to the lack of interest by insurers to tender (in 2001/2002 only two insurers tendered), nil tenders were received for 2002/2003, Local Government Insurance Services have now set up a Property (ISR) Insurance Scheme for local governments which commenced from 1 July 2002.

The total declared Replacement Value for the 2004/2005 financial year is $133,304,431 dissected into the following classes:

Buildings	$110,532,631
Library Book Purchases	$ 8,800,000
Ornamental Street Lighting	$ 5,532,000
Artefacts and Artworks	$ 266,000
Computer Equipment	$ 5,583,500
Furniture and Fittings	$ 1,038,300
Other Plant and Equipment	$ 1,552,000
Total	**$133,304,431**

Excess on Claims	
Standard Excess	$ 2,500
Lighting Damage Excess	$10,000
Vandalism/Malicious Damage Excess	$10,000
Named Cyclone	$50,000 Minimum
Earthquake Damage Excess	$20,000 or 1% whichever is the lesser

(The property (ISR) insurance premium for this cover for the 2004/2005 financial year will be $278,525 exclusive of GST.)

The insurance premium for 2003/2004 was $352,340.00 exclusive of GST.

Acceptance of this quotation is recommended.

ATTACHMENTS

Nil

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION: That the Joint Commissioners ADVISE Local Government Insurance Services that Council:

1 CONTINUES with its burning cost scheme of Workers Compensation insurance premium calculation (including the Govt HIH surcharge) for the 2004/2005 financial year based on the following:

Minimum Payment	1.63% of payroll
Deposit Payment	2.03% of payroll
Maximum Payment	3.53% of payroll

with payment of the deposit premium total $496,886 (excluding GST) to be in equal instalments including GST with the First Instalment on 15 August 2004 and Second Instalment due on 15 November 2004;

2 ACCEPTS the 2004/2005 premium for Public Liability/Professional Indemnity insurance cover of $463,890 (exclusive of GST) with payment to be in equal instalments including GST with the First Instalment on 15 August 2004 and the Second Instalment due on 15 November 2004;

3 ACCEPTS the 2004/2005 premium for Property (ISR) insurance cover of $278,525 (exclusive of GST) with payment to be in equal instalments including GST with the First Instalment on 15 July 2004 and the Second Instalment due on 15 September 2004.

ADDITIONAL INFORMATION

Additional information was provided which resulted in changes to the following sections of Item CJ144-06/04:

Page 42 - Property (ISR) insurance

- The declared replacement value has increased to *$144,523,981* ~~$133,304,431~~
- The scheme has indicated its 2004/05 terms and conditions and premium contribution at *$297,348* ~~$278,525~~ excluding GST, a saving of *$54,992* ~~$73,815~~ .

Page 44 - Property (ISR) insurance

- The total declared replacement value for the 2004/2005 financial year is $144,523,981 $133,304,431 dissected into the following classes:

  Buildings *$117,398,770* ~~$110,532,631~~
  Add *Miscellaneous Structures $2,803,411*
  Add *Business Interruption $1,550,000*

DETAILS

After receiving the "renewal quote form" from its Insurers the City noted that the declared replacement value indicated on that form was $123,150,880 and not as advised by the City. The insurer confirmed that the value of $123,150,880 (2003/04 declared replacement value) had been incorrectly used by the insurer in setting the premium.

At the same time the City's insurance brokers, MIBS, suggested some additional changes to complete the Property (ISR) policy. This has resulted in the declared replacement value increasing to $144,523,981 from the $133,304,431 indicated in the report.

The increase in declared replacement value is due to the following:

- The building valuations provided by the Valuer General do not include additional costs such as professional fees and removal of debris which are required for insurance purposes at a rate of 7.5% of the building value. Increase in value equals $6,866,139.

- The City included a value of $300,000 for "miscellaneous structures" (within the buildings category). Miscellaneous structures include park equipment such as barbeques, reticulation controllers, play equipment and sporting posts. This has now been included as a separate category, for ease of reference, using the industry guideline of 2% of the declared replacement value of assets as suggested by MIBS. Increase in value equals $2,803,411.

- An additional category covering business interruption has been included at a valuation of $1,550,000 in consultation with MIBS. Increase in value equals $1,550,000.

The $11,219,550 increase in declared replacement value has resulted in an increase in the Property (ISR) insurance premium of $18,823 from $278,525 to $297,348 which still represents a significant saving of $54,992 on the City's 2003/04 premium, whilst at the same time providing improved coverage.

A revised Officer's recommendation was submitted to reflect the above change in premium.

MOVED Cmr Anderson, SECONDED Cmr Clough that the Joint Commissioners ADVISE Local Government Insurance Services that Council:

1 CONTINUES with its burning cost scheme of Workers Compensation insurance premium calculation (including the Govt HIH surcharge) for the 2004/2005 financial year based on the following:

Minimum Payment	**1.63% of payroll**
Deposit Payment	**2.03% of payroll**
Maximum Payment	**3.53% of payroll**

with payment of the deposit premium total $496,886 (excluding GST) to be in equal instalments including GST with the First Instalment on 15 August 2004 and Second Instalment due on 15 November 2004;

2 ACCEPTS the 2004/2005 premium for Public Liability/Professional Indemnity insurance cover of $463,890 (exclusive of GST) with payment to be in equal instalments including GST with the First Instalment on 15 August 2004 and the Second Instalment due on 15 November 2004;

3 ACCEPTS the 2004/2005 premium for Property (ISR) insurance cover of $297,348 (exclusive of GST) with payment to be in equal instalments including GST with the First Instalment on 15 July 2004 and the Second Instalment due on 15 September 2004.

The Motion was Put and CARRIED UNANIMOUSLY (4/0)

In relation to Item CJ145-06/04 – Mindarie Regional Council Draft Establishment Agreement and Deed, Cmr Smith advised she was a member of the Mindarie Regional Council, and she would deal impartially with this matter.

CJ145 - 06/04 MINDARIE REGIONAL COUNCIL DRAFT ESTABLISHMENT AGREEMENT AND DEED – [03149] [41196]

WARD - All

CJ040622_BRF.DOC:ITEM 12

PURPOSE

The Mindarie Regional Council (MRC) is seeking Council's comment with the intention to endorse the new Draft Establishment Agreement and Deed at a later time, in order to consolidate previous governance documents including the old constitution, the existing suite of historical deeds and to address a number of contemporary issues.

EXECUTIVE SUMMARY

The MRC has six governance documents in use to perform its business functions. These have been developed to address the various issues that have confronted the MRC since its inception. At its meeting in April 2004, the MRC resolved to receive the Draft Establishment Agreement and Deed. Under the current constitution any changes of this nature requires the endorsement of the member Councils. Accordingly, the MRC has requested Council's endorsement of the Draft Establishment Agreement and Deed.

The Local Government Act 1995 the current legislative instrument for the governance of regional councils is an Establishment Agreement to replace MRC's Constitution. It is therefore necessary to up date and consolidate the current suite of documents into a single Establishment Agreement and Deed for proper governance.

There are a number of issues relating to the Draft Establishment Agreement and Deed, however the adoption of these documents will allow the MRC to perform its ongoing business and ensure that the participants are required to dispose of their waste at an MRC Facility. The City of Stirling exemption has its own particular nuances and these will be addressed in the detail of the document.

The Draft Establishment Agreement and Deed includes the new financial arrangements as previously agreed by member councils and the MRC and the provision to explore an expansion of the MRC's business when a case presents itself.

The Draft Establishment Agreement and Deed has evolved and now adopts a 'one in all in' approach. Essentially, this means that there will be a common pricing regime for gate fees for all the MRC facilities i.e. Tamala Park the new Resource Recovery Facility (RRF).

The Draft Establishment Agreement and Deed commits the City of Joondalup's waste to the MRC. Under the current Constitution Agreement the City's waste is also committed to the MRC. Under 'the one in all in' approach the City's waste will be committed to the RRF once the MRC decided to accept a preferred tenderer. If the MRC does not accept the tender then the status quo remains. If the Final Establishment Agreement and Deed are adopted, the only out for the City, if it disagrees with the tender outcome and does not want to become a participant is to withdraw from the MRC or apply for an exemption from tipping at the MRC facilities and dispose of the City's waste elsewhere.

It also need to be remembered, however, the City is currently committed to the MRC under the current Constitution Agreement.

It needs to be acknowledge that the draft Establishment Agreement and Deed has a number of issues yet to be resolved however, it is important to gain member council support for the 'one in all in' approach in order to address outstanding issues. One of these will be the pricing structure for the RRF.

The final Establishment Agreement and Deed will require Council's endorsement before it can be adopted by the MRC.

That the Joint Commissioners

1 ENDORSE in principle the Draft Establishment Agreement and Deed as detailed in Attachment 1 and 2 of this report and advise the Mindarie Regional Council accordingly;

2 NOTE the 'one in all in' approach of the Draft Establishment Agreement and Deed;

3 NOTE the City of Joondalup's officer's comments contained in this report will be further developed and discussed by the Mindarie Regional Council before the Establishment Agreement and Deed are finalised.

BACKGROUND

The Mindarie Regional Council currently operates under the following governance documents:

- Constitution Agreement, dated 1987
- Deed of Variation (August 1996)
- Deed of Variation dated November 1996
- Deed of Amendment dated October 1999
- Deed of Settlement dated November 1996

A regional local government is required to have an establishment agreement under the Local Government Act 1995. The MRC was formally constituted under a constitution and since that time there have been a number of changes that have required Deeds of Variations. These Deeds reflect the changes that have been made to membership and administrative arrangements that have been required over time.

Over the past few years a number of governance and financial changes have also been made by the MRC and these changes are now reflected in the Draft Establishment Agreement and Deed.

The Draft Establishment Agreement and Deed consolidates and addresses a number of the more contemporary changes.

Strategic Plan:

The Draft Establishment Agreement and Deed is a key governance document in facilitating the City's move to Resource Recovery. Resource Recovery is consistent with the City's strategic plan for waste minimisation and sustainability objectives.

DETAILS

The Draft Establishment Agreement and Deed is principally the original constitution that brought the original three members councils together to form the Mindarie Regional Council and a consolidation of the Deeds of Variation that have taken place over time. The Recitals are detailed in Attachment 1 (Draft Establishment Agreement) and 2 (Draft Deed).

Recitals also provide for the revocation of the former constitution agreement and adopts the Draft Establishment Agreement and Deed.

A number of workshops have been held with technical officers to determine the best way forward. These workshops have been attended by MRC councillors, technical and financial officers from member councils, and consultants.

At the Workshop held on 12 March 2004, the attendees reached agreement on the following characteristics of a Draft Establishment Agreement and Deed:

Workshop held on 12 March 2004

This was last in a series of workshops and the members agreed on the following characteristics for the Establishment Agreement:

- The agreement should deal with all aspects of the MRC business (one in all in approach), deleting the need for individual project agreements for the three stage Resource Recovery Facility, Neerabup;
- The agreement should make provisions for exemptions particularly for the City of Stirling;
- Withdrawal rules be bolstered;
- The rules associated with distribution of surplus be clarified;
- The definition of waste be qualified to exempt traditional kerbside recyclables; and
- The Council's financial precepts be included in the agreement.

Establishment Agreement

The adopted model is a 'one in all in' approach where by the operations at Tamala Park and the new Resource Recovery Facility at Neerabup is under the one agreement with shared liability, shared surpluses albeit under certain sharing arrangements, as detailed in the documents.

Other details of the Establishment Agreement include:

Regional purposes	the purposes for which the MRC has been established;
Objectives	workshops have been held to develop these objectives
Council matters	normal format for agreements of this type
Financial contributions	there are a number of requirements concerning contributions for capital and operation deficit
Surpluses	A method for sharing the surpluses is detailed
Winding up	the document details the arrangements if the MRC is wound up
Withdrawal of Participant	certain rules are detailed for the withdrawal of a participant(s);
Borrowings	local Government Act Pt 6, Div 5, Subdivision 3 applies;
Dispute resolution	there are a number of requirements to resolve disputes before any litigation can be embarked upon; and
Interpretation	this is normal for agreements of this type.

The Deed

The Deed addresses operational and financial issues that are historical and contemporary as agreed by the MRC over time.

These include:

Delivery of Waste	requirement to deliver waste as defined in the Deed;
Granting of exemptions	the MRC has the power to grant exemptions from the requirement to deliver waste;
Expiry of exemption period	a process is detailed for the expiration of the exemption period. It addresses the issues whereby a participant fails to meet its obligations under this clause. It also exempts the participant from any liability for any annual contribution (Cl 8.1) and any capital contribution (Cl 8.2) of the Establishment Agreement;
MRC's obligations	details the MRC's obligations with respect to the exemption period
City of Stirling Exemption	the City of Stirling has a contract with Atlas Group and this section deals with the exemption according to the previous exemption clauses in the original Constitution Agreement.

Business Opportunities

Consideration has been given to the matter of the ability of the Council to exploit business opportunities in either waste related or non waste related areas, in the future. The current governance documents do not provide for the investigation of such opportunities. The revised Draft Establishment Agreement includes, as part of its purpose, the ability to investigate any such opportunities. The process for exploitation of any opportunity would be by Council Resolution, and will require an amendment to the Establishment Agreement, in order to reflect a revised purpose of the business.

Way Forward

It needs to be acknowledge that the Draft Establishment Agreement and Deed has a number of issues yet to be resolved however, it is important to gain member council support for the 'one in all in' approach in order to address outstanding issues. These issues include further definitional changes relating to waste streams and more detail on the way the documents deals with the deficit and the surplus.

The final Establishment Agreement and Deed will require Council's endorsement before it can be adopted by the MRC.

Statutory Provision:

The Constitution Agreement is revoked and the adoption of the Establishment and Deed is consistent with the requirements of the Local Government Act.

Consultation:

The MRC has held a number of workshops with elected members of the MRC, technical officers of member councils. The MRC resolved to seek member council endorsement of the Draft Establishment Agreement and Deed.

Policy Implications:

The adoption of the Draft Establishment Agreement and Deed has no policy implications for the City.

Financial Implications:

The adoption of the Draft Establishment Agreement and Deed has no immediate financial implications for the City. However, it will have an impact on the disposal costs once the gate fee is set by the MRC. Modelling has predicted for first stage RRF i.e. two thirds of the waste being treated, a household rubbish rate of between $150 to $170 provided the current level of servicing is maintained.

