



**MINUTES OF MEETING OF JOINT COMMISSIONERS
HELD ON 31 AUGUST 2004**

TABLE OF CONTENTS

No:	Item	Page
	OPEN AND WELCOME	1
	ATTENDANCES	1
	PUBLIC QUESTION TIME	2
C51-08/04	EXTENSION OF PUBLIC QUESTION TIME	22
	APOLOGIES AND LEAVE OF ABSENCE	26
	DECLARATION OF FINANCIAL INTEREST/INTEREST THAT MAY AFFECT IMPARTIALITY	26
C52-08/04	CONFIRMATION OF MINUTES MINUTES OF MEETING OF JOINT COMMISSIONERS, 10 AUGUST 2004	26
C53-08/04	MINUTES OF SPECIAL MEETING OF COUNCIL, 19 AUGUST 2004	27
	ANNOUNCEMENTS BY THE CHAIRMAN WITHOUT DISCUSSION	
	JINAN DELEGATION	27
	WA ON SHOW	27
	BUSINESS AT YOUR LIBRARY	27
C54-08/04	PETITIONS	
	PETITION IN RELATION TO TRAFFIC BEHAVIOUR, ELLERSDALE AVENUE, WARWICK – [02381]	28
	PETITION IN RELATION TO THE REZONING OF LOT 61 LEACH STREET, MARMION – CSIRO SITE – [85558]	28
	PETITION IN RELATION TO ANTI-SOCIAL BEHAVIOUR, TRAFFIC ISSUES – PLUMDALE PARK, WOODVALE –	28

REPORTS

CJ195 - 08/04	COUNCIL'S MEETING CYCLE – [02154] [08122] [27456] [23184].....	28
CJ196 - 08/04	RELEASE OF CONFIDENTIAL ITEMS - SITE ACQUISITION WORKS DEPOT – [80513].....	41
CJ197 - 08/04	WARRANT OF PAYMENTS - 31 JULY 2004 – [09882].....	42
CJ198 - 08/04	FINANCIAL REPORT FOR THE YEAR ENDING 30 JUNE 2004 – [07882].....	44
CJ199 - 08/04	ADOPTION OF PROPOSED MODIFICATIONS TO THE JOONDALUP CITY CENTRE DEVELOPMENT PLAN AND MANUAL STRUCTURE PLAN NO. 1 - CITY NORTH, CENTRAL BUSINESS, LAKESIDE AND CAMPUS DISTRICTS – [00152].....	46
CJ200 - 08/04	AMENDMENT 24 TO DISTRICT PLANNING SCHEME NO 2 - PROPOSED REZONING FROM LOCAL RESERVES 'PARKS AND RECREATION' TO 'URBAN DEVELOPMENT' – LOT 61 (NO 14) LEACH STREET, MARMION (FORMER CSIRO SITE) – [85558].....	54
CJ201 - 08/04	PROPOSED CLOSURE OF PORTION OF ROAD RESERVE CONTAINING WESTERN POWER TRANSFORMER BETWEEN LOTS 1 AND 2 MOLLOY PROMENADE, JOONDALUP - [83558].....	69
CJ202 - 08/04	DELEGATED AUTHORITY REPORT FOR THE MONTH OF JULY 2004 – [07032].....	73
CJ203 - 08/04	SUBDIVISION REFERRALS PROCESSED 1 – 31 JULY 2004 – [05961].....	74
CJ204 - 08/04	TENDER NUMBER 046-03/04 REDEVELOPMENT OF CRAIGIE LEISURE CENTRE – [36561].....	75
CJ205 - 08/04	COUNCIL TO ACT AS A LENDING AUTHORITY OR GUARANTOR FOR SPORTING CLUBS OR OTHER EXTERNAL ORGANISATIONS – [03097].....	80
CJ206 - 08/04	MINUTES OF THE SENIORS INTERESTS ADVISORY COMMITTEE HELD ON WEDNESDAY 21 JULY 2004 – [55511].....	87
	REPORT OF THE ACTING CHIEF EXECUTIVE OFFICER	
C55-08/04	TOWN PLANNING DELEGATION – INTERIM REPORT – [07032]....	89
C56-08/04	APPLICATION FOR PAYMENT OF LEGAL EXPENSES FOR AN EMPLOYEE RELATING TO THE INQUIRY	91
	MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	94
	DATE OF NEXT MEETING	94
	CLOSURE	95

CITY OF JOONDALUP

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

OPEN AND WELCOME

The Chairman declared the meeting open at 1900 hrs.

ATTENDANCES

CMR J PATERSON – Chairman
CMR P CLOUGH – Deputy Chairman
CMR M ANDERSON
CMR A FOX
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
Acting Manager, Marketing Communications & Council Support:	P DUNN
Manager, Approvals Planning and Environmental Services:	C TERELINCK
Media Advisor:	L BRENNAN
Committee Clerk:	J HARRISON
Minute Clerk:	L TAYLOR

There were 36 members of the Public and 1 member of the Press in attendance.

PUBLIC QUESTION TIME

The following questions, submitted by Ms M Moon, Greenwood, were taken on notice at the Meeting of Joint Commissioners held on 10 August 2004.

Q1 Is Resort the current use class approved on the site occupied by the Sorrento Beach Resort?

A1 No.

Q2 If the answer to question one is no, could you please advise what the current use class/es is approved for the site occupied by the Sorrento Beach Resort?

A2 The approval issued in 1981 referred to ‘Motel-type residential units’ which can be properly regarded as falling within the ‘motel’ use class of Town Planning Scheme No 1. The approval issued in 1996 referred to ‘Holiday units’ which can be properly regarded as falling with the ‘holiday cottages’ use class of Town Planning Scheme No 1.

Q3 On what date and agenda item was the current use class or use classes approved for the Sorrento Beach Resort? (not the approval to extend the resort but the current use class approval)

A3 Council at its meeting of 26 August 1981 approved 45 motel-type residential units and at its meeting on 25 September 1996 (TP227-09/96) approved 35 holiday units and a restaurant.

Q4 Is motel type accommodation a use class?

A4 No, ‘motel type accommodation’ is not in itself a Use Class, however, the term ‘motel unit’ is used within the ‘Holiday Village’ Use Class under District Planning Scheme No 2 (DPS2).

Q5 On what date and agenda item was motel type accommodation approved as a use class for the site occupied by the Sorrento Beach Resort?

A5 See A3 above.

Q6 Are the current residents of the Sorrento Beach Resort on holiday or do they reside at the resort as their home (dwelling)? (Phil Mirabello, who spoke on behalf of the residents – Joondalup Community page 1)

A6 The City is not aware that there are any permanent residents utilising the resort as their home. If breaches of the current planning approvals are identified, the matter will be investigated in order to resolve the breach.

Q7 As permanent occupancy above R20 cannot occur and the use class resort and motel are not for permanent occupation what actions will be taken if Residents are in fact currently living/home/place of address (use class-multiple dwelling) Sorrento Beach Resort in breach of the DPS2?

A7 See A6 above.

Q8 *Do the residents of the resort reside in the use class resort or other?*

A8 See A2 above.

Q9 *Holiday accommodation is commonly known as accommodation whilst away from home, how is it possible that holiday accommodation is being used as dwellings?*

A9 See A6 above.

Q10 *Does the Sorrento Beach Resort have a Hotel or Limited Hotel License, or a Cabaret License or a Tavern License or a Special Facility License?*

A10 The Department of Racing, Gaming and Liquor is responsible for the issuance of liquor licences and it is best that the question be directed to that Department.

Q11 *Is a motel-style residential apartment a use class?*

A11 'Motel-style residential apartment' does not appear in DPS2 as a use class.

Q12 *Why doesn't this report list the statutory components for the Commissioners? R20 the zoning and the current approved use class.*

A12 The report contained the applicable R-coding and zoning. Any additional applicable information will be included in any future report to the Joint Commissioners.

The following questions, submitted by Cr C Baker (Suspended), Connolly, were taken on notice at the Meeting of Joint Commissioners held on 10 August 2004.

My question is addressed to the Chairman of Commissioners. I refer to the recent sale of Lots of residential land in Joondalup City North Stage 6. I specifically refer to the permitted land usage for Lots 327 to 333 and 338 to 341. I ask as follows:

Q1 *Why is it that the Structure Plan for this area describes these blocks as being permitted to be used for public parking only, whereas they were sold by LandCorp for Residential Purposes?*

A1 On 12 September 2001 the Western Australian Planning Commission (WAPC) approved a subdivision for Stage 6 City North within the Joondalup City Centre Development Plan and Manual (JCCDPM). The subdivision created 12 'General City' and 37 'Residential' and 'Residential/Mixed-Use' zoned lots.

When the proposed subdivision was referred to the City for comment, the City noted that the subdivision contained inconsistencies with the JCCDPM with respect to a car parking station being shown in the JCCDPM over the above mentioned lots, and as such, the JCCDPM would need to be modified accordingly to delete the car parking station.

The City advised the WAPC of its support to the proposal but in doing so did not recommend a condition to require the JCCDPM to be modified to reflect the proposed subdivision. The subdivision was subsequently approved by the WAPC, and they also did not impose a relevant condition requiring the JCCDPM to be modified.

Generally when a proposed subdivision is not in accordance with an Agreed Structure Plan it would not be approved by the WAPC, or it would be approved subject to the Structure Plan being modified accordingly.

In this instance the Structure Plan was not modified, however, the City initiated the required modifications to the JCCDPM for the purposes of advertising at its meeting on 30 March 2004 (CJ068-03/04 refers), and subsequently granted final approval to the modifications at its meeting on 8 June 2004 (CJ126-06/04 refers).

At this point in time, the modification to the JCCDPM is yet to be finalised by the WAPC. The request for final approval was sent to the WAPC on 21 June 2004 with a specific request to seek their urgent consideration of the proposed modifications in order to minimise any adverse impacts this issue may create with respect to landowners seeking to develop their lots.

Q2 Are you aware that people who have purchased these blocks and are unable to build on them because they are still deemed to be Public Parking Blocks within the City of Joondalup relevant Structure Plan?

A2 Yes, the City is aware of this, however, the landowners of these lots are currently able to lodge applications for both development and building licence approval with the City. Approvals for these development and building licence applications will be assessed, however, the approvals cannot be granted by the City until the WAPC grants final approval to the modifications to the JCCDPM.

Q3 What compensation will the City of Joondalup pay to purchasers who purchased the blocks on the basis that they were residential blocks and hence could be built upon.

A3 No compensation is payable by the City.

Q4 Are you aware that some purchasers are incurring on-going interest under their loans obtained to enable them to purchase their property, yet are being prevented by the City of Joondalup from having building licences issued to build on the block?

A4 Yes, however, legally no approvals can be issued until the WAPC grants approval to the modifications to the JCCDPM.

The following questions, submitted by Mr Vincent Cusack, Kingsley, were taken on notice at the Meeting of Joint Commissioners held on 10 August 2004.

Q1 How many "Closed Doors Secret Strategy Session Meetings" (as per Council's three weekly cycle meeting schedule) was the proposed new works depot discussed at?

A1 The proposed new Works Depot was discussed at two Strategy Sessions.

Q2 Why was the apparently more expensive Land Corp site chosen over the Quarry Site as owned by the City of Joondalup in Edgewater?

Q3 Presumably, and as expected under governmental best practice standards, all options would have been fully explored; what is the total dollar cost of constructing the works depot at the Edgewater quarry site?

A2-3 The City's position on the Quarry site is covered in confidential items relating to the acquisition of a site for the purpose of constructing a Works Depot. A report recommending the release of these previously confidential items has been prepared for the consideration of the Joint Commissioners.

Notwithstanding, these questions were addressed at the Special Council meeting to adopt the budget on Thursday 19 August 2004.

The following questions, submitted by Ms Sue Hart, Greenwood, were taken on notice at the Meeting of Joint Commissioners held on 10 August 2004.

Re CJ183-08/04 - Reconsideration of Amendment No 13 to District Planning Scheme No 2 – Rezoning of Lot 99 (4) Hocking Road Kingsley From 'Private Clubs/Recreation' to 'Business':

Q1 Site details mention Lot 63 and 62 Hocking Road proposed rezoning in relation to the subject site, Lot 99 Hocking Road, Kingsley. The special residential land to the south is R5, and Luisini Winery sits near the lake.

As amenity is considered high in the R5 zoning, and a majority of ratepayers in that area have rejected the proposed restaurant, with one of the big issues being traffic, has the City done any consultation in the R5 area?

A1 This question relates to the Luisini item and is to be considered as a separate item.

Q2 "Business" zoning. Under this zoning could a hotel operate on this site?

A2 Yes, this is a discretionary landuse and would be subject to the criteria of District Planning Scheme No 2 (DPS2) Clause 6.8.

Q3 Please list what other businesses could operate under this zoning?

A3 Please refer to Table 1 of the City's DPS2.

Q4 Is the "Applicants Rational for Reconsideration" verbatim in the report?

A4 No, it is summarised.

Q5 Does Lot 99 have a right of carriageway over any portion on the Cherokee Village?

A5 Yes.

Q6 *If no, when was this issue resolved?*

A6 Not Applicable.

Q7 *Although Lot 99 will be viewed from both major roads, Wanneroo and Whitfords, access will only be from Hocking. What constraints are exacerbated by the proposed fly over and interchange?*

A7 The City is unable to answer this until the detailed drawing is finalised, however likely constraints may relate to noise and visual impacts.

Q8 *Page 42 Last Paragraph. The report states that Council considered submissions received during the public advertising period, were the two petitions, 31 and 66 signatures, provided to Council for consideration along with the nine written submissions?*

A8 Yes.

Q9 *If yes when?*

A9 A summary was attached to the April 2003 report. Commissioners are now in receipt of copies of that report.

Q10 *Was the Minister forwarded a copy of the two petitions, 31 and 66 signatures?*

A10 Copies of all submissions and the Council report (including attachments) are sent to the WAPC.

Q11 *If yes when?*

A11 14 May 2003.

Q12 *If no why not?*

A12 Not Applicable.

Q13 *Have the Commissioners been given a copy of these petitions?*

A13 No.

Q14 *If no why not?*

A14 The issues were summarised in the report and schedule of submissions which formed an attachment to the Council report.

Q15 *Applicants Rationale for Reconsideration, Page 45. When has Lot 99 ever, more or less, been part of the Wangara Industrial area complex?*

A15 This comment can be attributed to the applicant and is not part of the City's view.

Q16 When one site is in the City of Joondalup and the other in the City of Wanneroo, and the two sites are not close nor associated, what is the rationale behind this statement?

A16 This comment can be attributed to the applicant and is not part of the City's view.

Q17 Page 46 1st sentence. Why is it difficult to conceive a more appropriate zoning of the land, than that proposed under Amendment 13?

A17 That comment can be attributed to the applicant and is not part of the City's view.

Q18 Why is it not reasonable to remove the tin shed on the site?

A18 This is a question for the owner. The City has no role unless the building falls below required standards.

Q19 Have buildings this size or bigger ever been removed in WA in the last 10 years?

A19 The City does not have the information available to answer this question.

Q20 Other than residential, what other potential uses are there?

A20 The report deals only with the amendment and its proposal.

Q21 Why does the fly over interchange make other uses inappropriate?

A21 Heavy traffic and interchanges can reduce the viability of some land uses, particularly those that are dependent on significant quiet and high amenity, such as residential landuses.

The following questions, submitted by Ms J Hughes, Warwick, were taken on notice at the Meeting of Joint Commissioners held on 10 August 2004.

Re: Multi-storey development application on Lot 63 and Part Lot 62 Hocking Road, Kingsley.

Q1 Can Council design some road traffic treatments that will slow the traffic down as per roundabouts etc. as speed is one of the biggest problems being experienced along this stretch of residential road?

A1 A traffic investigation for Hocking Road will be carried out and any recommended treatments will then be listed for consideration in the future budget process.

Q2 Is it Council's policy or usual practice to attend the blessing of sites for proposed developments, before consideration of a Development Application?

A2 The attendance at the blessing of the site and the consideration of a Development Application are independent matters. The attendance at the blessing does not indicate support or otherwise for the proposed development.

- Q3 Are there any other four-storey developments in a residential zone R20 in the City other than the City Centre itself?*
- A3 This would require extensive research, the resources for which are not available.
- Q4 Does Council consider that a development of this size and bulk will detract from the beauty and serenity of the Yellagonga Park and create a negative impact on the entire area due to its close proximity to the regional park?*
- A4 The Development Application has not been considered by the Joint Commissioners, therefore, it is not possible to provide an answer to this question at this time.
- Q5 Has there been a traffic management study undertaken and where will the main flow of traffic enter and travel, including visitor traffic?*
- A5 Yes, a traffic study was provided with the Development Application. Traffic, including visitor traffic will enter the site via two driveways, one located adjacent to the caravan park site and one centrally located within the subject site.
- Q6 How many beds will this facility cater to both semi care and full care units, not including the 39 independent units proposed for this site?*
- A6 The high care facility is proposed to provide 110 beds, and the assisted care facility will provide 60 beds.
- Q7 What is the average size lot per individual independent living unit and is it in line with the R20 zoning of 350m² average lot per unit?*
- A7 The lot area of the subject site is approximately 24,877m². Therefore, the average site area for the proposed 39 aged persons' units is approximately 638m² per unit.
- Q8 In total how many people will be residing within this single development?*
- A8 Assuming maximum capacity of the nursing home facility and two people per aged persons' unit, this would be 248 people.
- Q9 How many staff will this facility employ?*
- A9 The applicant has advised that, at its peak period (staff changeover period), the maximum staff on the site would be 44.
- Q10 What will the facility be rated at, residential or commercial?*
- A10 The Valuer General's Department has advised that the new facility will be rated as residential.
- Q11 Can you please inform me whether the City of Joondalup has a Public Consultation Policy? If so, what is it?*

A11 The City of Joondalup has a Public Participation Policy that has the intent of outlining the City's commitment to actively involve the community in Council's planning, development and service delivery activities.

Officers of the City are currently working on developing a public participation strategy, which will lead to:

- identification of issues requiring public participation;
- inclusion in the annual budget process of funding for public participation activities;
- increased staff awareness and skills in public participation techniques;
- opportunities for all sectors and groups within the community to participate in the City's activities; and
- a community education program relating to public participation in the City's affairs.

Q12 What does Council regard as adequate information through its consultative process?

A12 With respect to planning applications, the District Planning Scheme No 2 outlines the requirements for public consultation for those applications.

Q13 How many residents received a letter regarding the proposed development at Lot 62, 63 Hocking Road, Kingsley and were they informed of the height and bulk of the development?

A13 Thirteen letters were sent to adjoining and nearby landowners. The advertising letter invited people to view the plans and provide their comments.

Q14 Have these residents and those in the locality been advised in any way that a multi-storey building is proposed for the Lot 62, 63 Hocking Road site? Please state measures taken?

A14 The proposal was advertised by way of two signs on-site, three advertisements in the local newspaper and nearby owners were contacted in writing. Plans of the development were available for public viewing at the Administration Centre and the Whitfords Customer Service Centre.

The following questions, submitted by Mr G Brown, Mullaloo, were taken on notice at the Meeting of Joint Commissioners held on 10 August 2004.

Re: Mullaloo Progress Association's Supreme Court Action against the City:

Q1(a) Has the City had its Court costs taxed by the Supreme Court and if so what was the amount awarded?

A1(a) The City is proceeding to have the awarded costs taxed by the Registrar of the Supreme Court. The taxation is not yet finalised.

Q1(b) More ratepayers money was spent on preparing a case. Why didn't the City ask the Court for surety from the Mullaloo Progress Association to show it had sufficient funds to pay for court costs if it was unsuccessful?

Q1(b) The City is not aware of any grounds that might successfully have justified an application for security of costs. The alleged impecuniosity of one of the parties is not a ground for such application.

The following questions were submitted by Mr S Magyar, Heathridge:

Re: Item CJ195 – Council's Meeting Cycle

Q1 How does not allowing the public to ask questions at Briefing Sessions improve the accountability of a local government to its community or provide for greater community participation in the decisions and affairs of the local government?

A1 Replacing public question time with increased opportunity and time for deputations or presentations would give the presenter more time to explain their position and make suggestions which could lead to a far greater understanding of an alternative viewpoint and to better decisions being made.

Questions can still be directed to the Administration prior to meetings of the Council.

Q2 How does not allowing a second public question time at ordinary meetings of Council improve the accountability of the local government to their community?

A2 The City's Administration supports the Department of Local Government and Regional Development position on this matter of having one public question time before the meeting makes any decision so elected members may be made aware of matters raised in questions.

Q3 Is the provision of a second public question time listed in the City of Joondalup's local law which determines the correct procedures for the conduct of Council meetings?

A3 No. For the reasons outlined in Answer 2.

Q4 Will the Commissioners vote on allowing a second public question time at the end of the ordinary meeting of 31 August 2004?

A4 In the event of a motion being moved and seconded that a second public question time be held, a vote would be required.

Re: CJ197 – Warrant of Payments to 31 July 2004

Q5 Cheque No 65385, 16 July 2004, \$11,914.78 to Denis Smith. What goods or services were received by the City of Joondalup for this payment?

A5 Reimbursement of costs associated with relocation of the former CEO per Council resolution C15-03/04.

Q6 *EFT No 472, 21 July 2004, \$33,425.55 to Minter Ellison. What goods or services were received by the City of Joondalup for this payment?*

A6 Legal advice regarding insurance issues, Inquiry under the Local Government Act, legal representation policy, parking prosecution and contracts issues.

Q7 *Cheque No 65461, 20 July 2004, \$13,682.08 to Watts and Woodhouse. What goods or services were received by the City of Joondalup for this payment?*

A7 Legal advice regarding streetside advertising, writ of certiorari, proposed works depot, lease preparations, licence agreement and delegations.

Q8 *Cheque No 65560, 22 July 2004, \$21,179.76 to Chamber of Commerce and Industry. What goods or services were received by the City of Joondalup for this payment?*

A8 Annual membership subscription.

