

## CITY OF JOONDALUP

**MINUTES OF THE POLICY COMMITTEE MEETING HELD IN CONFERENCE ROOM 1, JOONDALUP CIVIC CENTRE, BOAS AVENUE, JOONDALUP ON TUESDAY 11 APRIL 2006**

### **ATTENDANCE AND APOLOGIES**

CMR J PATERSON - Chairman  
CMR P CLOUGH  
CMR M ANDERSON  
CMR A FOX

#### **Officers:**

Chief Executive Officer:	G HUNT
Director, Corporate Services:	P SCHNEIDER
Director, Planning and Community Development:	C HIGHAM
Director, Infrastructure Services:	D DJULBIC
Director, Governance and Strategy:	I COWIE
Manager Library and Information Services:	R MOORE
Team Leader, Organisational Policy and Planning:	G BLAKE
Committee Clerk:	J HARRISON

### **DECLARATION OF OPENING**

The Chairman declared the meeting open at 2015 hrs.

### **APOLOGIES/LEAVE OF ABSENCE**

Apology – Cmr S Smith

### **CONFIRMATION OF MINUTES**

MINUTES OF THE POLICY COMMITTEE HELD ON 29 NOVEMBER 2005

**MOVED** Cmr Clough **SECONDED** Cmr Anderson that the minutes of the meeting of the Policy Committee held on 29 November 2005 be confirmed as a true and correct record.

**The Motion was Put and**

**CARRIED (4/0)**

**In favour of the motion:** Cmr Paterson, Clough, Fox and Anderson

### **ANNOUNCEMENTS BY THE PRESIDING PERSON WITHOUT DISCUSSION**

Nil

**DECLARATIONS OF INTEREST**

Nil

**IDENTIFICATION OF MATTERS FOR WHICH THE MEETING MAY SIT BEHIND CLOSED DOORS**

Nil

**PETITIONS AND DEPUTATIONS**

Nil

**ITEM 1 COUNCIL POLICIES – [26176, 83573]**

**WARD:** All

**RESPONSIBLE DIRECTOR:** Mr Ian Cowie  
Governance and Strategy

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**PURPOSE**

To provide the Policy Committee with comments from the Sustainability Advisory Committee on the Council Sustainability Policy, and the following Draft Council Policies for consideration:

- Financial Planning – Strategic Matters;
- Economic Development Policy;
- Community Development Policy; and
- Public Participation Policy.

**EXECUTIVE SUMMARY**

All Policies of the Council have been categorised as *Council* or *City* Policies according to the Policy Governance Framework endorsed by the Council on 26 April 2005 (*refer CJO64 – 04/05*).

The Policy Committee has been established to oversee the review and development of Council Policies which are defined in the framework as, *Strategic Policies that set governing principles and guide the direction of the organisation to align with community values and aspirations. These policies have a strategic external focus and align with the Mission, Vision and Strategic Directions.*

The Policy Committee has determined that the following Council Policies are to be drafted in the following order of priority:

- Policy 3-2 – Height and Scale of Buildings within Residential Areas; (Adopted by the Council on 21 February 2006).
- Sustainability;
- Financial Planning – Strategic Matters;
- Economic Development;

- Service provision;
- Community Development;
- Public Participation.

This report provides the Policy Committee with comments from the Sustainability Advisory Committee with regard to the Council Sustainability Policy, and the following Draft Council Policies for consideration:

- Financial Planning – Strategic Matters;
- Economic Development
- Community Development; and
- Public Participation.

The Draft Council Policies on Sustainability, Financial Planning – Strategic Matters, Economic Development, Community Development, and Public Participation have been drafted to address the different values and interests of all stakeholders, whilst establishing a general policy position to ‘provide for the good government of persons in its district’, within the context of local government functions.

The Council Policy on Service Provision is currently being drafted and will be prepared for the next Policy Committee Meeting.

