

minutes

MEETING HELD ON **TUESDAY, 19 APRIL 2011**

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CITY OF JOONDALUP

MINUTES OF COUNCIL MEETING HELD IN THE COUNCIL CHAMBER, JOONDALUP CIVIC CENTRE, BOAS AVENUE, JOONDALUP ON TUESDAY, 19 APRIL 2011

DECLARATION OF OPENING

The Mayor declared the meeting open at 7.00 pm.

ANNOUNCEMENT OF VISITORS

Mayor:

TROY PICKARD

Councillors

Cr KERRY HOLLYWOOD	North Ward	
Cr TOM McLEAN	North Ward	<i>Absent from 7.44 pm to 7.46 pm</i>
Cr PHILIPPA TAYLOR	North-Central Ward	
Cr LIAM GOBBERT	Central Ward	
Cr GEOFF AMPHLETT, JP	Central Ward – <i>Deputy Mayor</i>	<i>Absent from 8.21 pm to 8.22 pm</i>
Cr CHRISTINE HAMILTON-PRIME	South-West Ward	
Cr MIKE NORMAN	South-West Ward	
Cr JOHN CHESTER	South-East Ward	<i>Absent from 7.47 pm to 7.49 pm</i>
Cr BRIAN CORR	South-East Ward	
Cr RUSS FISHWICK	South Ward	
Cr FIONA DIAZ	South Ward	

Officers:

MR GARRY HUNT	Chief Executive Officer
MS DALE PAGE	Director Planning and Development
MR JAMIE PARRY	Director Governance and Strategy
MR MIKE TIDY	Director Corporate Services
MR MARTYN GLOVER	Director Infrastructure Services
MS MICHELLE NOBLE	Manager Governance and Marketing
MR MARK McCRORY	Media Advisor
MR TIM HEGNEY	Governance Coordinator
MRS LESLEY TAYLOR	Governance Officer

There were 11 members of the public and one member of the press in attendance.

PUBLIC QUESTION TIME

The following questions were submitted prior to the Council meeting:

Mr M Baird, Duncraig:

Re: Reserves, Parks and Recreation Grounds Policy

Q1 Regarding reticulation of parks and reserves - Can the Council make public the makeup of the three 'catchment allocations' and the rationale for their groupings and water allocations?

A1 The City's three ground water licences (GWLs) for water extraction, issued by the State Government's Department of Water are as follows:

GWL Number	Licence Issued	Total Area Covered
155510	January 2008	38 hectares
155515	April 2008	254 hectares
155582	August 2006	257 hectares

The individual GWL allocations were calculated by multiplying the irrigated area by the nominal rate of 7,500kL/ha. The three GWL cover a total of 549 hectares, and entitle the City to draw a total of 4,117,550 kL per annum. In terms of the licence conditions, the City can transfer water within a single licence but cannot transfer across licences.

Q2 Why are some parks of equal status, being treated as second-class, with no seeding, spraying, top-dressing and the like?

A2 Maintenance activities undertaken within the City's parks vary considerably depending on a variety of factors including location, topography, size, soil types, irrigation water quality, infrastructure, the presence of sporting facilities and public utilisation rates. Taking these factors into consideration, the City undertakes appropriate maintenance activities within the capacity of its allocated resources.

Q3 Will the detail of the Parks Management Plan, both 'generic' and 'individual' be made available to the public, now that the public is becoming aware of the detrimental effects to some local parks?

A3 The City's Landscape Master Plan (LMP) 2009 - 2019 outlines the strategic direction to manage the City's Created Public Open Space, Verges, and Medians. The framework provides for a generic Parks Management Plan which includes classification and prioritisation tools, a plant species list, a data base and Project Management Templates. The framework also includes the development of individual landscaping plans. The LMP is available to the public on the City's website.

Q4 *Has even one individual management plan for a park, as set out in the skeletal Reserves Parks and Recreation Grounds Policy, ever been drawn up in consultation with the community?*

A4 Emerald Park was the first park to have an individual landscaping plan developed and implemented. This included upgrading of the existing reticulation system, mulching around tree groves, the installation of footpaths and the implementation of hydrozoning and ecozoning principles. The outcome of these works is increased water efficiency which has resulted in significant water reductions for this park.

Individual landscaping plans have also been developed for Ellersdale and Marri Parks, with works currently in progress and due for completion during 2011. In addition to this, an individual landscape plan is presently being developed for Kingsley Park and is proposed to be implemented during the 2011/12 financial year.

Q5 *Why hasn't the community been consulted in the drawing up of management plans for individual parks?*

A5 The process for the development of individual landscaping plans for Parks includes both community information and consultation processes.

Mr R Repke, Kallaroo:

Re: Planning Applications

Q1 *Could you please let me know where the restriction [on applications being argued on planning merits only] finds its definition in the legal framework?*

A1 Mayor Pickard advised this question would be taken on notice.

Mr R Repke, Kallaroo:

Re: Large scale breeding of mice and rats

Q1 *Are you in favour or not, as I cannot, after reading the paper 4 times, find out which way the recommendation goes?*

A1 The proposal before Council is to prevent large scale breeding of rats and mice.

Q2 *If the Administration is in favour:*

- 1. why do we want to have such a business in Ocean Reef?*
- 2. large scale means how many animals are there?*
- 3. how many animals will be killed per year?*
- 4. how are they killed?*
- 5. what happens to the dead animals?*
- 6. has the plan been checked with the RSPCA?*

A2 Refer to Answer 1.

Mr M Sideris, Mullaloo:

- Q1** *Does the City's Insurance cover storm damage to the infrastructure under its management, such as storm damage to the Mullaloo Surf Club and Hall?*
- A1** Yes. The City's Insurance covers storm damage to the infrastructure under its management, subject to the terms of the policy.
- Re:** *CJ054-04/11 – Proposed Alfresco Activities Extension at Lot 100 (10) Oceanside Promenade*
- Q2** *Advise if the SAT approves the application to amend the alfresco activity at Lot 100, will the City of Joondalup, as the local government authority, have any legal liability obligations in the event that an accident or injury occurs where cause is a direct result of the proposed alfresco activity?*
- A2** Mayor Pickard advised this question would be taken on notice.
- Q3** *Advise if the development application for alfresco activities and stated in the CJ054-04/11 as being approved for the subject site in May 2010, originally consisted 'of four tables and 16 seats imposed' or included a larger alfresco seated component which was then?*
- A3** The development application approved in May 2010 was for four tables and 16 seats.
- Q4** *If the answer to Q3 is the original application consisted of seated component that was greater than the approved four tables, advise why this original non conforming application was not referred to Council for consideration?*
- A4** Refer to Answer 3.
- Q5** *Since the alfresco was operating prior to May 2010 did the application require retrospective approval?*
- A5** The application was received on 23 November 2009 and approved on 4 May 2010. The application was not for retrospective approval.

Mrs M Macdonald, Mullaloo:

- Re:** *CJ054-04/11 – Proposed Alfresco Activities Extension at Lot 100 (10) Oceanside Promenade*
- Q1** *Has the City informed SAT that the road in front of the proposed alfresco area has received funding under the State's road black spot funding program and is a recognised black spot and if not, why not?*
- A1** This issue was not raised by the City during the mediation process for the current application. The Black Spot grant funding was in recognition of the City's proposed redesign of the road network between Mullaloo Drive and Warren Way, providing a safer road environment. Therefore, the Black Spot grant funding applies to a section of Oceanside Promenade that extends well beyond the subject site.

Re: *CJ061-04/11 – Petition Requesting Amendment No 36 (Short Stay Accommodation) to District Planning Scheme No 2 be Revoked*

Q2 *In what suburbs do the petitioners live?*

A2 The petitioners live in a variety of suburbs within the City of Joondalup, including Connolly, Currambine, Duncraig, Edgewater, Hillarys, Joondalup, Kallaroo, Kinross, Mullaloo, Ocean Reef, Padbury, Sorrento and Woodvale.

Q3 *In the December minutes it was stated the petition consisted of 1,000 names. What requirement did the petition not meet given that the number was reduced to 276?*

A3 The petition did not meet the requirements of the 'Petition of Electors' Schedule within the City's *Standing Orders Local Law 2005* in which a number of signatories either did not provide a full name or address, or signatories which were not 'electors' of the City.

The following questions were submitted verbally at the Council meeting:

Mrs M Macdonald, Mullaloo:

Re: *Stating full name and address at Public Question Time.*

Q1 *Given that the City requires that we write our full name and address on the register before we ask questions, why am I being asked to state my full address given this information is being recorded and sent out over the internet at this current time, and that the City does not print the full information in its minutes?*

A1 Mayor Pickard advised that this question would be taken on notice.

Re: *CJ054-04/11 - Proposed Alfresco Activities Extension at Lot 100 (10) Oceanside Promenade, Mullaloo*

Q2 *Regarding the Item on the Alfresco seating at the Mullaloo Tavern, can the City state how many crashes have occurred in front of the Tavern in the last five years?*

A2 Mayor Pickard advised that this question would be taken on notice.

Mr M Sideris, Mullaloo:

Re: *Questions submitted prior to Council on CJ054-04/11 – Proposed Alfresco Activities Extension at Lot 100 (10) Oceanside Promenade*

Q1 *Regarding my questions submitted prior to Council, the response to question four which has been referred to the answer to question three. Having read the answer to question three, the answer to question four is incorrect. Will the Council reconsider that answer and respond accordingly?*

A1 Mayor Pickard advised that this question would be taken on notice.

PUBLIC STATEMENT TIME**Ms E van Dommelen, Ocean Reef:**

Re: CJ061-04/11 – Petition Requesting Amendment No 36 (Short Stay Accommodation) to District Planning Scheme No 2 be Revoked

Ms van Dommelen spoke in relation to short stay accommodation in the City of Joondalup.

Mr S Wright, Duncraig:

Re: CJ061-04/11 – Petition Requesting Amendment No 36 (Short Stay Accommodation) to District Planning Scheme No 2 be Revoked

Mr Wright spoke in relation to short stay accommodation in the City of Joondalup.

Mrs M Macdonald, Mullaloo:

Re: CJ061-04/11 – Petition Requesting Amendment No 36 (Short Stay Accommodation) to District Planning Scheme No 2 be Revoked

Mrs Macdonald spoke in relation to short stay accommodation in the City of Joondalup.

APOLOGIES AND LEAVE OF ABSENCE

Apology – Cr Trona Young

Leave of Absence previously approved:

Cr Mike Norman	7 May – 14 May 2011 inclusive
Cr Russ Fishwick	11 May – 7 June 2011 inclusive
Cr Mike Norman	30 May – 11 June 2011 inclusive
Cr Liam Gobbert	24 June – 18 July 2011 inclusive

C11-04/11 REQUEST FOR LEAVE OF ABSENCE – CR GEOFF AMPHLETT - [78624]

Cr Geoff Amphlett requested Leave of Absence from Council duties covering the period 11 to 18 May 2011 inclusive.

MOVED Cr McLean, SECONDED Cr Hollywood that Council APPROVES the request from Cr Amphlett for Leave of Absence from Council duties covering the period 11 to 18 May 2011 inclusive.

The Motion was Put and

CARRIED (12/0)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Diaz, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman and Taylor

CONFIRMATION OF MINUTES

C12-04/11

MINUTES OF COUNCIL MEETING, 15 MARCH 2011

MOVED Cr Amphlett, SECONDED Cr Hamilton-Prime that the Minutes of the Council Meeting held on 15 March 2011 be confirmed as a true and correct record.

The Motion was Put and

CARRIED (12/0)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Diaz, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman and Taylor

ANNOUNCEMENTS BY THE PRESIDING PERSON WITHOUT DISCUSSION

CITY WINS PRESTIGIOUS HERITAGE AWARD

Mayor Pickard expressed his pleasure in announcing that the City of Joondalup was recognised for its Interpretive Signage Project at Neil Hawkins Park at the prestigious WA Heritage Awards last week.

In a very strong field of finalists, the City won the Outstanding Interpretation Project that Enhances a Place category at the annual Awards.

Mayor Pickard stated the WA Heritage Awards recognise individuals and organisations whose work has resulted in significant achievements in the promotion and conservation of cultural heritage.

Mayor Pickard believed winning a heritage award is a significant achievement and confirms that Joondalup has heritage attractions of value for Western Australians and tourists to the region.

Mayor Pickard advised that the Yellagonga Interpretive Signage Project is about raising awareness in the community of the environmental, cultural and heritage values of the Yellagonga Regional Park, which is one of the City's most beautiful natural areas.

Mayor Pickard took the opportunity to acknowledge the hard work and good friend of the City, Indigenous elder, Neville Collard, for his assistance in providing information and research for the Interpretive Signage Project and the Department of Environment and Conservation for the grant funding for what was an important initiative.

Mayor Pickard advised that the framed certificate and gold coin recognising the City's achievements will be displayed in the administrative area and extended his congratulations to all involved.

2011 ANZAC DAY CEREMONY

Mayor Pickard advised the City of Joondalup and the Wanneroo-Joondalup RSL Sub Branch will once again hold a joint ANZAC Day dawn ceremony this year on Monday, 25 April 2011 at Central Park from 6.00 am.

Mayor Pickard congratulated the Wanneroo-Joondalup RSL Sub Branch for their continued support of this important annual event.

Mayor Pickard believed there would be a great turnout from the local community to a poignant and moving ceremony that has become very popular in recent years, with people of all ages wanting to honour and pay their respects to the Australian men and women who fought and served our great nation during battles around the world.

Mayor Pickard advised that as a courtesy from the City, tea, coffee and ANZAC biscuits, which is a tradition, will be served after the ceremony, and encouraged all members of the community to attend the ANZAC Day Ceremony.

DECLARATIONS OF INTEREST

Disclosure of Financial Interests

A declaration under this section requires that the nature of the interest must be disclosed. Consequently a member who has made a declaration must not preside, participate in, or be present during any discussion or decision-making procedure relating to the matter the subject of the declaration. An employee is required to disclose their financial interest and if required to do so by the Council must disclose the extent of the interest. Employees are required to disclose their financial interests where they are required to present verbal or written reports to the Council. Employees are able to continue to provide advice to the Council in the decision making process if they have disclosed their interest.

Name/Position	Cr Kerry Hollywood
Item No/Subject	CJ055-04/11 – Proposed Amendment No 48 to District Planning Scheme No 2 – Partial Rezoning of North Shore Country Club – Lot 55 (11) Henderson Drive, Kallaroo
Nature of interest	Financial Interest
Extent of Interest	Cr Hollywood is a Gold Certificate holder at the North Shore Country Club

Subsequent to the release of the Council agenda on Friday, 15 April 2011, it was determined that Cr Hollywood's declaration was an interest affecting impartiality and not a financial interest as listed in the agenda.

Name/Position	Cr Geoff Amphlett
Item No/Subject	CJ068-04/11 – Tender 003/11 – Supply and Delivery of Pre-Mix Concrete
Nature of interest	Financial Interest
Extent of Interest	Cr Amphlett's wife is a full time employee of Holcim (Australia) Pty Ltd

Disclosure of interest affecting impartiality

Elected Members (in accordance with Regulation 11 of the Local Government [Rules of Conduct] Regulations 2007) and employees (in accordance with the Code of Conduct) are required to declare any interest that may affect their impartiality in considering a matter. This declaration does not restrict any right to participate in or be present during the decision-making process. The Elected Member/employee is also encouraged to disclose the nature of the interest.

Name/Position	Cr Philippa Taylor
Item No/Subject	CJ053-04/11 – Proposed Additions to Currambine Marketplace Shopping Centre at Lot 929 (1244) Marmion Avenue, Currambine
Nature of interest	Interest that may affect impartiality
Extent of Interest	Cr Taylor's son has a Saturday job at the Currambine Shopping Centre

Name/Position	Cr Tom McLean
Item No/Subject	CJ053-04/11 – Proposed Additions to Currambine Marketplace Shopping Centre at Lot 929 (1244) Marmion Avenue, Currambine
Nature of interest	Interest that may affect impartiality
Extent of Interest	Cr McLean owns land in the vicinity of the Currambine Marketplace Shopping Centre

Name/Position	Cr Russ Fishwick
Item No/Subject	CJ054-04/11 – Proposed Alfresco Activities Extension at Lot 100 (10) Oceanside Promenade, Mullaloo
Nature of interest	Interest that may affect impartiality
Extent of Interest	A relative owns property within close proximity to the proposed development

Name/Position	Cr Liam Gobbert
Item No/Subject	CJ054-04/11 – Proposed Alfresco Activities Extension at Lot 100 (10) Oceanside Promenade, Mullaloo
Nature of interest	Interest that may affect impartiality
Extent of Interest	Cr Gobbert knows an employee (not owner or Manager) at the Dome Cafe

Name/Position	Cr Kerry Hollywood
Item No/Subject	CJ055-04/11 – Proposed Amendment No 48 to District Planning Scheme No 2 – Partial Rezoning of North Shore Country Club – Lot 55 (11) Henderson Drive, Kallaroo
Nature of interest	Interest that may affect impartiality
Extent of Interest	Cr Hollywood is a Gold Certificate holder at the North Shore Country Club

Name/Position	Cr Geoff Amphlett
Item No/Subject	CJ055-04/11 – Proposed Amendment No 48 to District Planning Scheme No 2 – Partial Rezoning of North Shore Country Club – Lot 55 (11) Henderson Drive, Kallaroo
Nature of interest	Interest that may affect impartiality
Extent of Interest	Cr Amphlett is a Gold Certificate holder and financial member at the North Shore Country Club

Name/Position	Cr Philippa Taylor
Item No/Subject	CJ061-04/11 – Petition Requesting Amendment No 36 (Short Stay Accommodation) to District Planning Scheme No 2 be Revoked
Nature of interest	Interest that may affect impartiality
Extent of Interest	Cr Taylor's family regularly stay in short stay accommodation

Name/Position	Cr Mike Norman
Item No/Subject	CJ062-04/11 – Local Structure Plan No 13 – Lots 500 and 501 Arawa Place, Craigie – Consideration of Submissions
Nature of interest	Interest that may affect impartiality
Extent of Interest	Cr Norman is Chairman of the Joondalup Community Coast Care Forum (JCCCF) and made a submission on behalf of the JCCCF on this Item.

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

Nil.

C13-04/11 PETITIONS**PETITION OPPOSING THE DRAFT CONCEPT PLAN FOR THE OCEANSIDE PROMENADE AND TOM SIMPSON PARK REDEVELOPMENT – [00468]**

A 49-signature petition has been received from Residents of the City of Joondalup opposing the Draft Concept Plan for the Oceanside Promenade and Tom Simpson Park Redevelopment. The petitioners request that Council consider the following points in any upgrade to the park:

- 1 The new paths will make the grassed area unusable for play, as much of the grassed area will be lost;
- 2 The upgrade along Oceanside Promenade would be better placed on the Dome side of the road thus avoiding conflict with car park entrances;
- 3 The huts currently on the park provide better shelter than those proposed;
- 4 A significant loss of the existing huts is unacceptable;
- 5 A significant loss of BBQs and facilities is unacceptable;
- 6 A significant loss of benches and facilities is unacceptable;
- 7 A sand area for children has long been outdated for children because of the dangers they pose;
- 8 There is no helipad area;
- 9 There is no mention of the change to Marjorie Street exit.

MOVED Cr McLean, SECONDED Mayor Pickard that the following petition be RECEIVED, referred to the Chief Executive Officer and a subsequent report presented to Council for information:

- 1 **Petition opposing the Draft Concept Plan for the Oceanside Promenade and Tom Simpson Park Redevelopment.**

The Motion was Put and

CARRIED (12/0)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Diaz, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman and Taylor

CJ052-04/11 MONTHLY TOWN PLANNING DELEGATED AUTHORITY REPORT DEVELOPMENT, CODE VARIATIONS AND SUBDIVISION APPLICATIONS – FEBRUARY 2011

WARD:	All
RESPONSIBLE:	Ms Dale Page, Director Planning and Development
FILE NUMBER:	07032, 101515
ATTACHMENTS:	Attachment 1 Monthly Development Applications Determined - February 2011 Attachment 2 Monthly Building Application Code Variations Decision - February 2011 Attachment 3 Monthly Subdivision Applications Processed - February 2011

PURPOSE

To report on the number and nature of applications considered under Delegated Authority.

EXECUTIVE SUMMARY

The provisions of Clause 8.6 of the text to the District Planning Scheme No 2 (DPS2), allow Council to delegate all or some of its development control powers to a committee or an employee of the City.

The purpose of delegation of certain powers by Council, in addition to other town planning matters, is to facilitate timely processing of development applications, R-codes variations and subdivision applications. The framework for the delegation of those powers is set out in resolutions adopted by Council and is reviewed on a two yearly basis, or as required. All decisions made by the administration, acting under delegated authority as permitted under the delegation notice, are reported to Council on a monthly basis.

This report identifies the following applications determined by the administration with Delegated Authority powers during February 2011 (Attachments 1, 2 and 3 refer):

- 1 Planning applications (development applications and Residential Design Codes variations);
- 2 Building applications (Residential Design Codes variations);
- 3 Subdivision applications.

BACKGROUND

The DPS2 requires that delegation be reviewed every two years, unless a greater or lesser period is specified by Council. At its meeting held on 20 July 2010, Council considered and adopted the most recent Town Planning Delegation.

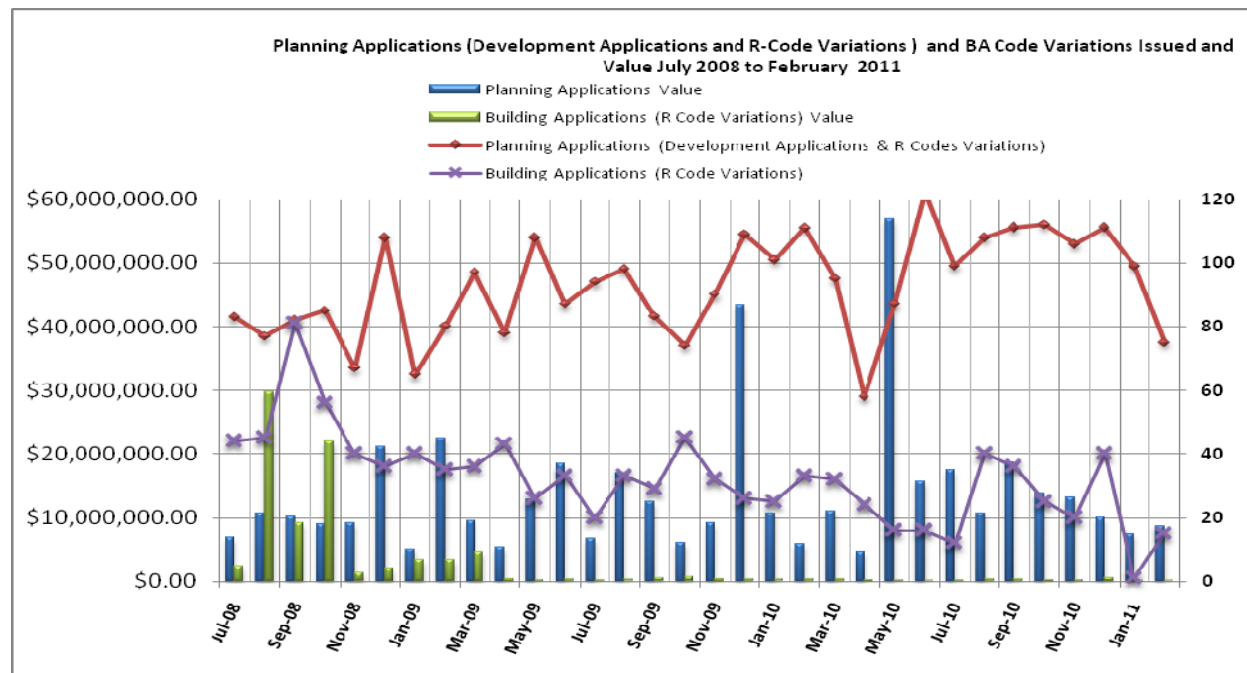
DETAILS

The number of applications determined under delegated authority during February 2011, is detailed below:

Approvals determined under delegated authority – February 2011		
Type of Approval	Number	Value (\$)
Planning applications (development applications and R-Codes variations)	77	\$8, 722,466
Building applications (R-Codes variations)	15	\$ 130,152
TOTAL	92	\$8, 526,618

The number of development applications received during the period for February was 122. (This figure does not include any applications that may become the subject of an R-Code variation as part of the building licence approval process).

The number of development applications current at the end of February was 194. Of these, 32 were pending additional information from applicants, and 59 were being advertised for public comment.



Subdivision approvals processed under delegated authority		
From 1 February to 28 February 2011		
Type of approval	Number	Potential additional new lots
Subdivision applications	1	N/A
Strata subdivision applications	2	2

The above subdivision applications may include amalgamation and boundary realignments, which may not result in any additional lots.

Legislation/Strategic Plan/Policy Implications

Legislation Clause 8.6 of the District Planning Scheme No 2 permits development control functions to be delegated to persons or Committees. All subdivision applications were assessed in accordance with relevant legislation and policies, and a recommendation made on the applications to the Western Australian Planning Commission.

Strategic Plan

Key Focus Area: The Built Environment

Objective: Give timely and thorough consideration to applications for statutory approval.

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.

Policy As above.

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:

A total of 92 applications were determined for the month of February with a total amount of \$29,578.09 received as application fees.

All figures quoted in this report are exclusive of GST.

Regional Significance:

Not Applicable.

Sustainability Implications:

Not Applicable.

Consultation:

Consultation may be required by the provisions of the Residential Design Codes, any relevant policy and/or the DPS2.

Of the 77 development applications determined during February 2011, consultation was undertaken for 31 of those applications. Applications for Residential Design Codes variations as part of building applications are required to include comments from adjoining landowners. Where these comments are not provided, the application will become the subject of a planning application (R-Codes variation). The three subdivision applications processed during February 2011 were not advertised for public comment, as the proposals complied with the relevant requirements.

COMMENT

Large local governments utilise levels of delegated authority as a basic business requirement in relation to Town Planning functions. The process allows for timeliness and consistency in decision-making for 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.

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

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Gobbert, SECONDED Cr Hollywood that Council NOTES the determinations made under Delegated Authority in relation to the:

- 1 Development applications and R-Codes variations described in Attachments 1 and 2 to Report CJ052-04/11 during February 2011;**
- 2 Subdivision applications described in Attachment 3 to Report CJ052-04/11 during February 2011.**

The Motion was Put and CARRIED (12/0) by En Bloc Resolution prior to consideration of Item CJ070-04/11, Page 115 refers.

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Diaz, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman and Taylor

Appendix 1 refers

To access this attachment on electronic document, click here: [Attach1brf120411.pdf](#)

Disclosure of interest affecting impartiality

Name/Position	Cr Philippa Taylor
Item No/Subject	CJ053-04/11 – Proposed Additions to Currambine Marketplace Shopping Centre at Lot 929 (1244) Marmion Avenue, Currambine
Nature of interest	Interest that may affect impartiality
Extent of Interest	Cr Taylor's son has a Saturday job at the Currambine Shopping Centre

Name/Position	Cr Tom McLean
Item No/Subject	CJ053-04/11 – Proposed Additions to Currambine Marketplace Shopping Centre at Lot 929 (1244) Marmion Avenue, Currambine
Nature of interest	Interest that may affect impartiality
Extent of Interest	Cr McLean owns land in the vicinity of the Currambine Marketplace Shopping Centre

CJ053-04/11 PROPOSED ADDITIONS TO CURRAMBINE MARKETPLACE SHOPPING CENTRE AT LOT 929 (1244) MARMION AVENUE, CURRAMBINE

WARD: North

RESPONSIBLE: Ms Dale Page, Director Planning and Development

FILE NUMBER: 03494, 101515

ATTACHMENTS: Attachment 1 Location Plan
Attachment 2 Development Plans

PURPOSE

To request Council's determination of an application for the addition of three retail tenancies and relocation of the western loading dock at Currambine Marketplace Shopping Centre, located at Lot 929 (1244) Marmion Avenue, Currambine.

EXECUTIVE SUMMARY

The applicant is seeking approval for an additional three retail tenancies on the western side of the shopping centre, to replace one of the current loading areas. A new loading area will be located to the eastern side of the shopping centre within the vicinity of the Woolworth's loading dock.

The site is zoned 'Urban' under the Metropolitan Region Scheme, and 'Commercial' under the City's District Planning Scheme No 2 (DPS2). A shop is a permitted 'P' use within this zone. The site is located within the Currambine District Centre Structure Plan (CDCSP) area.

In accordance with Schedule 3 of DPS2, a total of 10,000m² retail Net Lettable Area (NLA) is permissible for the Shopping centre. The additions will increase the current NLA by 370m² to a total of 6,830m².

The application was not advertised as the land use is permitted within the 'Commercial' zone, and will not have any adverse impact on surrounding landowners.

A minor variation to the amount of glazing required under the CDCSP is proposed. Furthermore, no additional car parking is proposed as a part of this application, resulting in an increase in the car parking shortfall for the site of 26 bays.

It is considered that the amount of glazing being provided is appropriate, and that the car parking supplied on-site is adequate to service the existing and proposed development.

It is recommended that Council approves the application subject to conditions.

BACKGROUND

Suburb/Location: Lot 929 (1244) Marmion Avenue, Currambine
Applicant: TPG Town Planning and Urban Design
Owner: Davidson Pty Ltd
Zoning: **DPS:** Commercial
MRS: Urban
Site Area: 7.5ha
Structure Plan: Currambine District Centre Structure Plan

The subject site is located within the CDCSP area. The Currambine District Centre is bounded by Marmion Avenue to the west, Shenton Avenue to the south, and Delamere Avenue to the north and east. (Attachment 1 refers).

The Currambine Marketplace Shopping Centre and cinema complex is located on the southern portion of the subject site, and was approved by Council in two stages in 1995 and 1998. In 2003 a kiosk addition was approved under delegated authority. A total of 562 car parking bays have been considered appropriate to service the shopping centre.

