



**MINUTES OF COUNCIL MEETING  
HELD ON 19 JULY 2005**

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# CITY OF JOONDALUP

**MINUTES OF COUNCIL MEETING HELD IN COUNCIL CHAMBER, JOONDALUP CIVIC CENTRE, BOAS AVENUE, JOONDALUP, ON TUESDAY, 19 JULY 2005**

## **OPEN AND WELCOME**

**The Chairman declared the meeting open at 1900 hrs.**

## **ATTENDANCES**

CMR J PATERSON - Chairman

CMR P CLOUGH - Deputy Chairman

*Absent from 2008 hrs to 2010 hrs*

CMR M ANDERSON

CMR S SMITH

## **Officers:**

Chief Executive Officer	G HUNT
Director, Corporate Services and Resource Management:	P SCHNEIDER
Director, Infrastructure & Operations:	D DJULBIC
Acting Manager, Marketing Communications & Council Support:	C ROBINSON
Manager, Approvals Planning and Environmental Services:	C TERELINCK
Media Advisor:	L BRENNAN
Co-ordinator, Planning Approvals:	S SULLIVAN
Committee Clerk:	J HARRISON
Minute Clerk:	L TAYLOR

There were 17 members of the Public and 1 member of the Press in attendance.

## **PUBLIC QUESTION TIME**

**The following questions were taken on notice at the Council meeting held on 28 June 2005:**

**Mr V Cusack, Kingsley:**

Q1 *Can the Administration please explain why it is attempting to use a review of the delegated authority manual to increase the tender limit of the CEO to an unprecedented \$500,000 – instead of presenting a detailed report to Council explaining the rationale for change?*

- A1 The Local Government Act 1995 requires that the delegator at least once every financial year review its delegations. Along with the review of all delegations, submitted to the Council meeting held on 28 June 2005, the annual review included reviewing the limit placed on the CEO's ability to accept tenders.
- Q2 *Were the Commissioners informed that the last attempt to increase the tender limit to \$250,000 was significantly rejected 10 votes to 3 by the elected Council at that time?*
- A2 The limit of \$100,000 placed on the CEO had not increased since it came into operation on 1 July 1998. A report was presented to the Council in October 2002 requesting that the Council consider increasing the CEO's limit to \$250,000 but the recommendation was not agreed to. In its consideration of Item CJ121-06/05, Review of the Corporate Delegated Authority Manual on 28 June 2005, Council resolved to increase the limit of the CEO's authority relating to tenders to \$250,000.
- Q3 *If the Commissioners were not informed of the resolution contained in CJ247-10/02 of 15 October 2002, can the Administration provide an explanation as to why not?*
- A3 The Council was not informed of that decision, as it was not relevant to the matter before it.

**Mr R de Gruchy, Sorrento:**

- Q1 *Will the Chief Executive Officer ask his staff to embrace the concept of proper consultation with ratepayers on contentious issues, such as the comment on Page 142 in the agenda papers? It states:*

*“Community consultation has not been undertaken as it is perceived that they would have a vested interest ... ..”*

*I believe that this is not a reason to avoid consulting ratepayers, in fact it is a sad indictment on the person who wrote the report.*

- A1 The establishment of fees and charges, and now the setting of discount levels, are operational matters and rely upon officers making recommendations to the Council for endorsement. The information presented in the report regarding discounts to Seniors, Concession Card Holders and Full time students was based upon detailed research and the establishment of a business case, which is contingent upon what the City could realistically afford.

Setting prices at unsustainable levels will ultimately have an adverse impact on the City's capacity to provide a reasonable level of service.

**Mrs M Macdonald, Mullaloo:**

- Q1 *The owners of the Mullaloo Beach Village lodged new development applications. What did the development applications consist of, will they be advertised for public consultation or will they be dealt with by officers under delegated authority or have they already been dealt with?*
- A1 There are two new development applications lodged for the Mullaloo Beach Village development. These applications are identified as follows:

**DA05/0202**

This application proposes to rearrange the location and size of the approved restaurant, office and shop areas on the ground floor level.

**DA05/0265**

This application proposes to:

- (i) provide shade sails over the upper level car parking area;
- (ii) enclose 15.45m<sup>2</sup> of the approved Tavern balcony (previously included in carparking calculations) located in the north west corner of the building which will now become part of the main tavern area; and
- (iii) provide roof cover between the proposed building and the southern boundary (over the southern traffic lane).

Point (iii) of DA05/0265 is in response to a request from the owner of the property to the south of the development site, to address their concern of potential noise from the drive-through bottle store. The adjoining owner has provided written support, which was part of the development application. The applications will be determined under Delegated Authority.

The form of DA05/0202 has not been finalised as yet. Once the application is in its final form and has been assessed, then it will be possible to advise if the application will be advertised and how it will be determined. However, this will depend upon the results of the assessment process. Land uses on the site have been previously approved (following consultation) and re-advertising is not required by the Planning Scheme. Should the final form of the development application include new planning issues related to development standards, then it would require advertising although this would depend on the extend of changes made.

**Mr A Bryant, Craigie:**

*Re: Seniors and Concession Card Holder Discounts at the Joondalup Leisure Centres*

**Q1** *Re: CJ141-06/05 Seniors And Concession Card Holder Discounts at the Joondalup Leisure Centres - Paragraph headed 'Subsidised Use' refers to an amount of \$485,409 that has been calculated as being the cost of providing free use of community facilities for Senior Citizen Groups within the City of Joondalup. Would you please advise just how this figure is calculated?*

**A1** The amount is calculated from the City's subsidised use account. As per the City's Subsidised Use Policy, the City does not charge seniors' groups for use of reserves, community centres and community buildings. The City accounts for every transaction and an internal adjustment on its accounts is made.

**Q2** *I would appreciate a full breakdown of details for each location involved - including the number of occasions they are used and the hourly rate and the basis for using this rate.*

**A2** Attached is a spreadsheet detailing the senior's groups that use Council owned facilities, the number of hours they book these facilities per annum, the community rate that normally applies to that particular booking area and the total cost of subsidised use. *Appendix 10 refers - To access this attachment on electronic document, click here: [Attach10agn190705.pdf](#)*

**Mr J McNamara, Sorrento:**

*Re: Ongoing problems caused by 'hoon' drivers on roadways throughout the municipality:*

*Q1 Has the installation of speed reduction measures in St Heliers Drive, Sorrento resulted in a reduction of reported disturbances in this street?*

A1 Since the installation of the traffic treatments along St Helier Drive, the City has not received any complaints in regard to anti-social driver behaviour or excessive vehicle speed recorded along St Helier Drive.

It is noted that the City will be conducting a traffic assessment along St Helier Drive in the near future to review the effectiveness of the treatments.

A previous study by the City into the effectiveness of this type of traffic treatment on similar roads indicated that the overall speed of vehicles has dropped by around 10 km/h. In addition, traffic volumes have dropped significantly in some instances. Any reduction in speed and volume can significantly reduce the risk and severity of crashes on local roads.

**Ms S Hart, Greenwood:**

*Q1 Re: CJ128-06/05 - Public Toilet Facilities in the Joondalup CBD - Community Consultation – Are Commissioners aware that there are toilets at the shopping centre, train station, cinema, every business in Joondalup by law has to have a toilet and the hospital to name a few. It is not in the report how many submissions have been received from ratepayers requesting a toilet and nor are there any maintenance costs?*

A1 It has been identified via the CBD Enhancement Committee that the Joondalup CBD lacks public toilet facilities. It has been reported that the public are regularly asking local businesses if they can use their private toilet facilities and it has been noted that on occasions the public are utilising the Lotteries House and the City of Joondalup Administration office toilets.

As a result of public consultation in May 2005, the majority of respondents to the survey were in favour of a public toilet in the City and specifically at the Reid Promenade end of Central Walk.

From an operational aspect in regard to maintenance and servicing, the EXELOO toilet has a high level of automatic features - including self-washing. In addition, the toilets are kept clean and odour free by programmed wash cycles, which use hot water and disinfectant. Also, toilet flushing is activated automatically when the user opens the door. These features ensure that a high standard of hygiene is consistently maintained. The toilet doors can also be programmed to be locked and unlocked each day. The EXELOO toilet is also designed with robust fixtures and surfaces. It can also reduce anti-social behaviour by the use of electronically timed and automated opening of doors.

Architects advise that there is negligible difference in life cycle costs when comparing the automated toilets against a custom-built toilet. The anticipated annual maintenance cost for the automated toilets is approximately \$14,000, and this allocation will be reviewed as part of future budget deliberations.

It is proposed to eventually integrate public toilet facilities into future carparks within the Central Business District.

**Mr D Biron, Mullaloo:**

*Q1 Re: CJ123-06/05 - Public Participation Strategy – Why were the three pages documenting the policies, the strategies and all the rest of the decisions that have been made removed from my questions submitted earlier?*

*A1 Council's procedures for public question time state that public question time is not a public forum for debate or making public statements. The information provided with Mr Biron's questions was considered to be a statement and was therefore not included. This is in line with general practice when recording public questions asked at Council meetings.*

*Q2 Can CJ123-06/05 be deferred to the next meeting until those pages have been recirculated for the community? I have resent my questions to the City tonight.*

*A2 At its meeting held on 28 June 2005, Council gave consideration to item CJ123-06/05 – Public Participation Strategy and resolved to adopt the Public Participation Strategy and progress it within adopted annual budget allocations. A response to the questions resubmitted by Mr Biron is provided below.*

**Mr D Biron, Mullaloo:**

*Re: CJ123-06/05 - Public Participation Strategy. Would the Commissioners please explain very clearly as per the requirements of the Act in relation to the answers presented to my original questions:*

*Q1 In answer A7 presented tonight to my original questions it is claimed that full references are provided on page 3 of the attached Participation strategy document. Specific references are not provided to any documents on this page in the way claimed – only statements relating to personal experience and the WA State Government which as far I know do not constitute the World and only rarely Worlds best practice as claimed elsewhere in the Participation Strategy. If Benchmarks are to be claimed in Policy formulation by the City of Joondalup why are they not provided specifically to accompany the reports presented to Council? What specific benchmarks to World best practice have been used in arriving at devising this Participation strategy and in precisely which written documents are they contained, and what are the names of the published authors?*

*Q2 In answer A6 it is stated that my understanding of the changes made to the operating City of Joondalup Participation policy by the adoption of the new Policy Review Policy by the Commissioners in April is incorrect. In what way is the splitting of City of Joondalup Policy into two parts, only one of which is now covered even marginally by the existing Participation Policy incorrect?*

*Q3 Are all City of Joondalup policies still covered exactly as before the adoption of the Policy Review by the existing Participation Policy –yes or no?*

*Q4 Where in the accepted report concerning the intention and effect of the policy Review report of the 26<sup>TH</sup> April 2005 are the specific references to the effects that this change would have on the extent of public participation possible in the City of Joondalup?*

*Q5 Where specifically is it acknowledged and on what page in the Policy Review Report is it mentioned that the Policy Review report impacted and changed the coverage of the existing Participation Policy?*

- Q6 *Where specifically in the Policy Review Report are the requirements of the City of Joondalup Participation Policy discussed or mentioned since it was in full operation at the time that report was originally presented in April 2005?*
- Q7 *The City of Joondalup Participation Policy emphasizes the difference between consultation and participation, yet on page 33 of the minutes of the Policy Review report only consultation is recommended as necessary to satisfy the requirements of the Participation Policy. How does that meet the specified requirements of the standing Participation Policy at that time and where exactly were the requirements of the Participation Policy even mentioned in that report let alone referred to directly?*
- Q8 *In Answer A5 it is claimed that all reports including the Participation Strategy and the Policy Review policy provide full details of all their practical effects on the operation of the City of Joondalup. Taking into account the changes made to the Public Participation Policy by the Policy review report adoption which were blatantly concealed – see above – where exactly in the participation strategy report presented tonight is there any mention of the stated objective of the existing Participation policy?*
- Q9 *How exactly does this does this proposed Participation strategy allow the Community to be involved in all planning, development and service delivery activities and where exactly is their any reference to how all sectors and groups within the community can have the opportunity to participate in the City’s activities as required by the existing Public Participation policy?*
- Q10 *Finally why has the wording of the requirements of the Public Participation Policy been changed from: ‘how all sectors and groups within the community can have the opportunity to participate in the City’s activities’ to merely ‘Information on how all sectors and groups within the community can have the opportunity to participate in the City’s activities’ as presented at the beginning of the executive summary of the Participation Strategy Report on Page 1?*
- Q11 *Why is Mr Hunt pretending that the above Participation Policy requirements have not been changed to meet his needs as opposed to the Community’s requirements as above as stated in his answer A2 tonight?*
- Q12 *How are the stated requirements of the existing Public Participation policy being met when the stated requirements of this policy are deliberately misrepresented in the report for this evenings meeting. The Participation Policy emphasizes that participation is much more than consultation yet Mr. Hunt has reduced participation very clearly to just that in all the above reports. Why have the Commissioners allowed this to be done without any written mention of the effects of these changes in the reports presented to Council or without any informed community involvement?*
- Q13 *Finally why is this Participation Strategy report being presented which does not in any way satisfy the requirements of the Participation Policy when it is - the Participation Policy - already being rewritten to fit the participation Strategy and the Policy Review*
- A1-13 *The City is fully committed to public participation and has demonstrated this commitment through the endorsement of the Public Participation Policy 2.6.3. This Policy was first endorsed in 1999 and has remained unchanged to date.*

The Public Participation Policy is a statement of intent that commits the City to ensuring it enhances the capacity for the community to actively participate in the decision-making and strategic direction setting of the City.



Policy 2.6.3 states that the City will develop a Public participation Strategy that will address:

- Identification of issues requiring public participation
- Inclusion in the annual budget process of funding for public participation activities
- Increasing staff awareness and skills in public participation techniques
- How all sectors and groups within the community can have the opportunity to participate in the City's activities and
- A community education program relating to public participation in the City's affairs

Report CJ123 - 06/05 that Council endorsed at its meeting on 28 June 2005 is a detailed Public Participation strategy for City officers to use as a guide when undertaking public participation. The Strategy is a framework, that has the objective of providing assistance to Council Officers when determining what issues are likely to require public participation. The Strategy does not override or change the overarching policy document being the Public Participation Policy 2.6.3.

With respect to Mr Biron's concerns on the impact of the Policy Review report (CJ064 - 04/05) that was endorsed by Council on 26 April 2005, it is advised that this report outlined a framework and process for Council to review its policies. The Policy Review report does not override or directly relate to the Public Participation Policy 2.6.3 or the Public participation Strategy report.

Each of the above-mentioned reports has its own separate purpose as stated within each report when presented to Council.

**The following questions submitted by Mr M Caiacob, Mullaloo were taken on notice at the Briefing Session held on 12 July 2005:**

*CJ151-07/05 State Administrative Tribunal.*

*Q1 The report states that the revised proposal was advertised under Clause 6.7.2 of the District Planning Scheme No 2. Noting that 6.7.2 requires notifying adjoining occupiers and advertising in the newspaper, can Council advise me if the amended proposal was advertised in any newspaper and on what date?*

A1 The matter before Council is being dealt with by the State Administrative Tribunal under the State Administrative Tribunal Act 2004, as distinct from the approval process under the City of Joondalup District Planning Scheme No. 2.

Under Clause 6.7.2 of the City's District Planning Scheme No. 2; "the council may give notice in accordance with sub-clause 6.7.1". Therefore, Council has the option of the process for advertising, which may include notifying ratepayers in writing and/or advertising the proposal in a newspaper circulating in the district. Council does not have to advertise the proposal if it is not deemed to be necessary.

Council required the original application to be advertised:

- (a) with letters to the surrounding property owners;
- (b) by the erection of a sign on the site; and
- (c) the submission period being for three weeks.

The consultation process for the amended plans was reduced to:

(i) notification of the following adjoining property owners:

19 Akera Close HILLARYS WA  
21 Akera Close HILLARYS WA  
23 Akera Close HILLARYS WA  
25 Akera Close HILLARYS WA  
19 Halliday Grove HILLARYS WA  
21 Halliday Grove HILLARYS WA  
23 Halliday Grove HILLARYS WA ; and

(ii) the period of time for the submission of comments being reduced from three weeks to two weeks.

Although five of the submissions were received after the close of the submission period, these submissions were included in the assessment of the revised plans and the report to Council.

The consultation process for the revised plans was determined having regard to the:

- short time frame given by the State Administrative Tribunal for Council's position on the matter to be determined and that advice being presented to the next directions hearing, which is scheduled for the 25 July 2005 (the Tribunal requested that this matter be raised as a late item for the June 28 meeting if possible, otherwise the meeting on the 19 July 2005. Action was taken straight away to meet this timeline as requested by the Tribunal. However, the lateness of submissions resulted in the matter not being able to be brought before the Council until the meeting of the 19 July 2005).
- nature of the minor but important changes to the plans as they would only directly impact on the adjoining properties;
- provisions of Clause 6.7.2 of the District Planning Scheme, by requiring advertising of the application similar to 6.7.1(b), except that it was focused on the adjoining property owners that were likely to be affected by the proposal and the submission period being for two weeks instead of three weeks; and
- submitters to the original application were all property owners that abutted the appeal site and were notified of the revised plans.

Q2 *Does the change of use to medical centre as indicated in the Development Application report, affect the overall car bay requirements on site, due to the five car bays required per practitioner?*

A2 The subject development has been based on a car parking ratio of 1 bay per 30sq/m Net Lettable Area (NLA) for non-retail commercial uses (see original Council Report CJ288 - 11/04; 23 November 2004). The subject extension is not for a medical use, but is for an extension to the existing medical centre. As has been explained in the report the proposed use class that has been given to the extension is for an "office" use. Under the City's District Planning Scheme No. 2, Table 2 (Clause 4.8) - "Car Parking Standards", the requirement for parking under an "office use" is 1 bay per 30sq/m of NLA. The overall parking has been calculated and there is currently sufficient on-site parking to cater for the proposed extensions.

Q3 *The applicant no doubt was charged a fee for the first application. As the ratepayers have funded the City's SAT attendance, lawyers and employees:*

- (a) *can the City advise whether these costs will be recouped in full in this new amended proposal?*
- (b) *What is the cost of this appeal?*

A3(a) No. The appeals process is a no cost jurisdiction, which we are a party to. The presumption in these terms appears in Section 65(1) Town Planning & Development Act 1928. There are however, limited circumstances in which an order for cost may be made. Those are limited to:

"Where in the opinion of the Tribunal a party to an appeal has behaved unreasonably, vexatiously, frivolously in relation to the appeal, the Tribunal may order that their party pay such cost as the Tribunal thinks fit to any other party who as not so behaved."

It is a matter to be determined by the State Administrative Tribunal to determine whether either party has acted in this manner as defined in Section 65(2) Town Planning & Development Act 1928, if costs are sought by a party to the appeal.

A3(b) The costs of legal expenses for the appeal currently stands at \$2,592.23. This does not take into account the time of staff involved in the appeal process.

**The following questions were submitted in writing prior to the Council Meeting and responses were tabled at the meeting.**

**Mr S Magyar, Heathridge:**

At the Briefing Session held on 12 July 2005, Mr Magyar asked that his previous questions be answered individually. These questions are reproduced below.

Q1 *The report fails to mention the City's Standing Orders which include the following regarding Public Question Time; under clause 2.4. Public Participation, "At the end of each Council meeting an additional segment of 15 minutes question time is allowed to permit the public to ask questions on decisions made at that meeting." Also in clause 3.2, Order of Business, the second item on the agenda is "Public Question Time" and the second last item is "Question Time".*

*Should the report have included information about the City's own Local Law to enable the Commissioners to make an informed decision?*

*Also omitted from the report is any mention of section 1.3(2), (b) and (c) of the Local Government Act 1995, which state the Act is intended to result in better decision-making by local governments, greater community participation in the decisions and affairs of local governments, and greater accountability of local governments to their communities.*

*Is it unreasonable to assess any changes to Council's processes against the stated intent of the Local Government Act? When the public ask questions, at the public question time at the start of a Council meeting, regarding items on the agenda for that meeting, is it the Council's administration, or the Council itself that is being made more accountable to the community?*

*If the Public were allowed to ask questions at the end of the meeting, is it the Council's Administration, or the Council itself that would be made more accountable to the community?*

- A1 The legal advice received from Watts and Woodhouse indicated that the notion of a second public question time at the end of a Council meeting should not be pursued as Regulation 7(2) of the Local Government (Administration) Regulations 1996 is very clear that the allocation of time to allow members of the public to ask questions during a Council meeting must precede any matter that requires the Council to make a decision on. The second public question time would in fact follow the decisions being made and therefore any questions asked by the public must happen at the commencement of the meeting and not at the end of the meeting, as it is believed that this would conflict with the regulations.

**Mr M Sideris, Mullaloo:**

*Re: CJ144 - 07/05 - Protocols For Public Question And Statement Time.*

- Q1 *At page 11 of the agenda under the sub heading Sustainability reference is made to the Governance Review Panel, I re-ask the following questions asked at the previous weeks Briefing Session where these were not answered. What specific section and recommendations of the Governance Review Panels Report does this City report refer to?*

- A1 The relevant recommendation of the Governance Review Panel report is Recommendation 1(b), which states:

"1(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."

This information has been included in the agenda for the Council meeting to be held on 19 July 2005 - Item CJ144-07/05 – under "Background".

- Q2 *Do you believe that it is fair and reasonable to refer to a report that this Council has deemed confidential and not available in the public domain?*

- A2 The recommendations of the Governance Review Panel were presented to the Council meeting on 23 November 2004 – Item CJ276-11/04 refers. The report itself has not been released, based on legal advice.

- Q3 *Who determined the terms of reference for this Review Panel?*

- A3 The terms of reference were determined by the Department of Local Government and Regional Development and agreed by the Council in September 2005.

- Q4 *Did these terms of reference specifically exclude input from members of the public?*

- A4 The primary focus of the Governance Review was the operation of the Council and the relationship of the Council with the executive staff, which involved the elected members, Chief Executive Officer and Directors.

- Q5 *Advise how many meetings of Council did each Member of the Review Panel attend (individually list name and number attended)?*

A5 Mr Stephen Cole (Chairman), Director Capacity Building, Department of Local Government and Regional Development attended the following meetings:

- Council meeting on 9 September 2003
- Council meeting on 21 October 2003
- Council meeting on 11 November 2003
- Strategy Briefing session on 18 November 2003
- Special Meeting of Council on 1 December 2003 (adjourned) to 3 December 2003
- Council Meeting on 2 December 2003

Mr Bruce Wittber (Executive Officer), Consultant attended the following meetings:

- Council meeting on 11 November 2003
- Strategy Briefing session on 18 November 2003
- Special Meeting of Council on 1 December 2003 (adjourned) to 3 December 2003
- Council Meeting on 2 December 2003

The remaining Review Panel members, being Cr Ian Mickel, President, Shire of Esperance and Mr Cliff Frewing, Executive Manager Financial and Information Services, City of Swan attended the following meetings:

- Special Meeting of Council on 1 December 2003 (adjourned) to 3 December 2003
- Council Meeting on 2 December 2003

Q6 *How many of these meetings that they attended were, where the vast majority of public question time related to matters dealing with Denis Smith's refusal to publicly disclose his qualifications?*

A6 None.