## **BACKGROUND**

Council established a Policy Committee at the meeting of 26 April 2005 (*refer CJO64 – 04/05*). Council endorsed the following terms of reference for the Policy Committee:

- (a) *To make recommendations to Council on the development and review of Strategic (Council) policies to identify the direction of the Council;*
- (b) *To initiate and formulate strategic (Council) policies;*
- (c) *To devise and oversee the method of development (level and manner of community consultation) for the development of strategic (Council) policies;*
- (d) *To review the Council Policy Governance Framework in order to ensure compliance with provisions of the Local Government Act 1995.*

The report to the Council Meeting of 26 April 2005 recommended a new framework for the development and review of policies at the City of Joondalup consisting of two distinct sets of policies:

- 1 *Council Policies* - strategic policies that set governing principles and guide the direction of the organisation to align with community values and aspirations. These policies have a strategic external focus and align with the Mission, Vision and Strategic Directions.
- 2 *City Policies* - policies that are developed for administrative and operational imperatives and have an internal focus.

The Policy Framework was endorsed by the Council and in accordance with that framework, Council policies are to be developed and reviewed by the Policy Committee and may be subject to community consultation processes in recognition of the community leadership role Council has in guiding the formation and development of the City, and in representing the values and interests of the broader community.

City policies will be drafted for consideration of the Council and these policies will still require Council endorsement however this will occur as part of the normal Council meeting cycle. Council may direct that some or all City Policies be advertised for public comment prior to endorsement. In the case of Local Planning Policies it is a statutory requirement that draft

policies are to be advertised, and that public submissions are to be considered prior to adoption of the policy.

In order to progress the Policy Framework and to facilitate the work of the Policy Committee in the development and review of Council Policies a detailed review of the Policy Manual was undertaken and a number of changes were made to those policies categorised as City Policies. The Council endorsed the revised Policy Manual on 11 October 2005 (*refer CJ206-10/05*).

Council Policies, other than their categorisation, were not reviewed, but were referred, by the Council, to the Policy Committee for review and further development.

Sections 3.1 and 3.2 – matters relating to development, many of which are subsidiary policies developed under the District Planning Scheme (DPS2) were excluded from the Review as they require a specific review process; (These local planning policies are currently being reviewed as a separate exercise in accordance with the provisions of the DPS2 and a separate report/s will be provided to Council following that review).

The Council endorsed the following policies as Council Policies:

- 1-1 Leisure
- 1-2 Public Participation
- 2-1 Environmental Sustainability
- 3-1 Child Care Centres
- 3-2 Height and Scale of Buildings within Residential Areas
- 3-3 Centres Strategy
- 4-1 Code of Conduct
- 4-2 Setting Fees and Charges

The Council further identified the following gaps in Council Policies for consideration by the Policy Committee:

- Financial Planning – Strategic Matters
- Economic Development
- Service Delivery (range/scope/role)
- Community Development; (include leisure, cultural development etc)

On 18 October 2005 the Policy Committee determined:

- 1 That the following Council Policies are to be drafted in the following order of priority:
  - (a) Policy 3-2 – Height and Scale of Buildings within Residential Areas;
  - (b) Sustainability;
  - (c) Financial Planning – Strategic Matters;
  - (d) Economic Development;
  - (e) Service provision;
  - (f) Community Development;
  - (g) Public Participation.
  
- 2 A draft policy be presented to the Policy Committee on Policy 3-2 – Height and Scale of Buildings within Residential Areas that includes coastal areas and is based on the expectation that full public participation is undertaken.

At the meeting of 29 November 2005 the Policy Committee considered a report on a proposed amendment to the DPS2 to include provision in regard to the height of developments in non residential zones adjacent to the coast. The Policy Committee referred the proposed amendment to the Joondalup DPS2 to the Council for the purpose of public advertising, and the Draft Local Planning Policy (Interim) for adoption and public advertising.

At the meeting of December 2005 the Council endorsed the Draft Local Planning Policy for public advertising for a period of 28 days. At the Council Meeting of 21 February the Council considered the public submissions received (275) and adopted Policy 3-4 Height of Buildings within Coastal Area (Non-Residential).

The Policy Committee also considered Draft Council and City Sustainability Policies on 29 November 2005 and recommended that the Council:

- 1 REFERS the Draft Council Policy on Sustainability to the Sustainability Advisory Committee for review and comment; and
- 2 ADOPTS the City Policy on Sustainability and refers it to the Sustainability Advisory Committee for information.

At its meeting of 13 December 2005 (*refer CJ 269 – 12/05*) the Council adopted the City Sustainability Policy, and referred the Council Sustainability Policy to the Sustainability Advisory Committee for review and comment, and the City Sustainability Policy for noting.

