

agenda

Briefing Session

A BRIEFING SESSION WILL BE HELD IN THE COUNCIL CHAMBER, JOONDALUP CIVIC CENTRE, BOAS AVENUE, JOONDALUP

ON TUESDAY 12 JUNE 2018

COMMENCING AT 6.30pm

GARRY HUNT
Chief Executive Officer
8 June 2018

joondalup.wa.gov.au

This document is available in alternate formats upon request

PUBLIC QUESTION TIME

Members of the public are requested to lodge questions in writing by close of business on **Monday 11 June 2018**

Answers to those questions received within that timeframe will, where practicable, be provided in hard copy form at the Briefing Session.

QUESTIONS TO

council.questions@joondalup.wa.gov.au

PO Box 21 Joondalup WA 6919

www.joondalup.wa.gov.au

BRIEFING SESSIONS

The following procedures for the conduct of Briefing Sessions were adopted at the Council meeting held on 19 November 2013:

INTRODUCTION

The modern role of Council is to set policy and strategy, and provide goals and targets for the local government (the City). The employees, through the Chief Executive Officer, have the task of implementing the decisions of Council.

A well-structured decision-making process that has established protocols will provide the elected body with the opportunity to:

- have input into the future strategic direction set by Council
- seek points of clarification
- ask questions
- be given adequate time to research issues
- be given maximum time to debate matters before Council,

and ensures that the elected body is fully informed to make the best possible decisions for the City of Joondalup community.

PURPOSE OF BRIEFING SESSIONS

Briefing Sessions will involve Elected Members, employees as determined by the Chief Executive Officer and external advisors (where appropriate) and will be open to the public.

Briefing Sessions will provide the opportunity for Elected Members to be equally informed and seek additional information on matters prior to the presentation of such matters to the next ordinary meeting of Council for formal consideration and decision.

PROCEDURES FOR BRIEFING SESSIONS

The following procedures will apply to Briefing Sessions that are conducted by the City:

- 1 Briefing Sessions will be open to the public except for matters of a confidential nature. The guide in determining those matters of a confidential nature shall be in accordance with the *Local Government Act 1995*.
- 2 Dates and times for Briefing Sessions will be set well in advance where practicable, and appropriate notice given to the public.
- 3 The Chief Executive Officer will ensure timely written notice and an agenda for each Briefing Session will be provided to all Elected Members, members of the public and external advisors (where appropriate).
- 4 The Mayor is to be the Presiding Member at Briefing Sessions. If the Mayor is unable or unwilling to assume the role of Presiding Member, then the Deputy Mayor may preside at the Briefing Session. If the Deputy Mayor is unable or unwilling, those Elected Members present may select one from amongst themselves to preside at the Briefing Session.

- 5 There is to be no debate among Elected Members on any matters raised during the Briefing Session.
- 6 Relevant employees of the City will be available to make a presentation or respond to questions on matters listed on the agenda for the Briefing Session.
- 7 All Elected Members will be given a fair and equal opportunity to participate in the Briefing Session.
- 8 The Presiding Member will ensure that time is made available to allow for all matters of relevance to be covered.
- 9 Elected Members, employees and relevant consultants shall disclose their interests on any matters listed for the Briefing Session. When disclosing an interest the following is suggested:
 - (a) Interests are to be disclosed in accordance with the provisions of the *Local Government Act 1995*, the *Local Government (Rules of Conduct) Regulations 2007* and the City's *Code of Conduct*.
 - (b) Elected Members disclosing a financial interest will not participate in that part of the session relating to the matter to which their interest applies and shall depart the room.
 - (c) Employees with a financial interest in a matter may also consider it appropriate to depart the room when the matter is being considered, however there is no legislative requirement to do so.
- 10 A record shall be kept of all Briefing Sessions. As no decisions are made at a Briefing Session, the record need only be a general record of the items covered but shall record any disclosure of interests as declared by individuals. A copy of the record is to be forwarded to all Elected Members.
- 11 Elected Members have the opportunity to request the Chief Executive Officer to prepare a report on a matter they feel is appropriate to be raised and which is to be presented at a future Briefing Session.

PROCEDURES FOR PUBLIC QUESTION TIME

The following procedures for the conduct of Public Question Time at Briefing Sessions were adopted at the Council meeting held on 19 November 2013:

Questions asked verbally

- 1 Members of the public are invited to ask questions at Briefing Sessions.
- 2 Questions asked at a Briefing Session must relate to a matter contained on the agenda.
- 3 A register will be provided for those persons wanting to ask questions to enter their name. Persons will be requested to come forward in the order in which they are registered, and to give their name and full address.

- 4 Public question time will be limited to two minutes per member of the public, with a limit of two verbal questions per member of the public.
- 5 Statements are not to precede the asking of a question during public question time. Statements should be made during public statement time.
- 6 Members of the public are encouraged to keep their questions brief to enable everyone who desires to ask a question to have the opportunity to do so.
- 7 Public question time will be allocated a minimum of 15 minutes. Public question time is declared closed following the expiration of the allocated 15 minute time period, or earlier if there are no further questions. The Presiding Member may extend public question time in intervals of 10 minutes, but the total time allocated for public question time is not to exceed 35 minutes in total.
- 8 Questions are to be directed to the Presiding Member and shall be asked politely, in good faith, and are not to be framed in such a way as to reflect adversely or to be defamatory on a particular Elected Member or City employee. The Presiding Member shall decide to:
 - accept or reject any question and his/her decision is final
 - nominate an Elected Member and/or City employee to respond to the question or
 - take a question on notice. In this case a written response will be provided as soon as possible, and included in the agenda of the next Briefing Session.
- 9 Where an Elected Member is of the opinion that a member of the public is:
 - asking a question at a Briefing Session that is not relevant to a matter listed on the agenda
 - or
 - making a statement during public question time,they may bring it to the attention of the Presiding Member who will make a ruling.
- 10 Questions and any responses will be summarised and included in the agenda of the next Briefing Session.
- 11 It is not intended that question time should be used as a means to obtain information that would not be made available if it was sought from the City's records under Section 5.94 of the *Local Government Act 1995* or the *Freedom of Information Act 1992* (FOI Act 1992). Where the response to a question(s) would require a substantial commitment of the City's resources, the Chief Executive Officer (CEO) will determine that it is an unreasonable impost upon the City and may refuse to provide it. The CEO will advise the member of the public that the information may be sought in accordance with the FOI Act 1992.

Questions in Writing – (Residents and/or ratepayers of the City of Joondalup only)

- 1 Only City of Joondalup residents and/or ratepayers may submit questions to the City in writing.
- 2 Questions must relate to a matter contained on the agenda.

- 3 The City will accept a maximum of five written questions per City of Joondalup resident/ratepayer. To ensure equality and consistency, each part of a multi-part question will be treated as a question in its own right.
- 4 Questions lodged by the close of business on the working day immediately prior to the scheduled Briefing Session will be responded to, where possible, at the Briefing Session. These questions, and their responses, will be distributed to Elected Members and made available to the public in written form at the meeting.
- 5 The Presiding Member shall decide to accept or reject any written question and his/her decision is final. Where there is any concern about a question being offensive, defamatory or the like, the Presiding Member will make a determination in relation to the question. Questions determined as offensive, defamatory or the like will not be published. Where the Presiding Member rules questions to be out of order, an announcement to this effect will be made at the meeting, including the reason(s) for the decision.
- 6 The Presiding Member may rule questions out of order where they are substantially the same as questions previously submitted and responded to.
- 7 Written questions unable to be responded to at the Briefing Session will be taken on notice. In this case, a written response will be provided as soon as possible and included on the agenda of the next Briefing Session.
- 8 A person who submits written questions may also ask questions at a Briefing Session and questions asked verbally may be different to those submitted in writing.
- 9 Questions and any response will be summarised and included in the agenda of the next Briefing Session.
- 10 It is not intended that question time should be used as a means to obtain information that would not be made available if it was sought from the City's records under Section 5.94 of the *Local Government Act 1995* or the *Freedom of Information Act 1992* (FOI Act 1992). Where the response to a question(s) would require a substantial commitment of the City's resources, the Chief Executive Officer (CEO) will determine that it is an unreasonable impost upon the City and may refuse to provide it. The CEO will advise the member of the public that the information may be sought in accordance with the FOI Act 1992.

Written questions should be sent via email to council.questions@joondalup.gov.au

DISCLAIMER

Responses to questions not submitted in writing are provided in good faith and as such, should not be relied upon as being either complete or comprehensive.

PROCEDURES FOR PUBLIC STATEMENT TIME

The following procedures for the conduct of Public Statement Time at Briefing Sessions were adopted at the Council meeting held on 19 November 2013:

- 1 Members of the public are invited to make statements at Briefing Sessions.