**Mr Vincent Cusack, President Southward Ratepayers and Electors Association:**

*I refer to the answer given to my question No 3 in tonight's agenda, which admits that the Commissioners were not informed of the resolution contained in CJ247-10/02 of 15 October 2002, not to increase the tender limit of the CEO, because it was deemed "not relevant"?*

Q1 *Since that decision of 15 October 2002 was made by the elected Council of the time, how can the administration whose role is to carry out the decisions of the elected Council, claim that a past decision of an elected Council is irrelevant?*

A1 No reflection on the decision of the Council of 15 October 2002 was made in response to the question on 28 June 2005.

Q2(a) *Is the answer provided in question 3 above an admission that there is now no accountability to the ratepayers in the City of Joondalup?*

A2(a) This question will be taken on notice.

Q2(b) *If no, can Council please explain where the accountability currently resides, and how it actually works?*

A2(b) Both the Council and the Chief Executive Officer are accountable to community members and stakeholders. The City's Strategic Plan 2003-2008 provides avenues to ensure the operational activities are being driven by the strategic priorities of the organisation.

Q3(a) *Have the Commissioners been informed as to who wrote the terms of reference of the Governance Review?*

A3(a) The terms of reference were determined by the Department of Local Government and Regional Development and agreed by the Council in September 2004. The document has been made available to the Commissioners.

Q3(b) *Have the Commissioners been informed about the successful effort to “exclude the public from participating in the Governance Review”?*

A3(b) The Commissioners are aware of the Terms of Reference of the Governance Review.

The primary focus of the Governance Review was the operation of the Council and the relationship of the Council with the executive staff, which involved the elected members, Chief Executive Officer and Directors.

Q3(c) *Have the Commissioners been informed of the low number of meetings attended by the people who carried out the Governance Review?*

A3(c) The Commissioners have had access to the Governance Review report, which details the meetings attended.

Q3(d) *If no to 3a, b & c, why not? And will the Commissioners now be informed of those details?*

A3(d) Not applicable.

Q4 *How much in total did the City pay the Western Australian Local Government Association (WALGA) for membership fees for the financial years:*

*1 July 2003 to 30 June 2004? And  
1 July 2004 to 30 June 2005?*

A4 2003/2004 – \$44,228.00 (excluding GST)  
2004/2005 – \$44,771.00 (excluding GST)

Q5 *Considering the fact that the suspension of the Council could have been avoided if ratepayers questions were answered “honestly and truthfully”, can Council please explain why item CJ144 – 07/05 protocols for public question time and public statement time – fail to make a commitment to improve the quality of the answers provided to the public’s questions?*

A5 The primary reason for the suspension of Council was not identified as being related to the answering of questions at question time. Submissions on the proposed protocols for public question and statement time will be able to be made during the 30-day public comment period.

Q6 *Is Council aware of, and does it apply, the concept of ‘path dependence’ when formulating policy and making decisions?*

A6 The role of the Council is to direct and control the City’s affairs; to be responsible for the performance of the City’s functions; to oversee the allocation of the City’s finances and resources; and to determine the City’s policies. The role of the Chief Executive Officer is to implement the policies and strategies of the Council through an accountable, effective and efficient application of resources and assets.

In its policy and decision-making role Council attempts at all times to ensure the best use of assets to serve existing community needs and the needs of future generations.

In formulating policy and making decisions, the Council considers aspects and issues of the past, present and future.

**Mr S Kobelke, Sorrento:**

*Q1 With the imminent announcement by the Minister for Local Government that he has extended the reporting time by the Enquirer Mr McIntyre from 28th July to 27 September 2005 will Council start to progress arrangements for the Chairman of Commissioners to lead the delegation to Jinan to attend the International Tourism Fair from 21-23 October 2005?*

A1 No decision has been made in relation to the International Tourism Fair.

*Q2 CJ147-0705 - Modifications to Town Planning Delegation. Page 24 Governance Review.*

*Would Council explain how the recommendation of the Governance Review " The Mayor or any other elected member should not be involved.....etc etc....." has any relevance to this item?*

A2 In the initial Governance Review reference was made to the involvement of the Mayor or other elected member in exercising of delegated authority. The initial change to that was made in October 2004 and it has been subsequently established that further refinement to the 2004 delegation is required.

*Q3 CJ147-0705. Conclusion Page 26.*

*Why is the delegation effective up until 30 June 2007 when other delegations that are within the City's Delegation manual are reviewed on an annual basis? Should not the recommendation see the delegation remaining effective until 31 June 2006?*

A3 The Notice of Delegation for town planning functions is adopted under the District Planning Scheme, rather than under the Local Government Act. Those matters delegated under the Local Government Act are required to be reviewed annually. The usual practice for the Town Planning Delegation has been to adopt the delegation for a 2-year period.

*Q4 Other than the recently approved and controversial Mullaloo Tavern Development can the Council advise how many commercial buildings within the coastal view shed exceeding the current accepted domestic height regulations?*

A4 Council's Policy 3.1.9 Height and Scale of Buildings within a Residential Area applies to development within the Residential zone. As commercial development has not been assessed against this policy, it is not possible to state how many commercial developments exceed the building height envelope established under the policy.

**Mr D Biron, Mullaloo:**

Q1 *Re: The answers provided below to the verbal questions lodged at the meeting following the removal of the background information relating to the as yet unanswered questions relating to the adoption of the Public Participation strategy which was subsequently deliberately adopted by the Commissioners even though they were well aware that it failed to comply with the requirements of both the City's Participation policy and that they were also acting in breach of the stated intentions of the Local Government Act 1995.*

- (a) *better decision-making by local governments;*
- (b) *greater community participation in the decisions and affairs of local governments;*
- (c) *greater accountability of local governments to their communities;*

*“Q1 Re: CJ123-06/05 - Public Participation Strategy - Why were the three pages documenting the policies, the strategies and all the rest of the decisions that have been made, removed from my questions submitted earlier?”*

A1 *Council's procedures for public question time state that public question time is not a public forum for debate or making public statements. The information provided with Mr Biron's questions was considered to be a statement and was therefore not included. This is in line with general practice when recording public questions asked at Council meetings.”*

*This is a blatantly untrue reply - these three pages consisted of presenting largely Council policies involved in the making of a decision involving the proposed participation strategy later that evening. In fact I quoted more accurately more of the parent participation policy of the City of Joondalup than what was contained in Mr. Hunts report to be presented to the Commissioners. Having highlighted the omissions from his report and the breaches of Council policy taking place these pages were removed from my questions in order to prevent the community from becoming fully aware of what was really taking place that evening.*

*If a ratepayer can no longer table a documented written question pointing out and highlighting the missing facts from reports tabled for a decision later at a public meeting then clearly local democracy no longer exists in any shape or form at the City of Joondalup. The fact that it was City policies that were being misrepresented by the new CEO, and that this is the subsequent response makes this situation even worse.*

*I have seen lengthy written questions quoting Council policies presented together with questions on many other occasions. This is a feeble cover-up of a total abuse of the local democratic process and City policies.*

*Accordingly I repeat my question:*

*“Q1 Re: CJ123-06/05 - Public Participation Strategy - Why were the three pages documenting the policies, the strategies and all the rest of the decisions that have been made, removed from the public circulation of my questions submitted earlier?”*



Q2 *Additionally I would query why my question relating to the transparency of process taking place was deleted as well? How can a question so removed later be subsequently described as a statement?*

*This action by city staff was a clear breach of the City's current Participation policy. It was also a breach of the stated intentions of the Local Government Act, which are:*

- (a) better decision-making by local governments;*
- (b) greater community participation in the decisions and affairs of local governments;*
- (c) greater accountability of local governments to their communities;*

*This invocation of the Council's procedures for limiting public question time i.e. that public question time is not a public forum for debate or making public statements is normally reserved for preventing personal statements at meetings which have no factual basis. It was never intended to limit community participation in the decisions and affairs of local governments and to assist in the abuse of the democratic process in this fashion. This misrepresentational response even refers to recording public questions asked at Council meetings not to those supplied in advance in writing.*

*The reason given by the City for refusing to make available to the Community these questions in their entirety is that the true facts contained in them making clear this breach constituted a 'public statement' and that the truth of my questions somehow made them unfit for circulation to the wider Community.*

Q3 *How does asking a question in a truthful honest way, pointing out the real facts of the matter constitute only a public statement and consequently how is it then acceptable for sections of those same questions to be censored and removed to prevent the Community from becoming aware of the abuse of process about to take place?*

Q4 *How does this action and the subsequent administrative cover-up by the City of Joondalup conform to the stated written expectations and intentions of:*

- (a) the City's code of conduct?*
- (b) the City's participation policy?*
- (c) the Local Government Act 1995?*

A1-4 A number of statements made in the preamble are disputed in relation to the accuracy concerning policy and the actions of officers. The subsequent questions within the documentation have been responded to and an offer in writing will be made to Mr Biron to meet with officers of the City to ascertain the exact nature of his concerns.

**Mr D Biron, Mullaloo:**

*Re: The city's incomplete, inadequate and misleading responses minuted to my 2nd set of questions of the 28th June 2005 relating to - CJ123-06/05 - Public Participation Strategy. Accordingly I re-present them all for direct individual answers as I am entitled to under State Law, or has local democracy now demonstrably completely left Joondalup City Council?*

*Once again would the Commissioners please answer directly and individually all the following questions originally presented in June very clearly as per the requirements of the Act in relation to the answers presented to my original questions which were also censored and edited before making them available to the Community, also contrary to the stated policy requirements of the Local Government Act 1995 in an undemocratic and un-Australian way.*

**Q1** *In answer A7 presented tonight to my original questions it is claimed that full References are provided on page 3 of the attached Participation strategy document. Specific references are not provided to any documents on this page in the way claimed - only statements relating to personal experience and the WA State Government which as far I know do not constitute the World and only rarely Worlds best practice as claimed elsewhere in the Participation Strategy. If Benchmarks are to be claimed in Policy formulation by the City of Joondalup why are they not provided specifically to accompany the reports presented to Council? What specific benchmarks to World best practice have been used in arriving at devising this Participation strategy and in precisely which written documents are they contained, and what are the names of the published authors?*

*No direct answer has been provided to this question as noted below in the City's latest public statement in response to all my 13 questions. Quite clearly the continued misrepresentations of the facts of this serious matter fundamentally breach the stated intentions of the Local Government Act 1995. I therefore repeat my question and request a direct answer that matches the stated intentions of the Act and both reflects and produces:*

- (a) better decision-making by local governments;*
- (b) greater community participation in the decisions and affairs of local governments;*
- (c) greater accountability of local governments to their communities;*

**Q2** *In answer A6 it is stated that my understanding of the changes made to the operating City of Joondalup Participation policy by the adoption of the new Policy Review Policy by the Commissioners in April is incorrect. In what way is the splitting of City of Joondalup Policy into two parts, only one of which is now covered even marginally by the existing Participation Policy incorrect?*

*No direct answer has been provided to this question as noted below in the City's latest public statement in response to all my 13 questions. Quite clearly the continued misrepresentations of the facts of this serious matter fundamentally breach the stated intentions of the Local Government Act 1995. I therefore repeat my question and request a direct answer that matches the stated intentions of the Act and both reflects and produces:*

- (a) better decision-making by local governments;*
- (b) greater community participation in the decisions and affairs of local governments;*
- (c) greater accountability of local governments to their communities;*

**Q3** *Are all City of Joondalup policies still covered exactly as before the adoption of the Policy Review by the existing Participation Policy - yes or no?*

*No direct answer has been provided to this question as noted below in the City's latest public statement in response to all my 13 questions. Quite clearly the continued misrepresentations of the facts of this serious matter fundamentally breach the stated intentions of the Local Government Act 1995. I therefore repeat my question and request a direct answer that matches the stated intentions of the Act and both reflects and produces:*

- (a) *better decision-making by local governments;*
- (b) *greater community participation in the decisions and affairs of local governments;*
- (c) *greater accountability of local governments to their communities;*

Q4 *Where in the accepted report concerning the intention and effect of the policy Review report of the 26TH April 2005 are the specific references to the effects that this change would have on the extent of public participation possible in the City of Joondalup?*

*No direct answer has been provided to this question as noted below in the City's latest public statement in response to all my 13 questions. Quite clearly the continued misrepresentations of the facts of this serious matter fundamentally breach the stated intentions of the Local Government Act 1995. I therefore repeat my question and request a direct answer that matches the stated intentions of the Act and both reflects and produces:*

- (a) *better decision-making by local governments;*
- (b) *greater community participation in the decisions and affairs of local governments;*
- (c) *greater accountability of local governments to their communities;*

Q5 *Where specifically is it acknowledged and on what page in the Policy Review Report is it mentioned that the Policy Review report impacted and changed the coverage of the existing Participation Policy?*

*No direct answer has been provided to this question as noted below in the City's latest public statement in response to all my 13 questions. Quite clearly the continued misrepresentations of the facts of this serious matter fundamentally breach the stated intentions of the Local Government Act 1995. I therefore repeat my question and request a direct answer that matches the stated intentions of the Act and both reflects and produces:*

- (a) *better decision-making by local governments;*
- (b) *greater community participation in the decisions and affairs of local governments;*
- (c) *greater accountability of local governments to their communities;*

Q6 *Where specifically in the Policy Review Report are the requirements of the City of Joondalup Participation Policy discussed or mentioned since it was in full operation at the time that report was originally presented in April 2005?*

*No direct answer has been provided to this question as noted below in the City's latest public statement in response to all my 13 questions. Quite clearly the continued misrepresentations of the facts of this serious matter fundamentally breach the stated intentions of the Local Government Act 1995. I therefore repeat my question and request a direct answer that matches the stated intentions of the Act and both reflects and produces:*

- (a) *better decision-making by local governments;*
- (b) *greater community participation in the decisions and affairs of local governments;*
- (c) *greater accountability of local governments to their communities;*

**Q7** *The City of Joondalup Participation Policy emphasizes the difference between consultation and participation, yet on page 33 of the minutes of the Policy Review report only consultation is recommended as necessary to satisfy the requirements of the Participation Policy. How does that meet the specified requirements of the standing Participation Policy at that time and where exactly were the requirements of the Participation Policy even mentioned in that report let alone referred to directly?*

*No direct answer has been provided to this question as noted below in the City's latest public statement in response to all my 13 questions. Quite clearly the continued misrepresentations of the facts of this serious matter fundamentally breach the stated intentions of the Local Government Act 1995. I therefore repeat my question and request a direct answer that matches the stated intentions of the Act and both reflects and produces:*

- (a) *better decision-making by local governments;*
- (b) *greater community participation in the decisions and affairs of local governments;*
- (c) *greater accountability of local governments to their communities;*

**Q8** *In Answer A5 it is claimed that all reports including the Participation Strategy and the Policy Review policy provide full details of all their practical effects on the operation of the City of Joondalup. Taking into account the changes made to the Public Participation Policy by the Policy review report adoption which were blatantly concealed - see above - where exactly in the participation strategy report presented tonight is there any mention of the stated objective of the existing Participation policy?*

*No direct answer has been provided to this question as noted below in the City's latest public statement in response to all my 13 questions. Quite clearly the continued misrepresentations of the facts of this serious matter fundamentally breach the stated intentions of the Local Government Act 1995. I therefore repeat my question and request a direct answer that matches the stated intentions of the Act and both reflects and produces:*

- (a) *better decision-making by local governments;*
- (b) *greater community participation in the decisions and affairs of local governments;*
- (c) *greater accountability of local governments to their communities;*

**Q9** *How exactly does this does this proposed Participation strategy allow the Community to be involved in all planning, development and service delivery activities and where exactly is their any reference to how all sectors and groups within the community can have the opportunity to participate in the City's activities as required by the existing Public Participation policy?*

*No direct answer has been provided to this question as noted below in the City's latest public statement in response to all my 13 questions. Quite clearly the continued misrepresentations of the facts of this serious matter fundamentally breach the stated intentions of the Local Government Act 1995. I therefore repeat my question and request a direct answer that matches the stated intentions of the Act and both reflects and produces:*

- (a) better decision-making by local governments;*
- (b) greater community participation in the decisions and affairs of local governments;*
- (c) greater accountability of local governments to their communities;*

**Q10** *Finally why has the wording of the requirements of the Public Participation Policy been changed from: 'how all sectors and groups within the community can have the opportunity to participate in the City's activities' to merely 'Information on how all sectors and groups within the community can have the opportunity to participate in the City's activities' as presented at the beginning of the executive summary of the Participation Strategy Report on Page 1?*

*No direct answer has been provided to this question as noted below in the City's latest public statement in response to all my 13 questions. Quite clearly the continued misrepresentations of the facts of this serious matter fundamentally breach the stated intentions of the Local Government Act 1995. I therefore repeat my question and request a direct answer that matches the stated intentions of the Act and both reflects and produces:*

- (a) better decision-making by local governments;*
- (b) greater community participation in the decisions and affairs of local governments;*
- (c) greater accountability of local governments to their communities;*

**Q11** *Why is Mr Hunt pretending that the above Participation Policy requirements have not been changed to meet his needs as opposed to the Community's requirements as above as stated in his answer A2 tonight?*

*No direct answer has been provided to this question as noted below in the City's latest public statement in response to all my 13 questions. Quite clearly the continued misrepresentations of the facts of this serious matter fundamentally breach the stated intentions of the Local Government Act 1995. I therefore repeat my question and request a direct answer that matches the stated intentions of the Act and both reflects and produces:*

- (a) better decision-making by local governments;*
- (b) greater community participation in the decisions and affairs of local governments;*
- (c) greater accountability of local governments to their communities;*

**Q12** *How are the stated requirements of the existing Public Participation policy being met when the stated requirements of this policy are deliberately misrepresented in the report for this evenings meeting. The Participation Policy emphasizes that participation is much more than consultation yet Mr Hunt has reduced participation very clearly to just that in all the above reports.*

*Why have the Commissioners allowed this to be done without any written mention of the effects of these changes in the reports presented to Council or without any informed community involvement?*

*No direct answer has been provided to this question as noted below in the City's latest public statement in response to all my 13 questions. Quite clearly the continued misrepresentations of the facts of this serious matter fundamentally breach the stated intentions of the Local Government Act 1995. I therefore repeat my question and request a direct answer that matches the stated intentions of the Act and both reflects and produces:*

- (a) better decision-making by local governments;*
- (b) greater community participation in the decisions and affairs of local governments;*
- (c) greater accountability of local governments to their communities;*

**Q13** *Finally why is this Participation Strategy report being presented which does not in any way satisfy the requirements of the Participation Policy when it is the Participation Policy - already being rewritten to fit the participation Strategy and the Policy Review?*

*No direct answer has been provided to this question as noted below in the City's latest public statement in response to all my 13 questions. Quite clearly the continued misrepresentations of the facts of this serious matter fundamentally breach the stated intentions of the Local Government Act 1995. I therefore repeat my question and request a direct answer that matches the stated intentions of the Local Government Act and both reflects and produces:*

- (a) better decision-making by local governments;*
- (b) greater community participation in the decisions and affairs of local governments;*
- (c) greater accountability of local governments to their communities;*

*City of Joondalup's public statement as in the agenda for meeting of Council - 19.07.2005 as provided as an answer to all 13 of the above questions.*

**A1-13** *The City is fully committed to public participation and has demonstrated this commitment through the endorsement of the Public Participation Policy 2.6.3. This Policy was first endorsed in 1999 and has remained unchanged to date.*

*The Public Participation Policy is a statement of intent that commits the City to ensuring it enhances the capacity for the community to actively participate in the decision-making and strategic direction setting of the City.*

*Policy 2.6.3 states that the City will develop a Public participation Strategy that will address:*

- Identification of issues requiring public participation*
- Inclusion in the annual budget process of funding for public participation activities*
- Increasing staff awareness and skills in public participation techniques*
- How all sectors and groups within the community can have the opportunity to participate in the City's activities and*
- A community education program relating to public participation in the City's affairs*

*Report CJ123 - 06/05 that Council endorsed at its meeting on 28 June 2005 is a detailed Public Participation strategy for City officers to use as a guide when undertaking public participation. The Strategy is a framework, that has the objective of providing assistance to Officers when determining what issues are likely to require public participation. The Strategy does not override or change the overarching policy document being the Public Participation Policy 2.6.3.*

*With respect to Mr Biron's concerns on the impact of the Policy Review report (CJ064 - 04/05) that was endorsed by Council on 26 April 2005, it is advised that this report outlined a framework and process for Council to review its policies. The Policy Review report does not override or directly relate to the Public Participation Policy 2.6.3 or the Public participation Strategy report. Each of the above-mentioned reports has its own separate purpose as stated within each report when presented to Council.'*

*Q14 If as stated above the Policy Review report does not override or directly relate to the Public Participation Policy 2.6.3 why is that not stated directly in that document at any point?*

*Q15 If as stated above the Policy Review report does not override or directly relate to the Public Participation Policy 2.6.3 where does it specifically include any reference whatsoever to how all sectors and groups within the community can continue to have the opportunity to participate in all the City's activities, including the development of all city policies, as now reluctantly acknowledged?*

*Q16 How does the exactly the disbanding of the Policy Manual Review Committee and the separation of Council policies into two:*

*(i) City and*

*(ii) Council*

*only one of which is clearly to be subject to the new public participation strategy (not even the parent participation policy) as directly stated on page 1 of CJ064-04/05 26/04/2005 match the written claim above that 'The Policy Review report does not override or directly relate to the Public Participation Policy 2.6.3'?*

Q17 *Or to put it more simply how exactly does The Policy Review report not seek to override the Public Participation Policy 2.6.3' as stated above when it deliberately omits any reference to it from the revised development of City policies which will, it directly states on page 1, be developed in future only by City officers and will not involve anyone from the community?*

Q18 *It is stated above as an answer to one of my questions that the new Participation Strategy does not override or change the overarching policy document being the Public Participation Policy. Where exactly have I asked this question and if I did not ask it who has asked it because I can't find it? If I didn't ask this question it is not appropriate for the City to pretend that I did.*

A1-18 A number of statements made in the preamble are disputed in relation to the accuracy concerning policy and the actions of officers. The subsequent questions within the documentation have been responded to and an offer in writing will be made to Mr Biron to meet with officers of the City to ascertain the exact nature of his concerns.

**The following questions were submitted verbally at the meeting; a summary of each question and the response given is shown below:**

**Ms Sue Hart, Greenwood:**

Q1 *Could the City please tell me the City's involvement in Makro Warehouse closing down in Joondalup?*

A1 It is not believed the City has any involvement in Makro Warehouse closing down. There is an issue with the operations of Makro Warehouse but no action is being taken, nor has a notice been issued on the operators.

Q2 *Is there a rezoning occurring?*

A2 There is no rezoning or other application before the Council for that land.

Q3 *Has the City received any litigation papers regarding Makro Warehouse?*

A3 The Chief Executive Officer has not received any, and none have been drawn to his attention. The Council has received queries about the use of the land since Makro Warehouse has occupied the site but there has been no proceedings issued about the use of the site.