The Sustainability Advisory Committee met on 19 January and received a report on the Sustainability Policies. The Sustainability Advisory Committee recommended changes to the Council Sustainability Policy that were referred to the Council.

At the Council meeting on 21 February 2006 the Council resolved to refer the comments from the Sustainability Advisory Committee, in relation to the Council Sustainability Policy, to the next meeting of the Policy Committee. The comments from the Sustainability Advisory Committee are shown as Attachment 1 to this Report.

## **DETAILS**

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

The Sustainability Advisory Committee received a report on the Draft Council Sustainability Policy and the adopted City Sustainability Policy on 19 January 2006. The Sustainability Advisory Committee recommended that the Council:

- 1 ADOPTS the Council Sustainability Policy as outlined in the attached document;
- 2 CONSIDERS changing the titles of the City and Council policy documents to Council Strategic Policy and City Operational Policy.

Council, at the meeting of 21 February referred the comments from the Sustainability Advisory Committee to the Policy Committee for consideration. The suggested revisions to the Council Sustainability Policy are shown as *Attachment 1* to this report.

The Draft Council Policies on Financial Planning – Strategic Matters, Economic Development, Community Development, and Public Participation have been developed in accordance with the Council Policy Framework, and describe the principles and key roles that will guide Council in its decision-making. The Draft Policies are deliberately strategic and outcome focussed and, in line with the endorsed Policy Framework, are descriptive rather than prescriptive.

The Draft Council Policies are a statement of the general position of the Council in relation to Strategic Financial Planning, Economic Development, Community Development and Public Participation, and have been drafted taking account of the political, organisational and wider context in which the City of Joondalup operates.

The Policies also reinforce the commitment of the Council to sustainability through the inclusion of a sustainability statement addressing how each Policy contributes to the integration of social, environmental, economic, and effective governance matters.

The Draft Council Policies have been developed taking account of the following:

- Desired Policy outcomes;
- Most effective outputs for achieving these outcomes;
- Key stakeholders;
- Needs and views of those the Policy seeks to influence and/or affect;
- Available evidence;
- Risks associated with the Policies and how such risks can be managed; and
- Impact of the Policies on the environment, economy, and community.

The Public Participation Policy 1–2 is an existing Council Policy. This Policy was subject to extensive community consultation in 2004 and the Policy has not been altered. A Sustainability Statement has, however, been included in the Policy in accordance with the new Council Policy format.

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

This item has a general connection to the Strategic Plan.

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

Section 1.3 (2) states that the Act is intended to result in:

- (a) Better decision-making by local government
- (b) Greater community participation in the decisions and affairs of local governments
- (c) Greater accountability of local governments to their communities; and
- (d) More efficient and effective local government.

The degree to which this is achieved is dependant on the processes and practices for planning, and policy development.

Part 3 of the Act outlines the functions of local governments:

Section 3.1 - A *general function* to provide for good government

Section 3.4 - A *legislative function* to make local laws, and

Section 3.18 - An *executive function* to provide services and facilities.

The separation of powers and duties in relation to the Council and the Chief Executive Officers as detailed in the Local Government Act 1995 are:

## Section 2.7:

The role of the Council is to:

- (a) Direct and control the local government's affairs;
- (b) Be responsible for the performance of the local government's functions;
- (c) Oversee the allocation of the local government's finances and resources; and
- (d) Determine the local governments policies.

## Section 5.41:

The CEO's functions are to —

- (a) advise the council in relation to the functions of a local government under this Act and other written laws;
- (b) ensure that advice and information is available to the council so that informed decisions can be made;
- (c) cause council decisions to be implemented;
- (d) manage the day-to-day operations of the local government;
- (e) liaise with the mayor or president on the local government's affairs and the performance of the local government's functions;
- (f) speak on behalf of the local government if the mayor or president agrees;
- (g) be responsible for the employment, management supervision, direction and dismissal of other employees (subject to section 5.37(2) in relation to senior employees);
- (h) ensure that records and documents of the local government are properly kept for the purposes of this Act and any other written law; and
- (i) perform any other function specified or delegated by the local government or imposed under this Act or any other written law as a function to be performed by the CEO.

The Local Government Act amendments of 2004-05 require that local government consider sustainability as a core component of its decision making function.