Re: CJ198 - Financial Report Year ending 30 June 2004

Q9 *Capital Works Summary, C601 Foreshore Protection/Restoration shows a variance of \$1,734,665.00, of which \$1.3m is explained by the Sorrento Beach Project. What are the other projects in this area that account for the other \$400,000?*

A9 In addition to the Sorrento Beach Project, the variance as at 30 June 2004 was also due to the following under spends:

- 2174 Mullaloo Foreshores – DUP Linking Existing Paths, \$214,000
- 2236 Ocean Reef Boat Harbour – Launching Ramp Lighting, \$89,200
- 2176 Mullaloo Beach Project – Enhancements, \$50,748
- 2235 Coastal Foreshore Works – Kallaroo (Foreshore Study), \$22,697
- 2227 Whitfords Foreshore Works & Restoration, \$19,000
- 2178 Biodiversity Bush Links – Stage 1, \$6,622

These unfinished projects have been carried forward in the 2004/05 adopted budget.

Re: CJ202 - Delegated Authority July 2004

Q10 *Of the 109 development applications received for the month of June 2004, how many of the applications required the exercise of discretion, or delegated authority, to allow approve of an application that did not meet the requirements of the Residential Design Codes, or any other statutory provisions, governing the approval of development applications?*

A10 It is unlikely that all of those applications received in June have been determined at this point in time, and it is therefore not possible to answer the question. If the question relates to those applications that were determined in June, it is not possible to extract this type of information from the City's computer system, and the City is unable to commit the required resources to accurately answer the question. However, it is estimated that approximately 40% of the determined applications required the exercise of discretion under the Residential Design Codes or the District Planning Scheme No 2.

Q11 If an applications were approved that required the exercise of discretion, or delegated authority, to allow approve of an application that did not meet the requirements of the Residential Design Codes, or any other statutory provisions, governing the approval of development applications, how many of these had received adverse comments from neighbours, or other persons who were afforded an opportunity to comment on the development application?

A11 It is assumed that this question also relates to the applications approved in June 2004. It is not possible for the City's computer system to extract this type of information, however, it has been determined that approximately one application was approved where a neighbour had submitted an objection during the advertising period.

The following questions were submitted by Ms M Moon, Greenwood:

Q1 Why is it that the officers' justification for the recommendation to approve Lot 61 Leach Street, Marmion for advertisement is based on what would occur under the proposal, not under the Urban Development zone, and that it would not necessary produce identical land use and building form of locality?

A1 The justification behind the resolution is based on several town planning related considerations that are outlined within the Council report.

Q2 Is the proposal statutory or can it be reviewed by the proponents and changed?

A2 The proposed scheme amendment application process is regulated by the Town Planning Regulations. If the proponent changed the intended rezoning at a future time, this would require a new rezoning application.

The following questions were submitted by Ms S Hart, Greenwood:

Q1 Question time 29/06/2004. I asked for a detailed explanation of the process the JCCDPM has gone through, including dates and references to the signing off on the Agreed Structure Plan. Answer was the staff proposed to invite me to a private meeting to have this explained.

Question time 20/07/2004. I asked if I could have the answer in writing for all ratepayers to see.

To date I have had no invitation, no mention of one and no written reply. My question is, when am I going to get a written reply, a chronological report cannot be that hard, can it? It is only fair that the whole City be privy to this information.

- A1 A written reply was prepared and sent to Ms Hart today (Tuesday 31 August 2004). An apology is extended to Ms Hart for the delay in getting this response to her.
- Q2 *Were details of the two petitions received, after the closing date, regarding Amendment 13 be provided to Commissioners?*
- A2 No, however a copy of the previous Council report and attachments were provided to the Commissioners, that included petition details.
- Q3 *Luisini proposed restaurant/museum, Amendment 13 and the proposed aged care facility on Lot 62 & 63 Hocking Road, Kingsley are independent of each other. Do traffic and environmental concerns affect ratepayers in the area around these three sites?*
- A3 This question requires further clarification in order for the City to provide a response. Traffic and environmental impacts tend to affect ratepayers differently.
- Q4 *Does the City acknowledge that ratepayers and residents have concerns on these three issues?*
- A4 Yes.
- Q5 *If the three proposals were to be approved by the Commissioners, do staff think there would be more of a significant impact on traffic and or the environment, if let us say, only one was approved?*
- A5 Each application is required to be considered on its own merits in accordance with the City's District Planning Scheme No 2 and any relevant Western Australian Planning Commission or Council policy.

The following questions were submitted by Ms Sue Hart, Greenwood:

Re Item 5 – Amendment 24:

- Q1 *Page 21 Paragraph 5: "some members of the public" How many are "some" members of the public?*
- A1 A precise number is unknown, hence the use of the word "some".
- Q2 *When the report stated "level of community support" is the City also taking on board the level of community opposition?*
- A2 Yes.
- Q3 *Consultation. 6/12/03 How many doors were knocked on, how many ratepayers answered the door and what information was presented to ratepayers?*
- Q4 *13/02/03 and 17/01/04 Open Days. Were these open days advertised in the Community News?*

Q5 If letter dropped how many ratepayers were contacted?

Q6 If neither of the above how were ratepayers made aware of the open days?

Q7 How many one to one meetings were held?

Q8 What information was presented at these meetings?

Q9 What information was given over the phone?

Q10 How many calls were taken?

A3-10 This consultation was undertaken by the landowner and is separate to any consultation that may be required by the Council. As the landowner undertook this process on an independent basis, it is suggested that questions 3 to 10 be referred to the landowner.

Q11 Page 28 "infill" & "minimising urban sprawl" In line with the State Government's objective. Are Commissions aware that Precinct Plan in the South Ward was 'infill and minimising urban sprawl', and when the community eventually found out, there was overwhelming opposition?

A11 The Commissioners have not been briefed specifically on the City's previous precinct planning exercise, however most would be aware of it.

Q12 If Commissioners adopt Amendment 24 for the purpose of advertising, after advertising has closed and the Amendment is before Commissioners, if the applicant is unsuccessful, there are avenues for appeal. Do Commissioners appreciate that if Amendment 24 is rejected for advertising there is no avenue for appeal?

A12 Yes, the Commissioners are aware. No appeal rights exist with respect to Town Planning Scheme Amendment applications. The Minister for Planning and Infrastructure ultimately determines a Scheme Amendment proposal.

Q13 The community around this site, and other ratepayers in the City, as I have been told this is a regional issue, are concerned about amenity and the rights of ratepayers. Let's face it, the South Ward fought hard for their amenity, Mullaloo and Hepburn Heights the same. When someone purchases land, does it give them the right to apply for rezoning?

A13 Yes.

Q14 When someone purchases land, does it give them the automatic right to achieve rezoning?

A14 No.

The following question, submitted by Mr D Davies, President – Connolly Residents Association, was taken on notice at the Special Meeting of Council held on 19 August 2004.

Q1 The Connolly Residents Association obtained dollar for dollar funding for a community centre. At the time the funding was received, the Association did not have sufficient funds to erect a fence at the rear of the building. We were assured there would be fencing at the rear to stop graffiti and vandalism. Is there any money allocated in the budget for fencing at the rear of the community centre?

A1 Funds were listed for consideration as part of the 2004/05 budget deliberations for fencing at the rear of the Connolly Community Centre to minimise graffiti and control access through the Centre. However, due to competing priorities these funds were not included in the finally adopted budget. This project will be relisted as part of future budget deliberations.

The following question, submitted by Mr J Hollywood, Burns Beach, was taken on notice at the Special Meeting of Council held on 19 August 2004.

Q1 The Burns Beach Ratepayers Association always provides a list of priority items that it would like undertaken. How successful was the Association with the list provided?

A1 Details of submission from the Burns Beach Residents, Ratepayers and Community Recreation Association listed in the “Draft Principal Activities Plan 2004/2005 to 2008/2009” are as follows:

Issue/Submission	Officer Response
The Association would like the existing groyne stabilised and extended as they consider it is small and poses a hazard to those who try and swim around it.	This project was considered as part of the 2004/05 draft budget process and was not considered as a high priority and is therefore not included in the 5-year Capital Works Programme at this time. Should there be further requests for this project the matter will be revisited for consideration in future years. Officers will ensure that beach access to the groyne will be prohibited, and the appropriate fencing and signage will be maintained.
Remove a small area of submerged rocks at the main swimming area of the beach to create a safe swimming facility.	The swimming area and issues relating to submerged rocks is under the jurisdiction of the Department of Planning and Infrastructure. The City will refer these matters to the Department.
Solar lighting be placed along the pathway from Burns Beach to Iluka to increase usability and safety	The City will review the project costs associated with solar lighting for its coastal dual use paths and will list it for consideration as part of future budget deliberations.

Construct a bus shelter adjacent to the school on Marmion Avenue in Kinross.	The bus stop location will be assessed and added to the City's current list for shelters and implemented during the 2004/05 budget period.
A "welcome to Burns Beach" sign be erected.	The City is currently assessing options for the sign and will be undertaken during the 2004/05 period.
Undertake a study into the use of the secondary overflow facility located within the Burns Beach Reserve Park with the intent of closing it or turning into a subterranean sump.	The study will be undertaken in 2004/05.

The following question, submitted by Mr S Magyar, Heathridge, was taken on notice at the Special Meeting of Council held on 19 August 2004.

Q1 Appendix 15, Page 0182 – Capital Works Programme: Under Parks Construction Works, C670 – Reticulated Parks Development/Upgrade – Groundwater Lakes upgrade surrounds - \$84,000: What are the locations of these lakes and is the upgrade to Europeanise them or to restore a more natural vegetation regime?

A1 The locations include lakes at Mawson Park, Whitfords Nodes, two lakes at Broadbeach and a lake at Lacedpede if funds permit.

The intention of the upgrade is to restore the natural vegetation by assisting with nutrient stripping and improving water quality.

The following questions, submitted by Mr R de Gruchy, Sorrento, were taken on notice at the Special Meeting of Council held on 19 August 2004.

Q1 Are the Commissioners aware that the Emergency Services Levy, in some cases, has increased by 67%? In some cases this is mitigated by the imposition of a maximum amount of \$175 and this has the effect of bringing it down to a 27% increase.

A1 The Emergency Services Levy is governed by the Fire and Emergency Services Legislation (Emergency Services Levy) Amendment Act 2002. The minimum payment is set at \$30 and the maximum is \$175. The Emergency Services Minister set the 2004/05 ESL rate-in-the-dollar at 1.47 cents.

Q2 Would the Commissioners confirm that the rate of 1.47 cents is set by the State Government?

A2 The Emergency Services Minister set the 2004/05 ESL rate-in-the-dollar at 1.47 cents.

Q3 On page 20 of the Agenda for the Special Council meeting of 19 August 2004 the comment is made that the CPI has increased by 24% over the last six years. This may not be the place to debate this issue but my records indicate an increase in the CPI since 1998 of 18.2%. Perhaps I may be able to discuss this difference with Council officers at a separate time? Mine has gone up 17% from 1999 to 2003.

A3 The CPI increase refers to the 8-Cities Average as published by The Australian Bureau of Statistics.

Q4 *The answer given to my question about borrowing \$3 million refers to actions that are appropriate to the 2003/04 Budget. The answer given does not answer the question that I asked.*

A4 The 2004/05 budget provides for the City to borrow \$3m to fund the redevelopment of the Craigie Leisure Centre.

Q5 *The concept of borrowing \$3 million when Reserves as at 1 July 2004 totalled over \$23 million with a projection of \$11 million on 30 June 2005 seems extremely unwise. There will be in excess of \$1 million in interest that will be wasted.*

A5 Council has taken a holistic approach with funding and used a mix of internal borrowings (from reserves) and external borrowings, taking into account the future service demands of the City and the historically low interest rates currently available.

The City invests any surplus reserve funds and earns interest income on those investments.

Q6 *The comment on page 15 of Attachment 1 refers to the State Government “funding in the range of \$4.8 - 9 million” for a cultural facility seems extremely optimistic. What is the alternative course of action if these funds are not forthcoming?*

A6 The concept design review that will be undertaken will consider various options for a cultural facility that meets the needs of the region and is affordable to the City. Once that review is complete and a preliminary cost estimate obtained on the revised concept, State Government funding will be sought.

In the event the City is unsuccessful, the City will need to reconsider its options, including either scaling back the design to meet the City’s projected budget or considering the viability of funding the shortfall from the City’s reserves.

Q7 *I ask that Commissioners alter the comment on page 8 of 38 (Draft Principal Activities Plan) referring to the borrowing of \$3 million for the Craigie Leisure Centre. If Commissioners do decide to borrow funds it is for a perceived general shortfall of revenue and not specific to any one project.*

A7 The 2004/05 budget provides for the City to borrow \$3m to fund the redevelopment of the Craigie Leisure Centre.

Q8 *Could further clarification be provided as to why Cmr Smith, when referring to a 50 metre pool, “believed this item should be moved to the 2006/07 year”?*

A8 In managing the budget process, Commissioners and City Officers have needed to be strategic in how the overall funds of the organisation are managed. The budget for the Craigie Leisure Centre has been progressed by the Commissioners, in accordance with the resolution of the previous Council.

The facilities, which have been funded as part of the 2004/05 budget, are based on maintaining the existing level of facility provision. The additional, and at this time unconfirmed, funds necessary to expand the facilities at the Craigie Leisure Centre need to be considered at a time that the Council has been able to evaluate the nature and level of usage at the Centre once it has been operational for a definable period.

Q9 On the last line page 2 of Appendix 9 (Page 0144) there is a reference to Appendix 1. I cannot seem to locate this Appendix 1. Is it missing?

A9 This attachment referred to a Powerpoint presentation made to the Committee, and forms part of the Committee minute book.

Q10 On page 3 of Appendix 9 (Page 0145) there is a reference to four funding options for the Craigie Leisure Centre but I cannot locate any details of these four funding options. Can you please advise?

A10 The four funding options considered by the Budget Committee were:

Option 1 - Savings, deferrals and partial utilisation of 2003/04 surplus.

Option 2 - Savings, deferrals and borrowing from reserves.

Option 3 - Savings, deferrals and \$500K external borrowings.

Option 4 - Savings, deferrals and \$1m external borrowings.

The following questions, submitted by Mr M Caiacob, Mullaloo, were taken on notice at the Special Meeting of Council held on 19 August 2004.

Q1 The City forecasts an increase of 400 homes per annum over the three year forecast. Can the City advise approximately how many new properties have been constructed in the City of Joondalup since 2000?

A1 The City's records indicate that from 1 January 2000 until 26 August 2004 that the number of single dwellings completed was 2490. Note that 2774 dwellings were approved within that period, therefore 284 single dwellings are currently either under construction or yet to commence construction.

Q2 What were the two options available to Commissioners in regards to the five year financial budget shortfall of our City?

A2 The 2004/05 budget is a balanced budget. The draft Principal Activities Plan indicates shortfalls in future years. A number of options are available to assist in future financial planning, for example these include project deferrals, cost reductions, additional sources of income, asset disposals and borrowings.

Mr S Magyar, Heathridge:

Q1 Re: Warrant of Payments – Cheque: \$21,179.76 - Chamber of Commerce and Industry – My previous question asked what goods and services does the City of Joondalup get for this payment and the answer was annual membership subscription. I would like to know what benefits the City of Joondalup receives from the membership to the Chamber of Commerce and Industry. Does the City get access to reports, documents or advice?

A1 The City receives industrial relations advice from the Chamber of Commerce and Industry.

Q2 *Re: A previous question raised dealing with the issue of a second public question time being allowed at a Council Meeting asked is the provision for a second public question time listed in the City of Joondalup's Local Law, which determines the procedure for conduct at Council Meetings? The answer received was "No it is not in there". I have not seen a new Local Law Standing Orders that has no provision for second public question time? The City works under the 1997 Local Law, that law has not been repealed or altered in any manner. Council determined to have a second public question time in the interest of being accountable and open to the public. The order was changed by the previous Commissioners, not by a resolution of Council, the law has remained the same.*

A2 *The City understood that the question related to the City's current Standing Orders. The answer to that question is that there is no provision for a second public question time.*

(Note: This response was subsequently amended – See A2-3 to Mr Sideris, Page 23 of these Minutes).

Response by Cmr Paterson: The City will look at this issue.

Mr M Caiacob, Mullaloo:

Q1 *Re: CSIRO Site, Marmion – Reference Page 069 of the Attachment, Page 6. Is it a rezoning of Lot 61 Leach Street, Marmion or a scheme amendment to unreserve the land and then zone it to urban development?*

A1 It could be described either way, it is a rezoning for the land.

Ms S Hart, Greenwood:

Q1 *Would Commissioners please put a motion forward that every report has included in it how much of ratepayers' money has been spent on legal advice relating to any issue to do with that report?*

Q2 *In light of the report in today's Community News, Page 3 regarding crime prevention I seem to recall a study commissioned by the State Government and funded, in part, by the City of Joondalup for around \$10,000 in 2001 or 2002. Can Council confirm that a study was undertaken and that the City of Joondalup received a copy of this report? Was a copy of this report provided to Councillors and could a copy be made available to ratepayers?*

A1-2 These questions will be taken on notice.

Ms M Moon, Greenwood:

Q1 *RE: Item CJ199-08-04 – In the recommendation when the City refers to modification to the Joondalup City Centre Development Plan and Manual Structure Plan No 1, is the City referring to modifying the:*

- (a) *JCCDPM adopted by Council on 20 December 1995 and deemed to be an Agreed Structure Plan by amendment 731 to the TPS1, or*
- (b) *is the City referring to modifying the revised Joondalup City Centre Structure Plan which was adopted as satisfactory and made available for public comment in February 1999?*

If the answer is (a), why has it never been out for public comment and has not followed the processes or in the form of an agreed Structure Plan under the DPS2 or TPS1?

If the answer is (b), why isn't there a copy attached and does it still contain a density map and statutory component and why was it not available during the advertising period?

A1 There is only one Structure Plan, which has been amended over time. This proposal is to amend the latest updated Structure Plan.

Q1 *Has the Structure Plan referred to been done to the process of TPS1 part 10 or part 9 of the DPS2. Is it in the form of a Structure Plan under Part 9 of DPS2?*

A2 Since the gazettal of the District Planning Scheme No 2 in 2001 all amendments to the Structure Plan have been undertaken in accordance with the law.

Q3 *Is it in the form of Part 9 because the one in 1995 is not. Is it in the form of a Structure Plan with a statutory component and setting densities?*

A3 The City Centre Structure Plan was written in the early 1990's and Council adopted it in 1995, before Town Planning Scheme No 2 was gazetted. Town Planning Scheme No 2 sets the process for amending structure plans, this is the reason for the difference.

Q4 *At point (b) would the Joondalup City Centre Development Plan and Manual Structure Plan No 1 be adopted and signed and sealed in the form illustrated in Schedule 8 for the purpose of becoming the Agreed Structure Plan over the Structure Plan area?*

A4 This question will be taken on notice.

Ms M John, Marmion:

Q1 *Re: Lot 61 Leach Street, Marmion – Would the Commissioners please accept a copy of a letter dated 28 January 2004 from the City's Planning Department in relation to the closure of the laneway between West Coast Drive and Leach Street, Marmion?*

A1 *Response by Cmr Paterson:* The City will receive the letter.

Mr D Davies, Connolly:

Re: Questions on behalf of the Joondalup Combined Residents Group re legal services and costs to ratepayers from McLeod Solicitors to represent the City of Joondalup at the McIntyre Inquiry – Minutes of the City of Joondalup Council Meeting, 10 August 2004. Responses received state inter alia “The decision to appoint McLeod was made as part of the CEO’s responsibilities under Section 5.41 of the Local Government Act 1995 and the cost to ratepayers is difficult to estimate.”

Q1 Are all Commissioners fully aware that this decision was taken by the Acting Chief Executive Officer?

Q2 Do all Commissioners fully support the decision?

A1-2 Response by Cmr Paterson: The Commissioners are calling a Special Council Meeting on 10 September 2004 to deal with the issue of legal representation to the City.

Mr T Thorp, Sorrento:

Q1 Re: Recommendations to the Commissioners on Lot 61 Leach Street, Marmion – Why doesn’t Administration recommend to the Commissioners to first ask the ratepayers of Marmion if they wish to rezone the CSIRO site from Local Reserve Parks and Recreation to Urban Development as their first priority?

A1 The amendment process, when the proposal looks to be complete, is to seek public submissions by the initiation of the rezoning process, and that is the recommendation before the Commissioners.

Q2 Re: Ratepayer Initiated Referendums – Can Council under the Local Government Act 1995 bring into being a law setting up such a process, if not, why not?

A2 This question will be taken on notice.

Mrs M Papworth, Ocean Reef:

Q1 Re: Ocean Reef West Coast Highway – The City gave me an unsatisfactory answer to say that it would only take six weeks to discuss about the road. Is it going to cost the ratepayers a lot more money if the road goes ahead as I am very concerned about the rates?

A1 Response by Cmr Paterson: The process is progressing and it is going out for advertisement very shortly. By the end of November, a submission will be brought to the Commissioners to make a final decision on the design of the road.

Q2 Will this decision be made before the Commissioners leave?

A2 Response by Cmr Paterson: There is no guarantee how long the Commissioners will be at the City of Joondalup, but we expect to be here until at least Christmas.

C51-08/04**EXTENSION OF PUBLIC QUESTION TIME – [01122] [02154]**

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

The Motion was Put and

CARRIED UNANIMOUSLY (5/0)

Mr K Zakrevsky, Mullaloo:

Q1 Re: CJ195-08/04 - It states under the heading “Public Question Time” and I quote: “It is not proposed to retain the Public Question Time currently available at the commencement of Briefing Sessions”. It goes on to refer to a “Governance Review”, the authors of which have no authority over a local council. Reviews do not necessitate changes to be undertaken, especially as this Governance Review is under wraps until the completion of the Panel Inquiry in the City of Joondalup. For these reasons, will Commissioners please reject Item 1 on Page 9 of the Recommendation because this item, if adopted, will deny ratepayers Public Question Time at the commencement of the Briefing Session?

Q2 I quote: “It was the intention of the original legislation that questions affecting the local government’s operations could be asked at Ordinary Meetings and Committee Meetings which have Delegated Authority”. And on Page 3 “None of the committees has Delegated Authority to make decisions on behalf of the Council and are therefore not open to the public”. As this Council has no committees as referred to in the first and second quotations (i.e., committees with Delegated Authority open to the public) but instead has Briefing Sessions open to the public, this statement referring to the intention of the Act applies to the Briefing Sessions. The intention of the original legislation is that “questions affecting the local government’s operations could be asked” and therefore public question time at the commencement of Briefing Sessions is applicable. To abide by the intention of the legislation, will the Joint Commissioners please reject Item 1 on Page 9 in the recommendation CJ195-08/04?