**Mr J Hollywood, Burns Beach:**

Q1 *Regarding the Burns Beach development. What is the status of the approval for the Foreshore Management Plan? Peet and Co is currently selling land with sketches showing a large section of the dunal system being demolished for open park land, yet this has not been approved, is that correct?*

A1 The WA Planning Commission has approved one pocket of subdivision on the site, despite the Council's objection to that. A draft report on the Foreshore Management Plan is being prepared for consideration by Council at its next meeting.

Q2 *Will the ratepayers of Burns Beach be notified when the developers are to demolish the bushland?*

A2 This question will be taken on notice to investigate what process could be implemented to notify ratepayers.



**Ms M Macdonald, Mullaloo:**

*Q1 With reference to the answers to my questions in tonight's agenda on page viii, and in particular to DA05/0265 lodged by the owners of Mullaloo Beach Village. Point 2 of this DA deals with the enclosure of the northern section, 15.45 square metres in total. This would increase the floor area, the NLA of the tavern, and increase the parking need under DPS2. If extra parking is not provided, will the owners be asked to pay cash-in-lieu as per DPS2 and if this is a retrospective development approval, and as it is the intention of officers to deal with this DA under delegated authority, will Commissioners ask that this DA be brought before Council for determination given that there were 500 objections to the original DA?*

*A1 The application is to provide cover over a part of the tavern that was previously to be used for the same purpose; the difference is there will be weather protection. In the answer provided in the agenda it is indicated that this space was previously the subject of calculations for car parking demand and whether or not there be a roof over it, the end result is that the parking demand and calculation would remain as it was.*

*Q2 With reference to the answer to my question in tonight's agenda on page viii, and in particular to DA05/0202 lodged by the owners of the Mullaloo Beach Village. Given that any rearrangement of previously approved floor spaces and sizes is likely to have amenity issues for the locality, and as this building has been constructed thus making this DA a retrospective DA, will Commissioners ensure that this DA comes before the Council for determination and if Commissioners will not give this assurance, does this mean that developers can have a building approved and build something contrary to that approval with no consequences to themselves, and that this can be done behind closed doors and without public scrutiny and no accountability?*

*A2 The suggestion that actions are carried out behind closed doors without opportunity for comment is not the case. This question will be taken on notice.*

**Mr M Caiacob, Mullaloo:**

*Q1 In reply to Mrs Macdonald's questions on page viii and ix, advice was given that the enclosure of 15.45 square metres of tavern balcony is to become part of the main tavern area. Can I be advised if the enclosure has been constructed or is pending construction?*

*A1 This question will be taken on notice.*

*Q2 Could I be advised how DA05/0265 is set for approval under delegated authority by the relevant Director and/or Manager without advertising when the installation of shade sails on the upper car deck vary the landscaping development standards by not the permissible 10% but by 100% and the enclosure of 15.45 square metres of tavern balcony increases the car parking requirement due to the seating area being amended to standing area?*

*A2 It has not been decided what level of determination would be required for this development application at this stage. The comments about shade sails on the parking deck are a matter of history and would need to be taken on notice.*

In the written answer provided, it states that the 15.5 square metres extension is over a portion that was previously included in the car parking calculations.

**Mr Caiacob tabled the following question:**

Q3 *What dates were DA05/0202 and DA05/0265 received by the City?*

A3 This question will be taken on notice.

**Mr V Cusack, Kingsley:**

- *Mr Cusack advised Commissioners that he believed there was a number of inaccuracies in the response provided to him and would like to meet and discuss these matters.*

Q1 *What services and/or benefits did the City of Joondalup receive from the WA Local Government Association (WALGA) in the past two financial years?*

A1 The City receives advice from WALGA in terms of local government issues; it provides WA Local Government training services, an advertising scheme, and service for regional meetings of Local Government Association Zones. This preliminary response will be followed with written advice to ensure that information on the full range of services and benefits is provided to Mr Cusack.

Q2 *Considering it was revealed or conceded at the public inquiry that WALGA is a union, and considering that the collective body of ratepayers pay this administration very generous salaries, will this Council consider abolishing the compulsory union membership of WALGA and move to individual choice and individual memberships?*

A2 Membership of WALGA is not compulsory. The individual Councils have a determination of whether they wish to be a member. If a Council is not a member of WALGA there are certain services to which access is not available.

**Mr M Sideris, Mullaloo:**

Q1 *I refer to the answers received to questions submitted last Thursday and in particular A3 that states that the Terms of Reference for the Review Panel were determined by the Department of Local Government. Does this Council stand by that answer?*

A1 The advice received is that the Terms of Reference were set by the Department of Local Government, but endorsed by the Council.

Q2 *I refer to the answers given to questions asked by Mrs Macdonald and included in the agenda. I refer to the implication of DA05/0265 lodged by the owners of the Mullaloo Beach Tavern. The increased area of the enclosure will mean that there will be extra patrons accommodated in the tavern area. Given that this application has now been lodged with the City, in particular the Health Department, can you advise the patron numbers in the tavern and how this DA will affect that number as previously approved?*

A2 The patronage numbers are unchanged. As well as the shade sail area and the enclosure of the balcony, the proponents are reworking the seating and standing areas within the tavern. That aspect of the development has been the subject of assessment by the City's planning officers and referred to the City's solicitors for comment.

Q3 *What are the patron numbers, and will that be affected by this DA?*

- A3 The patronage numbers are not merely a requirement of the Health Act or the local Health Laws. The patronage requirements are also defined and can be limited by other factors including exit arrangements and distances to exits, under the Building Codes. It is correct to say that it has not been possible to give the patronage number that is approved because the fit-out applications were not received. The fit-out applications are now with the Council and this information should be able to be provided.

**C36-07/05      EXTENSION OF PUBLIC QUESTION TIME – [01122] [02154]**

**MOVED Cmr Anderson SECONDED Cmr Clough that public question time be extended for a maximum period of ten (10) minutes.**

**The Motion was Put and**

**CARRIED UNANIMOUSLY (4/0)**

**Mr M O'Brien, Secretary of the Retirees WA Inc, Whitford Branch:**

- Q1 *In the 2005/06 budget considerations, will the Commissioners be taking up the option of abandoning the use of the flat taxing provisions, effected by Section 6.35 of the Local Government Act 1995 and thereby giving some property tax relief to the electors who are living on lower valued properties, many of whom are being overtaxed to the advantage of the large commercial property holders and the "champagne and chardonnay" set living along the adjacent coastline localities?*

- A1 Council will note this suggestion and consider it when finalising the budget.

**Mr M O'Brien, Chairman of the Joondalup Combined Community Groups Association Inc:**

- Q1 *In the 2005/06 budget considerations, will the Commissioners be taking up the option of abandoning the use of flat taxing provisions in favour of the use of Section 40 of the Health Act 1911, thereby using a proportional taxing option for raising revenue for refuse disposal?*

- A1 Council will note this suggestion and consider it when finalising the budget.

**Mr S Magyar, Heathridge:**

- Q1 *I refer to the answer provided to my questions, which referred to legal advice obtained from Watts and Woodhouse. Is it correct that the administration is trying to say that the current Standing Orders of the City of Joondalup that were gazetted in 1997 are contrary to the Act and therefore should not have been gazetted? Are they saying that the Government when it reviews local laws through its Parliamentary Committee failed in its duty to ensure that the local law complied with the Act and Regulations?*

- A1 No. Reference is made to advice given by the City's solicitors, which suggests that the second question time is inappropriate. It is not known what was in the minds of those persons that passed the local law.

**Mr S Kobelke, Sorrento:**

Q1 *I congratulate Council on inviting school children to the August Council meeting, however it is a lunchtime meeting and the CEO at the Briefing Session indicated that there are four major pieces of information coming before the Council for a decision. For people who may be unable to attend the next Council meeting because of work commitments, would you please advise what those four major items might be in order that people may change their commitments to attend the meeting should they wish to ask questions.*

A1 Standing Orders and the review of Governance are two key areas that are scheduled to be presented to Council shortly. Mr Kobelke will be contacted and advised of other matters that may be presented to that meeting.

Q2 *In relation to the response given to my fourth question regarding the height in the coastal view shed area. In recent weeks I have asked a number of questions in relation to high-rise and not one question has been answered. I would again ask how many commercial properties on the coastal view shed exceed the current domestic dwelling height?*

A2 The exact numbers are unknown, however this question will be taken on notice.

**Mr D Carlos, Ocean Reef:**

Q1 *I am concerned about the closure of the Makro Warehouse and have been informed by its staff they have been told by their management it is because of pressure being exerted by Council. Can this be confirmed?*

A1 The City has not initiated any legal action. Inspections have been undertaken of the property to ensure it is adhering to the planning provisions. There is no action, written or otherwise, that the City has taken other than the normal inspection process that would happen with any development.

Q2 *Prior to this warehouse opening, I raised the question as to whether it was complying and was told by your staff that everything was in order and they could start. I am now concerned that I may have been told incorrect information. Accordingly, I would ask that this matter be investigated.*

A2 This matter will be investigated.

**Mr D Biron, Mullaloo:**

Q1 *I have received a couple of answers tonight about meeting people behind closed doors. I don't understand why I have to meet with people behind closed doors. I would like my questions answered in writing and made publicly available please.*

A1 No response was provided.

**APOLOGIES AND LEAVE OF ABSENCE**

Apology - Cmr Fox

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

Cmr Smith declared an interest that may affect her impartiality as questions were raised during public question time earlier in the meeting in relation to the City's membership of the Western Australian Local Government Association (WALGA). Cmr Smith stated she is engaged from time to time by WALGA on a contract basis.

Cmr Clough declared a financial interest in Item CJ149-07/05 – Review of Home Business Policy 3.1.11 as he operates a Category 1 home business.

Manager, Approvals Planning & Environmental Services, Mr Chris Terelinck, declared an interest that may affect his impartiality in Item CJ151-07/05 – State Administrative Tribunal Appeal No 67 of 2005: Lewis Timms vs City of Joondalup – Medical Centre Extension: Lot 715 (110) Flinders Avenue, Hillarys as one of the Doctors at the practice is a personal acquaintance.

**CONFIRMATION OF MINUTES****C37-07/05            MINUTES OF COUNCIL MEETING, 28 JUNE 2005**

**MOVED Cmr Clough, SECONDED Cmr Anderson that the Minutes of the Council Meeting held on 28 June 2005 be confirmed as a true and correct record.**

**The Motion was Put and**

**CARRIED UNANIMOUSLY (4/0)**

**ANNOUNCEMENTS BY THE CHAIRMAN WITHOUT DISCUSSION****NAIDOC WEEK**

Congratulations to everyone involved in the City of Joondalup's celebration of NAIDOC Week (National Aboriginal Islander Day) and thanks to all who attended the great events.

Celebrations included a free concert with aboriginal bands, this really was a top-class event, art show, WAFL football match and the official flag raising ceremony at the City's Council Chamber.

The flags were marched in by the WA Police Academy and raised by Dr Mal Washer (Australian flag), Minister for Indigenous Affairs, John Kobelke (WA flag) and myself (Torres Strait flag). Elder, Cedric Jacobs raised the aboriginal flag.

Interestingly, the Australian flag dates to a competition drawing 32,000 entries after Federation in 1901.

The WA flag with the emblem of the Swan River settlement, the black swan, dates from the 1830s.

The aboriginal flag was first displayed in Adelaide in 1971. Designed by Elder Harold Thomas, the yellow circle represents the sun (giver of life). Red represents the red earth. Black represents the aboriginal people.

Flown at aboriginal centres throughout Australia, it should only be flown by other Australians when permission has been granted.

Flying together in front of our City's Civic Centre, the flags were symbolic that we are all equal, and all in it together.

A very worthwhile event, I trust a tradition the City will maintain in future years.

### **JOONDALUP EISTEDDFOD**

Another big City event involving up to 2,500 competitors, the 18<sup>th</sup> annual Joondalup Eisteddfod is coming up.

The City is proud that the Eisteddfod has grown over the years to become one of the biggest and most successful in WA.

Performances will be conducted over four weekends in August and a selection of winners will be invited to perform at the City's Sunday Serenades concert on Sunday, 11 September 2005.

I look forward to seeing you at some of the Eisteddfod concerts and I wish all entrants the very best of success.

### **PETITIONS**

Nil.

## **CJ143 - 07/05 CHANGE OF TIME OF COUNCIL MEETING - [02154]**

**WARD:** All

**RESPONSIBLE  
DIRECTOR:** Garry Hunt  
Chief Executive Officer

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CJ050712\_BRF.DOC:ITEM 1

### **PURPOSE**

To change the time of the Council Meeting to be held on 9 August 2005 from 7.00pm to 12 noon to facilitate the presence of students from high schools within the district.

### **EXECUTIVE SUMMARY**

At the Council Meeting held on Tuesday 28 June 2005 it was resolved:

*That Council:*

- 1 *NOT PROCEED with the proposal to hold a future Council Meeting at an alternative venue due to the relatively small area of the City of Joondalup;*
- 2 *In order to increase the profile and importance of civic issues amongst local students, INVITES Student Council members from all high schools within the district to attend the Council meeting due to be held on Tuesday, 9 August 2005 during Local Government Week 2005;*

- 3 *REQUESTS the Chief Executive Officer to investigate the possibility of holding the Council meeting scheduled for Tuesday 9 August 2005 during school hours.*

*It is recommended that Council:*

- 1 *AMENDS Point 2 of its resolution CJ122-06/05 of 28 June 2005 to read:*
  - “2 *In order to increase the profile and importance of civic issues amongst local students, INVITES a maximum of ten (10) students from each of the high schools within the district to attend the Council meeting due to be held on Tuesday, 9 August 2005 during Local Government Week 2005”;*
- 2 *INVITES members of the Joondalup Youth Advisory Council to attend the Council meeting outlined in Point 1 above;*
- 3 *in accordance with the Local Government (Administration) Regulations 1996, AMENDS the commencement time of the Ordinary Meeting of Council scheduled to be held on Tuesday, 9 August 2005 from 7.00 pm to 12 noon;*
- 4 *in accordance with the Local Government Act 1995, GIVES local public notice of the change of meeting time as detailed in (3) above.*

## **BACKGROUND**

It was requested that a report on the costs associated with holding a Council Meeting at a suitable location within the City of Joondalup other than the Council Chamber be undertaken.

Such a report was undertaken and presented to Council at its meeting held on Tuesday 28 June 2005.

Following discussion of the report, Council resolved the following at the meeting held on Tuesday 28 June 2005:

*That Council:*

- 1 *NOT PROCEED with the proposal to hold a future Council Meeting at an alternative venue due to the relatively small area of the City of Joondalup;*
- 2 *In order to increase the profile and importance of civic issues amongst local students, INVITES Student Council members from all high schools within the district to attend the Council meeting due to be held on Tuesday, 9 August 2005 during Local Government Week 2005;*
- 3 *REQUESTS the Chief Executive Officer to investigate the possibility of holding the Council meeting scheduled for Tuesday 9 August 2005 during school hours.*

Council, at the meeting held on 4 November 2004, resolved the meeting schedule for 2005, which determined that Council Meetings commence at 7.00 pm.

It is now necessary to resolve to officially change the time of the Council Meeting due to be held on Tuesday, 9 August 2005 from 7.00 pm to 12 noon to facilitate the presence of high school students at that meeting.

## **DETAILS**

### **Issues and options considered:**

The original intent of the report presented to the 28 June 2005 Council Meeting was to examine the feasibility of holding a Council Meeting at a venue other than the Council Chambers.

The Council resolved that rather than hold a Council Meeting at one high school within the district, that an option was to invite student councillors from all high schools within the district to a Council Meeting.

### **Link to Strategic Plan:**

The proposal is consistent with the following Strategic Objectives as outlined in the City's Strategic Plan 2003-2008:

- 1.1.3 Support whole-of-life learning and creation of knowledge opportunities;
- 1.3 To continue to provide services that meet changing needs of a diverse and growing community; and
- 4.3 To ensure the City responds to and communicates with the City.

### **Legislation – Statutory Provisions:**

Regulation 12 (2) of the Local Government (Administration) Regulations 1996 requires a local government to give local public notice of any change to the date, time and place of a meeting:

*“12. Public notice of council or committee meetings – s.5.25(g)*

- (1) At least once each year a local government is to give local public notice of the dates on which and time and place at which –
  - (a) the ordinary council meetings; and*
  - (b) the committee meetings that are required under the Act to be open to members of the public or that are proposed to be open to members of the public, are to be held in the next 12 months.**
- (2) A Local Government is to give local public notice of any change to the date, time or place of a meeting referred to in subregulation (1).”*

This is the only statutory provision to be adhered to when considering this proposal. The Council has previously resolved its meeting schedule for 2005, any change to this would require an amendment to the original decision and appropriate advertising.

### **Risk Management considerations:**

Nil.



**Financial/Budget Implications:**

The cost involved in providing notice of the change in meeting time will be approximately \$500 in local advertising.

**Policy implications:**

Not Applicable.

**Regional Significance:**

Not Applicable.

**Sustainability implications:**

Not Applicable.

**Consultation:**

Consultation has been undertaken with all 13 high schools within the City of Joondalup. Initial indications through discussions with the school is there is strong support for the concept.

**COMMENT**

Due to the seating capacity of the Chamber, an invitation has been extended to each school for ten students and two staff members. It has been left to the discretion of each school as to which year will attend, as Year 12 students currently have a heavy workload. This necessitates an amendment to the Council decision of 28 June 2005.

In order to facilitate the presence of students from all high schools within the district it is necessary to change the time of the Council Meeting on 9 August 2005 from 7.00pm to 12 noon.

It is important to ensure that students return to their school prior to finishing time of that school to allow them sufficient time to connect with their usual form of transportation home. Consultations have revealed that most schools finish at 3.10pm, while some finish at 2.45pm.

**ATTACHMENTS**

Nil

**VOTING REQUIREMENTS**

Simple Majority

**OFFICER'S RECOMMENDATION:** That Council:

1 AMENDS Point 2 of its resolution CJ122-06/05 of 28 June 2005 to read:

“2 In order to increase the profile and importance of civic issues amongst local students, INVITES *a maximum of ten (10) students from each of the* high schools within the district to attend the Council meeting due to be held on Tuesday, 9 August 2005 during Local Government Week 2005”;

- 2 INVITES members of the Joondalup Youth Advisory Council to attend the Council meeting outlined in Point 1 above;
- 3 in accordance with the Local Government (Administration) Regulations 1996, AMENDS the commencement time of the Ordinary Meeting of Council scheduled to be held on Tuesday, 9 August 2005 from 7.00 pm to 12 noon;
- 4 in accordance with the Local Government Act 1995, GIVES local public notice of the change of meeting time as detailed in (3) above.

**MOVED Cmr Smith that:**

- 1 Council DOES NOT hold a Council meeting at 12.00 noon on Tuesday, 9 August 2005 during Local Government Week and instead holds its usual meeting;
- 2 in order to provide information and education during Local Government Week, that students are invited to inspect the Council Chamber and receive a suitable presentation on the way the Council operates.

**There being NO SECONDER, the Motion**

**LAPSED**

**MOVED Cmr Anderson, SECONDED Cmr Clough that Council:**

- 1 **AMENDS Point 2 of its resolution CJ122-06/05 of 28 June 2005 to read:**
  - “2 In order to increase the profile and importance of civic issues amongst local students, INVITES a *maximum of ten (10) students from each of the high schools within the district to attend the Council meeting due to be held on Tuesday, 9 August 2005 during Local Government Week 2005*”;
- 2 **INVITES members of the Joondalup Youth Advisory Council to attend the Council meeting outlined in Point 1 above;**
- 3 **in accordance with the Local Government (Administration) Regulations 1996, AMENDS the commencement time of the Ordinary Meeting of Council scheduled to be held on Tuesday, 9 August 2005 from 7.00 pm to 12 noon;**
- 4 **in accordance with the Local Government Act 1995, GIVES local public notice of the change of meeting time as detailed in (3) above.**

Discussion ensued.

**The Motion was Put and**

**CARRIED (3/1)**

**In favour of the Motion:** Cmr Paterson, Clough and Anderson **Against the Motion:** Cmr Smith

**CJ144 - 07/05 PROTOCOLS FOR PUBLIC QUESTION AND STATEMENT TIME - [12950] [02154] [08122] [10567]**

**WARD:** All

**RESPONSIBLE DIRECTOR:** Garry Hunt  
Chief Executive Officer

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CJ050712\_BRF.DOC:ITEM 2

**PURPOSE**

For the Council to consider the outcomes of the public workshops and to seek further consultation on a set of protocols for public question and statement time.

**EXECUTIVE SUMMARY**

The Council at its ordinary meeting held on 14 December 2004 agreed to: -

- *NOTE the request from the electors to include a public statement time at Council meetings and Briefing sessions;*
- *AGREE to give consideration to the inclusion of a public statement time when reviewing the guidelines relating to public question time;*
- *AGREE to the community being involved in developing protocols for public question time and statement time within the constraints imposed by the Local Government Act 1995 and the need for Council meetings to progress the ordinary business of the Council.*

The Council further agreed at its ordinary meeting held on 26 April 2005: -

1 *Council AGREES to invite all members of the following committees to be part of developing the protocols for public question time and statement time:*

- *Conservation Advisory Committee*
- *Sustainability Advisory Committee*
- *Senior Interests Advisory Committee*
- *Youth Advisory Council*
- *CBD Enhancement Committee*

2 *A report on the findings of the workshops be PRESENTED to Council in June 2005.*

A workshop was held where all members of the nominated committees were invited. A total of 17 committee members attended and took part in the workshop by working in groups and responding to questions pertaining to protocols for public question and statement time.

The feedback from the workshop has been collated and analysed. The following is a summary of the findings:

- There is support for a time-slot for a statement time;
- By allowing public statements, the City will be better informed about matters of public interest and may receive information that better informs the decision-making process of Council;
- A timeframe of between 2 and 4 minutes should be permitted per statement with the Chair making decisions dependent on the circumstances;
- Council should respond formally to statements, if only to acknowledge and thank people making statements and records should be kept of both statement and response;
- There was a mixed response as to whether a statement should precede a question that is asked during public question time;
- Questions at Public Question Time should be limited, with support for a maximum of 2 minutes per person. Ultimately, the Chair can make these decisions dependent on circumstances;
- Most participants supported the notion that written questions should be submitted 5 working days prior to the meeting of Council where a response is requested;

Following the analysis, a proposed set of guidelines has been prepared and is submitted to the Council for its consideration. It is recommended that the guidelines be advertised for public comment.

## **BACKGROUND**

Recommendation 1(b) of the Governance Review Panel – Final Report stated:

“1(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.”

Subsequent to this, at the Annual General Meeting of Electors held on 22 November 2004, the following motion in relation to the introduction of public statement time was moved.