At its meeting held on 10 June 2008, Council refused an application for a Liquor Store on the northern portion of the shopping centre site (CJ106–06/08 refers). That proposal was approved by the State Administrative Tribunal, subject to a number of conditions, in December 2008. Additional car parking was proposed as part of the application to service the liquor store. This development is currently under construction.

At its meeting held on 19 October 2010 (CJ168-10/10 refers), Council granted approval for a showroom, retail and take away food outlets to the west of the cinema complex adjacent to the liquor store. Additional car parking was provided to service the development.

DETAILS

The development proposal incorporates the following:

- Addition of three retail tenancies on the western side of the shopping centre (total 370m² NLA), accessed externally; and
- New service area on the eastern side of the shopping centre.

The design of the retail tenancies does not meet the requirements of the CDCSP in respect to:

- Glazing to the retail tenancies occupying 62% of the façade in lieu of 70%; and
- Glazing having a sill height of 400 millimetres from the finished floor level in lieu of 600 millimetres.

The development plans are detailed in Attachment 2.

The addition of 370m² retail NLA will result in the centre having a total retail NLA of 6,830m². This is within the maximum 10,000m² permissible for the centre in accordance with Schedule 3 of DPS2.

The applicant has justified that the amount of glazing provided will provide an active frontage and will be consistent with the existing façade.

Car Parking

Car parking for the site is required to be provided in accordance with Table 2 of DPS2. The liquor store currently under construction and new developments approved adjacent to the liquor store (but within the shopping centre site) are providing additional car parking to service these developments. As such they have not been included in the calculation of car parking for this development proposal.

Based on previous approvals granted for the site, it has been determined that a total of 562 bays have been considered appropriate to service the shopping centre.

No additional car parking is proposed as part of this application. As a result of the additions, an additional 26 bays are required. The following table sets out the car parking requirement for the shopping centre:

Land use	Car parking standard	Car parking required
Stage 1 and 2 (Shopping Centre and Cinema) (6,443m ² GLA)	6.58m ² per 100m ² GLA and one bay per ten seats	579
Kiosk addition 2003 (17m ² NLA)	seven per 100m ² NLA	2 (1.19)
Proposed Shop (370m ² NLA)	seven per 100m ² NLA	26 (25.9)
Total bays required		607
Total bays provided		562

As demonstrated above, the overall shortfall will increase to 45 bays.

The applicant has provided the following justification in support of the additional shortfall of 26 bays:

As outlined in previous applications the Shopping centre currently has an oversupply of car parking based on actual usage as calculated in a traffic study.

The traffic assessment of the current proposal notes that the change in NLA is too insignificant to warrant further car parking bays for the Centre.

Issues and options considered:

Council has discretion to:

- approve the development without conditions;
- approve the development with conditions; or
- refuse the application.

Legislation/Strategic Plan/Policy Implications

Legislation District Planning Scheme No.2

Clause 4.5 of DPS2 allows for the development standards of the Scheme to be varied:

4.5 VARIATIONS TO SITE AND DEVELOPMENT STANDARDS AND REQUIREMENTS

- 4.5.1 *Except for development in respect of which the Residential Planning Codes apply and the requirements set out in Clauses 3.7.3 and 3.11.5, if a development is the subject of an application for planning approval and does not comply with a standard or requirement prescribed under the Scheme, the Council may, notwithstanding that non-compliance, approve the application unconditionally or subject to such conditions as the Council thinks fit.*
- 4.5.2 *In considering an application for planning approval under this clause, where, in the opinion of Council, the variation is likely to affect any owners or occupiers in the general locality or adjoining the site which is subject of consideration for the variation, the Council shall:*
- (a) *consult the affected parties by following one or more of the provisions for advertising uses pursuant to Clause 6.7.1; and*
 - (b) *have regard to any expressed views prior to making its decision to grant the variation.*
- 4.5.3 *The power conferred by this clause may only be exercised if the Council is satisfied that:*
- (a) *approval of the proposed development would be appropriate having regard to the criteria set out in Clause 6.8; and*
 - (b) *the non-compliance will not have any adverse effect upon the occupiers or users of the development or the inhabitants of the locality or upon the likely future development of the locality.*

The matters listed under Clause 6.8 require consideration:

6.8 Matters to be considered by Council

- 6.8.1 *The Council when considering an application for Planning Approval shall have due regard to the following:*
- (a) *interests of orderly and proper planning and the preservation of the amenity of the relevant locality;*
 - (b) *any relevant submissions by the applicant;*
 - (c) *any agreed Structure Plan prepared under the provisions of Part 9 of the Scheme;*
 - (d) *any planning policy of the Council adopted under the provisions of Clause 8.11*
 - (e) *any other matter which under the provisions of the Scheme the Council is required to have due regard;*
 - (f) *any policy of the Commission or its predecessors or successors or any planning policy adopted by the Government of the State of Western Australia;*

- (g) *any relevant proposed new town planning scheme of the Council or amendment or proposed Metropolitan Region Scheme Amendment insofar as they can be regarded as seriously entertained planning proposals;*
- (h) *the comments or wishes of any public or municipal authority received as part of the submission process;*
- (i) *the comments or wishes of any objectors to or supporters of the application;*
- (j) *any previous decision made by the Council in circumstances which are sufficiently similar for the previous decision to be relevant as a precedent, provided that the Council shall not be bound by such precedent; and*
- (k) *any other matter which in the opinion of the Council is relevant.*

Strategic Plan

Key Focus Area: The built environment

Objective: 4.1 To ensure high quality urban development within the City.

Policy Not Applicable.

Risk Management considerations:

The proponent has a right of review against Council decision, or any conditions included therein, in accordance with the *State Administrative Tribunal Act 2004*, and *Planning and Development Act 2005*.

Financial/Budget Implications:

The applicant has paid fees of \$2,127 to cover all costs associated with assessing the application.

Regional Significance:

Not Applicable.

Sustainability Implications:

Given the minor nature of the additions, there is considered to be no sustainability implications as a result of the development.

Consultation:

Advertising of the development has not been undertaken given that the land use is permitted within the 'Commercial' zone, and that there will be no adverse impact on adjoining residents and land uses as a result of the development.

COMMENT

Glazing

The tenancies are proposed to have 62% of the façade area glazed, in lieu of 70%. In addition, the application also seeks approval for window sill heights of a minimum 400 millimetres from ground level in lieu of 600 millimetres.

The glazing proposed is identical to the existing tenancies along the western façade. It is considered that given the minor nature of the additions that this uniformity should be maintained. The glazing being provided will still be sufficient in allowing adequate surveillance.

Car Parking

The 562 bays on-site have previously been considered appropriate for the existing development, and it must now be considered whether this will be adequate given the additional 370m² NLA being proposed.

The options available to Council are:

- to determine that the car parking provision of 562 bays is appropriate;
- to determine that the car parking provision of 562 bays is not appropriate; or
- to require cash in lieu payment of \$674,154 for the additional 26 bays required as a result of the proposed development.

The parking usage survey submitted to the City in June 2010 provides details of car parking usage based on two peak periods, being Thursday evenings and Saturdays. The survey found that the car parking demand during these periods is less than supply, with a minimum surplus of 281 bays during Thursday evening, and 158 on Saturday. Furthermore, the City has no record of complaints regarding car parking at the centre.

A revised traffic statement submitted as part of the application states that the relatively small increase in NLA is not likely to increase the demand for car parking at the centre. Furthermore, the previous parking study indicates that the availability of bays during peak periods exceeds the 26 required as a result of these additional tenancies. Therefore, the car parking provision is considered adequate to service the existing shopping centre and proposed development.

Loading Dock

The loading dock is proposed to be relocated to the eastern side of the shopping centre, screened by a 1.8 metre solid wall and gate. The relocation of the service area to the eastern side of the shopping centre is consistent with the CDCSP which removes the service area from the 'main street frontage', being the western façade of the centre.

The applicant has stated that the servicing of the development is during normal operating hours. Furthermore, service vehicles for Woolworths and the cinema currently utilise Delamere Avenue, and it is considered that there will be no additional impact as a result of the relocation on surrounding residential properties to the east.

Conclusion

The proposed development complies with the requirements of DPS2 and the CDCSP with the exception of the matters discussed above. The glazing variations are supported as the proposed development is consistent with the existing shopping centre façade, and still promotes adequate surveillance. Whilst no additional car parking is proposed to service the additions, a previous traffic study in 2010 has indicated that the existing parking is currently underutilised, and the revised traffic statement submitted as part of the application states that the additions will not dramatically alter car parking demand.

Given the above, it is recommended the application is supported subject to conditions.

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Hollywood, SECONDED Cr McLean that Council:

- 1 EXERCISES discretion under Clauses 4.5.1 and 4.8.1 of the City of Joondalup District Planning Scheme No 2 and determines that the following are appropriate in this instance:**
 - 1.1 Clear glazing occupying 62% of the frontage in lieu of 70%;**
 - 1.2 Sill heights being a minimum of 400 millimetres above the finished floor level in lieu of 600 millimetres;**
 - 1.3 Car parking provision of 562 bays in lieu of 607 bays;**
- 2 APPROVES the application for development approval dated 3 December 2010, submitted by TPG Town Planning and Urban Design, the applicant, on behalf of the owners, Davidson Pty Ltd, for additions to Currambine Marketplace Shopping Centre at Lot 929 (1244) Marmion Avenue, Currambine, subject to the following conditions:**
 - 2.1 This decision constitutes planning approval only and is valid for two years from the date of this decision letter. Should the subject development not substantially commence a new planning application is required to be lodged with the City;**
 - 2.2 A Construction Management Plan being submitted and approved prior to the issue of the relevant Building Licence. The management plan shall detail how it is proposed to manage:**
 - 2.2.1 all forward works for the site;**
 - 2.2.2 the delivery of materials and equipment to the site;**
 - 2.2.3 the storage of materials and equipment on the site;**
 - 2.2.4 the parking arrangements for the contractors and subcontractors; and**
 - 2.2.5 other matters likely to impact on the operation of the Shopping Centre and surrounding properties.**

- 2.3 A management plan regarding deliveries to the site being submitted and approved by the City prior to the issue of the relevant Building Licence. The management plan shall detail:**
- 2.3.1 the type of vehicles delivering goods;**
 - 2.3.2 the expected number of deliveries;**
 - 2.3.3 the time of deliveries; and**
 - 2.3.4 the method of entry to and exit from the site.**
- 2.4 A schedule of colours and materials for the proposed tenancies shall be submitted and approved prior to the issue of the relevant Building Licence. The colours and materials shall be consistent or complement the existing development to the satisfaction of the City;**
- 2.5 All stormwater shall be collected on-site and disposed of to the satisfaction of the City;**
- 2.6 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 ground level;**
- 2.7 No obscure or reflective glazing is permitted.**

The Motion was Put and

CARRIED (12/0)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Diaz, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman and Taylor

Appendix 2 refers

To access this attachment on electronic document, click here: [Attach2brf120411.pdf](#)

Disclosures of interest affecting impartiality

Name/Position	Cr Russ Fishwick
Item No/Subject	CJ054-04/11 – Proposed Alfresco Activities Extension at Lot 100 (10) Oceanside Promenade, Mullaloo
Nature of interest	Interest that may affect impartiality
Extent of Interest	A relative owns property within close proximity to the proposed development

Name/Position	Cr Liam Gobbert
Item No/Subject	CJ054-04/11 – Proposed Alfresco Activities Extension at Lot 100 (10) Oceanside Promenade, Mullaloo
Nature of interest	Interest that may affect impartiality
Extent of Interest	Cr Gobbert knows an employee (not owner or Manager)

CJ054-04/11 PROPOSED ALFRESCO ACTIVITIES EXTENSION AT LOT 100 (10) OCEANSIDE PROMENADE, MULLALOO

WARD:	North-Central
RESPONSIBLE:	Ms Dale Page, Director Planning and Development
FILE NUMBER:	100400, 101515
ATTACHMENTS:	Attachment 1 Location Plan Attachment 2 Development Plans

PURPOSE

To request Council's determination of an application for the use of the road reserve adjacent to the Dome Café located at Lot 100 (10) Oceanside Promenade, Mullaloo for the purpose of alfresco activities.

EXECUTIVE SUMMARY

This application is the subject of a current application for review being considered by the State Administrative Tribunal (SAT).

The applicant is seeking approval to extend an approved alfresco area adjacent to the Dome Café at 10 Oceanside Promenade, Mullaloo.

The proposal would result in an additional six tables with a total of 24 seats, and increases the car parking requirements for the site accordingly.

The proposed alfresco area will impede pedestrian movements through this high traffic area, forcing pedestrians to walk close to the road and existing bollards, and this will consequently negatively affect sight lines for vehicles exiting the on-site car park.

The proposal has been assessed against the requirements of the City of Joondalup District Planning Scheme No 2 (DPS2) and City Policy – Alfresco Activities. For the reasons set out above, the proposal is considered not to meet the objectives of the aforementioned policy.

It is recommended that the application be refused, and the SAT advised accordingly.

BACKGROUND

Suburb/Location:	Lot 100 (10) Oceanside Promenade, Mullaloo, and the adjoining road reserve.
Applicant:	Planning Solutions Pty Ltd
Owner:	Rennet Pty Ltd (Lot 100); and The State of Western Australia (road reserve)
Zoning:	DPS: Commercial MRS: Urban
Site Area:	2,376.7m ² (Lot 100)
Structure Plan:	Not Applicable

The subject site is located on the eastern side of Oceanside Promenade, north of Mullaloo Drive, and opposite Tom Simpson Park (Attachment 1 refers).

The existing development on the subject site was originally approved in 2002, and consists of a number of different activities on its various levels, including:

- car parking (basement level);
- commercial uses, restaurant and bottle shop (ground floor);
- a tavern (first floor);
- twelve short stay accommodation units on the second and third floors.

A parking deck abuts each of the levels at the rear of the building.

Vehicle sightlines, pedestrian and vehicular safety relating to this property, and a section of Oceanside Promenade have previously been areas of concern and review for the City. Bollards were installed by the City in the road reserve along this portion of road, in order to reduce these safety concerns and to prevent illegal parking in this area.

In 2007, a development application for reconfiguration of the internal shop, office and restaurant layout was approved under delegated authority. This approval limited the number of patrons for the restaurant to 104, and the dining area floor space to 131m² to ensure that the parking shortfall approved by the SAT in 2006 was not increased.

An alfresco activities area was approved for the subject site in May 2010, with a limitation of four tables and 16 seats imposed. The restaurant is currently restricted, under Environmental Health provisions, to a maximum of 100 patrons, and under planning provisions to a maximum of 104 patrons including those utilising the alfresco area.

This application is the subject of a current application for review being considered by the SAT. The applicant initially proposed permanent glass barriers, amongst other works, and the application was not supported by the Department of Regional Development and Lands (State Land Services). As such, the application form was not signed and the City could not accept the application. The applicant subsequently lodged an application for review with the SAT based on previous case law where the SAT signed the application form on behalf of the landowner to allow a planning decision to be made on the application.

The SAT has issued orders that the City determine this application on or before 19 April 2011.

DETAILS

The applicant is seeking approval for an extension to an existing alfresco activities area. The proposal entails:

- an increase from four outdoor tables to a maximum of ten; and therefore
- an increase in patron numbers to a maximum of 120 persons.

Alfresco Activities Policy:

The table below sets out the areas of non-compliance of the proposal in accordance with the requirements of City Policy – Alfresco Activities:

Standard	Required	Provided	Complies
Pedestrian Zone	2.0 metres minimum width	1.75 metres minimum <i>(measured between alfresco area and existing bollards)</i>	No
Alfresco Zone	2.5 metres maximum width	5.1 metres maximum 3.8 metres for majority of area	No
Kerbside Zone	1.0 metres minimum width	0.6 metres <i>(defined under the City's Policy as being the area between the road and alfresco zone, but measured in this instance as being the area between the existing bollards and the road as this satisfies the intent)</i>	N/A
Configuration	Adjacent to the street, with minimum kerbside zone provided.	Adjacent to building	No
Pedestrian Movement	Alfresco activities must not restrict pedestrian access under awnings.	Alfresco areas located under existing awnings, restricting pedestrian access.	No
Hazard Management	Alfresco activities should not result in the gathering of customers or incidental structures that will impede pedestrian or vehicular movements, cause conflict with, or inconvenience other adjoining activities. Pedestrians should be able to make normal use of the footpath without being obliged to step into the road at any point, or make other unwarranted detours.	Pedestrians are channelled into a narrow passage of travel, on what is often a well utilised section of path. Pedestrians may at times be forced to step onto the road side of the existing bollards presenting a hazard to themselves and drivers.	No

Car Parking:

At its meeting held on 13 August 2002, Council considered the development proposal requiring 210 parking bays under DPS2. The applicant provided 160 bays and provided justification, supported by a traffic consultants report, for a shortfall of 50 bays; this was approved by Council.

Of the 160 bays, 126 bays were to be located on site and 34 had previously been constructed on land opposite the site.

A decision by the SAT in December 2006 allowed two car parking bays to be removed for the provision of adequate manoeuvring space. This brought the total number of on-site car parking bays to 124 in addition to the 34 bays located opposite the subject site.

A cool room addition in 2008 resulted in the conversion of one car parking bay to two motorcycle bays. These bays cannot be counted towards the total provision of car parking. However, a cash in lieu payment was made for the loss of this bay.

Subsequent applications for minor reconfigurations, and the reduction in commercial floor space, have further reduced the overall parking requirement for the development to 204.

The car parking requirements for the entire development (current and proposed) on the subject site are set out in the table below:

LAND USE	AREA/UNITS	CAR PARKING STANDARD	REQUIRED CAR BAYS
Residential Building	12 units	one per unit	12
Restaurant	171.99m ² 120 guests	The greater of: one per 5.0m ² dining area or one per four guests	34.4 or 30
Tavern	293.7m ² 260m ²	one per 3.0m ² drinking area one per 5.0m ² seating area	97.9 52
Take Away Food Outlet (ice cream parlour)	Serving area 22m ²	seven per 100m ²	1.54
Bottleshop	187m ²	seven per 100m ²	13.09
Parking required under DPS2.			Figures rounded up – 210.93 (211) bays

This development increases the parking requirements for the site from 204 to 211 bays. As demonstrated by the table below, this is one bay greater than was required by the original development only.

	Required	Total Provided	Shortfall
Original Development	210	160	50
SAT 2006	210	158	52
Minor reconfigurations	204	158	46
This proposal	211	158	53

The applicant has advised that whilst 128 seats are indicated on the plans, a maximum 120 guests will be catered for. In the event that all 128 seats were occupied, the parking requirement based on the number of guests would be 32. This is still less than the 34.4 bays required based on the dining floor space.

The applicant has supplied the following information in support of their application:

“The proposed alfresco is compliant with the guidelines outlined in the City of Joondalup’s Alfresco Activities Policy. Due to the characteristics of the site the alfresco configuration has been adapted to ensure pedestrian movement is maximised. The proposed alfresco is compliant with the Pedestrian Zone and Kerbside Zone guidelines detailing a minimum width of 2.72 metres. The alfresco zone is 3.812 metres at its widest which warrants support due to the existing width of the footpath.

The sight distance investigation undertaken by Donald Veal Consultants confirms the sightlines for vehicles exiting the car park /liquor store will not be impacted by the proposal.

The traffic impact statement prepared by Donald Veal Consultants indicates the parking demand generated by the additional 20 patrons is likely to be negligible, and able to be accommodated on-site and in the locality.

A recent survey undertaken by Donald Veal Consultants reveals that the number of underutilised car parking bays is 90 (during the peak period)”

In response to this information provided by the applicant, it is noted that the alfresco area does not meet a number of requirements of the City’s Policy as set out in the table above.

It is further noted that, as outlined in the comments section of this report, the extension of the alfresco dining area on the footpath would force pedestrians closer to the road, and into a narrow path of travel. This will both impede pedestrian movement, and restrict vehicle sightlines for vehicles using the exit for the on-site car park, to a point where the safety of road users is reduced to an unacceptable level.

Issues and options considered:

Council has discretion to:

- approve the development without conditions;
- approve the development with conditions; or
- refuse the application.

Legislation/Strategic Plan/Policy Implications

Legislation City of Joondalup District Planning Scheme No 2.

Clause 4.5 of DPS2 allows for the development standards of the Scheme to be varied:

4.5 VARIATIONS TO SITE AND DEVELOPMENT STANDARDS AND REQUIREMENTS

4.5.3 *Except for development in respect of which the Residential Planning Codes apply and the requirements set out in Clauses 3.7.3 and 3.11.5, if a development is the subject of an application for planning approval and does not comply with a standard or requirement prescribed under the Scheme, the Council may, notwithstanding that non-compliance, approve the application unconditionally or subject to such conditions as the Council thinks fit.*

4.5.4 *In considering an application for planning approval under this clause, where, in the opinion of Council, the variation is likely to affect any owners or occupiers in the general locality or adjoining the site which is subject of consideration for the variation, the Council shall:*

- (a) *consult the affected parties by following one or more of the provisions for advertising uses pursuant to Clause 6.7.1; and*
- (b) *have regard to any expressed views prior to making its decision to grant the variation.*

4.5.3 *The power conferred by this clause may only be exercised if the Council is satisfied that:*

- (a) *approval of the proposed development would be appropriate having regard to the criteria set out in Clause 6.8; and*
- (b) *the non-compliance will not have any adverse effect upon the occupiers or users of the development or the inhabitants of the locality or upon the likely future development of the locality.*

Clause 4.8 sets out the manner in which to calculate car parking requirements for developments:

4.8 CAR PARKING STANDARDS

4.8.1 *The design of off-street parking areas including parking for disabled shall be in accordance with Australian Standards AS 2890.1 or AS 2890.2 as amended from time to time. Car parking areas shall be constructed and maintained to the satisfaction of the Council.*

4.8.2 *The number of on-site car parking bays to be provided for specified development shall be in accordance with Table 2. Where development is not specified in Table 2 the Council shall determine the parking standard. The Council may also determine that a general car parking standard shall apply irrespective of the development proposed in cases where it considers this to be appropriate.*

The matters listed under Clause 6.8 require consideration:

6.8 Matters to be considered by Council

6.8.1 *The Council when considering an application for Planning Approval shall have due regard to the following:*

- (a) *interests of orderly and proper planning and the preservation of the amenity of the relevant locality;*
- (b) *any relevant submissions by the applicant;*
- (c) *any agreed Structure Plan prepared under the provisions of Part 9 of the Scheme;*
- (d) *any planning policy of the Council adopted under the provisions of Clause 8.11*
- (e) *any other matter which under the provisions of the Scheme the Council is required to have due regard;*
- (f) *any policy of the Commission or its predecessors or successors or any planning policy adopted by the Government of the State of Western Australia;*
- (g) *any relevant proposed new town planning scheme of the Council or amendment or proposed Metropolitan Region Scheme Amendment insofar as they can be regarded as seriously entertained planning proposals;*
- (h) *the comments or wishes of any public or municipal authority received as part of the submission process;*
- (i) *the comments or wishes of any objectors to or supporters of the application;*
- (j) *any previous decision made by the Council in circumstances which are sufficiently similar for the previous decision to be relevant as a precedent, provided that the Council shall not be bound by such precedent; and*
- (k) *any other matter which in the opinion of the Council is relevant.*

State Administrative Tribunal Act 2004

The SAT has referred this application to the City for determination under the provision of the *State Administrative Tribunal Act 2004*.

Strategic Plan

Key Focus Area: Not Applicable.

Objective: Not Applicable.

Policy City Policy – Alfresco Activities.

The objectives of this policy are:

- 1 *To encourage and facilitate alfresco activities within the City of Joondalup as a means of increasing vibrancy and choice. Alfresco activities refers to outdoor dining and/or the consumption of alcohol by the general public while seated at tables, that are located on the street verge or in a public space, generally as an extension of an existing premises already operating within an adjacent building.*

- 2 *To allow for the operations of alfresco activities in such a manner that will not conflict with, or prejudice, the activities in adjacent premises (commercial and/or residential) or interfere with the traffic flow in the area or any other normal function of the area.*
- 3 *To provide guidelines for the granting of planning approval for alfresco activities.*
- 4 *To complement the provisions for outdoor dining as specified in Part 3 – Outdoor Dining – Trading in Public Places Local Law.*

Risk Management considerations:

The proponent has a right of review against Council decision, or any conditions included therein, in accordance with the *State Administrative Tribunal Act 2004*, and *Planning and Development Act 2005*. Should Council refuse this application, it is likely that the application for review currently with the SAT will proceed to a full hearing on the matter.

As set out in the background, details, and comments sections of this report, the safety of road users and pedestrians may be compromised to an unacceptable level in the event this proposal was approved.

Financial/Budget Implications:

The applicant has not paid an application fee for the assessment of this proposal, as the application has been referred to the City for determination by the SAT.

Regional Significance:

Not Applicable.

Sustainability Implications:

Not Applicable.

Consultation:

The proposal was not advertised for public comment.

COMMENT**Land Use**

The proposed restaurant land use is appropriate for the site, and has previously been approved. The applicant is seeking to increase the intensity of this land use through the extension of the approved alfresco area, and the addition of extra tables and chairs.

This increased intensity is considered not to be appropriate in this instance as the resulting impacts in relation to vehicle and pedestrian movements are unacceptable.

Traffic – Vehicular and Pedestrian

The space available between the existing bollards and the alfresco area is crucial in ensuring sufficient through space for pedestrians.

The expansion of dining on the footpath would force pedestrians closer to the road, and into a nominal travel path width of as little as 1.75 metres, running just inside of the existing bollard line. Not only does this impede pedestrian movements, but heavy foot traffic along this portion of footpath will also restrict sightlines for vehicles exiting the on-site car park.

Between February and June 2009, Shawmac Consulting Civic and Traffic Engineers conducted a Road Safety Audit in Oceanside Promenade on behalf of the City. The purpose of the audit was to review the safety of the road environment in terms of potential vehicle and pedestrian conflicts between Mullaloo Drive and Warren Way post the developments that had taken place in the previous decade.

In terms of sight distances the report stated that:

Pedestrians moving along Oceanside Promenade are provided with a 1.5m wide path on the eastern kerb-line. There are four defined pedestrian crossing places with median refuge areas. These are at the Mullaloo Drive roundabout, adjacent to the hotel, 25m south of Iluka Avenue and at Warren Way. Sight distance at all four locations is limited due to the terrain and road alignment.

The details with respect to the sight distance issue are detailed in the following table:

6.3.2 Visibility; sight distance	Yes	No	Comment
<i>Is the presence of each intersection obvious to all road users?</i>		X	<i>The presence of the roundabout at Mullaloo Drive is not obvious along the approach from Oceanside Promenade; the roundabout sign is around the curve and obscured by the tourist drive directional sign. The presence of the Marjorie Street alignment is not obvious until 40m from the intersection.</i>
<i>Is the sight distance appropriate for all movements and all road users?</i>		X	<i>Entering sight distances and safe stopping sight distances do not meet the desired guidelines at all locations. Sight distance for right turning vehicles is reduced by through moving traffic particularly from Oceanside Drive into Marjorie Street.</i>
<i>Is there stopping sight distance to the rear of any queue or slow moving turning vehicles?</i>		X	<i>No – for turning vehicles slowing before Marjorie Street the combination of hill and curve reduces stopping sight distance.</i>
<i>Has the appropriate sight distance been provided for entering and leaving vehicles?</i>		X	<i>Sight distance for vehicles exiting driveways in the southern 150m is obstructed by the curve, building gradients into properties and a bus shelter.</i>

It is the City's position that, from a traffic engineering perspective, any further development within the eastern verge area will further reduce the existing sight distances and stopping distances, which are already below contemporary standards.

Car Parking

As set out above, the proposal increases the total parking requirement for the development to 211 bays, this being one more than was required by the original development approved by Council in 2002.

The SAT has previously accepted that 158 bays are acceptable for this site. One on-site bay has subsequently been converted to two motorcycle bays to allow for a coolroom addition. Cash in lieu was paid for the loss of this car bay.

It is requested that Council consider whether the existing parking is adequate given the additional alfresco dining area being proposed. The following options are available for consideration:

- Determine that the car parking provision of 158 bays (being 123 on-site and 35 off-site) is appropriate;
- Determine that the car parking provision of 158 bays (being 123 on-site and 35 off-site) bays is not appropriate; or
- Require a cash in lieu payment of \$69,429 for the additional one bay required as a result of the proposed development.

It is considered that the increase in the existing parking shortfall by an additional one bay is not appropriate in this instance, due to the intensification of the land use. Whilst it is acknowledged that the restaurant that is the subject of this application may not experience its peak trading hours at the same time as the tavern, bottleshop, and other businesses on-site, it is considered that substantial concessions have already been granted for this reason. It is also likely that there will be some overlap in terms of busy trading periods, such that further concessions are not appropriate.

City Policy – Alfresco Activities

The proposal does not satisfy the requirements of the City's Alfresco Activities Policy in several regards. These include:

- the maximum width of the alfresco zone;
- the minimum width of the pedestrian zone;
- the configuration, as well as requirements for access to awnings to be maintained, and hazard management to occur.

The increased width of the alfresco zone being sought is 3.8 metres for the majority of the area, and 5.1 metres at the widest point. This substantially exceeds the 2.5 metres set out by the Policy. When combined with the pedestrian zone (measured between the bollards and the alfresco area in this instance) being reduced to as narrow as 1.75 metres, this is considered not to be an appropriate outcome.

The objectives of the abovementioned policy specifically require developments not to impede pedestrian movement, and the hazard management criteria require that pedestrians will not be forced onto the road or similar. In this instance, it is considered that neither this criteria, or this objective are adequately satisfied as the narrow path of travel creates the potential for path users to be forced into an unsafe position on the western side of the existing bollards when pedestrian traffic is heavy.

The extension of the alfresco area will also further restrict pedestrian access to existing awnings, which is not in line with the policy requirements.