Strategic Implications:

The Draft Establishment Agreement and Deed is a key governance document in facilitating the City's move to Resource Recovery. Resource Recovery is consistent with the City's strategic plan for waste minimisation and sustainability objectives.

Sustainability Implications:

The Draft Establishment Agreement and Deed are important instruments in facilitating the RRF at Neerabup. The RRF will achieve 70% recovery of waste being processed. It is consistent with the sustainability objectives of the City.

COMMENT

The preparation of the revised governance documents is a consolidation of previous deeds and constitution agreement and now includes the new financial arrangements as approved by the member councils.

A key strategic issue which is related to the MRC's governance document is that of supply of waste to the RRF from participant Councils. The revised suite of governance documents includes a commitment by member Councils for the delivery of material to any of the MRC's facilities unless an exemption is granted. The MRC requires this commitment before it goes to tender for the RRF.

If the MRC agrees to the tender then the members will be committed to the gate fee. Importantly, the 'one in all in' model dictates that if agreement is reached but there are some members that disagree, they too are committed.

The 'one in all in' Establishment Agreement model will ensure a pricing structure that will provide a gate fee common to both the landfill operation at Tamala Park and the new RRF for those tonnes available for processing. This will ensure those member Councils who do not participate in the RRF will be paying an equivalent fee as the participants in the RRF.

This approach will ensure that the MRC has the tonnes committed when it goes to tender, the MRC will be able to reject or accept tenders, ultimately determining the gate fee for processing waste through the new RRF. The Establishment Agreement model ensures a 'catch all' model for all the member councils who are required to take their waste to a MRC facility.

The City's Officers have the following queries in relation to the documents and include:

Withdrawal of Participants

1 Entitlement or liability of withdrawing participant (Clause 11.3B)
  If a participant withdraws how is the business going to be valued?
2 Participants may be required to pay distribution (Clause 11.4)
  How is the withdrawing participant's assets included in the calculation?

General Comment

In relation to surpluses and deficits it appears the document focuses on surpluses and deficits are not adequately handled. Is there a need for the same focus on deficits, for example, a definition of a deficit?

ATTACHMENTS

Attachment 1 The Establishment Agreement
Attachment 2 The Deed

VOTING REQUIREMENTS

Simple Majority

MOVED Cmr Anderson, SECONDED Cmr Clough that the Joint Commissioners:

1 ENDORSE in principle the Draft Establishment Agreement and Deed as detailed in Attachments 1 and 2 of Report CJ145-06/04 and advise the Mindarie Regional Council accordingly;

2 NOTE the 'one in all in' approach of the Draft Establishment Agreement and Deed;

3 NOTE the City of Joondalup's officer's comments contained in this report will be further developed and discussed by the Mindarie Regional Council before the Establishment Agreement and Deed are finalised.

The Motion was Put and CARRIED UNANIMOUSLY (4/0)

Appendices 6 and 6(a) refer

To access this attachment on electronic document, click here: Attach6min290604.pdf Attach6amin290604.pdf

In relation to Item CJ146-06/04 – Proposed Extension of Ocean Reef Road – Reconsideration of CJ101-05/04, Cmr Smith advised her daughter lives in the suburb of Currambine, and she would deal impartially with this matter.

CJ146 - 06/04 PROPOSED EXTENSION OF OCEAN REEF ROAD – RECONSIDERATION OF CJ101-05/04 – [07131] [02154]

WARD - Marina

CJ040622_BRF.DOC:ITEM 13

PURPOSE

To provide the traffic impact study for the proposed extension of Ocean Reef Road to enable the Commissioners to reconsider a previous report CJ101-05/04 and to furthermore provide an update to Council on the progress of constructing a working group to guide the consultative process.

EXECUTIVE SUMMARY

At its meeting on 18 May 2004 a report was presented to provide information to the Commissioners on a request from the Ocean Reef Coastal Stakeholders (ORCS) to include consideration of a Community Recreation Amenity purpose as part of the community consultation process on the proposed extension of Ocean Reef Road.

The Joint Commissioners resolved that:

1 this matter be RECONSIDERED at the time the traffic impact study is presented to Council, which is expected to be available by the next Council meeting;

2 in the meantime, the consultant CONTINUES with the processes involved in the construction of the Working Group as soon as possible.

A traffic impact study of Ocean Reef Road has been undertaken by Traffic Consultants, Connell Wagner.

The findings of the Connell Wagner traffic report state that:

> *"The reduction in traffic volume on Constellation Drive warrants the extension of Ocean Reef Road from Hodges Drive to Shenton Avenue.*
>
> *The linking of the existing Ocean Reef Road to Burns Beach Road creates an important link in the Foreshore Access Road that provides an amenity to the general community.*
>
> *The traffic volumes of 4,700 vehicles per day expected on the extended Ocean Reef Road in 2006 suggest that the road cross section should only be a single carriageway in both directions.*
>
> *In keeping with the surrounding road network the extended Ocean Reef Road should be classified as a Foreshore Access Road."*
>
> *"It is recommended that the City extend Ocean Reef Road from Hodges Drive to Shenton Avenue with a design appropriate to a Foreshore Access Road classification in the City of Joondalup road hierarchy."*

Based on the traffic impact study report, it is recommended that the Joint Commissioners:

That the Joint Commissioners:

1 NOTE the findings of the traffic impact study for Ocean Reef Road;

2 REAFFIRM their decisions (1); (2) and (4) of 17 February 2004 (C09-02/04 refers) to:

(a) APPROVE a programme of consultation to be undertaken with key stakeholders on the detailed design of the extension of Ocean Reef Road from Hodges Drive through to Shenton Avenue being the model outlined in the 'Consulting Citizens' material;

(b) NOTE that the consultation costs shall not exceed $14,000 for external consultants;

(c) LIST this project for consideration in the 2004/05 Five Year Capital Works Program.

3 INVITE representation from the following groups and individuals to form the working party to the consultation process:-

Primary Stakeholders:

- **Ocean Reef Coastal Stakeholders Group – 2 members**
- **Ocean Reef Action Group – 2 members**
- **Residents – adjoining the proposed road and not associated with Ocean Reef Coastal Stakeholders Group (ORCS) or Ocean Reef Action Group (ORAG) -1 member**
- **Residents along routes to proposed road (Resolute Way) and not associated with ORCS or ORAG – 1 member**
- **Residents along Constellation drive and not associated with the ORCS or ORAG**
- **Local business owners of Ocean Reef – 1 member**
- **Schools – 1 member**

Other Stakeholders:

- **Residents in adjoining suburbs (Iluka, Kallaroo, Burns Beach) – 1 member**

Government:

- **Local Government – City of Joondalup - 2 members**
- **Main Road Dept – 1 member**
- **Department of Planning and Infrastructure – 1 member**
- **Community Groups – Coast Care or Friends Groups – 1 member**

BACKGROUND

The original proposal for the Ocean Reef Road extension in 1979 was for the construction of a four-lane dual carriageway. In 1993 Department of Planning and Infrastructure downgraded the proposal for Ocean Reef Road to be a future Foreshore Access Road. In 2000 Council approved the standard of this Foreshore Access Road to be as an "Ultimate Boulevard" treatment.

Council had previously considered reports on the completion of the construction of Ocean Reef Road from Hodges Drive to Shenton Avenue. As part of previous subdivision approvals the City is responsible for the section of Ocean Reef Road from Hodges Drive to the northern boundary of Lot 1029 and a legal agreement requires the remaining section of Ocean Reef Road to be constructed to a 'rural standard' single carriageway by the adjacent subdivision developer.

The estimated cost for a 'rural standard' single carriageway is $1.27M with the subdivision landowners contributing $0.9M and the City responsible for $0.37M. It is to be noted that the "Ultimate Boulevard Standard" (including roundabouts) is estimated to cost $2.77M with the City responsible for the extra $1.5M. Council to date has not allocated the extra $1.5M for this 'Ultimate Boulevard Standard'.

In 2003, the subdivision developers' representative, Beaumaris Land Sales, tabled a proposal to exchange its obligation to upgrade a section of Burns Beach Road for the City's section of Ocean Reef Road to enable the full length construction of the single carriageway of Ocean Reef Road between Hodges Drive and Shenton Avenue. This cost transfer is $227K.

At the meeting in September 2003, it was resolved that Council:

1 Agrees in principle to the City and the subdivision landowners being the Roman Catholic Archbishop of Perth, together with Davidson Pty Ltd, transferring their respective road construction obligations for Ocean Reef Road and Burns Beach Road, subject to an agreement being drawn up to the satisfaction of the Chief Executive Officer and the respective subdivision landowners.

2 Authorises the contribution of $140,216.57 to the subdivision landowners being the Roman Catholic Archbishop of Perth, together with Davidson Pty Ltd to fulfil the road construction transfer obligations for Ocean Reef Road.

The Ocean Reef Coastal Stakeholders (ORCS), formed as a direct consequence of the road construction, expressed the view that many local residents wanted to be engaged in a participative process so that they could understand all issues and assess all the alternatives for this section of road development. They raised a number of concerns in relation to public safety and amenity and indicated they were representative of the Ocean Reef Community.

In response to these concerns Council, at its meeting of 11 November 2003, revoked the previous resolution and resolved:

1 That the further extension of Ocean Reef Road be DEFERRED pending further community consultation with Ocean Reef residents;

2 That for the purposes of giving effect to the further community consultation provided for in paragraph 1 hereof:

2.1 A Community Consultation Working Party shall be established comprising of the Marina Ward Councillors, plus one (1) North Coastal Ward Councillor and one (1) Whitfords Ward Councillor, a suitable Council Officer and a least five representatives from the Ocean Reef Coastal Stakeholders Group;

2.2 The Council and the Community Consultation Working Party shall initiate a public consultation period of not less than 60 days and use a 'best practice' model of stakeholder consultation and management agreed upon by the said Working Party eg. the Charettes model being the recommended approach by the W.A. Department of Premier and Cabinet;

2.3 The Council shall consult with a range of public sector authorities and other organisations in order to seek important information to assist in the decision-making in this matter eg. Dept. Main Roads;

2.4 That the Working Party prepares a report and recommendations to Council at the conclusion of the Community Consultation process;

2.5 That at the completion of the community consultation process, Council's decision have due regard to the recommendations in the said report from the Community Consultation conducted as aforesaid."

Council was suspended shortly after this resolution and the official working party was never convened. A City officer was requested to meet with members of the ORCS to collect all relevant information with respect to the issue. These meetings took place during the months of November and December 2003 and were attended by three representatives from the ORCS. At the same time as the officer was meeting with the ORCS, representations were received from another community group, who want the proposed road extension to be constructed. This group are known as the Ocean Reef Action Group (ORAG). In summary the ORAG have expressed an alternative view to that of the Ocean Reef Stakeholders Group and have made their case for the immediate implementation of the proposed road extension in accordance with Council's objectives, plans and budgets.

Following the information gathering process from key stakeholders a report to Council *(CJ009-02/04 refers)* was formulated and at its meeting of Council on February 17, 2004 the Commissioners revoked the decision of November 11, 2003 and passed the following motion:

1 APPROVE a programme of consultation to be undertaken with key stakeholders on the detailed design of the extension of Ocean Reef Road from Hodges Drive through to Shenton Avenue being the model outlined in the 'Consulting Citizens' material;

2 NOTE that the consultation costs shall not exceed $14,000 for external consultants;

3 NOTE that the key stakeholder group shall include representation from residents whose property abuts that section of Ocean Reef Road to be constructed, and equal representation from the Ocean Reef Stakeholders Group and the Ocean Reef Action Group;

4 LIST this project for consideration in the 2004/05 Five Year Capital Works Program.

The following timeline describes the events that have occurred since Council's resolution on 17 February 2004.

February 17 2004	Council adopts resolution to consult on detailed design of the road
March 2004	City develops brief and process to appoint an independent facilitator
April 3 2004	City appoints a facilitator
April 16 2004	City and facilitator meets with Premier & Cabinet officers
April 16 2004	Meeting to outline process methodology with ORCS convened
April 20 2004	Letter received from ORCS requesting expanded consultation process and a meeting with Commissioners
May 4 2004	Meeting to outline process methodology with Ocean Reef Action Group (ORAG) convened
May 18 2004	Report to Council addressing the request from ORCS to broaden consultation parameters

DETAILS

The ORCS, during their meeting on April 16, 2004, have requested that the consultation process be extended from detailed road design only, to consideration of an alternative option - that the land be used for community recreation and amenity purpose. They also requested that a meeting be convened between their group and the Commissioners. The ORCS have since made this request formally in a letter to the City received on April 20, 2004.
The resolution of Council on 17 February 2004 enabling the consultation process does not allow for consideration of any issues other than the detailed design of the road.

At its meeting on 18 May 2004 a report was presented to provide information to the Commissioners on the request from the ORCS to include consideration of a Community Recreation Amenity purpose as part of the community consultation process on the proposed extension of Ocean Reef Road (CJ101-05/04 refers and is shown as Attachment A to this report).

The Joint Commissioners resolved on 18 May 2004 that:

1 this matter be RECONSIDERED at the time the traffic impact study is presented to Council, which is expected to be available by the next Council meeting;

2 in the meantime, the consultant CONTINUES with the processes involved in the construction of the Working Group as soon as possible.

A flowchart indicating all decisions relating to the proposed extension of Ocean Reef Road since September 2003 is shown as Attachment B to this report.

TRAFFIC STUDY

A traffic impact study of Ocean Reef Road has been undertaken by Traffic Consultants, Connell Wagner.

The Scope of Work defined the study area as that bounded by Hodges Drive, Marmion Avenue, Burns Beach Road and Ocean Reef Road. Within this area, an examination of the existing regional traffic modelling data for the study area and an assessment of its impact on the traffic volumes was undertaken. It was recognised that Iluka is not yet fully developed and Main Roads plans to extend the Mitchell Freeway to Burns Beach Road by 2008. The traffic study has taken the broader regional perspectives into consideration.

A local traffic model of the study area was prepared using appropriate traffic modelling software. The traffic assessment is for the years 2003, 2006 and 2011. The years 2006 and 2011 were chosen as these are years for which Main Roads WA has traffic predictions for the major road network. An assessment of the likely changes to traffic flows and to the road network for the study area was also undertaken. .