*“MOVED Mrs Marilyn Zakrevsky, 49 Korella Street, Mullaloo SECONDED Mr Michael Caiacob, 7 Rowan Place, Mullaloo that a statement time be introduced next year by the Commissioners at Briefing Sessions and Council meetings to enable ratepayers the opportunity to voice a concern without the need to put it into question form, or arrange for a deputation, or raise a petition or communicate with the media. This motion endorses the officer’s comment for recommendation 1(b) in the Governance Review and not the Governance Review Panel’s Recommendation which is too restrictive.*

*The Motion was Put and*

*CARRIED”*

In response to the above motion, the Council at its meeting held on 14 December 2004 resolved to:

- *NOTE the request from the electors to include a public statement time at Council meetings and Briefing sessions;*
- *AGREE to give consideration to the inclusion of a public statement time when reviewing the guidelines relating to public question time;*

- *AGREE to the community being involved in developing protocols for public question time and statement time within the constraints imposed by the Local Government Act 1995 and the need for Council meetings to progress the ordinary business of the Council.*

Further to that resolution, the Council at its meeting held on 26 April 2005 resolved that:

- *Council AGREES to invite all members of the following committees to be part of developing the protocols for public question time and statement time:*
  - *Conservation Advisory Committee*
  - *Sustainability Advisory Committee*
  - *Senior Interests Advisory Committee*
  - *Youth Advisory Council*
  - *CBD Enhancement Committee*
- *a report on the findings of the workshops be PRESENTED to Council in June 2005.*

All members of the nominated committees were forwarded details in early May 2005 of a proposed workshop to be held on 23 May 2005 in an effort to commence the consultation process in developing such protocols for public question and statement time.

#### **DETAILS**

A total of 45 committee members were invited to attend the scheduled workshop that was held on Monday 23 May 2005. Members were requested to indicate their attendance by 11 May 2005. Those members who had not been in contact were followed up with a telephone call. Of those invited, 17 people attended the workshop with representation of each of the committees being in attendance.

The participants were grouped in tables of 4 or 5 and worked through a series of questions relating to public question and statement time in an effort to develop an agreed position for a response. Where consensus could not be achieved this was recorded accordingly.

#### **Issues and options considered:**

Following the workshop, the responses of each table were collated and were analysed accordingly in order to present a draft set of protocols to the Council for consideration. A copy of the report that summarises the findings is attached.

In summary the participants of the workshop presented the following outcomes: -

- There is support for a time-slot for a statement time;
- By allowing public statements, the City will be better informed about matters of public interest and may receive information that better informs the decision-making process of Council;
- A timeframe of between 2 and 4 minutes should be permitted per statement with the Chair making decisions dependent on the circumstances;
- Council should respond formally to statements, if only to acknowledge and thank people making statements and records should be kept of both statement and response;
- There was a mixed response to whether statements should precede questions;

- Questions at Public Question Time should be limited, with support for a maximum of 2 minutes. Ultimately, the Chair can make these decisions dependent on circumstances;
- Most participants supported the notion that written questions should be submitted 5 working days prior to the meeting of Council where a response is requested.

As a result of the outcomes, draft protocols detailing the two options have been developed to govern the operations of a public statement and question time at Council meetings and Briefing Sessions. These are attached to this report.

In essence, the two options are proposing to either:

- Separate public question time and statement time in two distinct, allocated sessions as part of the order of business of Council meetings, or;
- Combine the asking of public questions and public statements into one part of the order of business.

### **Option 1:**

A summary of the proposed protocols is as follows:

- Introduction of a public statement time;
- Public statement time will be for fifteen (15) minutes.
- Individual statements are not to exceed two (2) minutes per person;
- Statements made at a Council meeting must relate to the operations of the City of Joondalup. Statements made at a Special Meeting of the Council must relate to the purpose of the meeting. Statements made at Briefing Sessions must relate to a matter contained on the draft agenda.
- Members of the public wishing to make a statement are to register and the Presiding Member will call persons forward from the register;
- Statements are to be directed to the Presiding Member and are to be made with respect, and are not to be offensive, insulting to any person, slanderous or defamatory;
- Statements and any response will be summarised and included in the notes/minutes of the Briefing Session or Council meeting, with a response also being forwarded to the member of the public;
- For questions that require a response at the Council meeting or Briefing Session, it is requested that they be provided in writing to the CEO within the following deadlines:
  - For Briefing Sessions
    - by close of business on the working day immediately prior to the scheduled Briefing Session;
  - For Council meetings
    - By close of business two working days prior to the scheduled Council meeting;
- Public question time will be limited to the legislative minimum of fifteen minutes and may be extended in intervals of up to ten (10) minutes by resolution of the Council, but the total time will not exceed thirty (30), which includes the asking of and responding to questions.
- Each member of the public may ask two (2) questions and not exceed two (2) minutes in total – Members of the public are requested to ask both their questions at the same time. This allows for a more accurate time account per person.

- Statements are not to precede the asking of a question during public question time.
- Statements and Public Questions asked at a Briefing Session must relate to items listed on the draft agenda.

### **Option 2:**

A summary of the proposed protocols is as follows:

- A combined period as part of the order of business for Council meetings and Briefing Sessions to allow members of the public to ask questions or make a statement.
- Members of the public wishing to ask a question or make a statement are to register and the Presiding Member will call persons forward from the register.
- When called, members of the public must indicate if they are asking a question or making a statement.
- Each member of the public will be allocated a maximum of two (2) minutes to ask questions or make a statement.
- Each member of the public may ask two (2) questions and not exceed two (2) minutes in total – Members of the public are requested to ask both their questions at the same time. This allows for a more accurate time account per person.
- Questions and statements are to be directed to the Presiding Member and are to be made with respect, and are not to be offensive, insulting to any person, slanderous or defamatory;
- Questions and statements and any response will be summarised and included in the notes/minutes of the Briefing Session or Council meeting, with a response also being forwarded to the member of the public;
- For questions that require a response at the Council meeting or Briefing Session, it is requested that they be provided in writing to the CEO within the following deadlines:
  - For Briefing Sessions
    - by close of business on the working day immediately prior to the scheduled Briefing Session;
  - For Council meetings
    - By close of business two working days prior to the scheduled Council meeting;
- Public question time will be limited to the legislative minimum of fifteen minutes and may be extended in intervals of up to ten (10) minutes by resolution of the Council, but the total time will not exceed thirty (30), which includes the asking of and responding to questions.
- Statements and Public Questions asked at a Briefing Session must relate to items listed on the draft agenda.

### **Link to Strategic Plan:**

Outcome – The City of Joondalup is an interactive community

4.3 To ensure the City responds to and communicates with the community

4.3.3 Provide fair and transparent decision-making processes.

**Legislation – Statutory Provisions:**

The Local Government Act 1995 and associated Regulations require that a period of time be allocated at the commencement of every Council meeting for the asking of and responding to questions asked by members of the public. The rules associated with the conduct of public question time are detailed within the legislation; however, public statement time is not a statutory requirement.

Section 5.25 of the Local Government Act 1995 states:

- 1 Time is to be allocated for questions to be raised by members of the public and responded to at —
  - (a) every ordinary meeting of a council; and
  - (b) such other meetings of councils or committees as may be prescribed.
- 2 Procedures and the minimum time to be allocated for the asking of and responding to questions raised by members of the public at council or committee meetings are to be in accordance with regulations.

The Local Government (Administration) Regulations 1996 state: -

**Regulation 5 - Question time for the public at certain meetings — s. 5.24(1)(b)**

For the purposes of section 5.24(1)(b), the meetings at which time is to be allocated for questions to be raised by members of the public and responded to are —

- (a) every special meeting of a council;
- (b) every meeting of a committee to which the local government has delegated a power or duty.

**Regulation 6 - Minimum question time for the public — s. 5.24(2)**

- 1 The minimum time to be allocated for the asking of and responding to questions raised by members of the public at ordinary meetings of councils and meetings referred to in regulation 5 is 15 minutes.
- 2 Once all the questions raised by members of the public have been asked and responded to at a meeting referred to in subregulation (1), nothing in these regulations prevents the unused part of the minimum question time period from being used for other matters.

**Regulation 7 - Procedures for question time for the public — s. 5.24(2)**

- 1 Procedures for the asking of and responding to questions raised by members of the public at a meeting referred to in regulation 6(1) are to be determined —
  - (a) by the person presiding at the meeting; or
  - (b) in the case where the majority of members of the council or committee present at the meeting disagree with the person presiding, by the majority of those members, having regard to the requirements of subregulations (2), (3) and (5).



- 2 The time allocated to the asking of and responding to questions raised by members of the public at a meeting referred to in regulation 6(1) is to precede the discussion of any matter that requires a decision to be made by the council or the committee, as the case may be.
- 3 Each member of the public who wishes to ask a question at a meeting referred to in regulation 6(1) is to be given an equal and fair opportunity to ask the question and receive a response.
- 4 Nothing in subregulation (3) requires —
  - (a) a council to answer a question that does not relate to a matter affecting the local government;
  - (b) a Council at a special meeting to answer a question that does not relate to the purpose of the meeting; or
  - (c) a committee to answer a question that does not relate to a function of the committee.
- 5 If, during the time allocated for questions to be raised by members of the public and responded to, a question relating to a matter in which a relevant person has an interest, as referred to in section 5.60, is directed to the relevant person, the relevant person is to —
  - (a) declare that he or she has an interest in the matter; and
  - (b) allow another person to respond to the question.

**Risk Management considerations:**

The risk to the Council is that failure to properly consider the findings of the workshops may dilute the public participation process.

**Financial/Budget Implications:**

Not Applicable.

**Policy implications:**

It is proposed that after the due public participation and consultation has occurred, a revised set of protocols will be agreed to and form the policy of the Council.

**Regional Significance:**

Not Applicable.

**Sustainability implications:**

The City recognises its responsibilities to work with its community towards an environmentally, socially and economically sustainable future. Consideration of the recommendations of the Governance Review Panel will enhance the social aspect of sustainability by demonstrating improved governance practices for the benefit of the community of the City of Joondalup.

**Consultation:**

The arranged workshop held on 23 May 2005 was Phase I of the consultation process in developing the protocols relating to public question and statement time. Following consideration by the Council it is suggested that the draft set of guidelines be consulted with the wider community for a period of thirty (30) days prior to the final guidelines being adopted by the Council.

**COMMENT**

The process followed in preparing the draft set of protocols for public question and statement time has proven beneficial in obtaining the feedback from members of the public in determining reasonable guidelines for the operation of the time periods.

The primary purpose of a meeting of the Council is to allow the Council to make informed decisions in the best interests of the City. A component of the meeting is to allow members of the public to ask questions. Option 1 intends that the order of business will be public question time, followed by public statement time. Option 2 would see a combined period for public questions and statements.

The draft set of protocols generally encapsulates the findings of the workshops. It is suggested that the draft set of protocols be made available for public comment for a period of thirty days. Appropriate notice will be placed in the local newspaper and on the City's website, and the participants of the workshops will be forwarded copies to provide additional comments.

**ATTACHMENTS**

Attachment 1	Option 1 - Draft protocols for public question time and public statement time
Attachment 2	Option 2 - Draft protocols for public question and statement time
Attachment 3	Report on public question/statement time workshop – 24 May 2005.

**VOTING REQUIREMENTS**

Simple Majority

**OFFICER'S RECOMMENDATION:** That Council:

- 1 AGREES to seek public comment on the draft protocols relating to public question and statement time for a period of thirty (30) days;
- 2 REQUESTS a further report on the protocols relating to public question and statement time following the conclusion of the public comment period as detailed in (1) above.

**MOVED Cmr Smith, SECONDED Cmr Anderson that Council:**

- 1 **AGREES to seek public comment on the draft protocols relating to public question and statement time contained in Option 1 for a period of thirty (30) days subject to:**
  - (a) the deletion of the reference to a response being given to statements;
  - (b) deletion of the requirement in Item 2 – Procedure for Public Statement Time - that statements be provided in a written form and handed to an employee.

- 2 REQUESTS a further report on the protocols relating to public question and statement time following the conclusion of the public comment period as detailed in (1) above.**

Discussion ensued.

**AMENDMENT MOVED Cmr Clough, SECONDED Cmr Anderson that the following point 1(c) be added to the Motion to read:**

- (c) **deletion of the requirement in Item 2 – Procedure for Public Question Time - that questions be provided in a written form and handed to an employee.**

Discussion ensued.

Cmr Clough stated he would withdraw the Amendment on the basis that appropriate wording be used to encourage the submission of written questions, as opposed to it being a requirement.

Chief Executive Officer suggested that the original motion and amendment be withdrawn to enable a fresh motion to be moved.

With the approval of the meeting, the amendment moved by Cmr Clough, seconded by Cmr Anderson was **WITHDRAWN**

With the approval of the meeting, the motion moved by Cmr Smith, seconded by Cmr Anderson was **WITHDRAWN**

**MOVED Cmr Smith, SECONDED Cmr Clough that Council:**

- 1 AGREES to seek public comment on the draft protocols relating to public question and statement time contained in Option 1 for a period of thirty (30) days subject to:**
- (a) **the deletion of the reference to a response being given to statements;**
  - (b) **deletion of the requirement in Item 2 – Procedure for Public Statement Time - that statements be provided in a written form and handed to an employee;**
  - (c) **deletion of the words “will be *required* ...” in Item 2 – Procedure for Public Question Time” and their replacement with “will be *encouraged* ...”;**
- 2 REQUESTS a further report on the protocols relating to public question and statement time following the conclusion of the public comment period as detailed in (1) above.**

Comr Clough stated he would like a public statement time introduced at the earliest possible opportunity. The Chief Executive Officer advised that legal advice received confirmed that the City is able to amend its Order of Business to include a statement time without the necessity of amending the Standing Orders Local Law.

**The Motion was Put and**

**CARRIED UNANIMOUSLY (4/0)**

*Appendix 1 refers*

*To access this attachment on electronic document, click here: [Attach1brf120705.pdf](#)*

## **CJ145 - 07/05 MINUTES OF THE SUSTAINABILITY ADVISORY COMMITTEE MEETING - 16 JUNE 2005 - [00906]**

**WARD:** All

**RESPONSIBLE DIRECTOR:** Garry Hunt  
Chief Executive Officer

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CJ050712\_BRF.DOC:ITEM 3

### **PURPOSE**

The unconfirmed minutes of the Sustainability Advisory Committee meeting held on 16 June 2005 are submitted for noting by Council.

### **EXECUTIVE SUMMARY**

The Sustainability Advisory Committee (SAC) met on 16 June 2005. Items of Business included a presentation on the Swan Catchment Council's draft State of Environment Reporting template.

This report recommends that Council NOTES the unconfirmed minutes of the Sustainability Advisory Committee meeting held on 16 June 2005 forming Attachment 1 to this Report.

### **BACKGROUND**

The Sustainability Advisory Committee is a Council Committee that advises and makes recommendations to Council on policy and appropriate courses of action, which promote sustainability that is (1) environmentally responsible, (2) socially sound and (3) economically viable. Committee membership comprises members from the community and representatives from Edith Cowan University.

At its meeting on 5 May 2005 the Sustainability Advisory Committee passed the following resolution:

“SEEKS a representative from the Swan Catchment Council to give a presentation on the draft State of Environment template and that an invitation be extended to Conservation Advisory Committee members and relevant staff from across the organisation to attend the presentation.”

This item of business progresses the above stated resolution that was subsequently noted by Council at its meeting on 7 June 2005.

## DETAILS

### Issues and options considered:

The Sustainability Advisory Committee presided over one item of business; State of Environment Reporting (SOE). The development of a framework to report against the current SOE is a high priority action identified in the SAC work plan endorsed in 2004. Given the Swan Catchment Council is currently developing a SOE template for local government, the Sustainability Advisory Committee sought to have a presentation on this item. The Swan Catchment Council template for SOE provides consistency in reporting natural resources for local governments and links with the reporting requirements of the State Government and the Swan NRM (NRM) Strategy. The Swan Catchment Council requested comment and review from the Sustainability Advisory Committee on the draft State of Environment template.

Other issues discussed were within general business and related to a tabled article on the peaking of oil, a report entitled *Balancing Act*, A triple bottom line analysis of the Australian Economy and the television show 'Australian Story' that dealt with the restoration of streams and wetlands.

### Link to Strategic Plan:

State of Environment Reporting links to the City's Strategic Plan in the following way:

Objective: To plan and manage our natural resources to ensure environmental sustainability.

Strategies:

2.1.1 Maintain and protect natural assets to retain biodiversity.

2.1.3 Develop a coordinated environmental framework, including community education.

### Legislation – Statutory Provisions:

A new clause has been added to the content and intent part of the Local Government Amendment Act 2004 to make it clear that local governments need to consider sustainability outcomes. The amendment is as follows:

#### **s.1.3 Content and Intent**

“(3) In carrying out its functions a local government is to use its best endeavours to meet the needs of current and future generations through an integration of environmental protection, social advancement and economic prosperity (sustainability).”

### Risk Management considerations:

SOE reporting needs to consider the following risks:

- SOE reporting requires the full support and input from across the organisation;
- Officer resource time for collation and ongoing maintenance of information as per agreed reporting period;
- Potential for local governments to use the information as a means of unfair comparison; and

- External funding assistance unknown and pending completion of NRM Investment Plan.
- The template needs to be modified to address local government core business activities and functions and discretionary activities in NRM in order for local government to report against existing data;
- The template needs to reflect areas that local government have influence and control, otherwise local government may find it hard to report against the template parameters.

**Financial/Budget Implications:**

Not Applicable.

**Policy implications:**

This report has a general connection with the Environmental, Social and Economic Sustainability Policy 2.6.4.

**Regional Significance:**

The development of SOE reporting for the City of Joondalup has considerable regional significance given the template's alignment with regional objectives and the strategic direction of the state and federal government with regards to NRM. The template provides Local Governments with a resource of regional NRM issues, responses and indicators, to which local level issues and current / proposed response can be added and evaluated against.

**Sustainability implications:**

The utilisation of a SOE reporting template provides a cost effective and efficient use of resource given this is a NRM partnership project between the Swan Catchment Council and Local Governments in the Swan Region. This was a clear identified need by Local Governments to have consistent templates for environmental reporting structures such as SOE Reporting.

The SOE template has considerable environmental considerations as it provides the framework for the City to examine the current condition and pressures on natural resources within the City. This provides a baseline and better understanding of the natural resources within the City enabling a holistic long term management approach to be developed in which to progress target setting for the desired condition of natural resources within the City.

**Consultation:**

The SOE template is being developed by extensive consultation with various Local Governments, regional Local Government organizations, Department of Environment (State SOE team) and WALGA. The presentation to the Committee is part of the consultation and engagement process.

**COMMENT**

The draft Swan Catchment Council SOE reporting template is being finalised. Upon its finalisation, the SOE reporting template will be released by the Swan Catchment Council as an additional resource for Local Governments to use in their voluntary NRM reporting.

The requirement to develop a framework for SOE reporting is a high priority action identified in the Sustainability Advisory Committee's Strategic work plan (Strategy 3.1). The SOE reporting template being developed by the Swan Catchment Council is recommended to the City, as it provides consistency in environmental reporting for Local Governments throughout the Swan Region as well as consistency with national, state and regional reporting on NRM. It also provides access to support from the Swan Catchment Council including a readily accessible source of regional NRM information and access to regional partnership and funding opportunities.

The Sustainability Advisory Committee made the following recommendations:

REQUESTS Council to request that the Chief Executive Officer ENSURES that sufficient work will be undertaken on the State of Environment reporting, such that it can inform the review of the City of Joondalup's Strategic Planning processes.

And

REQUEST Council to ENDORSE the City's further involvement with State of Environment Reporting.

It is the officer's considered opinion that the City's endorsement of the draft State of Environment Reporting is premature at this stage. Although in principle support of the template is given, the purpose of this item was to seek comment and review from the Sustainability Advisory Committee that can be included in future considerations where appropriate, in accordance with the committee's strategic work plan (Strategy 3.1).

## **ATTACHMENTS**

Attachment 1            Unconfirmed minutes of the Sustainability Advisory Committee meeting, 16 June 2005.

## **VOTING REQUIREMENTS**

Simple Majority

**OFFICER'S RECOMMENDATION:** That Council NOTES the unconfirmed minutes of the Sustainability Advisory Committee meeting held on 16 June 2005 forming Attachment 1 to Report CJ145-07/05.

**MOVED Cmr Smith, SECONDED Cmr Anderson that Council:**

- 1        NOTES the unconfirmed minutes of the Sustainability Advisory Committee meeting held on 16 June 2005 forming Attachment 1 to Report CJ145-07/05;**
- 2        ACKNOWLEDGES the value of the work done by the Committee in relation to the State of Environment Reporting.**

Discussion ensued. It was requested that the Work Plan of the Sustainability Advisory Committee be appended to the agenda and minutes of all future meetings of the committee in order that the role of the committee is clearly defined.

**The Motion was Put and**

**CARRIED UNANIMOUSLY (4/0)**

*Appendix 2 refers*

*To access this attachment on electronic document, click here: [Attach2brf120705.pdf](#)*

## **CJ146 - 07/05 MINUTES OF THE CONSERVATION ADVISORY COMMITTEE MEETINGS HELD ON 25 MAY 2005 AND 29 JUNE 2005 - [12168]**

**WARD:** All

**RESPONSIBLE DIRECTOR:** Mr David Djulbic  
Infrastructure and Operations

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CJ050712\_BRF.DOC:ITEM 4

### **PURPOSE**

To note the confirmed minutes of the Conservation Advisory Committee (CAC) Meeting held on 25 May 2005, and the unconfirmed minutes of 29 June 2005.

### **EXECUTIVE SUMMARY**

Meetings of the Conservation Advisory Committee were held on Wednesday 25 May 2005 and 29 June 2005.

The confirmed minutes of the meeting held on 25 May 2005 and the unconfirmed minutes of the meeting held on 29 June 2005 are submitted for noting by Council.

*It is recommended that Council:*

- 1 *NOTES the confirmed Minutes of the Conservation Advisory Committee held on 25 May 2005 forming Attachment 1 to this Report;*
- 2 *NOTES the unconfirmed Minutes of the Conservation Advisory Committee held on 29 June 2005 forming Attachment 3 to this Report.*

### **BACKGROUND**

The Conservation Advisory Committee is a Committee established by the Council that advises on issues relating to biodiversity and the management of natural areas within the City of Joondalup. The Committee meets on a monthly basis.

Committee membership comprises of a representative from each of the City's Bushland Friends Groups and community members with specialist knowledge of biodiversity issues.

### **DETAILS**

#### **Issues and Options Considered:**

The CAC meetings of 25 May and 29 June 2005 both considered the Burns Beach Foreshore Management Plan. The Plan has been developed for the Burns Beach Property Trust, as a requirement of the Structure Plan for the proposed Burns Beach Subdivision.



Mr Jason Hick the Environmental Manager from Cardno BSD Pty Ltd addressed both meetings and answered questions from Committee Members. The Committee requested at the May CAC meeting that the proposed dual use pathway as described in the Plan be moved further east to avoid large scale disturbance of the dunal system, and that the botanical information contained within the plan be revisited for accuracy. At the June meeting Mr Hick tabled a revised plan with the changes. The Committee supported the plan in principle.

The Executive Summary from a series of strategic planning workshops held for the future direction of the Conservation Advisory Committee was tabled at the May CAC meeting (Attachment 2 Refers). These workshops were facilitated by Helen Hardcastle from Learning Horizons.