With regard to the variation to the location of alfresco areas set out by the City's Policy, it is acknowledged that the alfresco area has been sited in an area that is not in accordance with this policy so as the chairs and tables do not impede vehicular sightlines.

Conclusion

It is recommended that the proposed development be refused as:

- it does not satisfy the objectives of City Policy – Alfresco Activities;
- it will increase a substantial car parking shortfall for the site;
- it will impede pedestrian movements and vehicular sight lines to an unsafe level.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION: That Council:

- 1 REFUSES the application dated 3 September 2010, submitted by Planning Solutions Pty Ltd, on behalf of the owners, Rennet Pty Ltd, and the State of Western Australia, for RESTAURANT (extension of alfresco activities area) at Lot 100 (10) Oceanside Promenade, Mullaloo, for the following reasons:
 - 1.1 The proposal does not satisfy the objectives of City Policy – Alfresco Activities as the proposed alfresco area will hinder vehicle sightlines, and compromise vehicular and pedestrian safety to an unacceptable level;
 - 1.2 The proposed increase in patron numbers and dining floor space will result in an increased requirement for on-site car parking which is unable to be provided. This will increase pressure on surrounding beach car parks to an unacceptable level;
- 2 ADVISES the State Administrative Tribunal of its decision.

MOVED Cr Taylor, SECONDED Mayor Pickard that Council:

- 1 **APPROVES** the application dated 3 September 2010, submitted by Planning Solutions Pty Ltd, on behalf of the owners, Rennet Pty Ltd and the State of Western Australia, for RESTAURANT (extension of alfresco activities area) at Lot 100 (10) Oceanside Promenade, Mullaloo, subject to the following conditions:
 - 1.1 **The total dining floor area for the restaurant and alfresco activities area shall not exceed a maximum of 167.35m²;**
 - 1.2 **The number of patrons occupying the restaurant at any given time shall not exceed 133;**

- 1.3 The alfresco area shall be configured as per Plan No. WD031 dated 18 April 2011 and so that a minimum width of 3.5 metres is maintained at all times between the tables/chairs and the bollards along Oceanside Promenade;
 - 1.4 The licence holder shall make adequate insurance arrangements to the satisfaction of the City of Joondalup, for a minimum public liability insurance cover of \$10 million. It will also be a condition of the licence that the City will respond to any actions, suits, claims, damages, losses and expenses caused by or arising from the negligence of the Council and the licensee will respond to any suits, claims, damages, losses and expenses caused by or arising from the negligence of the licensee. A copy of the policy will need to be provided to the City prior to the commencement of trading. The City of Joondalup shall be advised directly by the insurance company of any possible changes to the policy;
 - 1.5 Structures and furniture must be stable under windy conditions;
 - 1.6 The operator shall not, without the prior approval of the City of Joondalup:
 - 1.6.1 make use of any method of noise making (such as live music, record, tape, radio and the like);
 - 1.6.2 carry out any specific functions (such as fashion parades, art exhibitions and the like);
 - 1.6.3 prevent the public from using the alfresco zone, whether paying customers or not;
 - 1.7 The operator shall keep the alfresco zone clean and free from rubbish to the satisfaction of the City of Joondalup;
 - 1.8 All structures associated with the alfresco activities shall be maintained in a good condition to the satisfaction of the City;
 - 1.9 The approval is valid for a period of 36 months;
 - 1.10 The tables, chairs and all equipment associated with the alfresco activities shall be removed from the public space outside normal trading hours for the associated premises;
- 2 ADVISES the applicant that, notwithstanding part 1.2 above, under the Building Code of Australia a maximum of 100 patrons is permitted within the restaurant based on the current provision of toilets;
- 3 NOTES that Council Policy – Alfresco Activities has been addressed. Even though the tables/chairs are to be located against the face of the building contrary to Element 1 of the policy statement, the location of the alfresco area against the building is appropriate in this instance so as to assist in maintaining vehicle sightlines and pedestrian access between the alfresco area and the bollards along Oceanside Promenade;

- 4 **ADVISES** the applicant that, at all time times, tables and chairs will need to be located so as not to impede pedestrian movement outside of the approved alfresco dining area;
- 5 **NOTES** that, if patron numbers do not exceed 133 persons and the dining floor area of the premises (including the alfresco area) does not exceed 167.35m² in area, then there will be no additional car parking shortfall and no variation to car parking requirements will be necessary.

In accordance with Clause 11(da) of the Local Government (Administration) Regulations 1996, the reason for the decision made being significantly different to that recommended is because the revised plan submitted to Council generally meets the requirements of Council Policy – Alfresco Activities, subject to conditions, and can be supported at this time.

The Motion was Put and

CARRIED (11/1)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Diaz, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman and Taylor **Against the Motion:** Cr Corr

Appendices 3 and 16 refer

To access this attachment on electronic document, click here: [Attach3brf120411.pdf](#)
[Attach16min190411.pdf](#)

Disclosure of interest affecting impartiality

Name/Position	Cr Kerry Hollywood
Item No/Subject	CJ055-04/11 – Proposed Amendment No 48 to District Planning Scheme No 2 – Partial Rezoning of North Shore Country Club – Lot 55 (11) Henderson Drive, Kallaroo
Nature of interest	Interest that may affect impartiality
Extent of Interest	Cr Hollywood is a Gold Certificate holder at the North Shore Country Club

Name/Position	Cr Geoff Amphlett
Item No/Subject	CJ055-04/11 – Proposed Amendment No 48 to District Planning Scheme No 2 – Partial Rezoning of North Shore Country Club – Lot 55 (11) Henderson Drive, Kallaroo
Nature of interest	Interest that may affect impartiality
Extent of Interest	Cr Amphlett is a Gold Certificate holder and financial member at the North Shore Country Club

Cr McLean left the Chamber at 7.44 pm.

CJ055-04/11 PROPOSED AMENDMENT NO 48 TO DISTRICT PLANNING SCHEME NO 2 - PARTIAL REZONING OF NORTH SHORE COUNTRY CLUB - LOT 55 (11) HENDERSON DRIVE, KALLAROO

WARD:	Central
RESPONSIBLE	Ms Dale Page, Director Planning and Development
FILE NUMBER:	100418, 101515
ATTACHMENTS:	Attachment 1 Location Plan Attachment 2 Zoning Plan (Existing and Proposed) Attachment 3 Scheme Amendment Process Flowchart Attachment 4 Consultation Map Attachment 5 Concept Plan

PURPOSE

The purpose of this report is for Council to consider initiating proposed Amendment No. 48 to District Planning Scheme 2 (DPS2), for the purpose of public advertising.

EXECUTIVE SUMMARY

An application has been received that proposes an amendment to DPS2 to rezone a 1,802m² portion of the North Shore Country Club site from 'Private Clubs and Recreation' to 'Residential'. The rezoning will facilitate the creation of up to three single residential lots or up to four survey strata lots, at the existing density code of R20. Access to the lots would be from Henderson Drive.

The North Shore Country Club and Residents Association have indicated that the future subdivision and sale of this land will provide the finance to repair and upgrade the existing Country Club facilities.

The area proposed to be rezoned for future residential lots currently contains car parking. The applicant has provided a concept plan outlining modifications to the existing Country Club layout to accommodate the proposed residential lots.

It is recommended that Scheme Amendment No. 48 be initiated for the purpose of advertising, after which further consideration can be given to the proposal.

BACKGROUND

Suburb/Location:	Lot 55 (11) Henderson Drive, Kallaroo
Applicant:	Greg Rowe and Associates
Owner:	North Shore Country Club and Residents Assoc Inc.
Zoning:	DPS: Private Clubs / Recreation
	MRS: Urban
Site Area:	20,471m ² (Only 1,802m ² is subject to proposed rezoning)
Structure Plan:	Not Applicable

The North Shore Country Club is located on the corners of Northshore Drive, Northshore Avenue and Henderson Drive, Kallaroo (Attachment 1 refers).

The Country Club is a privately owned facility and includes a club room, tennis courts, bowling green and car parking.

DETAILS

The purpose of the proposed scheme amendment is to rezone a 1,802m² portion of the North Shore Country Club from the 'Private Clubs/Recreation' zone to the 'Residential' zone (Attachment 2 refers). This would facilitate the creation of up to three single residential lots or up to four grouped dwellings, with frontage to Henderson Drive, Kallaroo.

The applicant has provided the following justification:

- *The proposal is not expected to represent an unacceptable impact on nearby landowners;*
- *The proposed zoning is consistent with the zoning in the surrounding area;*
- *The proposed density and lot sizes are also consistent with those in the surrounding area;*
- *The proposal allows for currently underutilized land to be consolidated into the highest and best use for the site;*
- *The proposed residential zoned land is appropriately located in proximity to areas of active open spaces (Whitford Beach) and major transport routes (Northshore Drive);*
- *The redevelopment of the Country Club will allow for a greater and more diverse target demographic likely to use the facilities to be provided;*
- *Relocation of parking away from the street will allow a reduced impact of the amenity of existing residential dwellings.*

The applicant has indicated that the subdivision and sale of this land will provide the North Shore Country Club and Residents Association Inc. with the finance to repair and upgrade the existing Country Club facilities.

The planned modifications to the existing North Shore Country Club include the:

- removal of a bowling green to accommodate a new car park and vehicle access;
- removal of two tennis courts to accommodate new multi-purpose courts;
- addition of two new tennis courts.

It is noted that these works will be subject to a separate development application.

Issues and options considered:

The issues associated with the proposed amendment include the suitability of the proposed 'Residential' zoning.

The options available to Council in considering the scheme amendment proposal are:

- Support the initiation of the proposed amendment for the purpose of public advertising;
- Support the initiation of the proposed amendment, with modification, for the purpose of public advertising; or
- Not support the initiation of the proposed amendment for the purpose of public advertising.

Legislation/Strategic Plan/Policy Implications

Legislation

Part 5 of the *Planning and Development Act 2005* enables local governments to amend their local planning schemes and sets out the process to be followed (Attachment 3 refers).

Should 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 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, Council is required to consider all submissions received during the advertising period and will resolve to either adopt the amendment, with or without modifications, or refuse the amendment. The decision is then forwarded to the Western Australian Planning Commission (WAPC) which makes a recommendation to the Minister for Planning. The Minister can either grant final approval to the amendment, with or without modifications, or refuse the amendment.

If Council resolves not to initiate the amendment, there is no right of review to the State Administrative Tribunal by the applicant.

Strategic Plan

Key Focus Area: The built environment.

Objective: 4.1 To ensure high quality urban development within the City.

Policy:

Not Applicable.

Risk Management considerations:

Not Applicable.

Financial/Budget Implications:

The applicant has paid fees of \$4,867.32 (including GST) to cover all costs with assessing the request, public consultation and document production. This includes an advertising cost of \$2,325 (excluding GST).

Regional Significance:

Not Applicable.

Sustainability Implications:

The proposed amendment would enable the City to consider future residential subdivision and development on the site that will provide additional dwellings. Being an infill site, this will contribute to environmental, economic and social sustainability by providing dwellings near existing facilities and infrastructure in an established suburb.

The proposed scheme amendment would also provide financial sustainability for the applicant by providing revenue to improve the existing facilities for the Country Club members.

Consultation:

Should Council initiate the proposed amendment, it is required to be advertised for public comment for a period of 42 days.

Whilst the applicant has conducted their own consultation with residents of the North Shore Residential Estate, the City is required to advertise the proposal in accordance with statutory provisions. It is noted that the applicant distributed brochures to all residents within the estate to provide information on the proposed sale of land to fund new recreation facilities proposed for the Country Club. From a statutory planning point of view, the City is required to advertise to those landowners that will be most affected by the proposed scheme amendment. Accordingly, 29 adjoining and nearby landowners will be notified in writing (Attachment 4 refers).

Consultation will also comprise of a notice in the Joondalup Community Newspaper, The West Australian Newspaper, the City's website and a sign on the site.

COMMENT**Proposed Zoning**

The site is privately owned and is currently zoned 'Private Clubs/Recreation'. It is not a public reserve for 'Parks and Recreation', and as such the site is not classified as Public Open Space (POS). Therefore, any amendment to the zoning of the site will not diminish the available publicly owned POS in the area.

The application of the 'Residential' zone is consistent with lots surrounding the subject site, and is unlikely to be detrimental to the amenity of the existing residential area.

Concept Plan

The applicant has provided a Concept Plan (Attachment 5 refers) which indicates that three green title lots are planned for the site, being 600m², 600m², and 602m² in area. These lot sizes are greater than the average lot size of 500m² prescribed by the Residential Design Codes for land coded R20, however, are less than the prevailing lot sizes in the immediate vicinity which vary from 749m² to 1,114m². The subdivision concept would facilitate the creation of regular shaped lots.

It is noted that the land area proposed to be rezoned (1,802m²) could alternatively accommodate up to four grouped dwellings under a survey strata arrangement at an average lot size of 450m². This is not considered to have any significant implications beyond the development of three single dwellings.

The proposed rezoning and redevelopment of a portion of the North Shore Country Club site will affect the existing Country Club car park. The Concept Plan demonstrates that it is possible to reconfigure the car park to accommodate 44 cars, two more bays than the existing car park contains.

It is noted that the portion of the existing car park, including the access driveway, would need to be relocated prior to the creation of any new lots. This is likely to be a requirement of any subdivision approval issued.

The Concept Plan includes other possible improvements to the North Shore Country Club facilities, however, these are not part of the scheme amendment assessment, and will require a development application to be lodged, at which time further consideration will be given to those proposals.

Vehicle Access

The location of the land proposed to be rezoned for residential use would have access to Henderson Drive, Kallaroo. No traffic or vehicular access issues have been identified.

Informal Consultation

The applicant has indicated that preliminary community consultation was conducted from 16 November to 21 December 2010. The purpose of this consultation was for the North Shore Country Club and Residents Association to inform the community about the proposed scheme amendment application and to provide them with the opportunity to discuss any concerns with the Club's representatives. A letter was distributed to every resident within the North Shore Estate.

The applicant has advised that:

"The feedback received was predominately positive, with the majority of the responses received in favour of the proposal. The community appeared to appreciate the importance of the North Shore Country Club in the context of the locality, being an important community facility."

Regardless of the consultation undertaken by the applicant, should Council resolve to initiate the Scheme Amendment, the statutory 42 day advertising period will be required.

Conclusion

The proposed scheme amendment is considered to be consistent with the residential context of the locality and it is recommended that it be initiated for the purpose of public advertising.

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Gobbert, SECONDED Cr Amphlett that Council:

- 1 **CONSENTS** to initiate Amendment No 48 to the City of Joondalup District Planning Scheme No 2 to rezone the 1,802m² portion of Lot 55 (11) Henderson Drive, Kallaroo from 'Private Clubs/Recreation' to 'Residential' as indicated on Attachment 2 of Report CJ055-04/11, for the purposes of public advertising for a period of 42 days;
- 2 **NOTES** that prior to the advertising period commencing, as detailed in part 1 above, the City will forward 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 (11/0)**

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Diaz, Fishwick, Gobbert, Hamilton-Prime, Hollywood, Norman and Taylor

Appendix 4 refers

To access this attachment on electronic document, click here: [Attach4brf120411.pdf](#)

Cr McLean returned to the Chamber at 7.46 pm.

CJ056-04/11 PROPOSED AMENDMENT NO 52 TO DISTRICT PLANNING SCHEME NO 2 - TO RECODE LOT 702 (34) MARRI ROAD, DUNCRAIG FROM R20 TO R60**WARD:** South**RESPONSIBLE:** Ms Dale Page, Director Planning and Development**FILE NUMBER:** 101043, 101515**ATTACHMENTS:**

Attachment 1	Location and Aerial Site Plans
Attachment 2	Zoning Plan
Attachment 3	Schedule of Submissions
Attachment 4	Map of Submitters
Attachment 5	Scheme Amendment Process Flowchart

PURPOSE

The purpose of this report is for Council to consider submissions received during the public advertising of proposed Amendment No 52 to District Planning Scheme No 2 (DPS2), and to decide whether to adopt the amendment as final.

EXECUTIVE SUMMARY

Lot 702 Marri Road, Duncraig, is currently a vacant 'Commercial' zoned site which was previously used for a service station. The scheme amendment proposes to increase the residential density of the site from R20 to R60.

In July 2010, the City issued development approval for a three storey mixed used building consisting of office and shop uses on the ground and first floors, three residential apartments on the second floor and underground car parking. The proposed density increase would allow for up to eight residential apartments to be provided on the site in conjunction with the shop and office uses.

At its meeting held on 21 September 2010, Council resolved to initiate Scheme Amendment No 52 for the purpose of public advertising.

The proposed scheme amendment was advertised for public comment for a period of 42 days, closing on 16 March 2011. A total of eight submissions were received during the advertising period, being four of objection, three of support from the service authorities, and one comment.

The main issues raised in the submissions of objection are in relation to potential traffic and car parking issues.

It is not considered that the proposed scheme amendment and subsequent development will have an adverse impact on the traffic or car parking in the area and, therefore, it is recommended that the proposed scheme amendment be adopted without modification and forwarded to the Western Australian Planning Commission for consideration of final approval.

BACKGROUND

Suburb/Location: Lot 702 (34) Marri Road, Duncraig
Applicant: Gerry Kho Architects
Owner: JFH Holdings Pty Ltd
Zoning: **DPS:** Commercial
MRS: Urban
Site Area: 1,583m²
Structure Plan: Not Applicable

The subject site is located on the south-eastern corner of Marri Road and Cassinia Road, Duncraig, with the southern and eastern boundaries adjoining the existing Duncraig Shopping Centre (Attachment 1 refers). The land to the north of Marri Road and to the west of Cassinia Road is zoned 'Residential' with a density coding of R20.

The property previously accommodated a service station. The service station buildings have been demolished and other infrastructure decommissioned or removed from the site and the site is now vacant. Prior to the current landowners purchasing the site in 2002, remediation site works were undertaken.

At its meeting held on 2 September 2008, Council approved a child care centre on the site, however, this development was never progressed.

Recently, the City received a development application for a three storey, mixed used building consisting of office and shop uses on the ground and first floors, eight residential apartments on the second floor and underground car parking. While the commercial part of the development was considered to be consistent with the requirements of DPS2, only three apartments could be approved under the current residential density of R20.

Consequently, amended plans were submitted and approved proposing three apartments in compliance with the current density, with the intent of reworking the internal design of the building to accommodate eight units, pending the outcome of the scheme amendment.

At its meeting held on 21 September 2010, Council resolved to initiate the amendment and advertise it for the purpose of public comment for a period of 42 days, commencing 1 February 2011.

DETAILS

An application has been received to amend the density coding of Lot 702 Marri Road, Duncraig from R20 to R60 (Attachment 2 refers).

Under the current density, three residential dwellings could be developed in accordance with the requirements of the Residential Design Codes (R-codes). The proposed R60 density would allow eight dwellings to be developed which would reflect the original design submitted by the applicant.

The applicant advises that, subject to the approval of the density increase and a new development application, the second floor of the development containing the residential component will be re-subdivided from three units into eight units. It is not proposed to add another level to the building.

In support of the scheme amendment the applicant states that as a result of the density increase the proposed development ... *'will assist in rejuvenating and enhancing the area by improving amenities and quality of life within the City of Joondalup to cater for future generations of residents and businesses.'*

Issues and options considered:

The options available to Council in considering the proposal are to:

- adopt the proposed amendment;
- adopt the proposed amendment, with modification; or
- refuse to adopt the proposed amendment.

In all the above options, the proposal is forwarded to the Western Australian Planning Commission (WAPC) for the Minister for Planning's determination.

Legislation/Strategic Plan/Policy Implications

Legislation

Part 5 of the *Planning and Development Act 2005* enables local government to amend a Local Planning Scheme and sets out the process to be followed. Council supported the initiation of the proposed amendment for the purpose of public advertising at its meeting held on 21 September 2010. The proposed amendment was then referred to the Environmental Protection Authority (EPA) for its comment. The EPA decided that a formal review of the amendment was not required.

Upon closure of the advertising period, Council is to consider all submissions received during the advertising period and resolve to either adopt the amendment, with or without modifications, or resolve not to adopt the amendment. The decision is then forwarded to the WAPC which makes a recommendation to the Minister for Planning. The Minister can either grant final approval to the amendment, with or without modifications, or refuse to grant approval for the amendment.

Strategic Plan

Key Focus Area: The built environment

Objective: To ensure high quality urban development within the City

Policy

Not Applicable.

Risk Management considerations:

Not Applicable.

Financial/Budget Implications:

The applicant has paid fees of \$5,589.89 (including GST) to cover all costs with assessing the request, public consultation and document production. Advertising costs are estimated to be \$1,970 (excluding GST).

Regional Significance:

Not Applicable.

Sustainability Implications:

The proposed amendment would enable the City to consider further residential development on the site which will provide additional dwellings. Being an infill site, this will contribute to the environmental, economic and social sustainability by providing dwellings near existing facilities and infrastructure in an established suburb.

The development of medium density housing is considered appropriate given the location of the subject site adjacent to the Duncraig Shopping Centre and bus route on Marri Road. The type of dwellings will also provide alternative housing choice in the area.

Consultation:

The proposed scheme amendment was advertised for public comment for a period of 42 days, closing on 16 March 2011. One sign was placed on the site, a notice placed in the local newspaper, 29 letters were sent to nearby landowners and six letters to service authorities, advising of the proposed amendment. The proposal was also placed on the City's website.

A total of eight submissions were received, comprising four objections, one comment and three no objections from service authorities. The schedule of submissions is provided at Attachment 3 and a map of the location of submitters at Attachment 4.

COMMENT

Submissions

The main issue raised in the submissions was in regard to an increase in traffic and car parking problems. However, a traffic impact assessment submitted for the development has indicated that the increase in vehicle movements to and from the subject site will not significantly impact in the volume or flow of traffic to Marri Road and the surrounding streets. It is also likely that traffic movements to and from the site will be substantially less than when the service station previously occupied the site.

Development of the site

The current development approval for the site is for a three storey, mixed used building consisting of office and shop uses on the ground and first floors, eight residential apartments on the second floor and underground car parking. Should the amendment be finalised, the landowner intends to reconfigure the design of the residential dwellings from three to eight dwellings. The modification will not impact on the external appearance of the building.

In the event that the landowner does not wish to continue with the current approval, any proposal will be subject to a new development application. Through the development application process elements such as land use permissibility, car parking and building set backs will be assessed and, if appropriate, public consultation may be undertaken.

Previous approvals for the site have included a service station and a child care centre. Both of these land uses are considered to be more intensive than the proposed three storey mixed use building, in terms of vehicle traffic and other impacts such as noise.

It should be noted that if a new application is received by the City for eight grouped or multiple dwellings, and it complies with the Residential Design Codes, the application would be determined under delegated authority without the need for any further public consultation.

Draft Local Housing Strategy

Recommendation 5 of the City's draft Local Housing Strategy, adopted by Council at its meeting on 15 February 2011, recommends that the residential coding of R20, which currently applies to all commercial and mixed use zoned land outside of the City Centre, be replaced with R80 for lots greater than 1,000m².

The proposed development of eight dwellings can be achieved at the R60 density, rather than R80, which in this instance is considered appropriate given the size of the commercial site and its proximity to existing residential development. The draft Local Housing Strategy also promotes housing diversity, affordability and choice. The higher density for this site will assist in achieving this goal.

Conclusion

The advertising of the proposed scheme amendment has not raised any issues that would warrant not proceeding with the proposal. It is recommended that the proposed amendment be adopted without modification and the amending documents be endorsed and submitted to the WAPC for the Minister for Planning's determination.

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Gobbert, SECONDED Cr Hollywood that Council:

- 1 Pursuant to Regulation 17(2) of the Town Planning Regulations 1967 ADOPTS Amendment No 52 to the City of Joondalup District Planning Scheme No 2, to recode Lot 702 (34) Marri Road, Duncraig from R20 to R60;**
- 2 NOTES the submissions received and advises the submitters of Council's decision;**
- 3 AUTHORISES the affixation of the Common Seal and to endorse the signing of the amendment documents;**
- 4 REFERS Scheme Amendment No 52 and Council's decision to the Western Australian Planning Commission for determination.**

The Motion was Put and CARRIED (12/0) by En Bloc Resolution prior to consideration of Item CJ070-04/11, Page 115 refers.

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Diaz, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman and Taylor

Appendix 5 refers

To access this attachment on electronic document, click here: [Attach5brf120411.pdf](#)

CJ057-04/11 PROPOSED AMENDMENT NO 53 TO DISTRICT PLANNING SCHEME NO 2 - CONTROL OF LARGE SCALE BREEDING OF ANIMALS FOR COMMERCIAL SALE AND/OR CONSUMPTION

WARD: All

RESPONSIBLE: Ms Dale Page, Director Planning and Development

FILE NUMBER: 101181, 101515

ATTACHMENTS: Attachment 1 Scheme Amendment Process Flowchart

PURPOSE

The purpose of this report is for Council to consider submissions received during the public advertising of proposed Amendment No 53 to District Planning Scheme No 2 (DPS2), and to decide whether to adopt the amendment as final.

EXECUTIVE SUMMARY

In early 2010, the City was informed by an owner of a property in Ocean Reef of their intent to breed and slaughter rats and mice within their residence, for the purpose of commercial sale. This was to be conducted as a 'Home Business - Category 1' under District Planning Scheme No 2 (DPS2).

At its meeting held on 19 October 2010 (CJ166-10/10 refers), Council resolved to initiate Scheme Amendment No 53 for the purpose of public advertising. The proposed amendment to DPS2 would include a new land use classification 'Animal Breeding' and would indicate where the land use would be permitted. The amendment would also prevent 'Animal Breeding' from being considered a Home Business.

The proposed scheme amendment was advertised for public comment for a period of 42 days, closing on 16 March 2011. One submission was received during the advertising period. This was a no objection from a service authority.

It is recommended that the proposed scheme amendment be adopted without modification and forwarded to the Western Australian Planning Commission for consideration of final approval.

BACKGROUND

In early 2010, the City was informed by an owner of a property in Ocean Reef of their intent to breed and slaughter rats and mice on their premises, for the purpose of commercial sale (food for reptiles).

The City received 62 objections from residents from the Ocean Reef area expressing their concern about the potential home business. The objections generally related to a perceived reduction in the amenity of the area due to the proposed land use.

At the time the Ocean Reef land owner proposed to operate the business under the Home Business - Category 1 Use Class. This use class is permitted within the Residential zone and does not require planning permission.

In addition, the proposed land use, if managed appropriately, would have been considered to meet the requirements of all relevant Environmental Health legislation, including the City of Joondalup Health Local Law 1999, Animals Local Law 1999, Health Act 1991 and the Environmental Protection (Noise) Regulations 1997.

Therefore, to prevent future proposals for such a land use within the residential areas of the City, Council, at its meeting held on 25 May 2010, resolved the following:

"Council REQUESTS a report on possible changes to the City of Joondalup's relevant planning instruments and/or local laws to prevent large scale breeding of animals in residential areas for commercial sale and/or consumption".

In accordance with the above resolution, a report outlining four options was presented to the Council meeting held on 21 September 2010 (CJ146-09/10 refers). Council resolved the following:

- “1 *RECEIVES the report outlining the options available for preventing the large scale breeding of animals in residential areas for commercial sale and/or consumption;*
- 2 *REQUESTS a report be presented to the October Ordinary Council meeting to initiate an amendment to District Planning Scheme No.2, reflecting the approach detailed in Option 3 of the Report.”*

At its meeting held on 19 October 2010, Council resolved to initiate a scheme amendment for the purpose of public advertising, as outlined below.

DETAILS

Issues and options considered:

Scheme amendment No 53 proposes to:

- insert a new definition for ‘Animal Breeding’;
- insert an ‘Animal Breeding’ use class into the Land Use Table and include a permissibility within each Zone (for example, Permitted, Not Permitted, Discretionary);
- amend the Home Business 1, 2, and 3 definitions in order to prevent ‘Animal Breeding’ occurring as a Home Business;
- insert ‘Animal Breeding’ into the Car Parking Standards Table and allocate a standard of one bay per 50m² Nett Lettable Area.

The following options are available to Council in considering the proposed scheme amendment:

- Adopt the proposed amendment as final.
- Adopt the proposed amendment as final, with modification; or
- Refuse to adopt the proposed amendment.

In all the above options, the proposal is forwarded to the Western Australian Planning Commission (WAPC) for the Minister for Planning’s determination.

Legislation/Strategic Plan/Policy Implications

Legislation

Part 5 of the *Planning and Development Act 2005* enables a local government to amend a Local Planning Scheme and sets out the process to be followed (Attachment 1 refers). Council supported the initiation of the proposed amendment for the purpose of public advertising at its meeting held on 19 October 2010. The proposed amendment was then referred to the Environmental Protection Authority (EPA) for its comment. The EPA decided that a formal review of the amendment was not required.

Upon closure of the advertising period, Council is to consider all submissions received during the advertising period and resolve to either adopt the amendment, with or without modifications, or resolve not to adopt the amendment. The decision is then forwarded to the WAPC which makes a recommendation to the Minister for Planning. The Minister can either grant final approval to the amendment, with or without modifications, or refuse to grant approval for the amendment.

Strategic Plan

Key Focus Area: Leadership and governance

Objective: 1.3 To lead and manage the City effectively

Policy

Not Applicable.

Risk Management considerations:

In the event that the amendment is not supported by the WAPC, or the Minister refuses to grant approval for the amendment, there is a chance that operators wanting to breed animals on a large scale may do so in the Residential area as a Home Business - Category 1. Under DPS2 Home Business –Category 1 does not require development approval.

Financial/Budget Implications:

Advertising costs for the proposed amendment are estimated to be \$2,100 (excluding GST).

Regional Significance:

Not Applicable.

Sustainability Implications:

Not Applicable.

Consultation:

The proposed scheme amendment was advertised for public comment for a period of 42 days, closing on 16 March 2011. A notice was placed in the local newspaper as well as in the West Australian. Two letters were sent to service authorities, advising of the proposed amendment. A notice was also placed on the City's website.