The traffic modelling provides the following results for Constellation Drive:

Constellation Drive – South of Shenton Avenue

	Existing	**2006**	**2011**
Without Ocean Reef Road	6110	5350	7640
With Ocean Reef Road	3450	2750	3910

Constellation Drive – North of Hodges Drive

	Existing	**2006**	**2011**
Without Ocean Reef Road	7490	6830	6730
With Ocean Reef Road	5550	5080	5160

The detailed analysis and report is shown at Attachment C.

The findings of the Connell Wagner traffic report state that:

> *"The reduction in traffic volume on Constellation Drive warrants the extension of Ocean Reef Road from Hodges Drive to Shenton Avenue.*
>
> *The linking of the existing Ocean Reef Road to Burns Beach Road creates an important link in the Foreshore Access Road that provides an amenity to the general community.*
>
> *The traffic volumes of 4,700 vehicles per day expected on the extended Ocean Reef Road in 2006 suggest that the road cross section should only be a single carriageway in both directions.*
>
> *In keeping with the surrounding road network the extended Ocean Reef Road should be classified as a Foreshore Access Road."*

The original planning was for this section of Ocean Reef Road to be a dual carriageway. As part of the subdivision works in the mid 1980's the 40 metre formation width was cleared and earthworked. In addition, sections of stormwater drainage pipes were laid.

A dedicated road reserve exists from Shenton Avenue to Resolute Way.

A survey by the consultant for the City's Local Biodiversity Strategy project has reported that the majority of the road reserve is badly weed infested and is providing a seed source for weeds to invade the adjacent bush forever site.

It has been suggested that the proposed carriageway can be relocated from the eastern side to the western side of the reserve formation. This matter can be considered as part of the consultation and design process. It is not considered from a financial, environmental or practical construction aspect for the road extension to be constructed within the foreshore reserve, which is a bush forever site.

CONSULTATION – CONSTRUCTION OF WORKING GROUP

The proposed consultation methodology developed to date makes reference to the State Government's "Consulting Citizens" guides. The process in summary will involve forming a working group from the 4 key stakeholder groups being (1) the City of Joondalup, (2) the ORCS, (3) the ORAG and (4) other groups or community individuals.

The Working Group would be required to formulate and agree a final process that would be implemented through a broader community workshop process.
Since the Council resolution of 18 May 2004, the City has undertaken a stakeholder analysis to identify the most appropriate representatives to the working party. The City will invite representation to the working party from following groups, organisations and individuals:-

Primary Stakeholders:

- Ocean Reef Coastal Stakeholders Group – 2 members
- Ocean Reef Action group – 2 members
- Residents – adjoining the proposed road and not associated with ORCS or ORAG -1 member
- Residents along routes to proposed road (Resolute Way) and not associated with ORCS or ORAG – 1 member
- Residents along Constellation Drive and not associated with the ORCS or ORAG
- Local business owners of Ocean Reef – 1 member
- Schools – 1 member

Other Stakeholders:

- Residents in adjoining suburbs (Iluka, Kallaroo, Burns Beach) – 1 member

Government:

- Local Government – City of Joondalup - 2 members
- Main Road Dept – 1 member
- Department of Planning and Infrastructure – 1 member
- Community Groups – Coast Care or Friends Groups – 1 member

The total membership to the working party would be 15.

The working party has not been convened and is awaiting the outcome of Council's final determination in regard to the parameters of the consultation process. As soon as the parameters are finalised then the working party will be able to commence their work.

Communications with the City's appointed facilitator regarding the composition of the working party has been undertaken and she has advised that a group of up to 15 members is manageable.

COMMENT

The Ocean Reef Road extension has been the subject of a number of Council motions and rescission motions. There is significant community interest about the issue and an increasing degree of polarisation between the two main stakeholder groups, the Ocean Reef Stakeholders Group and the Ocean Reef Action Group.

From a planning perspective the purpose of the land was always for that of a road. The City received a letter from the Department of Planning and Infrastructure on December 23 2003 stating, "*There has always been an expectation that this section of the planned Ocean Reef Road will eventually be constructed to serve both local and recreational traffic needs.*"

The traffic consultant's report of June 2004 recommends that the City extend Ocean Reef Road from Hodges Drive to Shenton Drive with a design appropriate to a Foreshore Access Road classification in the City of Joondalup road hierarchy.

Based on the information provided by the traffic impact study and the vegetation survey results, it is now considered that sufficient information has been presented to enable Council to make a final determination for the parameters of the consultation process to move forward. This report is recommending that Council should reaffirm its decision of February 2004 and proceed with consultation on the detailed design of the road.

ATTACHMENTS

Attachment A	CJ101-05/04
Attachment B	Flowchart of Decisions
Attachment C	Traffic Report

VOTING REQUIREMENTS

Simple Majority

MOVED Cmr Anderson, SECONDED Cmr Clough that the Joint Commissioners:

1 NOTE the findings of the traffic impact study for Ocean Reef Road;

2 REAFFIRM their decisions (1); (2) and (4) of 17 February 2004 (C09-02/04 refers) to:

(a) APPROVE a programme of consultation to be undertaken with key stakeholders on the detailed design of the extension of Ocean Reef Road from Hodges Drive through to Shenton Avenue being the model outlined in the 'Consulting Citizens' material;

(b) NOTE that the consultation costs shall not exceed $14,000 for external consultants;

(c) LIST this project for consideration in the 2004/05 Five Year Capital Works Program.

3 INVITE representation from the following groups, organisations and individuals to form the working party to the consultation process:-

Primary Stakeholders:

- **Ocean Reef Coastal Stakeholders Group – 2 members**
- **Ocean Reef Action group – 2 members**
- **Ocean Reef Coastal Stakeholders Group (ORCS) or Ocean Reef Action Group (ORAG) -1 member**
- **Residents along routes to proposed road (Resolute Way) and not associated with ORCS or ORAG – 1 member**
- **Residents along Constellation drive and not associated with the ORCS or ORAG**
- **Local business owners of Ocean Reef – 1 member**
- **Schools – 1 member**

Other Stakeholders:

- **Residents in adjoining suburbs (Iluka, Kallaroo, Burns Beach) – 1 member**

Government:

- **Local Government – City of Joondalup - 2 members**
- **Main Road Dept – 1 member**
- **Department of Planning and Infrastructure – 1 member**
- **Community Groups – Coast Care or Friends Groups – 1 member**

Cmr Anderson spoke to the Motion.

AMENDMENT MOVED Cmr Smith, SECONDED Cmr Clough that additional Points 4 and 5 be added to the Motion as follows:

"4 CLARIFY that the Working Party is assisting with plans to conduct the community consultation and that the consultation program itself will involve the wider community;

5 DIRECT that, if the Working Party has not agreed on a program of consultation within six weeks from 29 June 2004, the matter is to be again referred to Council."

The Amendment was Put and CARRIED UNANIMOUSLY (4/0)

The Original Motion, as amended, being:

That the Joint Commissioners:

1 NOTE the findings of the traffic impact study for Ocean Reef Road;

2 REAFFIRM their decisions (1); (2) and (4) of 17 February 2004 (C09-02/04 refers) to:

(a) APPROVE a programme of consultation to be undertaken with key stakeholders on the detailed design of the extension of Ocean Reef Road from Hodges Drive through to Shenton Avenue being the model outlined in the 'Consulting Citizens' material;

(b) NOTE that the consultation costs shall not exceed $14,000 for external consultants;

(c) LIST this project for consideration in the 2004/05 Five Year Capital Works Program.

3 INVITE representation from the following groups, organisations and individuals to form the working party to the consultation process:-

Primary Stakeholders:

- **Ocean Reef Coastal Stakeholders Group – 2 members**
- **Ocean Reef Action group – 2 members**
- **Ocean Reef Coastal Stakeholders Group (ORCS) or Ocean Reef Action Group (ORAG) -1 member**
- **Residents along routes to proposed road (Resolute Way) and not associated with ORCS or ORAG – 1 member**
- **Residents along Constellation drive and not associated with the ORCS or ORAG**
- **Local business owners of Ocean Reef – 1 member**
- **Schools – 1 member**

Other Stakeholders:

- **Residents in adjoining suburbs (Iluka, Kallaroo, Burns Beach) – 1 member**

Government:

- **Local Government – City of Joondalup - 2 members**
- **Main Road Dept – 1 member**
- **Department of Planning and Infrastructure – 1 member**
- **Community Groups – Coast Care or Friends Groups – 1 member**

4 CLARIFY that the Working Party is assisting with plans to conduct the community consultation and that the consultation program itself will involve the wider community;

5 DIRECT that, if the Working Party has not agreed on a program of consultation within six weeks from 29 June 2004, the matter is to be again referred to Council.

was Put and **CARRIED UNANIMOUSLY (4/0)**

Appendix 14 refers

To access this attachment on electronic document, click here: Attach14brf220604.pdf

CJ147 - 06/04 MINUTES OF THE CONSERVATION ADVISORY COMMITTEE OF 26 MAY 2004 – [12168]

WARD - All

CJ040622_BRF.DOC:ITEM 14

PURPOSE

The unconfirmed Minutes of the Conservation Advisory Committee Meeting held on 26 May 2004 are submitted for noting by Council.

EXECUTIVE SUMMARY

The Conservation Advisory Committee meeting held on 26 May 2004 discussed a range of conservation matters within the City of Joondalup. The Committee discussed issues including the City's Bio-diversity strategy and the application of the herbicide Fusilade in Council's bushland reserves. A presentation was also made to the Committee by Regional Coordinator, North-East Catchment Committee, Linda Taman.

It is recommended that the Joint Commissioners NOTE the unconfirmed Minutes of the Conservation Advisory Committee held on 26 May 2004.

BACKGROUND

The Conservation Advisory Committee is a Council Committee, which advises Council on matters pertaining to conservation and nature areas management.

The Committee comprises representatives of bushland friends groups, community members with specialist knowledge of natural resource management. The Committee meets on a monthly basis.

DETAILS

A meeting of the Conservation Advisory Committee was held on 26 May 2004 and the minutes of this meeting are provided as Attachment 1. The following matters were considered:

- The City of Joondalup's Bio-diversity Strategy.
- A presentation by Linda Taman, Regional Coordinator, North-East Catchment Committee.
- The application of the herbicide Fusilade in the City's Bushland reserves this winter.

An overview was given to the Committee on the progress of the formulation of the City's Bio-diversity Strategy. Work has been undertaken to produce a desktop assessment and undertake field research to ascertain the condition of the native vegetation contained within the City's reserves and on private landholdings within the City of Joondalup. Work on the City's reserves has been completed.

An address was also given to the Committee members on the current status of the recently released Swan Region Strategy that was compiled by the Swan Catchment Council. An overview was also given on grant opportunities available to Local Government Officer's and community groups involved in natural resource management on the Swan Coastal Plain.

The Committee also discussed the application of the selective herbicide Fusilade and its effectiveness. It was highlighted that the City is formulating a tender that will encompass all tasks associated with natural area preservation works which will reduce the reliance on the current weed spraying program.

COMMENT

It is recommended that the Joint Commissioners note the unconfirmed minutes of the Conservation Advisory Committee held in May 2004.

ATTACHMENTS

Attachment 1 Conservation Advisory Committee Minutes 26 May 2004

VOTING REQUIREMENTS

Simple Majority

MOVED Cmr Anderson, SECONDED Cmr Clough that the Joint Commissioners NOTE the unconfirmed Minutes of the Conservation Advisory Committee held on 26 May 2004 forming Attachment 1 to Report CJ147-06/04.

The Motion was Put and CARRIED UNANIMOUSLY (4/0)

Appendix 7 refers

To access this attachment on electronic document, click here: Attach7brf220604.pdf

CJ148 - 06/04 PROPOSED AMENDMENT TO SERVICE AGREEMENT – SUPPLY OF DOMESTIC REFUSE COLLECTION SERVICE – [48118]

WARD - All

CJ040622_BRF.DOC:ITEM 15

PURPOSE

To seek the approval of the Joint Commissioners to amend the current term notification date from 30 June 2004 to 30 December 2004 for the existing Service Agreement, executed between the Cities of Wanneroo and the Joondalup, for the Supply of Domestic Refuse Collection Services.

EXECUTIVE SUMMARY

As a result of the establishment of two new local authorities on 1 July 1998, an independent review was undertaken for use as a guide in determining the most appropriate service delivery method for the provision of major operational services.

Provision of Waste Management Services was included in this review. The review concluded it would be appropriate for the City of Wanneroo to continue to provide these particular services to the City of Joondalup.

On 26 October 1999 the Joint Commissioners item CJ373-10/99 resolved to:

1 *AGREE to the terms and conditions contained within the Service Level Agreements as laid on the table for the meeting of Joint Commissioners to be held on 26 October 1999 (attached hereto in the minute book):*

(a) supply of domestic refuse collection services

(b) supply of kerbside recycling services

(c) supply of bulk refuse collection services

(d) access to Badgerup Road refuse site for weekend greenwaste tipping

2 *AUTHORISE the Chairman of Commissioners and Chief Executive Officer to execute under Common Seal each Service Level Agreement mentioned in Point 1 above.*

The term of the Service Agreement for the Supply of Domestic Refuse Collection Services is for a six year term commencing on 1 December 1999 and expiring on 30 June 2005, with the option of a six-year extension.

Under the terms of the Service Agreement Clause 2 'Term', sub Clause 2.2 'Option' it states:

'The service agreement for the collection of domestic refuse is a 6 year contract expiring 30 June 2005 with provision for a 6-year extension.

The Service Provider offers a renewal of this Agreement to the Customer for the Extended Term on the terms specified in this clause which the Customer may accept strictly in accordance with the provision of this clause, other wise the offer shall lapse.

The Customer may only accept this offer and exercise the option if:

(a) the customer shall serve on the Service provider notice of exercise of this option no later than 12 calendar months before the date of expiry of the Term'.

It is recommended that the Joint Commissioners APPROVE a variation to the Service Agreement for the Supply of Domestic Refuse Collection Services under clause 2.2(2)(a), amending the current term notification date from 30 June 2004 to 30 December 2004.