- 2 Statements made at a Briefing Session must relate to a matter contained on the agenda.
- 3 A register will be provided for those persons wanting to make a statement to enter their name. Persons will be requested to come forward in the order in which they are registered, and to give their name and full address.
- 4 Public statement time will be limited to two minutes per member of the public.
- 5 Members of the public are encouraged to keep their statements brief to enable everyone who desires to make a statement to have the opportunity to do so.
- 6 Public statement time will be allocated a maximum time of 15 minutes. Public statement time is declared closed following the 15 minute allocated time period, or earlier if there are no further statements.
- 7 Statements are to be directed to the Presiding Member and are to be made politely in good faith and are not to be framed in such a way as to reflect adversely or be defamatory on a particular Elected Member or City employee.
- 8 Where an Elected Member is of the opinion that a member of the public is making a statement at a Briefing Session, that is not relevant to a matter listed on the agenda, they may bring it to the attention of the Presiding Member who will make a ruling.
- 9 A member of the public attending a Briefing Session may present a written statement rather than making the statement verbally if he or she so wishes.
- 10 Statements will be summarised and included in the notes of the Briefing Session.

PROCEDURES FOR DEPUTATIONS

- 1 Prior to the agenda of a Briefing Session being discussed by Elected Members, members of the public will be provided an opportunity to make a deputation at the Briefing Session.
- 2 Members of the public wishing to make a deputation at a Briefing Session may make a written request to the Chief Executive Officer by 4.00pm on the working day immediately prior to the scheduled Briefing Session.
- 3 Deputation requests are to be approved by the Presiding Member and must relate to matters listed on the agenda of the Briefing Session.
- 4 Other requirements for deputations are to be in accordance with clause 5.10 of the *City of Joondalup Meeting Procedures Local Law 2013* in respect of deputations to a committee.

To request an opportunity to make a Deputation Complete the [Deputation Request Form](#).

RECORDING OF THE PROCEEDINGS OF THE BRIEFING SESSION

Proceedings of the Briefing Session shall be electronically recorded for administrative purposes only, except for matters of a confidential nature. The guide in determining those matters of a confidential nature shall be in accordance with the *Local Government Act 1995*.

Civic Centre Emergency Procedures

The City of Joondalup values the health and safety of all visitors to City of Joondalup facilities. The following emergency procedures are in place to help make evacuation of the City of Joondalup Civic Centre safe and easy.

Alarms

The City of Joondalup emergency system has two alarm tones:

- Alert Tone (Beep... Beep... Beep)
- Evacuation Tone (Whoop...Whoop...Whoop)

On hearing the Alert Tone (Beep... Beep... Beep):

- DO NOT EVACUATE ON THIS TONE.
- Remain where you are.
- All designated Fire Wardens will respond and assess the immediate area for danger.
- Always follow instructions from the designated Fire Wardens.

On hearing the Evacuation Tone (Whoop...Whoop...Whoop):

- Evacuate the building immediately as directed by a Fire Warden or via the nearest safe exit.
- Do not use lifts.
- Remain calm and proceed to the designated Assembly Area (refer to site plan below).
- People with impaired mobility (those who cannot use the stairs unaided) should report to a Fire Warden who will arrange for their safe evacuation.
- Do not re-enter the building until authorised to do so by Emergency Services.



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LATE ITEMS / ADDITIONAL INFORMATION

In the event that further documentation becomes available prior to this Briefing Session, the following hyperlink will become active:

[Additional Information180612.pdf](#)

CITY OF JOONDALUP – BRIEFING SESSION

To be held in the Council Chamber, Joondalup Civic Centre, Boas Avenue, Joondalup on **Tuesday 12 June 2018** commencing at **6.30pm**.

ORDER OF BUSINESS

OPEN AND WELCOME

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

DEPUTATIONS

PUBLIC QUESTION TIME

The following questions were submitted to the Briefing Session held on 8 May 2018:

Ms N Dangar, Beldon:

Re: Item 16 – Petition Requesting Reinstatement of Verge Bulk Waste Collection.

- Q1 *What advice has the City sought in regards to the potential damage to seniors who regularly prop up ladders against the new skip bins and stand on the top of the same ladder, while hauling in heavy furniture which of course was already broken up by these hardy folk?*
- A1 The City has received no report of ladders being used by seniors or others to place unwanted items into skip bins. The City will continue to explore avenues to provide assistance for those residents in genuine need.
- Q2 *What responsibility does the City have towards its elderly people living alone who are faced with dealing with removal of materials which previously was dealt with by the City's bulk collection system? Can the resident call the City and get help for this?*
- A2 The City considered a number of options to provide assistance such as the use of volunteers or external contractors however these options were not deemed feasible. However the City will continue to explore avenues to provide assistance for those residents in genuine need.
- Q3 *In the workplace we are to spot the hazard and report then make changes in order that people do not come to harm. What provision is planned for the many people trying to dispose of bulk collection?*

A3 Residents who choose to use the 'on request' service will have identified the items they wish to dispose of before they book a skip. It is incumbent on the resident to decide how they will place the items into the skip.

Q4 *Did the City consider provision of skip bins which open down so at least material waste could be wheeled into the bin?*

A4 Yes. The introduction of a skip with a drop down door would greatly reduce efficiencies in the collection system and increase costs considerably. It is also a major health and safety concern requiring residents to open and close heavy drop down doors. This was therefore not considered viable.

Q5 *With the loss of this service can all residents expect to receive a refund of part of the rates which covered waste disposal as this was never free a service?*

A5 The bulk hard waste collection service remains in operation, but has been modified. The efficiency savings in operation have enabled the refuse charge to remain fixed for the last four years despite considerable increases in landfill costs.

Ms J Quan, Edgewater:

Re: *Item 16 – Petition Requesting Reinstatement of Verge Bulk Waste Collection.*

Q1 *How many tonnes of E-waste, charity clothing and textiles did the City collect during the drop-off event during the financial years 2014-15, 2015-16 and 2017-18?*

A1

	2014-15	2015-16	2016-17	2017-18 (YTD to end April 2018)
E-waste drop off	N/A	38.59 tonnes	38.48 tonnes	30.24 tonnes
Charity clothing drop off	N/A	12.26 tonnes	16.80 tonnes	10.82 tonnes

Q2 *How many hard waste bins were ordered and collected during October 2016 - September 2017?*

A2

	Oct 2016 - Sept 2017
Hard waste skip bins requested	13,385 bins

Q3 *How many tonnes of white goods, lounge and mattress were collected during October 2016 - September 2017?*

A3

	Oct 2016 - Sept 2017
Hard Waste (skips / lounges)	3,518.35 tonnes
Mattresses	77.71 tonnes
White Goods	171.50 tonnes
Total	3,767.56 tonnes

Q4 *What is the overall recycling rate of the City of Joondalup in during the financial years 2014-15, 2015-16 and 2017-18?*

A4

	2014-15	2015-16	2016-17	2017-18 (YTD to end April 2018)
Overall Diversion Rate (recycling) - all waste streams (tonnage)	44,973.70	38,455.35	49,807.10	39,911.08
Overall Diversion (recycling) Rate - all waste streams (%)	49.90%	44.60%	59.80%	58.00%

Q5 *What is the overall tonnage of waste (including general bin, recycle bin, bulk hard waste, green waste and waste collected during events) during the financial years 2014-15, 2015-16 and 2017-18?*

A5

	2014-15	2015-16	2016-17	2017-18 (YTD to end April 2018)
Total tonnes collected (all streams)	90,149.97 tonnes	86,289.10 tonnes	83,290.66 tonnes	68,794.56 tonnes

Mr J Bible, Craigie:

Re: *Item 2 - Proposed Unlisted Use (Telecommunication Infrastructure) at Camberwarra Park – Lot 11608 (91) Camberwarra Drive, Craigie.*

Q1 *Having an almost 32 metre tower in a residential area has a far higher impact than a similar tower in an industrial or commercial area. Has Optus searched for development sites in industrial / commercial areas before deciding upon a location in the middle of a residential area, and is so, what was the criteria of that search?*

- A1 The applicant provided the City with details of four other sites in the immediate locality that they had considered, but discounted. Three of the four discounted sites were unable to achieve radio frequency objectives to service the desired area. The other discounted site was considered highly visible and was in very close proximity to housing. It is understood that the development is intended to provide improved network coverage to the immediate area and accordingly sites outside this area (such as industrial / commercial sites) were not considered by the applicant.
- Q2 *I understand that the City of Joondalup has an Installation of Telecommunications Facilities policy whereby it does not support installations close to schools and childcare establishments. Does the children's play area several metres away from the telecommunications tower fall into this criteria?*
- A2 The City's *Telecommunications Infrastructure Local Planning Policy* does not contain provisions which relate to the proximity of a development of this nature to schools and childcare establishments. It is noted that a previous version of this policy did contain requirements in this regard, however they were removed in 2016 upon a review of the policy as *State Planning Policy 5.2: Telecommunications Infrastructure* makes it clear that such general restrictions are not permitted. The requirement to give due regard to the topography of the site and surrounding area, the size, height and type of the proposed facility, the location and density of surrounding vegetation and the general visibility of the proposal from surrounding development was retained.
- Q3 *Will Council take into consideration Craigie heights primary school located 300 metres away from the proposed site?*
- A3 See A2 above.
- Q4 *The installation of this tower may keep members of the community away from the area due to the perceived health concerns attached to such telecommunication towers. Has Council taken into consideration the possibility that this tower could greatly reduce to use of amenities (children's play area, tennis courts and new barbeque / picnic area) in this location due to these health concerns?*
- A4 It is noted that concerns have been raised relating to the perceived adverse long-term health risks associated with telecommunication facilities. Electromagnetic emissions (EME) are controlled and regulated by separate Federal Government legislation and EME is not considered to be a valid land use planning consideration and therefore cannot be taken into account in the Council's decision making in this regard. It follows that indirect potential consequences as a result of perceived health risks, can also not be considered as a valid land use planning consideration.