A1-2 Response by Cmr Paterson: There will be an alternative motion put forward by the Commissioners.

Mr M Sideris, Mullaloo:

Q1 Re: CJ195-08/04 – Will the alternative motion also give due consideration to amending the Local Laws of the City of Joondalup to ensure that Strategy and Briefing Sessions are lawfully constituted meetings as should be depicted in those local laws?

A1 There is an opportunity for Commissioners to consider the format of Briefing and Strategy Sessions, however the City’s understanding is to constitute them under the legislation would establish them as formal committees of Council pursuant to the Local Government Act 1995.

Q2 Why not amend the City's Local Laws and develop an appropriate policy, which then could be incorporated into the law?

Q3 In response to a question that Mr Magyar received, under Local Law 2.4 the last line reads "At the end of each Council Meeting an additional segment of fifteen minute questions is allowed to permit the public to ask questions on decisions made at that meeting." Local Law 3.2, the second last item of the Order of Business is question time, which puts it at the end of the meeting. Why are we not conducting meetings in accordance with the local law?

A2-3 The City accepts that the question before was misinterpreted, it was understood to refer to the current practice, which is also governed by a Council resolution. There is a provision for a second public question time in the Standing Orders Local Law but it is not operated by this Council by virtue of that amendment to the order of business.

Mr V Cusack, Kingsley:

Mr Cusack raised a question in relation to Re: Legal Expenses – Late Item No. 2

The Chairman ruled that this question was inappropriate as it related to a member of staff, and an Inquiry was currently being conducted.

Q1 Are the Commissioners accountable to the ratepayers and if so, can you please tell us how?

A1 *Response by Cmr Paterson:* We have been appointed to manage the City.

Mrs A Walker, Padbury:

Q1 Re: CJ206-08/04 – Minutes of the Seniors Advisory Committee – Part of that meeting, moved Mr A Bryant seconded by Mr R Kinloch that the Joint Commissioners reinstate off-peak membership and discount for seniors using the Craigie Leisure Centre. According to my records on 9 September 2003 the City of Joondalup Council resolved to:

- “1 adopt a 10% discount on Lifestyle Guide Term Activities at Craigie, Sorrento Duncraig and Ocean Ridge Leisure Centre to all new or renewing members of the community who are residents of the City of Joondalup and are in possession of a State or Commonwealth Senior or Pension Concession Card;*
- 2 agree that the discount for Lifestyle Guide Term Activities at Sorrento Duncraig and Ocean Ridge Leisure Centres be considered an interim measure until such time as Council has been able to consider a formal policy relating to the setting of fees and charges for the leisure centres;*
- 3 advertise the proposed new charges in accordance with Section 6.19 of the Local Government Act 1995.*
- 4 implement the proposed new charges effective from 13 October 2003.”*

Why has this motion never been activated by Council Administration and why is it that members of the Seniors Interest Committee have had to ask that it be done again?

- A1 The 10% discount as adopted by Council in September 2003 has been implemented and has been active at the Leisure Centres since then. The Committee is presently looking at, with regards to policy, is part of the Leisure Plan, and the Committee anticipates being able to provide assistance to some aspects of our community on a holistic prospective on an ongoing basis.

Ms J Hughes, Warwick:

Q1 In view of the fact that traffic works for Sherington Road are now listed for the next budget round for works 2005, many residents are prepared to work with Council. Would Council allow the formation of a working party to help through a consultative process in the preparation in planning of works that will be suitable to address the many traffic issues being experienced along this road? I have six families that wish to be part of this work group and I would like to table their names for consideration?

- A1 Council will be happy to work with that group in finalising the design as part of 2005/06 Capital Works Programme.

Q2 Is it not so, that as a matter of procedure, Councils must refer any development application which abuts a regional reserve to the Department of Planning and Infrastructure prior to a Council making a decision?

Q3 Has the Meath Care multi-storey development that abuts Yellagonga Regional Park been forward on the Department of Planning and Infrastructure?

- (a) *If not, when will you?*
(b) *If so, have you received any response?*

If you have, what was the response?

- A2-3 These questions will be taken on notice.

Ms J Hughes tabled the following questions:

Re: Answer 3 to Question 3 (Meeting 10 August 2004)

Q4 Do the Commissioners believe that this was adequately answered? I am sure that the City of Joondalup does not boast four-storey development of 16.5m tall buildings in residentially zoned areas in such an abundance that they are unable to be tracked or estimated and publicly answered. I would resubmit this question for answering.

Re: Answer 5 to Question 5 (Meeting 10 August 2004)

Q5(a) Was the traffic study that was undertaken and lodged with the development application undertaken in relation to the development here in Hocking Road or in relation to a nursing home in the Eastern States?

Q5(b) When the question was asked whether a traffic management study was undertaken I was not just referring to the entry and exit driveways of the development site. Has a traffic management strategy been submitted taking into account the total impact on the management and flow of traffic on the surrounding residents and streets in relation to this service delivery development?

Q5(c) When are the traffic treatments being carried out on Wanneroo Road to close the access across the median given present access to Hocking Road and the proposed development?

- *Ms Hughes referred to Answer 7 for Question 7 (Meeting 10 August 2004) and advised that the lot size was printed as 350m² and should be of 450m² in relation to a R20 site.*

Q6 Is the total lot size of the entire development 2.44ha 1.59 ha Lot 63 and .9 ha for lot 62?

Q6(a) Have Administration omitted to also factor in the development of the Clubrooms the semi care three-storey building and the four-storey full care unit being developed on the same site?

Q7 How many square metres is taken up by the four-storey development, by the three-storey development and the clubroom development, driveways, service areas and general outdoor buffer areas between buildings?

Q7(a) What is the average size lot for the independent living units?

Q8 In view of the fact that the City of Joondalup does not have a public consultation policy, is Council aware of the difficulty experienced by residents to have a proper understanding as to how they can function and interrelate to their local government on issues that relate directly to their lifestyle and amenity?

Q8(a) Does Council consider the public participation policy is an internal policy document that does not encompass the requirement or need for the community to have a formal opportunity to be fully informed about a proponent's proposal relating to a development that impacts directly on the surrounding amenity and lifestyle in residents lives?

Q8(b) When will the City of Joondalup seriously look at creating a consultation policy that will be available to the public to give them some confidence that they are a legitimate part of the decision making processes?

Re: Answer 13 of Question 13 (Meeting 10 August 2004)

Q9 Is it to be understood that only 13 residents were formally consulted regarding the multi-storey development at Hocking Road?

Q9 (b) Is it to be understood that these 13 residents were unaware of the true size and bulk of the multi-storey development and were reliant on the former report that lead residents to believe that it was a single storey development unless they were able to travel to one of Council's chosen venues to view any further documentation?

Q10 Re: CJ195-08/04 Council's Meeting Cycle

The removal of public question time from briefings is not consistent with open and accountable government. If the public are able to attend there should also be an opportunity for the public to receive clarification of issues raised at the briefing.

If public question time was to be placed at the end of the briefing session giving the public the opportunity to ask questions that are relevant to the agenda and any issues that may need to be clarified from discussion or questions raised during the briefing by the Administration to the Commissioners or Elected Members, this would alleviate any confusions or misunderstandings during the Briefing Session, giving rise to open government and unmistakably the added burden of question time in the following Ordinary Meeting of Council.

Would Council consider adopting this strategy to maintain an open channel of communication between the community and their Elected Members/Commissioners?

A4-10 These questions will be taken on notice.

APOLOGIES AND LEAVE OF ABSENCE

Nil.

DECLARATIONS OF FINANCIAL INTEREST/INTEREST THAT MAY AFFECT IMPARTIALITY

Acting Chief Executive Officer declared a financial interest in Item C56-08/04 – Application for Payment of Legal Expenses for an Employee relating to the Inquiry, as Mr Higham may be a potential applicant for funding.

Manager, Audit and Executive Services declared a financial interest in Item C56-08/04 – Application for Payment of Legal Expenses for an Employee relating to the Inquiry, as Mr Robinson may be a potential applicant for funding.

CONFIRMATION OF MINUTES

C52-08/04 MINUTES OF MEETING OF JOINT COMMISSIONERS,
10 AUGUST 2004

MOVED Cmr Anderson, SECONDED Cmr Clough that the Minutes of the Meeting of Joint Commissioners held on 10 August 2004 be confirmed as a true and correct record.

The Motion was Put and

CARRIED UNANIMOUSLY (5/0)

C53-08/04

MINUTES OF SPECIAL MEETING OF COUNCIL, 19 AUGUST 2004

MOVED Cmr Anderson, SECONDED Cmr Clough that the Minutes of the Special Meeting of Council held on 19 August 2004 be confirmed as a true and correct record.

The Motion was Put and**CARRIED UNANIMOUSLY (5/0)****ANNOUNCEMENTS BY THE CHAIRMAN WITHOUT DISCUSSION****JINAN DELEGATION**

The City of Joondalup's delegation of 11 leaders in the civic, education, business, police and tourism fields, leaves for Jinan this evening. The delegation comprises:

- Professor Patrick Garnett, Deputy Vice Chancellor of Edith Cowan University
- Assistant Commissioner of Police - Graeme Lienert, representing the WA Police Academy
- Ms Sue Slavin, Managing Director of West Coast College of TAFE
- Mr Alan Green of the Sunset Coast Tourism Association
- Mr James Chan, Managing Director of Joondalup Resort
- Mr David Curry, President of the Joondalup Business Association
- Mr Peter Flatt of ING, owners of Lakeside Joondalup
- Mr Kempton Cowan, Chief Executive Joondalup Health Campus
- Mr David Xu and Mr Glen Watkins of International Institute of Business Technology
- Ms Rhonda Hardy, Manager of Strategic and Sustainable Development at the City of Joondalup

By the signing of the Agreement with Jinan, it is hoped to bring many more students to Joondalup and provide a boost to the economy. Currently there are approximately 70 students attending Edith Cowan University from Jinan. As leader of the delegation, I am travelling economy class.

WA ON SHOW

The City of Joondalup has been 'on show' at WA On Show, the gala opening event for the new Perth Convention Centre.

The City's stand was very impressive and drew thousands of interested visitors. The stand featured virtual bike rides along the coast, around Lake Joondalup, Craigie bushland and through the Joondalup CBD, giving everyone a "bird's eye" view of our City's attractions.

BUSINESS AT YOUR LIBRARY

It is great to see City of Joondalup Libraries branching out with some innovative ideas for residents. The latest is for people interested in starting a small business. Denis Godley from the North West Business Enterprise Centre is presenting the 'How to Start a Business Session' at Whitford Library at 10am on Wednesday, 15 September 2004.

Bookings can now be made by contacting Whitford Library.

PETITIONS

C54-08/04 PETITIONS SUBMITTED TO THE COUNCIL MEETING – 31 AUGUST 2004

1 PETITION IN RELATION TO TRAFFIC BEHAVIOUR, ELLERSDALE AVENUE, WARWICK – [02381]

A further petition containing three signatures has been submitted on behalf of residents of Ellersdale Avenue, Warwick calling on the City to investigate ways of curbing unruly traffic behaviour, including speeding vehicles in Ellersdale Avenue.

The issue was initially presented to Council on 20 July 2004 (Item C44-07/04 refers).

This further petition will be referred to Infrastructure and Operations.

2 PETITION IN RELATION TO THE REZONING OF LOT 61 LEACH STREET, MARMION – CSIRO SITE – [85558]

A 623-signature petition has been received requesting that the City of Joondalup acknowledges the opposition to the rezoning of Lot 61 Leach Street, Marmion from Local Reserve, Parks and Recreation and rezoning of Local and Regional Reserves for any purpose other than the purpose for which the land is reserved or for a public purpose.

This petition will be referred to Planning and Community Development for action.

3 PETITION IN RELATION TO ANTI-SOCIAL BEHAVIOUR, TRAFFIC ISSUES – PLUMDALE PARK, WOODVALE

A 186-signature was tabled by Cmr Paterson requesting that the City of Joondalup take appropriate action to remove the carpark at Plumdale Park, Woodvale, thereby returning safe use of the park, and restoring a peaceful environment, to the law abiding residents of the area.

This petition will be referred to Infrastructure and Operations for action.

CJ195 - 08/04 COUNCIL'S MEETING CYCLE – [02154] [08122] [27456] [23184]

WARD - All

PURPOSE

To provide for the consideration of the Joint Commissioners, suggested protocol and parameters for the operation of strategy sessions.

EXECUTIVE SUMMARY

The report provides an overview of the City's current meeting and decision making processes and details the role that each of these processes has in providing relevant information to assist the Council in making informed decisions in the best interests of the Joondalup community.

The use of Strategy and Briefing Sessions by local governments in Western Australia is a relatively new process applied to inform and obtain valuable feedback from elected members/commissioners and staff. As with most new processes, there can be misunderstanding and a degree of opposition to moving away from the more traditional meeting processes which may not be as efficient or effective. In the interests of encouraging local governments to seek the best information and decision making process for their circumstances the Department of Local Government and Regional Development (the Department) has produced a set of operating guidelines and procedures that apply to what the City refers to as Strategy and Briefing Sessions.

The procedures recommended for consideration and adoption by the Joint Commissioners, outlined in this report, are substantially in keeping with those recommended by the Department. The procedures have been customised to meet the requirements of the City.

BACKGROUND

At the meeting held on 20 July 2004 (Item C48-07/04 refers), the Joint Commissioners deferred the review of Council meeting dates until the Council meeting to be held on 10 August 2004. The Joint Commissioners requested the Acting Chief Executive Officer to provide a report on protocol and parameters for the operation of the strategy sessions to ensure that strategy sessions are in compliance with open and accountable governance and that their purpose and operation is clearly understood by Commissioners, future elected members and the community. It was also requested that consideration be given to the list of items to be considered at Strategy Sessions being made available to the public.

Submission of the requested report to the Council Meeting of 31 August 2004, was sought to enable necessary research to be carried out and the report to be prepared.

DETAILS

To achieve the objective of the Joint Commissioners resolution on this matter, it is considered that the City's meeting and decision making process be outlined to clarify the role and outcomes sought by the different processes used by the City. The objective of the Joint Commissioners resolution being:

“to ensure that strategy sessions are in compliance with open and accountable governance and that their purpose and operation is clearly understood by Commissioners, future elected members and the community.”

Meeting and Decision Making Process

The meeting and decision making process currently applied by the City consists of:

- Strategy Sessions;
- Committee Meetings;
- Briefing Sessions; and
- Council Meetings.

The principal aim of each of these processes is to provide Council with relevant information and professional advice, so that at the decision making time, it has the necessary information to make an informed decision for the good of the community it represents.

One Decision Meeting

It should be noted that the City makes its decisions at one meeting process, being the Ordinary or Special meetings of the Council. Each of the other meeting processes is applied as an information provision and information exchange session. The function of Committees is to consider matters directly related to their objectives and make recommendations to Council.

Strategy Sessions

Strategy Sessions involve elected members/commissioners and staff meeting to exchange information and discuss ideas for the development of the local government and the district. Such Strategy Sessions often involve projects that are in the early planning stage and are some time away from being presented to Council for decision. In discussing these issues, staff seek input from the elected members/commissioners as they research the matter and draft the report. Elected members/commissioners and staff are also looking to present ideas for future consideration.

The input provided from elected members/commissioners can be of invaluable assistance in providing direction for staff to proceed with their research and eventual report on the matter.

Examples of the type of issues Strategy Sessions may cover include:

- current matters of a local or regional significance;
- matters relating to the future development of the local government;
- significant revenue-raising requirements or expenditure needs;
- the development of internal strategic, planning, management and financial documents; and
- significant staff issues such as cultural change and major restructures.

Behind closed doors and in a relatively informal manner are the two notable characteristics of Strategy Sessions. Privacy and informality allows elected members/commissioners to propose ideas, ask questions and discuss issues for the better understanding of those in attendance. Such Strategy Sessions assist individuals to become better informed and to clarify their views.

Committee Meetings

The City applies the Committee Process usually for specific tasks and currently has the following committees reporting to Council:

- Budget
- Audit
- Policy Manual Review
- Selection of Chief Executive Officer
- CBD Enhancement
- Seniors Interest Advisory
- Conservation Advisory
- Sustainability Advisory

None of the Committees has delegated authority to make decisions on behalf of the Council and are therefore not open to the public. The CBD Enhancement and advisory committees have members of the public as committee members. All committees are conducted in accordance with the provisions of the Local Government Act 1995 and the City's Standing Orders Local Law.

The role of committees is to consider matters directly related to their objectives and make recommendations to Council.

Briefing Sessions

For the most effective decision-making, elected members/commissioners must have the opportunity to gain maximum knowledge and understanding of any issue presented to the Council on which they must vote. It is reasonable for elected members/commissioners to expect that they will be provided with all the relevant information they need to understand issues listed on the agenda for the next or following ordinary Council meetings. The complexity of many items means that elected members/commissioners may need to be given information additional to that in a staff report and/or they may need an opportunity to ask questions of relevant staff members. This is achieved by the elected members/commissioners meeting as a body to receive a briefing on issues listed for council decision. It is considered Briefing Sessions are much more efficient and effective than elected members/commissioners meeting staff on an individual basis for such a purpose, with the added benefit that all elected members/commissioners hear the same questions and answers.

Briefing Sessions conducted by the City are open to the public with the exception of confidential items that are to be considered by Council behind closed doors. In addition to having the opportunity to receive detailed presentations from staff and consultants about matters that are to be on the Council Meeting Agenda for decision, Briefing Sessions are the forum used by the City to receive deputations from the public, ratepayer and other community groups, about matters of interest and due for consideration and decision of Council.

To protect the integrity of the decision-making process it is essential that Briefing Sessions be conducted in keeping with agreed procedures that are consistently applied.

Council Meetings

Council meetings whether they be the Ordinary, regular meetings or Special meetings, are the only meetings at which decisions are made by the City. Each of the other meeting processes is for the provision of relevant information to all elected members/commissioners to assist each of them to make informed decisions.

Council meetings are therefore conducted in a more formal and structured manner in accordance with the Act and the City's Standing Orders Local Law.

Statutory Provision:

Part 5 of the Local Government Act 1995 sets out the framework whereby elected members meet as the governing body for the purpose of decision-making on behalf of the local government.

It is the intention of the Act that councils conduct business and make decisions:

- openly and transparently;
- with a high level of accountability to their community;
- efficiently and effectively;
- with due probity and integrity;
- acknowledging relevant community input;
- with all available information and professional advice; and
- with the fullest possible participation of elected members.

The Act establishes ordinary and special council meetings and committee meetings. Each council must decide the meeting structure it will adopt within the legal framework for it to achieve the most efficient and effective decision-making process. It is a legal requirement that all decisions made on behalf of the local government are to be made at meetings called and convened under the provisions of the Act.

Consultation:

This matter has been discussed with a representative of the Department which has produced an Advisory Paper titled "Council Forums – Local Government Operational Guidelines." This guideline is designed to assist those local governments that conduct forums (Strategy and Briefing Sessions) by listing appropriate procedural and behavioural controls. The adoption of these procedures and controls should reassure the community that the council decision-making mechanisms are accountable, open and transparent.

Extracts from that document have been used in the preparation of this report.

Information and other procedures developed as a response to investigations into other Western Australian local governments were also reviewed to determine what would be the most appropriate to apply to the meeting processes used at the City. Some of the procedures were very detailed and aimed at different meeting structures to that used at the City.

Policy Implications:

Policy 2.3.2 Communications refers.

The Objective of that policy is:

To indicate the City's high level of commitment to public consultation and to provide good, open and accountable government.

The development and consistent application of a set of procedures that apply to both the City's Strategy and Briefing Sessions will enhance the City's meeting and decision making process. The committee and Council meetings already have supporting guidelines and procedures detailed in legislation in the Act and Standing Orders Local Law. Provision of suitable operational procedures for Strategy and Briefing Sessions gives a clear message of how the City will abide by the principles of Section 5 the Act relating to its meetings.

Strategic Implications:

The adoption and consistent application of procedures outlined and recommended in this report, will demonstrate how the City will meet its strategies applicable to its meeting and decision making process. Those strategies are:

- 4.3.1 Provide effective and clear community consultation.
- 4.3.2 Provide accessible community information.
- 4.3.3 Provide fair and transparent decision-making processes.

COMMENT

The Department has produced a detailed set of Operational Guidelines that it considers should be applied by local governments that conduct meeting and decision making processes involving what the City terms Strategy and Briefing Sessions. Those guidelines have been assessed and are considered for the most part to be appropriate for use in conduct of the City's Strategy and Briefing Sessions.

An underlying principle that must apply to Strategy and Briefing Sessions is the need to emphasise and ensure that there is no decision-making during these sessions and that this is rigidly enforced.

Governance Review

In reviewing information and potential procedures relevant to the City's meeting and decision making process, consideration was also given to the possible impact any new procedures may have on the likely implementation of recommendations made in the Governance Review 2003 Final Report (Governance Review). Recommendation 1. of the Governance Review is outlined as follows:

- “1: The agenda briefing session process be improved by –
- a) Retaining public access to the sessions but removing public question time.
 - b) Members of the public who have a specific interest in a matter may be given an opportunity to address the Council if they submit a written request to the CEO at least 24 hours before the session.
 - c) Advising elected members at the beginning of the session of the issues that will be subject to a formal presentation by a staff member during the session. Such issues will be determined by the CEO to take into account d) below.
 - d) Requiring elected members to advise at least 24 hours before the session of the issues they wish to have addressed. Staff would then make presentations on such requests.
 - e) The chair making it very clear that no debate between members will be allowed.
 - f) Being more liberal with the time made available for the sessions.
 - g) Providing notes to members who do not attend of the issues that have been covered so that such members can seek answers to their queries from other elected members or staff prior to the matter being considered in the ordinary meeting.”