**Link to Strategic Plan:**

**Key Focus Area**

Caring for the Environment

**Outcomes**

The City of Joondalup is environmentally responsible in its activities.

**Objectives**

To plan and manage our natural resources to ensure environmental sustainability.

**Strategies**

- 2.1.1 Maintain and protect natural assets to retain biodiversity.
- 2.1.2 Further develop environmentally effective and energy-efficient programs.
- 2.1.3 Develop a coordinated environmental framework, including community education.

**Legislation – Statutory Provisions:**

The Local Government Act 1995 allows a council to establish committees to assist a Council to exercise the powers and discharge duties that can be delegated to a committee.

**Risk Management considerations:**

Not Applicable.

**Financial/Budget Implications:**

Not Applicable.

**Policy implications:**

Not Applicable.

**Regional Significance:**

Not Applicable.

**Sustainability implications:****ENVIRONMENTAL**

Conservation Advisory Committee objective “ To make recommendations to Council for the Conservation of the City of Joondalup’s natural biodiversity”.

**SOCIAL**

To promote partnerships between Council and the Community to protect the City of Joondalup’s natural biodiversity as contained within its various natural areas (bushland, wetlands and the coastal environment).

**Consultation:**

The Conservation Advisory Committee provides a forum for community consultation and engagement on natural areas.

**COMMENT**

An opportunity has been provided for the Conservation Advisory Committee to consider and provide feedback on the Burns Beach Foreshore Management Plan. This process provides the City with the expertise of the Committee members in its deliberations of this plan.

The Conservation Advisory Committee made the following recommendations at the 29 June 2005 meeting:

- 1 The Conservation Advisory Committee (CAC) thank Mr Jason Hick and his company Cardno BSD Pty Ltd for the presentation and in addressing the many issues raised by the members of the CAC.
- 2 The CAC supports in principle the revised draft of the Burns Beach Foreshore Management Plan and seeks the opportunity for further involvement and input as the plan is developed.

The Committee also made another recommendation regarding a decision by Western Power to move the proposed substation from the southern boundary of Hepburn Heights Bushland to a suite within Pinnaroo Cemetery as follows:

“The Conservation Advisory Committee supports the use by Western Power of the alternative substation site in Pinnaroo Cemetery reserve and urges the Commissioners to approve the development application.”

It is considered unnecessary for these recommendations to be endorsed by Council, however they can be noted accordingly.

**ATTACHMENTS**

- |              |   |
|--------------|---|
| Attachment 1 | Minutes of 25 May 2005 meeting of the Conservation Advisory Committee                                 |
| Attachment 2 | The Executive Summary of the Strategic Planning Workshops held by the Conservation Advisory Committee |
| Attachment 3 | Minutes of the 29 June 2005 meeting of the Conservation Advisory Committee                            |

**VOTING REQUIREMENTS**

Simple Majority

**OFFICER'S RECOMMENDATION:** That Council NOTES the:

- 1 confirmed Minutes of the Conservation Advisory Committee held on 25 May 2005 forming Attachment 1 to Report CJ146-07/05;
- 2 unconfirmed Minutes of the Conservation Advisory Committee held on 29 June 2005 forming Attachment 3 to Report CJ146-07/05.

**MOVED Cmr Smith, SECONDED Cmr Anderson that Council NOTES:**

- 1 **the confirmed Minutes of the Conservation Advisory Committee held on 25 May 2005 forming Attachment 1 to Report CJ146-07/05;**
- 2 **the unconfirmed Minutes of the Conservation Advisory Committee held on 29 June 2005 forming Attachment 3 to Report CJ146-07/05;**
- 3 **that the Conservation Advisory Committee Structure Plan attached to the minutes is for the Committee purposes only.**

Discussion ensued.

**AMENDMENT MOVED Cmr Clough, SECONDED Cmr Anderson that the words “at this stage” be added to the end of Point 3 of the Motion.**

The Amendment was Put and

**CARRIED UNANIMOUSLY (4/0)**

The Original Motion as amended, being:

**That Council NOTES:**

- 1 **the confirmed Minutes of the Conservation Advisory Committee held on 25 May 2005 forming Attachment 1 to Report CJ146-07/05;**
- 2 **the unconfirmed Minutes of the Conservation Advisory Committee held on 29 June 2005 forming Attachment 3 to Report CJ146-07/05;**
- 3 **that the Conservation Advisory Committee Structure Plan attached to the minutes is for the Committee purposes only at this stage.**

was Put and

**CARRIED UNANIMOUSLY (4/0)**

*Appendix 3 refers*

To access this attachment on electronic document, click here: [Attach3brf120705.pdf](#)

## **CJ147 - 07/05      MODIFICATIONS      TO      TOWN      PLANNING DELEGATION - [46302]**

<b>WARD:</b>	All
<b>RESPONSIBLE DIRECTOR:</b>	Clayton Higham Planning and Community Development

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### **PURPOSE**

For Council to consider modifications to clarify the intent of the Town Planning delegation previously adopted on 12 October 2004.

### **EXECUTIVE SUMMARY**

At its meeting held on 12 October 2004, Council resolved to adopt a revised Town Planning delegation (CJ240-10/04 Refers). The Council at its meeting of 28 June 2005 undertook its annual review of all its delegations. In the report presented to the Council it was advised that a further review of the Town Planning delegations would occur. The revisions to the delegation notice included a re-structuring to the notice of delegation.

Two further “formal” delegations are sought to confirm current procedures that staff have the ability to:

- request applicants to provide additional information; and
- referral of development applications to other authorities.

It has also been found during the use of the delegation that potential conflicts may exist between different clauses of the delegation that needs clarification.

An unforeseen effect of the changes made at the October 2004 meeting has resulted in the Coordinator Planning Approvals and the Senior Planning Officers having their powers reduced through the re-structuring of the delegation. Prior to October 2004, these officers had the authority to grant approval to complying non-residential developments or where the development involved a maximum 10% variation to certain development standards specified in the delegation (setbacks, open space and on-site car parking). Since the adoption of the October 2004 resolution, those applications have to be referred to the Director Planning and Community Development or the Manager, Approvals, Planning and Environmental Services, for approval. This has resulted in delays in the process without any real benefit to the applicant as staff have to spend time preparing delegated authority reports for consideration by the Director or Manager and then arranging meeting times to discuss these applications. The intent of the October 2004 delegation review was to restructure the delegation without the addition of further powers unless expressly sought.

In the interest of good governance and to provide clarity to stakeholders, minor amendments to the delegation are proposed. Therefore, it is recommended that the Council adopts the minor changes as outlined in Attachment 1.

## **BACKGROUND**

The Council adopted a new Town Planning Delegation at the meeting held on 12 October 2004. The notice of delegation was prepared in 'consultation' with the City's solicitors. Since the implementation of the delegation, a number of issues have arisen, which in the interests of good governance and transparent decision-making require clarification to assist with implementation of the delegation.

The purpose of the delegation is to facilitate the determination of development applications, the provision of advice to agencies on subdivision applications and related procedural matters.

## **DETAILS**

### **Issues and options considered:**

To continue with this process results in delays to the approval process and loss of staff time in preparing reports and having to meet with senior staff on these development applications, without any real benefits. Alternatively, clarification of the wording will result in a return to the original delegation powers with improved processing times and better use of staff resources.

### **Outline of Changes:**

The proposed changes to the delegation document are outlined below:

- For the purposes of clarification, amendments have been made to clause 2(a) and (b) to make reference to '*development for the purpose of*'. This is to make it clearer that extensions and additions to single, grouped and multiple dwellings are delegated.
- There are two new paragraphs (f) and (g) in clause 2. The effect is that the Director and Manager are delegated two further matters. These relate to the ability of the delegated officer to request further information in relation to development applications and the referral of development applications to other authorities.
- Clause 2 (c) has been modified to match clause 3 (ii) to keep the wording of the delegation consistent.
- Clause 3 (vi) has been deleted, as it is a matter that is already covered by clause 3 (v) and it is unnecessary to have two separate provisions.
- Clause 3 (vii) has been deleted as it is in potential conflict with clause 3 (ii) (now clause 3 (b)).
- Clause 3 (ii) has further been modified to prevent any potential conflict to those powers conferred to the Coordinator Planning Approvals and Senior Planning Officer through clause 3 (i).

### **Link to Strategic Plan:**

4.3.3 Provide fair and transparent decision-making process.

**Legislation – Statutory Provisions:**

Clause 8.6 of District Planning Scheme No 2 permits town planning functions to be delegated.

The clauses are:

**8.6** *Delegation of Development Control Power, and Powers and Duties in Relation to Other Planning Functions*

- 8.6.1 *The Council may, either generally or in a particular case or particular class of case or cases, by resolution passed by an absolute majority of Council, delegate to all or any of the persons or committees referred to in Schedule 6, any power conferred or duly imposed on the Council under this Scheme.*
- 8.6.2 *Any delegation made under sub-cause 8.6.1 shall have effect for the period of twelve (12) months following the resolution unless the Council stipulates a lesser or greater period in the resolution.*
- 8.6.3 *A delegation of authority pursuant to the provisions of this clause has effect and may be exercised according to its tenor, but is revocable at the will of the Council and does not preclude the Council from exercising the power.*
- 8.6.4 *A resolution to revoke or amend a delegation under this clause may be passed by a simple majority.*
- 8.6.5 *A committee, member or officer exercising the power delegated pursuant to the provisions of this clause shall comply with the provisions of the Scheme governing the exercise of the power of the Council, insofar as such provisions are reasonably applicable.*
- 8.6.6 *A person who is or has been a delegate of the Council is not personally liable for anything done or omitted in good faith in, or in connection with, the exercise or purported exercise of any powers conferred, or the carrying out of any duty imposed on the Council by this Scheme.*

**Risk Management considerations:**

The delegation process includes detailed practices on reporting, checking and cross checking, supported by peer review in an effort to ensure decisions taken are lawful, proper and consistent. A review of the delegation notice is important to ensure that changes relating to or affecting the decision making process are identified and addressed.

**Financial/Budget Implications:**

An effective delegation process provides greater value for money in terms of staff time through clumsy processes where simple applications might be unnecessarily elevated to Council.

**Policy implications:**

Not Applicable

**Regional Significance:**

Not Applicable

**Sustainability implications:**

Not Applicable

**Consultation:**

Consultation obligations and commitments are not affected by the Notice of Delegation.

**COMMENT****Governance Review**

The town planning delegations were the subject of one recommendation (recommendation 32) of the Governance Review, being:

*The Mayor or any other elected member should not be involved in the exercise of delegated authority. In the case of planning issues at the City of Joondalup the District Planning Scheme No 2 should be amended to permit the Director Planning and Community Development to exercise the delegated authority without consultation.*

**Form of the Delegation**

The form of the delegation has been drafted in accordance with legal advice and reflects the previous delegated authority adopted on 12 October 2004. It is not proposed to substantially alter the extent of the delegation powers that were granted. The intention is to clarify specific delegations to respective levels and the limits of those levels of determination.

The proposed delegation allows the Director Planning & Community Development and Manager Approvals, Planning & Environmental Services to implement aspects of the District Planning Scheme No 2 that relate to the determination of certain types of development applications and to process subdivision applications.

The Coordinator Planning Approvals and Senior Planning Officers (Planning Approvals) have authority to approve development applications that are in compliance with District Planning Scheme No 2, or with minor variations to the applicable standards.

**Identified deficiencies**

The use of the October 2004 delegation for determining the process for development applications has highlighted a potential for misinterpretation of some parts of the notice.

The October 2004 delegation has resulted in some uncertainty in the application of the delegation in certain parts. The Delegation Notice prior to the current Delegation Notice granted on the 12 October 2004 clearly provided decision-making powers to the Coordinator Planning Approvals and the two Senior Planning Officers to determine applications for Planning Approval for a land use class listed in Table 1 (other than single house, grouped dwelling or multiple dwelling) that complies with the District Planning Scheme No 2, or have a variation of less than 10% of the minimum requirement for setbacks, on-site car parking or landscaping. However, the current Delegation Notice does not clearly state that such delegation powers exist for land uses other than residential developments.

Due to this uncertainty, these officers have not been exercising these powers that they previously had. This has resulted in staff having to prepare reports on these developments for consideration by the Director Planning and Community Development and/or the Manager, Approvals, Planning and Environmental Services. Additional time and effort is now required to determine these development applications, which did not occur in the past.

As part of the review of the delegation, it was established that certain parts of the Scheme may need a formal resolution of delegation to cover current practice. These additional powers relate to staff being able to request applicants to submit additional information or referring applications to other authorities for comment. There was some uncertainty whether these matters had to be referred to Council for resolution or were part of the current delegation and as such, has been referred to Council to clarify this matter.

### **New Amendments**

The proposed amendments are outlined below:

#### Delegations to Director & Manager Approvals Planning & Environmental Services

For the purposes of clarification, amendments are proposed to clause 2(a) and (b) to make reference to *'development for the purpose of'*. This should make it clearer that it is not only development of a single house, grouped or multiple dwelling that is delegated, but also other development for that purpose, ie extensions and additions to the uses listed above.

There are two new paragraphs (f) and (g) in clause 2. The effect is that the Director and Manager are delegated two further administrative matters. These changes "formally" delegate to the Director and Manager the authority to be able to:

- (i) request further information in relation to development applications under clause 6.1.2; and
- (ii) refer applications to other authorities under 6.4 of DPS2 as required.

It should be noted that these functions were implied in previous delegations and operating practices but were not documented. The proposed change adds clarity to that aspect of the Notice.

By way of clause 3, these matters are also delegated to the Coordinator Planning Approvals and the Senior Planning Officer.

Clause 2 (c) has been modified to match clause 3 (ii) to keep the wording of the delegation consistent.

#### Delegation to Coordinator Planning Approvals & Senior Planning Officers (Approvals)

Clause 3 (vi) has been deleted, as it is a matter that is already covered by clause 3 (v) and it is unnecessary to have two separate provisions.

Clause 3 (vii) has been deleted as it is in conflict with clause 3 (ii) (now clause 3 (b)). This allows greater clarification of the powers conferred under the delegation to the Coordinator Planning Approvals and Senior Planning Officer. It should be noted that the power conferred is not greater than originally intended but rather removes a potential conflict between the two relevant clauses.

Clause 3 (ii) has been modified to prevent any potential conflict to those powers conferred to the Coordinator Planning Approvals and Senior Planning Officer through Clause 3 (i).



### Other Changes

There has also been some minor drafting and grammatical changes including the clause numbering system to make the delegation more consistent throughout the document.

The changed clauses are tracked in the current delegation.

### **Approval Process**

The amendments to the delegation will clarify and streamline the current delegation practice of the City's Approvals, Planning & Environmental Services.

### **Conclusions**

It is recommended that the delegation be adopted and be effective up until 30 June 2007 so that its period of operation is consistent with other delegations that are within the City's Delegation Manual, which are reviewed on an annual basis.

### **ATTACHMENTS**

Attachment 1 Current delegation with tracked changes

### **VOTING REQUIREMENTS**

Absolute Majority

**MOVED Cmr Smith, SECONDED Cmr Clough that Council ADOPTS the Town Planning Delegation as outlined in Attachment 1 to Report CJ147-07/05 and the delegation to remain effective until 30 June 2007.**

**The Motion was Put and**

**CARRIED BY AN  
ABSOLUTE MAJORITY (4/0)**

*Appendix 7 refers*

*To access this attachment on electronic document, click here: [Attach7agn190705.pdf](#)*

**CJ148 - 07/05 PROPOSED AMENDMENT 30 TO DISTRICT PLANNING SCHEME NO 2 TO REZONE FROM 'COMMERCIAL R20' TO 'RESIDENTIAL R30' - LOT 200 (157) KINROSS DRIVE, KINROSS - [13571]**

**WARD:** North Coastal

**RESPONSIBLE DIRECTOR:** Clayton Higham  
Planning and Community Development

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CJ050712\_BRF.DOC:ITEM 6

### **PURPOSE**

The purpose of this report is to seek Council's consent to initiate Amendment No 30 to District Planning Scheme No 2 (DPS2) for the purpose of public advertising.

## EXECUTIVE SUMMARY

Lot 200 (157) Kinross Drive, Kinross is currently zoned 'Commercial', with a density code of R20 (Attachment 1 refers). An application has been received to rezone the lots to 'Residential' and apply a density code of R30 (Attachment 2 refers) to facilitate the future development of 6 grouped dwellings on the lot (Attachment 3 refers).

The current 'Commercial' zoning allows the Council to consider grouped dwelling developments as a discretionary ('D') use under clause 6.6.2 of DPS2, however, any residential development would be anticipated to be a component of the commercial development of the site. Rezoning the land to 'Residential' will allow future grouped dwelling development on the subject lots to be considered as a permitted ('P') use under DPS2.

The site is currently vacant and is located adjacent to existing grouped dwellings and close to Public Open Space.

The subject site is listed under Schedule 3 of the DPS2 as Portion Lot 2 (400) Burns Beach Road (North) with a maximum retail floor space area of 500m<sup>2</sup>. Should the proposed rezoning be approved after the completion of the advertising period, Schedule 3 of the DPS2 will have to be amended to reflect the removal of the allocated retail floor space.

The development of residential dwellings will assist in maximising use of public transport and public open space which are available in close proximity to the site (Attachment 4 refers). This promotes environmental and economic sustainability. The proposed land use is considered to be compatible with adjoining and surrounding land uses.

It is recommended that the Council:

- 1 Pursuant to Section 7 of the Town Planning and Development Act 1928, AMENDS the City of Joondalup District Planning Scheme No 2 for the purposes of rezoning Lot 200 (157) Kinross Drive, Kinross from 'Commercial' with a density code of R20 to 'Residential', with a density code of R30 for the purposes of advertising for a period of 42 days.
- 2 Prior to the advertising period commencing, FORWARDS the proposed amendment to the Environmental Protection Authority in order to decide if an environmental review of the site is required.

## BACKGROUND

**Suburb/Location:** Lot 200 (157) Kinross Drive, Kinross  
**Applicant:** Cardno BSD  
**Owner:** Masterkey Properties Pty Ltd  
**Zoning:** **DPS:** Commercial  
**MRS:** Urban

The subject site is 1836m<sup>2</sup> in size and is currently vacant. The site is located adjacent to residential development with a density of R40 and opposite to the subject site, existing residential development at a density of R20. The site is located in close proximity to a number of services on Kinross Drive, which includes a bus route, a nearby local park, a high school, a primary school and a neighbourhood commercial centre located on the corner of Kinross Drive and Edinburgh Avenue.

The subject site is listed under Schedule 3 of the DPS2 as Portion Lot 2 (400) Burns Beach Road (North) with a maximum retail floor space area of 500m<sup>2</sup>. Should Council resolve to approve the proposed rezoning after the completion of the advertising period, Schedule 3 of the DPS2 will have to be amended to reflect the removal of the allocated retail floor space.

In October 2004, Council approved a 96 place child care centre on the subject site (report CJ237-10/04 refers). The applicant has not lodged a Building Licence and the site remains undeveloped.

## DETAILS

### Issues and options considered:

The application proposes to rezone Lot 200 (157) Kinross Drive, Kinross from 'Commercial' R20 to 'Residential' R30. The R30 density would allow the development of six (6) dwellings, while the current R20 density would allow the development of four (4) dwellings.

The indicative development plan submitted by the applicant shows six (6) single storey dwellings (Attachment 3 refers). The proposed single storey grouped development will front Kinross Drive with a common driveway servicing the proposed four (4) rear dwellings and two separate driveways to service the front two (2) dwellings. While the plan is indicative only, it does demonstrate the potential development of the lot.

The issues associated with the proposed amendment on the subject lot include:

- Suitability of proposed residential land use and density code
- The viability of the commercial zoned land and previous approval of a child care centre.

The options available to Council in considering this proposal are:

- Non-support of the initiation of the amendment to the DPS2, or
- Support the adoption of the amendment for the purpose of public advertising

### Applicant's Submission

In their submission, the applicant has raised the following comments to attempt to justify support of the amendment:

- *The rezoning will not alter the fabric or character of the immediate locality given that the adjoining land has already been developed at an R40 density.*
- *The subject site is proposed to be rezoned for residential purposes, as development for 'Commercial' related purposes is not considered to be a practical option on the basis of the potential retail floor space that could be accommodated on the subject lot. Council has previously permitted a non-retail land use being developed on the subject lot, which is the approved child care centre.*
- *The rezoning and future development of the land for grouped dwellings is in keeping with elements of Liveable Neighbourhoods Community Design Codes, by promoting a mix of housing types that will take advantage of existing infrastructure such as public transport and pedestrian links to future and existing commercial centres. The Liveable Neighbourhoods Community Design Codes seek to promote a range of higher residential densities close to*

*commercial centres in order to promote the economic viability of these commercial centres by increasing patronage.*

- *The proposed development of the subject site for residential purposes is a practical alternative use as the site is well placed to take advantage of the existing commercial and service activities that surround the subject site. The City has adopted a comprehensive Structure Plan to facilitate the development of Kinross Neighbourhood Centre that is located on the corner of Selkirk Drive and Connelly Drive, which is to the southeast of the subject site. Furthermore, there is an existing commercial centre located on the corner of Kinross Drive and Edinburgh Avenue, which is approximately 1 kilometre from the subject site that is easily accessible via the existing public transport and pedestrian linkages along Kinross Drive.*
- *It would be undesirable for a commercial outlet to be developed on the site and then fail, leaving vacant premises that reduce the amenity of the area. The trend within the residential area is to locate convenience stores within local neighbourhood centres with retail floor space of 1000m<sup>2</sup>. Also, convenience stores are being incorporated in modern service stations that are exposed to passing vehicle movement increasing their viability.*

#### **Link to Strategic Plan:**

The recommendation in this report is supported by the following objective and strategy in the City's Strategic Plan 2003 – 2008:

Objective: 3.3           to continue to meet changing demographic needs.

Strategy 3.3.1         provide residential living choices.

#### **Legislation – Statutory Provisions:**

Section 7 of the Town Planning and Development Act 1928 (TPD ACT 1928) together with Section 25 of the Town Planning Regulations 1967 enable Local Authorities to amend a Town Planning Scheme and set out the process to be followed (Attachment 4 refers).

Should the Council 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 Council considers all submissions received during the advertising period and 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) that 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.

#### **Risk Management considerations:**

Not Applicable.

**Financial/Budget Implications:**

Not Applicable.

**Policy implications:**

Not Applicable.

**Regional Significance:**

The proposal has significance to the local neighbourhood and to the provision of retail floor space within the neighbourhood. The proposal will not have any regional significance.

**Sustainability implications:**

The rezoning will facilitate the development of six (6) medium density dwellings. The development of the medium density housing is considered appropriate given the location of the subject site to a number of services that includes a bus route on Kinross Drive, a nearby local park, a high school, a primary school and a local neighbourhood centre. This accords with strategy 3.3.1 "Provide Residential Living Choices" of the City's Strategic Plan and the state government policy – Liveable Neighbourhoods Community Design Code.

**Consultation:**

The Town Planning Regulations 1967 require that, should Council adopt the amendment, it be advertised for a period of forty-two (42) days. All adjoining landowners would be notified in writing, a notice placed in the local and state newspapers and a sign placed on the site. The proposed amendment would also be displayed on the noticeboard at the Council administration building and on the City's website.