Ms R Kotur, Craigie:

Re: Item 2 - Proposed Unlisted Use (Telecommunication Infrastructure) at Camberwarra Park – Lot 11608 (91) Camberwarra Drive, Craigie.

- Q1 *How much radiation exposure will result from installation of a mobile phone tower in Camberwarra Park?*

- A1 The Environmental Electromagnetic emissions (EME) report provided by the applicant indicated that community exposure to electromagnetic energy will comply with relevant legislation, being 0.74% of public exposure limits. However EME is not considered to be a valid land use planning consideration and therefore cannot be taken into account in Council making its decision.
- Q2 *Does Council have insurance against all legal liabilities from risks incurred including any possible future adverse health impacts of electric magnetic radiation associated with the erection, maintenance and operation of this infrastructure?*
- A2 Electromagnetic emissions (EME) are controlled and regulated by separate Federal Government legislation and therefore there is no liability on the City.
- Q3 *Does standard set by Australian Radiation Protection and Nuclear Safety Agency protects against athermal (non-heating) effects that have been identified by research or against continuous long-term exposure?*
- A3 Electromagnetic emissions (EME) are controlled and regulated by separate Federal Government legislation.
- Q4 *What is the policy of the WA Department of Education about the siting of mobile phone towers near schools?*
- A4 The City has not contacted the Department of Education as the proposal is not immediately adjacent to a school and the City is required to have due regard to *State Planning Policy 5.2 Telecommunications Infrastructure (SPP 5.2)*. This policy does not specify locational requirements for telecommunication facilities near schools. Additionally, SPP 5.2 requires local governments to ensure that buffer zones and/or setback distances are not included in local planning schemes or local planning policies.
- Q5 *How do you assess development application for the high impact telecommunication object that has not provided any consideration for the existing adjoining community facilities in this case children playground and community BBQ area?*
- A5 The application is assessed against both the State planning policy and the City's local planning policy, which requires due regard be given to the topography of the site and surrounding area; the size, height and type of the proposed facility; the location and density of surrounding vegetation; and the general visibility of the proposal from surrounding development. Visual impacts of the proposal have been considered and addressed in the report to Council.

Mr G Kotur, Craigie:

Re: Item 2 - Proposed Unlisted Use (Telecommunication Infrastructure) at Camberwarra Park – Lot 11608 (91) Camberwarra Drive, Craigie.

- Q1 *What other locations for the project were considered?*
- A1 The applicant provided the City with details of four other sites in the immediate locality that they had considered but discounted. Three of the four discounted sites were unable to achieve radiofrequency objectives to service the desired area. The other discounted site was considered highly visible and was in very close proximity to housing. It is understood that the development is intended to provide improved network coverage to the immediate area and, therefore, sites outside this area (such as industrial/commercial sites) were not considered by the applicant.

Q2 *What were criteria used to select the site?*

A2 The applicant has advised that it identified a “lack of mobile network coverage for its customers in the Craigie / Padbury area north and south of Whitfords Avenue, extending to Marmion Avenue in the west and beyond Eddystone Avenue to the east.” The applicant has advised that they seek “to progress the installation of a new mobile phone base station to address this issue and provide a level of coverage expected by the surrounding local community and businesses.”

The applicant also advised that radio coverage objectives, low-impact and co-location opportunities, surrounding land uses, planning, environmental and heritage considerations, and facility construction and treatments are considered in its site selection processes.

Q3 *What are the merits by selecting this site?*

A3 As above, the site was selected by the applicant in order to improve coverage in the immediate area of the subject site and other sites in the immediate locality were discounted as they did not achieve radiofrequency objectives or were highly visible and close to residential sites.

Q4 *To justify the selection of this site for mobile phone tower Optus had to provide the evidence on significant gap in coverage in Craigie. How does the signal in this area compare with the signal in the surrounding suburbs?*

A4 The applicant has advised that a coverage deficit has been identified. The applicant provided a coverage map as a part of the application, indicating that coverage is to be improved in order to address this deficit in the area outlined in the response to Question 2. Under the *Telecommunications Code of Practice*, carriers are to “Act in accordance with good engineering practice and ensure that the design, planning and installation of the facilities is in accordance with best practice and complies with the ACMA or industry codes or standards”.

Q5 *Distributed Antenna System is newer technology that could provide the same coverage as the mobile phone tower and it does not look that intrusive as the tower. Why did Optus not propose to use it in this case?*

A5 The City is unable to provide advice in this regard. The City is obliged to consider applications as submitted. The applicant has advised that they have considered low impact and co-location opportunities as a part of the site selection and design process.

Mrs R Kotur, Craigie:

Re: *Item 2 - Proposed Unlisted Use (Telecommunication Infrastructure) at Camberwarra Park – Lot 11608 (91) Camberwarra Drive, Craigie.*

Q1 *Would Council allow installation of more than one telecommunication tower in Craigie, bearing in mind that rezoning to R40 has been recently approved and that one proposal for a telecommunication tower to be installed in Craigie Open Space was submitted by Optus in September 2017?*

A1 Mayor Jacob responded yes, that Council considered each application on its individual merits, with the cumulative impacts of these type of structures being considered more broadly.

- Q2 *Distributed antenna systems is a new technology that could provide the same coverage as a mobile phone tower, but is not as intrusive as a tower. Why did Optus not use this technology in this instance?*
- A2 Mayor Jacob responded this was a question that would need to be directed to Optus. Council considers proposals submitted to it by a proponent. It is not for Council to suggest what other alternatives may be available.

Mrs F Gilbert, Kallaroo:

Re: Item 5 – Local Housing Strategy – Update.

- Q1 *Can Council advise as they propose not to accept further scheme amendments, what mechanism is intended to give those areas that do not accept the new zoning in housing opportunity areas (HOAs) the opportunity for down zoning that the ratepayers expect and deserve?*
- A1 Mayor Jacob commented Council is not proposing further scheme amendments. Councils amend their schemes at different times for different purposes as the years move forward. The decision for Council is whether to prioritise the new *Local Planning Scheme No. 3* versus two scheme amendments which apply to *District Planning Scheme No. 2* and advise the Minister for Planning accordingly.
- Q2 *Can Council advise that while they are undertaking the procurement of consultants and engagement is being carried out, that it would be reasonable and in the interests of fairness to the affected ratepayers in HOAs, that no further development applications are approved in the HOAs at the higher zoning (R40) than that which was originally consulted to residents in 2010 (R20/R30)?*
- A2 Mayor Jacob advised Council has no legal authority to do that. What Council is seeking to do through consultants and community engagement is to reinstate what Council has always supported, being provisions in Scheme Amendment No. 73 which incorporated housing opportunity areas, with Council protecting the majority of amenity concerns. Those provisions were removed through the Planning Commission process by the State Government.

Council is looking to reinstate those provisions to protect the local amenity. There is no legal mechanism at this time for the City not to consider development applications.

Mr M Rose, Sorrento:

Re: Item 5 – Local Housing Strategy – Update.

- Q1 *A highlighted section of page 41 in the Briefing Session agenda states “progression of LPS3, draft Amendment Nos. 88 and 90 and the new strategy / approach to dealing with density in the HOAs should not need to be mutually exclusive.” What are the implications of this?*
- A1 The Director Planning and Community Development advised this would be addressed during her presentation on this item. In summary, the City is being asked to consider and choose a course of action through a letter that was received by the Mayor. At this stage, it is not necessary to stop one process to continue another. It is possible to progress draft *Local Planning Scheme No. 3* (LPS3) to finalisation, as well as progress Scheme Amendments Nos. 88 and 90. If these are approved, or there is an appetite to

approve and they are not progressed due to the gazettal of LPS3, the amendments can be progressed via a different process. This can be progressed at the same time as preparing new strategies. There is no need to place the scheme and *Joondalup Activity Centre Plan* on hold pending the preparation of a new strategy and dealing with Scheme Amendment Nos. 88 and 90.