Section 1.3 states:

*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*

### **Risk Management considerations:**

Policy development is central to good governance. Good governance is about formalising and making clear and consistent the decision-making processes in the organisation. The framework proposed in this report will help facilitate decision-making and appropriate delegation of accountability and responsibility within and outside the organisation and ensure that the varying needs of the stakeholders are appropriately balanced; that decisions are made in a rational, informed and transparent fashion; and that those decisions contribute to the overall efficiency and effectiveness of the organisation.

Local Government operates under State legislation and Council is responsible for controlling the functions of the local government through its decision-making and policy development role.

The distinction between policy matters and procedural matters is central to the role of Council and the role of the CEO, and to the administration of local government. The new Policy Framework makes a clear distinction between policy development (Council role) and the implementation of Council decisions (CEO role).

**Policy implications:**

The report provides Draft Council Policies on:

- Sustainability
- Financial Planning – Strategic Matters
- Economic Development
- Community Development, and
- Public Participation

**Regional Significance:**

The development of all Council Policies requires consideration of any regional issues. For example, sustainability and economic development initiatives will often require regional approaches and, therefore, collaboration with other local governments in the region.

**Sustainability implications:**

The review and development of policies will align with the strategic directions established by Council and outlined in the Strategic Plan 2003 – 2008. Council's vision is to be '*A sustainable City and community that are recognised as innovative, unique and diverse*'. The Strategic Plan determines the long-term orientation of the Council and was developed in consultation with the community. The Plan was designed to reflect the themes of economic, social and environmental sustainability as well as good governance.

Council Policies support the achievement of the Strategic Plan and state Council's position on a number of strategic issues and how social, environmental, economic, and governance issues are integrated into such policy positions.

The Policy Framework endorsed by the Council will deliver Council Policies that are forward looking, outcome focused, and are robust (ie. Are not developed to simply react to short-term pressures).

**Consultation:**

One of the most important roles Council has is to participate in making policy decisions on behalf of the community. An essential part of policy making is identifying community needs, setting objectives to meet those needs, establishing priorities between competing demands and allocating resources.

The City of Joondalup values effective consultation in developing a positive relationship with its community; recognising that community input can assist in policy and decision making processes. Council also recognises the right of the community to be informed and influence decisions that affect their lives. As a result of this commitment Council has endorsed a Policy Framework that supports Council (major) policies being devised in consultation with the community.

The framework is intended to ensure that Council is in touch with the community and that the major policy decisions accurately reflect the views and aspirations of the community.



## COMMENT

The Draft Council Policies on Sustainability, Financial Planning – Strategic Matters, Economic Development, Community Development, and Public Participation have been drafted to address the different values and interests of all stakeholders, whilst establishing a general policy position to ‘provide for the good government of persons in its district’, within the context of local government functions.

The Policy Framework endorsed by the Council has set in place a number of requirements for the development of Council Policies, those being:

- Forward Looking – Council Policies are required to take a long term view and to make informed predictions of the likely impact of each policy;
- Outward Looking – Council Policies are required to take account of factors in the local, regional and global sphere;
- Using Evidence – Council Policies, in their development, are required to consider available evidence from a wide range of sources, and to involve key stakeholders;
- Inclusive – Council Policies need to take account of the impact on the needs of all who are directly (and indirectly) affected by the Policies;
- Continuous Improvement and Reviews – Council Policies are regularly evaluated and reviewed to ensure that they are addressing the issue they were intended to.

The Sustainability Advisory Committee’s suggested amendments are provided to the Policy Committee for consideration, and in order to inform the final Council Sustainability Policy for the Council to review. The suggested amendments are not supported, as they do not take account of legislative and other constraints that, from time to time, will impact on Council decisions in relation to sustainability matters.

In particular, the proposed changes of the SAC Committee delete reference to the intent of the Policy that it is not intended to be immediately implemented, and that a transition period is needed. The proposed amendments by SAC instead indicate that actions should be put in place immediately. Based on the current situation of the City, a transition period is necessary to provide time for the organisation to enact, in a considered manner, changes to policies and strategies and the culture of the organisation, to support sustainability.