BACKGROUND

As a part of the split from the former City of Wanneroo, some services were fully assigned to one of the new Councils to retain economies of scale for all of the residents of the two new municipalities. All of the waste services were assigned to the former City of Wanneroo as it had the works depot at Ashby. Service Agreements were set up to provide a formal legal basis predominantly for the service provision and associated payments.

The Cities are currently negotiating the terms and conditions for an extended term for the Service Agreement but have not come to a satisfactory conclusion. If the City wishes to extend the Service Agreement it is required to notify the City of Wanneroo 12 months before the expiry of the Agreement. The notification date is 30 June 2004.

The extended term for the Service Agreement will be impacted by the future collection formats that will service the proposed Resource Recovery Facility at Neerabup.

Strategic Implications:

The City's current waste management strategy consists of an interim and long term strategy.

The long term strategy is dependant on the Regional Resource Recovery Facility which will determine the preferred regional collection service format as part of its Regional Waste Management Plan currently being reviewed. Following this the City can then give consideration to its preferred collection formats.

In the interim the City continues to provide a compulsory bag kerbside recycling service and a user pay voluntary recycling cart service for those who wish to have a recycling cart.

It is essential that any consideration given to the Service Level Agreement extension must take into account the future directions of the Resource Recovery Facility as it relates to collection formats, and subsequent impacts upon the City's contractual arrangements pertaining to its domestic and recycling collection services.

DETAILS

The City of Joondalup's Officers have expressed an interest to the City of Wanneroo in extending the contract, subject to further negotiations. Subject to the terms of the Service Agreement, the City of Joondalup must provide to the City of Wanneroo, 12 calendar months notice before the expiry of the current term, of its intention to extend the Service Agreement. At this stage negotiations will not be completed between the parties by the notification date, 30 June 2004.

The City of Joondalup has written to the City of Wanneroo proposing a variation of the Service Agreement under Clause 2.2 (2) (a), to the current term notification date.

Under the terms of the Service Agreement Clause 8.2 (c) 'Entire agreement and variation', the terms of the Service Agreement state: 'This Agreement: may only be amended in writing signed by both parties'

The negotiations will include, aligning the recycling cart and domestic recycling contracts, rates for the domestic and recycle services and bin maintenance and delivery rate, as well as the terms and conditions of the existing Service Agreement.

COMMENT

The City is considering the format of its rubbish collection in conjunction with the scheduled opening in December 2006 of the Mindarie Regional Council's Resource Recovery Facility. The City is considering a number of options and acknowledges there are significant savings from moving to a one bin recycling system, however, a portion of the City's residents are known to prefer kerbside separation (yellow lid) recycling cart, even if they need to pay extra. The options that can be considered include the retention of the current user pays voluntary recycling cart service, the introduction of a compulsory recycling cart to all properties or the provision of a one bin collection service similar to that provided by the City of Stirling.

The City's preference is for one provider for its collection services. There are economies of scale to be gained in its operations and management of this preference.

The proposed contract variation will provide additional time for the negotiations and issues to be resolved. These negotiations are complex and require undertakings to be given during the negotiations. The discussions will include, aligning the recycling cart and domestic recycling contracts, rates for the domestic and recycle services, bin maintenance and delivery rate, as well as the terms and conditions of the existing Service Agreement.

ATTACHMENTS

Nil

VOTING REQUIREMENTS

Simple Majority

MOVED Cmr Smith, SECONDED Cmr Anderson that the Joint Commissioners APPROVE a variation to the Service Agreement for the Supply of Domestic Refuse Collection Services under clause 2.2(2)(a), amending the current term notification date from 30 June 2004 to 30 December 2004.

The Motion was Put and **CARRIED UNANIMOUSLY (4/0)**

CJ149 - 06/04 SINGLE HOUSE (RETROSPECTIVE APPROVAL FOR PATIO WITHIN FRONT AND SECONDARY STREET SETBACK VARIATIONS): LOT 161 (25) LONG REEF PLACE HILLARYS – [47391]

WARD - Whitfords

CJ040622_BRF.DOC:ITEM 16

PURPOSE

The purpose of the report is to request the Joint Commissioners' determination of an application for the retrospective approval of a patio, which does not comply with the provisions of the Residential Design Codes (R-Codes).

EXECUTIVE SUMMARY

An application was received on 27 August 2003, for the retrospective approval of a patio to the front boundary and secondary street of an existing corner lot. The Joint Commissioners at the Meeting of 17 February 2004 considered the application. The application was deferred, pending liaison between officers and the applicant regarding any improvements that could be made to the structure to alleviate concerns in respect to reducing the negative visual impact of the structure.

The City's Officers have since informed the applicant of the Commissioners' resolution via letter and met the applicant on-site. The applicant has submitted a landscaping plan to attempt to ameliorate amenity concerns.

The subject site is flat and is bounded by Long Reef Place and Founders Lane, however also fronts onto Whitfords Avenue, which runs parallel to Founders Lane. The patio has been erected to the front boundary and corner truncation of the lot, by extending a previously approved front wall to support it.

Initially the application was advertised to the surrounding landowners and no objections were received. The application was referred to the City's delegated authority meeting on 16 October 2003 with a recommendation of refusal, however, is now referred to Council as no determination was reached at that meeting. The applicant does not propose to modify the structure and therefore the application has not been re-advertised.

The locality is not characterised by development with nil setbacks to the front or secondary street boundaries and it is therefore considered that the visual impact of the patio would be detrimental to the streetscape.

The application has been assessed according to the performance standards of the R-Codes and is recommended for refusal due to its negative impact upon the streetscape. Furthermore, it is recommended that the owners be requested to remove the structure within 30 days of the date of the Council's decision.

BACKGROUND

Suburb/Location:	Long Reef Place, Hillarys
Applicant:	JC James
Owner:	JC James
Zoning:	DPS2: Residential R20
	MRS: Urban

The location of this site is shown in Attachment 1 and the details of the structure are shown in Attachment 2. The site is currently developed with a two storey dwelling. The owner wishes the City to consider leaving the patio in its current location to provide roof cover and privacy to the front area of the lot, which is occupied by a swimming pool.

The Joint Commissioners considered a report on the subject matter at the meeting on 17 February 2004, and it was resolved:

"MOVED Cmr Smith, SECONDED Cmr Fox that the applicant be ADVISED that the Joint Commissioners have a mind to REFUSE the application submitted by JC James, the applicant and owner, for retrospective approval of a patio to the existing dwelling on Lot 161 (25) Long Reef Place, Hillarys, for the following reasons:

1 the proposal would be contrary to the proper and orderly planning of the locality;
2 the building exceeds the City's Policy 3.1.9 Height and Scale within a residential area;
3 the proposal is uncharacteristic for the locality, and the nil setback with the street setback area is likely to have a negative visual impact on the area;
4 the development does not comply with clause 3.2.1 of the Residential Design Codes 2002 in terms of front and secondary street setback requirements.

but that consideration of the matter be DEFERRED for one month to allow the applicant and officers to liaise on any improvements that could be made to the structure to alleviate concerns in respect to Point 3 of the Officer's Recommendation."

The City's Officers have informed the applicant of the Commissioners' resolution via letter and met with the applicant on-site. The applicant has submitted a landscaping plan to attempt to ameliorate amenity concerns.

DETAILS

The proposal is for the retrospective approval of a patio, which was erected without approval of the City. The patio has been installed to the front part and corner truncation of the corner lot. The patio has a frontage onto Founders Lane of 4.9 metres in length and 6.6 metres in length to the corner of Founders Lane and Long Reef Place. It is 2.7 metres wide and has a total height of 2.8 metres.

The patio has been installed on top of a previously approved front fence, which has been raised in height to support the unauthorised patio.

Statutory Provision:

District Town Planning Scheme No.2:

Clause 6.6.2 of DPS2 requires that the Council, in exercising its discretion to approve or refuse an application, has regard to the provisions of Clause 6.8 as follows:

6.8 Matters to be considered by Council

6.8.1 The Council when considering an application for Planning Approval shall have due regard to the following:

(a) interests of orderly and proper planning and the preservation of the amenity of the relevant locality;
(b) any relevant submissions by the applicant;
(c) any agreed Structure Plan prepared under the provisions of Part 9 of the Scheme;
(d) any planning policy of the Council adopted under the provisions of clause 8.11;
(e) any other matter for which, under the provisions of the Scheme, the Council is required to have due regard;
(f) any policy of the Commission or its predecessors or successors or any planning policy adopted by the Government of the State of Western Australia;
(g) any relevant proposed new town planning scheme of the Council or amendment or proposed Metropolitan Region Scheme Amendment insofar as they can be regarded as seriously entertained planning proposals;
(h) the comments or wishes of any public or municipal authority received as part of the submission process;
(i) the comments or wishes of any objectors to or supporters of the application;
(j) any previous decision made by the Council in circumstances which are sufficiently similar for the previous decision to be relevant as a precedent, provided that the Council shall not be bound by such precedent; and
(k) any other matter which in the opinion of the Council is relevant.

Residential Design Codes 2002 (R Codes)

Developments that are in compliance with the acceptable development provisions of the R Codes do not require planning approval or the exercise of discretion. When a development varies from the acceptable development provisions of the R-Codes, the variations can be considered pursuant to the 'performance criteria'. Clause 2.3.4 of the R-Codes permits Council to vary the provisions of the Codes if it is determined that the variations comply with the 'performance criteria' of the R-Codes. The intent of the relevant 'performance criteria' of the R-Codes is to make sure that buildings are setback appropriate distances from boundaries to ensure they contribute to the desired streetscape and minimise the impacts to adjoining landowners.

Development Standards under R-Codes 2002

R-Code Standard	Acceptable Development Standard	Provided
Front Setback	6 metres, 3 metre minimum	Nil
Secondary street setback (corner truncation)	1.5 metres	Nil

The application requires the following discretion to the development standards:

1 Front setback of the patio at nil in lieu of 6.0 metres and 3 metre minimum;
2 The side (secondary street) setback of the patio at nil in lieu of 1.5 metres; and

Applicant's Justification

The applicant has stated that (in his opinion) the addition is complementary to the existing dwelling in terms of visual appearance, materials and colours, and that it consists of a very high standard of construction. The applicant has also outlined that the patio is in keeping with the style of the dwelling and that it forms part of a pre-existing fence. The applicant has provided landscaping and reticulation on the verge at his expense to improve the look of the dwelling from the streetscape. The patio would provide additional shelter and privacy.

As previously noted, the applicant has submitted a landscaping plan to assist in ameliorating the impact of the development on the streetscape. This was in response to point three of the previous Officer recommendation.

Consultation:

The initial proposal was advertised to nearby landowners for a period of 14 days. The advertising extended to the property owners adjoining and adjacent the subject lot.

Submission	Technical Comment
One letter of no objection received	Noted.

COMMENT

The amount of discretion requested is considered significant in light of the potential impact on the streetscape in this location.

The unauthorised structure is clearly visible from the street and is considered not to contribute to the desired streetscape of the area, being generally open in nature. This is supported by the intent of the R20 coding of the site, which provides for low-density residential development and comparatively large setbacks between the dwelling and the street. If the development was contained within a higher density coded area, for instance an R40 zone where the front setback average is four metres, the development may be considered more favourably due to the general acceptance of increased building bulk and scale and its effect on the streetscape.
The location of the development on the truncation between the front and secondary streets emphasises the development impact on the streetscape, as it is clearly visible to passing vehicular and pedestrian traffic. This will not enhance the local or neighbourhood character. This is especially important within established residential areas and is an important aim of the R Codes.

According to the R Codes:

> *'As a generalisation, the street setback area should be open, enabling a clear view of the building from the street, and vice versa.'*

The street setback provides an area of transition between the public/private realms and provides an attractive landscaped setting for the dwelling. An open setback area also provides for casual surveillance of the street. The development, coupled with the existing fence, reduces surveillance on the street level especially from the primary street.

It was noted in the previous report that the patio exceeds the building height under Policy 3.1.9, which provides guidance for the height and scale of buildings. However, a review of the proposal indicates that given the patio is single storey, there is no significant impact on the height or bulk, it is not considered that the development is contrary to the objectives of the Policy.

The applicant has submitted a landscaping plan in attempt to ameliorate any negative impact on the streetscape. The use of vegetation to attempt to screen the development has been assessed, however, is not considered to effectively reduce the impact of the development on the streetscape, nor does it provide justification to approve the development in accordance with the performance standards of the R Codes. Vegetation used as screening can be removed, damaged or destroyed and thus is undesirable in this sense. Transfer of ownership of the property could also be problematic.

Having taken into consideration the interests of the locality, streetscape issues, objectives of the R Codes, DPS2 and the statement by the applicant, it is recommended that the application be refused. The structure is located in the exact position where development standards are designed to prohibit building in order to maintain the streetscape and as such it is not appropriate in this location. If refused, the unauthorised structure is required to be removed within 30 days of the notification to the applicant.

Whilst no objections were received in regard to the proposal this does not in itself provide justification for the proposal to be approved or refused. Neighbour consultation is not a referendum to determine whether the City should or should not support a particular application. Moreover, the City is not constrained by the contents of submissions when considering an application. The application should be assessed on its planning merit, and in this case the proposal cannot demonstrate compliance with the performance criteria of the R Codes.

If the Joint Commissioners resolve to adopt the officer's recommendation, there is a right of appeal to the Town Planning Appeals Tribunal.

ATTACHMENTS

Attachment 1	Location Plan
Attachment 2	Plans of Proposal
Attachment 3	Landscaping Plan

VOTING REQUIREMENTS

Simply Majority

OFFICER'S RECOMMENDATION: That the Joint Commissioners:

1 REFUSE the retrospective development application submitted by JC James, the applicant and owner, for retrospective approval of a patio to the existing dwelling on Lot 161 (25) Long Reef Place, Hillarys, for the following reasons:

(a) The development would be contrary to the proper and orderly planning of the locality;

(b) The development is uncharacteristic for the locality and the nil setbacks have a negative visual impact on the area;

(c) The development does not comply with clause 3.2.1 of the Residential Design Codes 2002 in terms of front and secondary street setback requirements;

(d) Approval of the development under the 'performance criteria' of the Residential Design Codes would compromise the intended R20 density code, setback requirements and objective of the Residential Design Codes;

(e) Approval of the development would be contrary to District Planning Scheme No 2;

2 ADVISE the applicant that all unauthorised structures are to be removed within 30 days of the date of this decision. Furthermore, the applicant is advised that the structure could be replaced by shade sails, subject to the approval of a building licence from the City.