Q2 *In the event of draft Local Planning Scheme No. 3 being approved by the Minister, is it correct that Amendment Nos. 88 and 90 become void and redundant?*

A2 The Director Planning and Community Development responded yes, that both amendments would cease to exist in their current form. That has been consistently advised since June 2017. This does not mean the intent of the amendments cannot be progressed through a different amendment if there is an appetite to do so.

Ms J Quan, Edgewater:

Re: *Item 8 – Selection of Nominees – Edgewater Quarry Community Reference Group.*

Q1 *During the meeting of the Strategic Planning Committee of the Western Australian Planning Commission held on 13 March 2018, the City of Joondalup was requested to remove all reference to the Edgewater Quarry precinct from the Joondalup Activity Centre Plan, which was accepted by the City. Has the Edgewater Quarry site been removed from the Joondalup Activity Centre Plan?*

A1 The Director Planning and Community Development advised this was one of the modifications discussed with the City that the Statutory Planning Committee was of the opinion should be removed from the *Joondalup Activity Centre Plan* which has since been undertaken by the City.

Q2 *Is the Edgewater Quarry site still ‘recreation and reserve’? If not, when did this change?*

A2 The Director Planning and Community Development responded the reservation of Edgewater Quarry has not changed.

Ms C Richaud-Pichel, Joondalup:

Re: *Item 16 – Petition Requesting Reinstatement of Verge Bulk Waste Collection.*

Q1 *There has been information in relation to waste management and financial data, but I am not aware of any data with respect to environmental studies that have been undertaken in relation to the impact of the new policy with respect to waste management either before or after the policy?*

A1 Mayor Jacob advised the data referred to was contained within the report, with the City’s landfill avoidance (recycling rate) under the bulk rubbish system being approximately 2%. With the implementation of the skip bin system this rate is now in excess of 40%, being more than a 20-fold improvement in the environmental outcome since the new system.

Q2 *My query with respect to environmental data was more to do with the fauna and bush; as well as illegal dumping. How is that information / data shared between other local governments?*

- A2 Mayor Jacob advised that type of data was largely monitored by the State Government and he was not aware of any data linking increases in dumping in the City. As mentioned previously, the City's recycling rate has increased more than 20-fold in the space of one year with the introduction of the new system.

Ms S Thompson, Duncraig:

Re: Item 5 – Local Housing Strategy – Update.

- Q1 *In view of the fact that the City of Joondalup was instructed by the Planning Commission to remove certain provisions from housing opportunity areas and increase certain zonings, can these matters not be revisited at this time?*
- A1 Mayor Jacob commented that Council can consider matters at any given point in time, but rezoning in particular housing opportunity areas was not listed on the agenda for this evening's meeting.
- Q2 *The LHS figures project that the City is going to achieve more than double the State Government's target at 25,000 versus 2,000. That being the case, now that the City has been given the opportunity by the Minister to revisit this matter, why is not possible to again look at the issue of zoning?*
- A2 The Director Planning and Community Development commented this information has previously been provided with respect to State Government targets, the City's *Local Housing Strategy* and how the City responded. With respect to revisiting rezoning in response to targets, the consultants will be looking at each housing opportunity area in detail. It is not possible to predict the outcome of the work to be undertaken by the consultants in conjunction with the community. It may well be that sections of housing opportunity areas may have a zoning change, but other areas may not. With respect to possible changes to zonings, the Mayor's previous response in relation to wholesale zoning changes is not under consideration at present, but specific area zoning changes may well be part of the process that is currently being undertaken at this time.

Ms M O'Byrne, Kinross:

Re: Item 6 – Burns Beach Masterplan – Update.

- Q1 *What is the City's position with regard to continuing a lead advocacy role in relation to obtaining the innovative signalised pedestrian crossing?*
- A1 The Director Infrastructure Services advised the City's position has not changed; it is still advocating with Main Roads WA for a signalised pedestrian crossing.
- Q2 *What objection would the City have to moving Item 6 recommendation 6 (b) in the Burns Beach Masterplan Update as a separate item for consideration at the full Council meeting to be held on Tuesday 15 May 2018?*
- A2 Mayor Jacob commented he did not believe there was an appropriate governance mechanism given that the report to be considered is noting an update.

PUBLIC STATEMENT TIME

The following statements were made at the Briefing Session held on 8 May 2018:

Mr M Rose, Sorrento:

Re: Item 5 – Local Housing Strategy – Update.

Mr Rose raised his concerns in relation to the processes undertaken to date in relation to draft *Local Planning Scheme No. 3* (LPS3) and urged Council not to sacrifice the residents of Housing Opportunity Area No. 1 due to the need to progress LPS3.

Mr R Repke, Kallaroo:

Re: Item 5 – Local Housing Strategy – Update.

Mr Repke advised approximately eight years ago former Mayor Pickard organised three separate meetings to gauge residents thoughts in relation to infill development, the idea being to build high rise over the central business district, in and around train stations, as well as major shopping centres.

Mr Repke queried whether the City should cease accepting development approvals, including those yet to be acted upon until such time as a final determination has been arrived at.

Dr B Sova, Craigie:

Re: Item 2 - Proposed Unlisted Use (Telecommunication Infrastructure) at Camberwarra Park – Lot 11608 (91) Camberwarra Drive, Craigie.

Dr Sova advised his daughter and her friends played in Camberwarra Park on a regular basis and raised his concerns that the proposed installation of a telecommunications tower was causing psychological stress to the children in the neighbourhood.

Dr Sova urged Councillors to consider the psychological ramifications of installing the tower, as well as the amenity of the community.

Ms J Quan, Edgewater:

Re: Item 8 – Selection of Nominees – Edgewater Quarry Community Reference Group.

Ms Quan made reference to removal of the Edgewater Quarry precinct from the *Joondalup Activity Centre Plan* and raised her concerns in relation to seeking nominations for the Edgewater Quarry Reference Group. She commented that information with respect to seeking nominations was sent out to Edgewater residents on 8 and 14 March 2018 respectively, with nominations to close on 23 March 2018, not allowing sufficient time for residents to prepare and submit their nominations.

APOLOGIES AND LEAVE OF ABSENCE

Leave of Absence previously approved

Cr Sophie Dwyer	10 to 17 June 2018 inclusive;
Cr Christine Hamilton-Prime	18 June to 6 July 2018;
Cr John Logan	1 to 15 July 2018 inclusive;
Cr Mike Norman	22 July to 4 August 2018 inclusive.

REPORTS

ITEM 1 DEVELOPMENT AND SUBDIVISION APPLICATIONS – APRIL 2018

WARD	All			
RESPONSIBLE DIRECTOR	Ms Dale Page Planning and Community Development			
FILE NUMBER	07032, 101515			
ATTACHMENTS	Attachment 1	Monthly Development Determined – April 2018	Applications	
	Attachment 2	Monthly Subdivision Processed – April 2018	Applications	
AUTHORITY / DISCRETION	Information - includes items provided to Council for information purposes only that do not require a decision of Council (that is for 'noting').			

PURPOSE

For Council to note the number and nature of applications considered under delegated authority during April 2018.

EXECUTIVE SUMMARY

Schedule 2 (deemed provisions for local planning schemes) of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) provide for Council to delegate powers under a local planning scheme to the Chief Executive Officer (CEO), who in turn has delegated them to employees of the City.

The purpose of delegating certain powers to the CEO and officers is to facilitate the timely processing of development and subdivision applications. The framework for the delegations of those powers is set out in resolutions by Council and is reviewed every two years, or as required.

This report identifies the development applications determined by the administration under delegated authority powers during April 2018 (Attachment 1 refers), as well as the subdivision application referrals processed by the City during April 2018 (Attachment 2 refers).

BACKGROUND

Schedule 2 clause 82 (deemed provisions for local planning schemes) of the Regulations enables Council to delegate powers under a local planning scheme to the CEO, and for the CEO to then delegate powers to individual employees.

At its meeting held on 27 June 2017 (CJ091-06/17 refers) Council considered and adopted the most recent Town Planning Delegations.

DETAILS

Subdivision referrals

The number of subdivision and strata subdivision referrals processed under delegated authority during April 2018 is shown in the table below:

Type of subdivision referral	Number of referrals	Potential additional new lots
Subdivision applications	4	3
Strata subdivision applications	12	18
TOTAL	16	21

Of the 16 subdivision referrals, 12 were to subdivide in housing opportunity areas, with the potential for 18 additional lots.