**COMMENT****Suitability of proposed Residential land use**

The proposed R30 density is lower than the two adjoining lots to the east of the subject land, which are zoned R40 and have been developed to this density with single storey grouped dwellings. The form and configuration of the 6 grouped dwellings proposed for the site (Attachment 3 refers) are of similar scale and type (single storey) to existing development prevailing on the adjoining lots.

The proposed rezoning from Commercial R20 to Residential R30 is more consistent with surrounding residential development than a commercial development. As other surrounding land is zoned R20, the proposal represents a 'transitional' zone between existing Residential R20 and R40 zoned land and would not impact on the street amenity.

It is not expected that the proposed rezoning will generate any traffic related issues, and therefore a traffic survey/study has not been deemed necessary.

With respect to the proposed rezoning from 'Commercial' to 'Residential', the rezoning of the land is supported as the anticipated future use of the land is for residential purposes. Proper and orderly planning principles dictate that the zoning applied to the land should closely align with the use of the land, and the rezoning of the site is considered appropriate in this context.

### Viability/desirability of Commercial Zoned land and previous approval of a Child Care Centre

It may be argued that the loss of Commercial zoned land will prevent the establishment of a local retail establishment, such as a convenience store. Whilst it is recognised that there would be a loss of Commercial zoned land, it is acknowledged that commercial uses on the subject site do not appear viable given its location and allocated retail floor space. This has previously been recognised with the approval of a child care centre on the site.

Under the DPS2, the permitted land uses within the Commercial zone is not restricted to retail activity. Land uses such as offices, consulting rooms, medical centres and restaurants are permitted ('P') use classes within the Commercial zone, however, these types of development would be limited due to the size and location of the subject lot. The development of a retail activity (like a convenience store) on the site is also not guaranteed.

The Kinross locality is well serviced by the existing commercial centre on the corner of Kinross Drive and Edinburgh Avenue. This commercial centre is located approximately 1 kilometre from the subject site and offers a variety of shopping outlets. The proposed development of the Kinross Neighbourhood Centre, located on the corner of Selkirk Drive and Connolly Avenue, will also offer a variety of commercial services and outlets. Given the 500m<sup>2</sup> of retail floor space that is allocated to the subject site under Schedule 3 of the DPS2 and the location of surrounding commercial activity, it would limit the size and viability of any proposed retail activity.

The development of six (6) medium density dwellings for residential purposes is expected to take advantage of public transport, community services and retail facilities available in close proximity to the subject site, which promotes environmental and economic sustainability. The development of grouped dwellings is compatible with adjoining and surrounding land uses, and is likely to enhance the amenity of the immediate area. It is recommended that the Council initiates and adopts the proposed amendment to DPS2 for the purposes of public advertising for a period of 42 days.

### **ATTACHMENTS**

Attachment 1	Proposed Amendment No 30 to District Planning Scheme No 2 Zoning Map
Attachment 2	Proposed Amendment No 30 to District Planning Scheme No 2 R-Code Map
Attachment 3	Site plan for future 6 grouped dwelling upon the subject land
Attachment 4	Aerial plan showing subject site
Attachment 5	Town Planning Scheme Amendment process flow chart

### **VOTING REQUIREMENTS**

Simple Majority

### **MOVED Cmr Anderson, SECONDED Cmr Smith that Council:**

- 1 Pursuant to Section 7 of the Town Planning and Development Act 1928, AMENDS the City of Joondalup District Planning Scheme No 2 for the purposes of rezoning Lot 200 (157) Kinross Drive, Kinross from 'Commercial' with a density code of R20 to 'Residential', with a density code of R30 for the purposes of advertising for a period of 42 days;**

- 2 Prior to the advertising period commencing, FORWARDS the proposed amendment to the Environmental Protection Authority in order to decide if an environmental review of the site is required.**

**The Motion was Put and**

**CARRIED UNANIMOUSLY (4/0)**

*Appendix 4 refers*

*To access this attachment on electronic document, click here: [Attach 4brf120705.pdf](#)*

Cmr Clough declared a financial interest in Item CJ149-07/05 – Review of Home Business Policy 3.1.11 as he operates a Category 1 home business.

*Cmr Clough left the Chamber, the time being 2008 hrs.*

## **CJ149 - 07/05 REVIEW OF HOME BUSINESS POLICY 3.1.11 - [13048]**

**WARD:** All

**RESPONSIBLE DIRECTOR:** Clayton Higham  
Planning and Community Development

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CJ050712\_BRF.DOC:ITEM 7

### **PURPOSE**

To review the current Home Business Policy to align the current policy with the City's District Planning Scheme No 2 (DPS2).

### **EXECUTIVE SUMMARY**

The Home Business Policy operates in recognition of the need to accommodate the growing trend towards working at home, whilst recognising that people still regard residential areas primarily as a place to live. The policy provides a set of guidelines that are applied when home business applications are considered.

It is considered that the Home Business Policy has been operating very successfully and fundamental changes are not proposed. However, following a review, it is proposed to update references within the policy that relate to Council's previous Town Planning Scheme and include guidelines on the provision of on site car parking.

*It is recommended that Council in accordance with Clause 8.11.3 of District Planning Scheme No 2 ADOPTS the revised Home Business Policy 3.1.11 as per Attachment 1 for the purpose of public advertising for a period of twenty-one (21) days for public comment.*

### **BACKGROUND**

The Home Business Policy was first adopted in June 1999 (Report CJ213-06/99 refers) and has been subject to minor reviews in September 1999 (Report CJ297-09/99 refers) and February 2002 (CJ020-02/02 refers).

In accordance with the DPS2, a Home Business may be classed under one of three categories. The details of the three categories are shown at Attachment 2.

## **DETAILS**

### **Issues and options considered:**

The Home Business Policy supplements DPS2 by providing relevant details relating to each category of Home Business. This includes:

- Number of customers
- Floor space
- Hours of operation
- Protection of amenity
- Management Plans (Category 3 only)

The policy also includes provisions relating to community consultation in instances where a home business proposal is seeking variations to the standards provided in the policy.

The review of the policy was initiated to evaluate its performance since its inception in September 1999. Whilst the policy is performing satisfactorily, some minor changes are proposed to guide the provision of onsite car parking bays for the proposed Home Business and to align the current policy to the appropriate clauses of the DPS2.

The amendments proposed to the current policy are as follows (Attachment 1 refers):

- Replacing reference to section 3.24 of the Town Planning Scheme to read: 4.4 of the City's District Planning Scheme No 2.
- Statements for the provision of car parking for the three categories of Home Businesses which reads:
  - i. Category 1  
No additional car bays necessary.
  - ii. Category 2  
2 bays for the residents of the dwelling, plus 1 bay per customer.
  - iii. Category 3  
2 car bays for the residents of the dwelling, plus 1 per number of intended clients that are expected to visit the premises.
- Additional statement for Category 3 Home Business with regards to clients visiting the premises, which reads:

Customer visits must be by appointment only.

### **Link to Strategic Plan:**

The recommendation in this report is supported by the following objectives and strategies in the City's Strategic Plan 2003 – 2008:

Objective: 3.3 To continue to meet changing demographic needs.

Strategy 3.3.1 Provide residential living choices.

Objective 3.5 To provide and maintain sustainable economic development.

Strategy 3.5.2 Assist the facilitation of local employment opportunities.



**Legislation – Statutory Provisions:**

Clause 8.11 of DPS2 outlines the provisions with respect to the preparation of local planning policies and amendments or additions to policies.

**Risk Management considerations:**

The policy provides parameters for decision making thereby promoting consistency in those decisions and reducing the risk of ad hoc or inappropriate decisions.

**Financial/Budget Implications:**

In the 2004/2005 financial year, the City received \$8050 in fees for Home Business applications.

**Policy implications:**

To improve the performance of the Home Business Policy by:

- Providing guidelines to the Home Business applicant for the provision of onsite carbays.
- To align the current Home Business Policy with DPS2.

**Regional Significance:**

Not Applicable.

**Sustainability implications:**

Working from home has positive sustainability implications. These include improved quality of family life and the creation of diverse employment opportunities. Furthermore home businesses decrease the dependency on the home vehicle for commuting purposes, which significantly reduces the impact on the environment.

**Consultation:**

Once a draft policy is prepared or proposed to be modified, it is required to be advertised in accordance with clause 8.11.3 of DPS2 by way of a notice published once a week for two consecutive weeks in the local newspaper giving notice where the draft policy may be inspected. The draft policy would also be advertised on the City's website. The specified period for advertising should not be less than twenty-one (21) days.

**COMMENT**

This policy has been operating for approximately six (6) years, and is considered to function well. The intention of revising the current Home Business Policy 3.1.11 is to provide guidelines to the applicant for the provision of onsite car parking.

Providing guidelines for the provision of car parking for the three (3) categories of Home Business will enable the City to monitor the number of visitors to a premise should the City receive any complaints that relate to the operating home business. The provision of car parking guidelines will also ensure the protection of the street amenity as all car parking is to be provided on site and no on street parking is permitted.

It is also intended to align the current policy with the DPS2 as the current policy refers to clauses and parts from the previous Town Planning Scheme No 1. This will ensure that the appropriate statutory provisions of DPS2 are relevant when considering applications for Home Business within the City of Joondalup locality.

## ATTACHMENTS

Attachment 1 Home Business Policy 3.1.11 (Revised)  
Attachment 2 Home Business Categories

## VOTING REQUIREMENTS

Simple Majority

**MOVED** Cmr Anderson, **SECONDED** Cmr Smith that Council in accordance with clause 8.11.3 of District Planning Scheme No 2 **ADOPTS** the revised Home Business Policy 3.1.11 as per Attachment 1 to Report CJ149-07/05 for the purpose of public advertising for a period of twenty-one (21) days for public comment.

Cmr Anderson spoke to the Motion.

**The Motion was Put and**

**CARRIED UNANIMOUSLY (3/0)**

*Appendices 5 and 5(a) refer*

*To access this attachment on electronic document, click here: [Attach5agn190705.pdf](#)  
[Attach5aagn190705.pdf](#)*

*Cmr Clough entered the Chamber, the time being 2010 hrs.*

## **CJ150 - 07/05 MONTHLY TOWN PLANNING DELEGATED AUTHORITY REPORT – MAY 2005 - [07032]**

**WARD:** All

**RESPONSIBLE  
DIRECTOR:** Clayton Higham  
Planning and Community Development

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CJ050712\_BRF.DOC:ITEM 8

## **PURPOSE**

To provide an explanation of the town planning delegated authority report included in this agenda and to submit items of Delegated Authority to Council for noting.

## **EXECUTIVE SUMMARY**

The provisions of clause 8.6 of the text to the District Planning Scheme No 2 allows Council to delegate all or some of its development control powers to those persons or committees identified in Schedule 6 of the Scheme text.

The purpose of delegation of certain powers by Council to staff is to facilitate timely processing of development applications and subdivision applications. The framework for the delegation of those powers is set out in resolutions adopted by Council and is reviewed generally on a yearly basis. All decisions made by staff, acting under delegated authority as permitted under the delegation notice, are reported to Council on a monthly basis.

This report provides a list of the development applications determined by those staff members with delegated authority powers during May 2005 (Attachment 1 Refers).

The total number of development applications determined for May 2005 (including Council and delegated decisions) is as follows:

Month	No	Value (\$)
May 2005	93	3,692,917

The number of development applications received in May 2005 was 97.

## BACKGROUND

<b>Suburb/Location:</b>	All
<b>Applicant:</b>	Various – see attachment
<b>Owner:</b>	Various – see attachment
<b>Zoning:</b>	<b>DPS:</b> Various
	<b>MRS:</b> Not applicable

The District Planning Scheme No 2 requires that delegation be reviewed annually, unless a greater or lesser period is specified by Council. The Joint Commissioners, at their meeting of 12 October 2004 considered and adopted the most recent Town Planning Delegation.

## DETAILS

### Issues and options considered:

Not Applicable.

### Link to Strategic Plan:

The strategic plan includes a strategy to provide quality value-adding services with an outcome to provide efficient and effective service delivery. The use of a delegation notice allows staff to efficiently deal with many simple applications that have been received and allows the elected members to focus on strategic business direction for the Council, rather than day to day operational and statutory responsibilities.

City development is a key focus area of the City's Strategic Plan. The proposals considered by staff acting under delegated authority relate closely to the objectives of providing for a growing and dynamic community.

The Council adopted the Delegation of Authority instrument after detailed consideration, in accordance with the Strategic Plan objective of providing a sustainable and accountable business.

The delegation is necessary due to the large volume of development applications received for development within the City. It is a key instrument in providing a range of services that are proactive, innovative and using best practice to meet organisational and community needs. This is also a strategy of the City' Strategic Plan.

**Legislation – Statutory Provisions:**

Clause 8.6 of the District Planning Scheme No 2 permits development control functions to be delegated to persons or Committees.

**Risk Management considerations:**

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

**Financial/Budget Implications:**

Not Applicable.

**Policy implications:**

Not Applicable.

**Regional Significance:**

Not Applicable.

**Sustainability implications:**

Not Applicable.

**Consultation:**

Consultation may be required by the provisions of the Residential Design Codes 2002, any relevant Town Planning Scheme Policy and/or the District Planning Scheme.

Of the 93 applications determined during the report summary period, consultation was undertaken for 45 of those applications.

**COMMENT**

Large local governments utilise levels of delegated authority as a basic business requirement in relation to Town Planning functions. The process allows determination times to be reasonably well accepted and also facilitates consistent decision-making in rudimentary development control matters. The process also allows the elected members to focus on strategic business direction for the Council, rather than day-to-day operational and statutory responsibilities.

Without such a mechanism, it would be exceptionally difficult for the Council to be properly informed to make decisions itself, regarding approximately 70-100 planning applications per month.

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

The delegation notice itself outlines specific delegations to respective levels and the limits to those levels of determination. The delegation allows the Director Planning & Community Development and Manager Approvals, Planning & Environmental Services to implement aspects of the District Planning Scheme No 2 that relate to the determination of certain types of development applications, and to process subdivision applications.

The Coordinator Planning Approvals and Senior Planning Officers (Planning Approvals) have authority to approve development applications that are in compliance with the District Planning Scheme No 2 or with minor variations to the applicable standard.

## ATTACHMENTS

Attachment 1          May 2005 Approvals

## VOTING REQUIREMENTS

Simple Majority

**MOVED Cmr Smith, SECONDED Cmr Anderson that Council NOTES the determinations made under Delegated Authority in relation to the applications described in Report CJ150-07/05 for the month of May 2005.**

**The Motion was Put and**

**CARRIED UNANIMOUSLY (4/0)**

*Appendix 6 refers*

*To access this attachment on electronic document, click here: [Attach6brf120705.pdf](#)*

Manager, Approvals Planning & Environmental Services, Mr Chris Terelinck, declared an interest that may affect his impartiality in CJ151-07/05 – State Administrative Tribunal Appeal No 67 of 2005: Lewis Timms vs City of Joondalup – Medical Centre Extension: Lot 715 (110) Flinders Avenue, Hillarys as one of the Doctors at the practice is a personal acquaintance.

## **CJ151 - 07/05      STATE ADMINISTRATIVE TRIBUNAL – REVIEW OF DECISION - APPEAL NO 67 OF 2005: LEWIS TIMMS VS CITY OF JOONDALUP - REVISED PLANS FOR EXTENSION TO EXISTING MEDICAL CENTRE FOR OFFICE USE: LOT 715 (110) FLINDERS AVENUE, HILLARYS - [04412]**

**WARD:**                      Whitfords

**RESPONSIBLE DIRECTOR:**      Clayton Higham  
Planning and Community Development

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CJ050712\_BRF.DOC:ITEM 9

## PURPOSE

This report is for Council to determine its position in relation to revised plans that have been submitted as part of the mediation process under the State Administrative Tribunal Act.

## EXECUTIVE SUMMARY

A mediation session was held with the State Administrative Tribunal (SAT) on 21 March 2005. At this meeting, it was agreed that the appellant be given the opportunity to submit revised plans detailing modifications to the design of the building for the purpose of:

- (a) ameliorating the impact of the building bulk;
- (b) allowing the preparation of a detailed acoustic report to deal with:
  - (i) the attenuation of noise from the existing loading bay;
  - (ii) potential impact of noise from the proposed undercroft car park,
  - (iii) noise from the air-conditioning plant located on the roof of the existing and proposed building; and
  - (iv) any other attenuation measures that may be necessary.

The applicant provided amended plans on 14 April 2005 for the proposal in an attempt to address the reasons for refusal of the original proposal considered at the Council Meeting dated 23 November 2004 and the issues raised by the adjoining property owners.

The revised plans developed through the mediation process were presented to the Council at the meeting held on 17 May 2005 (Confidential Report CJ098–05/05 Refers). Council resolved as follows:

- 1 *DEFERS consideration of this matter and that the State Administrative Tribunal and the applicant:*
  - (a) *be advised that Council believes that as the original application for planning consent was determined having regard to the submissions received from the surrounding property owners, any revised application should be referred to them for further comment,*
  - (b) *be REQUESTED to give sympathetic consideration to this request from Council and support an extension of time to permit consultation with the adjoining property owners on the revised plans before a decision is made by Council on the revised plans that have been submitted as part of the mediation process.*
- 2 *in the public interest ADOPTS a policy that in cases of the review being considered by the State Administrative Tribunal that involves the City of Joondalup, that the State Administrative Tribunal be requested to remove the requirement that mediation is to be a private matter.*
- 3 *DELEGATES authority to the Chief Executive Officer to waive this policy in special cases.*

The applicant agreed to the proposal being re-advertised and to an extension to the timeframe for a decision to be forwarded to the State Administrative Tribunal, as was requested by Council at its meeting dated 17 May 2005.

The next teleconference on the matter has been set for Monday 24 July 2005 at 4:30pm.

In the meantime, the revised plans were re-advertised to the affected adjoining landowners. Submissions were received in response to the request for comments. Having regard to the:

- submissions received from the adjoining property owners;
- changes made to the original plans that now form part of the revised plans;
- additional information provided by the applicant, including the acoustic report;

it is recommended that Council advise the State Administrative Tribunal that the modified plans for the proposed extension to the existing medical centre for office use is acceptable, subject to the imposition of certain conditions.

## BACKGROUND

The proposed development is for an extension to the existing medical centre at Hillarys Shopping Centre. The existing medical centre has an east-west orientation and is located close to the southern boundary of the site, which adjoins residential properties.

The proposal is to extend the development further westwards, covering the existing open car parking area. The subject site slopes downwards from east to west with the proposed structure maintaining the same upper floor level. Therefore, the extension would be two-storey in nature, with non-retail commercial space proposed on the upper floor (up to 3 tenancies) and car parking provided on the ground floor in the form of an undercroft parking area.

The extension is proposed to be constructed of the same materials as the existing medical centre.

At the SAT mediation hearing held on 21 March 2005, the applicant raised various points to support the existing application. Those points are identified below:

- The proposal will help attenuate noise from the Coles loading dock and block light overspill from the existing Coles site, for those properties to the south;
- The structure has a residential quality (i.e. pitched roof) which will blend in well with the existing adjoining residential properties;
- There is no substance to the City's claims of excessive bulk and scale issues as the proposal meets with residential standards, even though the development is on a commercial site:
  - - complies with the threshold of the City's Policy 3.1.9 – "Height and Scale of Buildings within a Residential Area" (there are no height controls for the Commercial Zone);
    - complies with residential overshadowing requirements for lots zoned R20, as set out in the Residential Design Codes 2002, clause 3.9.1.
- The proposed setbacks meet with the requirements of the City's District Planning Scheme No 2;
- The setbacks also comply with the requirements set out in the Residential Design Codes 2002;
- Noise from the air-conditioning units could easily be attenuated by relocating the systems in order to meet with the Australian Standards;
- The air-conditioning units can be screened to alleviate any unsightliness;
- Noise from the undercroft car parking area would be no worse than that which currently exists for the open car parking area;
- There will be no privacy issues as the windows proposed to the southern side elevation will be fully obscured glazing;
- The undercroft parking can be locked for security purposes. Will comply with whatever requirements the City requests.
- There is ample parking on the site to cater for the proposed extension.

The applicant believed that the above justification easily addressed any concerns that Council may have had when making its decision at its meeting held on 23 November 2004.

In spite of this position, the appellants agreed to submit amended plans and provide an Acoustic Consultant's Report (received on 14 April 2005) in response to concerns raised:

- (a) by the adjoining landowners, identified in the Council report of 23 November 2004; and
- (b) during the mediation hearing at SAT on 21 March 2005.

The revised amended plans include the following modifications:

- A recess in the southern façade of the building, totalling an area of 7.46m<sup>2</sup> to provide a break in the continual wall, to reduce the impact of building bulk; and
- Provision of a new suspended wall from the underside of the proposed first floor slab, located along the entire northern façade of the proposed extension to create an acoustic barrier from the proposed undercroft car parking area.

The submitted Acoustic Consultant's Report (Gabriels Environmental Design Pty Ltd) suggests that the proposed extensions will comply with the requirements of the Environmental Protection (Noise) Regulations 1997. The applicant states that the noise from the proposed air-conditioning condenser units, undercroft car parking and existing Coles loading dock will be attenuated by the following:

- Air-conditioning condensing units to be located within a roof-well that is cut into the southern rake of the roof pitch. This is to maximise the distance between the condensing units and the southern residential boundary. The setback of the air conditioning units has subsequently increase from 6.0m to 8.939m;
- Internal faces of roof-well are to be lined with acoustically absorbent medium to minimise acoustic reflections;
- Condensing units are to be mounted to condenser deck via vibration isolation mounts achieving a vibration isolation efficiency of 98%;
- Weatherproof louvers to be provided on the eastern, southern and western side of the condenser deck, such that equipment is not visible to the adjoining residences;
- Recommended that the condensing units operate between the hours of 7am – 10pm Monday to Saturday and not before 9am on Sundays (and Public Holidays);
- Provision of an acoustically absorbent medium to the underside of the soffit within the undercroft car parking area. This will control any "cavern" effect by absorbing sound energy, rather than allowing it to reflect;
  - perforated metal with 50mm fibreglass insulation over;
  - perforated 75mm anticon. Fifty percent knitted shade cloth can be installed underneath to increase vandal resistance,
  - 38mm thick Enviro spray 300 – this is a spray on Cellulose Fibre material.
- The proposed extensions have the potential to reduce noise transmission from the Coles loading dock to some of the residences along Akera Close (especially numbers 23 and 25) to the south of the subject development (no attenuation will occur for house numbers 19 & 21 and line of sight still occurs).

In conclusion, the applicant's report states that the proposed extension will generally provide a positive outcome. With correct positioning and specification of the condensing units, the rooftop mechanical equipment will comply with the Environmental Protection (Noise) Regulations 1997. The potential cavern effect created by the undercroft car parking area will be controlled via provision of an acoustically absorbent lining to the underside of the concrete soffit. Furthermore, the noise from the Coles loading bay will be significantly reduced as a result of the extension to the residences at numbers 23 and 25 Akera Close, Hillarys.