One submission was received, being a no objection from the Water Corporation.

COMMENT

As no submissions were received, it is recommended that Council adopts the proposed scheme amendment as final, without modification.

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Gobbert, SECONDED Cr Hollywood that Council:

1 Pursuant to Regulation 17(2) of the *Town Planning Regulations 1967* ADOPTS Amendment No 53 to the City of Joondalup District Planning Scheme No 2 to:

1.1 Include within Schedule 1 (Clause 1.9) – Interpretations, a definition of ‘Animal Breeding’ to read as follows:

“Animal breeding: means the breeding, or breeding and slaughter of animals (including insects) on a large scale for commercial sale and/or consumption;”

1.2 Include the Use Class ‘Animal Breeding’ within Table 1 (Clause 3.2) - The Zoning Table, and include the following permissibilities against the Zones of District Planning Scheme No 2:

Zone	Permissibility
Residential	X
Mixed Use	X
Business	X
Commercial	X
Civic and Cultural	X
Private Clubs/Recreation	X
Service Industrial	D
Special Residential	X
Rural	D

1.3 Amend ‘Home Business - Category 1’ definition within Schedule 1 (Clause 1.9) – Interpretations to include:

(l) does not entail the operation of a business that falls within the definition ‘Animal Breeding’;

1.4 Amend ‘Home Business - Category 2’ definition within Schedule 1 (Clause 1.9) – Interpretations to include:

(j) does not entail the operation of a business that falls within the definition ‘Animal Breeding’;

1.5 Amend ‘Home Business - Category 3’ definition within Schedule 1 (Clause 1.9) – Interpretations to include:

(k) does not entail the operation of a business that falls within the definition ‘Animal Breeding’;

1.6 Include the Use Class ‘Animal Breeding’ within Table 2 (Clause 4.8) – Car Parking Standards, and allocate a parking standard of one per 50m² NLA;

- 2 **AUTHORISES the affixation of the Common Seal and ENDORSES the signing of the amendment documents;**
- 3 **REFERS Scheme Amendment No 53 and Council's decision to the Western Australian Planning Commission for determination.**

The Motion was Put and CARRIED (12/0) by En Bloc Resolution prior to consideration of Item CJ070-04/11, Page 115 refers.

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Diaz, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman and Taylor

Appendix 6 refers

To access this attachment on electronic document, click here: [Attach6brf120411.pdf](#)

CJ058-04/11 PROPOSED AMENDMENT NO. 59 TO DISTRICT PLANNING SCHEME NO 2 - STRATA PLAN 27557 (93) WANNEROO ROAD, GREENWOOD

WARD: South-East

RESPONSIBLE: Ms Dale Page, Director Planning and Development

FILE NUMBER: 101489, 101515

ATTACHMENTS: Attachment 1 Location Plans
Attachment 2 Zoning Plans
Attachment 3 Scheme Amendment Process Flowchart

PURPOSE

The purpose of this report is for Council to consider initiating proposed Amendment No 59 to the District Planning Scheme 2 (DPS2) to amend Schedule 2 to include two additional permitted land uses, being Showroom and Warehouse, on all lots contained within Strata Plan 27557, being No 93 Wanneroo Road, Greenwood.

EXECUTIVE SUMMARY

A proposal has been received to amend Schedule 2 of DPS2 to include two additional permitted land uses, being Showroom and Warehouse, on No 93 Wanneroo Road, Greenwood.

The subject site accommodates a building with seven commercial tenancies within six strata lots which were granted land use approval under the former Town Planning Scheme No 1 as either 'Showroom' or 'Warehouse'. Upon the commencement of DPS2, the subject site was rezoned 'Mixed Use', resulting in non-conforming use rights applying to the approved showroom and warehouse tenancies. The proposed scheme amendment proposes to reinstate the previous approved land uses as permitted uses for the subject site.

The proposed scheme amendment is considered to have some merit as:

- the development is in existence and currently operates without issue; and
- the context of the site is not considered to have changed significantly since the original development approval.

As such, it is considered appropriate that proposed scheme amendment No 59 be initiated for the purpose of public advertising.

BACKGROUND

Suburb/Location:	Lots on Strata Plan 27557 (93) Wanneroo Road, Greenwood WA 6024
Applicant:	Gray & Lewis Planning Consultants
Owner:	Victor Michael Parin
Zoning:	DPS: Mixed Use
	MRS: Urban
Site Area:	4,590.77m ²
Structure Plan:	Not Applicable

History of Development

Prior to the existing development, the site was zoned 'Residential Development' under the former City of Wanneroo Town Planning Scheme No 1 and accommodated a panel beating premises which had a non-conforming use right. A non-conforming use right allows for the continued use of any land or building for the purpose for which it was being lawfully used for at the gazettal date of a Scheme.

Over time, unapproved vehicle wrecking occurred, associated with the panel beating business, resulting in complaints from the community, on the basis of an accumulation of car bodies and the general unkempt appearance of the site.

In an effort to lift the image of the site, the landowner pursued several commercial redevelopment options and scheme amendments for the property including:

- a development application for a local shopping centre – refused by the Town Planning Board;
- rezoning the site 'Special Use' (Restricted Use) Sale and Service of Vehicle Parts and Accessories – Refused by the Minister for Planning.

Following numerous unsuccessful redevelopment proposals, Amendment No 426 to Town Planning Scheme No 1 was initiated in 1990.

Amendment No 426 proposed to rezone the site from 'Residential Development' to 'Residential Development - Additional Use Service Industry', excluding the following:

- Building yard.
- Dry cleaning premises.
- Funeral parlour.
- Hall, health studio.

- Light industry.
- Lunch bar.
- Milk depot.
- Motor repair station.
- Petrol filling station.
- Public amusement.
- Public worship.
- Service station.
- Transport depot.
- Vehicle sales premises.

Amendment No 426 was adopted by the former City of Wanneroo on 28 November 1990, subject to the owner entering into a legal agreement with the City which required the landowner to:

- submit an application for a demolition licence within three months of Scheme Amendment No 426 being gazetted and thereafter demolish existing buildings and disused materials which would effectively extinguish the existing non-conforming use right (panel beating);
- submit an application to amalgamate Lot 328 and part Lot 327 to reflect Amendment No 426 within three months of the amendment being gazetted;
- submit a development application within three months of Amendment No. 426 being gazetted.

Following the gazettal of Amendment No 426, the landowner satisfied all of the requirements of the legal agreement including the development of showroom/warehouse units which now form No 93 Wanneroo Road. The legal agreement was extinguished in 1995.

History of Showroom and Warehouse Non-Conforming Use Rights

Development approval was issued for the existing showroom and warehouse units in 1992. At this time, Town Planning Scheme No 1 was under review. The history of the Scheme review, which resulted in the existing non-conforming use rights, is as follows:

- In 1997, a draft District Planning No 2 was advertised for public comment.

The zoning which applied to the subject site as part of Town Planning Scheme No 1 was proposed to be carried over to the new Scheme. This would have enabled the continued use of the property for showroom and warehouse uses.

- During the advertising period, the Minister for Planning recommended that the City investigate the large number of Additional/Restricted uses contained in the Scheme (which included the subject site).

The City resolved to extend the advertising period on this basis and seek further comment from owners of land with additional or restricted use rights.

- A submission was received regarding the subject site, stating the owner's objection to the removal of the existing Additional Use rights.

As an alternative, the owner suggested that the 'Mixed Business' zone or 'Commercial' zone be applied as this would be consistent with the approved uses on site.

- In 1998, Council resolved that the draft District Planning Scheme should be split to create a City of Joondalup and a City of Wanneroo Scheme. The Minister for Planning supported this proposal and requested further modifications, including the removal of the 'Mixed Business' zone, prior to an additional advertising period of 30 days.
- A second submission was received from the owner noting the additional amendments to the draft Scheme, and in lieu of the 'Mixed Business' zone, suggested that the site be zoned 'Commercial' or 'Business'.
- A report to Council on submissions received during the advertising period specifically considered the suggested zones put forward for the subject site. It was acknowledged that the existing land uses were the result of a previous legal agreement but that the new 'Mixed Use' zone was considered to be a suitable alternative to the existing zoning.

The 'Mixed Use' zone would enable Showroom activity to continue as a permitted use, however, existing Warehouse uses would continue on the basis of a non-conforming use right. The Scheme was adopted on this basis and forwarded to the Minister for Planning for final endorsement.

- On 18 August 2000, the City was advised that the Minister would not approve the Scheme until a number of modifications were made. The Minister did not consider that the modifications would warrant readvertising. Among the modifications required by the Minister was the requirement to make Showrooms an 'X' use (not permitted) in the 'Mixed Use' zone.

Upon the gazettal of DPS2, the existing Showroom and Warehouse uses on the subject site became non-conforming uses. The existing development had been in existence for eight years when the non-conforming use rights came into effect.

DPS2 defines the following land uses as:

Showroom: means premises providing large floor space used for the displaying of goods and which may involve the sale by wholesale or retail, or hire of such goods, being goods generally of a bulky nature and without limiting the generality of the foregoing including automotive parts and accessories, camping equipment, electrical light fittings, equestrian supplies, floor coverings, furnishings, furniture, household appliances, party supplies and second hand goods. The term does not include the sale of foodstuff, liquor or beverages, items of personal adornment, magazines, books, newspapers, paper products and medicinal or pharmaceutical products.

Warehouse: means premises used for storage of goods and the carrying out of commercial transactions involving the sale of such goods by wholesale.

DETAILS

An application has been received to amend Schedule 2 to include two additional permitted land uses, being Showroom and Warehouse, on No 93 Wanneroo Road Greenwood.

The existing tenancies were approved under the former Town Planning Scheme No 1 as either Showroom or Warehouse. Upon the commencement of DPS2, the site was zoned 'Mixed Use'. Showroom and Warehouse land uses are not permitted within the 'Mixed Use' zone and as such the approved uses are permitted to continue operating on the basis of a non-conforming uses right.

If approved, Scheme Amendment No 59 would reinstate Showroom and Warehouse as permitted uses.

The applicant notes that the current non-conforming use rights have resulted in difficulties for the landowner, namely:

- the inability to use a tenancy for a showroom/warehouse where the use has been discontinued for more than six months;
- the inability to rebuild the development for showroom/warehouse uses in the event that a fire destroys the established development;
- difficulty insuring the property due to the risk of fire and damage.

Issues and options considered:

The issues associated with the proposed amendment include the suitability of the proposed additional uses (Showroom and Warehouse).

The following options available to Council in considering the scheme amendment proposal:

- Support the initiation of the proposed amendment for the purpose of public advertising.
- Support the initiation of the proposed amendment, with modification, for the purpose of public advertising; or
- Not support the initiation of the proposed amendment for the purpose of public advertising.

Legislation/Strategic Plan/Policy Implications

Legislation

Part 5 of the *Planning and Development Act 2005* enables local governments to amend their local planning schemes and sets out the process to be followed (Attachment 3 refers).

Should 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 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, Council is required to consider all submissions received during the advertising period and will resolve to either adopt the amendment, with or without modifications, or refuse the amendment. The decision is then forwarded to the Western Australian Planning Commission (WAPC) which makes a recommendation to the Minister for Planning. The Minister can either grant final approval to the amendment, with or without modifications, or refuse the amendment.

If Council resolves not to initiate the amendment, there is no right of review to the State Administrative Tribunal by the applicant, however, in exceptional circumstances the Minister for Planning can direct the Council to initiate the scheme amendment.

Strategic Plan

Key Focus Area: The built environment.

Objective: To ensure high quality urban development within the City.

Policy Not Applicable.

Risk Management considerations:

Not Applicable.

Financial/Budget Implications:

The applicant has paid fees of \$6,065.59 (including GST) to cover all costs with assessing the request, public consultation and document production. Advertising costs are estimated to be \$2,325 (excluding GST).

Regional Significance:

Not Applicable.

Sustainability Implications:

Not Applicable.

Consultation:

Should Council initiate the proposed amendment, it is required to be advertised for public comment for a period of 42 days. Approximately 23 adjacent landowners will be notified in writing, a notice will be placed on the City's website, in the Joondalup Community newspaper and The West Australian newspaper. A sign will also be placed on the site.

COMMENT

Implications of Scheme Amendment No 59

Showrooms currently exist on the site in the form of Cash Converters and Poolmart. The remaining tenancies which may once have been occupied by showrooms are now either vacant or occupied by shop or office uses. The proposed scheme amendment would facilitate the remaining tenancies to once again be occupied by Showroom uses or redeveloped for such uses.

In the case of Warehouse uses, the existing development no longer accommodates any warehouses and as such the previously existing non-conforming use right has been extinguished. The proposed scheme amendment would facilitate the existing tenancies to once again be occupied by Warehouse uses or redeveloped for such uses.

Given that the existing building is divided into various tenancies, any showroom or warehouse would be relatively small scale, and unlikely to be detrimental to the amenity of the surrounding area.

It is noted that the current development is compliant with provisions of DPS2 in terms of the provision of car parking, landscaping and servicing. In the event that the site is redeveloped, assuming compliance with all DPS2 requirements, it is unlikely that any substantially larger floor space than already exists could be accommodated on the site, without the need for basement car parking.

The potential redevelopment of the site for showroom/warehouse use is not likely to result in a development that is of greater size, scale or impact than the existing development.

Appropriateness of Showroom and Warehouse

In general terms, it is not considered appropriate to locate Showroom or Warehouse uses within the 'Mixed Use' zone as they do not align with the intent of the zone by catering for small scale business in a primarily residential scale environment. Generally, 'Service Industrial', 'Commercial' or 'Business' zones are considered to be more suitable locations for these uses. This said, the proposed scheme amendment is considered to have some merit given the unique circumstances of the site:

- Showrooms were drafted as a permitted use in 'Mixed Use' zone, however, the Minister required this to be modified, resulting in the existing non-conforming use rights. Therefore, the existing non-conforming use right for the existing Showrooms was an unintended outcome for the subject site.
- The subject site has good exposure and access to Wanneroo Road which supports Showroom and Warehouse uses.
- The continued use of the property for Showroom and Warehouse uses is not considered to adversely impact residential amenity, as the development is in existence and operates without issue.
- The context of the site is not considered to have changed significantly since the original development was approved and therefore it is not inappropriate to consider reinstating the previously approved uses.

It is recommended that the amendment be initiated for the purpose of public advertising.

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Gobbert, SECONDED Cr Hollywood that Council:

- 1 Pursuant to Part 5 of the *Planning and Development Act 2005* CONSENTS to initiate Amendment No 59 to the City of Joondalup District Planning Scheme No 2 to amend Schedule 2 to include two additional uses, being Showroom and Warehouse, on all lots contained within Strata Plan 27557 (93) Wanneroo Road Greenwood, for the purposes of public advertising for a period of 42 days:

NO	STREET/LOCALITY	PARTICULARS OF LAND	ADDITIONAL USE
1-22	93 Wanneroo Road, Greenwood	All lots contained on Strata Plan 27557	Showroom and Warehouse

- 2 NOTES that prior to the advertising period commencing, as detailed in part 1 above, the City will forward 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 (12/0) by En Bloc Resolution prior to consideration of Item CJ070-04/11, Page 115 refers.

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Diaz, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman and Taylor

Appendix 7 refers

To access this attachment on electronic document, click here: [Attach7brf120411.pdf](#)

CJ059-04/11 PROPOSED SCHEME AMENDMENT NO 60 TO DISTRICT PLANNING SCHEME NO 2 - TO ZONE RESERVE 35570, (2F) GULL STREET, MARMION

WARD: South

RESPONSIBLE: Ms Dale Page, Director Planning and Development

FILE NUMBER: 101668, 101515, 29498

ATTACHMENTS: Attachment 1 Location Plan
Attachment 2 Advertising Plan
Attachment 3 Scheme Amendment Process Flowchart

PURPOSE

The purpose of this report is for Council to consider initiating proposed Amendment No. 60 to District Planning Scheme 2 (DPS2) to remove the 'Parks and Recreation' reservation from Reserve 35570 Gull Street, Marmion, and zone it to 'Residential', for the purpose of public advertising.

EXECUTIVE SUMMARY

Reserve 35570 is vacant Crown land with a reservation of 'Parks and Recreation' under DPS2. The City currently has a management order over the land for the purpose of 'Parking'.

It has been identified that the use of the site for car parking is not appropriate as it bounded by residential properties and located in a local residential street. The most suitable alternative zoning for the site is considered to be 'Residential'.

It is recommended that Council initiates the proposed scheme amendment for the purpose of public advertising.

BACKGROUND

Suburb/Location: Reserve 35570 (2F) Gull Street, Marmion
Applicant: City of Joondalup
Owner: Crown Land
Zoning: **DPS:** Parks and Recreation
MRS: Urban
Site Area: 1,012m²
Structure Plan: Not Applicable.

The subject site is currently vacant and is bounded by 'Residential' zoned land with a density of R20 (Attachment 1 refers).

Reserve 35570 is undeveloped Crown land over which the City (formerly City of Wanneroo, now as the City of Joondalup) has held a Management Order since 1978, for the purpose of 'parking'. The original intention for the land was to develop it as a car park to alleviate parking issues in the general area.

However, it is recognised that the location of the site is not desirable for use as a car park, and alternative options for car parking in the area are needed.

DETAILS

It is proposed that the 'Parks and Recreation' reservation over Reserve 33570 be removed and the site zoned 'Residential'. The existing density code of 'R20' would remain.

The City has been in negotiations with the State Government in regard to the future use of Reserve 35570. It is proposed that the reservation of the site be removed and the 'Residential' zone be applied. Once this process has been finalised, it is intended that the site will be sold by the State Government and used for residential development.

These negotiations have recently concluded and State Cabinet has given approval for the City to commence the process.

In the event that the proposed zoning of the site is finalised, the City's Management Order over the site would also need to be relinquished.

Issues and options considered:

The issues associated with the proposed amendment are:

- Suitability/potential impact of the proposed zoning change.

The options available to Council in considering the scheme amendment are:

- to support the initiation of the proposed amendment for the purpose of public advertising;
- to support the initiation of the proposed amendment with modifications, for the purpose of advertising; or
- not to support the initiation of the proposed amendment for the purpose of public advertising.

Legislation

Part 5 of the *Planning and Development Act 2005* enables local governments to amend their local planning schemes and sets out the process to be followed (Attachment 3 refers).

Should 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 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, Council is required to consider all submissions received during the advertising period and will resolve to either adopt the amendment, with or without modifications, or refuse the amendment. The decision is then forwarded to the Western Australian Planning Commission (WAPC) which makes a recommendation to the Minister for Planning. The Minister can either grant final approval to the amendment, with or without modifications, or refuse the amendment.

If Council resolves not to initiate the amendment, there is no right of review to the State Administrative Tribunal by the applicant, however, in exceptional circumstances the Minister for Planning can direct the Council to initiate the scheme amendment.

Strategic Plan

Key Focus Area: The built environment.

Objective 4.1: To ensure high quality urban development within the City.

Policy

Not Applicable.

Risk Management considerations:

Not Applicable.

Financial/Budget Implications:

The City, as the applicant, will be required to cover the costs associated with the scheme amendment process. The costs incurred are for the advertising of the amendment which includes placing a notice in the relevant newspapers and erecting a sign on the subject site. It is estimated that the cost of advertising will be \$2,325 (excluding GST).

Regional Significance:

Not Applicable.

Sustainability Implications:

The proposed amendments would enable residential development on the site which will contribute to the environmental, economic and social sustainability by providing dwellings near existing infrastructure within established suburbs.

Consultation:

Should Council initiate the proposed amendment, it is required to be advertised for public comment for a period of 42 days. Approximately 18 adjacent landowners (Attachment 2 refers) will be notified in writing, a notice will be placed on the City's website, in the Joondalup Community newspaper and The West Australian newspaper. A sign will also be placed on the site.

COMMENT**Future use of Reserve 35570**

While the original intent was to develop the land for public car parking, as the site is bounded by residential properties and located on a local residential street, this is not considered to be an appropriate use of the land and there is no intention to develop the site for that purpose.

The proposed 'Residential' zoning is considered an appropriate alternative purpose for the site. Under this zoning, there is the potential for the 1,012m² lot to accommodate two dwellings at the existing R20 density. This would be consistent with similar development that has already occurred on nearby properties on Gull Street.

Car Parking

The existing parking facilities in the area are in high demand, particularly at weekends, as they cater for not only for the local community and clubs located along the coast. West Coast Drive is also a major tourist strip and as such there are a large number of popular beach locations and cafes located from Marmion north to Hillarys, the presence of which contribute to a high demand for parking in the area.

As noted earlier, it is intended that in the event that the scheme amendment and subsequent sale of the subject land is effected, the proceeds would be used to provide car parking and community infrastructure in the area.

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Gobbert, SECONDED Cr Hollywood that Council, pursuant to Part 5 of the *Planning and Development Act 1995*, CONSENTS to initiate Amendment No 60 to the City of Joondalup District Planning Scheme No 2 to remove the Reservation from Lot 95 (2f) Gull Street, Marmion and zone to 'Residential', for the purposes of public advertising for a period of 42 days.

The Motion was Put and CARRIED (12/0) by En Bloc Resolution prior to consideration of Item CJ070-04/11, Page 115 refers.

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Diaz, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman and Taylor

Appendix 8 refers

To access this attachment on electronic document, click here: [Attach8brf120411.pdf](#)

CJ060-04/11 NOMINATION OF MEMBERS FOR DEVELOPMENT ASSESSMENT PANELS

WARD: All

RESPONSIBLE: Ms Dale Page, Director Planning and Development

FILE NUMBER: 09886, 101515

ATTACHMENTS: Attachment 1 Planning Bulletin 106/2011 - new legislative provisions for Development Assessment Panels

PURPOSE

To nominate two Elected Members to serve as members on one of the Western Australian Planning Commission's Development Assessment Panels (DAPs) and two Elected Members to serve as deputies.

BACKGROUND

From 1 July 2011, 15 DAPs will commence operation throughout Western Australia.

DAPs will be responsible for determining development applications where the likely cost of the development exceeds a specified dollar value. For the City of Joondalup, any proposal over \$7 million in value would be determined by the DAP. An applicant may also elect for a development with a value of between \$3 million and \$7 million to be determined by the DAP.

The DAPs will be formally established by the Minister for Planning on 2 May 2011, but applications will not start being considered until 60 days after this establishment date.

Development Assessment Panels will consist of the following:

- three members with specialist knowledge in the areas of town planning, architecture, or other related disciplines;
- two Elected Members from a local government authority.

Each DAP will cover a region of Western Australia, with the exact boundaries yet to be announced by the Department of Planning (DoP). The three specialist DAP members will assess applications for all local governments covered by the relevant DAP, however, the local government members will only assess applications on the DAP for items relevant to their own local government locality.

Specialist members are currently being appointed to DAPs, with these names set to be announced on or around 4 April 2011. As such, the DoP has now requested that local government authorities nominate two Elected Members to represent the City as members on the DAPs and two Elected Members to act as first alternate member (deputy) and second alternate member (deputy).

Training of local government DAP members will then commence in May 2011, starting with what the DoP refer to as 'priority' local governments.

DETAILS

The DoP has requested that local government authorities begin the process of nominating Elected Members to sit on DAPs which would determine development applications within the City of Joondalup.

As outlined above, DAPs will determine all applications with a value of \$7 million or greater, and may determine applications of a value between \$3 million and \$7 million, if the applicant elects that this be the case.

The Minister for Planning will formally request these nominations on 2 May 2011, and local government authorities will have a maximum of 40 days from that time in which to nominate Elected Members. However, the DoP has expressed a preference for these nominations to be received sooner where possible.

Local government nominations will officially close on 13 June 2011.

Local government members of the DAP may only fill this role whilst they are an Elected Member of the relevant local government, and for a maximum period of two years. The term of appointment will be set out in the Instrument of Appointment.

Local government elections may result in a change to local DAP membership if current councillors, who are DAP members, are not re-elected. In this instance, the deputy local DAP members will take the place of the former local DAP members. If both local and alternate (deputy) local members are not re-elected, the local government will need to renominate and the Minister reappoint.

DAP members will receive training and cannot sit on the DAP until this training has been completed.

A range of manuals will also be available for local government DAP members and applicants.

Issues and options considered:

Council is required to nominate two Elected Members to represent the City as members on the DAPs and two Elected Members to act as first alternate member (deputy) and second alternate member (deputy).

Legislation/Strategic Plan/Policy Implications

Legislation Planning and Development Act 2005
 Planning and Development (Development Assessment Panels)
 Regulations 2011

On 24 March 2011, Part 11A of the *Planning and Development Act 2005* commenced operation. This part contains the Heads of Powers required to introduce DAPs in Western Australia, through the making of regulations by the Governor.

The *Planning and Development (Development Assessment Panels) Regulations 2011* also became effective on this date, which set out provisions including the operation of DAPs and membership of DAPs.

In particular, the following regulations are of importance:

23. LDAP members

- (1) *The members of a LDAP are -
 - (a) 2 persons appointed to the LDAP as local government members; and
 - (b) 3 persons appointed to the LDAP as specialist members.*
- (2) *The members must be appointed in writing by the Minister.*
- (3) *Regulation 24 applies to the appointment of local government members.*
- (4) *Regulation 37 applies to the appointment of specialist members.*

24. Local government members of LDAP

- (1) *Whenever it is necessary to make an appointment under regulation 23(1)(a), the Minister must -
 - (a) in writing, request the local government of the district for which the DAP is established to nominate a member of the council of the local government for appointment; and
 - (b) unless subregulation (2) applies, appoint the person so nominated.*
- (2) *If, within 40 days after the date on which the Minister makes a request to a local government under subregulation (1) or such longer period as the Minister may allow, the local government fails to nominate a person for appointment in accordance with the request, the Minister may appoint under regulation 23(1)(a) a person who -
 - (a) is an eligible voter of the district for which the LDAP is established; and
 - (b) the Minister considers has relevant knowledge or experience that will enable that person to represent the interests of the local community of that district.*
- (3) *For the purposes of subregulation (2)(a) a person is an eligible voter of a district if that person is eligible under the Local Government Act 1995 section 4.29 or 4.30 to be enrolled to vote at elections for the district.*

28. Alternate members

- (1) *The Minister may, in writing, appoint -*
 - (a) *an alternate member for any person appointed under regulation 23(1)(a); and*
 - (b) *an alternate member for any person included on the local government register under regulation 26; and*
 - (c) *such number of persons eligible to be appointed as specialist members as the Minister considers necessary to form a pool of alternate members for specialist members.*
- (2) *Regulation 24 applies in relation to an appointment under subregulation (1)(a).*
- (3) *Regulation 26 applies in relation to an appointment under subregulation (1)(b).*
- (4) *An alternate member for a local government member of a DAP may act in the place of the local government member if the local government member is unable to perform the functions of the member by reason of illness, absence or other cause.*
- (5) *If a specialist member other than the presiding member is unable to perform the functions of the member by reason of illness, absence or other cause, an alternate member from the pool referred to in subregulation (1)(c) may, on the request of the presiding member, act in the place of the specialist member.*
- (6) *A person cannot act in the place of a specialist member of a DAP if the person is -*
 - (a) *employed under the Local Government Act 1995 section 5.36 by the local government of a district for which the DAP is established; or*
 - (b) *a member of the council of the local government of a district for which the DAP is established.*
- (7) *An alternate member acting under this regulation may despite anything in these regulations, continue to act, after the occasion for so acting has ceased, for the purpose of completing any determination of a DAP application.*
- (8) *An alternate member, while acting in the place of a DAP member, has the same functions and protection from liability as a DAP member.*
- (9) *No act or omission of a person acting in place of another under this regulation is to be questioned on the ground that the occasion for so acting had not arisen or had ceased.*

29. Term of office

- (1) *A DAP member holds office for the term specified in the member's instrument of appointment.*
- (2) *The term of office specified in an instrument of appointment must not exceed 2 years.*
- (3) *A person's eligibility for reappointment as a DAP member or the term for which a person may be reappointed is not affected by an earlier appointment.*

Strategic Plan

Key Focus Area: The Built Environment

Objective: To ensure high quality urban development within the City.

Policy

Not Applicable.

Risk Management considerations:

Similar to applications determined by Council, the proponent will hold a right of review against the DAPs decision, or any conditions included therein, in accordance with the *State Administrative Tribunal Act 2004* and the *Planning and Development Act 2005*. The DAP, as the decision maker, will defend the decision at the State Administrative Tribunal (SAT).

If Council does not nominate Elected Members to sit on the DAP on or before 13 June 2011, the Minister for Planning may, as set out above, appoint a person who is an eligible voter within the district, who the Minister feels will adequately represent the views of the community.

Financial/Budget Implications:

DAP members, including local government members are to be paid \$400 per sitting of the DAP, with the presiding member (one of the specialist members) receiving a payment of \$500 per sitting of the DAP.

Any DAP member who successfully completes training is entitled to the payment of \$400 from the DoP.

The City will be responsible for receiving the DAP application fees from the applicant and forwarding these to the DAP secretariat. The City may also incur other minor costs which will be reimbursed by the DAP secretariat. The City will still receive application fees to assess and report on applicants.

Regional Significance:

As the DAP will determine all applications for Development Approval where the value of the development is greater than \$7 million, and the works do not relate to a single house or grouped dwelling, it is likely that all proposals of regional significance will be determined by this body.

Sustainability Implications:

Sustainability implications of individual developments will be addressed in reports to the DAP.

Consultation:

Consultation will be undertaken on applications to be presented to the DAPs where applicable as per current protocols.

COMMENT

Council is required to nominate two members and two alternate members, that will sit on the DAP for the determination of significant development applications within the City of Joondalup.