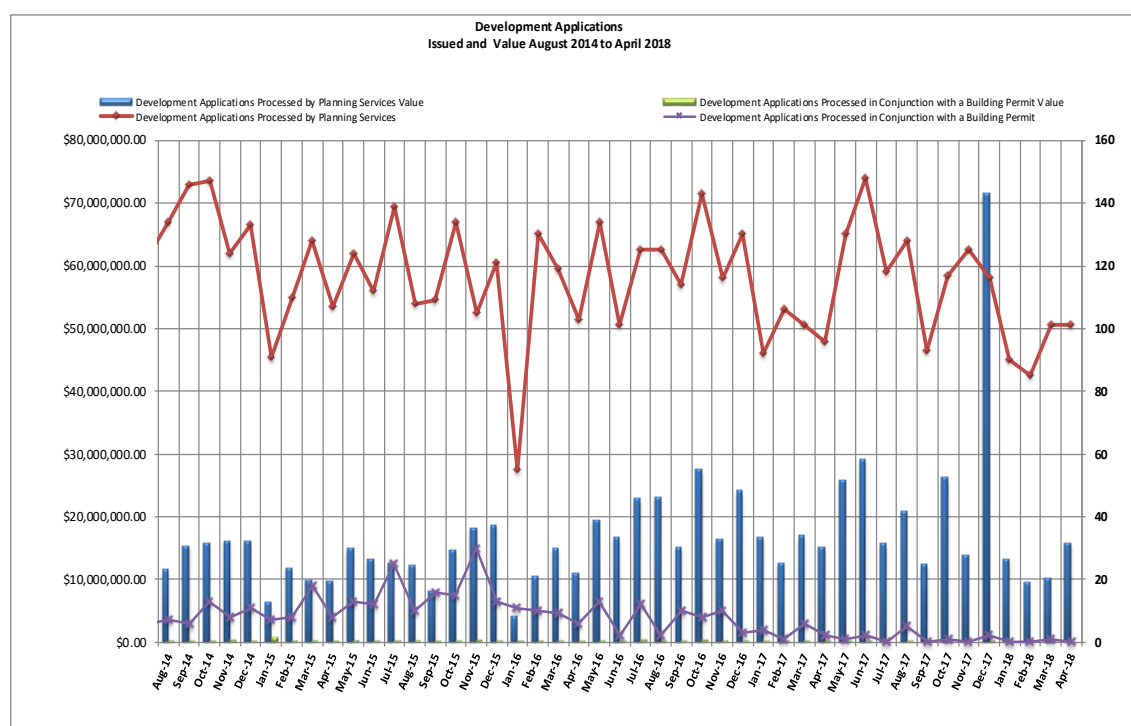
Development applications

The number of development applications determined under delegated authority during April 2018 is shown in the table below:

Type of development application	Number	Value (\$)
Development applications processed by Planning Services	101	\$ 15,680,346
Development applications processed by Building Services	0	0
TOTAL	101	\$ 15,680,346

Of the 101 development applications, 18 were for new dwelling developments in housing opportunity areas, proposing a total of 29 additional dwellings.

The total number and value of development applications determined between July 2014 and April 2018 is illustrated in the graph below:



The number of development applications received during April was 135. (This figure does not include any development applications to be processed by Building Approvals as part of the building permit approval process).

The number of development applications current at the end of April was 227. Of these, 42 were pending further information from applicants and 10 were being advertised for public comment.

In addition to the above, 190 building permits were issued during the month of April with an estimated construction value of \$25,098,844.

Issues and options considered

Not applicable.

Legislation / Strategic Community Plan / policy implications

Legislation	<i>City of Joondalup District Planning Scheme No. 2. Planning and Development (Local Planning Schemes) Regulations 2015.</i>
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Strategic Community Plan

Key theme	Quality Urban Environment.
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Objective	Quality built outcomes.
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Strategic initiative	Buildings and landscaping is suitable for the immediate environment and reflect community values.
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Policy	Not applicable. All decisions made under delegated authority have due regard to any of the City's policies that apply to the particular development.
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Schedule 2 clause 82 of the Regulations permits the local government to delegate to a committee or to the local government CEO the exercise of any of the local government's powers or the discharge of any of the local government's duties. Development applications were determined in accordance with the delegations made under Schedule 2 clause 82 of the Regulations.

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.

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 101 development applications were determined for the month of April, with a total amount of \$57,042 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 R-Codes, any relevant policy and / or DPS2 and the Regulations.

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.

RECOMMENDATION

That Council NOTES the determinations and recommendations made under delegated authority in relation to the:

- 1 development applications described in Attachment 1 to this Report during April 2018;**
- 2 subdivision applications described in Attachment 2 to this Report during April 2018.**

Appendix 1 refers

To access this attachment on electronic document, click here: [Attach1brf180612.pdf](#)

ITEM 2 DEVELOPMENT APPLICATION FOR RESTAURANT AT LOT 1436 (59) BEACHSIDE DRIVE, BURNS BEACH

WARD	North
RESPONSIBLE DIRECTOR	Ms Dale Page Planning and Community Development
FILE NUMBER	22589
ATTACHMENTS	Attachment 1 Location plan Attachment 2 Development plans Attachment 3 Car parking diagrams and Traffic Management Plan Attachment 4 Bushfire Management Plan Attachment 5 Environmentally Sustainable Design Checklist Attachment 6 Development application report
AUTHORITY / DISCRETION	Administrative - Council administers legislation and applies the legislative regime to factual situations and circumstances that affect the rights of people. Examples include town planning applications, building licences and other decisions that may be appealable to the State Administrative Tribunal.

PURPOSE

For Council to determine a development application for a 'Restaurant' at Lot 1436 (59) Beachside Drive, Burns Beach, next to Beachside Park.

EXECUTIVE SUMMARY

A development application has been received for a new single storey restaurant, with indoor and outdoor dining areas catering for a total of 163 customers, within the Burns Beach Estate. The application also proposes 30 new car parking bays in the road reserve along Beachside Drive and the western end of Grand Ocean Entrance.

The subject site is zoned 'Urban Development' under the City's *District Planning Scheme No. 2* (DPS2) and is subject to the 'Lunch Bar and Restaurant / Café Precinct' provisions of the *Burns Beach Structure Plan* (Structure Plan).

Under the structure plan, a 'Restaurant' is a permissible land use in the 'Lunch Bar and Restaurant / Café Precinct' and the provision of car parking bays is required to be determined by Council, taking into account the merits of the development application.

The application generally complies with DPS2; however, Council discretion is sought in relation to:

- setbacks
- the proposed amount and arrangement of carparking
- considerations with respect to bushfire management.

The application was advertised for a period of 21 days. A total of 229 submissions were received, being 160 letters of support, 59 letters of objection and 10 letters of neither support nor objection.

It is recommended that the application be approved, subject to conditions.

BACKGROUND

Suburb/Location	Lot 1436 (59) Beachside Drive, Burns Beach.
Applicant	Creative Design and Planning.
Owner	Peet Funds Management Pty Ltd.
Zoning	DPS Urban Development.
	MRS Urban.
Site area	500m ² .
Structure plan	<i>Burns Beach Structure Plan</i> (Structure Plan).

The subject site is in the *Burns Beach Structure Plan* area, in the residential estate known as Burns Beach Estate.

The structure plan was adopted by Council and certified by the Western Australian Planning Commission (WAPC) in 2005.

The subject site was originally identified as the 'Beach Shop / Lunch Bar and Restaurant Precinct' in the structure plan. On 27 March 2007 (CJ059-03/07refers), Council endorsed Amendment 1 to the structure plan, which further restricted the use of the land by deleting the "Shop" land use and modifying the name to 'Lunch Bar and Restaurant / Café Precinct.' As a result of the amendment, the permissible land uses within this precinct were restricted to 'Lunch Bar' and / or 'Restaurant / Café.'

The subject site is currently vacant and is bound by Beachside Drive to the east, Beachside Park to the north and west and Burns Beach Foreshore Reserve to the south (Attachment 1 refers).

A development application was received by the City in September 2011 for a proposed two-storey 'Dome Café' catering for a total of 206 patrons. Community concern was raised in relation to the provision of car parking, height and overall scale of the development. The application was formally withdrawn by the applicant in September 2012, prior to determination.

The subject application, which was received by the City on 10 November 2017, proposes a restaurant of a reduced scale in terms of number of customers, floor space, building height and overall scale.

DETAILS

The proposed development consists of the following:

- A single storey restaurant building.
- A mixture of outdoor and indoor dining areas totalling 181m² and catering for a total of up to 163 customers at any one time.
- Pedestrian and cyclist accessibility via dual use pathways along Beachside Drive, Beachside Park and Burns Beach Foreshore Reserve.
- Construction of 30 on-street car bays in the road reserve along Beachside Drive and Grand Ocean Entrance, in addition to those already existing.

The proposed development plans and perspectives are included in Attachment 2.

Building design and appearance

The restaurant proposes both outdoor and internal dining areas with a combined floor space of 181m². The dining areas are orientated to have an outlook to the Burns Beach Foreshore Reserve to the west and south and Beachside Park to the north. The kitchen, store and lavatories are on the south-east side of the building.