The applicant has also provided information from Wood & Grieve Engineers (dated 13 April 2005) which states that the current lighting illumination spillage into the adjoining properties to the west and south of the subject site from within the car parking area, complies with the relevant Australian Standards for light spillage.

### **Application History**

23/11/2004	Application refused at Council Meeting
20/01/2005	Notice of Hearing received from the State Administrative Tribunal
09/03/2005	Directions Hearing held at State Administrative Tribunal
21/03/2005	Mediation Session held at State Administrative Tribunal
17/05/2005	Application presented to the meeting of the Council
24/05/2005	Application advertised to surrounding property owners as requested within Council's determination of 17/05/2005
07/06/2005	Advertising period complete

<b>Suburb/Location:</b>	Lot 715 (110) Flinders Avenue, Hillarys
<b>Applicant:</b>	Patterson Group Architects
<b>Owner:</b>	Shawm Pty Ltd & Clifford Stagg & David Stagg & Nola Stagg and three other(s)
<b>Zoning:</b>	<b>DPS:</b> Commercial
	<b>MRS:</b> Urban

### **DETAILS**

#### **Issues and options considered:**

Not Applicable.

#### **Link to Strategic Plan:**

Not Applicable.

#### **Legislation – Statutory Provisions:**

State Administrative Tribunal Regulations 2002.

#### **Risk Management considerations:**

Not Applicable.

#### **Financial/Budget Implications:**

Should this matter go to a full hearing, legal representation will be required at the hearing as it is a Class 2 appeal.

#### **Policy implications:**

Not Applicable.

#### **Regional Significance:**

Not Applicable.

**Sustainability implications:**

Not Applicable.

**Consultation:**

The original proposal, which was refused at the Council meeting dated 23 November 2004, was advertised for a period of twenty-one days in accordance with the requirements of the Scheme. From the public consultation, 6 submissions of objection were received. The issues raised within those submissions were in relation to the following issues:

- Windows, the disruption and loss of privacy;
- Air-conditioning plant, visual and audio impact;
- Undercover parking, sound proofing and security;
- Potential for commercial floor space to be used for activities outside of normal trading hours;
- Antisocial behavior;
- The height of the building will completely dwarf and block out any winter sun;
- The actual definition of the building's usage is very obscure. What is meant by non-retail;
- Commercial floor space;
- The scope of the building is excessive.

As requested by Council at the meeting held on 17 May 2005, the proposed amended development was re-advertised for a period of 14 days in accordance with clause 6.7.2 of District Planning Scheme No. 2 by way of letters, which were sent to adjoining landowners being the properties deemed most affected by the proposal. A total of 5 submissions were received, being 1 non-objection and 4 objections. (Note: 4 of the submissions received were received after the advertising period had closed, which includes the non-objection). A summary of the submissions is as follows:

Submissions/Comment	Officer's Comment
The noise from the shopping centre is bad enough now. I do not approve of any more additions nor extensions until the sound proofing wall near Coles has been completed to satisfaction.	Additions to enclose the existing loading dock for Coles was approved under delegated authority on 04/04/2005. To date the construction of this enclosure is not yet completed. The Council is not in a position to extend the timeframe, set by the State Administrative Tribunal, for a decision on the subject application based on another development being completed to the satisfaction of surrounding neighbours.
The proposed extension will only add to the already existing problems adjoining residents face in relation to increased traffic noise with delivery trucks forced to park and idle their trucks along the western boundary whilst having to unload in the Coles loading dock.	The existing location for the loading and unloading of vehicles/trucks associated with Coles will not change as a result of this application. A noise acoustic report has been prepared, which seeks to address matters relating to the proposed building.
Greater use of the back lane by traffic other than deliveries to Coles – in and out both directions.	The lane, which runs along the western side of the site boundary, is a one-way service access lane. It should be noted that access to the medical centre undercroft car park is currently possible from two different directions, one of which is from the eastern side of the site, which does not require the use of this access lane. The level of car parking availability has not increased with this proposal as the development is proposed to be located over existing car bays. Therefore it is not agreed that the proposal will cause a significant increase in the level of traffic

<b>Submissions/Comment</b>	<b>Officer's Comment</b>
	movements along the one-way access laneway to the western side boundary.
Further loss of privacy into homes.	It will be requested that the proposed windows, to be located along the southern facade of the extension, shall be of fixed obscured materials to prevent any overlooking. This can be included as a condition. Furthermore it will requested that two of the four windows proposed along the western façade, being the two windows closest to the southern boundary, should be of fixed obscure materials to prevent any possible overlooking into the adjoining properties to the south of the subject site. It is not considered that there will be any potential for overlooking into the properties to the western side of the site due to the distance of the subject extension from the boundary.
Loss of light due to the height of the building, being on a higher level than adjoining properties.	It is agreed that the subject site is on a higher level than those properties, which adjoin to the south. It is also agreed that some overshadowing will occur into these properties. There are no overshadowing requirements set out within the City's District Planning Scheme No 2 for commercial development. However, the overshadowing that would occur into these properties would comply with the overshadowing requirements as set out by the Residential Design Codes 2002 (for R20 lots) if the subject development were for a residential dwelling. Furthermore the proposed commercial development would be located within the threshold limits of the City's Policy 3.1.9 – "Height and Scale of Buildings within a Residential Area" if it applied to commercial buildings.
The plans show multiple large size windows overlooking the rear of my property, which includes two bedrooms and a presently secluded spa and entertaining area. Please consider making a condition of approval the use of ceiling level, obscure glass windows for this area of the building.	As stated above, it will be requested that the windows, which face the adjoining properties to the south of the existing site, including two western façade windows, be of fixed obscured material to prevent any overlooking. This can be included as a condition.
The air-conditioning units are shown to be on the residential side of the Medical Centre, overlooking my property. The aesthetics and the production of background noise from this plant would be unacceptable. Relocating the air-conditioning units to the internal (northern) side of the building, an area that faces the blank side of the supermarket would alleviate these concerns.	The applicant has provided an Acoustic Consultant's Report, which include measures to alleviate noise emissions from the proposed air-conditioning unit. Within this report the applicant has provided details as to configuration and design of the condensing units to aid in the attenuation of noise along with an increased setback from 6.0m to 8.939m from the adjoining southern boundary. Additionally the applicant is proposing to use weatherproof louvers so that the condenser units will not be visible from the adjoining residential properties. The measures taken by the applicant in this instance are considered to be acceptable.

<p>The existing undercover parking at the medical centre has security fencing, a measure that was undertaken to discourage certain undesirable section of the public that found its privacy attractive for performing illegal activities. The development proposal has no evidence of security fencing for the new section of undercover parking.</p>	<p>The revised plans show there to be a new gate, being a metal sliding gate as per existing detail. Therefore this issue has been addressed as per the request of the adjoining neighbour.</p>
<p>The sound of an automobile within an undercover car park is amplified to unacceptable levels for a residential border. With the increased level of activity this proposal is intended to produce and the noise emanating from a virtual sounding board into my property, would be obscene. Please consider making a condition of approval that this undercover parking is fully enclosed with solid construction. This would negate both security and the audio concerns.</p>	<p>The applicant has provided evidence, which suggests that the provision of an acoustically absorbent medium to the underside of the soffit under-croft car parking area will reduce reverberation and would comply with the requirements of the Environmental Protection (Noise) Regulations 1997. Along with the restriction of the hours of the use of the car parking area it is considered that the measures taken are sufficient in attenuating the noise levels emanating from the proposed car parking area.</p>
<p>The proposal indicates the use of the facility to be non-retail commercial floor space. This potentially would involve activities operating outside normal trading hours. This seems an unreasonable proposal for a building that immediately borders residential properties. Please consider the restriction of use to normal trading hours, the same as those kept by the current facility, before allowing development.</p>	<p>As per the recommendation within the report (CJ098 – 05/05), which was presented to Council on 17/05/2005, it was proposed that a separate planning application would be required to be submitted and approved for the proposed use of the non-retail commercial tenancies prior to occupation. This was incorporated into the recommendation to assess the proposed uses and the possible affect that they would have on the adjoining landowners. The applicant had previously noted in writing that the new additions were to be used as non-retail commercial floor space indicating professional offices, travel agents, video stores, community radio, health club, wellness centre and bank as possible uses. As there is no specific use for all these categories to be considered as one use under the City's District Planning Scheme No. 2, any approval given should be for one of the stated uses. The use of the premises as an office would be considered suitable in this instance. Parking has been based on 1 bay per 30sq/m of NLA, which would also suit that of an office use. Therefore any other use proposed for the additions would require that a separate planning approval be given for a change of use other than that of an office use.</p>
<p>A note for consideration. The developer in question has not complied with Council and local residents concerns. Unresolved issues regarding the original development are still in progress. Little or no consideration has yet been shown for the neighbouring residents and their complaints. The restriction of the hours of operation of delivery trucks is broken on a daily basis.</p>	<p>It is agreed that the matter of the loading dock and delivery trucks has been an ongoing issue, which the City is endeavoring to rectify. The enclosure of the Coles loading dock has been one step in this process. It is noted that within the Acoustic consultant's report it has been mentioned that the proposed medical centre extension will attenuate some of the noise emanating from the Coles loading dock to two of the adjoining residential properties to the south (23 &amp; 25 Akera Close).</p>

<p>We would refer back to our letter of 10 August 2004 at which time we raised various objections. It appears that none of these objections have been addressed by the developer perhaps with the exception of the air conditioning units. (The applicant attached a copy of the original letter of objection dated 10/08/2004, which raised the concerns as stated below).</p> <ol style="list-style-type: none"> <li>1) The height of the building will completely dwarf our property and block out any winter sun.</li> <li>2) The positioning of the windows to look directly into our backyard eliminating the little remaining privacy we still have. (This could have been avoided if the developer planted dense mature shrubs as we had requested)</li> <li>3) The positioning of the air conditioning units and the noise that will emanate from them.</li> <li>4) The actual definition of the building usage is very obscure. What is exactly meant by non-retail commercial floor space? Does this mean the building could be used for a purpose that would allow it to trade all hours, day and night?</li> </ol>	<p>Response to point:</p> <ol style="list-style-type: none"> <li>1) The overshadowing of the adjoining properties at midday at the time of the winter solstice would be within the acceptable standard limits for overshadowing as set by the Residential Design Codes 2002 (for R20 coded lots), if the proposed development was a residential dwelling. There are no overshadowing requirements set out within the City's District Planning Scheme No. 2 for commercial developments. The development would also comply with the threshold limits set in the City's Policy 3.1.9 – "Height and Scale of Buildings within a Residential Area", if it was a residential building.</li> <li>2) It will be requested that the windows, which face the adjoining properties to the south of the existing site shall have fixed obscured materials to prevent any overlooking. This can be included as a condition.</li> <li>3) As stated above, the applicant has proposed measures to alleviate noise emissions from the proposed air-conditioning unit. Within this report the applicant has provided details as to configuration and design of the condensing units to aid in the attenuation of noise along with an increased setback from 6.0m to 8.939m from the adjoining southern boundary. The measures taken by the applicant to attenuate noise are considered to be acceptable.</li> <li>4) As stated above, the applicant had previously noted in writing that the new additions are to be used as non-retail commercial floor space indicating professional offices, travel agents, video stores, community radio, health club, wellness centre and bank as possible uses. The use of the premises as an office would be considered suitable in this instance. Parking has been based on 1 bay per 30sq/m of NLA, which would also suit that of an office use. Therefore any other use proposed for the additions would require that a separate planning approval be given for a change of use.</li> </ol>
<p>I believe that the medical centre will only benefit me in my situation. It will block noise and the unsightly shopping centre. It will increase the values of our property. At the moment I get woken every morning by noise.</p>	<p>It is agreed that the extension will have the potential to attenuate some of the noise coming from the existing Coles loading dock. The Acoustic Consultant's Report submitted by the applicant states that the proposed extensions have the potential to reduce noise transmission from the Coles loading dock to some of the residences along Akera Close (especially numbers 23 and 25), to the south of the proposed development.</p>

## COMMENT

In reference to the Council Report presented to the Council Meeting dated 17 May 2005, the recent comments received by adjoining landowners and the legal advice previously provided (Confidential Report CJ098–05/05 Refers), it is still important for this development to address the concerns, which have been raised previously by Council and the surrounding landowners.

The recent comments received from the adjoining landowners in relation to the proposed development are similar to those expressed previously when the original proposal was presented to the Council Meeting dated 23 November 2004. These concerns are in relation to overshadowing, overlooking, visual and acoustic privacy from the air conditioning units/under croft parking area/Coles loading dock, the use of the proposed non-retail commercial tenancies and security. The exception to the original comments would be the concern raised in relation to the possible increase in the level of traffic for the development and the traffic movements along the one-way service access lane to the western side boundary.

### Overshadowing

In the original Council report (23 November 2004), it was stated the objectors believed the development would cause undue overshadowing into the adjoining properties to the south, as they were located at a lower level than the subject site. It was also noted in the original report that the development would comply with the overshadowing requirements of the Residential Design Codes 2002 (for R20 lots) if the proposal were a residential development.

Recent comments received by adjoining landowners have again expressed this concern. It has been stated that due to the differing levels between the medical centre and the lots to the south of the subject development, there will be significant overshadowing.

It is agreed that the subject site is on a higher level than those properties, which adjoin to the south. It is also agreed that some overshadowing will occur into these properties.

The City's District Planning Scheme No. 2 indicates the setback requirements for commercial development. The proposed development complies with these setback requirements. However there are no overshadowing requirements or height limits set by the City's District Planning Scheme No. 2 for Commercial development.

If the Residential Design Codes 2002 were to be used as a guide to indicate acceptable levels of overshadowing for residential dwellings, the subject development would comply with this requirement. Furthermore, it is noted that the development would also comply with the threshold limits contained within the City's Policy 3.1.9 – "Height and Scale of Buildings within a Residential Area", if was applied to the proposed commercial development.

### Overlooking

The recent comments received from adjoining landowners have again expressed concern over the potential for loss of privacy into private outdoor areas and bedroom windows due to overlooking potential from the southern face windows.

The plans show there to be ten new windows along the southern façade of the development. The size, shape and positioning of the windows have been designed to match that of the existing southern facing windows of the medical centre.

It is considered that the issue of potential overlooking from these windows could be overcome by incorporating a condition into the recommendation requiring the windows, which face the adjoining properties to the south, to be of fixed obscured materials.

Furthermore it will requested that two of the four windows proposed along the western façade, being the two windows closest to the southern boundary, should be of fixed obscure materials to prevent any possible overlooking into the adjoining properties to the south of the subject site.

It is not considered that there will be any potential for overlooking into the properties to the western side of the site due to the distance of the subject extension from the boundary.

### Building Bulk

In relation to building bulk, the original Council report, dated 23 November 2004, stated that the impact on the adjoining residences would be excessive due to the size of the building and the proximity to the southern boundary (3.0 metres). The report stated that the bulk is exacerbated by the fall over the site downwards from east to west, as the building is proposing to maintain the same floor levels as the existing structure (maximum wall height of 6.015 metres, being setback 3.0 metres from southern boundary).

The amended plans provided by the applicant illustrate a recess in the southern façade (7.46m<sup>2</sup>) of the proposed extension. This is quite minor, and will only have a slight benefit in reducing the building bulk and scale, as seen from the residential properties to the south of the subject development. However, the recess is an improvement to the plans, which originally proposed a constant uninterrupted wall mass encompassing a length of over 60 metres.

The existing southern portion of the building has a landscaping strip that has allowed mature trees to be planted in order to help ameliorate the impact of that section of the building. The car parking area to the west of the existing building is closer to the southern boundary than the undercroft parking area beneath the existing building, which includes some planting against the boundary. This landscaping strip to the western side of the existing medical centre is not as significant as the landscaping strip immediately to the south of the existing building. However, the existing landscaping and the recess in the line of the building will help ameliorate the impact of the extension.

The main portion of the roof has a “lean to design”, leading up to the steeper roof pitch, which is located 12.65 metres away from the adjoining southern lot boundary. Maintaining a residential appearance, the lean to design is also considered to reduce the impact of the structure to the adjoining southern properties.

Furthermore it is noted that the setback of the proposed development complies with the requirements of the City’s District Planning Scheme No. 2.

### Visual & Acoustic Privacy (Car Parking Area, Air Conditioning Units, Loading Dock)

The original Council report stated that the location of the air-conditioning units, facing the residential units was of concern, as it would transpose noise directly onto the adjoining residential developments. It was suggested that the applicant would need to screen the air-conditioning units from an aesthetic perspective and comply with the requirements of the Environmental Protection (Noise) Regulations 1997. Furthermore, noise from the undercroft car parking area is of concern as it is generally amplified through the structure being partially enclosed and the surface materials used in the building. It was stated that the noise from vehicles in this area will affect the adjoining landowners and covering the car parking area will generally exacerbate this issue.

Comment received from adjoining landowners through the recent advertising period has again expressed concern over the potential noise problems arising from the proposed air conditioning units, the undercroft parking area and the continuing problem of noise relating to the Coles loading dock.

The information provided and the measures taken within the Acoustic Consultant's Report is considered to comply with the requirements of the Environmental Protection (Noise) Regulations 1997 and the concerns previously raised by Council and by the adjoining landowners.

To comply with the relevant noise regulations for the undercroft parking, it has been proposed that the underside of the soffit for the parking area will be provided with acoustically absorbent medium to reduce reverberation within the car parking area. Three different means of providing acoustically absorbent materials to the underside of the undercroft car parking have been provided, to comply with the requirements of the Environmental Protection (Noise) Regulations 1997.

It is considered that the use of the car parking area would need to be restricted to between the hours of 7am and 10pm Monday to Saturday and not before 9am or after 10pm on Sundays (and public holidays) to meet the requirements of the Environmental Protection (Noise) Regulations 1997.

The applicant has proposed that a perforated gate be provided along the western entrance of the car parking area. It will be required through a condition of planning approval that the gate be open during the normal shopping hours for the main shopping complex, which will comply with the hours as stated above. Further reason for the gate to be open during normal shopping hours, is to maintain acceptable parking bay ratios for the whole site, which are available to the public. If the undercroft parking area (39 car bays + 2 short bays) is closed for the exclusive use of the medical centre, there will be a shortfall in parking bays of 25 car bays over the whole site. Closing the gate after hours will also aid in reducing any potential anti-social behaviour in the undercroft area.

The measures taken in relation to noise attenuation from the proposed condensing units, is also considered to be acceptable. The amended plans illustrate that the condensing units will be located a minimum of 8.939 metres away from the adjoining southern boundary, compared to the original plans which showed a setback of 6.0 metres.

The applicant has provided details as to configuration and design of the condensing units to aid in the attenuation of noise. This includes cutting the condensing units into the roof-well and maximising the distance from the southern boundary. The internal faces of the roof-well are to be lined with acoustically absorbent medium to minimise acoustic reflections. The condenser units will be mounted to a condenser deck via vibration isolation mounts. Weatherproof louvers will also be provided on the east, south and western side of the condenser deck so that the condenser units will not be visible from the adjoining residential properties.

The Acoustic Consultant's Reports suggests that the applicant should use the quietest available air-conditioners on the market. The utilisation of the quietest units available is recommended and can be incorporated into a condition.

It is further agreed that there will be some noise attenuation from the loading dock to the adjoining properties at numbers 23 and 25 Akera Close, Hillarys by the extension of the existing building. Any noise attenuation in relation to that emitted from the existing Coles loading dock is considered to be of benefit to the surrounding landowners.



It is noted that a recent planning approval (DA05/0036 dated 04 April 2005) has been given for the existing Coles loading dock to be enclosed, which will further aid in the reduction of noise from this area to the adjoining residential properties.

The recently received acoustic report makes no mention of noise, which may be generated from the actual occupancy of the non-retail commercial tenancies.

It is considered that even an office use from these commercial tenancies could have the potential for complaints if the windows of the southern façade are open-able. This may allow noise such as telephone ringing to give rise to justifiable complaints from adjoining landowners. Therefore it is considered that the use for the commercial tenancies should include adequate detail as to how the use will comply with the Environmental Protection (Noise) Regulations 1997, which may require a further Acoustic Consultant's Report. Additionally, the windows along the southern façade should be fixed as has been stated previously above and imposed as a condition of planning approval.

### Commercial Tenancy Uses

In the original application and this subsequent amended application, the applicant has not indicated the exact uses of the proposed non-retail commercial tenancies. The applicant suggested a number of uses for non-retail commercial purposes including professional offices, travel agents, video stores, community radio, health club, wellness centre and bank. None of these have been confirmed as definite uses for the non-retail commercial units. It was noted in the original Council Report of 23 November 2004, the use of the premises as a video store was considered to be a retail use and not one that would be supported.

As the applicant has not specified one particular use for the proposed additions, in which a specific use is necessary under the requirements of the City's District Planning Scheme No. 2, it is considered that one of the uses the applicant has proposed should be given for the additions. If the applicant proposes a different use for the tenancies at a later stage, planning approval would be required for a change of use.

The use of the premises as an office would be considered suitable in this instance, subject to compliance with the Environmental Protection (Noise) Regulations 1997 as stated above. Parking has been assessed on 1 bay per 30sq/m of NLA, which would also suit that of an office use. Therefore any other use proposed for the additions would require that a separate planning approval be given for a change of use.

The applicant (Paterson Group Architects) was advised of this direction by way of a telephone conversation on 4 July 2005 and no objections were made in relation to this issue.

### Security

Concern has again been raised by the adjoining landowners in relation to security and the potential for the undercroft parking to be used outside normal trading hours. The applicant has proposed that a gate be installed along the western side entrance to the undercroft parking area, similar to that which exists at present. It is considered that the proposed gate will provide security to the undercroft car parking area outside normal hours. It can be conditioned that the gate should be locked outside the hours of 7am and 10pm Monday to Saturday and before 9am on Sundays (and public holidays).

### Increased traffic

As previously stated, the proposed lane way, which runs along the western side of the site boundary, is a one-way traffic access. It is also noted that access to the existing and proposed medical centre undercroft car park is possible from two different directions, one of which is from the eastern side of the site, which does not require the use of this western access lane.

The level of car parking availability has not increased with this proposal as the development is proposed to be located over existing car bays. Therefore it is not agreed that the proposal will cause a significant increase in the level of traffic movements along the access lane to the western side boundary. There may be a small increase in the use of the parking in the undercroft area, by reason of the shelter provided, as opposed to the existing open car parking area where the proposed development will be located.

### Conclusion

It is considered that the revised plans and the Acoustic Consultant's Report provided by the applicant on 14 April 2005, addresses the concerns raised by Council and adjoining landowners, identified in the Council report of 23 November 2004 and 17 May 2005.

This conclusion is based on the following:

- The proposed development complies with the setbacks as set out by District Planning Scheme No 2;
- The development would comply with the setback requirements of the Residential Design Codes 2002 if it were a residential building;
- The development would comply with the overshadowing limits of the Residential Design Codes 2002 (for R20 lots) if it were a residential building;
- The commercial development would comply with the threshold limits contained within the threshold limits of the City's Policy 3.1.9 – "Height and Scale of Buildings within a Residential Area", if it was applied to the commercial building;
- The design of the structure complements the existing structure and has maintained a residential style through the inclusion a pitched style roof; and
- The building has been provided with some articulation to the southern façade to provide some relief in relation to building bulk.