Further information regarding the establishment, operations and membership of DAPs are detailed in the Planning Bulletin (Attachment 1 refers) and in the *Planning and Development (Development Assessment Panels) Regulations 2011*.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION: That Council:

- 1 NOMINATES two Elected Members to represent the City of Joondalup as members on the Local Government Development Assessment Panel;
- 2 NOMINATES two Elected Members to represent the City of Joondalup as first alternate member (deputy) and second alternate member (deputy) on the Local Government Development Assessment Panel.

MOVED Mayor Pickard, SECONDED Cr Gobbert that Council NOMINATES:

- 1 **Crs Gobbert and Norman to represent the City of Joondalup as members on the Local Government Development Assessment Panel;**
- 2 **Cr Chester as first alternate member (deputy) and Cr Hamilton-Prime as second alternate member (deputy), to represent the City of Joondalup on the Local Government Development Assessment Panel.**

The Motion was Put and

CARRIED (12/0)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Diaz, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman and Taylor

Appendix 9 refers

To access this attachment on electronic document, click here: [Attach9brf120411.pdf](#)

Cr Chester left the Chamber at 7.47 pm and returned at 7.49 pm.

Disclosure of interest affecting impartiality

Name/Position	Cr Philippa Taylor
Item No/Subject	CJ061-04/11 – Petition Requesting Amendment No 36 (Short Stay Accommodation) to District Planning Scheme No 2 be Revoked
Nature of interest	Interest that may affect impartiality
Extent of Interest	Cr Taylor's family regularly stay in short stay accommodation

**CJ061-04/11 PETITION REQUESTING AMENDMENT NO 36
(SHORT STAY ACCOMMODATION) TO DISTRICT
PLANNING SCHEME NO 2 BE REVOKED**

WARD: All

RESPONSIBLE: Ms Dale Page, Director Planning and Development

FILE NUMBER: 81593, 101515

ATTACHMENTS: Nil.

PURPOSE

The purpose of this report is to address the petition of Electors received by Council at its meeting held 14 December 2010 relating to short stay accommodation, and outline the options available to Council to deal with the issue of short stay accommodation in the future.

EXECUTIVE SUMMARY

At its meeting held on 14 December 2010 (C68-12/10 refers), Council received a petition requesting that Scheme Amendment No 36 to the City's District Planning Scheme No 2 (DPS2) be revoked.

The petition requests that Council revokes Amendment No 36, which effectively prohibits the operation of short stay accommodation in the 'Residential' zone, so as to allow all existing investment property owners to continue to accept holidaymakers, tenants, visitors and migrants to the City to stay as paying guests in their properties for terms of less than three months.

The options available in this matter are that Council:

1. Notes the petition, and take no further action, that is, retains the current DPS2 provisions for short stay accommodation within the City.
2. Notes the petition and resolve to request a report to consider initiating an amendment DPS2 to permit short stay accommodation as a land use within the 'Residential' zone.
3. Notes the petition and retains the current DPS2 provisions for short stay accommodation within the City at this stage, noting that the provisions for short stay accommodation will be considered as part of the review process for DPS2, which is expected to ultimately lead to DPS3.

BACKGROUND

Amendment No 36 was originally initiated in 2007. The amendment proposed a definition of short stay accommodation and specified in which zones the use may be permitted. Within the 'Residential' zone, short stay accommodation was proposed to be an 'A' use meaning the use is not permitted unless discretion is exercised to grant planning approval, following public consultation.

A draft policy was also prepared to provide guidelines in terms of the preferred location and management of short stay accommodation.

In August 2007, Council resolved to advertise the draft amendment and policy for a period of 42 days. However, in December 2007, Council resolved to extend the submission period by four weeks as it was felt the amendment had the potential to impact on the amenity of all suburbs within the City. The amendment was advertised from 14 November 2007 to 23 January 2008.

The public consultation consisted of a notice in the local newspaper for two consecutive weeks and a notice placed on the City's website. A total of 31 submissions were received, 27 of which were objections to the proposed ability to operate short stay accommodation in residential areas.

At its meeting held on 18 March 2008 (CJ048-03/08 refers), Council deferred consideration of the item until the following meeting so that clarification on a number of issues could be sought. One of the issues raised was whether the scheme amendment and policy would apply to the 'City Centre' zone. Clarification was added to the policy to make it clear that there is no restriction on short stay accommodation in the City Centre. This aligned the policy with the existing structure plan.

At its meeting held on 15 April 2008 (CJ066-04/08 refers), Council resolved to adopt the scheme amendment, however, in response to the submissions of objection, the amendment was modified to prohibit short stay accommodation within the 'Residential' zone. The amendment was then forwarded to the Minister for Planning for consideration of final approval.

In July 2009, the Minister directed the City to make modifications to the amendment in relation to some of the definitions provided. Amendment No 36 was subsequently readvertised for 21 days, from 4 February to 25 February 2010, during which time no submissions were received. Amendment No 36 came into effect on 16 July 2010.

The result of the amendment is that any new application received by the City may only be supported where the short stay accommodation is proposed to be located within the 'Mixed Use', 'Business', 'Commercial' or 'Private Clubs/Recreation' zone.

Any short stay accommodation that was granted approval to operate prior to Amendment No 36 being finalised may continue to operate in accordance with that approval.

DETAILS

At its meeting held on 14 December 2010, Council received a petition comprising of approximately 276 signatures requesting Scheme Amendment No 36 to the City's District Planning Scheme No 2 (DPS 2) be overturned.

The petition states:

"The implications of the actions of the elected Council members of the City of Joondalup to amend the Short Stay Accommodation Policy and Amendment No 36 within District Planning Scheme No.2 (72584), by making it unlawful to allow 'temporary occupancy' – habitation for less than 3 months. Will have a detrimental effect on:

- *A reduction in revenue for business within the city as visitors, migrants and holiday makers will spend less time/money in the area as they would have to travel from outside the City of Joondalup Council's jurisdiction.*
- *Residential house prices within the City of Joondalup will fall, when the market is flooded, due to the significant number of investment property owners forced to sell their property because they will be unable to service the investment loan with the lower income.*
- *A reduction in visitors/tourists to the City of Joondalup as there will be a significant fall in available tourism beds available in Joondalup.*
- *A reduction in new migrants relocating to the city of Joondalup as there is very limited short term affordable accommodation in the area forcing them to look elsewhere while they settle and set up home.*
- *Some local schools are already strained with inadequate student numbers, this amendment may add to this issue. As short term accommodation offers a starting point for new families to get to know areas and get a feel for where they wish to permanently reside. With this no longer an option, they will be forced to find alternative accommodation outside of the City of Joondalup."*

Issues and options considered:

The options available in this matter are that Council:

1. Notes the petition, and take no further action, that is, retains the current DPS2 provisions for short stay accommodation within the City.
2. Notes the petition and resolve to request a report to consider initiating an amendment DPS2 to permit short stay accommodation as a land use within the 'Residential' zone.
3. Notes the petition and retains the current DPS2 provisions for short stay accommodation within the City at this stage, noting that the provisions for short stay accommodation will be considered as part of the review process for DPS2, which is expected to ultimately lead to DPS3.

A scheme amendment to DPS2 would modify Table 1 of DPS2 which outlines the permissibility of various land uses in each of the zones within the City. A supporting policy, providing guidance in relation to the preferred location and management of short stay accommodation, would also need to be adopted.

Legislation/Strategic Plan/Policy Implications**Legislation****District Planning Scheme No 2**

Under DPS2, 'Short Stay Accommodation' means the use of a single house, grouped dwelling or multiple dwelling for the purposes of providing temporary accommodation to any person or persons. For the purpose of the definition of 'short stay accommodation', temporary accommodation excludes any period of accommodation which exceeds a continuous period of three months.

Short stay accommodation is a 'D' or discretionary use in the 'Mixed Use', 'Business', 'Commercial' or 'Private Clubs/Recreation' zones.

Strategic Plan

Key Focus Area: The Built Environment

Objective 4.1 To ensure high quality urban development within the City.

Policy

In conjunction with Scheme Amendment No 36, a policy was developed to specify the standards of development and use for sites proposed to be used as short stay accommodation. This policy has been advertised for public comment as part of the scheme amendment process however has not yet been adopted by Council.

Should Council resolve to either initiate an amendment to DPS2 or request that the provisions for short stay accommodation be reviewed through the DPS2 review process, it is appropriate to adopt a policy to support the scheme provisions.

Risk Management considerations:

If Council resolves to retain the current scheme provisions for short stay accommodation there is a perceived risk the current provisions will negatively impact the tourism industry within the City of Joondalup.

Should Council choose to revisit the provisions for short stay accommodation, to permit it in the 'Residential' zone, consideration needs to be given to the potential impact the land use may have on the amenity of the residential area.

Financial/Budget Implications:

Not Applicable.

Regional Significance:

Not Applicable.

Sustainability Implications:

Not Applicable.

Consultation:

Should Council choose to initiate the proposed amendment, it is required to be advertised for public comment for a period of 42 days. The community would be notified of the public comment period via notices placed in the Joondalup Community Newspaper and The West Australian newspaper. The proposed amendment would also be made available on the City's website and appropriate stakeholders would be contacted in writing.

COMMENT

The petition makes a number of claims in regard to the effect of Amendment 36 on various issues including house prices, revenue for businesses, the number of tourist beds available, and school student numbers. No supporting information or substantiation has been provided, possibly as, firstly, it would be difficult to obtain this information and secondly, it would be difficult to link it directly to the prohibiting of short stay accommodation in the 'Residential' zone.

It may be argued that as the appropriate consultation was undertaken during the progress of Amendment No 36, the current status of short stay accommodation within the 'Residential' zone is appropriate, and will serve to ensure that this form of accommodation will not have any adverse impacts on the residential areas of the City.

Applications for short stay accommodation where it is proposed to be located within the 'Mixed Use', 'Business', 'Commercial' or 'Private Clubs/Recreation' zone can be considered, as can Bed and Breakfast proposals within the 'Residential' zone.

Conversely, it may be argued, in light of the petition, that the implications of Amendment No 36 need to be revisited.

Council could resolve to request a report to initiate a further amendment to DPS2 which permits short stay accommodation as a 'D' or 'A' use within the 'Residential' zone, accompanied by a policy and management plan in order to minimise any potential impact on adjoining residential properties.

It is noted, however, that planning legislation does not have provision for the immediate 'shutting down' of approved land uses in the event of a complaint in regard to the activity. Rather, the issues would be dealt with as compliance issues and ultimately prosecution, or through the non-renewal of the planning approval upon its expiration after 12 months.

Timing

In the event that Council wishes to consider amendments to revisit where short stay accommodation may be approved, two options are available:

- Consider this as part of the review of DPS2; or
- Commence a new scheme amendment to DPS2.

The City is currently in the process of reviewing DPS2, and as part of the review, further examination of short stay accommodation could be undertaken. Finalisation of a new scheme is unlikely within two years.

Alternatively, a scheme amendment could be initiated and is likely to take 12 months to finalise.

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Amphlett, SECONDED Cr Fishwick that Council:

- 1 NOTES the petition and retains the current DPS2 provisions for short stay accommodation within the City at this stage, noting that the provisions for short stay accommodation will be considered as part of the review process for DPS2, which is expected to ultimately lead to DPS3;**
- 2 ADVISES the lead petitioner of the Council decision.**

The Motion was Put and**CARRIED (10/2)**

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Diaz, Fishwick, Gobbert, Hamilton-Prime, Hollywood and McLean **Against the Motion:** Crs Norman and Taylor

Disclosure of interest affecting impartiality

Name/Position	Cr Mike Norman
Item No/Subject	CJ062-04/11 – Local Structure Plan No 13 – Lots 500 and 501 Arawa Place, Craigie – Consideration of Submissions
Nature of interest	Interest that may affect impartiality
Extent of Interest	Cr Norman is Chairman of the Joondalup Community Coast Care Forum (JCCCF) and made a submission on behalf of the JCCCF on this Item.

CJ062-04/11 LOCAL STRUCTURE PLAN NO 13 – LOT 500 & 501 ARAWA PLACE, CRAIGIE – CONSIDERATION OF SUBMISSIONS

WARD: Central**RESPONSIBLE:** Ms Dale Page, Director Planning and Development**FILE NUMBER:** 100894, 101515

ATTACHMENTS:

Attachment 1	Location and Aerial Site Plans
Attachment 2	Structure Plan Map
Attachment 3	Structure Plan Flow Chart
Attachment 4	Schedule of Submissions
Attachment 5	Map of Submitters
Attachment 6	Proposed Road Roundabouts and Carriageway Widening
Attachment 7	Landscape Master Plan
Attachment 8	Drainage and Public Open Space Plan
Attachment 9	Schedule of Modifications

PURPOSE

The purpose of this report is for Council to consider submissions received during the public advertising of draft Structure Plan No 13 and to decide whether to adopt the structure plan as final.

EXECUTIVE SUMMARY

Lot 500 and Lot 501 Arawa Place, Craigie, were previously used for the former Craigie High School. The subject site was zoned to 'Urban Development' to allow for future residential development. A draft Structure Plan has been prepared by the applicant to guide the future subdivision and development of the subject site.

The draft Structure Plan proposes the development of approximately 177 residential lots, ranging in density from R20 to R40, two areas of public open space and the associated road network.

At its meeting held on 14 December 2010 (CJ206-12/10 refers), Council resolved to adopt draft Structure Plan No 13 for the purpose of public advertising.

The draft Structure Plan was advertised for public comment for a period of 28 days, closing on 3 March 2011. Twenty two submissions were received during the advertising period, being nine of objection, four of no objection and nine of partial support and objection (Attachment 4 refers).

Two common themes raised in the submissions were traffic management and Graceful Sun Moth (GSM) conservation.

It is considered that the proposed traffic management (road network, roundabout and road widening) will result in an appropriate level of traffic management for the area.

The draft Structure Plan included some works that may be potentially detrimental to the GSM habitat. It is recommended that the Structure Plan be modified to remove all works proposed within the identified GSM habitat (western Public Open Space). Conservation methods will be incorporated into a Dune Management Plan and a Landscape Plan to be submitted as a condition of subdivision.

The objections received are not considered to warrant the refusal of the draft Structure Plan, however, some modifications are recommended in light of the comments received.

It is recommended that Council adopt the draft Structure Plan with appropriate modifications.

BACKGROUND

Suburb/Location:	Lot 500 (1) Arawa Place, Craigie Lot 501 (7) Arawa Place, Craigie
Applicant:	Taylor Burrell Barnett
Owner:	Department of Education
Zoning:	DPS: Urban Development
	MRS: Urban
Site Area:	Lot 501 – 9.9 ha Lot 500 – 0.238 ha
Structure Plan:	Subject of this Report

The subject site is the former Craigie High School site located on Camberwarra Drive and Arawa Place, Craigie (Attachment 1 refers). The subject site abuts Cawarra Park (north) and Otago Park (south east). Whitford Catholic Primary School is located across Camberwarra Drive to the west of the site. The remainder of the subject site is surrounded by residential development.

In 2002, the Craigie High School was considered surplus to the requirements of the Department of Education, and ceased operating in 2003. In 2004, all buildings on the site were demolished. In June 2008, a Metropolitan Region Scheme (MRS) amendment was finalised whereby the reservation for 'Public Purposes – High School' was removed and the subject land was zoned 'Urban'.

At its meeting held on 17 February 2009 (CJ024-02/09 refers), Council resolved to adopt Amendment No 40 to District Planning Scheme No 2 (DPS2) to rezone Lots 501 and 500 Arawa Place, Craigie to 'Urban Development' and 'Civic and Cultural' respectively. The Minister for Planning granted final approval to the scheme amendment on 21 May 2009.

Lot 500 Arawa Place was excised for the purpose of a community facility that was to be managed by the Department of Child Protection. However, the Department of Child Protection decided not to proceed with the community facility and, therefore, another scheme amendment was undertaken to rezone Lot 500 to 'Urban Development' (consistent with the adjoining Lot 501).

At its meeting held on 20 July 2010 (CJ113-07/10 refers), Council resolved to adopt Amendment No 49 to DPS2 to rezone Lot 500 Arawa Place from 'Civic and Cultural' to 'Urban Development'. The Minister for Planning granted final approved to the scheme amendment on 28 October 2010.

At its meeting held on 14 December 2010 (CJ206-12/10 refers), Council resolved to adopt draft Structure Plan No 13 for the purpose of public advertising, subject to modifications, as follows:

- "1 Pursuant to clause 9.4 of the City of Joondalup District Planning Scheme No. 2 ADOPTS the draft Craigie High School Site Structure Plan (Structure Plan No 13) forming Attachment 2 to Report CJ206-12/10 for the purpose of public advertising and make it available for public comment for 28 days, subject to the following modifications being undertaken prior to the commencement of advertising:*
- 1.1 Increasing the residential density from R20 to R30 for the proposed lots behind Arawa Place as forming Attachment 4 to Report CJ206-12/10;*
 - 1.2 Deleting clause 8.2.2 (a) to (d), clause 8.3.2 (a) to (e) of the draft Craigie High School Site Structure Plan relating to private open space requirements;*
 - 1.3 Deleting works (pathway links and lookouts) proposed within Otago Park and Cawarra Park, as this does not form part of the structure plan area;*
 - 1.4 Deleting all reference to soakwell infiltration within road reserves, as the City does not support this form of stormwater management;*

- 2 *NOTES that the applicant will need to liaise with the City and resolve the following matters prior to Council's final consideration of the Structure Plan:*
- 2.1 *Drainage and stormwater management for the structure plan area. The applicant is advised that the City does not support the use of soak wells within road reserves and fenced drainage sumps. Preference is given to the utilisation of the two nearby drainage sumps located adjacent to Albion Park to the west and Otago Park to the south/east;*
- 2.2 *Details for the vehicle turning head design, to determine the impact on tree retention;*
- 2.3 *The landscape master plan, particularly the vegetative treatment of road reserves. The applicant is advised of the City's preference for street trees rather than shrubs."*

The draft local Structure Plan was advertised for a period of 28 days, closing on 3 March 2011.

DETAILS

A draft Structure Plan has been prepared by the applicant to guide the future subdivision and development of the subject site.

The draft Structure Plan consists of two parts - Part 1 and Part 2. Due to the size of the document, including accompanying technical reports, only Part 1 of the Structure Plan document has been attached to this Council report (Attachment 2 refers). Full copies of the Structure Plan document, including all accompanying technical reports, have been made available in the Councillors' Reading Room.

Part 1 of the Structure Plan is the statutory planning section setting out the objectives and development provisions that determine the intended overall form of development on the subject land, particularly where these provisions differ from those required under the Residential Design Codes (R-Codes).

Part 1 of the draft Structure Plan proposes to divide the site into the following zones/reserves:

- Residential R20 zone.
- Residential R25 zone.
- Residential R30 zone.
- Residential R40 zone.
- Parks and Recreation Reserve.
- Public Purpose Drainage Reserve.

Part 2 of the draft Structure Plan document is the explanatory report, which provides the background, description of the site, context, opportunities and constraints, design philosophies and principles. It also includes background information such as traffic, vegetation, infrastructure and geotechnical reports.

The draft Structure Plan is based on the following:

- Approximately 177 residential lots ranging in density from R20 to R40.
- Two areas of public open space – a central linear open space spine and an area in the north west of the site dedicated to retaining part of the existing dunal system and remnant vegetation.
- An internal road network based on *Liveable Neighbourhoods* standards with a six metre wide pavement.
- Two external vehicular access points - the main entrance incorporating a proposed roundabout on Camberwarra Drive and a secondary entrance onto Arawa Place.
- Drainage functions being accommodated by existing City drainage assets and the provision of a bio-retention basin in a new area of public open space.
- Retention of selected vegetation within public open space along Camberwarra Drive, where possible.

Issues and options considered:

The issues to be considered by Council include:

- the suitability of the draft Structure Plan; and
- the public submissions received.

The options available to Council in considering the proposal are to:

- adopt the draft Structure Plan;
- adopt the draft Structure Plan, with modification; or
- refuse to adopt the proposed draft Structure Plan.

In all the above options, the proposal is forwarded to the Western Australian Planning Commission (WAPC) for determination.

Legislation/Strategic Plan/Policy Implications

Legislation

Under clause 9.6.1 of DPS2, Council is required to review all submissions within 60 days of the close of advertising and proceed to either refuse or adopt the Structure Plan with or without further modifications (Attachment 3 refers).

Under clause 9.6.2 of DPS2, where Council is unable to make a decision within the 60 day period, with written consent from the proponent, an additional 60 day period may be granted before the Structure Plan can be deemed to be refused.

Under clause 9.6.3 of DPS2, the WAPC has 60 days to consider refusal or adoption (with or without modifications) of the Structure Plan. This period may be extended, as reasonably needed, to enable the Commission to perform its function.

The Structure Plan has been prepared and assessed in accordance with *Liveable Neighbourhoods*. *Liveable Neighbourhoods* is an operational policy of the Western Australian Planning Commission and is used for the design and assessment of Structure Plans and subdivision on both greenfield and large urban infill sites. It provides guidance on urban structure elements such as road layout and widths, lot layout and provision of public open space.

Strategic Plan

Key Focus Area: The built environment

Objective: To ensure high quality urban development within the City.

To progress a range of innovative and high quality urban development projects within the City.

Policy During the subdivision of the site, the following two policies will apply. However, consideration should be given to how the proposed Structure Plan addresses these policies.

- Council Policy Uniform Fencing – Subdivision, states that the City will request the WAPC impose a condition of subdivision that the applicant provides uniform fencing along public open space and major roads.
- Council Policy Subdivision and Development Adjoining Areas of Public Space, states that subdivisions should be designed so that areas of public space are fronted along all boundaries by public roads.

Risk Management considerations:

The proponent has the right of review against Council's decision in accordance with the *State Administrative Tribunal Act 2004* and the *Planning and Development Act 2005*.

Financial/Budget Implications:

The applicant has paid fees of \$9,749.57 (including GST) to cover all costs associated with assessing the Structure Plan and public consultation.

Regional Significance:

Directions 2031 and Beyond and draft *Outer Metropolitan Perth and Peel Sub-Regional Strategy* provide aspirations for the better utilisation of urban land through the establishment of dwelling targets for both greenfield and infill development sites. The proposed redevelopment of the former Craigie High School site, through the adoption and implementation of this Structure Plan, will provide approximately 177 additional dwellings. These additional dwellings will assist in delivering the aspirations of *Directions 2031 and Beyond* and draft *Outer Metropolitan Perth and Peel Sub-Regional Strategy* for the City of Joondalup.

Sustainability Implications:

- **Environmental**

The proposed Structure Plan supports the protection of selected vegetation within the public open space and along Camberwarra Drive where possible.

The Structure Plan includes some specific built form requirements such as permitting north facing lots to have their outdoor living area within the front setback and eaves must be provided to all habitable rooms with the exception of south facing walls, which will contribute to the development of more energy efficient dwellings.

Additional residents provided by the future subdivision will support the use of existing infrastructure such as bus and rail systems.

- **Social**

The proposed Structure Plan would facilitate the development of a variety of housing products on lots of variable sizes, ranging from low to medium density, thereby providing living choices to meet the various needs of the community.

The draft Structure Plan proposes two public open space areas which will encourage residents to walk and socialise within their community.

- **Economic**

The proposed Structure Plan would enable the City to consider future subdivision and development on the site that will provide additional residents to the area who will contribute to supporting the local economy.

Consultation:

Clause 9.5 of DPS2 requires Structure Plan proposals to be advertised in accordance with the provisions of clause 6.7 prior to further consideration by Council. Clause 6.7 of DPS2 requires a minimum advertising period of 21 days, however, advertising for a period of 28 days was undertaken in this instance.

Advertising consisted of:

- Written notification to all landowners within a 300 metre radius of the site (470 households). The same catchment was used to notify landowners of Scheme Amendment No 40 which zoned Lot 501 to 'Urban Development'. The notification included a draft Structure Plan map, FAQ, and details on where additional information could be obtained.
- Documents being available at the City's Administration Building, and the Whitfords Customer Service Centre.
- Two signs being erected in prominent locations on the site.
- A notice being placed in the Joondalup Community newspaper.
- A notice and documents on the City's website.

The advertising period commenced on 3 February 2011 and closed on 3 March 2011.

A total of 22 submissions were received, being nine of objection, four of no objection and nine of partial support and objection. The schedule of submissions is provided in Attachment 4 and a map of the location of submitters in Attachment 5.

Submissions have been made available to Elected Members in the Councillors' Reading Room.

COMMENT

Summary of Submissions

Submissions received were generally supportive of redevelopment of the site, however, two common themes were identified being potential traffic management issues and the potential impact on the Graceful Sun Moth habitat. These concerns are discussed as follows.

Traffic Management

A number of submissions raise concerns in regard to the proposed Camberwarra Drive roundabout and the increased traffic on Albion Street (which provides access to Marmion Avenue).

Traffic modelling (existing and post development) was undertaken by the applicant as part of the Structure Plan development taking into consideration the following points:

- Traffic volumes, speed, sightlines, queuing and parking based on peak times (8.00am to 9.00am and 3.00pm to 4.00pm).
- Location of the Camberwarra Drive roundabout (Attachment 6 refers) so as to maintain access (crossovers) to existing properties.
- The ability for the new road which intersects with Arawa Place to form an alternative access point to the Camberwarra roundabout during busy school opening/closing times.

It is considered that the design of intersections and road layout within the draft Structure Plan will ensure traffic flows well within and around the subject site, with minimal delays and moderate queues at peak times. The City is supportive of the proposed roundabout and intersection modifications and considers these necessary to appropriately manage traffic in this location.

The development of residential dwellings on the subject site will unavoidably generate some additional traffic on surrounding roads. The impact on vehicle queuing in most locations will be minimal, however, based on post development modelling some modifications will be required to the intersection of Marmion Avenue and Albion Street (Attachment 6 refers). In order to provide separate traffic lanes for right and left turning vehicles, the westbound carriageway of Albion Street will need to be widened slightly (approximately one metre) over a distance of 50 metres.

Subsequent to the development of the Structure Plan area and modifications to the existing road network, traffic flow should result in low delays and vehicle queuing at peak periods.

A number of submissions note existing parking issues relating to the adjacent school and church. Currently at peak periods, overflow parking is accommodated on the subject lots, however, there is no formal agreement between the landowners. Submissions suggest that the subject site should accommodate some overflow parking. This is not a reasonable requirement given that the subject site does not generate this parking need. Parking issues resulting from the school or church must be appropriately managed on the respective sites and should not burden the subject site or other neighbouring properties.

Graceful Sun Moth (GSM)

Four submissions were received which raise concerns that the draft Structure Plan contains works that may be detrimental to the existing GSM habitat and populations.

The GSM was classified as an endangered species under federal environmental legislation in 2009 and lives on Perth's Swan Coastal Plain between Wanneroo and Mandurah in areas of Banksia woodland.

It is noted that the Department of Environment and Conservation (DEC) has published conservation advice for the GSM which suggests a number of management practices to protect existing GSM populations. In addition, the DEC published a GSM survey in 2010 which identifies GSM habitat in Cawarra Park, which adjoins the subject site.

A biological and flora survey was commissioned by the applicant for the subject site to identify the condition, distribution and density of vegetation essential to the GSM. An area of GSM habitat, in good condition, is identified within the north-west corner of the Structure Plan area. The draft Structure Plan proposes to conserve this area as Public Open Space (POS) and no clearing is proposed.

The Landscape Master Plan (Attachment 7 refers) contained in Part 2 of the draft Structure Plan (not a statutory requirement) proposes works within the identified GSM habitat including the following:

- A boardwalk trail.
- Lookout.
- Dunal path.
- Interactive play structures.
- Revegetate open/sandy areas.

It appears that these works may have a detrimental impact on the GSM habitat and lifecycle. It is considered appropriate to remove all works proposed within the north west POS and require detailed design to be approved as part of the Landscape Plan submitted at the subdivision stage. The future design and management of this POS will be considered in light of current DEC conservation advice.

The draft Structure Plan notes that a Dune Management Plan will be prepared (at the time of subdivision) to address the following:

- Weed control.
- Revegetation.
- Management of native fauna, specifically the GSM.

- Management of feral fauna.
- Access and infrastructure to minimise dune damage.
- Educate the public of the importance of the GSM and associated restrictions.

Further to this, in accordance with conservation advice published by DEC, it is recommended that the future Dune Management Plan also include the following:

- Fire management regime (to minimise disturbance of GSM territories during breeding season).
- Chemical management (pesticides, herbicides and fertilisers).
- Investigate methods to rehabilitate and improve GSM habitat, including options to increase numbers of food plants.

It is recommended that the draft Structure Plan be amended to reference the additional information to be provided in the future Dune Management Plan.

Other comments

A number of other concerns were raised in the submissions including the following:

- The housing projections for the site.
- That lot sizes are considered to be too small and may result in a housing slum.
- Pressure on existing infrastructure and community facilities.

Comment is provided on these submissions in Attachment 4 to this Report.

Service Authorities

The service authorities have had the opportunity to comment in relation to future service provision and no concerns or objections have been raised.

Matters to be Finalised Prior to Final Adoption of the Draft Structure Plan

In December 2010, Council resolved to advertise the draft Structure Plan subject to a few issues being resolved prior to final consideration of the Structure Plan. These issues relate to drainage, tree retention and verge landscaping.

Drainage

Whilst detailed drainage design will be subject to approval as part of the future subdivision of this site, fundamental planning and philosophies need to be bedded down in the draft Structure Plan.

The standard requirement of the City in relation to the subdivision and/or development of land is that stormwater drainage is contained within the development site. This said, the City is supportive of co-locating drainage off site, where:

- it is practical;
- works undertaken are at the developer's cost to the satisfaction of the City;
- the resulting drainage solution provides long term benefits to the City in terms of the operation and management of its drainage assets.

The subject site is located between two City owned sumps - the Albion sump to the west and Otago Park sump to the east (Attachment 8 refers). It is the City's preference that these drainage assets are utilised by development within the Structure Plan area rather than additional drainage assets being provided onsite resulting in additional assets for the City to maintain.