Department Endorsed Procedures - V - Governance Review Recommendations

It is noted that Recommendation 1 of the Governance Review relating to Briefing Sessions, while being complementary, extends further the procedures endorsed by the Department for Briefing Sessions. The recommendations relating to Briefing Sessions in the Governance Review, have therefore been taken into consideration and compared with what currently applies and the Departments endorsed procedure. (Attachment 1 – Briefing Sessions – Comparison Schedule refers)

The most significant difference between the three areas is that the Governance Review recommends there be no public question time at Briefing Sessions whereas, the Department Procedures is silent on the matter and the City currently allows for the public to ask questions.

An evaluation and action plan is currently being prepared on the recommendations in the Governance Review, for consideration by the Joint Commissioners. It is not envisaged that the procedures recommended in this report will adversely impact on options that would be available to the Joint Commissioners to implement the Governance Review Recommendations.

Strategy Session Subject Headings

The commissioners also requested that consideration be given to the list of items to be considered at Strategy Sessions being made available to the public. In considering this matter, there may be occasions where the City wants to have informal discussion between elected members/commissioners and staff that may or may not progress for some considerable time. Therefore, it may not be in the best interests of the City to disclose the subject headings of matters to be discussed at strategy sessions and raise unrealistic expectations that a matter is soon to be progressed. There are times when all local governments and other businesses need to discuss matters without the public being present. It is considered that this is suitably outlined under the section of this report that deals with Strategy Sessions. The disclosure of subject heading lists of all matters discussed at Strategy Sessions is not recommended.

Strategy Sessions are used as part of the preliminary information gathering and exchange process that ultimately sees matters progress to Briefing Sessions where they are subject to public scrutiny. Only a small number of matters go to strategy sessions before being considered at Briefing Sessions. The majority of matters to be considered by Council, proceed straight to Briefing Sessions.

Public Question Time

It is not proposed to retain the public question time currently applicable at the commencement of Briefing Sessions. In this regard it is noted that the Governance Review Recommendation No. 1a) was:

“1: The agenda briefing session process be improved by –

- a) Retaining public access to the sessions but removing public question time.”

This approach by the Department is consistent with its publication, “Managing Public Question Time – Local Government Operational Guidelines Number 3.” This document refers at section 5.2, Point 24 Breadth of questions:

“It was the intention of the original legislation that questions affecting the local government’s operations could be asked at ordinary meetings and committee meetings which have delegated authority. Allowing such a wide brief means that information to adequately respond to some questions may not be readily available. In such cases questions can be taken on notice.”

In supporting the Department’s viewpoint on this matter, it is appreciated and expected that there will be an increase in the number of presentations that are requested and granted at Briefing Sessions.

Procedures Applying to Both Strategy and Briefing Sessions

The following procedures applicable to both Strategy and Briefing sessions are recommended for adoption by Council.

1. Dates and times for sessions should be set well in advance where practical.

2. The CEO will ensure timely written notice and the agenda for each session is provided to all members.
3. Session papers should be distributed to members at least three days prior to the meeting. This does not preclude the submission of late items where considered appropriate by the CEO.
4. The Mayor/Chairman of Commissioners or other designated member is to be the presiding member at all sessions.
5. Elected members/commissioners, employees and consultants shall disclose their financial and conflicts of interest in matters to be discussed.
6. Interests are to be disclosed in accordance with the provisions of the Act as they apply to ordinary council meetings. Persons disclosing a financial interest will not participate in that part of a session relating to their interest and shall leave the meeting room.
7. There is to be no opportunity for a person with an interest to request that they continue in the session.
8. A record should be kept of all session. As no decisions will be made, the record need only be a general record of items covered but should record disclosures of interest with appropriate departures/returns.
9. Elected members/Commissioners have the opportunity to request matters be included on the agenda for consideration at future Strategy or Briefing Sessions by:
 - a) Request to the Mayor/Chairman;
 - b) Request to the Chief Executive Officer; or
 - c) Submitting a Notice of Motion to a council meeting in keeping with Standing Orders.

Procedures Specific to Strategy Sessions

1. Discussion between members is to be limited to those issues which are in the preliminary development stages.
2. As discussion items are not completely predictable, there is to be some flexibility as to disclosures of interest. A person may disclose an interest at the time discussion commences on an issue not specifically included on the agenda.
3. In specific instances when it is considered appropriate by elected members/Commissioners to be more fully informed on a matter, applicants and proponents may be invited to provide a presentation at a Strategy Session.

Procedures Specific to Briefing Sessions

1. Briefing Sessions will be open to the public unless the session is being briefed on a matter for which a formal council meeting may be closed.
2. Briefing Sessions will be the forum that ratepayer, community and other groups and members of the public can make a deputation on Council meeting agenda matters before the Council. Persons wanting to arrange deputations must do so in keeping with the procedures then applicable.
3. Items to be addressed will be limited to matters listed on the forthcoming agenda.
4. Briefings will only be given for the purpose of ensuring that elected members and the public are more fully informed.
5. All questions and discussions will be directed through the chair. There will be no debate style discussion as this needs to take place in the ordinary meeting of council when the issue is set for decision.

ATTACHMENTS

Attachment 1	Briefing Sessions – Comparison Schedule
Attachment 2	Procedures for Strategy and Briefing Sessions
Attachment 3	Council Forums – Local Government Operation Guidelines No 5
Attachment 4	Managing Public Question Time – Local Government Operations Guidelines No 3

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION: That the Joint Commissioners:

- 1 ADOPT the Procedures for Strategy and Briefing Sessions, as set out in Attachment 2 to Report CJ195-08/04;
- 2 AMEND the 'rolling' three weekly meeting cycle as follows:
 - Week 1: Strategy Session commencing at 6.30 pm (Closed to the public)
 - Week 2: Briefing Session commencing at 6.30 pm (Open to the public)
Deputation Sessions held at the commencement of Briefing Sessions;
 - Week 3: Council meeting commencing at 7.00 pm (Open to the public).
- 3 SET the following meeting dates for Strategy Sessions of the City of Joondalup to be held at 6.30 pm in Conference Room 1, at the Joondalup Civic Centre, Boas Avenue, Joondalup:

Tuesday	7 September 2004
Tuesday	28 September 2004
Tuesday	19 October 2004
Tuesday	9 November 2004
Tuesday	30 November 2004

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

1 ADOPT the Procedures for Strategy and Briefing Sessions, as set out in Attachment 2 to this report, subject to:

(a) Addition of a new point 10 to Procedures Applying to Both Strategy and Briefing Sessions, being:

“10 An exception to point 7 above would be a situation where a consultant who has/declares a financial interest in the matter, is asked to attend a Strategy or Briefing Session to provide information only, on that matter being considered at the Session.”

(b) Addition of a new point 6 to Procedures Specific to Briefing Sessions, being:

“6 A period for Public Questions be held at the commencement of Briefing Sessions.”

(c) Deletion of point 3 under the heading “Procedures Specific to Strategy Sessions” and substituting that with a new point 3 as follows:

“3 In specific instances when it is considered appropriate by elected members/Commissioners to be more fully informed on a matter, proponents may be invited to provide a presentation at a Strategy Session and in those instances headings of matters will be disclosed to the public.”

2 AMEND the ‘rolling’ three weekly meeting cycle as follows:

Week 1: Strategy Session commencing at 6.30 pm (Closed to the public)

**Week 2: Briefing Session commencing at 6.30 pm (Open to the public).
Deputation Sessions held at the commencement of Briefing Sessions;**

Week 3: Council meeting commencing at 7.00 pm (Open to the public).

3 SET the following meeting dates for Strategy Sessions of the City of Joondalup to be held at 6.30 pm in Conference Room 1, at the Joondalup Civic Centre, Boas Avenue, Joondalup:

**Tuesday 7 September 2004;
Tuesday 28 September 2004;**

**Tuesday 19 October 2004;
Tuesday 9 November 2004;
Tuesday 30 November 2004.**

AMENDMENT MOVED Cmr Smith, SECONDED Cmr Anderson that the Motion be amended by:

1 The addition of the following words to the end of Point 1(b) as follows:

“6 A period for Public Questions be held at the commencement of Briefing Sessions *that relate only to Items on the agenda.*”

2 The addition of Point 1(d) to the Motion to read as follows:

“(d) *Purpose of strategy sessions to be included in the procedures, to make it clear what they are meant to achieve, and that purpose to generally accord with the description given to Concept Forums in Item 3.1 of the Guidelines on Council Forums published by the Department of Local Government and Regional Development dated January 2004 forming Attachment 3 to Report CJ195-08/04;*”

3 The addition of Point 4 of the Motion to read as follows:

“4 *during the next review of the City’s Standing Orders Local Law REQUEST a report be provided to the Council on whether Briefing and Strategy Sessions can be formally recognised in the Standing Orders Local Law but with flexibility as to the procedures that would apply.*”

Discussion ensued.

The Amendment was Put and

CARRIED UNANIMOUSLY (5/0)

The Original Motion, as amended, being:

That the Joint Commissioners:

1 ADOPT the Procedures for Strategy and Briefing Sessions, as set out in Attachment 2 to Report CJ195-08/04, subject to:

(a) Addition of a new point 10 to Procedures Applying to Both Strategy and Briefing Sessions, being:

“10 An exception to point 7 above would be a situation where a consultant who has/declares a financial interest in the matter, is asked to attend a Strategy or Briefing Session to provide information only, on that matter being considered at the Session.”

- (b) **Addition of a new point 6 to Procedures Specific to Briefing Sessions, being:**
- “6 A period for Public Questions be held at the commencement of Briefing Sessions that relate only to items on the agenda;”
- (c) **Deletion of point 3 under the heading “Procedures Specific to Strategy Sessions” and substituting that with a new point 3 as follows:**
- “3 In specific instances when it is considered appropriate by elected members/Commissioners to be more fully informed on a matter, proponents may be invited to provide a presentation at a Strategy Session and in those instances headings of matters will be disclosed to the public.”
- (d) **Purpose of strategy sessions to be included in the procedures, to make it clear what they are meant to achieve, and that purpose to generally accord with the description given to Concept Forums in Item 3.1 of the Guidelines on Council Forums published by the Department of Local Government and Regional Development dated January 2004 forming Attachment 3 to Report CJ195-08/04;**
- 2 AMEND the ‘rolling’ three weekly meeting cycle as follows:**
- Week 1: Strategy Session commencing at 6.30 pm (Closed to the public)**
- Week 2: Briefing Session commencing at 6.30 pm (Open to the public)
Deputation Sessions held at the commencement of Briefing Sessions;**
- Week 3: Council meeting commencing at 7.00 pm (Open to the public)**
- 3 SET the following meeting dates for Strategy Sessions of the City of Joondalup to be held at 6.30 pm in Conference Room 1, at the Joondalup Civic Centre, Boas Avenue, Joondalup:**
- Tuesday 7 September 2004;
Tuesday 28 September 2004;
Tuesday 19 October 2004;
Tuesday 9 November 2004;
Tuesday 30 November 2004.**
- 4 during the next review of the City’s Standing Orders Local Law REQUEST a report be provided to the Council on whether Briefing and Strategy Sessions can be formally recognised in the Standing Orders Local Law but with flexibility as to the procedures that would apply.**

was Put and

CARRIED UNANIMOUSLY (5/0)

Appendices 10, 10 (a), (b) and (c) refer

*To access this attachment on electronic document, click here: [Attach10agn310804.pdf](#)
[Attach10aagn310804.pdf](#) [Attach10bagn310804.pdf](#) [Attach10cagn310804.pdf](#)*

CJ196 - 08/04 RELEASE OF CONFIDENTIAL ITEMS - SITE ACQUISITION WORKS DEPOT – [80513]

WARD - All

PURPOSE

To recommend the release of previously confidential items relating to the acquisition of a site for the Works Depot.

EXECUTIVE SUMMARY

The City has received a request from a member of the public to release previously confidential items relating to the acquisition of a site for the Works Depot.

Under Clause 7.2 of the City's Standing Orders Local Law, "Every matter dealt with by, or brought before a meeting sitting behind closed doors, shall be treated as strictly confidential, and shall not without the authority of the Council be disclosed to any person other than the Mayor, members or the officers or employees of the City (and in the case of officers and employees only so far as may be necessary for the performance of their duties) prior to the discussion of that matter at a meeting of the Council held with open doors."

Given the City has now completed negotiations for a site with LandCorp, which is the subject of a Business Plan that has been advertised for public comment until 16 September 2004, it is recommended that the Joint Commissioners release information contained in the confidential items related to the acquisition of a site for the Works Depot.

DETAILS

There are a number of confidential reports dating back to 2001 relating to a number of sites considered for the purpose of constructing a Works Depot. These are:

- CJ342-10/01 – includes confidential memorandum issued to elected members under separate cover on 28 September 2001
- CJ148-12/01
- CJ036-02/02 – includes confidential memorandum issued to elected members under separate cover on 14 February 2002
- CJ140-06/02
- CJ107-04/03

All documents have been located, with the exception of the confidential memorandum issued to elected members under separate cover on 28 September 2001. This will need to be retrieved from the City's archives.

ATTACHMENTS

Nil

VOTING REQUIREMENTS

Simple Majority

MOVED Cmr Anderson, SECONDED Cmr Smith that the Joint Commissioners RELEASE for public information previously confidential items relating to the acquisition of a site for the purpose of constructing a Works Depot, being Reports CJ148-12/01, CJ036-02/02, CJ140-06/02 and CJ107-04/03, on request.

Cmr Anderson spoke to the motion and stated the business plan for the proposed Works Depot was currently out for public comment and encouraged community representatives and ratepayers to make a submission if they had an interest in this issue.

The Motion was Put and

CARRIED UNANIMOUSLY (5/0)**CJ197 - 08/04 WARRANT OF PAYMENTS - 31 JULY 2004 – [09882]****WARD - All**

CJ040824_BRFD0C:ITEM 1

PURPOSE

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

EXECUTIVE SUMMARY

This report details the cheques drawn on the funds during the month of July 2004 and also includes credit card payments debited to the Municipal Account during September 2002 to May 2003 and July 2003 to September 2003.

FUNDS	DETAILS	AMOUNT
Director Corporate Services & Resource Management Advance Account	65163 – 65701 & EFT 367 - 544	\$ 6,862,854.41
Municipal Account	000653 – 000659 & 14A – 17A, 363A, 364A, 369A, 382A, 383A, 386A, 389A, 402A, 415A, 420A, 452A, 453A.	\$ 7,768,687.09
Trust Account		Nil
	TOTAL	\$ 14,631,541.50

The Director Corporate Services & Resource Management Advance Account is an imprest account and was reimbursed from the Municipal Account during the month. The difference in total between the Municipal Account and the 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 July 2004, the amount was \$ **663,914.70**. The cheque register is appended as Attachments A & B.

COMMENTS

The credit card payments debited to the Municipal Account during September 2002 to May 2003 and July 2003 to September 2003 had not previously been included in the Warrants of Payments. This administrative oversight was highlighted during the examination of the use of all credit cards and how they are processed, approved and documented in accordance with the resolution of Council contained within CJ271-12/03 and C262-12/03. All Warrants of Payments since September 2003 have been correctly included.

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 \$ **14,631,541.50** which is to be submitted to the Joint Commissioners on 31 August 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 \$ **14,631,541.50** was submitted to the Joint Commissioners on 31 August 2004.

.....
JOHN PATERSON
Chairman of Commissioners

ATTACHMENTS

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

VOTING REQUIREMENTS

Simple Majority

MOVED Cmr Anderson, **SECONDED** Cmr Fox that the Joint Commissioners **APPROVE** for payment the following vouchers, as presented in the Warrant of Payments to 31 July 2004, certified by the Chairman of Commissioners and Director Corporate Services & Resource Management and totalling \$ 14,631,541.50.

FUNDS	DETAILS	AMOUNT
Director Corporate Services & Resource Management Advance Account	65163 – 65701 & EFT 367 – 544	\$ 6,862,854.41
Municipal Account	000653 – 000659 & 14A – 17A, 363A, 364A, 369A, 382A, 383A, 386A, 389A, 402A, 415A, 420A, 452A, 453A.	\$ 7,768,687.09
Trust Account		Nil
	TOTAL	\$ 14,631,541.50

The Motion was Put and

CARRIED UNANIMOUSLY (5/0)*Appendix 1 refers*

To access this attachment on electronic document, click here: [Attach1brf240804.pdf](#)

CJ198 - 08/04 FINANCIAL REPORT FOR THE YEAR ENDING 30 JUNE 2004 – [07882]

WARD - All

CJ040824_BRFD0C:ITEM 2

PURPOSE

The interim June 2004 financial report is submitted to Council to be noted.

EXECUTIVE SUMMARY

The financial report for the year ended 30 June 2004 has not been audited and is presented to Council as an interim report.

The overall variance (underspend) of \$8.6m is attributed to an increase in net operating funds of \$1.2m and an underspend in Capital Works of \$10.5m which is offset by Capital Expenditure of (\$3.1m)

The overall variance can be analysed as follows:

- The net **Operating** position (Change in Net Assets Before Reserve Transfers) shows an actual surplus of \$8.5m compared to a budgeted surplus of \$7.3m at the end of June 2004. The variance is due primarily to additional revenue as a result of recognizing Acquired Infrastructure Assets (assets gifted to the City) and under spends in Consultancy costs and Contribution costs.
- **Capital Expenditure** is \$10.0m compared to a budget of \$6.9m at the end of June 2004. The \$3.1m variance is mainly due to the value of Acquired Infrastructure Assets and the capitalization of Kingsley Memorial Clubrooms. These variances were partially offset by the carry forward of Computer Network Upgrades and deferring the purchase of some items of equipment.
- **Capital Works and Corporate Projects** expenditure is \$10.0m against a budget of \$20.5m, an under spend of \$10.5m at the end of June 2004. Of this variance, \$3.7m relates to normal Capital Works while \$6.8m relates to Capital Works classified as Corporate Projects. Total committed funds in relation to all Capital Works are \$3.5m. Works unfinished as at 30 June 2004 have been carried forward - \$3.2m for normal Capital Works and \$6.8m for Corporate Projects.

DETAILS

The interim financial report for the year ending 30 June 2004 is appended as Attachment A.

ATTACHMENTS

Attachment 1 Financial Report for the year ending 30 June 2004.

VOTING REQUIREMENTS

Simple Majority

MOVED Cmr Anderson, SECONDED Cmr Clough that the interim Financial Report forming Attachment 1 to Report CJ198-08/04 for the year ending 30 June 2004 be NOTED.

The Motion was Put and

CARRIED UNANIMOUSLY (5/0)

Appendix 2 refers

To access this attachment on electronic document, click here: [Attach2brf240804.pdf](#)

CJ199 - 08/04 ADOPTION OF PROPOSED MODIFICATIONS TO THE JOONDALUP CITY CENTRE DEVELOPMENT PLAN AND MANUAL STRUCTURE PLAN NO. 1 - CITY NORTH, CENTRAL BUSINESS, LAKESIDE AND CAMPUS DISTRICTS – [00152]

WARD - Lakeside

CJ040824_BRFD0C:ITEM 4

PURPOSE

For the Joint Commissioners to consider submissions regarding proposed modifications to the Joondalup City Centre Development Plan and Manual (JCCDPM) following public advertising and to adopt these modifications.

EXECUTIVE SUMMARY

The Joint Commissioners considered a report on the proposed modifications to the JCCDPM at their meeting on 27 April 2004 (CJ089-04/04 refers). The proposed modifications relate to plot ratio and car parking provisions in the City North, Central Business, Lakeside and Campus Districts within the JCCDPM and also seek to correct references to the 1991 Residential Planning Codes that have now been replaced by the Residential Design Codes (R Codes).

It was resolved at this meeting to adopt the modifications for the purposes of public advertising, which closed on 1 July 2004. One submission of objection was received and is summarised in this report (Attachment 17 refers).

The proposed modifications are minor in nature and do not alter the intent or purpose of the JCCDPM. It is therefore recommended that the Joint Commissioners:

- 1 *pursuant to Clause 9.6 of the City of Joondalup's District Planning Scheme No. 2, RESOLVE that the modifications to the Joondalup City Centre Development Plan and Manual Structure Plan No. 1 as shown in Attachments 2, 4, 6, 8, 10, 12, 14 & 16 to this Report be adopted and submitted to the Western Australian Planning Commission for final adoption and certification;*
- 2 *subject to certification by the Western Australian Planning Commission ADOPT the modifications to the Joondalup City Centre Development Plan and Manual Structure Plan No. 1 and authorise the affixation of the Common Seal to, and signing of, the Structure Plan documents.*

BACKGROUND

The JCCDPM relates to land within the Joondalup City Centre and is arranged into Districts. The Districts that are the subject of this report are City North, Central Business, Lakeside and Campus Districts (Attachment 1 refers).

The proposed modifications can be divided into matters relating to plot ratio, car parking and general administrative matters. They are necessary to address anomalies between the JCCDPM and the R Codes, and to provide further clarification regarding development provisions within the subject Precincts.

The Joint Commissioners considered a report on the proposed modifications to the JCCDPM at their meeting on 27 April 2004 (CJ089-04/04 refers) when they resolved to adopt the modifications for the purposes of public advertising. Advertising closed on 1 July 2004.

DETAILS

There are seven modifications proposed. These modifications follow:

1 Adding a clause A2.5 to Section A2 Plot Ratio for City North District

Section A2 does not include a definition for plot ratio and therefore it is left open to interpretation as to what should be included or excluded from the calculated area. Attachment 2 shows the proposed modification and Attachment 3 shows the tracked changes.

2 Replacing clause A2.2 Measuring Plot Ratio for Central Business District

Clause 2.2 provides a brief definition of plot ratio based on gross leasable area which does not adequately explain what areas are included in this calculation. It is proposed to replace the current definition with the same plot ratio definition for the Central Business District as for the City North District to provide consistency (Attachment 4 shows the proposed modifications & Attachment 5 shows the tracked changes).

3 Adding text to clause 2.0 Plot Ratio for the Campus District

A plot ratio is only set out only for Mixed Use/Residential lots in the Campus District but no plot ratio for Residential lots. The R Codes provisions therefore have to be used which state a maximum plot ratio of 0.65 for single houses and grouped dwellings and 0.70 for multiple dwellings applies to lots within the Campus District. However, the maximum plot ratio and the density of the residential lots in the Campus District are not compatible such that compliant developments cannot achieve the maximum plot ratio set out in the R Codes.