The Draft Council Policies on Financial Planning – Strategic Matters, Economic Development, Community Development, and Public Participation have been developed for the Policy Committee to review, and to recommend the manner and level of community consultation in relation to the policies. The community consultation will ensure that community viewpoints and values (often conflicting) are heard, considered, weighed, and balanced in the development of the Council Policies.

The development of effective Council (Strategic) Policies relies on the Policy Framework and process endorsed by the Council, as well as decision making by the Council after taking account of community and stakeholder views. The community will value the opportunity to participate in the development of Council Policies, and to have the opportunity to influence the outcome. Equally, the community and stakeholders will expect the Council to consider and analyse all views, and then to establish the Council’s Policy positions.

## ATTACHMENTS

- Attachment 1: Draft Council Sustainability Policy – showing suggested amendments from Sustainability Advisory Committee
- Attachment 2: Draft Council Sustainability Policy – drafted by the Policy Committee
- Attachment 3: Draft Council Financial Planning – Strategic Matters Policy
- Attachment 4: Draft Council Economic Development Policy
- Attachment 5: Draft Council Community Development Policy
- Attachment 6: Draft Council Public Participation Policy

## VOTING REQUIREMENTS

Simple Majority

## OFFICER'S RECOMMENDATION

That the Policy Committee:

- 1 REFERS the Draft Sustainability Policy shown as Attachment 2 to this report to the Council for adoption;
- 2 REFERS the following Policies as attached to this Report to Council and RECOMMENDS that they be advertised for public comment for a 30 day period:
  - Financial Planning – Strategic Matters - Attachment 3 refers;
  - Economic Development - Attachment 4 refers;
  - Community Development - Attachment 5 refers, and
  - Public Participation - Attachment 6 refers.

## **MOVED Cmr Clough SECONDED Cmr Anderson that the Policy Committee:**

- 1 **REFERS the Draft Sustainability Policy shown as Attachment 2 to this report, to the Council for adoption, subject to the following amendments:**
  - **Page 2, Point 3 to read: “ ..... (effective, ethical leadership ....”**
  - **Rewording of Statement of Intent, with consideration being given to deletion of paragraph 2 as this may be superfluous.**
  - **Amendment to the “interconnecting principles” on Page 2 to include the suggested wording raised by the Sustainability Advisory Committee shown on Attachment 1 to this Report, with further consideration to be given to Dot Point 3 that reads “Risk avoidance in accordance with the precautionary principle”.**
  - **Page 2, Heading to be amended to read “Sustainability Statement”.**

- 2 REFERS the following Policies to Council and RECOMMENDS that they be advertised for public comment for a 30 day period:**
- (a) Financial Planning – Strategic Matters, as shown on Attachment 3, subject to the following amendment:**
    - Page 1, 4<sup>th</sup> dot point be amended to read: “Provision of accurate and timely disclosure of strategic financial information”.
  - (b) Economic Development, as shown on Attachment 4, subject to the following amendments:**
    - Policy to Include reference to the community.
    - Page 2, Heading to be amended to read “Sustainability Statement”.
  - (c) Community Development, as shown on Attachment 5, subject to the following amendment:**
    - Page 2, Heading to be amended to read “Sustainability Statement”.
  - (d) Public Participation, as shown on Attachment 6, subject to the following amendment:**
    - Policy to be reworded to support sustainability by giving greater ownership of Council decisions to the community;
    - Page 2, Heading to be amended to read “Sustainability Statement”.

**The Motion was Put and**

**CARRIED (4/0)**

**In favour of the motion:** Cmr Paterson, Clough, Fox and Anderson

## **ITEM 2 POLICY FOR REQUESTS FOR SALE OF PUBLIC OPEN SPACE RESERVES – [89391]**

**WARD:** All

**RESPONSIBLE** Mr Clayton Higham

**DIRECTOR:** Planning and Community Development

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### **PURPOSE**

For the Policy Committee to consider a policy to provide guidance for assessment of requests to purchase portions of public recreation reserves or public open space (POS) within the City of Joondalup.

### **EXECUTIVE SUMMARY**

The Council recently considered two requests by residents to purchase portions of two separate POS reserves. In both instances the landowners concerned sought Council support to purchase part of the existing POS reserve adjacent to their landholding with a view to amalgamate the land into their property.