Preliminary advice provided by the Water Corporation states that a 30 metre buffer is required to the existing Water Corporation pump station in Otago Park, adjacent to the subject site (Attachment 8 refers). The draft Structure Plan proposes a drainage facility in this location as an alternative to housing. The City does not support the provision of a drainage facility within this location as there is an existing sump within Otago Park (directly adjacent) that can be utilised. Furthermore, a small 'pocket park' is not supported in place of the proposed drainage facility as small parks are inefficient to maintain and there is good access to alternative POS.

Further discussions with the Water Corporation identified that the Environmental Protection Agency Guidelines only require a ten metre buffer from the existing pump station (low capacity station being less than 20l/sec). For this reason, it is the City's preference that the proposed drainage reserve be removed from the draft structure plan and replaced with a 'Residential' zoning. Any required buffer and associated notice to be placed on the title of those lots would occur at the subdivision stage.

The above matters have been discussed with the proponent and the following is proposed:

- Remove the proposed drainage reserve adjacent to the Otago Park sump and Water Corporation pump station and apply the 'Residential' R20 in its place.
- Utilisation of the Otago Park sump to serve the eastern drainage catchment in place of the proposed drainage reserve.
- Utilisation of the Albion Street sump to serve the western drainage catchment in place of verge infiltration.
- Developer contribution to support the co-location of drainage assets (increase capacity and improve amenity of the Otago Park sump and Albion Street sump).

This will ensure the efficient use of existing drainage assets and contribute towards the conversion of the existing fenced sump to a landscaped drainage swale which will provide improved amenity to new and existing residents. It is recommended that the draft Structure Plan be amended to reflect this agreement.

Tree retention

A tree retention plan has been prepared by the applicant and forms Part 2 of the draft Structure Plan. A number of significant trees are proposed to be retained or relocated.

Two significant trees have been identified within the cul-de-sac which terminates at the boundary of the western POS. The ability to retain these trees will be impacted by the construction of this road. Whilst the proposed cul-de-sac design proposed seeks to protect trees in this location, construction details are required to fully understand the impact it would have.

The applicant has been made aware of this concern and it is considered appropriate to address this through the future subdivision application. Detailed road design and construction is not required at the Structure Plan stage, however, the identification of these trees within the structure plan will be referenced as part of the future subdivision assessment.

Verge Landscaping

The Landscape Master Plan (Attachment 7 refers) includes the use of shrubs and ground covers in addition to native street trees. The City's preference is to have trees where possible in lieu of shrubs along roadways.

Indicative street cross sections indicate varying landscape strip widths containing shrubs and street trees. Generally the City has no objection to this, however, it is not supported where shrubs are proposed adjacent to formal parking embayments. This is due to the likelihood of vegetation being trampled when people exit parked vehicles. It is also noted that the City requires a minimum 1.8 metre landscape strip to accommodate street trees. In locations where a 1.8 metre strip cannot be accommodated, tree wells will be required to accommodate street tree planting as envisaged within the Landscape Master Plan.

The applicant has been made aware of the City's expectations with regard to landscaping and verge treatments. Detailed landscape design will be assessed at the time of subdivision when a landscape plan must be submitted for approval.

Minor Text Changes

The draft Structure Plan references Scheme Amendment No 49 and the City's draft Local Housing Strategy. Since the submission of the draft Structure Plan the status of these two matters has changed. As such, it will be necessary for the draft Structure Plan to be amended (minor text changes only) to correct this information.

Other minor text changes are recommended to correct typing errors, improve language, provide clarity, and update information.

All proposed modifications to the draft structure plan are outlined in Attachment 9.

Next Steps

Should Council resolve to adopt the structure plan (with or without modifications), it will then be forwarded to the WAPC for final approval (Attachment 8 refers).

The applicant has advised that the WAPC's approval to the Structure Plan will then facilitate the transfer of the subject site from the Department of Education to Landcorp. After the land transfer has occurred a subdivision application can then be progressed.

Conclusion

While various concerns were raised during the advertising of the Craigie High School Structure Plan, none are considered to warrant the refusal of the Structure Plan, however, modifications are recommended in response to some concerns.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION: That Council:

- 1 ADOPTS the Craigie High School Structure Plan No 13, subject to modifications in accordance with Attachment 9 of Report CJ062-04/11, and submit the Plan to the Western Australian Planning Commission for final adoption and certification;
- 2 ADOPTS the Craigie Structure Plan No 13 and proposed modifications as an Agreed Structure Plan and authorises the affixation of the Common Seal to, and the signing of, the Structure Plan document, subject to certification by the Western Australian Planning Commission detailed in Part 1 above;
- 3 NOTES the submissions received and ADVISES the submitters of the Council's decision;
- 4 ADVISES the applicant that a developer contribution will be required at the time of subdivision to facilitate infrastructure works, including:
 - 4.1 Drainage works associated with Albion sump and Otago sump which will accommodate the drainage from the Structure Plan Area;
 - 4.2 Upgrading, construction and widening of Albion Street/Marmion Avenue intersection to accommodate additional traffic generated from the Structure Plan Area;
 - 4.3 Upgrading and construction of traffic management devices (medians, roundabout and carriageway modifications) on Cambewarra Drive to accommodate additional traffic generated from the Structure Plan Area.

MOVED Cr Amphlett, SECONDED Cr Gobbert that Council:

- 1 **ADOPTS the Craigie High School Structure Plan No 13, subject to modifications in accordance with Attachment 9 of Report CJ062-04/11, and submit the Plan to the Western Australian Planning Commission for final adoption and certification;**
- 2 **ADOPTS the Craigie Structure Plan No 13 and proposed modifications as an Agreed Structure Plan and authorises the affixation of the Common Seal to, and the signing of, the Structure Plan document, subject to certification by the Western Australian Planning Commission detailed in Part 1 above;**
- 3 **NOTES the submissions received and ADVISES the submitters of the Council's decision;**
- 4 **ADVISES the applicant that a developer contribution will be required at the time of subdivision to facilitate infrastructure works, including:**
 - 4.1 **Drainage works associated with Albion sump and Otago sump which will accommodate the drainage from the Structure Plan Area;**
 - 4.2 **Upgrading, construction and widening of Albion Street/Marmion Avenue intersection to accommodate additional traffic generated from the Structure Plan Area;**
 - 4.3 **Upgrading and construction of traffic management devices (medians, roundabout and carriageway modifications) on Cambewarra Drive to accommodate additional traffic generated from the Structure Plan Area;**

- 5 NOTES that the City will liaise with the developer to implement mechanisms to prevent vehicular access to the bushland areas that form part of the subject site and that are located to the north of the subject site.**

The Motion was Put and

CARRIED (12/0)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Diaz, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman and Taylor

Appendix 10 refers

To access this attachment on electronic document, click here: [Attach10agn190411.pdf](#)

CJ063-04/11 OLDER PEOPLE TERMINOLOGY

WARD: All

RESPONSIBLE: Mr Garry Hunt, Chief Executive Officer

FILE NUMBER: 77613, 101515

ATTACHMENTS: Nil.

PURPOSE

To provide Elected Members with a further report about terminology for older people in accordance with the recommendations from the February 2011 Council meeting and seek endorsement of the suggested terminology for inclusion in the Positive Ageing Plan 2009-2012 and other strategic documents.

EXECUTIVE SUMMARY

At the Council meeting held 16 November 2010 (C64-11/10 refers), a Notice of Motion was presented requesting that the City replace references to 'older people' in the City's Positive Ageing Plan 2009-2012 with 'senior citizen'. The City prepared a report for the Council's consideration outlining the rationale behind the terminology currently used.

At its meeting held on 15 February 2011 (CJ008-02/11 refers), Council resolved to remove the terminology 'older people' in the City's Positive Ageing Plan and other strategic documents, and replace with an appropriate mix of terminology to appeal to the different generations within the ageing spectrum. The Council requested a further report in order to endorse the terminology prior to updating the Positive Ageing Plan and other strategic documents.

This report provides a list of terms to be used in the City's Positive Ageing Plan and other strategic documents from this point forward.

It is recommended that Council REPLACES the terminology "older people" with the terms in the "Proposed Terms for City Documents" list in Table 3 of this Report that are respectful of the different age cohorts in the City's Positive Ageing Plan 2009-2012 and other strategic documents when referring to people over 50 years of age.

BACKGROUND

When the Positive Ageing Plan 2009-2012 was developed, the term 'older people' was used to describe people aged 50 years and over. This term was used because it reflected contemporary language used by the Australian Government, practice in the UK, USA and the United Nations.

When people attain the age of 60 years, they are eligible for a Seniors Card which is a discount system for goods and services, implemented by the State Government.

When people turn 65 years, they then become eligible for the Aged Pension which is administered by Centrelink for the Australian Government. In accordance with these terminologies, any person aged over 65 years is both a senior and aged.

It is recognised that not all people like or relate to the same terminology when referring to their age and there will be a variety of terms that can be considered acceptable.

Resident Feedback

After the February 2011 Council meeting, 15 residents and one association representative communicated with the City regarding the decision about terminology. Of the respondents, 13 expressed that the discussion was a waste of Council time, four prefer the term 'senior' and 11 did not mind what terminology is used as long as they are treated with respect and dignity.

DETAILS

Local Statistics

The Australian Bureau of Statistics 2006 data in the table below provides a breakdown of the population of City residents aged 50 years and over:

Table 1

Age range	Number of City residents	Percentage of total
50-59	23,195	55%
60-69	10,169	24%
60-79	5,909	14%
80-85	1,819	4%
85+	1,191	3%
Total	42,283	100%

The numbers of residents who participate in social or service clubs in the City that have age criteria for membership are listed in the table below. This number represents 4.4% of City residents over the age of 50 years:

Table 2

Social clubs with 50+ or 60+ years membership criteria	Number of members
Duncraig Senior Citizens Club Inc.	135
Greenwood & Warwick Senior Citizens Club Inc.	60
Kingsley Seniors Group Inc	65
Ocean Ridge Senior Citizen's Club Inc.	60
Whitfords Senior Citizens Centre Inc.	300
Wanjoo Seniors and RSL Group Inc.	66
Ocean Reef RSL Sub - Branch	67
Association of Independent Retirees	175
Church Clubs (4)	120
Fitness 50 Club	60
National Seniors Association (2 branches)	184
Over 50's Ballroom Dancing Inc	150
Probus Clubs (5)	331
Cuppachinos and Friendship Cafe (Homestead Kingsley Family Centre Clubs)	20
University of The Third Age (2 chapters)	181
Total	1,834

Anecdotal feedback gathered during the research phase of the Positive Ageing Plan development indicated that people in the 50 to 59 years age cohort – 55% of the City's total demographic of people over 50 years of age - do not consider themselves 'seniors'. This cohort is also the least likely to participate in the social or service groups listed above.

Terminology

The following table outlines a range of terms used when referring to people aged 50 years and over. The left hand column lists commonly used terms, while the right hand column lists terms that are considered respectful and appropriate for use in the City's Positive Ageing Plan and other strategic and public documents.

Table 3

Age or Age Range	Terms	Proposed Terms for City Documents
45 – 65 years	mature adult; baby boomers; not getting any younger	baby boomers
50 – 60+ years	older (adults, people, Australians etc); ageing adult; retirees; venerable; growing older; residents 50, 60, 70 years and over etc.	retirees; people over the age of 50, 60, 70 years etc; and residents 50, 60, 70 years and over etc.
60 – 70 years	seniors; senior citizens; aged; pensioners; elder	seniors; senior citizens; people aged 60 to 70 years
70 – 80 years	old; pensioners; getting on; ripe old age; octogenarian	seniors; senior citizens; people aged 70 to 80 years
80 – 99 years	elderly; pensioners; frail aged; very old; geriatric	seniors; senior citizens; people aged 80 years and over
100 years	centenarian	centenarian
100 – 105 years	ancient	people aged over 100 years

Most City strategic documents, programs and services are targeted at the whole cohort of people over 50 years living in the City, so most terminology will need to reflect this fact.

Issues and options considered:

This report has considered an appropriate mix of respectful terminology to use when referring to the ageing population. The term 'older people' is not on the list because it has been removed in accordance with the February 2011 Council resolution.

Legislation/Strategic Plan/Policy Implications

Legislation: Equal Opportunity Act 1984
Age Discrimination Act 2004

Strategic Plan

Key Focus Area: Community Wellbeing

Objective: To facilitate healthy lifestyles within the community

Plan: Positive Ageing Plan 2009-2012

Risk Management considerations:

Using the term 'seniors' or 'senior citizens' to replace all references to 'older people' in the Positive Ageing Plan and City publications could limit the effectiveness of attracting baby boomers and younger retirees to City programs. In order to mitigate this risk, the use of general terms that describe particular age brackets is recommended.

Financial/Budget Implications:

There will be financial costs involved in changing the terminology in the City's Positive Ageing Plan 2009–2012, however, these costs will be absorbed within existing budgets.

Regional Significance:

Not Applicable.

Sustainability Implications:

Not Applicable.

Consultation:

Research and community consultation with key industry stakeholders was undertaken in the development of the Positive Ageing Plan 2009-2012. Outcomes of the research and community consultation were incorporated into the Plan. Forty five participants including individuals, private organisations, not for profit and government agencies were consulted in the development of the Plan. Participating organisations are listed below:

Table 4

Positive Ageing Plan Consulted Organisations	
Seniors Interest Advisory Committee	WA Retirement Complexes Association
Office for Seniors Interests and Carers	Telecross (Red Cross program)
Centrelink	Council on the Ageing
Edith Cowan University	Aged and Community Services WA
Public Transport Authority	Community Newspapers
Chronic Disease Team	Sorrento Bowling Club
WA Police	Lakeside Shopping City
University of the Third Age	Imperial Ballroom
Commonwealth Carelink	Joondalup Health Campus
Community Vision Inc	Vario Health Institute
Act Belong Commit	Advocare
Citizen's Advice Bureau	Concordia Lutheran Church
Volunteering WA	Glengarry Retirement Village
Older People's Rights Service	

The findings from the consultation process were collated into the draft Positive Ageing Plan. Following input from internal and external stakeholders, minor modifications were made to the Plan which was adopted by Council on 21 July 2009 (CJ145-07/09 refers).

COMMENT

It is appropriate for the City to use respectful and inclusive terminology when referring to the ageing population. This flexibility will enable the City to effectively communicate with all residents within the cohort aged 50 years and over.

It is therefore suggested that the terms outlined in the table above referred to as "Proposed Terms for City Documents" replace the terminology 'older people' in the City's Positive Ageing Plan 2009-2012 and other strategic and public documents.

VOTING REQUIREMENTS

Simple Majority.

MOVED Cr Fishwick, SECONDED Cr Amphlett that Council REPLACES the terminology 'older people' with the terms in the "Proposed Terms for City Documents" list in Table 3 of Report CJ063-04/11 that are respectful of the different age cohorts in the City's Positive Ageing Plan 2009-2012 and other strategic documents when referring to people over 50 years of age.

The Motion was Put and

CARRIED (12/0)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Diaz, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman and Taylor

CJ064-04/11 ART COLLECTION – COMMISSIONING FOR THE CITY'S ART COLLECTION

WARD: All

RESPONSIBLE Mr Garry Hunt, Chief Executive Officer

FILE NUMBER: 22171, 14158, 101515

ATTACHMENTS: Attachment 1 The City's Art and Memorabilia Collection Policy

PURPOSE

For the Council to give consideration to commissioning artworks for the City's art collection on an annual basis and allocate appropriate budgetary funds.

EXECUTIVE SUMMARY

This report recommends that the City agrees to commission artists to document and capture the iconic landmarks and people that represent the City of Joondalup on an annual basis.

The commissioning of artworks by the City allows clear themes and content to be established to ensure artworks represent the people, places and culture of the City of Joondalup.

It is recommended that an annual budget of \$15,000 (Option 1) be allocated for the commissioning of artworks for the City's collection and that a further report be presented to the Policy Committee to establish an appropriate commissioning process.

BACKGROUND

At its meeting held on 16 November 2010 (C63-11/10 refers), Council resolved the following:

"That Council REQUESTS a report detailing the possibility for the City to commission various artworks depicting iconic landmarks within the City of Joondalup."

As its meeting held on 15 March 2011, (CJ041-03/11 refers) Council resolved the following:

"That Council:

- 7 in relation to the request for a report to be submitted to the Policy Committee on any proposed amendments to the City's Art and Memorabilia Collections Policy NOTES the Council's previous resolution of 16 November 2010 requesting that a report be provided detailing the possibility for the City to commission various artworks depicting iconic landmarks within the City of Joondalup."*

The City's Art Collection comprises over 200 artworks, with a primary focus on the work of Western Australian contemporary artists. Artworks span a wide range of media; over half of the Collection is comprised of paintings, with the remainder of the collection including other mediums including sculpture, drawings ceramics, print works, photographs, textiles and one glasswork.

The City of Joondalup currently operates on a yearly art acquisition budget of \$12,500, which enables the acquisition of two or three high quality contemporary artworks throughout the year from the Invitation Art Award, Community Art Exhibition or other exhibitions, such as those held at the blend(er) gallery.

In addition to the City's acquisition budget, a \$12,500 prize is awarded to the winning work from the Invitation Art Award, with the winning work being automatically acquired for the City's Art Collection, as set out in the Invitation Art Award criteria. The judging of this Award is undertaken by an independent panel of professional arts industry representatives.

It has been proposed as part of the 2011/12 budget to increase the amounts for yearly acquisitions and Invitation Art Award prize to \$15,000 each.

These acquisitions allow the City's Art Collection to grow and fulfil the objectives of City Policy - The City's Art and Memorabilia Collections. However, there is currently no provision in the acquisition budget for the commissioning of additional 'special purpose' artworks.

DETAILS

As detailed in the City Policy - The City's Art and Memorabilia Collections, acquisitions are based on multiple criteria, which may include, but are not limited to, local content or traditional mediums.

The current methods of acquiring artwork, such as purchasing from the City's Art Awards and other applicable exhibitions, make it difficult to identify locally relevant works that are of sufficient calibre.

Therefore, the direct commissioning of artists is intended to ensure that high quality works featuring local themes, which are at the discretion of the City, are represented in the City's Art Collection.

Commissioning involves the contracting of an artist to create an original artwork for a particular purpose, exhibition or collection, whereas the term acquisition refers to the purchase of an existing work. This report deals with the commissioning of fine art for the City's collection, as opposed to commissioning public artwork. Fine art encompasses the media of painting, drawing, printmaking, textiles, sculpture (non-fixed and for interior display) and photo media.

The Commissioning of special purpose artworks is common practice amongst art collections, however, few local government areas in WA, with the exception of the City of Perth, have a dedicated commissioning program. Commissioning is typically undertaken in addition to a general acquisitions program.

Local Government	Acquisition/Commissioning	Budget
City of Fremantle	No distinct commissioning program. Acquisitions approved by CEO.	\$10,000 per annum for general acquisitions. Occasional commissions funded on case by case basis.
City of Melville	No distinct commissioning program. Acquisitions approved by Director.	\$15,000 per annum for general acquisitions. Occasional commissions funded on case by case basis.
City of Perth	Extensive commissioning program: <ul style="list-style-type: none"> • Photo media commission every three years • Fine art commission every three years. Acquisitions program in addition to commissioning. Acquisitions approved by CEO or General Purposes Committee.	\$20,000 every three years for photo media commission. \$50,000 every three years for Fine art commission. \$60,000 per annum for general acquisitions.
City of Stirling	No distinct commissioning program. Acquisitions approved by Director/CEO.	\$30,000 in previous financial year (varies annually) for general acquisitions. Occasional commissions funded on case by case basis.
City of Swan	No distinct commissioning program. Acquisitions currently approved by committee however proposing move toward approval by CEO.	\$10,000 per annum for acquisition (acquisitive art award prize) Occasional commissions funded on case by case basis.
City of Wanneroo	No distinct commissioning program. Acquisitions approved by CEO/ Art Advisory Committee.	\$12,000 per annum for general acquisitions. Occasional commissions funded on case by case basis.

Issues and options considered:

Should Council wish to proceed with commissioning artworks, the following two options are proposed:

Option 1: Annual budget of \$15,000 (excluding GST)

Based on research of similar projects within local government and the arts industry, an annual budget of \$15,000 (excluding GST) for commissioning would allow the City to commission approximately one artwork per year from a respected emerging or mid-career artist.

Should Council agree to include an amount of \$15,000 (excluding GST) for the commissioning of artworks depicting iconic landmarks within the City of Joondalup in the draft 2011/12 budget, the City Policy - The City's Art and Memorabilia Collections would be required to be amended to reflect the inclusion of a commissioning budget allocation and associated processes (Attachment 1 refers).

Option 2: Biennial budget of \$35,000 (excluding GST)

As the current acquisition budget limits the purchase of works by high profile and established artists the City may wish to allocate a biennial commissioning budget, in order to undertake a more significant commission every two years.

The proposed amount of \$35,000 (excluding GST) would allow the City to commission approximately one artwork every two years from an established artist or a number of works from respected, mid-career artists.

Legislation/Strategic Plan/Policy Implications

Legislation When seeking an artist for a specific commission, particular technical skills or style may be required.

Under the *Local Government (Functions and General) Regulations 1996*, Part 4 (provision of Goods and Services) Division 2, Clause 11 (2) (f) which states:

“. . . the local government has good reason to believe that, because of the unique nature of the goods or services required or for any other reason, it is unlikely that there is more than one potential supplier;“

Commissioning an artwork can be classified under this component of the regulations where specific requirements apply.

Strategic Plan

Key Focus Area: 5.3 Development of the City's Art Collection

Objective: To facilitate culture, the arts and knowledge within the community.

Policy City Policy - The City's Art and Memorabilia Collections

Risk Management considerations:

Not Applicable.

Financial/Budget Implications:

In the past, a budget amount has not been listed for the commissioning of artworks. The 2010/11 budget contains an amount of \$12,500 that allows for the acquisition of contemporary artworks. This is proposed to increase to \$15,000 in the 2011/12 budget.

Regional Significance:

The City's Art Collection, including its public art, archives and memorabilia, plays an important part in shaping and developing a sense of community.

The ongoing provision of an accessible and high calibre Art Collection is integral to the cultural development and vibrancy of the City of Joondalup region and to best practice standards for the development of the visual arts in local government.

Sustainability Implications:

The commissioning of special purpose artworks has positive social sustainability implications. Artworks that reflect the City of Joondalup in content or context would enhance the relevance of the City's Art Collection for the local community and would increase the value of the City's cultural resources. Works that reflect the City of Joondalup would also provide a historical perspective in years to come.

Consultation:

Not Applicable.

COMMENT

The provision of a general acquisitions program to complement the commissioning of special purpose artworks is important to ensure the development of a relevant and comprehensive art collection. A number of local government areas in WA undertake sporadic commissioning and lack a consistent approach to this important aspect of developing an art collection.

The commissioning of various artworks that are reflective of the City of Joondalup offers the following benefits:

- The resulting works would be a culturally valuable asset for the City and would be a welcome addition to the City's growing art collection.
- Through the Invitation Art Award and Community Art Exhibition, it has been difficult to locate works that relate to Joondalup in content or context that are also of strong artistic merit. To ensure artworks of quality that also reflect the City of Joondalup can be included in the Collection, a more targeted approach such as commissioning is required.
- Commissioning allows the City to determine the overall content or theme of the artworks. Commissioning thereby allows the City to capture a site, person or theme of particular significance, which over time will provide an historical perspective of the City.
- The City of Joondalup has the opportunity to take a progressive approach to the development of a fine art collection through a comprehensive program of acquisitions and commissioning.

Option 1 is recommended as it is aligned to the City's existing budget for acquisitions on a yearly basis and is in keeping with the composition and current development of the City's art collection. This will allow the City the discretion to grow its art collection on an annual basis rather than every second year.

If the Council agrees to the principle of commissioning artworks, it is suggested a report be presented to the Policy Committee reviewing the City's current Art and Memorabilia Collection Policy, including the commissioning process.

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Gobbert, SECONDED Cr Hollywood that Council:

- 1 AGREES to commission on an annual basis various artworks depicting iconic landmarks within the City of Joondalup;**
- 2 LISTS for consideration in the 2011/12 budget, an amount of \$15,000 (excluding GST) for the commissioning of artworks depicting iconic landmarks within the City of Joondalup;**
- 3 REQUESTS a report to be presented to the Policy Committee reviewing the City Policy – The City's Art and Memorabilia Collections to include an agreed process for the commissioning of artworks as details in Part 1 above.**

The Motion was Put and CARRIED (12/0) by En Bloc Resolution prior to consideration of Item CJ070-04/11, Page 115 refers.

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Diaz, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman and Taylor

Appendix 11 refers

To access this attachment on electronic document, click here: [Attach11brf120411.pdf](#)

CJ065-04/11 MINUTES OF EXTERNAL COMMITTEES**WARD:** All**RESPONSIBLE** Mr Jamie Parry, Director Governance and Strategy**FILE NUMBER:** 03149, 101515**ATTACHMENTS:** Attachment 1 Minutes of the Ordinary Meeting of the Mindarie Regional Council held on 24 February 2011.
Attachment 2 Minutes of the Special Council Meeting of the Mindarie Regional Council held on 17 March 2011.

(Please Note: These minutes are only available electronically)

PURPOSE

To submit minutes of external committees to Council for information.

EXECUTIVE SUMMARY

The following minutes are provided:

- Ordinary Meeting of the Mindarie Regional Council held on 24 February 2011.
- Special Meeting of the Mindarie Regional Council held on 17 March 2011.

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Gobbert, SECONDED Cr Hollywood that Council NOTES the minutes of the:

- 1 Ordinary Meeting of the Mindarie Regional Council held on 24 February 2011 forming Attachment 1 to Report CJ065-04/11;**
- 2 Special Meeting of the Mindarie Regional Council held on 17 March 2011 forming Attachment 2 to Report CJ065-04/11.**

The Motion was Put and CARRIED (12/0) by En Bloc Resolution prior to consideration of Item CJ070-04/11, Page 115 refers.

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Diaz, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman and Taylor

Appendix 17 refers

To access this attachment on electronic document, click here: [externalminutes120411.pdf](#)

CJ066-04/11 FINANCIAL ACTIVITY STATEMENT FOR THE PERIOD ENDED 28 FEBRUARY 2011

WARD:	All
RESPONSIBLE:	Mr Mike Tidy, Director Corporate Services
FILE NUMBER:	07882, 101515
ATTACHMENTS:	Attachment 1 Financial Activity Statement for the period ended 28 February 2011

PURPOSE

The February 2011 Financial Activity Statement is submitted to Council to be noted.

EXECUTIVE SUMMARY

Council adopted the Mid Year Budget Review for the 2009/10 Financial Year at its meeting held on 15 February 2011 (CJ030-02/11 refers). The figures in this report are compared to the Revised Budget figures.

The February 2011 Financial Activity Statement report shows an overall favourable variance from operations and capital for the period of \$8,366k when compared to the 2010/11 Revised Budget.

This variance can be summarised as follows:

- The **Operating** surplus is \$5,019k above budget made up of higher revenue of \$949k and lower operating expenditure of \$4,069k.

Operating revenue is above budget mainly in Rates \$89k, Contributions, Reimbursements and Donations \$180k, Fees and Charges \$218k and Investment Earnings \$525k. Grants and Subsidies revenue is \$99k below budget. Additional revenue arose from the Sale of Recyclable Materials, Sports and Recreation fees and charges and from investments which exceeded the budget due to higher funds being invested.

The operating expenditure variance includes Employee Costs \$1,844k, Materials and Contracts \$2,266k and Depreciation \$93k which is partly offset by adverse variances in Insurance expenses \$99k and Utilities \$62k.

Lower employment costs are due to the outstanding budgeted salary increases and later than expected recruitment for vacant positions.

The Materials and Contracts favourable variance includes External Contract services \$647k, Waste Management charges \$604k and Furniture and Equipment repairs and maintenance \$344k primarily due to timing differences.

- The **Capital Revenue and Expenditure** deficit is \$3,407k below budget and is made up of lower revenue of \$755k and under expenditure of \$4,162k.

Capital Expenditure is below budget on Capital Projects \$281k and Capital Works \$3,827k.

In Capital Works, the primary areas of projects being below budget for the period include, \$535k for Regional Local Community Infrastructure Projects, \$359k Traffic Management works, \$363k Paths program, \$522k for Road Preservation/Resurfacing and \$378k for Building Works. It should be noted that at the end of February 2011 there was \$4.7 million of purchase order commitments not included in actual capital works expenditure.

Further details of the material variances are contained in Appendix 3 attached to this Report.

It is recommended that Council NOTES the Financial Activity Statement for the period ended 28 February 2011 forming Attachment 1 to Report CJ066-04/11.

BACKGROUND

The *Local Government (Financial Management) Regulations 1996* requires the production of financial activity statements. At its meeting held on 11 October 2005, Council approved to the monthly Financial Activity Statement being accept according to nature and type classification.

DETAILS

Issues and options considered:

The Financial Activity Statement for the period ended 28 February 2011 is appended as Attachment 1.

Legislation/Strategic Plan/Policy Implications

Legislation Section 6.4 of the Local Government Act 1995 requires a local government to prepare an annual financial report for the preceding year and such other financial reports as are prescribed.

Regulation 34(1) of the Local Government (Financial Management) Regulations 1996 as amended requires the local government to prepare each month a statement of financial activity reporting on the source and application of funds as set out in the annual budget.

Strategic Plan

Key Focus Area: Leadership and Governance

Objective: 1.3 To lead and manage the City effectively.

Risk Management considerations:

In accordance with Section 6.8 of the *Local Government Act 1995*, a local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure is authorised in advance by an Absolute Majority of Council.

Financial/Budget Implications:

Not Applicable.

Regional Significance:

Not Applicable.

Sustainability Implications:

Expenditure has been incurred in accordance with revised budget parameters, which have been structured on financial viability and sustainability principles.

Consultation:

In accordance with Section 6.2 of the *Local Government Act 1995*, the annual budget was prepared having regard to the Strategic Financial Plan, prepared under Section 5.56 of the *Local Government Act 1995*, which was made available for public comment.