This report proposes definition of plot ratio and adds a statement that the plot ratio requirements of the R Codes shall not apply to the Residential component of any development (Attachment 14 shows the proposed modifications & Attachment 15 shows the tracked change). This will provide consistency with the development provisions for City North, Central Business and Lakeside Districts where plot ratio does not apply for Residential developments.

4 Adding car parking requirements for the Central Business and City North Districts

There are currently no car parking requirements for the Central Business District and City North District included within the JCCDPM. However, the City has been applying standard car parking requirements based on the DPS2 provisions detailed in Table 2 – Car Parking Standards and the City's Joondalup City Centre Public Parking Strategy (the Strategy), to all applications submitted for approval. This report proposes to formalise the car parking requirements imposed by modifying the JCCDPM to include them. (Attachments 6 & 8 show the proposed modifications & Attachments 7 & 9 show the tracked changes).

5 Modifying the car parking requirements for the Lakeside District

The current car parking requirements for the Lakeside District refer to the requirements stipulated in the Residential Planning Codes (1991) that are were superseded by the R Codes in 2002. However, rather than simply update the relevant sections within the Lakeside District to refer to the requirements of the R Codes, it is more consistent to stipulate the same specific car parking requirements in the same way that requirements are stipulated for the Central Business and City North Districts, as noted above (Attachment 10 shows the proposed modifications & Attachment 11 shows the tracked changes).

6 Deleting reference to car parking requirements of the R Codes for the Campus District

Similarly, the current car parking requirements for the Campus District refer to the requirements stipulated in the outdated Residential Planning Codes (1991) Campus District. It is proposed to stipulate the same specific car parking requirements in the same way that requirements are set out for the Central Business, City North and Lakeside Districts above (Attachment 12 shows the proposed modifications & Attachment 13 shows the tracked changes).

7 Deleting all references to the “Residential Planning Codes” and replacing with the words “Residential Design Codes”

As noted above, the Residential Planning Codes (1991) were superseded by the R Codes in 2002. It is proposed to be alter the reference for the whole JCCDPM (see Attachment 16).

Statutory Provision:

Clause 9.7 of the City’s District Planning Scheme No. 2 (DPS2) requires modifications to Structure Plans to be advertised in accordance with provisions of clause 6.7 of DPS2 prior to further consideration by the Joint Commissioners. Under clause 9.6 of DPS2, the Joint Commissioners shall consider all submissions received during the advertising period within sixty (60) days of the date of the last submission (see Attachment 17).

After consideration of all submissions, the Joint Commissioners shall either resolve to refuse or to adopt the modifications to the Structure Plan, with or without further modification, and to submit three copies to the Western Australian Planning Commission (WAPC) for final adoption and certification.

Consultation:

Advertising was undertaken for a period of twenty-eight days (28) by way of notification to all affected landowners in each of the subject Districts, a notice being placed in the Joondalup community newspaper and details provided on the City’s web site.

Public advertising closed on 1 July 2004, and one submission of objection was received (see Attachment 17). The concerns raised in this submission relate to the status of the JCCDPM as an Agreed Structure Plan, definitions of land uses, car parking provisions for temporary accommodation, mixed use and hotel uses, plot ratio provisions for residential uses, development controls for residential temporary accommodation uses and the use of planning terminology.

COMMENT

The main comments raised in the one submission received are summarised below and a response provided under each heading. Attachment 17 sets out each point individually with the City's response.

Status of the JCCDPM as an Agreed Structure Plan.

Comment

The submitter contends that the JCCDPM is not an Agreed Structure Plan.

Response

The JCCDPM was adopted as a Structure Plan under the City of Wanneroo's Town Planning Scheme No 1 (TPS1). The City has obtained legal advice that confirms the status of its JCCDPM as an Agreed Structure Plan.

Definitions of land uses

Comment

The submitter raises concern that there is no specific definition of a 'residential/commercial unit' in the JCCDPM.

Response

The term 'residential/commercial' unit refers to a combination of both 'residential' and 'commercial' uses. This combination is also referred to as mixed use development and is distinct from either use on its own.

Comment

The submitter queries whether temporary forms of accommodation are residential or commercial in nature in relation to car parking provisions discussed below.

Response

A Supreme Court ruling included in a letter to the City from the Minister for Planning and Infrastructure dated 31 May 2004 concerning the redevelopment of the former Mullaloo Tavern site as serviced apartments determined that short stay accommodation is to be classified as a residential building. Car parking provisions for residential uses are proposed within this modification to the JCCDPM.

Plot ratio definition and provisions for residential uses

Comment

The submitter objects to the proposed definition for plot ratio differing from the R Codes.

Response

The definition varies only in specifying “residential/commercial units” rather than just using the term buildings as in the R Codes. This change specifically addresses the intent of the JCCDPM to apply plot ratio to mixed use only development in City North, Central Business and Campus Districts, not to solely ‘residential’ uses.

Comment

The submitter questions how plot ratio applies to dwellings and considers that plot ratio is necessary to control bulk and scale.

Response

By excluding any specific reference to ‘residential’ buildings in the proposed definition, the plot ratio is not applicable to residential uses. No plot ratio applies therefore to “residential” only developments in these Precincts. Plot ratio is not the major planning tool used to control the bulk and scale of development, rather other measures such as setbacks and policies relating to height and scale are used to control height and scale. The R60 density provisions of the R Codes are considered to be adequate in this case, making plot ratio unnecessary.

Car parking provisions for temporary accommodation, mixed use and hotel uses*Comment*

The submitter suggests that the modifications refer only to parking provisions for residences.

Response

Residential car parking provisions are set out in the car parking requirements. In the Central Business, City North and Campus Districts, where uses other than residential are permitted, car parking provisions have also been set out for the permissible commercial uses.

Comment

The submitter suggests that proposed car parking requirements are inadequate for temporary accommodation, mixed use and hotel uses.

Response

An assessment of car parking requirements for these uses would be based on an overall car parking requirement having considered the particular use, form of accommodation, the number of employees, hours of operation and any anticipated visitors to the site. This assessment would therefore be site specific. Furthermore, the Joondalup City Centre was specifically planned to promote the use of alternative modes of transport other than private vehicles. A requirement to provide more car parking bays would be contrary to this overriding intent and would not support principles of sustainability.

Car parking for residential developments and landmark buildings*Comment*

The submitter claims that car parking provisions for residential uses in the Campus District are inadequate and will affect amenity and accessibility.

Response

The proposed provisions are consistent with the R Codes as the standard for the State and are therefore considered adequate.

Comment

The submitter suggests that car parking requirements for landmark sites should be stated.

The number of car parking bays required for such sites is assessed according to the particular merits of a development application to the City.

Development controls for residential temporary accommodation uses

The submitter states that the City was directed by the WAPC to prepare a policy on temporary accommodation, including the impacts of car parking provisions, and that the City has not prepared such a policy.

Response

The Minister for Planning and Infrastructure, in a letter to the City dated 31 May 2004 concerning the redevelopment of the former Mullaloo Tavern site as serviced apartments, recommended urgent attention be given to the formulation of guidelines for the development of short stay accommodation in Commercial zones where such developments are permissible. It is noted that the preparation of such a policy is urgent, therefore its preparation has commenced and will be finalised as soon as possible.

Comment

The submitter objects that there are no development controls in place relating to temporary accommodation.

Response

The location of car parking bays and development controls are not the subject of these proposed modifications to the JCCDPM and are therefore not addressed.

Use of planning terminology*Comment*

The submitter has objected to planning terminology not being applied.

Response

Where possible, the use of planning terminology and jargon is avoided, and the use of common language is usual to increase public understanding. This is normal practice within Council reports and correspondence where the understanding of the reader is essential.

Conclusion

At this time, what floor areas are included in plot ratio within the City North, Central Business and Campus Districts of the JCCDPM are either undefined or incomplete. This makes it difficult for developers to design compliant buildings and for the City's officers to assess developments in a consistent manner. Moreover, the lack of definition does not enhance public confidence that the City assesses all developments consistently. A clear definition will allay these concerns.

In addition, car parking provisions are not set out for residential or commercial uses in these Districts and rely on cross-referencing with the provisions of DPS2 and the City's Joondalup City Centre Public Parking Strategy. This can be confusing and may lead to misinterpretation. Setting out the requirements in the JCCDPM will provide clarity.

Furthermore, there are outdated references to the 1991 Residential Planning Codes in the JCCDPM which need to be amended so that all requirements relating to these provisions are clear.

The proposed modifications are considered necessary to provide definitions and clear direction on plot ratio and car parking provisions in the City North, Central Business, Lakeside and Campus Districts within the JCCDPM and also to correct outdated references in the general text to a statutory document.

The objections raised by the submitter in relation to the status of the JCCDPM as an Agreed Structure Plan, definitions, car parking provisions and plot ratio provisions have been addressed in this report. Concerns about the lack of development controls for temporary accommodation are not addressed as these are not the subjects of this report.

Further modifications to the JCCDPM to provide more clarity are not considered necessary and it is recommended that the proposed modifications be adopted, without modification.

ATTACHMENTS

Attachment 1	Plan of JCCDPM Districts
Attachments 2, 4, 6, 8, 10, 12, 14,	Proposed modifications (extract only)
Attachment 3, 5, 7, 9, 11, 13, 15	Districts' provisions (tracked extract)
Attachment 16	Addendum to whole text
Attachment 17	Summary of submissions

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION: That the Joint Commissioners:

- 1 pursuant to Clause 9.6 of the City of Joondalup's District Planning Scheme No. 2, RESOLVE that the modifications to the Joondalup City Centre Development Plan and Manual Structure Plan No 1 as shown in Attachments 2, 4, 6, 8, 10, 12, 14 & 16 to Report CJ199-08/04 be adopted and submitted to the Western Australian Planning Commission for final adoption and certification;
- 2 subject to certification by the Western Australian Planning Commission ADOPT the modifications to the Joondalup City Centre Development Plan and Manual Structure Plan No. 1 and authorise the affixation of the Common Seal to, and signing of, the Structure Plan documents.

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

- 1 pursuant to Clause 9.7 of the City of Joondalup's District Planning Scheme No. 2, RESOLVE that the modifications to the Joondalup City Centre Development Plan and Manual (Structure Plan No 1) as shown in Attachments 2, 4, 6, 8, 10, 12, 14 & 16 to Report CJ199-08/04 be adopted and submitted to the Western Australian Planning Commission for final adoption and certification;
- 2 subject to certification by the Western Australian Planning Commission ADOPT the modifications to the Joondalup City Centre Development Plan and Manual (Structure Plan No 1) and authorise the affixation of the Common Seal to, and signing of, the Structure Plan documents.

AMENDMENT MOVED Cmr Smith, SECONDED Cmr Anderson that the following words be added at the end of Point 1:

“subject to the requirement for car parking for hotels to be that required for the current District Planning Scheme No 2, and the appropriate modification being made to Attachment 8 to Report CJ199-08/04;”

Cmr Smith spoke to the Amendment.

The Amendment was Put and

CARRIED UNANIMOUSLY (5/0)

The Original Motion, as amended, being:

That the Joint Commissioners:

- 1 pursuant to Clause 9.7 of the City of Joondalup's District Planning Scheme No. 2, RESOLVE that the modifications to the Joondalup City Centre Development Plan and Manual (Structure Plan No 1) as shown in Attachments 2, 4, 6, 8, 10, 12, 14 & 16 to Report CJ199-08/04 be adopted and submitted to the Western Australian Planning Commission for final adoption and certification subject to the requirement for car parking for hotels to be that required for the current District Planning Scheme No 2, and the appropriate modification being made to Attachment 8 to Report CJ199-08/04;

- 2 subject to certification by the Western Australian Planning Commission ADOPT the modifications to the Joondalup City Centre Development Plan and Manual (Structure Plan No 1) and authorise the affixation of the Common Seal to, and signing of, the Structure Plan documents.**

was Put and

CARRIED UNANIMOUSLY (5/0)

Appendix 3 refers

To access this attachment on electronic document, click here: [Attach3brf240804.pdf](#)

CJ200 - 08/04 AMENDMENT 24 TO DISTRICT PLANNING SCHEME NO 2 - PROPOSED REZONING FROM LOCAL RESERVES 'PARKS AND RECREATION' TO 'URBAN DEVELOPMENT' – LOT 61 (NO 14) LEACH STREET, MARMION (FORMER CSIRO SITE) – [85558]

WARD - South Coastal

CJ040824_BRFD0C:ITEM 5

PURPOSE

The purpose of this report is for the Joint Commissioners to consider initiating Amendment 24 to District Planning Scheme No 2 (DPS2) for the purposes of public advertising (Attachment 2 refers).

EXECUTIVE SUMMARY

Lot 61 (No 14) Leach Street, Marmion is a 2.1885 hectare parcel of land bounded by Leach Street to the west, Cliff Street to the east, Ozone Road to the north and Troy Avenue to the south (Attachment 1 refers). The site was formally owned in freehold title by the Commonwealth Scientific and Industrial Research Organisation (CSIRO). The CSIRO disposed of the site in 2003 as it was surplus to their requirements and it was subsequently purchased by Marmion Estate Pty Ltd.

The site is reserved as Local Reserves “Parks and Recreation” under the City’s District Planning Scheme No 2 (DPS2) (Attachment 2 refers) and “Urban” under the Metropolitan Region Scheme (MRS). A residential density code of R20 applies to the site.

The proposed amendment seeks to rezone the land to ‘Urban Development’ to facilitate the preparation of a structure plan to guide future redevelopment of the site for residential purposes.

The subject land was originally created as a Recreation Reserve and ceded free of cost to the Crown. The land had its Reserve status cancelled in 1974 by the State Government at the time and it became a freehold lot (known as Lot 61). A private company now owns the land in freehold title, with no encumbrances on the title that limit use or development of the land. The proposed amendment does not seek to facilitate a built form outcome that is significantly different to that already prevailing within the immediate locality. No significant environmental, historical or traffic related issues have been identified.

Three key issues have been identified by some members of the local community with respect to the proposed rezoning of the site. These relate to public open space (POS) allocation for the site, local community requests for the City to retain the site as a park and reuse the buildings for community purposes and a suggested deficiency in POS provision throughout the suburb of Marmion caused by the proposed rezoning.

Public advertising of the proposal will ensure that all interested parties are given an opportunity to comment on the proposed amendment and will assist the City to gauge the level of community support for the rezoning of the land.

The Joint Commissioners considered a report on the proposed scheme amendment at their meeting on 20 July 2004, however resolved to defer its decision to the ordinary meeting on 31 August 2004 in order for the administration to further investigate the Percy Doyle Reserve land exchange issue and to also allow for both the proponent and the community to make a presentation to the Joint Commissioners. Further information relating to Percy Doyle Reserve is provided within the details and comment sections of this report. On the 17 August 2004, both the proponent and the local community made a presentation to the Joint Commissioners with respect to the proposal.

It is therefore considered appropriate that:

1 *The Joint Commissioners:*

- (a) *Pursuant to Section 7 of the Town Planning and Development Act 1928 (as amended), AMEND the City of Joondalup District Planning Scheme No 2 for the purpose of undeserving Lot 61 (14) Leach Street, Marmion from Local Reserves 'Parks and Recreation' and zoning it to "Urban Development" and ADOPT Amendment No 24 as suitable for the purpose of advertising for a period of 42 days;*
- (b) *FORWARDS the amending documents to the Environmental Protection Authority to decide whether or not an environmental review is required and obtains the Environmental Protection Authority's decision in writing prior to the advertising period commencing.*
- (c) *ADVISE that submissions received will be considered on planning merit, including (but not restricted) to such aspects as:*
 - (i) *Submissions that may be lodged by interested parties;*
 - (ii) *The adequacy of the supply of open space in Marmion;*

- (iii) *The variety of housing choice that is offered in the area;*
- (iv) *the impact of the proposed use in terms of:*
 - *Building bulk and siting;*
 - *Compatibility with the existing surrounding residential land use;*
- (v) *Known potential alternative uses for the land;*
- (vi) *The aims and objectives of the existing District Planning Scheme;*
- (vii) *Any other matter arising during the advertising period that may be relevant, in the opinion of the Council.*

2 *the Joint Commissioners' support of initiating Amendment 24 to District Planning Scheme No 2 and indicative subdivision plan with the amended application should not be construed as being support for the indicative subdivision plan as shown in attachment 2 of this report.*

BACKGROUND

The proposed amendment applies to land described as Lot 61 (14) Leach Street, Marmion which is a 2.1885 hectare parcel of land bounded by Leach Street to the west, Cliff Street to the east, Ozone Road to the north and Troy Avenue to the south. The site lies in an elevated coastal area, approximately 200 metres east of the Indian Ocean (refer Attachment 1). The central portion of the site was developed as a marine research facility for use by the CSIRO, with the remaining land to the north and south of the marine research buildings remaining vacant. The subject land is surrounded by single residential dwellings (predominantly two storey brick and tile construction) at a low (R20) residential density. A large area of public open space (Braden Park) is located immediately to the east of the subject land.

Suburb/Location:	Lot 61 (14) Leach Street, Marmion
Applicant:	Chappell and Lambert Pty Ltd
Owner:	Marmion Estate Pty Ltd
Zoning:	DPS: Local Reserves "Parks and Recreation"
	MRS: Urban
Strategic Plan:	Strategy 3.3.1 – Provide residential living choices.

Attachment 3 lists all previous planning and development applications lodged with both the City of Joondalup and former City of Wanneroo with respect to the site, together with a chronological list of all known planning, development and land tenure events associated with the site from its creation in 1939 to the present time (including all previous relevant Council resolutions pertaining to the site).

The landowner has undertaken preliminary public consultation with the local community in order to raise awareness of the proposal. The details of this consultation are summarised within the details section of this report.

The landowner's also addressed the Joint Commissioners regarding a proposal to rezone and subsequently subdivide the site at the strategy session on 9 December 2003 and 17 August 2004. The purpose of their presentations was to inform Commissioners of their intentions for development of the site in the event the City could expect to receive calls concerning the matter.

The local community also addressed the Joint Commissioners regarding this proposal on the evening on 1 June and 17 August 2004. The purpose of these deputations was to inform Commissioners of the local community's issues with respect to the proposal.

DETAILS

The subject land is currently zoned Local Reserves 'Parks and Recreation' under the City's DPS2 and has a density coding of R20. The City's DPS2 maps show both zoning and density coding on separate maps and allocate a density code to road reserves and public open space. The City's DPS2 maps therefore depart from other Local Government Planning Scheme maps which show both zoning and coding information on the same map, with road reserves and public open space not being allocated a density code.

An application has been made requesting the City to change the zoning the site to 'Urban Development' (proposed scheme amendment).

The purpose of the proposed amendment is to facilitate future subdivision of the site into approximately 39 residential lots, with an average lot size of 500m² in accordance with its current residential density code of R20. An indicative subdivision plan is shown in Attachment 2, which outlines how the applicant generally intends to subdivide the site (Attachment 2 refers).

The majority of future lots proposed front the four existing roads surrounding the site. The indicative subdivision plan also shows an internal east/west road that provides vehicular access to lots fronting this new road, whilst providing a pedestrian linkage from Braden Park to the east of the site to an existing Pedestrian Access Way (PAW) in Leach Street that leads to West Coast Drive and the ocean to the west.

Preliminary community consultation, traffic, environmental and heritage assessment reports provided by the applicant

The applicant has provided Community Consultation, Traffic, Environmental, Landscape and Visual Quality Assessment and Heritage Assessment Reports to support their application to rezone the site. The main outcomes/recommendations contained within the technical reports have been summarised and appear under separate headings below, with the key applicant's findings and views shown in italics:

Community Consultation

The applicant has undertaken preliminary public consultation with the local community in order to provide input for the planning of the site, to obtain feedback for the landowner's proposal and to gauge the level of community support to the proposal. This consultation was in addition to, and does not form part of, the statutory 42 day public consultation period to be undertaken by the City in the future. Consultation was undertaken from December 2003 to February 2004, with a total of 114 contacts made with local residents through the following methods;

- Door knock of neighbouring residents undertaken on 6/12/03.
- Two open days held at the Marmion Primary School on 13/12/03 and Marmion Shopping Centre on 17/1/04.
- One-on-one meetings undertaken, an information phone line set up and community update newsletters delivered to local residents.

The main results of this consultation, as contained within the applicant's report, are as follows:

- *There is an historical attachment to the natural qualities of the site by the local community, with past development of the CSIRO site causing dissent in the local community.*
- *A small number of residents wanting no development of the site and/or the site to be returned to parkland.*
- *Most residents supported development of the site and offered suggestions such as restricting heights of retaining walls, retaining the natural landform, ensuring zoning of the site is consistent with the surrounding neighbourhood, improving infrastructure and design guidelines covering the above issues, as well as house colours, fence height, house size and limiting use of extensive paved areas at the front of houses.*
- *There are differing opinions in the provision of public open space either on site or via cash in lieu.*
- *The traffic on Cliff Street is a major concern with respect to vehicle speed and dangerous driving. Traffic calming efforts to date have not resolved the problems.*
- *The streetscape requires upgrading with the provision of street trees and planting of trees within traffic islands/roundabouts.*

A statutory 42 day public advertising period for all proposed scheme amendments is required under the Town Planning Regulations 1967. Should the Joint Commissioners decide to initiate the proposed amendment for the purposes of public advertising, the City controls this advertising process, which is in addition to consultation previously undertaken by the landowner. This is to ensure that all submissions received by the City during the statutory public advertising period are fairly considered (to remove any perception of bias), investigated and a response provided.