MOVED Cmr Paterson, SECONDED Cmr Clough that the Joint Commissioners:

1 DETERMINE that the development complies with Performance Criteria of 3.2.1 and of the Residential Design Codes and that a front setback of nil in lieu of 6.0 metres and a 3.0 metre minimum, and a secondary street setback of nil in lieu of 1.5 metres are appropriate in this instance;

2 APPROVE the development application submitted by JC James, the applicant and owner, for retrospective approval of a patio to the existing dwelling on Lot 161 (25) Long Reef Place, Hillarys.

Cmr Paterson gave the following reasons for his departure from the Officer's Recommendation:

The proposal:

1 will not adversely affect the amenity of the area;
2 does not detract from the prevailing building form in the area, and
3 will be substantially screened from the view of the adjoining land by virtue of the landscaping that is proposed.

Discussion ensued.

The Motion was Put and TIED (2/2)

There being an equal number of votes, the Chairman exercised his casting vote and declared the Motion CARRIED

In favour of the Motion: Cmrs Paterson and Clough **Against the Motion:** Cmrs Smith and Anderson

Appendix 8 refers

To access this attachment on electronic document, click here: Attach8brf220604.pdf

CJ150 - 06/04 PROPOSED MIXED USE DEVELOPMENT (13 COMMERCIAL AND 137 RESIDENTIAL UNITS) LOTS 1, 2, 3 & 6 MOLLOY PROMENADE, LOTS 4 & 72 WALSH LOOP AND LOTS 7-11 CORNELL PARADE/DEAKIN GATE) AND THE RIGHT OF WAY BETWEEN MOLLOY PROMENADE AND WALSH LOOP, JOONDALUP – [10532]

WARD - All

CJ040622_BRF.DOC:ITEM 17

PURPOSE

The proposed mixed use development is referred to the Joint Commissioners for determination due to its size and the significance of this proposal as a landmark development within the City Centre.

EXECUTIVE SUMMARY

The proposal is for the construction of ten (10) buildings, which together make up three (3) 'villages'. Overall the proposal comprises 1573.9m^2 of commercial space and one hundred and thirty seven (137) dwellings (including thirty-three (33) single bedroom dwellings and five (5) grouped dwellings). The proposed heights of the buildings range from 2 storeys to 7 storeys.

The proposal requires the amalgamation of two (2) lots to form Village 1, four (4) lots and a right of way to form Village 2, and five (5) lots to form Village 3.

Each village is designed to accommodate a mixed use development, although the predominant use in Village 1 and 2 is residential. In Village 3 the proportion between the residential and non-residential component is approximately equal.

The proposal represents a significant development for the City Centre. It is a landmark development that will serve to strengthen the character of the Campus District within the City Centre and provide a visual gateway to the City. The site is ideally located in terms of its proximity to all the facilities available in the City, in particular the existing educational facilities.

The density, height and urban form of the development will create urban spaces with active frontages to all street and serves to create an urban area that is compatible with the overall City Centre environment.

Discretion is sought under the City's District Planning Scheme 2 (DPS2) and the Residential Planning Codes (R-Codes) in regard to car parking standards and under the R-Codes in regards to minimum balcony dimensions.

The proposal includes a provision for reciprocal car parking between the villages and an overall shortfall of 12 car bays. The applicant has requested to pay cash-in-lieu for the car parking shortfall.

Traffic, pedestrian movements, aesthetic design and landscaping are considered to have been suitably addressed by the design proposal.

Given the prominence of the development on the corner of two major approach routes into the City, its contribution to the character of the City Centre area and the diverse type of residential and commercial accommodation provided, the proposed development is supported.

BACKGROUND

At the meeting of Council on 8 June 2004, it was resolved as follows:

> *"MOVED Cmr Anderson, SECONDED Cmr Smith that consideration of Proposed Mixed Use Development (13 Commercial and 137 Residential Units) Lots 1, 2, 3 and 6 Molloy Promenade, Lots 4 and 72 Walsh Loop and Lots 7-11 Cornell parade/Deakin Gate and the right of way between Molloy Promenade and Walsh Loop, Joondalup be DEFERRED."*

Suburb/Location:		Lot 1,2,3 & 6 Molloy Promenade, Lot 4 & 72 Walsh Loop and Lots 7-11 Cornell Parade/Deakin Gate and the Right of Way between Molloy Promenade and Walsh Loop, Joondalup
Applicant:		Proven Joondalup Pty Ltd
Owner:		Proven Joondalup Pty Ltd
Zoning:	**DPS:**	Centre
	MRS:	Central City Area

The subject lots are in a prominent location at the southern corner of the Joondalup City Centre. The area is on the northern side of the intersection of Lakeside Drive and Joondalup Drive, which are both major access routes into the City. As such the sites serve as the southern gateway to the City.

The lots (all currently vacant) fall within the 'Campus District' within the Joondalup City Centre, where they are earmarked to be used for mixed use/residential. The preferred uses are residential (mandatory) retail, office, entertainment, restaurant/café, medical suites, accommodation, community facilities and recreation.

Eleven (11) lots are affected by the proposal and the total development area is 11189m^2. The application for the closure of a Right of Way and the amalgamation of the 11 lots and the Right of Way to allow for the three land parcels to be created, has been lodged with the Western Australian Planning Commission (WAPC) and is currently being processed.

DETAILS

The proposed development includes the following features:

- Combined development of 10 buildings (demarcated as block A-J on the plans) grouped into 3 Villages on the basis of three 'street blocks'.

- Height of buildings varying from 2 storeys (Village 3) to 6 and 7 storeys (Village 1 and 2)
- One hundred and thirty seven (137) residential dwellings and 1579m^2 of commercial space, distributed amongst the Villages.
- The total number of car parking bays provided is 178.
- Villages 1 and 2 include an undercroft level that accommodates car parking, most stores and services.
- Parking for Village 3 is provided at ground level, with some bays undercover. Each unit has its own store on the upper level.
- Service access is provided for all commercial units.
- The upper level residential units in Village 1 & 2 are accessed via a lift located in a central location of each building.
- The residential and commercial units in Village 3 address both Walsh Loop and Deakin Gate with access being provided from both streets.
- Various open spaces and communal areas are created as part of the design.
- Commercial tenancy frontages include pedestrian shelter in the form of colonnades and awnings that extend over the road reserve.
- Amalgamation of Lots 1 and 2 to form Village 1, Lots 3,4,6,72 and the Right of Way to form Village 2, and Lots 7-11 to form Village 3.

The table below summarises the development details for each village:

	Village 1 **Total area: 3337m2**	**Village 2** **Total area: 6028m2**	**Village 3** **Total area:1824m2**	**TOTAL** **11189m2**
Number of Buildings proposed	4 (Blocks A- D)	5 (Blocks E – I)	1 (Block J)	
Height in storeys (ground floor counted as storey)	A: 6 plus undercroft B: 7 plus undercroft C: 7 plus undercroft D: 6 plus undercroft	E: 7 F: 7 G: 6 plus undercroft H: 6 plus undercroft I: 6 plus undercroft	J: 2	
Number of residential dwellings	Block A 12 x3 Bed Block B 5 x 1 Bed 11 x 3Bed 1 x Penthouse Block C 5 x 1 Bed 10 x 3 Bed 1 x Penthouse Block D 10 x 3 Bed Sub total: 55 Dwellings	Block E 5 x 1 bed 1 x 2 bed 11 x 3 bed 1 x Penthouse Block F – 5 x 1 bed 1 x 2 bed 11 x 3 bed 1 x Penthouse Block G - 4 x 1 bed 9 x 3 bed 1 x Penthouse Block H 4 x 1 bed 8 x 3 bed 1 x Penthouse Block I – 4 x 1 bed 9 x 3 bed 1 x Penthouse Subtotal: 77 Dwellings	Block J: 1 x 1 bed 3 x 3 bed 1 x 4 bed Subtotal 5 Dwellings	137 dwellings
No of storerooms	55	77	5	

	Village 1 **Total area: 3337m2**	**Village 2** **Total area: 6028m2**	**Village 3** **Total area:1824m2**	**TOTAL** **11189m2**
Areas for plot ratio calculations for residential component	Block A 1584 m^2 Block B 2008.7m^2 Block C 1880m^2 Block D 1320.5m^2 Subtotal: 6792.7m^2	Block E 2190.3m^2 Block F 2195.7m^2 Block G 1693m^2 Block H 1562m^2 Block I 1693m^2 Subtotal: 9334m^2	Block J: 875.55m^2 Subtotal: 875.55m^2	 17002.25m^2
Residential Plot ratio	2.03	1.54	0.47	
Density Coding (where a 1 bedroom unit = 0.6666 of a multiple bed unit)	R156	R116	R25	R113
Number and area of commercial units	Block B: Complex manager's office = 49m^2 Block C: 2 units = 189m^2 **Subtotal: 238m^2** **(2 tenancies)**	Block G: 80m^2 211m^2 50m^2 54m^2 Alfresco 5m^2ATM Block H 106 m^2 78m^2 Block I 116m^2 66m^2 42m2 alfresco **Subtotal: 808m^2** **(6 tenancies)**	Block J 75m^2 72m^2 74m^2 69m^2 225m^2 - (Ground & upper level) 24m^2alfreso **Sub total:** **527.6**m^2 **(5 tenancies)**	1460m2 plus 120m^2 of alfresco
Commercial plot ratio	0.071	0.13	0.29	
Additional facilities	Block D Recreation rooms			

Statutory Provision:

Development within this area is controlled by the provisions of the DPS2 the Joondalup City Centre Development Plan and Manual (JCCDPM) (Campus District), and the R-Codes.

District Planning Scheme No 2 (DPS2)

The site is zoned "Centre" under DPS2 and is subject to the Campus District Structure Plan.

In regard to the force and effect of a structure plan Clause 9.8.2 (a) and Clause 9.8.3 (f) of DPS2 state:

"9.8.2 Where an Agreed Structure Plan imposes a classification on the land included in it by reference to reserves, zones (including Special Use Zones) or Residential Density Codes, until it is replaced by an amendment to the scheme imposing such classifications:

(a) the provision of the Agreed Structure Plan shall apply to the land within it as if its provisions were incorporated in this Scheme and it shall be binding and enforceable in the same way as corresponding provisions incorporated in the Scheme;…"

"9.8.3 Without limiting the generality of the preceding subclause, under an Agreed Structure Plan:

(f) an other provisions, standard, or requirements in the Structure Plan shall be given the same force and effect as if it was a provision standard or requirement of this Scheme, but in the event of there being any inconsistency or conflict between any provision, requirements or standard of the Scheme and any provision requirement or standard of the an Agreed Structure Plan, the provision requirement or standard of the Scheme shall prevail.

When determining an application clause 6.8 of the DPS2 applies as follows:

6.8 Matters to be Considered by Council

6.8.1 The Council when considering an application for Planning Approval shall have due regard to the following:

(a) interests of orderly and proper planning and the preservation of the amenity of the relevant locality;
(b) any relevant submissions by the applicant;
(c) any Agreed Structure Plan prepared under the provisions of Part 9 of the Scheme;
(d) any planning policy of the Council adopted under the provisions of clause 8.11;
(e) any other matter which under the provisions of the Scheme, the Council is required to have due regard;
(f) any policy of the Commission or its predecessors or successors or any planning policy adopted by the Government of the State of Western Australia;
(g) any relevant proposed new town planning scheme of the Council or amendment or proposed Metropolitan Region Scheme Amendment insofar as they can be regarded as seriously entertained planning proposals;

(h) the comments or wishes of any public or municipal authority received as part of the submission process;
(i) the comments or wishes of any objectors to or supporters of the application;
(j) any previous decision made by the Council in circumstances which are Sufficiently similar for the previous decision to be relevant as a precedent, provided that the Council shall not be bound by such precedent; and
(k) any other matter which in the opinion of the Council is relevant.

Clause 4.3.1 of DPS2 makes special provision allowing the Council to vary certain standards of the R-codes for residential development in a mixed use development:

4.3 Special Application of Residential Planning Codes

4.3.1 Where residential development is proposed to be mixed with non-residential development, Council may vary any provision of the Codes with the exception of the minimum area of lot per dwelling prescribed in Column 3, Table 1 of the Codes.

Before exercising its powers of discretion Council may require that a proposal be advertised and plans made available for public inspection in accordance with the procedures laid down in clause 6.7.

Clause 4.8 of DPS2 allows the City to consider appropriate car parking standards for all types of developments within the City as follows:

4.8 Car Parking Standards

4.8.1 The design of off-street parking areas including parking for disabled shall be in accordance with Australian Standards AS 2890.1 or AS 2890.2 as amended from time to time. Car parking areas shall be constructed and maintained to the satisfaction of the Council.

The number of on-site car parking bays to be provided for specified development shall be in accordance with Table 2. Where development is not specified in Table 2 the Council shall determine the parking standard. The Council may also determine that a general car parking standard shall apply irrespective of the development proposed in cases where it considers this to be appropriate.

Clause 4.11.2, 4.11.3 and 4.11.4 of DPS2 allow Council to accept the payment of cash in lieu of the provision of on-site parking. The clauses are as follows:

4.11.2 Council may accept a cash payment in lieu of the provisions of any required land for parking subject to being satisfied that there is adequate provision for car parking or a reasonable expectation in the immediate future that there will be adequate provision for public car parking in the proximity of the proposed development.

4.11.3 The cash payment shall be calculated having regard to the estimated cost of construction of the parking area or areas suitable for the proposed development and includes the value, as estimated by the Council, of that area of land which would have had to be provided to meet the car parking requirements specified by the Scheme. The cash payment may be discounted and may be payable in such manner as the council shall from time to time determine.

4.11.4 Any cash payment received by the Council pursuant to this clause shall be paid into appropriate funds to be used to provide public car parks in the localities deemed appropriate by Council."

In the City Centre the current rate is $8,100 per bay.

Clause 4.9 of DPS2 allows approval of reciprocal car parking arrangement with neighbouring properties as follows:

"If the Council approves car parking and pedestrian access on neighbouring premises in a manner which relies on the reciprocal movement of vehicles and pedestrians between or across the premises, the owners concerned shall allow the necessary reciprocal access and parking at all times to the Council's satisfaction."