COMMENT

All expenditures included in the Financial Activity Statement are incurred in accordance with the provisions of 2010/11 Revised Budget or have been authorised in advance by Council where applicable.

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Gobbert, SECONDED Cr Hollywood that Council NOTES the Financial Activity Statement for the period ended 28 February 2011 forming Attachment 1 to Report CJ066-04/11.

The Motion was Put and CARRIED (12/0) by En Bloc Resolution prior to consideration of Item CJ070-04/11, Page 115 refers.

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Diaz, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman and Taylor

Appendix 12 refers

To access this attachment on electronic document, click here: [Attach12brf120411.pdf](#)

CJ067-04/11 LIST OF PAYMENTS MADE DURING THE MONTH OF FEBRUARY 2011

WARD:	All
RESPONSIBLE:	Mr Mike Tidy, Director Corporate Services
FILE NUMBER:	09882, 101515
ATTACHMENTS:	Attachment 1 CEO's Delegated Municipal Payment List for the month of February 2011. Attachment 2 CEO's Delegated Trust Payment List for the month of February 2011. Attachment 3 Municipal and Trust Fund Vouchers for the month of February 2011.

PURPOSE

To present to Council the list of accounts paid under the Chief Executive Officer's delegated authority during the month of February 2011 for noting.

EXECUTIVE SUMMARY

This report presents the list of payments made under delegated authority during the month of February 2011 totalling \$9,609,765.72.

It is recommended that Council NOTES the Chief Executive Officer's list of accounts for February 2011 paid under delegated authority in accordance with Regulation 13 (1) of the Local Government (Financial Management) Regulations in Attachments 1, 2 and 3 to Report CJ067-04/11, totalling \$9,609,765.72.

BACKGROUND

Council has delegated to the Chief Executive Officer (CEO) the exercise of its power to make payments from the City's Municipal and Trust funds. In accordance with Regulation 13 of *the Local Government (Financial Management) Regulations 1996* a list of accounts paid by the CEO is to be provided to Council, where such delegation is made.

DETAILS

The table below summarises the payments drawn on the funds during the month of February 2011. Lists detailing the payments made are appended as Attachments 1 and 2. The vouchers for the month are appended as Attachment 3.

FUNDS	DETAILS	AMOUNT
Municipal Account	Cheques 89018 – 89256 and EF016514 – EF016949 Net of cancelled payments	\$6,308,354.31
	Vouchers 797A – 804A	\$3,253,302.01
Trust Account	Cheques 203995 - 204083 Net of cancelled payments	\$ 48,109.40
	Total	\$9,609,765.72

Issues and options considered:

Not Applicable.

Legislation/Strategic Plan/Policy Implications**Legislation**

The Council has delegated to the CEO the exercise of its authority to make payments from the Municipal and Trust Funds, therefore in accordance with Regulation 13(1) of the *Local Government (Financial Management) Regulations 1996*, a list of accounts paid by the CEO is prepared each month showing each account paid since the last list was prepared.

Strategic Plan

Key Focus Area: Leadership and Governance.

Objective: 1.1 To ensure that the processes of Local Governance are carried out in a manner that is ethical, transparent and accountable.

Policy All expenditure included in the list of payments is drawn from the City's accounting records.

Risk Management considerations:

In accordance with Section 6.8 of the *Local Government Act 1995*, a local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure is authorised in advance by an Absolute Majority of Council.

Financial/Budget Implications:

All expenditure from the Municipal Fund was included in the 2010/11 Annual Budget as adopted by Council at its meeting held on 6 July 2010 and revised by Council at its meeting on the 15 February 2011.

Regional Significance:

Not Applicable.

Sustainability Implications:

Expenditure has been incurred in accordance with budget parameters, which have been structured on financial viability and sustainability principles.

Consultation:

Not Applicable.

COMMENT

All Municipal Fund expenditure included in the list of payments is in accordance with the 2010/11 Annual Budget as adopted by Council at its meeting held on 6 July 2010 and revised by Council at its meeting on the 15 February 2011 or has been authorised in advance by Council where applicable.

VOTING REQUIREMENTS

Simple Majority.

MOVED Cr Gobbert, SECONDED Cr Hollywood that Council NOTES the Chief Executive Officer's list of accounts for February 2011 paid under delegated authority in accordance with Regulation 13 (1) of the *Local Government (Financial Management) Regulations 1996* forming Attachments 1, 2 and 3 to Report CJ067-04/11, totalling \$9,609,765.72.

The Motion was Put and CARRIED (12/0) by En Bloc Resolution prior to consideration of Item CJ070-04/11, Page 115 refers.

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Diaz, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman and Taylor

Appendix 13 refers

To access this attachment on electronic document, click here: [Attach13brf120411.pdf](#)

Disclosure of Financial Interest

Name/Position	Cr Geoff Amphlett
Item No/Subject	CJ068-04/11 – Tender 003/11 – Supply and Delivery of Pre-Mix Concrete
Nature of interest	Financial Interest
Extent of Interest	Cr Amphlett's wife is a full time employee of Holcim (Australia) Pty Ltd

Cr Amphlett left the Chamber at 8.21 pm.

CJ068-04/11 TENDER 003/11 - SUPPLY AND DELIVERY OF PRE-MIX CONCRETE

WARD: All

RESPONSIBLE: Mr Mike Tidy, Director Corporate Services

FILE NUMBER: 101395, 101515

ATTACHMENTS: Attachment 1 Schedule of Items
Attachment 2 Summary of Tender Submissions

PURPOSE

To seek the approval of Council to accept the Tenders submitted by Holcim (Australia) Pty Ltd and Boral Resources (WA) Ltd for the supply and delivery of pre-mix concrete (Tender 003/11).

EXECUTIVE SUMMARY

Tenders were advertised on 15 January 2011 through statewide public notice for the supply and delivery of pre-mix concrete. At the close of tenders on Tuesday, 1 February 2011, the following two submissions were received:

- Boral Resources (WA) Ltd.
- Holcim (Australia) Pty Ltd.

The submissions from Holcim (Australia) Pty Ltd and Boral Resources (WA) Ltd represent value to the City. The panel is confident that the companies have the industry experience and the capacity to supply and deliver pre-mix concrete for the City.

Holcim and Boral are global businesses that have been in the construction materials industry for many years and are the City's current suppliers of pre-mix concrete. Boral has also been supplying pre-mix concrete for the Cities of Wanneroo and Fremantle for several years.

It is recommended that Council ACCEPTS the Tenders submitted by Holcim (Australia) Pty Ltd and Boral Resources (WA) Ltd for the supply and delivery of pre-mix concrete for a three year period as specified in Tender 003/11 at the submitted schedule of rates.

BACKGROUND

The City needs reliable external service providers for the supply and delivery of pre-mix concrete for its operational maintenance works program. Whilst the City does use concrete for various construction purposes, the main usage will be in the repair of cast-in-situ concrete footpaths and kerbing.

The City currently has a Panel Contract for the supply and delivery of pre-mix concrete with Boral Concrete and Holcim (Australia) Pty Ltd which expired on 23 March 2011.

DETAILS

The Tender for the supply and delivery of pre-mix concrete was advertised through statewide public notice on 15 January 2011. The Tender remained opened for two weeks and closed on 1 February 2011.

The schedule of items as listed in the Request for Tender is provided in Attachment 1.

Tender Submissions

The following two submissions were received by the closing date:

- Boral Resources (WA) Ltd.
- Holcim (Australia) Pty Ltd.

A summary of the Tender submissions including the location of each Tenderer is provided in Attachment 2.

Evaluation Panel

The Evaluation Panel comprised of three members:

- one with tender and contract preparation skills; and
- two with the appropriate technical expertise and involvement in supervising the Contract.

The Panel carried out the assessment of submissions in accordance with the City's evaluation process.

Compliance Assessment

The submission received from Holcim (Australia) Pty Ltd was fully compliant and was considered for further evaluation.

The submission from Boral Resources (WA) Ltd gave a negative response to a question about compliance with the conditions of contract but did not indicate any issues of concern. Upon clarification, Boral confirmed compliance in writing and its submission progressed for further evaluation.

Qualitative Assessment

The qualitative criteria and weighting used in evaluating the submissions received were as follows:

Qualitative Criteria		Weighting
1	Capacity	50%
2	Demonstrated experience in providing similar services	30%
3	Demonstrated understanding of the required tasks	15%
4	Social and economic effects on the local community	5%

Boral Resources (WA) Ltd achieved a score of 69% and was ranked second in the qualitative assessment. Boral has demonstrated the capacity and experience in providing similar goods and services for local governments. The company has been supplying pre-mix concrete for the Cities of Wanneroo and Fremantle for several years.

Holcim (Australia) Pty Ltd achieved a score of 76% and was ranked first in the qualitative criteria. Holcim has demonstrated the capacity, a sound understanding of the requirements and experience in undertaking similar work. The company is well established and has been in the construction materials industry for decades.

Holcim and Boral are the City's current suppliers on a panel contract for the supply and delivery of pre-mix concrete.

The Evaluation Panel is confident that Holcim (Australia) Pty Ltd and Boral Resources (WA) Ltd have the industry experience and the capacity to supply and deliver pre-mix concrete for the City on a panel Contract arrangement.

The City had in the past experienced delays in service delivery with a single Contractor due to the high volume of demand for pre-mix concrete from the housing industry. A Panel Contract arrangement significantly reduces delays and improves service delivery to the City.

Price Assessment

Following the qualitative assessment, the panel carried out a comparison of the submitted rates offered by each tenderer to assess value for money to the City.

Tendered rates are fixed for the first year of the Contract, but are subject to a price variation on each anniversary date thereafter limited to the percentage change in the Perth CPI (All Groups) Index from the corresponding quarter of the previous year.

For estimation purposes, a 3.25% annual CPI increase was applied to the tendered rates after the first year of the contract.

To provide estimated expenditure over a 12 month period, the eight most commonly used items and their typical historical usage have been used. Any future requirements will be based on demand and subject to change in accordance with the operational needs of the City.

The table below provides a comparison of the estimated expenditure for each Respondent based on the eight most commonly used items only, such as this is not the total estimated annual expenditure which will be more than this.

Estimated Cost	Holcim (Australia) Pty Ltd	Boral Resources (WA) Ltd
Year 1	\$118,190	\$114,914
Year 2	\$122,031	\$118,648
Year 3	\$125,997	\$122,504
Total Estimated Cost	\$366,218	\$356,066

During the 2009/10 financial year, the City incurred \$90,178.73 for the supply and delivery of pre-mix concrete.

Evaluation Summary

The following table summarises the result of the qualitative and price evaluation as assessed by the evaluation panel.

Tenderer	Price Ranking	Estimated Price of the eight most commonly used items		Qualitative Ranking	Weighted Percentage Score
		1 Year	3 Years		
Holcim (Australia) Pty Ltd	2	\$118,190	\$366,218	1	76%
Boral Resources (WA) Ltd	1	\$114,914	\$356,066	2	69%

Based on the evaluation result the panel concluded that the rates submitted by Holcim (Australia) Pty Ltd and Boral Resources (WA) Ltd are competitive with market conditions and represent value to the City.

Issues and options considered:

The City has a need to establish a Panel Contract for the supply and delivery of pre-mix concrete. The City does not have the internal resources to provide pre-mix concrete and therefore requires appropriate external suppliers to undertake the work.

Legislation/Strategic Plan/Policy Implications

Legislation A state wide public tender was advertised, opened and evaluated in accordance with Clause 11(1) of Part 4 of the *Local Government (Functions and General) Regulations 1996*, where tenders are required to be publicly invited if the consideration under a contract is, or is estimated to be, more, or worth more, than \$100,000.

Strategic Plan

Key Focus Area: The built environment

Objective: To progress a range of innovative and high quality urban development projects within the City.

Policy Not Applicable.

Risk Management considerations:

Should the Contract not proceed, the risk to the City will be high as the supply and delivery of pre-mix concrete is needed for the maintenance of footpaths and other concrete works within the City. Failure to maintain concrete footpaths to the required standard presents safety and public liability issues for the City.

It is considered that the Contract will represent a low risk to the City. The recommended Respondents are well established companies having industry experience and the capacity to provide an effective service delivery to the City.

Financial/Budget Implications:

Natural Account Numbers:	3359 (External Contract Services) and 3327 (Materials)
Budget Item:	Pre-mix concrete used for footpaths and kerbing. Expenditure is spread over various activities and cost codes for operational maintenance and capital works.
Estimated Budget Amount (2010/11):	\$120,000
Actual To Date Plus Expenditure to 30 June 2011:	\$ 98,444
Balance:	\$ 21,556

All figures quoted in this report are exclusive of GST.

The projected expenditure for pre-mix concrete is subject to change dependent on the quantity and type of requirements throughout the Contract period.

Regional Significance:

Not Applicable.

Sustainability Implications:

The proposed project will enhance the amenity of public space, the safety of the public environment and the value of City assets.

Consultation:

Not Applicable.

COMMENT

The evaluation panel carried out the evaluation of the Submissions in accordance with the Qualitative Criteria and concluded that the Offers representing value to the City are that as submitted by Holcim (Australia) Pty Ltd and Boral Resources (WA) Ltd.

VOTING REQUIREMENTS

Simple Majority

MOVED Cr McLean, **SECONDED** Cr Hollywood that Council **ACCEPTS** the Tenders submitted by Holcim (Australia) Pty Ltd and Boral Resources (WA) Ltd for the supply and delivery of pre-mix concrete for a three year period as specified in Tender 003/11 at the submitted schedule of rates.

The Motion was Put and

CARRIED (11/0)

In favour of the Motion: Mayor Pickard, Crs Chester, Corr, Diaz, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman and Taylor

Appendix 14 refers

To access this attachment on electronic document, click here: [Attach14brf120411.pdf](#)

Cr Amphlett returned to the Chamber at 8.22 pm.

CJ069-04/11 TENDER 006/11 - PROVISION OF PAVEMENT PROFILING SERVICES

WARD: All

RESPONSIBLE: Mr Mike Tidy, Director Corporate Services

FILE NUMBER: 101135, 101515

ATTACHMENTS: Attachment 1 Schedule of Items
Attachment 2 Summary of Tender Submissions

PURPOSE

To seek the approval of Council to accept the Tenders submitted by The Trustee for Mark Fowler Trust trading as Blue Tongue Profiling, Downer EDI Works Pty Ltd and West Coast Profilers Pty Ltd for the provision of pavement profiling services (Tender 006/11).

EXECUTIVE SUMMARY

Tenders were advertised on 19 January 2011 through statewide public notice for the provision of pavement profiling services. Tenders closed on 3 February 2011 with the following four submissions being received:

- Bluestone (WA) Pty Ltd trading as WA Profiling.
- The Trustee for Mark Fowler Trust trading as Blue Tongue Profiling.
- Downer EDI Works Pty Ltd.
- West Coast Profilers Pty Ltd.

The submissions from Blue Tongue Profiling, Downer EDI Works Pty Ltd and West Coast Profilers Pty Ltd represent best value to the City. All three companies are well established and have industry and local government experience. Blue Tongue Profiling has successfully completed similar profiling works for various local government authorities, which include the Cities of Bayswater, Armadale, Joondalup and the Shires of Augusta-Margaret River, Busselton and Bunbury. Downer EDI Works has been providing similar profiling services for local government authorities, which include the Cities of Canning, Stirling, Belmont, Rockingham, Swan and the Town of Vincent. West Coast Profilers has also successfully completed profiling works for the Cities of Stirling, Rockingham and Mandurah. All three companies are currently providing ongoing profiling services for numerous local government authorities.

It is recommended that Council ACCEPTS the Tenders submitted by The Trustee for Mark Fowler Trust trading as Blue Tongue Profiling, Downer EDI Works Pty Ltd and West Coast Profilers Pty Ltd for the provision of pavement profiling services for a three year period as specified in Tender 006/11 at the submitted schedule of rates.

BACKGROUND

Pavement profiling services is required by the City as part of the road resurfacing program, capital projects and regular maintenance. The works incorporate road profiling, sweeping, removal and disposal of profiled materials.

The City had a Panel Contract for the provision of pavement profiling services with Blue Tongue Profiling, Downer EDI Works Pty Ltd and WA Profiling which expired on the 28 February 2011.

DETAILS

Tenders were advertised on 19 January 2011 through statewide public notice for the provision of pavement profiling services. The Tender period was for two weeks and Tenders closed on 3 February 2011.

The schedule of items as listed in the Request for Tender is provided in Attachment 1.

Tender Submissions

The following four submissions were received:

- Bluestone (WA) Pty Ltd trading as WA Profiling.
- The Trustee for Mark Fowler Trust trading as Blue Tongue Profiling.
- Downer EDI Works Pty Ltd.
- West Coast Profilers Pty Ltd.

A summary of the Tender submissions including the location of each Tenderer is provided in Attachment 2.

Evaluation Panel

The Evaluation Panel comprised of four members:

- One with tender and contract preparation skills.
- Two with managerial and operational skills.
- One with appropriate technical expertise and involvement in supervising the Contract.

The panel carried out the assessment of submissions in accordance with the City's evaluation process.

Compliance Assessment

All offers received were fully compliant and were considered for further evaluation.

Qualitative Assessment

The qualitative criteria and weighting used in evaluating the submissions received were as follows:

Qualitative Criteria		Weighting
1	Capacity	50%
2	Demonstrated experience in providing similar services	25%
3	Demonstrated understanding of the required tasks	20%
4	Social and economic effects on the local community	5%

West Coast Profilers Pty Ltd scored 73.4% and was ranked fourth in the qualitative assessment. The company has demonstrated local government experience and has an understanding of the required tasks. It has successfully completed similar profiling works for the Cities of Stirling, Rockingham and Mandurah. It has sufficient profilers and associated plant and equipment to provide the services for the City.

Downer EDI Works Pty Ltd scored 79.8% and was ranked third in the qualitative assessment. The company has demonstrated experience in providing similar profiling services for local government authorities which include the Cities of Canning, Stirling, Belmont, Rockingham, Swan and the Town of Vincent. It has been in the industry for many years and has demonstrated understanding of the required tasks. It is a large size business and is well resourced.

Blue Tongue Profiling achieved a score of 80.6% and was ranked second in the qualitative assessment. It has extensive industry experience and sound understanding of the required tasks. The company has successfully completed similar profiling works for a number of local government authorities which includes the Cities of Bayswater, Armadale, Joondalup and the Shires of Augusta-Margaret River, Busselton and Bunbury. It is sufficiently equipped to undertake the majority of the works for the City.

WA Profiling achieved a score of 80.7% and was ranked first in the qualitative assessment. The company has demonstrated experience in undertaking similar profiling works for various local government authorities including the Cities of Wanneroo, Stirling, Cockburn, Gosnells, Fremantle, Nedlands and South Perth. The company is well equipped and has the capacity to provide the services.

All companies are well established and have the capacity and experience to provide similar profiling services. Downer EDI Works is a large size business that has been in operation for more than 25 years and WA Profiling is a medium size business that has been in the profiling industry for seven years. Blue Tongue Profiling has been operating for five years and West Coast Profilers over three years. Both are small size businesses. The evaluation panel considered the companies' capacity and resources, experience and length of time in the industry and scored them accordingly.

Price Assessment

Following the qualitative assessment, the panel carried out a comparison of the submitted rates offered by each tenderer to assess value for money to the City.

Tendered rates are fixed for the first year of the Contract, but are subject to a price variation on each anniversary date, thereafter limited to the percentage change in the Perth CPI (All Groups) Index from the corresponding quarter of the previous year.

For estimation purposes, a 3.25% annual CPI increase was applied to the tendered rates after the first year of the contract.

The following table provides comparative estimated expenditure during the term of the contract for each Tenderer, based on the tendered rates for the 21 most commonly used items only. Any future mix of requirements will be based on demand and subject to change in accordance with operational needs of the City.

Respondent	Year 1	Year 2	Year 3	Total
Bluestone (WA) Pty Ltd trading as WA Profiling	\$266,931	\$275,607	\$284,564	\$827,102
The Trustee for Mark Fowler Trust trading as Blue Tongue Profiling	\$111,228	\$114,843	\$118,575	\$344,646
Downer EDI Works Pty Ltd	\$227,257	\$234,642	\$242,268	\$704,167
West Coast Profilers Pty Ltd	\$213,280	\$220,211	\$227,368	\$660,859

During the last financial year 2009/10, the City incurred \$160,893.98 for the provision of pavement profiling services.

Evaluation Summary

The following table summarises the result of the qualitative and price evaluation as assessed by the Evaluation Panel.

Tenderer	Price Ranking	Estimated Contract Price Year 1	Estimated Total Contract Price	Qualitative Ranking	Weighted Percentage Score
Bluestone (WA) Pty Ltd trading as WA Profiling	4	\$266,931	\$827,102	1	80.7%
The Trustee for Mark Fowler Trust trading as Blue Tongue Profiling	1	\$111,228	\$344,646	2	80.6%
Downer EDI Works Pty Ltd	3	\$227,257	\$704,167	3	79.8%
West Coast Profilers Pty Ltd	2	\$213,280	\$660,859	4	73.4%

Based on the evaluation result, the Panel concluded the Tenders that provide best value to the City are that of The Trustee for Mark Fowler Trust trading as Blue Tongue Profiling, Downer EDI Works Pty Ltd and West Coast Profilers Pty Ltd and are therefore recommended.

Blue Tongue Profiling offers the most cost-effective pricing structure to the City and West Coast Profilers Pty Ltd offers the next lowest pricing structure. However, both companies are small size businesses and, at times of high volume of works, may not be able to meet the City's needs within the expected timeframe. An additional contractor would therefore be required. Downer EDI Works Pty Ltd is a large size business and is well resourced. It is recommended as the third panel Contractor to avoid such risk.

During the term of the Contract, work will be allocated to the most cost effective Contractor.

Issues and options considered:

Pavement profiling services is required as part of the capital projects and maintenance program. The City does not have the internal resources to supply the required pavement profiling services and as such requires appropriate external service providers.

Legislation/Strategic Plan/Policy Implications

Legislation A state wide public tender was advertised, opened and evaluated in accordance with Clause 11(1) of Part 4 of the *Local Government (Functions and General) Regulations 1996*, where tenders are required to be publicly invited if the consideration under a contract is, or is estimated to be, more, or worth more, than \$100,000.

Strategic Plan

Key Focus Area: The built environment

Objective: To progress a range of innovative and high quality urban development projects within the City.

Policy Not Applicable.

Risk Management considerations:

Should the contract not proceed, the risk to the City will be high as the City would not be able to complete the road resurfacing program or capital projects incorporating pavement profiling services.

It is considered that the Contract will represent a low risk to the City as the recommended Respondents are well-established companies with industry and local government experience and the combined capacity to provide the services to the City.

Financial/Budget Implications:

Natural Account Numbers: Various Accounts

Budget Item: Pavement Profiling Services

Expenditure is spread over various activities and cost codes for operational maintenance and capital works.

Estimated Budget Amount 2010/11: \$166,525

Actual To Date Plus Estimated Expenditure to 30 June 2011: \$163,261

All figures quoted in this report are exclusive of GST.

The projected expenditure on these Services is subject to change dependent on the quantity and type of requirements throughout the Contract period. Based on historical and known requirements, it is estimated that the expenditure on maintenance and capital projects over the Contract period will be in the order of \$570,000.

Regional Significance:

Not Applicable.

Sustainability Implications:

A requirement of this Contract is for all removed profiled material to be recycled. This material can be reused as road base and reduces the amount of waste materials going to landfill.

Consultation:

Not Applicable.

COMMENT

The Evaluation Panel carried out the evaluation of the Submissions in accordance with the Qualitative Criteria and concluded that the Offers representing best value to the City are that as submitted by The Trustee for Mark Fowler Trust trading as Blue Tongue Profiling, Downer EDI Works Pty Ltd and West Coast Profilers Pty Ltd.

VOTING REQUIREMENTS

Simple Majority

EXECUTIVE SUMMARY

PwC's proposed methodology to value the CoS interest in the MRC is as follows:

- 1 To value the MRC waste disposal operation using Discounted Cash Flow (DCF) of all future cash expected to be generated by the business.
- 2 Obtain a sworn valuation of the Neerabup land owned by the MRC.
- 3 Reduce the combined value of the two valuations above by the MRC outstanding debt to arrive at the MRC value.
- 4 Apply the agreed CoS equity ratio to the MRC value to determine the value of its equity.
- 5 Discount the value of CoS equity by a discount factor, reflecting its lack of controlling interest in the MRC and its inability to force liquidation.

Historical data will be the base of future estimates after excluding any income or expenditure associated with the CoS, which will no longer use the MRC facilities in the future.

PwC also propose to cross check the valuation obtained via the DCF with possible other asset or income based valuation methods to confirm its outcome.

It is recommended that Council accepts PricewaterhouseCoopers proposed methodology for valuing the City of Stirling's interest in the Mindarie Regional Council using the Discounted Cash Flow method, enabling PricewaterhouseCoopers to proceed to Stage 2 of the valuation process, and requests that the underlying assumptions used in the valuation together with sensitivity analysis of the impact of possible variations in the key elements of the underlying assumptions be provided to Council.

BACKGROUND

The CoS declared its intention to withdraw from the MRC after the latter introduced a single gate fee at the start of the current 2010/11 financial year and the CoS initiated legal action over the fee proposal. The matter progressed to mediation, an outcome of which is an agreement between the CoS, the MRC and its other members in relation to a process for progressing the CoS proposed withdrawal.

The MRC constitution was established under the *Local Government Act 1960*. Neither the constitution nor the *Local Government Act 1960* provides any guidance in relation to the determination of the adjustment to MRC assets and liabilities in the event of a withdrawal of a member.

The MRC has therefore engaged PwC to undertake a valuation exercise. There are two stages in the valuation exercise under the terms of the engagement. In Stage 1 PwC is to propose a valuation methodology which requires the agreement of each of the member local government authorities, prior to proceeding with the valuation determination in Stage 2.

Generally, business valuation methods can be grouped into two groups, assets based and income based valuations.

Assets based valuations attempt to determine the value of a business by reference to the fair market value of its tangible assets and liabilities. This requires adjustments to the carrying value of assets and liabilities, as necessary. Intangible assets are not normally considered unless their value can be reasonably and reliably determined.

Income based valuations establish the value of a business by reference to its income generation capacity. Valuation methods in the group include Discounted Cash Flow (DCF), Capitalisation of Maintainable Earnings, Gross Revenue Multiplier or the Excess Earnings method.

There are also a number of variations to these models that are less common. The method selected and its outcome will depend on a number of factors, for example, the purpose of the valuation, prevailing economic conditions, the nature and particular circumstances of the business in question and the elements contained in the valuation method used.

DETAILS

PwC has put forward its proposed methodology for consideration by member Local Governments. PwC has examined the background of the MRC operation, explored certain valuation methods and has proposed an approach to value the MRC and the CoS equity.

The valuation approach proposed by PwC can be summarised as follows:

- 1 To value the MRC business as a whole in two parts, being the waste disposal operation and the Neerabup land, then establish the CoS share in the total MRC value. This is instead of attempting to establish a value attributable directly to the CoS equity.
- 2 To value the MRC waste disposal operation separately using Discounted Cash Flow (DCF) of all future cash expected to be generated by the business.
- 3 Obtain a sworn valuation of the Neerabup land owned by the MRC.
- 4 Reduce the combined value of the two values above by the MRC outstanding debt to arrive at the overall MRC value.
- 5 Apply the agreed CoS equity ratio to the MRC value to determine the value of CoS equity.
- 6 Discount the value of the CoS equity by a discount factor, to reflect its lack of controlling interest in the MRC and its inability to force liquidation.

The MRC Value in Total

PwC has recommended an indirect approach to value the CoS equity on the basis that there is currently no distribution of profit to any member Local Government and no return on equity that can form the basis of any direct equity valuation. PwC opted instead to value the business as a whole then determine the CoS share of the business.

It may be argued that the price differential between a commercial rate for waste disposal and the cost recovery based price charged by the MRC to its members may, in effect, reflect the economic benefit returning to each member Council for its equity. However, this may not be sufficient to value an individual equity fairly. The PwC approach is therefore more appropriate.

Using Discounted Cash Flow (DCF) for the MRC Operation

DCF is a common method of business valuation, but it is not without its limitations. It is normally used to value a business with a well established operation and fairly predictable cash flow that is expected to continue without major interruptions into the future.

DCF becomes more challenging in circumstances such as that of the MRC, which is facing a major restructure by the departure of the CoS. The prediction of future cash flow will require not only understanding of historical data, but also appropriate modification to future cash flow to reflect the impact of the CoS departure on the MRC operation and possible associated risks to the business and its remaining members.

DCF by its nature involves predictions and making subjective decisions about the longevity of the business, its future cash flow and terminal value some years into the future. Future cash flow is then discounted using an appropriate discount rate to determine its present value.

At Stage 1 of the process, PwC is proposing a valuation methodology for MRC members' consideration. PwC has not proposed or determined at this stage the individual value of the components that will be used in applying the recommended DCF method. If the proposed methodology is adopted by all MRC members, then once the valuation is determined, in Stage 2, it will be important for Council to understand and be satisfied of the following:

- What adjustment has been made to reflect the departure of the CoS?
- What assumptions are used to predict future cash flow, which can cover a multitude of operating, inflationary and other economic aspects?
- What is the economic life of the operation, how has it been determined and why?
- What discount rate has been used, how it is arrived at and why?
- What risks to the business may arise as a result of the CoS departure, whether these have been taken into account in the evaluation and how?
- The extent of future capital expenditure commitments and how these have been reflected.
- Future borrowings, the extent of the borrowings and how the borrowings have been taken into account, both in the cash flow and the discount rate.
- The discount factor applied to the CoS interest in the MRC business to reflect the inability of a minority equity holder to force liquidation and realise that value.