The applicant has advised that the proposed single storey development has been designed to respond to the distinctive characteristics of the local area, enhancing the identity of the area by incorporating the following design features:

- Solid composite metal cladding with a dark timber texture and a light timber blade screen wrapping around the roof, with solid and glass walls.
- Clear glazing to the internal dining area allowing for surveillance between the building and the adjoining public spaces.
- Staggered building design and the use of a mixture of materials and colours providing articulation on each elevation.

Officer Comment:

The overall appearance of the development is considered to be of a good design and is appropriate to its location and positively responds to the surrounding natural and built environment including Beachside Park, the adjacent reserve and the surrounding existing residential development. The Joondalup Design Reference Panel (JDRP) has reviewed the application and is also supportive of the design as set out in further detail later in this report.

Building setbacks

In accordance with Clause 4.7.1 of DPS2, the permitted setback for non-residential buildings (including retaining walls) is nine metres from the street boundary, three metres from side boundaries and six metres from the rear boundary. Council's discretion is sought on the following aspects of this proposal:

- Retaining wall setbacks:
 - Nil retaining wall setback in lieu of three metres to the northern boundary (side boundary).
 - Nil retaining wall setback in lieu of six metres to the western boundary (rear boundary).
 - Nil retaining wall setback in lieu of three metres to the southern boundary (side boundary).
- Building setbacks:
 - 4.05 metres building setback (storeroom) in lieu of nine metres to the eastern boundary (street boundary).
 - 4.6 metres building setback (kitchen) in lieu of nine metres to the eastern boundary (street boundary).
 - 0.65 metres building setback (lavatories) in lieu of three metres to the southern boundary (side boundary)
 - Two metres building setback (store and dining area) in lieu of three metres to the southern boundary (side boundary)

Officer Comment:

The proposed retaining wall setbacks are considered acceptable for the following reasons:

- Due to the natural slope of the land (from east to west), the applicant has included retaining walls in the proposal to create appropriate ground levels for the restaurant and to ensure universal access is provided.
- The retaining walls are minor structures, which provide separation between the users of the park and the outdoor dining area.
- The highest section of retaining and fill is on the western boundary, next to Beachside Park and is only 0.9 metres from natural ground level.
- The site is surrounded by the Burns Beach Foreshore Reserve and Beachside Park and is separated from the nearest residential properties by Beachside Drive. Therefore, no residential properties will be impacted by the proposed retaining wall setbacks.
- Stairs wrap around the south-western corner of the retaining wall to reduce the impact of visual bulk to Beachside Park and the Foreshore Reserve.

The proposed building setbacks are considered acceptable for the following reasons:

- The site is surrounded by the Burns Beach Foreshore Reserve and Beachside Park and is separated from the nearest residential properties by Beachside Drive. Also, the building is set back approximately 20 metres from the residential lot boundaries on the opposite side of Beachside Drive. As such, no residential properties are considered to be impacted by the proposed building setbacks.
- The building incorporates windows, a mixture of materials and textures, light timber blade screening wrapping around the roof and varied setbacks staggering the development to reduce the visual impact on the surrounding area.
- The context for this site is residential development with an R20 density code. This means that properties along Beachside Drive are generally set back between three metres and six metres from the street boundary. The proposed restaurant building is set back a minimum of 4.05 metres, with an average setback of 6.25 metres from the street boundary. Therefore, although the proposed development does not meet the setbacks that apply under DPS2 to non-residential development, the setbacks proposed are generally consistent with the existing pattern of residential built form on Beachside Drive.

In light of the above, it is considered that the proposed setbacks do not negatively impact the streetscape or any residential property and are appropriate in the proposal's setting.

Building height

The building height of the proposed development is subject to the provisions of the City's *Height of Non-Residential Buildings Local Planning Policy*. Under the provisions of this policy, the building height to the top of the external wall (concealed roof) is required to be no more than seven metres. The proposed development is five metres in height and therefore complies with the City's policy.

Landscaping

The site incorporates over 18% of soft landscaping integrated throughout the site and therefore complies with the minimum 8% requirement prescribed under Clause 4.12.1 of DPS2. An indicative landscaping plan is provided in Attachment 2.

The soft landscaping incorporates a mixture of grass, native shrubs, creepers and trees. Grass is incorporated around the north, west and south portions of the site where it adjoins Beachside Park. Two garden beds are located to the east and south of the building and include a mixture of shrubs and trees.

Should the proposed development be approved, a condition is recommended which requires the landscaping to be installed prior to occupation and maintained thereafter to ensure landscape treatments remain to a satisfactory standard going forward.

Car parking

Clause 8.1 paragraph two of the structure plan states the following:

“The provision of on-street car parking and parking areas in the vicinity of the precinct, together with the fact that the precinct is in a highly accessible area for pedestrians and cyclists, on site car parking for the lunch bar and restaurant/cafe should be minimised. The number of car bays required on site will be determined by Council and assessed against the merits of the specific case as part of a development application.”

In accordance with Table 2 - Car Parking Standards under DPS2, a ‘Restaurant’ land use requires the greater of one bay per 5m² of dining area or one bay per four guests. As a result, the proposed development application would generally require a total of 41 car bays, however none are proposed on-site. A total of 35 on-street car parking bays are currently located along Beachside Drive in the vicinity of the park. Through re-configuration of the existing bays on Beachside Drive and the introduction of new bays into the road reserve at the western end of Grand Ocean Entrance, an additional 30 on-street car parking bays can be provided and are proposed as part of this application. This would result in a total of 65 on-street car bays being located within 200 metres of the subject site.

There is no requirement for bicycle parking under DPS2, however it is noted that the development provides a total of 10 bicycle parking spaces located to the north of the building.

Officer Comment:

The *Traffic Management Plan* submitted as part of this application (Attachment 3 refers), details that the ‘Restaurant’ will provide a community hub easily accessible to local residents within walking and cycling distance to the site. Further, the *Traffic Management Plan* concludes that the 65 car parking bays would more than satisfy the parking demands created by the proposed ‘Restaurant.’

The total number of on-street car parking bays complies with the minimum 41 car bays required by DPS2 for a proposed ‘Restaurant’. This results in a 24 bay surplus being available for visitors to Beachside Park, the Burns Beach Foreshore Reserve and surrounding residential properties.

It is further noted that the site is highly accessible for pedestrians and cyclists via the following routes:

- Dual use path providing access for pedestrians and cyclists.
- Existing footpath networks within the Burns Beach Estate and the greater area providing convenient pedestrian access to the subject site.
- Established cycle lanes along Grand Ocean Entrance providing convenient access for cyclists visiting the site.

The provision of on-street car parking, together with the location of the site being highly accessible area for pedestrians and cyclists is consistent with the objectives of the structure plan and the intent of DPS2 and is therefore considered appropriate.

Operating hours

Clause 8.1 paragraph one of the structure plan details the following:

“A lunch bar and restaurant/cafe are permitted within POS 6 as shown on the Structure Plan. The development of a lunch bar and a restaurant/cafe is proposed to provide for opportunities for the local population and visitors to the area to enjoy the coastal environment and to increase the vibrancy of the area as a destination beyond day light hours.”

While the structure plan provides for the ability for the restaurant to be open to the local population and visitors beyond day light hours, the applicant has indicated that the proposed restaurant operating hours will be during day-light hours. During the Perth summer season, it is considered that day-light hours are typically between 5.30am and 8.30pm.

There are no set standards under DPS2 that regulate operating hours of restaurants. However, the City can consider imposing a condition to restrict the hours of operation of an approved restaurant as part of the planning application to protect the amenity of surrounding landowners / occupants.

Further, any noise generated from the restaurant is subject to compliance with the *Environmental Protection (Noise) Regulations 1997*.

In addition to the *Environmental Protection (Noise) Regulations 1997*, it is also recommended if the application is approved, that management plans (*Noise Management Plan* and *Waste and Delivery Management Plan*) be prepared and approved which will set out specific parameters for activities of the restaurant to further control noise to protect the amenity of the surrounding landowners / occupants.

Having regard to the provisions of the structure plan and consideration of the surrounding residential area, limiting the hours of operation to predominantly day-light hours is considered appropriate. A condition of approval is recommended which limits the operating hours, including times for waste collection and service deliveries, from 6.00am to 8.00pm, Monday to Sunday.

Joondalup Design Reference Panel (JDRP)

The proposed development was reviewed by the JDRP at its meeting held on 9 January 2018. The feedback from the panel along with the applicant and City responses are summarised in the following table:

JDRP Comment	Applicant Response	City Response
Concern in relation to the blank façade treatment to the eastern and southern walls. There are also concerns with the overall appearance of the façades resulting in undue building bulk.	Revised plans were submitted on 25 February 2018. The plans detailed additional landscaping to the east and south, being creepers and taller shrubs, which will serve to soften the façade(s).	The landscaping modifications to the southern elevation are considered to soften the southern façade.