Joondalup City Centre Development Plan and Manual - Campus District

The subject lots are earmarked for Mixed Use/Residential under the Structure Plan.

The following provisions of the Structure Plan apply to Mixed Use/Residential:

"3.2 Mixed Use/Residential

For residential purposes building should, as far as practical, comply with the R60 provisions for Multiple Dwellings under the Residential Design Codes. For other preferred uses, generally a plot ratio of 0.5 will apply. Council may approve a higher plot ratio and density for buildings of land mark qualities.

4.0 Car Parking

Car parking for residential development to be provided in accordance with the Residential Planning Codes.

5.2 Mixed use Setback/Residential

Front
- *0m setback preferred*

Side and Rear
- *0m setback preferred or in accordance with the Residential Planning Codes*

5.3 Building Height

Residential/Mixed use and Institutional Uses – maximum two storeys. Council may approve a building in excess of two storeys for buildings of considerable landmark quality.

Residential Design Codes (R-Codes)

The provisions of the R-Codes apply in regard to all residential development.

Clause 2.3.4 of the R-Codes allows for the exercise of discretion, which shall be exercised having regard to the clause 2.3.4 (2) of the R-Codes as follows:

"2.3.4 (2) Discretion shall be exercised having regard to the following considerations:

(i) the stated purpose and aims of the Scheme;
(ii) the provisions of Parts 2,3 and 4 of the Codes as appropriate;
(iii) the Performance Criterion of Criteria in the contest of the R-Coding for the locality that correspond to the relevant provision;
(iv) the explanatory text of the Codes that corresponds to the relevant provision;
(v) any Local Planning Strategy incorporated into the Scheme;
(vi) the provision of a Local Planning Policy pursuant the Codes and complying with sub-clause (5) below; and
(vii) orderly and proper planning.

Consultation

Although there is no compulsory requirement to advertise the proposed development, the proposal was advertised for public comment for a twenty-eight (28) day period, commencing on 9 January 2004.

Two signs advising the public of the proposed development and inviting comment were erected in prominent locations on the development site. Within the three-week comment period, only one submission was received. That submission was received from ECU supporting the proposal.

Strategic Implications

ECU's student population is projected to increase from the current level of 8000 persons to 20,000 persons by 2020. This will result in an increase in demand for accommodation and other services in close proximity to the existing educational establishments.

It is likely that this mixed use development proposal will contribute to meeting the projected demand for housing as well as provide key facilities to assist in meeting the needs of the nearby student population.

It is considered that the proposal is in line with many objectives of the City's Strategic Plan, including the areas of Community Wellbeing and City Development.

COMMENT

General

The subject sites form a unique parcel of land. Located to one side of the Campus District, it has the potential to develop a character of its own, while its prominent location as the southern gateway to the City Centre lends this area to be developed as a landmark.

Its close proximity to the existing educational establishments of ECU, TAFE and the Police Academy render these lots ideal to providing accommodation and facilities for the student population. With Lakeside Drive and Joondalup Drive providing a buffer between this land and surrounding residential land, the impact of this development on any of the adjacent residential areas is likely to be minimal.

Urban Design

The proposal is designed to provide a landmark feature when viewed from Lakeside Drive and Joondalup Drive.

Internally, the basis of the design is a ring of buildings on each of the three land parcels, located along the edges of these land parcels. "L" shaped buildings articulate the respective corners while all buildings address the adjacent streets either by way of access from the street and/or the location of balconies which overlook the public street. Except for blocks A and D, which are accessed internally from the undercroft car parking area, access to all other residential and commercial units is provided from the internal public road system.

All commercial space is located at the street level. Village 3 effectively forms an activity node in the area, while the commercial areas in Villages 1 and 2 serve to interface with the public open space that is a part of this land parcel and strengthen Molloy Promenade that is intended as a link between this development and the university campus. By ensuring that buildings address Cornell Parade, the design establishes a relationship between this development and the ECU campus.

Throughout the development highlighted entrance foyers, active shop fronts with alfresco dining areas, a piazza style forecourt space, pedestrian shelter, street furniture, lighting and landscaping will ensure that activities are brought out onto the streets and will help to bring life into the public spaces of the built form. The street façades include the use of a variety of building materials and colours, which will add to the visual quality of the development.

Land use

As the proposal provides for both residential dwellings and commercial space, the proposed built form complies with the mixed use/residential land use for which the lots have been earmarked under the Structure Plan.

The proposal provides thirteen (13) commercial tenancies of a variety of sizes and configurations. In this form the commercial space is flexible enough to adequately accommodate the permitted uses under the Structure Plan being retail, office, entertainment, restaurant/café, medical suites and community facilities.

With a diverse mix of residential accommodation ranging from 1 to 4 bedroom dwellings and providing a total of 137 dwellings, the proposal also contributes to the range of housing stock available in the City.

Density

Villages 1 and 2 respectively propose fifty-five (55) and seventy-seven (77) multiple dwellings. Village 3 proposes five (5) grouped dwellings. These numbers include single bedroom units (10 for Village 1, 22 for Village 2 and 1 for Village 3) for which the R-Codes permit a density bonus.

Under the R-Codes, the density bonus is permitted for single bedroom dwellings that do not exceed $60m^2$ in plot ratio area. With the exception of one dwelling in Village 3, all single bedroom dwellings meet the $60m^2$ requirement. The one single bedroom dwelling in Village 3 is $102.53m^2$ in area, however, it is clearly suitable for only one or two people, and is therefore considered to meet the Performance Criteria of the R-Codes and can be considered a single bedroom dwelling.

Taking the density bonus into account the equivalent individual densities for Village 1, 2 and 3 are R156, R116 and R25.54 respectively. The density difference between the villages allows a built form that has landmark qualities while at the same time is compatible with the largely double storey residential lots to the north of the subject site.

According to the JCCDPM, a density coding of R60 applies to the land, with the provision that *"Council may approve of higher plot ratio and density for buildings of landmark qualities"*.

Although the development will technically be developed on 3 separate lots, it will effectively be viewed as one development and it is noted that the average equivalent density across the entire development is R113. This density is consistent with other approved developments within the City Centre.

The subject lots form a unique area in one section of the Campus District. Although the proposed density is higher than the R60 density generally applicable in the Campus District, the density of this development is considered to be appropriate given the unique character of this section of the Campus District.

From an overall city perspective, the subject lots are in a prominent location at the southern entry to the Joondalup City Centre. The proposed development, due to the height and scale of its buildings, maximises the landmark potential of this land, which is seen as highly desirable given the location.

Therefore, it is recommended that the Joint Commissioners determine that the proposed density is commensurate with the landmark status of the proposed development.

Plot Ratio

For the residential component, the JCCPDM requires that the development *"should, as far as practical, comply with the R60 provisions for Multiple Dwellings under the Residential Planning Codes",* however, *"Council may approve of higher plot ratio and density for buildings of landmark qualities."*

The R-Codes specify a plot ratio of 0.7 for multiple dwellings at the R60 density.

Only Village 3 with a residential plot ratio of 0.47 complies with this requirement, while Village 1 (plot ratio: 2.03) and Village 2 (plot ratio: 1.54) are greater than the standard plot ratio requirement.

As the subject land is appropriate to develop for landmark status, any proposal is likely to use height to achieve a landmark development and a plot ratio of 0.7 is counterproductive to this objective.

It is noted that the Campus District of the JCCDPM is the only mixed use district within the City Centre to stipulate a plot ratio requirement for residential development. All other mixed use precincts specifically exclude residential development from plot ratio provisions.

The plot ratio for commercial use complies with the requirements of 0.5 as specified under the structure plan.

The current plot ratios of the development are considered to be appropriate as they allow an intensity of built form expected on a landmark site in the City Centre.

It is therefore recommended that the Joint Commissioners determine that the proposed plot ratio is appropriate due to the landmark quality of the building.

Height

Under the JCCDPM, a height restriction of a maximum of 2 storeys applies with the provision that *"Council may approve a building in excess of two storeys for buildings of considerable landmark quality"*.

Of the ten buildings comprising the development, only the building in Village 3 is two storeys. All other nine buildings in Villages 1 and 2 are either 6 or 7 storeys high. The height differentiation between Villages 1, 2 and 3 enables the overall development to blend in with the remainder of the lots in the Campus District, which are limited to two storeys, while at the same time achieving the landmark status appropriate for the lots.

The height restrictions were included in the Structure Plan in order to control any potential adverse impact upon the streetscape. However, given that the proposal is being developed as a whole, it has been possible to provide a design whereby buildings are located such that any negative impact on adjoining buildings and spaces is minimized.

Furthermore given the unique location of these lots in relation to other residential land and within the City with Lakeside Drive and Joondalup Drive providing buffers, the height of the buildings are not considered to have a negative impact on surrounding properties.

To date, the maximum building height in the City is approximately 5 storeys, although higher developments have been approved however have not been constructed.

It is not considered that the height of the proposal will have any negative impact on the surrounding area. In fact, it is considered that the proposed height will provide an important landmark for the City Centre and contribute as a reference point to identify the City Centre. Therefore, it is recommended that the Joint Commissioners determine that the buildings in excess of two storeys in height are appropriate due to the considerable landmark quality of the development.

Setbacks

Under the JCCDPM, a 0m front setback is preferred, indicating that the desired outcome is the creation of strong urban spaces, with urban walls creating a strong presence to the street.

The setbacks proposed for the commercial tenancies vary from 400mm to 10.5m. All frontages to commercial tenancies in Villages 1 and 2 are characterised by canopies, many of which extend beyond the property boundary, while the public spaces that are created as a result of the larger front setbacks include colonnades, benches, planters and lighting, with an emphasis on pedestrian scale.

In Village 3, on-site car parking is provided alongside the entrances to the tenancies, while overhanging balconies from the upper level residential units provide shelter for the pedestrian path along the full frontage of the commercial tenancies.

Essentially the design promotes the interaction between the commercial tenancies and the adjoining public areas creating animated spaces at a human scale. The proposed setbacks to the public streets are therefore considered appropriate.

Car parking

The JCCDPM is currently silent on the car parking standards for the commercial land uses, although it prescribes that car parking for the residential component is required to be in accordance with the R-Codes.

Under the R-Codes, multiple dwellings require car parking at a rate of 0.35 bays per dwelling, plus 0.015 spaces per m^2 of plot ratio area, to a maximum of two spaces per dwelling. Single Bedroom dwellings require 1 bay per dwelling to be provided.

Based on the R-Codes standard each multiple bedroom dwelling is required to be provided with two car parking spaces.

This requirement is considered to be excessive given the location of the site within the City Centre, its proximity to the educational establishments it intends to serve, the availability of public transport, and the importance of sustainability principles. In this instance it is considered appropriate that car parking is assessed in accordance with the general car parking ratios that have been applied as a standard throughout the City Centre.

It is noted that at the meeting of the Joint Commissioners on 27 April 2004 (CJ089 –04/04) it was resolved to adopt certain modifications to the JCCDPM. These are currently being advertised for comment before final adoption and being referred to WAPC for certification.

Among these, the following car parking provisions are proposed to apply for a Residential/Mixed use development:

- Residential Mixed Use: 1 bay per 30m^2 net lettable area (Commercial) and 1 bay per dwelling

This standard has been applied consistently throughout the City.

Clause 4.8 of DPS2 provides that Council can determine car parking standards deemed to be appropriate to the use and area of a proposed development

It is therefore recommended that the Joint Commissioners exercise discretion under clause 4.8 of DPS 2 and the Clause 2.3.4 of the R-Codes and applies the above car parking standards. On this basis car parking is provided as follows:

	Parking Ratio that applies	**Number of Dwellings/ floorspace**	**Number of car bays required**	**Number of bays provided**	**Shortfall/ surplus**
Village 1					
Residential	1 bay per dwelling	55	55	55	Complies
Commercial	1 bay per 30m^2 NLA	238m^2	8	6	Shortfall of 2 bay
Subtotal				**61**	
Village 2					
Residential	1 bay per dwelling	77	77	77	Complies
Commercial	1 bay per 30m^2 of NLA	808m^2	27	16	Shortfall 11 bays
Subtotal				**93**	
Village 3					
Residential	1 per dwelling except unit J1-1 at 2 bays / dwelling *	5	6	5	Complies
Commercial	1 per 30m^{2}of NLA	527.6m^2	18	18	Surplus 1 bay
Subtotal				**24***	
TOTAL			**190**	**178***	

*car bays 1 & 2 on Village 3 count as only one bay due to the configuration of the double carport attached to unit J1-1.

From the above table it is noted that there is a shortfall of 12 commercial car parking bays, based on the assumption that there will be a reciprocal car parking arrangement between the Villages.

Clause 4.9 of DPS2 allows the City to approve reciprocal car parking. It is therefore recommended that any planning approval issued be subject to a condition requiring that the land be subject to reciprocal car parking agreements.

The applicant has requested that the shortfall in car parking be provided by payment of cash-in-lieu of parking. Council may consider accepting cash-in-lieu of car parking under the provisions of Clause 4.11 of DPS 2.

Cash-in-lieu has been accepted for developments throughout the City Centre in instances where the City's Parking Strategy provides for the provision of public parking in proximity of the development.

The City's Parking Strategy does not provide for a parking station in the Campus District. However, it has been identified that there is potential to provide some additional on-street car parking bays in the Walsh Street road reserve where it abuts the Lakeside Drive road reserve. A further 8 bays could potentially be accommodated in this location.

The cash-in-lieu payment would provide the funds to allow the City to construct the car bays in Walsh Street, should this be appropriate at some future time.

It is noted that the JCCDPM stipulates that visitor car parking is provided in the form of parking within the road reserve. There are currently approximately 28 existing on-street bays provided as embayments within the road reserves of Walsh Loop, Molloy Promenade and Cornell Parade. The provision of additional bays therefore would be in keeping with the area.

In addition, the car parking shortfall is less than 6% of the overall car parking requirement. Given that there is potential to provide additional bays in the road reserve, there are existing on-street bays and the shortfall is small in the overall context, it is considered appropriate that cash-in-lieu for twelve (12) car bays be accepted.