It is important to note that any variation in the assumptions used or the discount rate applied will produce a different outcome. In this regard PwC advised that the valuation will include a sensitivity analysis on each of the assumptions and the discount rate.

Value of the Neerabup Land

PwC recommends an appropriate valuation of the Neerabup land owned by the MRC to be taken into account in determining the overall value of the MRC.

Overall Value of MRC

To establish the overall value of the MRC, the present value of its waste disposal operation and the value of its Neerabup land are to be combined and reduced by the MRC outstanding borrowings.

City of Stirling Share and Illiquidity discount

On the basis of its agreed equity ratio, the value of the CoS interest in the MRC business as determined above can then be arrived at.

PwC proposes to apply a discount factor to the CoS interest in the MRC business, in accordance with common commercial practice where the value of minority interests is discounted by an appropriate discount factor to reflect the inability of a minority equity holder to force liquidation and realise that value.

Alternative methods to value MRC

PwC is not in favour of using the capitalisation of maintainable earnings valuation methodology on the basis that it is generally used to value established profitable businesses with stable earnings and indefinite life, which is not the case with the MRC.

PwC also ruled out a Net Assets approach on the basis that it does not allow for identification and valuation of intangible assets, citing the air space, the lease of the Tamala Park site and the MRC Operating Licence.

Issues and options considered:

In order to progress the mediated agreement with the CoS, commencing with a valuation process, an agreed valuation methodology needs to be determined. There are two options available:

- **Option 1**

The City supports the methodology proposed by PwC for valuing the CoS interests in the MRC, bearing in mind that it is only support for the proposed valuation methodology to be used and does not bind the City in any way to accept the value that will be determined. Acceptance of the value will be dependent on satisfaction with the points listed above. This option is recommended.

- **Option 2**

The City does not support the methodology proposed by PwC. It is a requirement that the methodology to value the CoS interest in the MRC be initially agreed upon by all the MRC members, failing which the valuation process will not proceed. The mediation agreement would then fail and the issue would return to the courts. This option is not recommended.

Legislation/Strategic Plan/Policy Implications

Legislation Local Government Acts 1960 and 1995

Strategic Plan

Key Focus Area: Leadership and Governance

Risk Management considerations:

There are several risks associated with the issue around the proposed CoS withdrawal from the MRC.

The first is the value that is attributed to the CoS interest in the MRC and the financial impact for the City. It cannot be assumed and should not be speculated on as to the likely value or whether the remaining members would need to pay out the CoS or whether the CoS would need to pay the remaining members in order to withdraw. Acceptance of PwC's proposed valuation methodology does not commit the City in any way or constitute acceptance of the valuation that is determined.

The second risk is the impact of the MRC operations on the City of Joondalup post CoS withdrawal. The MRC will need to change its business model substantially to reflect a significant reduction in the tonnage of waste handled. The MRC is currently working through its 2011/12 draft budget development, and mitigating the impact of a post CoS withdrawal on its budget is the primary focus at this early stage. There will also be flow on to future years in terms of the expected life of the business, capital commitments and the development of the commercial side of the business.

Another risk is if the current agreement for developing a process for progressing the CoS withdrawal from the MRC fails. It is a requirement that all member Local Governments of the MRC agree to the methodology for determining the valuation of the CoS interest in the MRC. If one or more disagree the process would fail and the matter returns to the courts. The outcome from this position is very uncertain.

Financial/Budget Implications:

At this stage there are no direct financial implications for the City in considering the PwC proposed methodology for the valuation of the CoS interest in the MRC. PwC were appointed by the MRC following a tender process and the PwC costs will be met by the MRC. The direct financial implications to the City will not be known until a valuation is determined and the full impact of the CoS withdrawal from MRC is determined.

Regional Significance:

The departure of the CoS from MRC will have significant implications for the future of the MRC, its business model and its member local government authorities.

Sustainability implications:

Not Applicable.

Consultation:

Not Applicable.

COMMENT

PwC has proposed the DCF methodology to value the CoS interest in the MRC. While there are a number of valuation methodologies that could be applied, PwC expressed confidence that its proposal represents the best approach considering all aspects of the MRC's business. Notwithstanding the recommended methodology, PwC will build into the process cross checks of the valuation obtained using DCF with other asset or income based valuation methods as part of testing and confirming the reliability of the outcome.

The proposed DCF valuation methodology for valuing the CoS interest in the MRC is supported. However, in order to be able to adequately consider the valuation that is determined as a result of this methodology it is essential that the City be made fully aware of all underlying assumptions that have been made in predicating the valuation.

The PWC valuation work is being conducted in accordance with the Heads of Agreement entered into by the CEO's of the MRC and the seven member local governments on 3 August 2010.

Council subsequently endorsed the Heads of Agreement as the basis for settling the proceedings and authorised the CEO to negotiate with the MRC and the participants in the MRC as to the adjustment of the assets and liabilities of the MRC consequent upon the City of Stirling withdrawing from the MRC.

Whilst it is now clear that the valuation process will take considerably longer, when the Heads of Agreement was executed, it was anticipated that this work would be completed by 30 April 2011.

The Heads of Agreement was structured so that:

- If no agreement is reached on the adjustment of the assets and liabilities by 30 April 2011, the parties are no longer obliged to negotiate in good faith; and
- If no agreement is reached on the adjustment of the assets and liabilities by 30 April 2011, *and* the Governor has not consented to the withdrawal by 30 June 2011, the City of Stirling can commence fresh proceedings.

Although there is no indication that any party does not wish to continue with the negotiation process, it is considered prudent that all parties agree to a variation of the Heads of Agreement so as to extend the operative dates described above. This will remove any doubts as to the obligations of each party to continue to negotiate in good faith.

As no dates have as yet been agreed as between the MRC and the seven member local governments, it is recommended that Council authorises the CEO to execute a Deed of Variation to the Heads of Agreement.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION: That Council:

- 1 ACCEPTS PricewaterhouseCoopers proposed methodology for valuing the City of Stirling's interest in the Mindarie Regional Council using the Discounted Cash Flow method, enabling PricewaterhouseCoopers to proceed to Stage 2 of the valuation process;
- 2 REQUESTS that, in determining the valuation in Stage 2 of the valuation process, PricewaterhouseCoopers provide to the Council sufficient details of the following:
 - 2.1 The adjustments made to future cash flows to reflect the departure of the City of Stirling;
 - 2.2 The assumptions used to predict future cash flows, including those relating operating and capital requirements, inflation and other economic movements;
 - 2.3 The economic life of the operation, how it has been determined and why;

- 2.4 The discount rate that has been used, how it was arrived at and why;
- 2.5 The risks to the business that may arise as a result of the City of Stirling departure and whether these have been taken into account in the evaluation and how;
- 2.6 The extent of future capital expenditure commitments and how these have been reflected;
- 2.7 Future borrowings, the extent of the borrowings and how the borrowings have been taken into account, both in the cash flow and the discount rate;
- 2.8 The discount factor applied to the City of Stirling interest in the Mindarie Regional Council business to reflect the inability of a minority equity holder to force liquidation and realise that value and how the discount factor was determined;
- 2.9 The results of the cross checks of the valuation obtained using discounted cash flow against other asset or income based valuation methods;
- 2.10 The sensitivity impact of possible variation to key elements used in the valuation;
- 2.11 The risks to the business in relation to the potential for residual liability for environmental pollution in future years including post closure and additional liabilities as a result of legislative change in regard to landfill management, remediation or any other operational requirements and whether these have been taken into account in the valuation and how;
- 2.12 Any other key assumptions used to predicate the valuation determined in Stage 2 of the valuation process.

MOVED Cr Fishwick, SECONDED Cr Hollywood that Council:

- 1 ACCEPTS PricewaterhouseCoopers proposed methodology for valuing the City of Stirling's interest in the Mindarie Regional Council using the Discounted Cash Flow method, enabling PricewaterhouseCoopers to proceed to Stage 2 of the valuation process;**
- 2 REQUESTS that, in determining the valuation in Stage 2 of the valuation process, PricewaterhouseCoopers provide to the Council sufficient details of the following:**
 - 2.1 The adjustments made to future cash flows to reflect the departure of the City of Stirling;**
 - 2.2 The assumptions used to predict future cash flows, including those relating operating and capital requirements, inflation and other economic movements;**
 - 2.3 The economic life of the operation, how it has been determined and why;**
 - 2.4 The discount rate that has been used, how it was arrived at and why;**

- 2.5 The risks to the business that may arise as a result of the City of Stirling departure and whether these have been taken into account in the evaluation and how;
 - 2.6 The extent of future capital expenditure commitments and how these have been reflected;
 - 2.7 Future borrowings, the extent of the borrowings and how the borrowings have been taken into account, both in the cash flow and the discount rate;
 - 2.8 The discount factor applied to the City of Stirling interest in the Mindarie Regional Council business to reflect the inability of a minority equity holder to force liquidation and realise that value and how the discount factor was determined;
 - 2.9 The results of the cross checks of the valuation obtained using discounted cash flow against other asset or income based valuation methods;
 - 2.10 The sensitivity impact of possible variation to key elements used in the valuation;
 - 2.11 The risks to the business in relation to the potential for residual liability for environmental pollution in future years including post closure and additional liabilities as a result of legislative change in regard to landfill management, remediation or any other operational requirements and whether these have been taken into account in the valuation and how;
 - 2.12 Any other key assumptions used to predicate the valuation determined in Stage 2 of the valuation process;
- 3 AUTHORISES the Chief Executive Officer to execute a Deed of Variation to the Heads of Agreement in accordance with the information contained within Report CJ070-04/11.

The Motion was Put and

CARRIED (12/0)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Diaz, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman and Taylor

**CJ071-04/11 PROPOSED CHANGE OF NAME - MITCHELL
FREEWAY**

WARD: All

RESPONSIBLE: Mr Martyn Glover, Director Infrastructure Services

FILE NUMBER: 41430, 101515

ATTACHMENTS: Nil

PURPOSE

To update Council on the proposed renaming of the Mitchell Freeway to the Joondalup Freeway.

EXECUTIVE SUMMARY

At its meeting held on 17 August 2010, a Notice of Motion was submitted to Council requesting the City investigate changing the name of the Mitchell Freeway to the Joondalup Freeway. At its meeting held on 19 October 2010, Council resolved to seek a deputation with the Minister for Transport.

The City wrote to the Minister for Transport requesting a deputation. The request was declined by the Minister's Office due to the responsibility for road name changes rests with the Minister for Lands through the Geographic Names Committee (GNC). However, the Minister's Office indicated that the Minister for Transport was not proposing to initiate any name change for the Mitchell Freeway.

Following this communication, the City contacted the GNC and Main Roads WA (MRWA) to gauge their support for changing the name of the Mitchell Freeway to the Joondalup Freeway. Both organisations indicated that they would not support any change of name for the Freeway, primarily citing the duplication of an existing name used for a significant road, namely Joondalup Drive.

It is recommended that Council:

- 1 *NOTES the Report on the proposed renaming of the Mitchell Freeway to the Joondalup Freeway; and*
- 2 *TAKES NO FURTHER ACTION with respect to the renaming of the Mitchell Freeway at this juncture.*

BACKGROUND

At its meeting held on 17 August 2010, a Notice of Motion was submitted to Council requesting the City investigate changing the name of the Mitchell Freeway to the Joondalup Freeway. Council resolved the following:

“That Council REQUESTS the Chief Executive Officer to submit a report dealing with changing the name of the Mitchell Freeway to the Joondalup Freeway in order to promote the City of Joondalup, an important Regional Centre and a tourist destination”.

The reasons for the motion were as follows:

“The southern section of the north-south freeway link is named the Kwinana Freeway after the suburb and the local authority of Kwinana.

Other major highways are also named after suburbs and local authorities such as Wanneroo Road and Albany Highway, which direct motorists and tourists to that destination.

The City of Joondalup is fast becoming the second major Central Business District in the metropolitan area, and as such, is attracting more tourists and local visitors.

The new regulations that define the Joondalup Special Trading Precinct, namely the Retail Trading Hours (Special Trading Precincts and Holiday Resorts) Regulations 2010, were gazetted on Friday, 30 July 2010. The regulations provide for the definition of the area for the Joondalup Special Trading Precinct to become effective from Sunday, 5 September 2010.

Taking cognisance of the above, it is considered that the Mitchell Freeway should be renamed to reflect an important geographical location, namely the City of Joondalup.”

At its meeting held on 19 October 2010, Council resolved to:

“2 SEEK a deputation with the Minister for Transport comprising the Mayor and the CEO on renaming the Mitchell Freeway to Joondalup Freeway and that the outcome be reported back to Council.”

DETAILS

Following Council's resolution of 19 October 2010, the City wrote to the Minister for Transport requesting that the Minister meet with Mayor Pickard and the Chief Executive Officer to discuss the renaming of the Freeway. In response to the letter the Minister's Office advised that the Minister was not proposing to initiate any change of name for the Mitchell Freeway and the City should contact the GNC, being the body responsible for assigning place names. The Minister for Lands is responsible for the GNC.

In accordance with this advice the City contacted the GNC and was advised that they would not be likely to endorse the renaming of the freeway to Joondalup Freeway due to it being a duplication of an existing name used for a significant road within the City, being Joondalup Drive. If Council was to proceed with such a request to the GNC, the City would need to demonstrate:

- significant support from other local governments (Town of Cambridge, City of Perth, City of Stirling, Town of Vincent and City of Wanneroo) for the renaming of the Mitchell Freeway to Joondalup Freeway;
- support for the road name change for Joondalup Drive to avoid duplication of the name;
- significant support for the change from the wider community and MRWA.

The City subsequently contacted MRWA to ascertain if it would support the change of name. MRWA provided the following advice to the City:

“Aside from the broad community support issue, Main Roads does not favour the proposed name change for the following reasons:

- *The Mitchell Freeway was named after Sir James Mitchell, a former Premier and Governor. The name has been in place since 1963 when it was decided by Cabinet.*
- *There would be a very considerable cost to change all road direction signs, not only along the freeway, but on many direction signs on other roads.*
- *The name is in countless publications and on innumerable maps.*
- *Existing publications and maps could be expected to remain in circulation for many years, thus creating confusion for motorists unaware of the change.*
- *Joondalup Drive is a major road which already exists in close proximity to part of the Mitchell Freeway. For emergency service response purposes it is extremely important to avoid duplicating like sounding names for nearby features. As just one example of a potential conflict, Ocean Reef Road would have a major intersection at the freeway and the existing Joondalup Drive.”*

Issues and options considered:

It is recognised that the changing of the name of the Mitchell Freeway to Joondalup Freeway would be a further directive to the Joondalup City Centre. However, the change will have the following implications which need to be considered:

- The Mitchell Freeway was named after the former State Premier and Governor, Sir James Mitchell, and the name has been in place since 1963.

The name of the Freeway was decided by State Cabinet in 1963 and the change of name is opposed by the Office of the Minister for Transport, MRWA and the GNC, and has been commented upon adversely by the media.

- Significant community support in the wider community will be required for the name to be changed.

The City would be required to ascertain support for the change of name from the local community and businesses. As many people use the Freeway to travel to other destinations and not just Joondalup, the level of support may not be significant.

- Support will be required from the following relevant local government authorities and communities which abut the Freeway:
 - Town of Cambridge.
 - City of Perth.
 - City of Stirling.
 - Town of Vincent.
 - City of Wanneroo.

Although these local government authorities have not been contacted to ascertain their support it is unlikely that the name change would be supported.

- The name of Joondalup Drive would also need to be changed to avoid a duplication in name.

This is unlikely to be supported by businesses located on, or adjacent to, Joondalup Drive due to the expense that would ensue in updating address details and marketing materials.

- There would be substantial costs involved in changing all directional road signage for the freeway and road signs for Joondalup Drive.

There are a significant number of signs related to the Mitchell Freeway, such as at intersections and directional signs on other roads. MRWA is responsible for changing signage and the associated costs involved. However, it is highly unlikely that MRWA would agree to pay for the replacement of signage and the Minister for Lands could condition any approval on the applicant, such as the City, meeting the cost of the name change.

- Maps, both hardcopy and electronic, would need to be updated.

As existing publications frequently stay in circulation for many years there could be confusion for visitors who were not aware of the name change.

Legislation/Strategic Plan/Policy Implications

Legislation Land Administration Act 1997
Part 2 – General administration, Division 3 – General sections 26 and 26a

Strategic Plan

Key Focus Area: Economic Prosperity and Growth

Objective: 3.1 To encourage the development of the Joondalup CBD.
3.2 To increase employment opportunities within the City.

Policy City Policy – Naming of Public Facilities.

Risk Management considerations:

Not Applicable.

Financial/Budget Implications:

The costs involved in replacing the signage associated with the name change from Mitchell Freeway to Joondalup Freeway and the renaming of Joondalup Drive will be substantial.

Replacing sign faces could cost between \$300 and \$3,000 (excluding GST) dependant on the size.

A substantial additional cost would be incurred in community consultation determining the level of support in renaming the Freeway and Joondalup Drive.

Regional Significance:

The Mitchell Freeway is the major controlled highway to the north of the metropolitan area and consequently is of major regional significance.

Sustainability Implications:

Not Applicable.

Consultation:

The City has consulted the Minister for Transport, the Geographic Names Committee at Landgate and MRWA about the possibility of changing the name of the Mitchell Freeway to the Joondalup Freeway.

COMMENT

The changing of the name of the Mitchell Freeway to the Joondalup Freeway would further promote the City of Joondalup as a Regional Centre and tourist destination and emphasise the link between Perth City Centre and Joondalup City Centre. However, in consideration of the various implications that the change would entail and the lack of support for the change of name from the office of the Minister of Transport, MRWA and the GNC, it is not recommended that an application be made to the GNC for the name change.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION: That Council:

- 1 NOTES the Report on the proposed renaming of the Mitchell Freeway to the Joondalup Freeway;
- 2 TAKES NO FURTHER ACTION with respect to the renaming of the Mitchell Freeway at this juncture.

MOVED Cr Fishwick, SECONDED Cr Chester that Council:

- 1 **NOTES the Report on the proposed renaming of the Mitchell Freeway to the Joondalup Freeway;**
- 2 **TAKES NO FURTHER ACTION with respect to the renaming of the Mitchell Freeway at this juncture;**
- 3 **REQUESTS that the Geographical Names Committee, when recommending or endorsing future names for major traffic routes, highways and freeways, gives favourable consideration to geographical destinations such as cities and towns rather than using the names of prominent people.**

The Motion was Put and

CARRIED (12/0)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Diaz, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman and Taylor

CJ072-04/11 APPOINTMENT OF ALTERNATE MEMBER – MINDARIE REGIONAL COUNCIL

WARD: All

RESPONSIBLE: Mr Jamie Parry, Director Governance and Strategy

FILE NUMBER: 03149, 101515

ATTACHMENTS: Nil

PURPOSE

For Council to appoint an alternate member for the Mindarie Regional Council for any meeting to be held between the dates of 11 May and 7 June 2011 inclusive.

EXECUTIVE SUMMARY

Council has appointed two representatives to the Mindarie Regional Council, being Cr Russ Fishwick and Cr Kerry Hollywood. Cr Fishwick is unable to attend the next meetings of the Mindarie Regional Council as he has been granted Leave of Absence from Council duties for the period 11 May to 7 June 2011 inclusive.

No deputies are appointed to the Mindarie Regional Council. Legal advice has confirmed that the appointment of deputies to serve on a Regional Council can only be made under specific circumstances and not on an ongoing basis.

A special resolution of Council is required to appoint an alternate member for the period 11 May to 7 June 2011 whilst Cr Fishwick is absent from Council duties.

BACKGROUND

The Mindarie Regional Council was established in accordance with Section 3.61 of the Local Government Act 1995, to set and achieve the standard for minimising the impact of waste on the environment, for the benefit of the Region's community.

At its meeting held on 17 November 2009 (CJ246-11/09 refers), Council nominated Cr Russ Fishwick and Cr Kerry Hollywood to represent the City on the Mindarie Regional Council.

DETAILS

Council has appointed two representatives to the Mindarie Regional Council, being Cr Russ Fishwick and Cr Kerry Hollywood. Cr Fishwick is unable to attend the meetings of the Mindarie Council as he has been granted Leave of Absence from Council duties for the period 11 May to 7 June 2011 inclusive.

Issues and options considered:

No deputies are appointed to the Mindarie Regional Council. Legal advice has confirmed that the appointment of deputies to serve on a Regional Council can only be made under specific circumstances and not on an ongoing basis.

A special resolution of Council is required to appoint an alternate member for the meetings to be held between the dates of 11 May and 7 June 2011 inclusive.

Legislation/Strategic Plan/Policy Implications

Legislation The Mindarie Regional Council was established under Section 3.61 of the Local Government Act 1995.

Clause 78 of the Standing Orders Local Law states:

When the Council is required to appoint or nominate a member/person to a public body, written notice of the vacancy or need for the appointment or nomination is to be given to all members and the Council is by resolution to determine the appointment or nomination.”

Clause 51(2) of the Standing Orders Local Law 2005 states:

“A nomination to any position is not required to be seconded.”

Clauses 52(b) and (c) of the Interpretation Act 1984 states:

52(b) “Where a person so appointed to an office or position is suspended or unable, or expected to become unable, for any other cause to perform the functions of such office or position, to appoint a person to act temporarily in place of the person so appointed during the period of suspension or other inability but a person shall not be appointed to so act temporarily unless he is eligible and qualified to be appointed to the office or position; and

52(c) to specify the period for which any person appointed in exercise of such a power or duty shall hold his appointment.”

Strategic Plan

Key Focus Area: Leadership and Governance

Objective: 1.1 To ensure that the processes of local governance are carried out in a manner that is ethical, transparent and accountable.

Policy Not Applicable.

Risk Management considerations:

If the Council does not appoint a representative to the meetings of the Mindarie Regional Council, this may hinder the overall decision-making process and operations of the Regional Council and ensure that the Council is adequately represented at the meetings.

Financial/Budget Implications:

Not Applicable.

Regional Significance:

The Mindarie Regional Council was established to set and achieve the standard for minimising the impact of waste on the environment, for the benefit of the 590,000 residents in Perth’s northern metropolitan region.

Sustainability Implications:

Not Applicable.

Consultation:

Not Applicable.

COMMENT

The inability to appoint deputies has caused a number of issues relating to the operations of committees and Regional Councils.

Whilst the Local Government Act was amended to allow deputies to be appointed on an ongoing basis to serve on committees when the member was unable to, the amendment did not extend to the appointment of deputies to Regional Councils.

Legal advice has confirmed that the provisions of the Local Government Act only allow a local government to appoint deputies to a Regional Council under specific circumstances and not on an ongoing basis.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION: That Council:

- 1 NOTES that Cr Russ Fishwick is unable to attend the meetings of the Mindarie Regional Council to be held between the dates of 11 May and 7 June 2011 inclusive;
- 2 NOMINATES an Elected Member to represent the City of Joondalup on the Mindarie Regional Council for all meetings to be held between the dates of 11 May and 7 June 2011 inclusive.

MOVED Cr Fishwick, SECONDED Cr Hollywood that Council:

- 1 **NOTES that Cr Russ Fishwick is unable to attend the meetings of the Mindarie Regional Council to be held between the dates of 11 May and 7 June 2011 inclusive;**
- 2 **NOMINATES Mayor Troy Pickard to represent the City of Joondalup on the Mindarie Regional Council for all meetings to be held between the dates of 11 May and 7 June 2011 inclusive.**

The Motion was Put and

CARRIED (12/0)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Diaz, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman and Taylor

MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**C15-04/11 NOTICE OF MOTION – CR MIKE NORMAN – DECLARATION OF CALTROP (TRIBULUS TERRESTRIS) AS A "PEST PLANT" IN THE CITY OF JOONDALUP AND BEYOND – [00992]**

In accordance with Clause 26 of the Standing Orders Local Law 2005, Cr Michael Norman gave notice of his intention to move the following Motion at the Council meeting to be held on Tuesday, 19 April 2011:

“That Council REQUESTS the Chief Executive Officer prepare a report on the prevalence and control of the thorny weed "Caltrop" (Tribulus terrestris) within the City of Joondalup, including but not limited to, declaring Caltrop a Pest Plant within the City and how the City could initiate broader control of Caltrop within the Perth metropolitan area.”

Reason for Motion

Caltrop (*Tribulus terrestris*) is a southern European plant that has become naturalized within Australia and many other parts of the world. Although not considered a weed of agricultural significance in Western Australia (and therefore not covered by the *Biosecurity and Agricultural Management Act*) it still threatens the amenity values of recreational areas in many municipalities, especially impacting on cyclists, children playing with bare feet, and dog owners walking their animals. In the United States it is commonly called “Puncture Vine” which indicates the thorny nature of this weed.

In SW WA, Caltrop is a summer growing annual plant with drought tolerance. Another weed with a similar impact on cyclists is the winter growing weed “Doublegee” (*Emex australis*) which is a declared weed originating from South Africa, but is already subject to control and does not appear to be a significant problem with the Perth metropolitan area.

In summer, even in years with little or no summer rain, Caltrop grows rapidly, flowering (small yellow flowers) and producing large numbers of spiny woody burrs that split up into very sharp woody thorns. Wiry stems radiate out on the ground to a metre or more from a central tap root, with each stem holding the numerous woody burrs. The thorns can remain dormant for at least five years. In the City of Joondalup, I understand a survey of Caltrop has not been conducted by the City, but I have seen Caltrop in Sorrento, Duncraig, Greenwood, Woodvale, Craigie and in Yellagonga Regional Park. It is not thought to be as wide spread in suburbia as many other weed species at present, but there is concern that it could take off in the future and become far more widespread, and therefore far more costly to control.

State and local government authorities have spent hundreds of millions of dollars on paths for the use of cyclists and pedestrians, which is a vital encouragement for greater participation in passive recreation in an age of disease due to lack of exercise and a need to promote alternatives to car use. This investment would be undone if we allow Caltrop to get out of control in urban areas.

Caltrop may be more effective in puncturing bicycle tyres than broken glass (not that broken glass is not a big problem). The woody thorns are very hard and sharp, and can penetrate “puncture proof” tyres. Secondly, unlike glass, Caltrop thorns carried onto a path cannot be seen easily while cycling, and therefore cannot be avoided.

Biological control of Caltrop is not seen as practical at present. The only solution is persistent eradication, monitoring outbreaks and manually removing or spraying germinating Caltrop plants. This involves recording known locations (using GIS and the like) and then visiting those locations at least three times between mid December and mid March each summer/autumn to remove them at each location until eradicated. If one summer is missed, any gains made in reducing the "seed bank" in previous years can easily be lost.

Within the City of Joondalup, some infestations have been found on private land (particularly vacant blocks), where if left uncontrolled, it can easily be spread to public spaces. One way a local government can get the authority to order its removal from private land is to declare Caltrop a "pest plant". A weed can be declared a "pest plant" in accordance with the provisions of the *Local Government Act 1995* (refer Section 3.12).

Some public education about this weed is also required. Residents with Caltrop in their verges, cyclists and other path users also need to play a role in the control of Caltrop by learning how to recognize this weed and then either reporting it or, in the case of small infestations, removing the Caltrop themselves. Persistent action over several years by individual cyclists in reporting and removing Caltrop has been proven to be effective in removing and reducing infestations on certain bike routes (in particular, the northern "principal shared path" from the Perth CBD). Cyclists can report Caltrop in the Bikewest "Reporting a Hazard" web page, or directly contact their local Council.

Officer's Comment

The City undertakes either hand removal or spraying of infestations at the 20 sites that are currently listed on the City's Caltrop register. The City also responds to works requests raised by the public or Elected Members. However, treatment or control where the infestation is on private land is not undertaken. Since February 2007, the City has responded to 21 requests to remove Caltrop. Sixteen of these requests have been since January 2010, which confirms the increase in the level of infestation observed by the City.

It is not considered the City's role to initiate broader control of Caltrop within the Perth metropolitan area given the Department of Agriculture has responsibility for Statewide weed control. It is suggested that such an approach is best placed with the WA Local Government Association, in an advocacy role, representing all metropolitan local governments. As such, it is considered that it might be more appropriate for the City to request that the WA Local Government Association advocate on behalf of metropolitan local governments the issue of Caltrop weed infestation and request that the Department of Agriculture examine strategies to manage the weed in the wider metropolitan area.

MOVED Cr Norman, SECONDED Cr Chester that Council REQUESTS the Chief Executive Officer prepare a report on the prevalence and control of the thorny weed "Caltrop" (*Tribulus terrestris*) within the City of Joondalup, including but not limited to, declaring Caltrop a Pest Plant within the City and how the City could initiate broader control of Caltrop within the metropolitan area.

AMENDMENT MOVED Mayor Pickard, SECONDED Cr Hamilton-Prime that the following words be added to the end of the Motion:

"... through the North Zone of the Western Australian Local Government Association."

The Amendment was Put and

CARRIED (12/0)

In favour of the Amendment: Mayor Pickard, Crs Amphlett, Chester, Corr, Diaz, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman and Taylor

The Original Motion as amended, being:

That Council REQUESTS the Chief Executive Officer prepare a report on the prevalence and control of the thorny weed “Caltrop” (*Tribulus terrestris*) within the City of Joondalup, including but not limited to, declaring Caltrop a Pest Plant within the City and how the City could initiate broader control of Caltrop within the metropolitan area through the North Zone of the Western Australian Local Government Association.

Was Put and**CARRIED (12/0)**

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Diaz, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman and Taylor

ANNOUNCEMENTS OF NOTICES OF MOTION FOR THE NEXT MEETING

Nil.

CLOSURE

There being no further business, the Mayor declared the Meeting closed at 8.38 pm; the following Elected Members being present at that time:

MAYOR T PICKARD
Cr K HOLLYWOOD
Cr T McLEAN
Cr P TAYLOR
Cr L GOBBERT
Cr G AMPHLETT
Cr J CHESTER
Cr B CORR
Cr C HAMILTON-PRIME
Cr M NORMAN
Cr R FISHWICK
Cr F DIAZ