In considering these items, Council resolved to:

*“Refer the issue of the sale of public open space to the Policy Committee with a request that the Committee considers whether a Council policy should be developed around this issue” (Resolution 3 of CJ203 – 09/05).*

In 2001 a policy entitled “Preservation of Public Reserves” was prepared. Council resolved to advertise the proposal for the purpose of advertising. This policy dealt with procedures for assessing requests for excisions of reserves. However due to public concerns regarding the policy, it was never endorsed by Council.

It is considered appropriate that a policy be adopted to guide assessment of future requests for the purchase of POS. It is therefore recommended that:

*The Policy Committee recommends to the Council that in accordance with Clause 8.11 of the City of Joondalup District Planning Scheme No 2, ADOPTS the draft policy entitled ‘Requests for Sale of Public Open Space’ forming Attachment 2 to report CJ\*\* and makes the policy available for public comment for a period of 21 days.*

### **BACKGROUND**

Council has considered various requests for excisions of portions of POS reserves where adjacent landowners have sought to amalgamate the land into their landholding.

In September 2005 (Item CJ203 – 09/05 refers), the Council considered a request for sale of portion of a POS reserve to an adjoining landowner. Part 3 of the resolution was that the issue of the sale of public open space be referred to the Policy Committee with a request that the Committee considers whether a Council policy should be developed around this issue.

In the last 3 years, the Council has considered a number of requests for sale of portion of POS reserves to adjoining neighbours. A summary of the Council decisions regarding such requests is detailed below:

- In September 2005 (Item CJ203 – 09/05 refers), Council considered and did not support a request by a private landowner seeking to excise 227m<sup>2</sup> of Castlecrag Park to be amalgamated with the applicant's adjoining residential property.
- In August 2005 (Item CJ180 – 08/05 refers), Council considered and did not support a request by a private landowner, seeking to excise 57m<sup>2</sup> of Cumberland Park to be amalgamated with the applicant's adjoining residential property.
- In November 2003 (Item CJ260 – 11/03 refers), Council considered and did not support a request by a private landowner, seeking to excise 53m<sup>2</sup> of Hawick Park to be amalgamated with the applicant's adjoining residential property.

In all of the above cases, the Council did not support the requests with the primary reason being that the loss of public open space was not considered to be in the best interests of the community, or orderly and proper planning.

A draft policy "Preservation of Public Reserves" was considered by Council in November 2001 (Item CJ400 – 11/01 refers) whereby it was resolved to adopt the draft policy and make it available for public comment. The policy that was developed outlined procedures for dealing with requests for excisions and/or cancellations of any reserve within the City. The policy was predominantly aimed at procedures for assessing and dealing with requests for excisions of reserves for club rooms for sporting groups, Western Power substations and to a lesser degree the requests by residents for minor excisions of POS to amalgamate into their landholding. A copy of the draft policy is provided in Attachment 1. The policy was advertised for 21 days, with the time period for submissions being extended for a further 21 days. A total of 14 submissions were received as well as 42 proforma letters. Thirteen (13) of the submissions requested modifications to the draft policy as advertised. In addition, an information session was held for residents to attend. The policy was not adopted due to the community concerns regarding the policy and its potential link to the precinct planning process.

## **DETAILS**

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

From time to time, Council receives requests from ratepayers seeking to purchase portion of a POS reserve for which the Management Order has been granted to the City of Joondalup. The majority of the requests are for minor excisions of a POS reserve whereby it is proposed to amalgamate the land into the adjoining residential lot. In the majority of the cases such requests are for the benefit of the applicant (who seeks to have the land amalgamated into their title) and in those cases there is usually little or no benefit to the community at large.

In considering such requests for excisions or cancellations of reserves, the Council has the ability to not support such requests or if they believe that there is merit in the proposal they can resolve to initiate advertising seeking public comment on the proposal to dispose portion of the reserve.

In regard to assessment of such requests, the Council could:

- (a) continue to consider each request for excisions from POS reserves on the merits of the individual case;
- (b) give further consideration to the draft policy "Preservation of Public Reserves" that was advertised in 2001/02 with modifications based upon concerns expressed in the submissions; or

- (c) adopt a new policy specifically relating to the sale of POS reserves to adjoining properties.

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

The following objective and strategy in the City's Strategic Plan 2003 – 2008 is applicable to this report:

Objective 3.1 To develop and maintain the City of Joondalup's assets and built environment.