The information, which has been provided by the applicant, has specified various means of attenuating the noise, which may be emitted from the undercroft car parking area and the proposed air-conditioning units. The applicant has also provided visual screening of the proposed air-conditioning units and has provided greater setback from the adjoining southern boundary to these air conditioning units. Furthermore, design changes including a recess on the southern façade, has also been provided to alleviate bulk of the structure.

The proposed additions to the existing medical centre has the ability to attenuate some of the noise from the Coles loading dock to two of the adjoining residential properties to the south (23 & 25 Akera Close), which has been an ongoing problem for the City. This proposed addition has been supported by one of the adjoining landowners for this very reason.

It is considered that the revised plans submitted by the appellant have sought to address the major concerns of Council and the adjoining property owners.

Based on the comments made above in relation to the revised plans, the suggested course of action is that the State Administrative Tribunal be advised, that Council supports the revised application subject to conditions.

**ATTACHMENTS**

Attachment 1	Location Plan
Attachment 2	Site plans, floor plans & elevations (original plans and new plans)
Attachment 3	Photographs of the subject site

**VOTING REQUIREMENTS**

Simple Majority

**ADDITIONAL INFORMATION**

The following information was provided for the Council meeting to be held on 19 July 2005:

**PARKING PROVISIONS & AMENDMENTS TO DEVELOPMENT****CAR PARKING REQUIREMENTS**

<b>Use Class</b>	<b>Ratio</b>	<b>Required number of bays</b>	<b>Total</b>
Shopping centre	As per previous Development Approval	240 (as per previous development application)	240
	Chiropractor	3 Additional Bays	3
	<b>Pathology &amp; Physiotherapy</b>	3 Additional Bays	3
Existing medical centre	5 per practitioner 1 per 30m <sup>2</sup>	25 4	29
Office additions to medical centre	1 per 30m <sup>2</sup>	11	11
		<b>Total bays required</b>	<b>286</b>
		<b>Total on site</b>	<b>295</b>

Note: The land use of the proposed office (non retail) extension to the medical centre will be limited to commercial floor space land uses with a car parking requirement of 1 bay per 30m<sup>2</sup> or a change of use development application will be required to be submitted and approved prior to occupancy.

The car parking figures shown above have been based on all parking spaces being available to the general public. The City's District Planning Scheme does not differentiate the requirements of parking for public and staff usage, and as such, the parking requirement for the existing and proposed development is met with the existing number of parking spaces that have been provided on-site. In the Council Report it has been indicated that there will be a shortfall of 25 parking spaces. This "shortfall figure" has been based on those parking spaces within the basement area not being available for the general public. Although this was identified as a shortfall, the overall number of bays on the site complies with the Scheme requirements. To ensure that as many bays are made available to the public as possible, a condition has been recommended that the proposed gate to the undercroft parking area cannot be closed during normal trading hours.

**PROPOSED CHANGES TO DEVELOPMENT**

<b>Proposed Change</b>	<b>Benefit of Change</b>
A recess in the southern façade of the building, totalling an area of 7.46m <sup>2</sup> .  (See “A” on attached plan)	To provide a break in the continual wall, reducing the impact of building bulk.
Provision of a new suspended wall from the underside of the proposed first floor slab, located along the entire northern façade of the proposed extension.  (See “B” on attached plan)	To create an acoustic barrier from the proposed under-croft car parking area.
Air-conditioning condensing units to be located within a roof-well that is cut into the southern rake of the roof pitch.  (See “C” on attached plan)	This is to maximise the distance between the condensing units and the southern residential boundary.
Condensing units are to be mounted to condenser deck via vibration isolation mounts.	Achieves a vibration isolation efficiency of 98%.
Internal faces of roof-well are to be lined with acoustically absorbent medium	To minimise acoustic reflections.
The setback of the air-conditioning units has increased, from 6.0m to 8.939m.  (See “D” on attached plan)	Will facilitate in attenuating noise to the southern residential properties.
Weatherproof louvers to be provided on the eastern, southern and western side of the condenser deck.  (See “E” on attached plan)	So that equipment is not visible to the adjoining residences.
Recommended that the condensing units operate between the hours of 7am – 10pm Monday to Saturday and not before 9am on Sundays (and Public Holidays).	To comply with the requirement of the Environmental Protection (Noise) Regulations.
Provision of an acoustically absorbent medium to the underside of the soffit within the under-croft car parking area.	This will control any “cavern” effect by absorbing sound energy, rather than allowing it to reflect and minimising the noise impact to the adjoining landowners.
The proposed extensions have the potential to reduce noise transmission from the Coles loading dock to some of the residences along Akera Close (especially numbers 23 and 25) to the south of the subject development.  (See “F” on attached plan)	Any noise attenuation from the existing Coles loading dock is seen to a positive step in attenuating noise.

Appendix 10 refers

**MOVED Cmr Clough, SECONDED Cmr Anderson that:**

- 1 The State Administrative Tribunal be advised that Council is prepared to:**
  - (a) support the revised plan submitted by the appellant and received by Council on the 14/04/2005;**
  - (b) agree to a Minute of Consent, granting approval to the revised plans, based on the conditions of approval set out in Part 2 below;**
  
- 2 Council APPROVES the application for Planning Consent dated 23 November 2004, and the changes included in the revised plans received on 14 April 2005, submitted by Paterson Group Architects, on behalf of Shawm Pty Ltd (Owner) & Clifford Stagg (Owner) & David Stagg (Owner) & Nola Stagg (Owner) and three other(s) for an Extension to the Existing Medical Centre for Office Use on Lot 715 (110) Flinders Avenue, Hillarys subject to the following conditions:**
  - (a) The retail net lettable area of the development shall not exceed 3,000 square metres as identified for the Hillarys Shopping Centre in Schedule 3 of the City of Joondalup's District Planning Scheme No 2, to the satisfaction of the Director Planning and Community Development;**
  - (b) Prior to occupation, the submission of a noise emission report demonstrating to the satisfaction of Director Planning and Community Development that the completed development:**
    - (i) Complies with the submitted Acoustic Consultant's Report; and**
    - (ii) Meets the relevant noise standards.**
  - (c) A separate planning application is required to be submitted and approved for the proposed use of the commercial tenancies other than an Office Use;**
  - (d) As marked in RED on the revised plans, the windows to the southern façade, and two windows to the western façade, are to be fixed and obscured to the satisfaction of the Director Planning and Community Development;**
  - (e) One (1) disabled car parking bay located convenient to the building entrance is to be provided to the satisfaction of the Director Planning and Community Development;**
  - (f) The parking bay/s, driveway/s and points of ingress and egress to be designed in accordance with the Australian Standard for Offstreet Carparking (AS2890) unless otherwise specified by this approval. Such areas are to be constructed, sealed, drained, marked and thereafter maintained to the satisfaction of the Director Planning and Community Development prior to the development first being occupied;**
  - (g) The gate to the proposed undercroft parking shall be closed outside the hours of 7am to 10pm Monday to Saturday and 9am to 10pm on Sundays (and Public Holidays). The gate shall remain open during all other normal trading hours for the shopping centre and medical centre/ office to achieve the required minimum number of parking for the site;**

- (h) Any floodlighting being designed in accordance with Australian Standards for the Control of Obtrusive Effects of Outdoor Lighting (AS4282) and shall be where possible, internally directed to not overspill into nearby lots;
- (i) The lodging of detailed landscape plans, to the satisfaction of the Director Planning and Community Development, for the development site with the Building Licence Application;
- (j) Landscaping and reticulation to be established in accordance with the approved plans prior to the development first being occupied and thereafter maintained to the satisfaction of the Director Planning and Community Development;
- (k) Any roof mounted or freestanding plant or equipment, such as air conditioning units, to be located and/or screened so as not to be visible from beyond the boundaries of the development site to the satisfaction of the Director Planning and Community Development;
- (l) Any blank wall of the development, including any retaining walls shall be coated with a non-sacrificial anti-graffiti coating, to the satisfaction of the Director Planning and Community Development;
- (m) The pedestrian pathways, landscaping areas, parking areas and/or associated access ways shall not be used for storage (temporary or permanent) and/or display and/or be obstructed in any way at any time, without the prior approval of the Director Planning and Community Development;
- (n) A separate planning application is required to be submitted and approved for any proposed signage, to the satisfaction of the Director Planning and Community Development;
- (o) An onsite stormwater drainage system with the capacity to contain a 1:100 year storm of a 24-hour duration is to be provided prior to the development first being occupied and thereafter maintained to the satisfaction of the Director Planning and Community Development. The proposed stormwater drainage system is required to be shown on the Building Licence submission and be approved by the City prior to the commencement of construction;
- (p) The submission of a Construction Management Plan at the submission of a Building Licence application stage for the proposal detailing how it is proposed to manage:
  - (i) the delivery of materials and equipment to the site;
  - (ii) the storage of materials and equipment on the site;
  - (iii) the parking arrangements for the contractors and subcontractors;
  - (iv) impact on traffic movement;
  - (v) operation times including delivery of materials; and
  - (vi) other matters likely to impact on the surrounding residents;

to the satisfaction of the Director Planning and Community Development.

**Footnotes:**

- (a) The applicant is advised that this is a Planning Approval only and does not obviate the responsibility of the developer to comply with all relevant building and health requirements.
  - (b) In regard to condition (b), the Noise Emission (Acoustic) Report shall address all installations, activities and processes, giving actual sound level measurements of plant and parking areas both individually and in combination. This report shall include the presence of tonal components, amplitude or frequency modulations or impulses to ensure noise emissions are in compliance with the requirements of the Environmental Protection Act 1986.
  - (c) Prior to the installation of any Mechanical Services, the applicant shall provide a Mechanical Services Plan signed by a suitably qualified Mechanical Services Engineering or Air Conditioning Contractor. It shall certify that the mechanical ventilation of the proposed development complies with and is installed in accordance with Australian Standard 1668.2, AS 3666 and the Health (Air Handling and Water Systems) Regulations 1994.
  - (d) Development shall comply with the Sewerage (Lighting, Ventilation and Construction) Regulations 1971.
  - (e) Applicant/Owner is advised that there is an obligation to design and construct the premises in compliance with the requirements of the Environmental Protection Act 1986.
  - (f) Applicant is to comply with the disability requirements of the Building Code of Australia in relation to the provision of sanitary facilities, access and egress.
  - (g) All internal WCs shall be provided with mechanical exhaust ventilation and flumed to the external air in accordance with the Sewerage (Lighting, Ventilation and Construction) Regulations 1971.
  - (h) Development shall comply with the Health (Air Handling and Water Systems) Regulations 1994.
- 3 Subject to Part 4, the City's Solicitors be authorised to EXECUTE the Minute of Consent Orders consistent with Part 2 of this resolution.
- 4 Council NOTES that the Chief Executive Officer be authorised to act on Council's behalf when finalising the Minute of Consent Orders during the mediation process, including assessing and determining the appropriateness of any modifications to Council's position within the general intent of Parts 1 and 2 that may be requested by the State Administrative Tribunal or the applicant.

Discussion ensued.

The Motion was Put and

CARRIED UNANIMOUSLY (4/0)

*Appendices 8 and 11 refer*

*To access this attachment on electronic document, click here: [Attach 8brf120705.pdf](#)*

*[Attach11min190705.pdf](#)*

## **CJ152 - 07/05 APPOINTMENT OF SENIORS INTERESTS ADVISORY COMMITTEE - [55511]**

**WARD:** All

**RESPONSIBLE DIRECTOR:** Clayton Higham  
Planning and Community Development

CJ050712\_BRF.DOC:ITEM 10

### **PURPOSE**

To seek Council endorsement of the membership nominations for the Seniors Interests Advisory Committee.

### **EXECUTIVE SUMMARY**

The Seniors Interests Advisory Committee is a Council Committee and has been operational since 2001. The Terms of Reference require that existing members stand down and new members are sought through a public call for nominations. The tenure of committee membership is to coincide with Council elections; members are welcome to reapply at the conclusion of each term.

The nomination process has now been undertaken and it is recommended that Council:

- 1 APPOINTS the following persons as representatives on the Seniors Interests Advisory Committee.

Margaret March	Community Member
Joy Coleman	Community Member
Valerie Corey	Community Member
Patricia Geary	Community Member
Allyn Bryant	Association of Independent Retirees
Diane Davies-White	Seniors Recreation Council
Sharleen Mann	Silver Chain
Val O'Toole	Council on the Ageing National Seniors
- 2 SETS a quorum for the Seniors Interest Advisory Committee of four (4) members.
- 3 ENDORSES the revised changes to the Seniors Interests Advisory Committee Terms of Reference forming Attachment 1.

### **BACKGROUND**

At the Council Meeting of 25 September 2001, Council approved to elect an Occasional Seniors Advisory Committee of elected members, community representatives and persons representing groups with seniors as the main focus of their membership. After receiving nominations for this committee, Council approved the establishment of the Strategic Advisory Committee – Seniors Interests at the Council Meeting of 9 October 2001. The initial membership of the committee was established at the Council Meeting of 18 December 2001.



The formation of the 'Strategic Advisory Committee-Seniors Interests' was based on Council: identifying the benefit of receiving advice from seniors who reside in the City of Joondalup, an ageing population and the need for community input into the Seniors Master Plan.

At its meeting of 3 September 2002, Council resolved to remove "Strategic Advisory" from all Council Committees and the committee became known as the 'Seniors Interests Advisory Committee'.

Following the suspension of Council and the appointment of Commissioners in December 2003, membership of the committee was reviewed. At the meeting of 17 February 2004 Council resolved to remove elected members and the Manager Community Development Services from the Seniors Interests Advisory Committee Terms of Reference, and endorsed that a "representative from organisations that provide accommodation for seniors" be added to the membership. When an elected Council is re-established it is envisaged that there will be elected members on the Seniors Interests Advisory Committee. The Terms of Reference for the Seniors Interest Advisory Committee will need to be reviewed to reflect the desires of an elected Council.

#### Terms of Reference-

According to the proposed Terms of Reference, the objectives of the Seniors Interests Advisory Committee are to:

- 3.1 Provide advice to Council to ensure that the concerns of seniors are adequately represented in the City's planning processes and the strategic directions being developed for older people across the City.

The proposed revised Terms of Reference state that membership of the Seniors Interests Advisory Committee comprises of the following:

- 1 Four representatives from commercial or not for profit organisations that provide services to seniors within the City.
- 2 Four members of the community who do not represent any particular group or organisation but whom have an interest in senior's issues.
- 3 That representatives from:
  - Department for Community Development
  - Community Vision Inc
  - An organisation that provides accommodation to seniors

be invited to attend the Seniors Interests Advisory Committee meetings in an advisory capacity.

The Manager Community Development Services and the Community Development Officer both attend the monthly Seniors Interests Advisory Committee meetings. The role of Council officers who attend meetings is to provide secretariat support to the committee.

The work of the Seniors Interests Advisory Committee is guided by the strategies that emerge from the Seniors Action Plan. Strategies from the Seniors Action Plan are brought to the committee and those that are deemed appropriate for attention of the committee are prioritised and listed on the agenda for consideration.

Actions from the Seniors Plan that are considered performance indicators for the Seniors Interests Advisory Committee will be:

- Continue to support initiatives that specifically meet the education and training needs of seniors
- Review all policies that affect seniors
- Conduct regular reviews of the Seniors Plan
- Promote the development of intergenerational activities
- Implement a strategy to help community groups and seniors' organisations increase their capacity to deliver services to seniors
- Work to bring together various aged care service providers with a view to help them inform the City of future residential facilities and services requirements
- Identify the long-term strategic impact of an ageing population on health services
- Increase awareness across the organisation of the specific information needs of seniors

**NB:** The extent to which these issues are considered by the committee will need to be limited to the level that the City of Joondalup can and should be involved.

## DETAILS

When the committee was formed it was deemed appropriate for the membership to comprise of individual seniors from the community, people who worked for organisations and government departments that provided services for seniors, and those who provide accommodation for seniors. The range of representations was intended to ensure that those that advocate for the well being of seniors were contributing alongside the seniors themselves.

The tenure for all current members of the Seniors Interests Advisory Committee concluded at the end of May 2005. Expressions of interest from members of the community and those involved in the provision of services to seniors were sought. An advertisement was placed in the Joondalup Community Newspaper of 26 May 2005, a mail out conducted to seniors' centres, social groups, libraries and leisure centres and posters were placed in areas that seniors are known to have access to.

Nomination packages were sent to individuals or groups who expressed interest in being part of the Seniors Interests Advisory Committee. The nomination packages included a covering letter, nomination form, the Terms of Reference, Office of Seniors Interests Topic Sheet, City of Joondalup Strategic Plan 2003 – 2008 and an addressed, reply-paid envelope to the City of Joondalup.

Eight nominations for membership of the Seniors Interests Advisory Committee were received. Four nominations were from members of the community not representing any particular group and four nominations from representatives of not-for-profit organisations providing services to seniors with the City. The four community member nominations were from:

- **Margaret March** - an existing member who is in contact with several seniors groups and residents of retirement villages. Margaret has concerns about the availability of nursing home places and the costs of recreation services to seniors.
- **Joy Coleman** - a new nomination who has spent 20 years voluntarily working for the community on various committees. Joy is interested in health, safety and fitness for seniors.

- **Valerie Corey** - a new nomination who has worked as a volunteer with the Community Development Officer at a local government authority. Valerie's expertise lies with health issues, communication and how to minimise social isolation for seniors.
- **Patricia Geary** - a new nomination who is currently the vice president of the Kingsley Senior Citizens Club. Patricia has worked as a volunteer for a seniors Community Transport program and has a particular interest in affordable community activities and safety for seniors.

Nominations from representatives of seniors' organisations were received from –

- **Allyn Bryant** - Association of Independent Retirees – Northern Suburbs Branch. Allyn is an existing member and is a Justice of the Peace. Allyn has a wide knowledge of and long involvement with many community organisations and holds life memberships to five community organisations.
- **Diane Davies-White** - Seniors Recreation Council of WA. Diane is an existing member of the committee and is actively involved in physical activity programs for seniors. Diane is also a journalist and had extensive experience organising functions and events for seniors.
- **Sharleen Mann** - Silver Chain Kingsley. Sharleen is a new nomination and has worked for Silver Chain for the past nine years. Sharleen is keen to develop supports that assist seniors to live independently in their own homes.
- **Val O'Toole** - Council of The Ageing (COTA) National Seniors. Val is a new nomination who has strategic planning skills and ten years experience working with government programs for seniors.

Margaret March, Diane Davies White and Allyn Bryant have previously been members of the committee and have re-nominated.

The Terms of Reference for the Seniors Interests Advisory Committee have been changed to represent the following changes as highlighted in attachment one. The changes to the Terms of Reference make the persons representing the community and organisations that provide services to seniors, the members of the committee. The representatives from the Department for Community Development and Community Vision Inc and the organisations representing groups that provide services to seniors as being advisors to the committee. This would preclude them from a voting right, it would also enable the groups to vary the officers attending according to availability and skills and therefore receive greater levels of attendance.

A further change to the Terms of Reference suggested that the objective 3.1 be deleted as Item 3.2 reflects more accurately the role of the Seniors Interests Advisory Committee.

#### **Link to Strategic Plan:**

The Seniors Interests Advisory Committee is linked to the Strategic Plan through the following objectives:

- 1.1.1 By developing, providing and promoting a diverse range of lifelong learning opportunities.
- 1.2 By continuing to provide services that meet the changing needs of a diverse and growing community.

- 1.3 By working with the community to enhance safety and security in a healthy environment.

**Legislation – Statutory Provisions:**

The Seniors Interest Advisory Committee is an official Council Committee and as such the membership needs to be endorsed by Council. The Terms of Reference of the Seniors Interest Advisory Committee require that the tenure of the Committee be for a period of two years and that the two-year period coincide with the election cycle of the elected Council. The receipt of nominations at this time coincides with the timeframe as established within the Terms of Reference.

**Risk Management considerations:**

Not Applicable.

**Financial/Budget Implications:**

Not Applicable.

**Policy implications:**

Not Applicable.

**Regional Significance:**

The Seniors Interest is fundamentally a locally focused working group, established by Council to advocate for the needs of seniors within Joondalup. Whilst locally focused there will be some necessity for the focus of the Committee to broaden to include some consideration of issues on a regional level.

**Sustainability implications:**

The Seniors Interests Advisory Committee enables seniors the opportunity to actively participate and provide input into the development of a healthy and equitable community that considers their needs.

**Consultation:**

Not Applicable.

**COMMENT**

The recommendations to appoint members to the Seniors Interests Advisory Committee for 2005 –2007 are supported by the proposed revised Terms of Reference for the committee.

All of those who expressed interest by nominating for membership of the Seniors Interests Advisory Committee comply with the only criteria for membership in that they are a member of the community who does not represent any particular group or organisation, but whom have an interest in seniors issues; or that they represent a commercial or not-for-profit organisation that provides services to seniors within the City of Joondalup.

Those who have nominated have shown their genuine interest in senior's issues through the process of enquiring about the committee and subsequently lodging an application. The personnel on the new committee will benefit from the continuity of having three former committee members in addition to five new people who bring new ideas, energy and vision.

## **ATTACHMENTS**

Terms of Reference – Seniors Interests Advisory Committee

## **VOTING REQUIREMENTS**

Absolute Majority

**MOVED** Cmr Anderson, **SECONDED** Cmr Clough that Council:

- 1 APPOINTS the following persons as representatives on the Seniors Interests Advisory Committee:**

<b>Margaret March</b>	<b>Community Member</b>
<b>Joy Coleman</b>	<b>Community Member</b>
<b>Valerie Corey</b>	<b>Community Member</b>
<b>Patricia Geary</b>	<b>Community Member</b>
<b>Allyn Bryant</b>	<b>Association of Independent Retirees</b>
<b>Diane Davies-White</b>	<b>Seniors Recreation Council</b>
<b>Sharleen Mann</b>	<b>Silver Chain</b>
<b>Val O'Toole</b>	<b>Council on the Ageing National Seniors</b>

- 2 SETS a quorum for the Seniors Interest Advisory Committee of four (4) members;**
- 3 ENDORSES the revised changes to the Seniors Interests Advisory Committee Terms of Reference forming Attachment 1 to Report CJ152-07/05.**

Cmr Anderson spoke to the Motion and commended those members of the public for nominating to be involved on this committee.

**The Motion was Put and**

**CARRIED BY AN  
ABSOLUTE MAJORITY (4/0)**

*Appendix 9 refers*

*To access this attachment on electronic document, click here: [Attach9agn190705.pdf](#)*

## **REPORT OF THE CHIEF EXECUTIVE OFFICER**

Nil.

## **MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil.

### **DATE OF NEXT MEETING**

The next meeting of the Council has been scheduled for **TUESDAY, 9 AUGUST 2005** to be held in the Council Chamber, Joondalup Civic Centre, Boas Avenue, Joondalup at 12.00 noon.

### **CLOSURE**

There being no further business, the Chairman declared the Meeting closed at 2014 hrs; the following Commissioners being present at that time:

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