JDRP Comment	Applicant Response	City Response
<p>More information and / or revised plans are requested demonstrating how the façades will be softened.</p>	<p>The wall is to have a black, charred timber look and will be a feature in itself. Thus, it would not be desirable to hide the wall behind too much landscaping.</p>	<p>Windows incorporated within the eastern façade combined with the textured timber panels create an ideal elevation contributing to the streetscape.</p> <p>Clarification by the applicant of the treatment of the wall (charred timber look), which was not evident on the plans provided for the JDRP, is also considered to alleviate the concerns of a blank façade.</p> <p>Therefore, the modifications address the comments made by JDRP.</p>
<p>It appears that the storeroom dimensions are quite restrictive and a bin store area has not been identified on the plans.</p> <p>Revised plans are required detailing the bin store area, including the wash down area in accordance with the City's <i>Health Local Law 1999</i> and general storage of goods / other waste.</p>	<p>Revised plans, submitted on 25 February 2018, included additional detail in relation to the storeroom. It is now notated as a store / bin store area.</p> <p>The entire area can function as a wash down area with sloped floors that drain into the centre. The hose cock is shown for attachment of a spray hose. The bin storage layout is also shown.</p>	<p>The modifications to the internal layout, including the hose cock and bin storage layout are appropriate and address the comments made by JDRP.</p>
<p>There are possible issues with the service yard being directly visible from the south. Further information is required detailing how the storage area will be maintained and remain screened from the public.</p>	<p>The store / bin store is not roofed and the walls will screen the area from public view. Additional landscaping and climbing creepers have been added to the façade and these will soften the appearance of the screen wall. The wall is to have a black, charred timber look and will be a feature in itself.</p>	<p>The storeroom is appropriately screened from the south and east, with the use of landscaping to soften the screen wall from public view from ground level.</p>
	<p>A <i>Waste Management Plan</i> could be imposed as a condition of any development approval and at that stage, specific details on waste management and storeroom management will be provided to the satisfaction of the City.</p>	<p>The top of the storeroom is potentially visible from adjoining two-storey residential properties. Considering this, if the application is approved, it is recommended that a condition of approval be included, which requires the storeroom to be adequately screened to minimise any</p>

JDRP Comment	Applicant Response	City Response
		<p>visual impact on surrounding landowners.</p> <p>In addition, it is recommended that a condition of approval is included which requires a <i>Waste and Delivery Management Plan</i> to be submitted to the City prior to commencement of the development and approved by the City prior to occupation of the development. This management plan should provide adequate detail, to the satisfaction of the City, to provide comfort that amenity of nearby residents is not unduly compromised.</p>
<p>The storeroom door needs to be carefully designed and maintained to ensure it contributes to the façade and continues to do so.</p> <p>Considering this it is recommended to modify the store door to open outwards rather than inwards. This reduces the doors being damaged and improves accessibility.</p>	<p>The revised plans allow for the store doors to open outwards. In addition, the doors are designed to be flush with the wall and the black timber-like texture will continue across the door surface material to match the wall.</p>	<p>The modifications to the storeroom positively contribute to the visual appearance of the development and adequately address the comments made by the JDRP.</p>
<p>A service delivery plan is required demonstrating how the waste collection and drop off of goods will operate.</p>	<p>The path through the site to access the store has been realigned so that there is no need for delivery and refuse collection services to utilise any section of the dual use path that runs along the foreshore. Rather, the path now connects to the concrete path area adjacent to the site which then provides access to the verge. It is felt this is a logical outcome, while also minimising duplication of paths.</p>	<p>The modifications to the service path are considered appropriate. It is common practice for the specific details of the delivery of goods to the site and waste collection to be dealt with via a condition of approval.</p> <p>It is therefore recommended that a condition of approval is included which requires a <i>Waste and Delivery Management Plan</i> to be submitted to the City prior to commencement of the development and approved by the City prior to occupation of the development.</p>

JDRP Comment	Applicant Response	City Response
Please advise if the toilets will be open to the general public during operating hours?	Yes, the toilets will be open to the public during café opening hours. The toilets will be closed when the café is closed.	The information provided addresses the comments made by JDRP.
Further information is required detailing how the plant equipment, including vents, will be screened from view by the general public (park users, the street and residential properties).	The revised plans incorporate notes to explain the sections through the ceiling space and confirm that all plant and equipment will be screened from view. Adequate allowances in the height of the walls have been included to ensure that any minor refinements to the equipment details will still be screened from view.	The additional information submitted by the applicant is considered to address the comments made by JDRP. It is recommended that a condition of approval is included, which requires any proposed building plant and equipment to be located so as to minimise any visual and noise impact on surrounding landowners, and so that the equipment is screened from view from the street.
Natural ground levels are required to be detailed on the elevations and the site plan to enable the City to formalise its assessment of building heights and retaining wall heights.	Natural ground levels are detailed on the revised plans, submitted to the City on 25 February 2018.	The modifications address the comments made by JDRP.

Coastal Local Planning Policy

The subject site is located on a lot identified by the City as being subject to coastal hazard risk under the City's *Coastal Local Planning Policy*. If the application is approved, the City is required to apply a condition requiring the proponent to place a notification on the title specifying that the lot is located in an area likely to be subject to coastal erosion and / or inundation over the next 100 years.

As a result, a condition of approval is recommended which notifies prospective purchasers of the site, through a section 70A notification on the title, of the potential impacts of the vulnerable coastal area in accordance with the City's *Coastal Local Planning Policy*.

State Planning Policy 3.7 – Planning in Bushfire Prone Areas (SPP3.7)

SPP3.7 was prepared by the Western Australian Planning Commission and gazetted on 7 December 2015. SPP3.7 outlines how development and / or land uses should address bushfire risk in Western Australia and it applies to all land which has been designated as a bushfire prone area. In accordance with Clause 6.2 (a), development applications within a designated bushfire prone area that have a Bushfire Attack Level (BAL) rating above BAL-LOW are to comply with the relevant provisions of SPP3.7.

In accordance with Clause 6.5, a BAL Assessment has been prepared by an accredited BAL Assessor for the proposal (Attachment 4 refers). This BAL assessment identifies a BAL rating of BAL- Flame Zone (FZ), being the highest possible bushfire risk. Clause 6.6 of SPP3.7 refers to vulnerable or high risk land uses located in bushfire prone areas.

Vulnerable land uses are land uses where persons may be less able to respond to a bushfire emergency. Some examples of vulnerable land uses include hospitals, nursing homes, day care centres, short stay accommodation and corrective institutions.

High risk land uses are land uses which may lead to the potential ignition, prolonged duration and / or increased intensity of a bushfire. Some examples of high risk land uses include service stations, landfill sites and bulk storage of hazardous materials.

The proposed 'Restaurant' development is not considered to be either a 'vulnerable' or a 'high risk' land use as defined by SPP3.7 and is therefore not subject to Clause 6.6 of SPP3.7.

The subject site is vacant and the proposed development is therefore considered to be an intensification of development where a BAL-FZ applies. Therefore, the development is required to comply with Clause 6.7 of SPP3.7, which states:

“Strategic planning proposals, subdivision or development applications which will result in the introduction or intensification of development or land use in an area that has or will, on completion, have an extreme BHL and/or BAL-40 or BAL-FZ will not be supported unless:

- (a) the proposal is considered to be minor development to which policy measure 6.7.1 applies; or*
- (b) the proposal is considered to be unavoidable development to which policy measure 6.7.2 applies.”*

Minor development refers to applications in residential built-out areas at a scale which may not require full compliance with the relevant policy measures. Classes of development considered under this definition include a single house on an existing lot 1,100m² or greater, an ancillary dwelling on a lot of 1,100m² or greater and change to a vulnerable land use in an existing residential development.

Unavoidable development is development that, in the opinion of the decision-maker, represents exceptional circumstances where full compliance with SPP3.7 would be unreasonable; no alternative location exists; it is not minor development and is not contrary to the public interest. Examples of what constitutes unavoidable development include critical State infrastructure or emergency services.

The 'Restaurant' development is not considered to be either 'minor development' or 'unavoidable development' as defined by SPP3.7 and therefore, strict interpretation of this clause of SPP3.7 in this instance indicates that the development application should not be supported.

Officer comment:

Being a *State Planning Policy*, the City is required to have 'due regard' to the provisions of SPP3.7 when making decisions on planning matters, as set out in Clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

It is noted, to have 'due regard' is to take into account or give consideration to the matters listed in the relevant provisions, but the provisions must be interpreted in their statutory context.

The intent of SPP3.7 is to assist in determining appropriate land use planning in relation to bushfire prone areas and ensuring the necessary bushfire protection measures are incorporated into the development.

It is noted that the structure plan was adopted by Council and certified by the Western Australian Planning Commission (WAPC) in 2005, 10 years prior to the gazettal of SPP3.7 and lists a 'Restaurant' as a permitted land use within the site.

In order to justify the proposal against the provisions and intent of SPP3.7, the applicant has provided a *Bushfire Management Plan* (BMP) prepared by an accredited BAL Assessor (Attachment 4 refers). The BMP identifies the following:

- Bushfire threats.
- Vegetation classification.
- Bushfire hazard level assessment.
- Bushfire attack level.
- Compliance with the Bushfire Protection Criteria.