Traffic Report

The applicant has submitted a report that lists the traffic issues arising from the proposal. This report is currently being assessed by the City's engineers and comments in this regard will be outlined within a future Council report should the Joint Commissioners decide to initiate the amendment for the purposes of public advertising. The main results, as listed within the report, are as follows:

- *The proposal will generate approximately 351 trips per day.*
- *The existing roads surrounding the site carry less than 3000 vehicle movements per day, with direct lot access from these streets being acceptable under current road planning guidelines.*

- *60% of vehicle trips are expected to be to the south, with 20% to the North and 20% to the east. It is assumed that any trips west to the beach would be walking/cycling trips given the close proximity of the beach.*
- *In traffic engineering terms, the proposed traffic associated with the development will have no significant impact on local streets.*
- *With respect to the location of the proposed east/west road, sufficient vehicle sight lines and visibility at proposed intersections can be achieved.*

Environmental Reports

The applicant has submitted two Environmental Reports for the site. The main results, as listed within the reports, are as follows:

- *There are no known occurrences of rare, threatened, endangered or priority flora within the site.*
- *There are no known occurrences of declared rare or priority species of fauna within the site.*
- *The site is not part of the WA Government's 'bush forever' policy nor is the site proposed for reservation as a 'bush forever' site, therefore the site has no regional conservation significance.*
- *Poor biological condition of the vegetation on the site suggests that the site's vegetation does not possess any characteristics or attributes which would give it conservation significance in the local context.*

The reports were commissioned at different times, one in 2003, and one completed this year.

An environmental assessment of the site for hazardous materials arising from its previous use as a marine research facility is also included within the Environment Report. The main findings, as listed within the environmental report, are as follows:

- *Asbestos is either known or suspected of being present in existing buildings.*
- *PCB capacitors are present in older fluorescent light fittings.*
- *Glass fibre insulation material is present in the ceilings of the main laboratory.*
- *Small quantities of hazardous laboratory chemicals remain in the laboratory.*
- *Subject to confirmation of the composition of any sludge material in the interceptor trap, soils within the site do not pose a health risk to future occupants of the site (material in the interceptor trap should be tested for chemical deposits).*
- *Further site investigation of soil and groundwater is not necessary.*

Landscape and Visual Quality Assessment Report

In addition to the environmental report prepared for the current landowner outlined above, a landscape and visual quality assessment report was prepared in 2003 for the CSIRO. It is understood this report was prepared in anticipation for the future sale of the land. The recommendations, as listed within the report, are as follows;

- *Development within the site should be of scale, form and finishes that are visually compatible with the surrounding residential area.*
- *The built form should be interspersed with open, landscape spaces of sufficient size distribution and planting to be discernible from middle ground viewpoints.*

- *Elements of either built or landscape form that are taller than the overall scale of the surrounding residential area may be introduced provided that they are not visually intrusive from middle ground or distant viewpoints and provided that they are not major components of the development.*
- *The natural vegetation extending approximately 20 metres inwards from the northern site boundary should be protected, retained and rehabilitated to enhance its scientific and community value as remnant bush land.*

The comments above indicate a need for landscaping in future to break up the building massing and to give the landscape some profile when viewed across the site particularly from a distance.

Both the City's Landscape Architect and Biodiversity Assessment Officer undertook an independent landscape assessment of the site and this assessment confirmed what was recommended within the above Environmental and Landscape and Visual Quality Assessment reports.

The City's independent landscape assessment of the site did not support the recommendation within the Landscape and Visual Quality Assessment Report, relating to the protection and rehabilitation of the northern portion of the site. The existing vegetation throughout the site, including the northern portion of the site, is weed infested and vegetation found in this area does not possess any characteristics or attributes which would give it conservation significance. It is also expected that the Environmental Protection Authority (EPA) will also conduct its own independent landscape assessment of the site through the normal scheme amendment referral process.

Heritage Report

The applicant has submitted a Heritage Report for the site, with the main findings listed as follows:

- *The former marine research facility is considered to be of some scientific significance for its role in the field of marine science in Australia in the period of operation from 1975 to the 1990s.*
- *The report did not find any other grounds for assessing the place to be of cultural heritage significance.*
- *The site is not included on any heritage registers.*
- *The site is not identified on any register as being of Aboriginal significance.*

The above reports shall be made available to the public for perusal at the City's administration building if the proposed amendment is granted approval for the purposes of advertising by the Joint Commissioners.

The comments made in the above reports are made by the landowner's various technical consultants and have been summarised by the City. Comments outlined above may be viewed by some members of the community as being incorrect, with the City simply noting these comments.

Details of Key Issues

Three key issues have been identified by some members of the local community with respect to the proposed rezoning of the site. These relate to public open space (POS) allocation for the site, local community requests for the City to retain the site as a park and reuse the buildings for community purposes and deficiency in POS provision throughout the suburb of Marmion caused by the proposed rezoning. Details with respect to these issues are as follows;

Outstanding POS allocation issue

Council records indicate that the land was previously created as a reserve for recreation (Public Open Space). When the State Government (Minister for Lands) cancelled the reserve status in 1974 and sold the site to the CSIRO in 1975, the local POS provided at this site is believed to have been relocated and provided at Percy Doyle Reserve. This statement appears within a report prepared by Russell Taylor and William Burrell, Town Planning consultants in 1990, which related to a previous application to rezone the site. The Minutes of a Special Meeting of Electors on 16 June 1992 also include a comment to the effect that *'The land was purchased by the Commonwealth from the State Government and the City obtained the Percy Doyle Reserve in exchange for this land'*.

Further details required by the Joint Commissioners at its meeting on 20 July 2004 (CJ169-07/04 refers) with respect to Percy Doyle Reserve

With respect to the matter relating to Percy Doyle Reserve, and as requested by the Joint Commissioners, the City liaised with the Department for Planning and Infrastructure (DPI) in order to obtain further information. The response provided to the City by the DPI is as follows;

"I refer to previous E-Mails in response to queries raised by a Commissioner of the City of Joondalup and our telephone discussions, regarding the relationship between the creation of Reserve 33894 (Percy Doyle) and the disposal of Marmion Lot 61.

"As discussed, there was no land exchange involving the disposal of Lot 61 to the Commonwealth of Australia in 1974 and the creation of Reserve 33894 in 1976. The (then) Shire of Wanneroo did not own or have any right, title or interest in Lot 61. In accordance with approved Retention and Disposal policies, the file for Lot 61 has been destroyed. Therefore, there are no records as to any specific discussions with the Shire of Wanneroo regarding the disposal of Lot 61 and whether there were any agreements or understandings, following the disposal of the Crown Land.

The majority of land that consists of Reserve 33894 came from freehold land transferred to the State of Western Australia from the (then) R & I Bank, in 1981. This resulted from a planning process with respect to an area identified as "West Hamersley". There are references in volume 1 of 2974/970 to discussions with the Shire of Wanneroo and the respective parties to the "loss" of Crown land that comprised Lot 61. However, these were general comments and it is not known in what context the discussions were held. As previously advised by telephone, I note that the initial area nominated to be transferred to the State by the Bank was increased during this time. The final additional amount exceeded the area of Lot 61".

Retain the site as a park and reuse the buildings for community purposes

There is some suggestion that the land be retained and developed as a park and the existing buildings used for community purposes. Whilst the current zoning of the site would allow for this to occur, the current landowner has lodged an application to rezone the site in order to redevelop the land for residential purposes and as such, does not intend to retain the site as a park and reuse the buildings for community purposes.

In order to achieve this outcome, the City would need to purchase the site from the current landowner. The landowner advised council's officers that the recent purchase of the land was for an amount of approximately \$9 million.

Deficiency and Loss of Public Open Space (POS) in Marmion

There is some suggestion that there is a deficiency in public open space provided within the suburb of Marmion. The subdivision that created the subject lot and lots immediately surrounding it on Ozone Road, Leach Street and Troy Avenue in 1939 predated the 10% POS contribution requirement that was introduced by the State Government in 1956.

Statutory Provision:

Section 7 of the Town Planning and Development Act 1928 (as amended) together with the Town Planning Regulations 1967 enable local authorities to amend a Town Planning Scheme and sets out the process to be followed (Attachment 4 refers).

Should the Joint Commissioners support the initiation of the proposed amendment for the purposes of public advertising, the proposed amendment is required to be referred to the Environmental Protection Authority (EPA) to decide whether or not a formal environmental review is required. Should the EPA decide that an environmental review is not required, upon the City's receipt of written confirmation of this from the EPA, the City advertises the proposed amendment for 42 days.

Upon closure of the advertising period, the Joint Commissioners consider all submissions received during the advertising period and would resolve to either grant final approval to the amendment, with or without modifications, or refuse the amendment. The decision is then forwarded to the Western Australian Planning Commission (WAPC), who makes a recommendation to the Minister for Planning and Infrastructure. The Minister can either grant final approval to the amendment, with or without further modifications, or refuse the amendment.

Consultation:

The Town Planning Regulations 1967 requires the amendment to be advertised for a period of forty-two (42) days. All landowners immediately adjacent to the site would be notified in writing, a sign erected on the site and a notice placed in the Joondalup Community Newspaper.

Although informal consultation has occurred, it should not be confused with the statutory public consultation process that is required to be undertaken and controlled by the City.

Strategic Implications/Sustainability Implications:

The proposed amendment will facilitate the provision of ‘infill’ housing in line with the State Government’s objective in minimising urban sprawl by facilitating the consolidation of existing urban areas.

COMMENT

The following comments outline the City’s town planning approach, justification on planning related grounds and options that the Joint Commissioners may wish to consider with respect to the rezoning application;

Current Zoning and Development Permissibility

Under Clause 2.3 of the City’s DPS2, this clause outlines the planning and development requirements for local reserves and Clause 2.32 relates to use of reserves and states that any local reserve not owned by or vested in the Council may be used for any purpose approved by the Council but in accordance with any conditions imposed by Council.

In essence, the above clause of DPS2 allows the Joint Commissioners to approve development upon the site without the need for the land to be rezoned. The use of this particular clause by the Joint Commissioners is not recommended, as the process is not considered to be open and transparent because it does not offer the local community any opportunity to provide comment on the proposal.

‘Urban Development’ Rezoning Approach vs ‘Residential’ Rezoning Approach

Applying an “Urban Development” zoning to the site enables a more holistic approach for the future planning and development of this site, rather than applying a “Residential” zone to the site. The ‘Urban Development’ zoning requires the provision of a structure plan. A structure plan sets out specific development requirements and facilitates future subdivision and development of the site.

Under Clause 3.12 of DPS2, this clause relates to the “Urban Development“ zone. Under sub clause 3.12.2 of DPS2, no subdivision or other development should be commenced or carried out in an Urban Development Zone until a structure plan has been prepared and adopted in accordance with the provisions of Part 9 of DPS2. No such provisions are included within clause 3.4 for the “Residential” Zone and therefore does not necessarily allay community concern in terms of future built form or amenity. The result is a more transparent process that allows the community to be better informed with respect to what future development upon the site will look like.

The density coding of land within the “Urban Development” zone is usually considered within the context of a structure plan, however in this case, the applicant seeks to redevelop the land in accordance with its existing R20 density code, which is the same density code prevailing within the Marmion locality and throughout the City of Joondalup generally.

Rationale behind recommendation to initiate rezoning of the site for advertising purposes

The following points are provided in order to justify the City's recommendation that the proposed amendment should be initiated for the purposes of advertising:

- The residential land use proposed for the site is identical to that prevailing in the immediate locality.
- The residential land use proposed for the site is in conformity with the 'Urban' zoning of the site under the Metropolitan Region Scheme.
- The built form outcome proposed by the applicant is not expected to be significantly different to that prevailing in the locality.
- The current R20 residential density code applied to the site is to remain unchanged and is identical to the residential density code that applies to land surrounding the site.
- The subject land is not a formal Reserve for Recreation as its Reserve status was cancelled in 1974 and the site sold in freehold title to the CSIRO.
- Upon cancellation of the sites Reserve status, the CSIRO's subsequent acquisition and use of the site was not for park/recreational type uses. The zoning of the site under the then Town Planning Scheme No 1 (TPS1) should have reflected the CSIRO's use of the site as a marine research facility. The change in zoning was never undertaken, with the 'Parks and Recreation' zoning remaining in TPS1 and carried over into the City's DPS2.
- The site was never formally developed as a bonafide Recreation Reserve.
- No significant traffic issues have been identified.
- No significant environmental issues have been identified.
- No significant historical or ethnographic issues have been identified.

Further to the above, advertising of the proposed amendment will:

- Ensure that all interested parties are given an opportunity to comment on the proposed amendment, with this process being controlled by the City.
- Assist the City to gauge the level of community support or non support for the proposal.
- Assist the City to identify all issues arising from the proposed amendment, so that every issue raised can be thoroughly investigated and reported upon within a future report to the Commissioners for their decision to either refuse or grant final approval to the proposed amendment.

Deficiency and Loss of Public Open Space (POS) in Marmion

It has been suggested that there is a deficiency in public open space provided within the suburb of Marmion.

The subdivision of Marmion in 1939 predated the 10% POS contribution requirement that was introduced by the State Government in 1956. The 10% POS requirement therefore did not apply to the subdivision of Marmion, and should not be used as a benchmark to compare POS provided in other suburbs.

Research has identified that within a previous Council report in 1991, the report stated that public open space provision in Marmion comprises 9.7% (8.18 hectares) of the gross subdividable area, which equates to a 0.3% shortfall. The report went on to state that this is insignificant considering proximity to the ocean foreshore and Star Swamp.

The City has recently undertaken a POS audit for the suburb of Marmion, with the results of the audit shown in Attachment 1. There is a total of 8.007 hectares of POS (excluding the former CSIRO Site, foreshore reserve, and primary school site) provided within Marmion. Based on a total land area of 110.777 hectares, which excludes the foreshore reserve of 4.7443 hectares that is generally excluded in the calculation of the 10% POS provision requirement), POS provided within the suburb of Marmion equates to approximately 7.23%.

All coastal suburbs (including Marmion) contain foreshore recreation reserves that are generally in addition to the normal 10% POS requirement that is given up at the time of subdivision. The size of the foreshore reserve for Marmion is 4.7443 hectares. The Marmion Primary School site also contains an area of 6.0285 hectares that can be accessed by the general public for recreational pursuits.

A total of 18.7798 hectares of land, which excludes the former CSIRO site area of 2.1885 hectares, is available for recreational pursuits within the suburb of Marmion, which has a total land area of 115.5213 hectares (including the foreshore reserve area) and equates to approximately 16% of the suburb being set aside for recreational purposes.

From a town planning perspective and having due regard to both State Government subdivision policy and the City's POS audit outlined above, the overall amount of land available within Marmion for recreational pursuits is considered sufficient.

Percy Doyle Reserve

As outlined within the details section of this report, the DPI is unable to definitively confirm that the local POS provided at this site was relocated and provided at Percy Doyle Reserve, however it is now confirmed that Percy Doyle Reserve was increased in size. Whether or not this increase is directly linked to the cancellation of the subject land's reserve status and subsequent sale to the CSIRO remains unconfirmed, as both DPI and former City of Wanneroo records are either destroyed or can not be found.

The comments made by DPI appear to assist in substantiating a link between the two land parcels and gives further credence to statements made with respect to this particular matter in previous Council reports that considered previous applications to rezone the site. Confirmation of this issue is not considered to form an integral component of the Joint Commissioners consideration and subsequent determination of the rezoning proposal, particularly as the overall amount of land available within Marmion for recreational pursuits is considered sufficient as outlined within this report.

Percy Doyle Reserve is not within the suburb of Marmion, however this Reserve is located immediately adjacent. Percy Doyle Reserve is available for use by the general public and given its considerable size and close proximity to the suburb of Marmion, the Reserve is also utilised by members of the Marmion community for recreational pursuits, thus adding to the total amount of recreational area available to the Marmion community.

Environmental Protection Authority (EPA) Issues

The Environmental Protection Authority (EPA) has advised the City that the proposal has been formally referred to them under Section 38 of the Environmental Protection Act 1986. Section 7A1 of the Town Planning and Development Act 1928 requires all proposed amendments to be forwarded to the EPA to enable them to conduct an assessment for environmental issues. This is undertaken once the local government resolves to initiate any proposed amendment for the purposes of advertising. The advertising period does not commence until such time as the EPA has made its decision and conveyed its decision to the Local Government.

Within the EPA referral process, the City shall advise the EPA of the comments contained within the applicant's environmental reports, and in particular comments with respect to testing the material contained in the existing interceptor trap on the site.

Options

The Commissioners have two options in dealing with this rezoning application (proposed amendment). The Commissioners can either resolve to adopt the proposed amendment for the purposes of public advertising, or resolve to refuse the amendment.

Should the Commissioners decide to support the amendment for the purposes of advertising, this action does not construe that the Commissioners will grant final approval to the proposed amendment.

Furthermore, there is no right of appeal to the Town Planning Appeals Tribunal with respect to a decision to refuse initiating the rezoning application (scheme amendment) for the purposes of advertising or to refuse to grant final approval to the amendment.

Conclusion

There is an extensive planning history associated with this site, with several applications being previously made to develop, rezone and subdivide the site. Considerable public reaction has resulted from these historical planning applications.

The City's recommendation to support the proposed amendment for the purposes of public advertising is based on planning related grounds and considerations contained within this report. It is also with the knowledge of previous recommendations to Council for similar rezoning applications over the site in the past.

Should the Joint Commissioners resolve to initiate the proposed amendment for the purposes of public advertising, the proposed amendment is first required to be forwarded to the EPA in order for the EPA to decide whether the proposal requires a formal environmental assessment. Upon written confirmation of this by the EPA, the City then publicly advertises the proposed amendment for a 42-day period. Upon closure of the consultation period, a further report is presented to the Joint Commissioners to consider all submissions received during the advertising period and to decide if the proposed amendment should be adopted for final approval or not.

ATTACHMENTS

Attachment 1	Site Plan/Marmion Public Open Space Schedule
Attachment 2	Scheme Amendment Map & Indicative Subdivision Plan
Attachment 3	Chronological List of Planning, Development and Land Tenure History
Attachment 4	Scheme Amendment Process Flowchart

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION: That:

- 1 The Joint Commissioners:
 - (a) Pursuant to Section 7 of the Town Planning and Development Act 1928 (as amended), AMEND the City of Joondalup District Planning Scheme No 2 for the purpose of unreserving Lot 61 (14) Leach Street, Marmion from Local Reserves 'Parks and Recreation' and zoning it to "Urban Development" and ADOPT Amendment No 24 as suitable for the purpose of advertising for a period of 42 days;
 - (b) FORWARD the amending documents to the Environmental Protection Authority to decide whether or not an environmental review is required and obtains the Environmental Protection Authority's decision in writing prior to the advertising period commencing;
 - (c) ADVISE that submissions received will be considered on planning merit, including (but not restricted) to such aspects as:
 - (i) Submissions that may be lodged by interested parties;
 - (ii) The adequacy of the supply of open space in Marmion;
 - (iii) The variety of housing choice that is offered in the area;
 - (iv) the impact of the proposed use in terms of:
 - Building bulk and siting;
 - Compatibility with the existing surrounding residential land use;
 - (v) Known potential alternative uses for the land;
 - (vi) The aims and objectives of the existing District Planning Scheme;
 - (vii) Any other matter arising during the advertising period that may be relevant, in the opinion of the Council;
- 2 the Joint Commissioners' support of initiating Amendment 24 to District Planning Scheme No 2 and indicative subdivision plan with the amended application should not be construed as being support for the indicative subdivision plan as shown in Attachment 2 to Report CJ200-08/04.

MOVED Cmr Smith, SECONDED Cmr Fox that:

1 The Joint Commissioners:

- (a) Pursuant to Section 7 of the Town Planning and Development Act 1928 (as amended), **AMEND** the City of Joondalup District Planning Scheme No 2 for the purpose of unreserving Lot 61 (14) Leach Street, Marmion from Local Reserves ‘Parks and Recreation’ and zoning it to “Urban Development” and **ADOPT** Amendment No 24 as suitable for the purpose of advertising for a period of 42 days;
- (b) **FORWARD** the amending documents to the Environmental Protection Authority to decide whether or not an environmental review is required and obtains the Environmental Protection Authority’s decision in writing prior to the advertising period commencing;
- (c) **ADVISE** that submissions received will be considered on planning merit, including (but not restricted to) such aspects as:
 - (i) Submissions that may be lodged by interested parties;
 - (ii) The adequacy of the supply of open space in Marmion;
 - (iii) The variety of housing choice that is offered in the area;
 - (iv) the impact of the proposed use in terms of:
 - Building bulk and siting;
 - Compatibility with the existing surrounding residential land use;
 - (v) Known potential alternative uses for the land;
 - (vi) The aims and objectives of the existing District Planning Scheme;
 - (vii) Any other matter arising during the advertising period that may be relevant, in the opinion of the Council;

2 the Joint Commissioners’ support of initiating Amendment 24 to District Planning Scheme No 2 should not be construed as being support for the indicative subdivision plan as shown in Attachment 2 to Report CJ200-08/04, however the Joint Commissioners anticipate that if the amendment were to proceed, then subsequent development will accord with the R20 standard.

Discussion ensued.

The Motion was Put and

CARRIED UNANIMOUSLY (5/0)

Appendix 4 refers

To access this attachment on electronic document, click here: [Attach4brf240804.pdf](#)

CJ201 - 08/04 PROPOSED CLOSURE OF PORTION OF ROAD RESERVE CONTAINING WESTERN POWER TRANSFORMER BETWEEN LOTS 1 AND 2 MOLLOY PROMENADE, JOONDALUP - [83558]

WARD - Lakeside

CJ040824_BRFD0C:ITEM 6

PURPOSE

This report is for the Joint Commissioners to consider the closure of approximately 28.9m² of road reserve containing a Western Power transformer between Lots 1 and 2 Molloy Promenade, Joondalup for the purpose of amalgamating this land into Lots 1 and 2 Molloy Promenade, Joondalup (Attachment 1 refers).

EXECUTIVE SUMMARY

Lots 1 and 2 Molloy Promenade form a part of the site for the proposed ‘village’ development which was approved by the Joint Commissioners at their meeting on 29 June 2004 (CJ150-06/04). Lots 1 and 2 are currently being amalgamated to accommodate Village 1 of the ‘village’ development (Attachment 2 refers).

On 29 March 2004, the City received an application to close a portion of road reserve along the east side of Molloy Promenade containing a Western Power transformer between Lots 1 and 2 Molloy Promenade. The purpose of this proposal is to facilitate the provision of a larger Western Power transformer on the site, as the existing one is considered insufficient to supply Village 1 of the proposed ‘village’ development in both voltage and physical space according to Western Power. It is intended that this portion of road reserve be closed and amalgamated with Lots 1 and 2, and the new transformer will be provided by Western Power at the developer’s cost. In addition, an appropriate easement will be provided by the developer to the satisfaction of Western Power to host the replacement of the transformer.