Strategy 3.1.3 Create and maintain parklands that incorporate nature and cultural activities accessible to residents and visitors.

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

#### Reserves

A reserve is the setting aside of Crown Land for a specific purpose, generally a public purpose. Under Section 41 of the Land Administration Act 1997 (LAA), the Minister for Lands may set aside Crown Land by a Ministerial Order in the public interest. The majority of the requests received relate to POS reserves that are given up by a developer when land is subdivided and set aside under Section 20A of the Town Planning and Development Act as a reserve for "Public Recreation". The POS land ceded under Section 20A of the Town Planning and Development Act is subsequently clearly identified as a reserve for "Public Recreation".

Once created, a reserve is placed under the care, control and management of a State Government department, Local Government or incorporated community group by way of a Management Order. A Management Order under the LAA does not convey ownership of the land, however it does allow as much control as is essential for the management of the land.

In regard to a request to excise portion of a reserve, if the Council resolves to not support the request, the matter does not proceed. If the excision/cancellation or closure of the reserve is supported, Council makes a recommendation to the Department for Planning and Infrastructure (formerly Department of Land Administration), who is the determining authority.

The provisions of the Department for Planning & Infrastructure (DPI) guidelines to dispose of S.20A reserves state that "there are strong moral considerations which underlie the State's policy on ensuring a high level of protection for reserves created under Section 20A of the Town Planning Development Act." The guidelines go on to state that a "necessity or desirability of a high order is to be established before a proposal affecting a Section 20A reserve may be approved." The guidelines outline that where the reserve is to be substantially reduced, the proposal must be sign posted indicating the intended change, advertised in a local newspaper and letters sent to nearby landowners.

#### District Planning Scheme No 2

Clause 8.11 of District Planning Scheme No. 2 relates to local planning policies. Clause 8.11.3 outlines the procedures for making and amending a local planning policy. A policy once adopted by Council is required to be advertised for a minimum of 21 days with a notice to be placed in the local paper for 2 consecutive weeks.

**Risk Management considerations:**

If the Council did not adopt a policy regarding this matter, there is a risk that decisions could be made on an ad hoc basis.

**Financial/Budget Implications:**

DPI guidelines to dispose of S.20A reserves (POS) state when the disposal of a reserve is supported, the funds received from the sale of the land must be used to fund the purchase of replacement recreation land or to undertake capital improvements to other recreation reserves in the general locality.

**Policy implications:**

In the event that the Council resolved to not adopt a policy regarding this matter, the Council can use the Department for Planning & Infrastructure guidelines for assessment.

The aim of Council's Policy 6-1 (Reserves, Parks and Recreation Grounds) is to provide a variety of POS that fulfil the community's recreational and environmental needs.

**Regional Significance:**

POS reserves are created and made accessible for the use of the community for recreational activity, passive or active and provide for visual relief in the built environment. The principle of retaining such reserves for the community is of significance.

**Sustainability implications:**

By ensuring that public open space reserves are retained in full and such requests for minor excisions are not supported, it will maximise environmental sustainability. In assessing such requests, due consideration should be given to retention of existing natural bush land and acknowledgement that POS reserves also provide visual relief in addition to passive and active recreation areas.

**Consultation:**

Any draft Local Planning Policy is required to be advertised for a period of a minimum of twenty one (21) days, with a notice placed in the paper for two (2) consecutive weeks, being in accordance with Clause 8.11.3 of the Scheme.

**COMMENT**

The draft policy entitled "Preservation of Public Reserves" (Attachment 1) as advertised in 2001/02 was more focussed on requests by sporting groups and other parties to excise portion of a reserve for a club room, a Western Power substation or other similar requests. The policy did not clearly relate to requests by adjoining landowners seeking to excise portion of a POS reserve to include in their land holding. It is considered that this policy did not clearly address the matter raised by Council in September 2005 and on these grounds it is recommended that this policy not proceed. A new succinct policy regarding the requests for sale of portions of POS reserves could provide guidance to the Council and also address some of the concerns raised by those who lodged submissions on the "Preservation of Public Reserves" policy as advertised in 2001/02.