Balconies/Open Space

The R-Codes require that each multiple dwelling be provided with a balcony with a minimum dimension of 2 metres and a minimum area of $10m^2$.

While the balconies provided for the dwellings in Village 3 comply with the R-Codes requirement, the configuration of the balconies on Villages 1 & 2 represent variations.

Although the multiple bedroom units in Village 1 and 2 provide a minimum of two (2) balconies for each unit, including at least one balcony with a minimum area of $10m^2$, the minimum dimension of the balconies at 1.285 metres is less than the required 2 metres. However, given the shape of the balcony there is adequate space to ensure that the balcony is usable.

The single bedroom dwellings in Village 1 and 2 each have one balcony $6.5m^2$ in extent, with a minimum dimension of 1.480 metres. This represents a variation in both minimum area and dimension. Although smaller than the minimum required, the balconies are considered to be sufficiently large to be usable outdoor living areas.

In both instances the balconies are directly accessible from the living rooms of the dwellings and can be used effectively as open space to the dwellings. As such the balconies are considered to be acceptable.

The dwellings in Village 3 are technically considered grouped dwellings, notwithstanding 4 of the 5 dwellings are located above commercial tenancies. Clause 4.3.1 allows that where residential is mixed with non-residential development, Council may vary any provision of the R-Codes, with the exception of the minimum lot area per dwelling. In this instance, it is considered appropriate that the grouped dwellings be assessed as multiple dwellings for the purposes of this development.

Amalgamation of lots

Fundamental to the proposal, is the assumption that the Right of Way located within proposed Village 2 can be closed and that the existing lots and Right of Way can be amalgamated to create 3 'street blocks' as follows:

- Lots 1 and 2 Molloy Promenade, to form Village 1,
- Lots 3 and 4 Molloy Promenade, plus Lots 6 and 72 Walsh Loop and the Right of Way to form Village 2
- Lots 7-11 Cornell Parade/Deakin Gate) to form Village 3.

Applications for the amalgamation of lots and for closure of Right of Way are currently being processed. It is appropriate that a condition be applied to any planning approval issued, to ensure that the Right of Way is closed and lot amalgamations are finalised, prior to commencement of construction.

Conclusion

The location of the buildings relative to each other, the public spaces being created, the emphasis in the design on the human scale, landscaping and street furniture result in an urban area that is conducive to promoting social interaction.

Given the size of the development and the potential to provide some additional car parking within existing road reserves, the cash-in-lieu provision to address the relatively small car parking shortfall in relation to the overall development, is considered to be appropriate.

It is considered that the proposed development makes a high profile and positive contribution to the City Centre. Not only will it have the ability to provide accommodation and facilities to meet future demands of the growing City Centre and nearby education facilities, but as a landmark development also contributes to the legibility and status of the City. As a landmark development the proposed densities, plot ratio and height are considered appropriate.

It is therefore recommended that the development be approved, subject to appropriate conditions.

ATTACHMENTS

Attachment 1 Locality Plan
Attachment 2 Development Plan

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION: That the Joint Commissioners:

1 EXERCISE discretion under clause 2.3.4 of the R-codes and determines that the performance criteria of Clause 3.5.1 and 3.4.3 and 4.1.3 have been met and that:

(a) a car parking ratio of 1 bay per dwelling;

(b) minimum dimensions of less than 2m and 10sqm for the balconies of dwellings;

(c) a single bedroom dwelling exceeding 60sqm in area are appropriate in this instance;

2 EXERCISE discretion under clause 4.8 of District Planning Scheme No 2 and determines that a car parking ratio of 1 bay per 30m^2 for the commercial uses is appropriate in this instance;

3 VARY provisions of the R-Codes under Clause 4.3.1 of District Planning Scheme No 2 and determines that it is appropriate that the grouped dwellings within the development are assessed as multiple dwellings;

4 DETERMINE that the proposed height, density and plot ratio of the development is appropriate in this instance;

5 ACCEPT the provision of the payment of cash-in-lieu of 12 car bays in accordance with the provision of clause 4.11 of District Planning Scheme No 2;

6 APPROVE the application dated 15 April 2003 and revised plans dated 14 May 2004 submitted by Proven Joondalup PTY Ltd for a mixed use development comprising 137 multiple dwellings and 13 commercial tenancies on Lot 1,2,3 & 6 (Nos 2, 4, 1 & 5 Molloy Promenade) Lot 4 & 72 (Nos 2 & 3 Walsh Loop) and Lots 7-11 (Nos 65 Cornell Parade & 1-7 Deakin Gate) and the Right of Way between Molloy Promenade and Walsh Loop, subject to the following conditions:

(a) Amalgamation of:

(i) Lots 1 and 2 (2 & 4 Molloy Promenade) to form Village 1;

(ii) Lots 3 & 4 (1 & 5 Molloy Promenade) & Lot 6 & 72 (1 & 5 Walsh Loop) and the Right of Way to form Village 2;

(iii) Lots 7-11 (65 Cornell Parade & 1-7 Deakin Gate) to form Village 3 to be finalised prior to the issue of a building licence;

(b) The granting of an easement in gross pursuant to section 196 of the Land Administration Act (at full cost of the owner) in favour of the City of Joondalup over all three Villages to allow for reciprocal vehicle and pedestrian movement and car parking for the benefit of the public at large;

(c) One hundred and ninety (190) car parking bays to be provided on site;

(d) The parking bays, driveways and points of ingress and egress to be designed in accordance with the Australian Standard for Offstreet Carparking (AS2890) and AS2890.5 (on-street parking). Such areas are to be constructed, drained and marked and thereafter maintained to the satisfaction of the City prior to the development first being occupied. These works are to be done as part of the building programme;

(e) An on-site stormwater drainage system with the capacity to contain a 1:100 year storm of a 24-hour duration is to be provided prior to the development first being occupied and thereafter maintained to the satisfaction of the City. The proposed stormwater drainage system is required to be shown on the Building Licence submission and be approved by the City prior to the commencement of construction;

(f) The lodging of detailed landscape plans, to the satisfaction of the City, for the development sites prior to the issue of Building Licence. For the purpose of this condition a detailed landscaping plan shall be dawn to a scale of 1:100 and show the following:

(i) the location and type of existing and proposed trees and shrubs;

(ii) any lawns to be established;

(iii) reticulation of all areas that are to be landscaped;

(iv) all proposed texture, colour and pattern of paving. Where paved areas meet the road reserve, the proposed paving is required to complement the exiting paving in the street reserve;

(v) details of all proposed outdoor furniture, public art and other features provided in the public spaces; and

(vi) details of lighting of the public and communal spaces.

(g) The landscaping plans, including reticulation, to be established prior to the development first being occupied, and thereafter being maintained to the satisfaction of the City;

(h) All bin storage areas are to be suitably screened to the satisfaction of the City and constructed with a concrete floor, graded to a 100mm industrial floor waste gully connected to sewer and be provided with a hose cock;

(i) Each multiple dwelling to be provided with an adequate clothes drying area that is screened from view from beyond the external boundary of the sites or alternatively be provided with clothes drying facilities within the unit;

(j) Any roof mounted or free standing plant or equipment such as air conditioning units, satellite dishes, and radio masts to be designed and located so not to be visible from beyond the boundaries of the development site;

(k) No obscure or reflective glazing being used for commercial units fronting onto public spaces and road reserves;

(l) All proposed pedestrian shelters to be a minimum width of 2 metres and a minimum ceiling height clearance of 2.75 metres measured from the footpath;

(m) All boundary walls and parapet walls being of a clean finish and made good to the satisfaction of the City;

(n) All fencing to be designed and constructed in accordance with the attached extract from the Joondalup City Centre Plan and Manual and thereafter be maintained to the satisfaction of the City;

(o) Submission of Construction Management Plan detailing phasing of construction, access, storage of material, protection of pedestrians, footpaths and other infrastructure;

(p) In the event that the development is staged, temporary landscaping and fencing must be installed prior to the development being occupied to the satisfaction of the City;

(q) A detailed colour and material schedule to be submitted and approved to ensure that each of the proposed buildings has its own character and style;

(r) Privacy screening mechanisms for the residential units are to be detailed and approved by the City prior to commencement of construction;

(s) Alterations to existing retaining walls are to match the style, shape and building material of the existing retaining wall to the satisfaction of the City;

(t) All paving within the road reserve to match the existing paving in type and colour of paving block and pattern of paving;

(u) The driveway in front of the bulk bin store of Village 3 to be capable of taking the weight of a 26 tonne refuse vehicle;

(v) The Passive Recreation Rooms in Village 1 are for the exclusive use of the residents of the development.

Footnote:

(a) With reference to condition (c) a cash-in-lieu payment will be accepted in regard to the shortfall of 12 bays;

(b) With reference to condition (c) it is noted that the double carport attached to Unit J1-1 is counted as one car bay only, due to its ability to be utilised by that unit only;

(c) Plans submitted for a Building Licence must show the full width of the verge and any street furniture, traffic islands, statutory services, road gullies, crossovers on the opposite side of the road, the existing site levels, design levels of all proposed development and include levels on top of the kerb at the crossover;

(d) A mechanical Services Plan, signed by a suitably qualified Mechanical Services Engineer to certify that any mechanical ventilation complies with relevant legislation;

(e) A separate application is to be made to the City for Approval to Commence Development and sign licence prior to the installation of any advertising signage. In this regard the City encourages a detailed and consistent signage strategy to be prepared to ensure future sign are appropriate and complimentary to the proposed buildings and public spaces;

(f) Compliance with the Building Code of Australia requirements;

(g) It is advised that the City will not support the erection of telecommunications infrastructure on any part of the proposed buildings;

(h) There is an obligation to design and construct the premises in accordance with the requirements of the Environmental Protection Act 1986. Your particular attention is drawn to noise from any plant and equipment. An acoustic consultant's report may be required at building licence stage to indicate compliance;

(i) Bin store areas including transient bin areas shall be provided with a concrete floor that grades to an industrial floor waste connected to sewer, and a hose cock;

(j) Undercroft carpark shall be provided with ventilation in accordance with AS1668.2. Consideration may need to be given to the floor levels of the carpark;

(k) Development shall comply with the natural light and ventilation requirements of the BCA;

(l) Internal laundries, bathrooms and toilets shall be provided with mechanical ventilation and flumed to external air in accordance with the Sewerage (Light, Ventilation and Construction) Regulations 1971;

(m) Floors to wet areas shall be suitably surfaced and shall grade evenly to a floor waste;

(n) Development shall comply with the Health (Food Hygiene) Regulations 1993. To this regard, consideration shall be given to the provision of a service entry, floor area of kitchen being 25% of the total kitchen and dining area combined, provision for an externally located grease trap and location of ducting and discharge for exhaust canopy;

5 REQUIRE the construction of Walsh Street on-street car parking be considered for inclusion in a future capital works budget.

MOVED Cmr Clough that the application dated 15 April 2003 and revised plans dated 14 May 2004 submitted by Proven Joondalup PTY Ltd for a mixed use development comprising 137 multiple dwellings and 13 commercial tenancies on Lot 1, 2, 3 and 6 (Nos 2, 4, 1 and 5 Molloy Promenade) Lot 4 and 72 (Nos 2 and 3 Walsh Loop) and Lots 7-11 (Nos 65 Cornell Parade and 1-7 Deakin Gate) and the Right of Way between Molloy Promenade and Walsh Loop be REFUSED and that the applicants be advised to seek rezoning of the site.

There being NO SECONDER, the Motion LAPSED

MOVED Cmr Paterson, SECONDED Cmr Smith that the Joint Commissioners:

1 EXERCISE discretion under clause 2.3.4 of the R-codes and determines that the performance criteria of Clause 3.5.1 and 3.4.3 and 4.1.3 have been met and that:

(a) a car parking ratio of 1 bay per dwelling;

(b) minimum dimensions of less than 2m and 10sqm for the balconies of dwellings;

(c) a single bedroom dwelling exceeding 60sqm in area are appropriate in this instance;

2 EXERCISE discretion under clause 4.8 of District Planning Scheme No 2 and determines that a car parking ratio of 1 bay per 30m^2 for the commercial uses is appropriate in this instance;

3 VARY provisions of the R-Codes under Clause 4.3.1 of District Planning Scheme No 2 and determines that it is appropriate that the grouped dwellings within the development are assessed as multiple dwellings;

4 DETERMINE that the proposed height, density and plot ratio of the development is appropriate in this instance;

5 ACCEPT the provision of the payment of cash-in-lieu of 12 car bays in accordance with the provision of clause 4.11 of District Planning Scheme No 2;

6 APPROVE the application dated 15 April 2003 and revised plans dated 14 May 2004 submitted by Proven Joondalup PTY Ltd for a mixed use development comprising 137 multiple dwellings and 13 commercial tenancies on Lot 1,2,3 & 6 (Nos 2, 4, 1 & 5 Molloy Promenade) Lot 4 & 72 (Nos 2 & 3 Walsh Loop) and Lots 7-11 (Nos 65 Cornell Parade & 1-7 Deakin Gate) and the Right of Way between Molloy Promenade and Walsh Loop, subject to the following conditions:

(a) Amalgamation of:

(i) Lots 1 and 2 (2 & 4 Molloy Promenade) to form Village 1;

(ii) Lots 3 & 4 (1 & 5 Molloy Promenade) & Lot 6 & 72 (1 & 5 Walsh Loop) and the Right of Way to form Village 2;

(iii) Lots 7-11 (65 Cornell Parade & 1-7 Deakin Gate) to form Village 3 to be finalised prior to the issue of a building licence;

(b) The granting of an easement in gross pursuant to section 196 of the Land Administration Act (at full cost of the owner) in favour of the City of Joondalup over all three Villages to allow for reciprocal vehicle and pedestrian movement and car parking for the benefit of the public at large;

(c) One hundred and ninety (190) car parking bays to be provided on site;

(d) The parking bays, driveways and points of ingress and egress to be designed in accordance with the Australian Standard for Offstreet Carparking (AS2890) and AS2890.5 (on-street parking). Such areas are to be constructed, drained and marked and thereafter maintained to the satisfaction of the City prior to the development first being occupied. These works are to be done as part of the building programme;

(e) An on-site stormwater drainage system with the capacity to contain a 1:100 year storm of a 24-hour duration is to be provided prior to the development first being occupied and thereafter maintained to the satisfaction of the City. The proposed stormwater drainage system is required to be shown on the Building Licence submission and be approved by the City prior to the commencement of construction;

(f) The lodging of detailed landscape plans, to the satisfaction of the City, for the development sites prior to the issue of Building Licence. For the purpose of this condition a detailed landscaping plan shall be dawn to a scale of 1:100 and show the following:

(i) the location and type of existing and proposed trees and shrubs;

(ii) any lawns to be established;

(iii) reticulation of all areas that are to be landscaped;

(iv) all proposed texture, colour and pattern of paving. Where paved areas meet the road reserve, the proposed paving is required to complement the exiting paving in the street reserve;

(v) details of all proposed outdoor furniture, public art and other features provided in the public spaces; and

(vi) details of lighting of the public and communal spaces.