The City obtained comments from service authorities and the Department for Planning and Infrastructure (DPI) prior to publicly advertising the proposal. The advertising took place from 1 July to 5 August 2004. A newspaper notice and map was placed within the Joondalup Community Newspaper, a sign was placed on site, and comments invited from the adjoining landowner, Edith Cowan University. No submissions were received.

The proposed road reserve closure is not expected to create any negative impact on vehicle and pedestrian movement. It will facilitate the proposed ‘village’ development, which is supported by the City. Therefore, it is recommended that the Joint Commissioners:

- 1 *SUPPORT the closure of portion of road reserve, containing Western Power transformer between Lots 1 and 2 Molloy Promenade, Joondalup as shown in Attachment 1 of this report;*
- 2 *COMMUNICATE their decision to the Department of Land Information and REQUEST that both the Department of Land Information and the Department for Planning and Infrastructure proceed in finalising the road closure.*

BACKGROUND

Suburb/Location:	Molloy Promenade, Joondalup
Applicant/Developer:	Proven Joondalup Pty Ltd
Owner:	Crown
Zoning:	
DPS:	Centre Zone
MRS:	Central City Area
Strategic Plan:	Strategy 3.1.2 – Facilitate the safe design, construction and approval of all buildings and facilities within the City of Joondalup.

DETAILS

At the meeting on 29 June 2004 the Joint Commissioners approved the proposed ‘village’ development, which comprises three ‘villages’ (Attachment 2 refers). Village 1 will be developed within Lots 1 and 2 Molloy Promenade. As such, amalgamation of Lots 1 and 2 was essential to accommodate Village 1. Subsequently, the developer submitted an application for amalgamation of Lots 1 and 2, and the Western Australian Planning Commission approved the application on 25 May 2004.

On 29 March 2004, the City received a letter from the applicant requesting to close the above-mentioned road reserve and to purchase this portion of land from the DLI (Attachment 1 refers). The applicant intends to amalgamate this portion of land into Lots 1 and 2 Molloy Promenade in order to create more space to accommodate a larger Western Power transformer, as the existing transformer is considered insufficient for the supply to Village 1 in terms of both voltage and physical space according to Western Power.

The proposal to increase the space for the new transformer, without adversely impacting on the pedestrian movement, is to obtain extra land from Lots 1 and 2 instead of taking more land from the road reserve. To achieve this, it is necessary to close the road reserve containing the existing transformer, and amalgamate this land with Lots 1 and 2, which enables the land to have the same ownership as Lots 1 and 2. As a result, the extra space needed for the new transformer can be obtained from the amalgamated new lot.

It is understood that the new transformer will be provided by Western Power at the developer’s cost in the same location, but incorporating additional land. It is currently still unclear how much extra land is required; however, the applicant will liaise with Western Power to decide the size of the land for the new transformer in the near future. In addition, the developer will also provide an easement for accessing the transformer to the satisfaction of Western Power.

Road Closure Process

A request can be made to close a road reserve and amalgamate that land into an adjoining property. As part of this process, service authorities are requested to provide details of any service plant that is within the road reserve sought to be amalgamated and, if such infrastructure exists, the cost of relocation or provision of easements to protect and obtain access to infrastructure, should the need arise in the future. All costs and conditions associated with service plant modification are to be met by the applicant if closure is the outcome.

The proposal is also forwarded to the DPI for comment. If the service authorities and the DPI do not raise any objections and the applicant(s) has agreed to meet all associated costs and conditions, then the application can be advertised for public comment.

If Council supports a road closure application, all relevant documentation is forwarded to DLI with a request to formally close the road reserve. The Minister for Planning and Infrastructure makes the final decision on whether or not closure takes place.

Statutory Provision:

Under Section 58 of the Land Administration Act 1997, closure of a portion of road is required to be advertised for 35 days by way of a notice in a local newspaper. Any submissions received during the advertising period are to be considered by Council and if the closure is supported, all associated submissions are to be forwarded to the DLI. The DLI also requires other supporting documentation to be provided such as confirmation that the DPI has not objected to the proposal.

The DLI determines the purchase price to apply, arranges any easements and survey requirements and undertakes conveyancing. The purchase price is fixed by DLI in consultation with the Valuer General and is usually the unimproved market value of the land.

Consultation:

Comments have been sought from the DPI and the service authorities regarding this proposal. The DPI have advised it has no objection to the proposed closure, subject to the land being amalgamated with Lots 1 and 2 Molloy Promenade.

Telstra, Western Power, Water Corporation and Alinta Gas do not have any objections to the proposal.

The public advertising period took place between 1 July and 5 August 2004. A newspaper notice and map was placed within the Joondalup Community Newspaper on 1 July 2004, a sign was placed on site, and comments invited from the adjoining landowner, Edith Cowan University (ECU). At the close of advertising, no submission was received.

Sustainability Implications:

The closure of the road reserve and its amalgamation with the adjoining lots is necessary to facilitate the future development of the site. The proposed development represents a significant investment into the City of Joondalup and is expected to enhance the status of Joondalup City Centre as a regional centre and promote both social and economic sustainability within the local community.

COMMENT

The proposed 'village' development is considered a landmark development for the Joondalup City Centre and was supported by the Joint Commissioners at their meeting on 29 June 2004.

The road closure proposal is considered to be an integral part of the proposed ‘village’ development, and upgrading the Western Power transformer is necessary for the power supply to Village 1. For these reasons, supportive decisions towards the road closure proposal are essential in order to be able to progress the proposed ‘village’ development.

Responses received from DPI and the service authorities during the consultation period show no objections to the proposed road closure. In addition, no submission was received from the adjoining owner ECU.

While the proposed road closure is not expected to adversely impact the pedestrian and vehicle movement, as well as the surrounding environment, it is considered that the closure will be beneficial to the future ‘village’ development. Therefore, it is recommended that the proposed road reserve closure be supported.

ATTACHMENTS

Attachment 1	Site Plan
Attachment 2	Block Identification Plan of the “Village” Development

VOTING REQUIREMENTS

Simple Majority

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

- 1 SUPPORT the closure of portion of road reserve, containing Western Power transformer between Lots 1 and 2 Molloy Promenade, Joondalup as shown in Attachment 1 to Report CJ201-08/04;**
- 2 COMMUNICATE their decision to the Department of Land Information and REQUEST that both the Department of Land Information and the Department for Planning and Infrastructure proceed in finalising the road closure.**

The Motion was Put and

CARRIED UNANIMOUSLY (5/0)

Appendix 5 refers

To access this attachment on electronic document, click here: [Attach5brf240804.pdf](#)

CJ202 - 08/04 DELEGATED AUTHORITY REPORT FOR THE MONTH OF JULY 2004 – [07032]

WARD - All

CJ040824_BRFDOC:ITEM 7

PURPOSE

This report provides a resumé of the Development Applications processed by Delegated Authority during the month of July 2004 (Attachments 1 refers).

The total number of Development Applications determined (including Council and delegated decisions) is as follows:

Month	No	Value
July 2004	104	\$21,053,884

COMMENT

A total of 109 Development Applications was received during the month of July compared to a total of 140 for the month of June.

ATTACHMENTS

Attachment 1 List of Determinations

VOTING REQUIREMENTS

Simple Majority

MOVED Cmr Anderson, SECONDED Cmr Clough that the Joint Commissioners NOTE the determinations made under Delegated Authority in relation to the applications described in Attachment 1 to Report CJ202-08/04.

The Motion was Put and

CARRIED UNANIMOUSLY (5/0)

Appendix 6 refers

To access this attachment on electronic document, click here: [Attach6brf240804.pdf](#)

CJ203 - 08/04 SUBDIVISION REFERRALS PROCESSED 1 – 31 JULY 2004 – [05961]

WARD - Lakeside, Whitfords, North Coastal

CJ040824_BRFD0C:ITEM 8

PURPOSE

This report is to advise the Joint Commissioners of subdivision referrals received by the City for processing in the period 1- 31 July 2004.

EXECUTIVE SUMMARY

Attachment 1 is a schedule of the Subdivision Referrals processed by Urban Design and Policy from 1 – 31 July 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

Nine subdivision referrals were processed within the period. The average processing time taken was 22 days. The subdivision applications processed enabled the potential creation of two (2) residential lots and two (2) strata residential lots. One application was not required to be processed, one application was not supported and two applications were deferred. These applications are as follows:

Ref: SU125229 – 30 Grand Boulevard, Joondalup

This application was deferred pending an amended plan.

Ref: SU631-04 – 9 Grand Boulevard, Joondalup

This application was forwarded to the City in error and was not required to be processed.

Ref: SU125483 – 18 Quarry Ramble, Edgewater

This application was deferred pending an amended plan.

SU729-04 – 31 Sheffield Place, Hillarys

This application was not supported due to non-compliance with the minimum average lot size of 450m².

ATTACHMENTS

Attachment 1 Schedule of Subdivision Referrals

VOTING REQUIREMENTS

Simple Majority

MOVED Cmr Anderson, 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 CJ203-08/04.

The Motion was Put and

CARRIED UNANIMOUSLY (5/0)

Appendix 7 refers

To access this attachment on electronic document, click here: [Attach7brf240804.pdf](#)

CJ204 - 08/04 TENDER NUMBER 046-03/04 REDEVELOPMENT OF CRAIGIE LEISURE CENTRE – [36561]

WARD - All

CJ040824_BRFD0C:ITEM 9

PURPOSE

To seek the approval of the Joint Commissioners to choose the tender submitted by Perkins (WA) Pty Ltd as the successful tenderer for the Redevelopment of Craigie Leisure Centre (Tender Number 046-03/04).

EXECUTIVE SUMMARY

On 19 June 2004 tenders were requested, through Statewide public advertisement, for the Redevelopment of Craigie Leisure Centre. A mandatory pre-tender site meeting and briefing for all prospective tenderers was held on 22 June 2004. Tenders closed on 15 July 2004.

Three tenders were received, as follows:

Perkins (WA) Pty Ltd	\$8,547,000
Cooper & Oxley Builders Pty Ltd	\$8,685,000
Keywest Constructions Pty Ltd	\$8,820,938

It is recommended, in relation to Tender Number 046-03/04 for the Redevelopment of Craigie Leisure Centre, that the Joint Commissioners:

- 1 CHOOSE Perkins (WA) Pty Ltd as the successful tenderer for the Redevelopment of Craigie Leisure Centre (Tender No. 046-03/04) for a lump sum price of eight million five hundred and forty seven thousand dollars (\$8,547,000);*

- 2 *AUTHORISE the Acting Chief Executive Officer, on behalf of the City, to enter into a contract with Perkins (WA) Pty Ltd in accordance with the tender submitted by Perkins (WA) Pty Ltd, subject to any minor variations that may be agreed between the Acting Chief Executive Officer and Perkins (WA) Pty Ltd and Planning Approval being given by the Western Australian Planning Commission.*

BACKGROUND

At its meeting 30 September 2003 (COJ refers), the Council resolved to:

- 1 *APPROVE Option 6 as the preferred option for the redevelopment of the Craigie Leisure Centre;*
- 2 *LIST the outdoor 50-metre pool for strong consideration in the 2004/05 budget process as a second stage to the project.*

Option 6 is a remodelling of the existing pool shell with some structural alterations such as geothermal water heating, new plant an improved gym and a relocated spa. The plan also allows for improvements to the facility such as tiles in the pool and on the pool surrounds and refurbished change rooms. The outdoor 50m-pool component of the facility was considered as part of the budget process but was not supported at this time given the overall project costs and the need for further understanding as to the community's usage of the aquatic facilities at the Craigie Leisure Centre.

The Craigie Leisure Centre Project Management Working Group has managed the Craigie Leisure Centre redevelopment project through the consultation, concept development, detailed design, documentation and tender phases. This Group includes officers from City of Joondalup, representatives from the City's project managers, Clifton Coney Group and in the latter stages the architect James Christou and Partners and quantity surveyor Ralph Beattie Bosworth.

DETAILS

Three tenders were received in response to request for tenders (No. 046-03/04), one from each of Perkins (WA) Pty Ltd, Cooper & Oxley Builders Pty Ltd and Keywest Constructions Pty Ltd.

The invitation for tenders included essential criteria and desirable criteria.

The first part of the tender assessment was the Conformance Audit Meeting. The purpose of this meeting was to ensure that all of the potential tenderers were aware of the essential criteria of the invitation for tenders, so that each of these requirements would be covered in the tenders.

Under regulation 18(2) of the *Local Government (Functions and General) Regulations 1996* a tender that does not meet any of the requirements of the invitation for tenders may be considered by the City or rejected by the City without considering the merits of the tender (at the City's discretion). A tender that did not meet all the essential criteria could be deemed to

be non-conforming and eliminated from consideration. A tender that did not meet the desirable criteria would be assessed on the extent of non-compliance. Depending on the extent of non-compliance, the tender could also be deemed non-conforming and eliminated from consideration.

All of the tenders met the essential criteria of the invitation for tenders document however, none of the tenders satisfied all the desirable criteria. The Evaluation Team considered the extent of non-compliance of the tenders to determine whether a tender should be rejected without considering its merits. The Evaluation Team considered that the non-compliance in each tender was of a minor nature and, therefore, decided to assess all of the tenders.

Under the City's Contract Management Framework, all the tenders submitted were 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'. The Evaluation Team consisted of three officers of the City and representatives from James Christou & Partners (architect) and Clifton Coney Group (project managers).

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

The Selection Criteria for Invitation for Tenders (No. 046-03/04) was as follows:

Resources and Experience of Tenderer in providing similar services:

- Relevant Industry Experience, including details of providing similar supply. Tenderers shall submit a Detailed Schedule of previous experience on similar and/or relevant projects
- Past Record of Performance and Achievement with other clients
- Level of Understanding of tender documents and work required
- References from past and present clients

Levels of Service as determined by the Capability/Competence of Tenderer to provide the services required:

- Company structure
- Qualifications, Skills and Experience of Key Personnel
- Equipment and Staff Resources available
- Percentage of Operational Capacity represented by this work
- Financial Capacity
- Risk Assessment
- Compliance with tender requirements – insurances, licenses, site inspections etc
- Quality Systems
- Occupational Health and Safety Management System and Track Record
- Management Methodology
- Post Contract Services offered

Beneficial Effects of Tender/Local Content:

- The potential social and economic effect of the tender on the City of Joondalup community
- The Potential Social and Economic Effect of the tender on the West Australian community
- Infrastructure/Office/Staff/Suppliers/Sub-Contractors within the City of Joondalup
- Value Added items offered by tenderer
- Sustainability/Efficiency/Environmental

Methodology:

- Details of the procedures and process they intend to use to achieve the requirements of the Specification
- Provision of an outline of the provisional works program

Tendered Price/s:

- The lump sum price
- Discounts, settlement terms

All three tenderers demonstrated their experience in similar types of work and their ability to complete the works in accordance with the specification.

Due diligence checks were undertaken on the three tenderers including risk assessment which was part of the Selection Criteria. The Dun and Bradstreet risk assessment ranked the tenderers in the following order (from lowest risk to highest risk): Perkins (WA) Pty Ltd, Cooper & Oxley Builders Pty Ltd and then Keywest Constructions Pty Ltd.

After considering the tenders in accordance with the Selection Criteria, the Evaluation Team considers that the tender submitted by Perkins (WA) Pty Ltd would be the most advantageous for the City to accept.

Of the three tenderers Perkins (WA) Pty Ltd has:

- (a) constructed the most recent pools;
- (b) demonstrated that they are fully capable of delivering a quality product;
- (c) submitted the lowest price; and
- (d) been identified as having the lowest risk (by Dun & Bradstreet).

Statutory Provision:

The statewide public tender was advertised, opened and evaluated in accordance with the *Local Government (Functions and General) Regulations 1996*. Advertising this tender also ensures compliance with the *Local Government (Functions and General) Regulations 1996*, where tenders are required to be publicly invited if the consideration under a contract is worth, or 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; none of the tenderers are located within the City of Joondalup.

FINANCIAL IMPLICATIONS

The pre-tender estimate from the Quantity Surveyor indicated a construction price of between \$7,815,000 and \$8,115,000. No obvious anomalies such as misunderstanding of the specification or drawings were found in comparing the trade price breakdowns between the tenders and the pre-tender estimate. Discussions with the potential tenderers indicated that there was little interest from trades due to the excessive amount of work currently available and that this project, being a refurbishment project, makes it more complex. The project costs are as follows:

Kiosk Lease Buy Back	\$	157,000
Contingency	\$	368,000
Furniture and Equipment	\$	90,000
Consultants' Fees	\$	938,000
Construction	\$	8,547,000
<u>Total</u>	<u>\$</u>	<u>10,100,000</u>

COMMENT

Of the three tenderers Perkins (WA) Pty Ltd has constructed the most recent pools, demonstrated that they are fully capable of delivering a quality product, submitted the lowest price and were identified by Dun & Bradstreet as having the lowest risk. According to the Dun & Bradstreet report Keywest Constructions have recently re-entered the construction industry due to the current favourable conditions

Based on the Selection Criteria, the Evaluation Team considers that the tender submitted by Perkins (WA) Pty Ltd represents the best value for money and would be the most advantageous for the City to accept. The Evaluation Team recommends that Perkins (WA) Pty Ltd be chosen as the successful tenderer for the redevelopment of the Craigie Leisure Centre. Prior to entering into a formal contract with Perkins (WA) Pty Ltd some negotiations will be required that could identify a number a minor variations to the scope of works.

ATTACHMENTS

Nil.

VOTING REQUIREMENTS

Simple Majority

MOVED Cmr Anderson, **SECONDED** Cmr Clough that, in relation to Tender Number 046-03/04 for the Redevelopment of Craigie Leisure Centre, the Joint Commissioners:

- 1 CHOOSE Perkins (WA) Pty Ltd as the successful tenderer for the Redevelopment of Craigie Leisure Centre (Tender No 046-03/04) for a lump sum price of eight million five hundred and forty seven thousand dollars (\$8,547,000);**
- 2 AUTHORISE the Acting Chief Executive Officer, on behalf of the City, to enter into a contract with Perkins (WA) Pty Ltd in accordance with the tender submitted by Perkins (WA) Pty Ltd, subject to any minor variations that may be agreed between the Acting Chief Executive Officer and Perkins (WA) Pty Ltd and Planning Approval being given by the Western Australian Planning Commission.**

Discussion ensued.

The Motion was Put and

CARRIED UNANIMOUSLY (5/0)

CJ205 - 08/04 COUNCIL TO ACT AS A LENDING AUTHORITY OR GUARANTOR FOR SPORTING CLUBS OR OTHER EXTERNAL ORGANISATIONS – [03097]

WARD - All

CJ040824_BRFD0C:ITEM 10

PURPOSE

To consider the issues associated with the appropriateness or otherwise of the City adopting a policy that it shall not in future act as a lending authority or provide any guarantee for any loan for any sporting club or other external organisation and recommend a course of action.

EXECUTIVE SUMMARY

At its meeting held on 29 April 2003, Council considered a report on the Wanneroo Basketball Association proposed write off of debt to Council (CJ57-04/03 refers). Council resolved:

- “1 Council AGREES to write off the Wanneroo Basketball Associations Inc debt and other payments detailed in Council’s resolution 1 (a) (b) and (c) of item number “C22 - 03/03 Resolution of Wanneroo Basketball Association inc.” subject to:*
- (a) A deed of agreement between the City and the Wanneroo Basketball Association Inc. outlining the details of what is proposed by the resolution;*

- (b) *The Wanneroo Basketball Association Inc. in return for the City writing off the Association's debt to the City, forgives and thereupon forever releases the City from any claim whatsoever the Association may have on the City relating to the area of land as initially leased and amended from time to time, and including the stadium building;*
- 2 *Council REQUESTS a report be prepared on the appropriateness or otherwise of the City adopting a policy that it shall not in future act as a lending authority for any sporting club or other external organisation or provide any guarantee for any loan raised by any sporting club or association;*
- 3 *the actions taken in relation to the Wanneroo Basketball Association Inc. in writing off its outstanding debt to the Council are a one off and do not set a precedent in the way other clubs and associations should expect to be treated by the City in the future."*

This report is now provided to address point 2 of the above resolution, which is currently outstanding.

It is recommended that the Joint Commissioners adopt Policy 2.4.6 – Lending Authority or Loan Guarantor for Sporting Clubs or other External Organisations, which states that the City of Joondalup choose not to enter into any agreements with any sporting clubs or other external organisations to act as a lending authority or provide any guarantee for any loan raised by any sporting club or external organisation.

BACKGROUND

In addressing the issue of appropriateness of the City of Joondalup acting as a lending authority or guarantor for sporting clubs or other external organisations, research was carried out on the current practices and/or policies of the following local governments:

City of Stirling
City of Swan
City of Melville
City of Wanneroo
City of Nedlands
City of Armadale
City of Gosnells
City of Mandurah

Three local governments, the Cities of Melville, Swan and Mandurah provide assistance to clubs and organisations to establish facilities in a lending capacity. In the other cases, the local governments do not currently provide loans or guarantees, although this is not formalised through their policy manual.

A self supporting loan is interpreted to be, loans provided to organisations for the purpose of building construction or addition that is repaid through a loan agreement, generally via lease payments on a lease agreement tied to the loan.

The status of each local government area is summarised below.

City of Stirling

The City of Stirling has a “no loans” practice and would not consider changing due to the volatile clubs environment impacting on repayment ability. This practice is not formalised through Council policy.

The City does have a capital works funding program in place with guidelines similar to the Community Sport and Recreation Facilities Fund (CSRFF). There is no specific amount allocated annually, submissions are assessed on a business case basis. Average expenditure for the last 5 years has been \$170,000 per annum. The City is currently reviewing this program with a view to encouraging shared facilities and mixed use.

City of Swan

The City of Swan provides self-supporting loans to sporting clubs or community associations on a case-by-case basis, although every effort is made to look to CSRFF funding first.

There is no formal Council policy or procedure in place to manage this facility, each case is assessed in accordance with identified community need, commercial practices and the borrower's capacity to repay. The City of Swan has a self-supporting loan portfolio of approximately \$1.5 million made up of 13 loans. Only one default has been experienced within the self-supporting loan structure in recent years. Loans are taken out in the City's name and repayment terms are negotiated individually with the party involved.