The Council has dealt with requests for minor excisions to POS on a number of occasions. As detailed in the Department for Planning & Infrastructure *Guidelines for the Administration of Section 20A "Public Recreation" Reserves* a necessity or desirability of a high order is to be established before a proposal affecting a Section 20A reserve may be approved. The Council could continue to deal with requests for minor excisions of POS reserves, giving due consideration to this state government guideline. However a policy could assist the Council by providing a degree of delegation and clear guidance for advertising and assessment. In order to ensure consistency of decisions with due consideration of the state government guidelines, it is recommended that a policy be adopted regarding this matter.

### Draft Policy

In regard to the policy aims, these are considered to be to encourage the preservation of POS reserves where they provide a benefit to the community, with due consideration being given to the current and future needs of the community, as well as environmental matters.

The draft policy outlines that if the request for the excision of portion of the POS reserve does not provide a benefit to the community at large, that delegation be given to the Manager Approvals, Planning & Environmental Services to determine that the request not be supported. The power to cancel, change or amend a reserve rests with the Minister for Planning & Infrastructure under section 51 of the Land Administration Act 1997. However, the decision to not proceed with such a request rests with the Local Government. The decision not to proceed is proposed to be implemented via a local planning policy and therefore the introduction of such delegation to the Manager Approvals, Planning & Environmental Services would require a modification to the town planning delegations.

The draft policy also provides requirements for advertising for those requests where it is considered that the proposal has potential merit and benefit to the community. Such requests are to be advertised for 30 days with signs on site, notice in the local paper, liaison with identified local community and interest groups and letters written to nearby landowners. Upon completion of the advertising, the matter is to be presented to Council for determination.

It is considered that the draft policy will provide for consistency in dealing with proposals for minor excisions to POS and it will also enable efficient processing of those requests that clearly do not provide a benefit to the community. Accordingly it is recommended that the policy as provided in Attachment 2 be referred to Council with a recommendation that it be adopted for the purposes of public advertising.

## **ATTACHMENTS**

Attachment 1 Draft Preservation of Public Reserves policy as advertised in 2001/02

Attachment 2 Proposed new policy: Requests for Sale of Public Open Space Reserves

## **VOTING REQUIREMENTS**

Simple Majority

## **OFFICER'S RECOMMENDATION**

That the Policy Committee RECOMMENDS that, in accordance with Clause 8.11 of the City of Joondalup District Planning Scheme No 2, Council ADOPTS the draft policy entitled 'Requests for Sale of Public Open Space Reserves' forming Attachment 2 to this Report and makes the policy available for public comment for a period of twenty one (21) days.



**MOVED Cmr Fox SECONDED Cmr Anderson that the Policy Committee RECOMMENDS that, in accordance with Clause 8.11 of the City of Joondalup District Planning Scheme No 2, Council ADOPTS the draft policy entitled 'Requests for Sale of Public Open Space Reserves' forming Attachment 2 to this Report and makes the policy available for public comment for a period of 30 (thirty) days, subject to the following amendments:**

➤ **Point 1(a) to be punctuated as follows:**

**(a) To preserve land reserved for public recreation, being public open space (POS), where it provides a benefit to the community.**

➤ **Point 1(b) to be amended to read: "... for excision or sale of POS."**

**The Motion was Put and**

**CARRIED (4/0)**

**In favour of the motion:** Cmr Paterson, Clough, Fox and Anderson

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

Nil.

#### **REQUESTS FOR REPORTS FOR FUTURE CONSIDERATION**

Nil.

#### **CLOSURE**

There being no further business, the Chairman declared the Meeting closed at 2024 hrs; the following Commissioners being present at that time:

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

**Item 2**

Report recommendation should be 30 days advertising.

Changes to policy

comma in 1(a)

1(b) to read “requests for excisions or sale of POS.

**Item 1****Sustainability policy**

Ethical to be included – 3 effective, ethical leadership ....

Reword Statement of Intent as paragraph 2 may be superfluous

Give consideration to Policy Statement to include issues raised by SAC

Heading to read “Sustainability Statement”

**Financial Planning – Strategic Matters**

Amend to read “Provision of accurate and timely disclosure of strategic financial information”

**Economic Development**

Include reference to community and society

Heading to read “Sustainability Statement”

**Community Development**

Heading to read “Sustainability Statement”

**Public Participation**

Include comment about ‘community owning the solution’ raised by Cmr Fox

Heading to read “Sustainability Statement”