(g) The landscaping plans, including reticulation, to be established prior to the development first being occupied, and thereafter being maintained to the satisfaction of the City;

(h) All bin storage areas are to be suitably screened to the satisfaction of the City and constructed with a concrete floor, graded to a 100mm industrial floor waste gully connected to sewer and be provided with a hose cock;

(i) Each multiple dwelling to be provided with an adequate clothes drying area that is screened from view from beyond the external boundary of the sites or alternatively be provided with clothes drying facilities within the unit;

(j) Any roof mounted or free standing plant or equipment such as air conditioning units, satellite dishes, and radio masts to be designed and located so not to be visible from beyond the boundaries of the development site;

(k) No obscure or reflective glazing being used for commercial units fronting onto public spaces and road reserves;

(l) All proposed pedestrian shelters to be a minimum width of 2 metres and a minimum ceiling height clearance of 2.75 metres measured from the footpath;

(m) All boundary walls and parapet walls being of a clean finish and made good to the satisfaction of the City;

(n) All fencing to be designed and constructed in accordance with the attached extract from the Joondalup City Centre Plan and Manual and thereafter be maintained to the satisfaction of the City;

(o) Submission of Construction Management Plan detailing phasing of construction, access, storage of material, protection of pedestrians, footpaths and other infrastructure;

(p) In the event that the development is staged, temporary landscaping and fencing must be installed prior to the development being occupied to the satisfaction of the City;

(q) A detailed colour and material schedule to be submitted and approved to ensure that each of the proposed buildings has its own character and style;

(r) Privacy screening mechanisms for the residential units are to be detailed and approved by the City prior to commencement of construction;

(s) Alterations to existing retaining walls are to match the style, shape and building material of the existing retaining wall to the satisfaction of the City;

(t) All paving within the road reserve to match the existing paving in type and colour of paving block and pattern of paving;

(u) The driveway in front of the bulk bin store of Village 3 to be capable of taking the weight of a 26 tonne refuse vehicle;

(v) The Passive Recreation Rooms in Village 1 are for the exclusive use of the residents of the development.

Footnote:

(a) With reference to condition (c) a cash-in-lieu payment will be accepted in regard to the shortfall of 12 bays;

(b) With reference to condition (c) it is noted that the double carport attached to Unit J1-1 is counted as one car bay only, due to its ability to be utilised by that unit only;

(c) Plans submitted for a Building Licence must show the full width of the verge and any street furniture, traffic islands, statutory services, road gullies, crossovers on the opposite side of the road, the existing site levels, design levels of all proposed development and include levels on top of the kerb at the crossover;

(d) A mechanical Services Plan, signed by a suitably qualified Mechanical Services Engineer to certify that any mechanical ventilation complies with relevant legislation;

(e) A separate application is to be made to the City for Approval to Commence Development and sign licence prior to the installation of any advertising signage. In this regard the City encourages a detailed and consistent signage strategy to be prepared to ensure future sign are appropriate and complimentary to the proposed buildings and public spaces;

(f) Compliance with the Building Code of Australia requirements;

(g) It is advised that the City will not support the erection of telecommunications infrastructure on any part of the proposed buildings;

(h) There is an obligation to design and construct the premises in accordance with the requirements of the Environmental Protection Act 1986. Your particular attention is drawn to noise from any plant and equipment. An acoustic consultant's report may be required at building licence stage to indicate compliance;

(i) Bin store areas including transient bin areas shall be provided with a concrete floor that grades to an industrial floor waste connected to sewer, and a hose cock;

(j) Undercroft carpark shall be provided with ventilation in accordance with AS1668.2. Consideration may need to be given to the floor levels of the carpark;

(k) Development shall comply with the natural light and ventilation requirements of the BCA;

(l) Internal laundries, bathrooms and toilets shall be provided with mechanical ventilation and flumed to external air in accordance with the Sewerage (Light, Ventilation and Construction) Regulations 1971;

(m) Floors to wet areas shall be suitably surfaced and shall grade evenly to a floor waste;

(n) Development shall comply with the Health (Food Hygiene) Regulations 1993. To this regard, consideration shall be given to the provision of a service entry, floor area of kitchen being 25% of the total kitchen and dining area combined, provision for an externally located grease trap and location of ducting and discharge for exhaust canopy;

5 REQUIRE the construction of Walsh Street on-street car parking be considered for inclusion in a future capital works budget.

Discussion ensued.

The Motion was Put and TIED (2/2)

There being an equal number of votes, the Chairman exercised his casting vote and declared the Motion CARRIED

In favour of the Motion: Cmrs Paterson and Smith **Against the Motion:** Cmrs Clough and Anderson

Appendix 9 refers

To access this attachment on electronic document, click here: Attach9brf220604.pdf

CJ151 - 06/04 DELEGATED AUTHORITY REPORT FOR THE MONTH OF MAY 2004 – [07032]

WARD - All

CJ040622_BRF.DOC:ITEM 18

PURPOSE

This report provides a resumé of the Development Applications processed by Delegated Authority during the month of May 2004 (see Attachments 1).

The total number of Development Applications determined (including Council and delegated decisions) is as follows:

Month	No	Value
May 2004	84	$7,337,026

COMMENT

A total of 68 Development Applications was received during the month of May, a decrease from the previous month's figures of 82.

ATTACHMENTS

Attachment 1 List of Determinations

VOTING REQUIREMENTS

Simple majority

MOVED Cmr Clough, SECONDED Cmr Smith that the Joint Commissioners NOTE the determinations made under Delegated Authority in relation to the applications described in Report CJ151-06/04.

The Motion was Put and CARRIED UNANIMOUSLY 4/0)

Appendix 10 refers

To access this attachment on electronic document, click here: Attach10agn290604.pdf

CJ152 - 06/04 SUBDIVISION REFERRALS PROCESSED 1 – 31 MAY 2004 – [05961]

WARD - Lakeside, Marina, North Coastal, South Coastal

CJ040622_BRF.DOC:ITEM 19

PURPOSE

The purpose of this report is to advise the Joint Commissioners of subdivision referrals received by the City for processing in the period 1- 31 May 2004.

EXECUTIVE SUMMARY

Attachment 1 is a schedule of the Subdivision Referrals processed by Urban Design and Policy from 1 – 31 May 2004. Applications were dealt with in terms of the delegation of subdivision control powers by the Chief Executive Officer (DP247-10/97 and DP10-01/98).

DETAILS

Six subdivision referrals were processed within the period. The average processing time taken was 23 days. The subdivision applications processed enabled the potential creation of two (2) residential lots and two (2) strata residential lots. One application was not supported and one application was deferred. These applications are as follows:

Ref: SU667-03.01 – 34 & 36 Peninsula Avenue, Heathridge

This application was not supported as the lot sizes proposed did not comply with the minimum lot size required under the R20 Density Code contained within the Residential Design Codes (R Codes) 2002.

Ref: SU543-04 – 27 Helsall Court, Sorrento

This application was deferred pending the receipt of additional information to enable the City to undertake a detailed assessment in accordance with the Residential Design Codes (R Codes) 2002.

ATTACHMENTS

Attachment 1 Schedule of Subdivision Referrals

VOTING REQUIREMENTS

Simple Majority

MOVED Cmr Smith, SECONDED Cmr Clough that the Joint Commissioners NOTE the action taken by the subdivision control unit in relation to the applications described in Attachment 1 to Report CJ152-06/04.

The Motion was Put and **CARRIED UNANIMOUSLY (4/0)**

Appendix 11 refers

To access this attachment on electronic document, click here: Attach11brf220604.pdf

CJ153 - 06/04 MINUTES OF THE YOUTH ADVISORY COUNCIL MEETING – 19 MAY 2004 – [38245]

WARD - All

CJ040622_BRF.DOC:ITEM 20

PURPOSE

The purpose of this report is to present the minutes of the meeting of the Joondalup Youth Advisory Council held on 19 May 2004 for noting by Commissioners.

EXECUTIVE SUMMARY

The new Joondalup Youth Advisory Council met for the first time on 19 May 2004. The minutes of this meeting are attached for the attention of Commissioners.

It is recommended that the Joint Commissioners NOTE the minutes of the Joondalup Youth Advisory Council meeting held on 19 May 2004.

DETAILS

This was the first meeting of the Youth Advisory Council since new members were inducted. As a result, the election of office bearers and a presentation by a Youth Services staff member, comprised a significant amount of the agenda for this meeting.

The minutes of this meeting are attached for the attention of Commissioners.

COMMENT

No action is required from these minutes.

ATTACHMENTS

Attachment 1 Minutes of the Joondalup Youth Advisory Council Meeting held on 19 May 2004

VOTING REQUIREMENTS

Simple Majority

MOVED Cmr Anderson, SECONDED Cmr Smith that the Joint Commissioners NOTE the minutes of the Joondalup Youth Advisory Council meeting held on 19 May 2004 forming Attachment 1 to Report CJ153-06/04.

The Motion was Put and **CARRIED UNANIMOUSLY (4/0)**

Appendix 12 refers

To access this attachment on electronic document, click here: Attach12brf220604.pdf

CJ154 - 06/04 MINUTES AND RECOMMENDED CHANGES TO THE TERMS OF REFERENCE FOR THE SENIORS INTEREST ADVISORY COMMITTEE - [55511]

WARD - All

CJ040622_BRF.DOC:ITEM 21

PURPOSE

To note the unconfirmed minutes of the Seniors Interest Advisory Committee held on 21 April 2004 and recommend the adoption of the amended Terms of Reference.

EXECUTIVE SUMMARY

A meeting of the Seniors Interests Advisory Committee was held on Wednesday, 21 April 2004. The unconfirmed minutes of this meeting are submitted for noting by Council.

At the meeting on 21 April 2004, the Seniors Interests Advisory Committee proposed changes to the 'Terms of Appointment' component of the 'Terms of Reference'. The changes that were proposed were that:

- Tenure for all members of the Seniors Interests Advisory Committee is for a two-year period and that this period of time is in line with Council elections. At the conclusion of each two-year term all members of the committee must stand down.

- The term for the current members of the Seniors Interests Advisory Committee is proposed to conclude at the end of May 2005. The new committee will commence in July 2005 following Council elections. Elected members will participate in the process of selecting the new committee.

- Representatives who are presently members of the Seniors Interests Advisory Committee will be welcome to reapply.

It is recommended that the Joint Commissioners:

1 NOTE the unconfirmed minutes of the Seniors Interest Advisory Committee held on Wednesday, 21 April 2004 forming Attachment 1 to this Report;

2 ENDORSE the recommended changes to the Seniors Interests Advisory Committee Terms of Reference forming Attachment 2 to this Report.

DETAILS

The Terms of Reference for the Seniors Interests Advisory Committee does not outline tenure for the committee members in its 'Terms of Appointment'. At its meeting on 21 April 2004, the Seniors Interests Advisory Committee proposed a two-year tenure for each committee member be added to the 'Terms of Appointment' in the 'Terms of Reference'.

Along with the addition of tenure in the 'Terms of Reference' the Seniors Interests Advisory Committee proposed that no restrictions be applied to members of the committee who wish to reapply for ongoing terms on the committee. By stating 'no restrictions', committee members have the opportunity to reapply to continue on the committee.

It is important to note that some members of the Seniors Interests Advisory Committee are representatives for organisations such as National Seniors Association or the Seniors Recreation Council, and some members are community representatives.

At the meeting of Joint Commissioners on 27 April 2004, the following motion was resolved:

That the Terms of Reference for the Seniors Interests Advisory Committee be reviewed in order to reiterate the need for the Committee to take a strategic rather than an operational position with regards to matters relating to seniors in the community.

The current 'Terms of Reference' objectives state:

3.1 Oversee the strategic co-ordination of all seniors' issues across Council.

3.2 Provide advice to Council to ensure that the concerns of seniors are adequately represented in the City's planning processes and the strategic directions being developed for older people across the City.

The Seniors Interests Advisory Committee therefore needs to be reminded of the objectives so that operational matters are not discussed at future meetings.

By including the changes recommended by the Seniors Interests Advisory Committee to the 'Terms of Reference', the committee tenure and membership will be clarified further for the current or any future committee members.

ATTACHMENTS

Attachment 1	Minutes of the Seniors Interest Advisory Committee Meeting 21 April 2004.
Attachment 2	Revised Terms of Reference.

VOTING REQUIREMENTS

Simple Majority

MOVED Cmr Anderson, SECONDED Cmr Clough that the Joint Commissioners:

1 NOTE the unconfirmed minutes of the Seniors Interest Advisory Committee held on Wednesday, 21 April 2004 forming Attachment 1 to Report CJ154-06/04;

2 ENDORSE the recommended changes to the Seniors Interests Advisory Committee Terms of Reference forming Attachment 2 to Report CJ154-06/04.

The Motion was Put and CARRIED UNANIMOUSLY (4/0)

Appendix 13 refers

To access this attachment on electronic document, click here: Attach13brf220604.pdf

REPORT OF THE ACTING CHIEF EXECUTIVE OFFICER

Nil.

MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

DATE OF NEXT MEETING

The next meeting of the Council has been scheduled for **7.00 pm** on **TUESDAY, 20 JULY 2004** to be held in the Council Chamber, Joondalup Civic Centre, Boas Avenue, Joondalup.

CLOSURE

There being no further business, the Chairman declared the Meeting closed at 2050 hrs; the following Commissioners being present at that time:

CMR J PATERSON
CMR P CLOUGH
CMR M ANDERSON
CMR S SMITH