City of Melville

The City of Melville provides a self-supporting loan facility, which is tied into its leases and licenses agreements. For example if a club lease is \$5,000 per annum and its loan repayments are \$4,000 per annum, then \$4,000 of the lease payment is made towards the loan amount.

The City does have a formal policy in place but it is currently under review in light of difficulties being experienced by clubs in meeting repayments, primarily due to a decline in club membership and bar sales. The City's self-supporting loan portfolio is valued at approximately \$5.45 million, made up of 20 loans. One of these loans is for a figure of approximately \$2.9 million.

The City also provides assistance through the CSRFF program.

City of Wanneroo

The City of Wanneroo has historically provided self-supporting loans but does not have a formal policy either for or against. The Administration and Council consider all proposals on a case-by-case basis.

The City uses CSRFF funding where possible and does not support proposals without a needs analysis and feasibility study to support it.

City of Nedlands

The City of Nedlands has historically provided self-supporting loans, but it is not a preferred practice. The City currently has no formal policy for or against but may develop one in future.

The CSRFF funding program is the preferred vehicle for funding requests for new facilities or improvements. There is ability for clubs to apply to Council outside this process and any proposals would be considered and funded on a case-by-case basis.

City of Armadale

The City of Armadale has acted as a guarantor on a loan facility on two occasions in the past, where the clubs concerned were unable to meet the debt and the City was required to pay. As a result, the City does not act as a lending authority or provide any guarantee. They do not currently have a policy in place to reflect this position, although they may formalise it in future.

If a project fits under CSRFF guidelines then the City will provide assistance, generally on an equal third basis for smaller projects. On larger projects the contribution is negotiated between the City and the community party.

City of Gosnells

The City of Gosnells acted as a guarantor once previously, but the club folded and the City was required to pay out the loan. As a consequence, they will not act as a guarantor or provide a loan facility, but do not have a formal policy reflecting this.

The City runs a Community Sponsorship Grants program for minor capital works and improvements, with a maximum contribution of \$15,000 per grant, matched on a dollar for dollar basis. The annual budget for this program is approximately \$140,000 per annum, provided in two grant rounds.

Any major capital works are considered within the CSRFF program.

City of Mandurah

The City of Mandurah provides two types of loan facilities, both of which require the applicant to provide details on the purpose of the loan, a needs analysis and project brief, financial capacity to pay, who will manage construction and five personal guarantors. These guarantors are responsible for the loan in the event the club/community group ceases operating. Applications are required by 31 March each year in order to be assessed and listed for consideration in the budget process. The two loan types are:

- Interest free loan up to \$50,000, with a loan period of generally 10 years;
- Self-supporting loan at an interest rate fixed on commencement, with a loan period of 10 years unless resolved by Council otherwise. There is no limit on the size of loan.

The City of Mandurah has a Sport and Recreation Facility Development policy in place, which is currently under review. The current endorsed policy provides for a maximum contribution by Council of 1/3 of costs, not including any loan funds provided. The new draft policy will be presented to Council shortly and is apparently more comprehensive, encourages shared use of facilities and sets a base level of provision by Local/State Government.

DETAILS

Funding of new community facilities and improvements to existing facilities is emerging as a significant issue, for the City of Joondalup and local governments in general. The City is presently experiencing significant pressure in the newer suburbs to provide facilities and in the southern suburbs for facility upgrade and replacement.

There are inherent risks associated with the provision of self-supporting loans or guarantees. However there is also a limit to the City's ability to fund and maintain community facilities and services to the extent desired by the community. It is considered critical to address this issue as part of a holistic approach to future community development.

Current Position

The City of Joondalup currently has no formal policy in place either for or against acting as a lending authority.

The City has acted as both a lending authority and guarantor in the past, however as a result of financial difficulties, the club in question was unable to meet its repayment obligations. Following protracted negotiations, the City resolved to forgive and forever release the debt owed by the club.

In order to assist clubs and organisations, the City actively participates in the Community Sport and Recreation Facilities Fund (CSRFF) funding program, with a policy for a one third contribution each to be made by the City and the State Government through the CSRFF programme and the organisation. All projects of a capital works nature are required to apply to CSRFF.

The City's Sports Development Program policy is aimed at financially assisting district level sporting clubs with programs, projects and events that facilitate the development of sport and enhance its delivery to City of Joondalup residents, which was endorsed by Council in September 2002 (Report CJ240-09/02 refers).

This policy encompasses the following priorities:

- 1 To support local district sporting clubs in the creation and implementation of Sports Development Planning;
- 2 To assist local district sporting clubs to enhance the delivery of sport within the City of Joondalup to all local residents;
- 3 To promote community based sport, through the growth of developmental programs initiated and conducted by local district sporting clubs;
- 4 To ensure the success of local district sporting clubs through the establishment of identified pathways for local junior talent development.

The expenditure for this program in the 2003/2004 budget is \$60,000.

Community Development Plan

The City intends to commence development of a Community Development Plan this financial year, which will incorporate the establishment of a Sport and Recreation Plan and a Community Facilities Plan to address funding of new community facilities and improvements to existing facilities.

These plans will include the following studies:

- Community Profile and demographic analysis;
- Trend Analysis to uncover research and trends at a local, regional, state, national and international level;
- Policy Review analysis;
- Strategic Plan and Human Resource Analysis;
- Needs Analysis to determine the needs of the sporting and recreation community;
- Usage Analysis – carrying out detailed analysis of current usage (2003-2004);
- Financial Analysis to determine the cost of operating and maintaining each facility. As far as is practical this will include subsidy per user/user group compared with income generated;
- Audit of Facilities – to take into account findings from the recent audit of Community Facilities undertaken by the Assets and Commissioning Business Unit and adhere to the City's Asset Management Plan.

Consultation with key stakeholders, Council and user groups will be fundamental to these studies. A five-year action plan will then be produced and a discussion paper detailing all findings prepared for the purposes of internal and public discussion.

It is currently estimated that the study will take approximately one year to complete, with a completion date programmed for June 2005.

Strategy to Manage City Community Buildings

The City also plans to commence a project to develop a management strategy for City owned Community Buildings this financial year. The Project will include:

- A review of the property management processes within the City, including current licences, leases, and fees and charges;
- The development and progression a Management Strategy for City of Joondalup community buildings.

The primary objective of the project is to recommend best practice property management model/s for the City's owned and controlled properties that aim to meet the following outcomes for the City:

- 1 Improved customer service and ensure future customer service is of high quality, and committed to customer care;
- 2 Provide a transparent system that is fair and equitable to all clients;

- 3 Ensure that all the City's owned and maintained properties are adequately maintained and comply with current regulations;
- 4 Ensure that all the City's owned and maintained properties benefit the community by meeting changing and diverse needs.
- 5 Maximise the use of the City's properties,
- 6 Manage facilities in an effective and efficient manner

The City has 63 premises held under a Lease or Management Licence. Many of the facilities are ageing, and require either a large overhaul or a substantial maintenance budget allocated to them. The City is currently progressing the development of a Strategic Asset Management Plan to address such issues. As the upgrade or maintenance of Council facilities could be beyond the capabilities of some groups, it results in the degradation of the City's assets.

The City has a number of projects proposed which align closely with this project. Research completed in this project will assist in the research stage of the development of the Community Facilities Plan.

COMMENT

The City recognises that the provision of community facilities and services that meet identified community needs is one of its biggest challenges, and therefore, a major priority. As such significant effort will be made to address this issue, notably through the development of the Community Development Plan, the Management Strategy for City owned Community Buildings and the Strategic Asset Management Plan.

It is critical that a holistic approach is made to future community development and on this basis it would be premature to adopt a stand alone policy that provides for the City to act as a lending authority or guarantor without a full appreciation of all the information.

It is therefore recommended that the Joint Commissioners adopt Policy 2.4.6 – Lending Authority or Loan Guarantor for Sporting Clubs or other External Organisations, which states that the City of Joondalup choose not to enter into any agreements with any sporting clubs or other external organisations to act as a lending authority or provide any guarantee for any loan raised by an sporting club or external association.

It is noted that the Joint Commissioners have previously agreed to discuss policy matters at a workshop at a date to be determined.

ATTACHMENTS

Attachment 1 Policy 2.4.6 – Lending Authority or Loan Guarantor for sporting Clubs or other external Organisations.

VOTING REQUIREMENTS

Simple Majority

MOVED Cmr Anderson, SECONDED Cmr Fox that the Joint Commissioners ADOPT Policy 2.4.6 – Lending Authority or Loan Guarantor for Sporting Clubs or other External Organisations forming Attachment 1 to Report CJ205-08/04, which states that the City of Joondalup choose not to enter into any agreements with any sporting clubs or other external organisations to act as a lending authority or provide any guarantee for any loan raised by any sporting club or external organisation.

Cmr Anderson spoke to the Motion.

The Motion was Put and

CARRIED UNANIMOUSLY (5/0)

Appendix 8 refers

To access this attachment on electronic document, click here: [Attach8brf240804.pdf](#)

**CJ206 - 08/04 MINUTES OF THE SENIORS INTERESTS
ADVISORY COMMITTEE HELD ON WEDNESDAY
21 JULY 2004 – [55511]**

WARD - All

CJ040824_BRFD0C:ITEM 11

PURPOSE

To note the unconfirmed minutes of the Seniors Interest Advisory Committee meeting held Wednesday, 21 July 2004.

EXECUTIVE SUMMARY

A meeting of the Seniors Interest Advisory Committee was held on Wednesday, 21 July 2004. The unconfirmed minutes of this meeting are submitted for noting by Council.

It is recommended that the Joint Commissioners NOTE the unconfirmed minutes of the Seniors Interest Advisory Committee held on Wednesday, 21 July 2004 forming Attachment 1.

DETAILS

The unconfirmed minutes of the meeting of the Seniors Interest Advisory Committee held on Wednesday, 21 July 2004 are included as Attachment 1.

The committee discussed the removal by Council of the off peak memberships and seniors discounts at the Craigie Leisure Centre. It was agreed by the committee that the following recommendation be put forward to Council.

MOVED Allyn Bryant, **SECONDED** Robert Kinloch that the Joint Commissioners “Reinstate the off peak memberships and discounts for seniors using the Craigie Leisure Centre.”

COMMENT

The outcomes of the “visioning” workshop conducted by Dana Anderson as a part of this meeting, have proved useful to the committee. The workshop challenged them to consider the strengths and weaknesses of the committee, to make suggestions regarding the role of the committee and to identify future strategies to achieve their goals as a committee. Members participated in the workshop with enthusiasm and many valuable strategies were developed. It is expected that this enthusiasm and the resulting strategies should provide the committee with renewed focus for their future activities.

The meeting resolved to suggest to Council that it “Reinstate the off peak memberships and discounts for seniors using the Craigie Leisure Centre”

It is intended that the matter will be discussed further with the committee at its next meeting.

The issue of discount rates to all sections of the community will be considered at a strategic level. A review of all Council fees and charges (particularly discounts) will be undertaken through the Seniors Plan during the 2004/2005 financial year. To coincide with this project, fees and charges for leisure programmes, facilities and services will be reviewed at the same time through the Leisure Plan.

Consideration of discount for seniors only at the Craigie Leisure Centre facility is restrictive to the City’s desire to be inclusive of all sectors of the community. The Seniors Interest Advisory Committee will be consulted as part of the Leisure and Seniors Planning process.

It should be noted that the City has implemented discount rates for seniors whilst these reviews are being undertaken.

ATTACHMENTS

Attachment 1 Minutes of the Seniors Interest Advisory Committee Meeting
21 July 2004

VOTING REQUIREMENTS

Simple Majority

MOVED Cmr Smith, SECONDED Cmr Anderson that the Joint Commissioners NOTE the unconfirmed minutes of the Seniors Interests Advisory Committee held on Wednesday, 21 July 2004 forming Attachment 1 to Report CJ206-08/04.

Cmr Smith requested that it be conveyed to members of the Seniors Interests Advisory Committee that it is acknowledged that the Committee is taking a more strategic view in line with past comments raised by Commissioners.

Comr Smith referred to comments from seniors in relation to “off peak” discounts and requested officers to be open-minded in this regard.

Comr Anderson referred to a question from the public gallery earlier in the meeting and queried whether the discount rates for seniors had been implemented whilst the review was in progress or whether it was a discount policy of the City.

Acting Director, Planning and Community Development advised that it was a discount policy of the Council and that the review was in relation to the Leisure Plan. The Plan will cover not only seniors, but other disadvantaged and junior groups within the community and ensure the City has a pricing philosophy that is inclusive of the community as a whole.

The Motion was Put and

CARRIED UNANIMOUSLY (5/0)

Appendix 9 refers

*To access this attachment on electronic document, click here: [Attach9brf240804.pdf](#)
[Attach9abrf310804.pdf](#)*

REPORT OF THE ACTING CHIEF EXECUTIVE OFFICER

C55-08/04 TOWN PLANNING DELEGATION – INTERIM REPORT – [07032]

WARD - All

PURPOSE

For the Commissioners to consider information relating to the review of the current Town Planning Delegation

EXECUTIVE SUMMARY

The Commissioners have received a briefing and a report proposing a review of the current form of delegated authority on Town Planning Matters.

The report has been drafted with the assistance of the City’s solicitors to ensure its procedural accuracy. Queries have recently been raised concerning the matters in the report relating to the role of the CEO in the process, the relationship between the Delegation Notice, the District Planning Scheme No.2, and other matters.

To properly answer these queries it is requested that the current Delegation Notice be extended again until 12 October 2004. This proposal would allow the administration to resolve issues raised by the Commissioners and the public, to also receive additional legal advice on the new matters that have been raised, and to give due time for briefing the Commissioners through that process.

BACKGROUND

The Delegation of Authority notice is due for review annually, or periodically as is set by the Council.

In considering this year's review of the delegation notice, the City was mindful of the Governance Review findings, which included a recommendation that had some bearing on the form of the proposed new delegation.

DETAILS

In allowing time to prepare a revised draft notice, it was necessary to permit an extension to the operation of the existing delegation notice. The Commissioners have extended that until 18 September, at which point, the existing notice will expire.

In the meantime, a new notice has been drafted and a workshop with Commissioners was held on 3 August 2004 to discuss its content. The report accompanying the new notice was presented to the 24 August Briefing Session, and further queries have been raised during the days since.

As a result, staff met with the City's solicitor on Friday 27 August, and further work is presently underway. There will be a need for the solicitor to brief the Commissioners on the Notice, and to assist with queries regarding its form. Arrangements for that briefing will be set shortly and advised separately to the Commissioners.

It is requested that the current delegation notice be extended, and that the Town Planning Delegation be the subject of a briefing with the Commissioners during the next meeting cycle.

COMMENT

The proposal put by this report allows for the consideration of the new Delegation Notice within a suitable timeframe. It is not achievable to brief Commissioners with new information and to finalise the legal advice within the period between the 24 August Briefing Session and scheduled 31 August Council meeting.

Reports for the next round of meetings are also almost finalised and accordingly it is proposed to present the Town Planning Delegation to the 12 October meeting of the Joint Commissioners, with that report preceded by a separate presentation of legal issues by the City's solicitor. This should be achievable in the current meeting schedule for the Commissioners.

In the meantime, it is recommended that the Joint Commissioners resolve to extend the existing planning delegation notice until 12 October 2004.

ATTACHMENTS

Nil

VOTING REQUIREMENTS

Absolute Majority

MOVED Cmr Anderson, SECONDED Cmr Clough that the Joint Commissioners EXTEND the existing Town Planning Delegation Notice until 12 October 2004.

It was requested that a workshop be arranged in relation to the delegations for town planning.

The Motion was Put and

**CARRIED BY AN
ABSOLUTE MAJORITY (5/0)**

Acting Chief Executive Officer declared a financial interest in Item C56-08/04 – Application for Payment of Legal Expenses for an Employee relating to the Inquiry, as Mr Higham may be a potential applicant for funding.

Manager, Audit and Executive Services declared a financial interest in Item C56-08/04 – Application for Payment of Legal Expenses for an Employee relating to the Inquiry, as Mr Robinson may be a potential applicant for funding.

C56-08/04 APPLICATION FOR PAYMENT OF LEGAL EXPENSES FOR AN EMPLOYEE RELATING TO THE INQUIRY

WARD – All

PURPOSE

For the Joint Commissioners to consider the operation of *Policy 2.2.8 Legal Representation for Elected Members and Employees* in respect of the application for funding assistance that has been made by Mr Mark Loader, Manager Human Resources.

EXECUTIVE SUMMARY

The report discusses the application of *Policy 2.2.8 Legal Representation for Elected Members and Employees* in relation to an employee availing himself of the policy with regard to the Inquiry. (A copy of *Policy 2.2.8 Legal Representation for Elected Members and Employees* is attached to this report and marked Attachment 1.)

Request for funding pursuant to Policy 2.2.8 has been received from an employee of the City. The recommendation in relation to the application is for the application to be supported.

BACKGROUND

The Joint Commissioners at the Council Meeting held on 29 June 2004 adopted *Policy 2.2.8 Legal Representation for Elected Members and Employees*.

On 20 July 2004, the Joint Commissioners approved funding for suspended and former Elected Members, and a former employee.

An application has been received by a current employee in relation to the forthcoming inquiry into the City.

DETAILS

Statutory Provision:

The Policy does apply to the Inquiry, indeed expressly stating under the definition of ‘Legal Proceedings’ that these may be civil, criminal or investigative (including an inquiry under any written law). This reference to any written law applies equally to the creation of inquiry bodies made pursuant to the *Local Government Act 1995* and the *Royal Commissions Act 1968*.

Policy Implications:

Policy No 2.2.8 Legal Representation for Elected Members and Employees.

COMMENT

Legal Representation for Elected Members (Suspended) and Former Employees

Under section 3.1 of the *LGA 1995*, the general function of a local government is to provide for the good governance of persons in the district.

The City should only pay the legal expenses of suspended elected members and employees if the payment can be justified as being for the good government of persons in the City’s district.

The policy relating to the legal representation for elected members and employees allows, in appropriate circumstances, for the City to pay for the legal representation costs of an individual elected member or employee.

The City has received an application from Mr Mark Loader the Manager Human Resources at the City.

In terms of payment criteria, the legal representation costs must relate to a matter that arises from the performance of the employee’s functions, the costs must be in respect of legal proceedings that have been or may be commenced, and in performing the functions to which the legal representation relates, the Employee must have acted in good faith, and must not have acted unlawfully or in a way that constitutes improper conduct.

1. Application by Mr Loader

An application was received on 24 August 2004 for funding for legal representation from Mr Mark Loader. He has expressed the view that he wishes to appoint Stephen Edwards from Edwards Wallace to represent him before the Inquiry. Mr Loader has been summonsed by the Inquiry to provide documentation relating to the selection and appointment of the former CEO.

The application for legal representation funding conforms to the requirements of subclauses 3.2 and 3.3(a), (b) and (c) of Policy 2.2.8.

In assessing the application, the first payment criterion has been met namely that the legal representation costs relate to a matter that arises from the performance of Mr Loader's functions as the Manager Human Resources.

The terms of reference of the Inquiry state that the processes associated with the selection and appointment of Mr Denis Smith as CEO will be investigated.

The second criterion requires that the costs be in respect of legal proceedings. As mentioned, the Inquiry comes within the application of Policy 2.2.8.

The third requirement states that an employee must have acted in good faith, and must not have acted unlawfully or in a way that constitutes improper conduct. The assessment of this criterion is difficult as it deals with issues that will be addressed as part of the Inquiry process. For the purposes of assessing this criterion, Mr Loader has given an undertaking that he acted in good faith at all times. Furthermore, should an adverse finding be made against him by the Inquiry, clause 7 of the policy allows for the City to reclaim the costs paid to him.

On the discussion above, it is the recommendation that the application for legal funding up to \$5,000 be approved. The amount is exclusive of GST. Payment will be made either in the form of reimbursement to the employee on presentation of an official tax invoice, or direct payment to the appointed legal firm on presentation of an official tax invoice.

Should an adverse finding be made against Mr Loader the Policy allows for the City to reclaim the monies it has funded.

Insurance

Mr Loader in his application dated 24 August 2004, has indicated that he would like to avail himself of the City's Councillors and Officers Elite Liability Insurance Policy. The City is required to make the application on behalf of Elected Members and employees as the Policy is in the name of the City. The City has submitted an application on behalf of Mr Loader and is awaiting a determination on the matter.

It is expected that a determination of the application will take some time, and therefore be of little assistance to Mr Loader in the short-term.

FUNDING

The funds to be derived from the Inquiry Account.

ATTACHMENTS

Attachment 1 Policy No 2.2.8 - Legal Representation for Elected Members and Employees

Attachment 2 Request for Legal Assistance made by Mr Mark Loader

VOTING REQUIREMENTS

Simple Majority

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

- 1 in accordance with Policy 2.2.8 – Legal Representation for Elected Members and Employees APPROVE the request for assistance for legal funding made by Mr Mark Loader for the forthcoming Inquiry into the City of Joondalup to the maximum amount of \$5,000;**
- 2 NOTE that Mr Loader has made an undertaking in accordance with clause 3.3(a), (b) and (c) of Policy 2.2.8 supplying to the City a signed statement that he:**
 - (a) has read, and understood, the terms of this Policy;**
 - (b) acknowledges that any approval of Legal Representation Costs is conditional on the repayment provisions of clause 7 and any other conditions to which the approval is subject;**
 - (c) undertakes to repay to the City any Legal Representation Costs in accordance with the provisions of clause 7;**
- 3 AUTHORISE expenditure in 1 above to be costed to the City of Joondalup Inquiry Account.**

Discussion ensued.

The Motion was Put and

CARRIED UNANIMOUSLY (5/0)

Appendices 11 and 11(a) refer

To access this attachment on electronic document, click here: [Attach11min310804.pdf](#)
[Attach11amin310804.pdf](#)

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, 21 SEPTEMBER 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 2012 hrs; the following Commissioners being present at that time:

CMR J PATERSON
CMR P CLOUGH
CMR M ANDERSON
CMR A FOX
CMR S SMITH