The BMP indicates that the development can be effectively managed to reduce the risk of bushfire and, in the event of a bushfire, minimise the level of bushfire impact. Based on the BMP provided by the applicant, it is considered that the development meets the Bushfire Protection Criteria under the *Guidelines for Planning in Bushfire Prone Area* and any risk can be managed effectively.

Irrespective of the above, the decision-maker may impose detailed requirements, including modifications and / or conditions on a development application to address bushfire risk management implementation measures, in accordance with Clause 6.10 of SPP3.7. In accordance with the *Guidelines for Planning in Bushfire Prone Areas*, it is recommended that a *Bushfire Emergency Evacuation Plan* is prepared and approved by the Department of Fire and Emergency Services in accordance with *Australian Standard- Planning for Emergencies in facilities (AS3745 – 2010)*. This requirement is recommended to form a condition of approval to ensure that, in the event of a bushfire, the level of bushfire impact to the development is minimised.

Further to Clause 6.10 of SPP3.7, a condition of approval is recommended, which notifies prospective purchasers of the site, through a section 70A notification on the title, of the potential impacts of the bushfire prone area.

It is considered that the bushfire risk applied to the development can be effectively managed and that necessary bushfire protection measures are incorporated into the development through the implementation of the BMP and through the recommended conditions of approval, including the preparation and approval of a Bushfire Emergency Evacuation Plan. Therefore the 'Restaurant' is considered to be consistent with the intent of SPP3.7

Issues and options considered

Council is required to determine whether the proposed restaurant is appropriate and meets the relevant requirements of the City's *Burns Beach Structure Plan*, State Planning Policy 3.7, the City's *District Planning Scheme No. 2* and relevant local planning policies.

Council may determine an application for development approval by:

- granting development approval without conditions
- granting development approval with conditions
- or
- refusing to grant development approval.

Legislation / Strategic Community Plan / policy implications

Legislation	<i>City of Joondalup District Planning Scheme No. 2 (DPS2). Planning and Development (Local Planning Schemes) Regulations 2015 (the Regulations).</i>
Strategic Community Plan	
Key theme	Economic Prosperity, Vibrancy and Growth.
Objective	Quality built outcomes.
Strategic initiative	Building and landscape is suitable for the immediate environment and reflect community values.
Policy	<i>Environmentally Sustainable Design Policy. Coastal Local Planning Policy. Height of Non-Residential Buildings Local Planning Policy. State Planning Policy 3.7 Planning in Bushfire Prone Areas. State Planning Policy 2.6 State Coastal Planning Policy.</i>

Planning and Development (Local Planning Schemes) Regulations 2015 (the Regulations).

Clause 67 of Schedule 2 of the Regulations sets out the matters to be considered by Council when determining an application for development approval.

In considering an application for development approval the local government is to have due regard to the following matters to the extent that, in the opinion of the local government, those matters are relevant to the development the subject of the application —

- (a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;*
- (b) the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the Planning and Development (Local Planning Schemes) Regulations 2015 or. any other proposed planning instrument that the local government is seriously considering adopting or approving;*
- (c) any approved State planning policy;*
- (d) any environmental protection policy approved under the Environmental Protection Act 1986 section 31(d);*
- (e) any policy of the Commission;*
- (f) any policy of the State;*
- (g) any local planning policy for the Scheme area;*
- (h) any structure plan, activity centre plan or local development plan that relates to the development;*
- (i) any report of the review of the local planning scheme that has been published under the Planning and Development (Local Planning Schemes) Regulations 2015;*

- (j) *in the case of land reserved under this Scheme, the objectives for the reserve and the additional and permitted uses identified in this Scheme for the reserve;*
- (k) *the built heritage conservation of any place that is of cultural significance;*
- (l) *the effect of the proposal on the cultural heritage significance of the area in which the development is located;*
- (m) *the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;*
- (n) *the amenity of the locality including the following —*
 - (i) *environmental impacts of the development;*
 - (ii) *the character of the locality;*
 - (iii) *social impacts of the development;*
- (o) *the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource;*
- (p) *whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;*
- (q) *the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk;*
- (r) *the suitability of the land for the development taking into account the possible risk to human health or safety;*
- (s) *the adequacy of —*
 - (i) *the proposed means of access to and egress from the site; and*
 - (ii) *arrangements for the loading, unloading, manoeuvring and parking of vehicles;*
- (t) *the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;*
- (u) *the availability and adequacy for the development of the following —*
 - (i) *public transport services;*
 - (ii) *public utility services;*
 - (iii) *storage, management and collection of waste;*
 - (iv) *access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);*
 - (v) *access by older people and people with disability;*
- (v) *the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses;*
- (w) *the history of the site where the development is to be located;*

- (x) *the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;*
- (y) *any submissions received on the application;*
- (za) *the comments or submissions received from any authority consulted under clause 66;*
- (zb) *any other planning consideration the local government considers appropriate.*

Burns Beach Structure Plan

8.0 LUNCH BAR AND RESTAURANT/CAFE PRECINCT.

8.1 Objective.

A lunch bar and restaurant/cafe are permitted within POS 6 as shown on the Structure Plan. The development of a lunch bar and a restaurant/cafe is proposed to provide for opportunities for the local population and visitors to the area to enjoy the coastal environment and to increase the vibrancy of the area as a destination beyond day light hours.

The provision of on-street car parking and parking areas in the vicinity of the precinct, together with the fact that the precinct is in a highly accessible area for pedestrians and cyclists, on site car parking for the lunch bar and restaurant/cafe should be minimised. The number of car bays required on site will be determined by Council and assessed against the merits of the specific case as part of a development application.

8.2 Land Use.

The permissible land uses within this precinct are as follows:

- *Lunch Bar.*
- *Restaurant / café.*

No other land uses are permissible in this Precinct.

8.3 General Provisions.

Development proposals within this precinct shall be assessed in accordance with the District Planning Scheme, Council's policies, relevant local laws and the Building Codes of Australia.

State Planning Policy 3.7 – Planning in Bushfire Prone Areas

6.7 *Strategic planning proposals, subdivision or development applications in areas where an extreme BHL and / or BAL-40 or BAL-FZ applies.*

Strategic planning proposals, subdivision or development applications which will result in the introduction or intensification of development or land use in an area that has or will, on completion, have an extreme BHL and/or BAL-40 or BAL-FZ will not be supported unless:

- (a) *the proposal is considered to be minor development to which policy measure 6.7.1 applies; or*
- (b) *the proposal is considered to be unavoidable development to which policy measure 6.7.2 applies.*

SPP 3.7 definitions:

High-risk land use: A land use which may lead to the potential ignition, prolonged duration and / or increased intensity of a bushfire. Such uses may also expose the community, fire fighters and the surrounding environment to dangerous, uncontrolled substances during a bushfire event. Examples of what constitutes a high-risk land use are provided in the Guidelines.

Vulnerable land use: A land use where persons may be less able to respond in a bushfire emergency. Examples of what constitutes a vulnerable land use are provided in the guidelines.

Risk management considerations

The proponent has a right of review against Council's decision, or any conditions of approval, 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 \$2,342.50 (excluding GST) in accordance with the Schedule of Fees and Charges, for assessment of the application.

Regional significance

Not applicable.

Sustainability implications

The applicant has completed the City's Environmentally Sustainable Design Checklist to the extent applicable to the development (Attachment 5 refers). The checklist indicates a number of sustainable measures, including passive solar orientation, insulation, advanced glazing solutions, low energy and water efficient technologies as well as use of natural materials, including a planted wall, into the design of the building.

Consultation

The application was advertised for a period of 21 days, commencing on 15 March 2018 and concluding on 5 April 2018. Consultation was undertaken in the following manner:

- A letter outlining the details of the development proposal was sent to all 1,626 landowners and occupiers in the Burns Beach Estate.
- A sign was erected on the subject site.
- A notice was placed on the City's website.

A total of 229 valid submissions were received, being 160 letters of support, 59 letters of objection and 10 letters of neither support or objection.

Of those submissions, a total of 132 letters of support, 53 letters of objection and two letters of neither support or objection were received from residents within the Burns Beach Estate.

Based on the 1,626 letters sent to landowners and occupiers in the Burns Beach Estate, this represents an overall response rate of 14% and 11.5% response rate from residents within the Burns Beach Estate.

Submission analysis

Out of the total responses, the following summarises the comments detailed in the 160 letters of support, which represents 70% of the total submissions:

- The proposed café is a much-needed necessity for the suburb.
- Preference for the café to be dog friendly.
- The proposed café will be great for the amenity of the area and is easy to walk to.
- Great asset and benefit to the Burns Beach Estate and the local community.
- Wonderful idea and it is long overdue.
- The structure is very pleasing to the eye and will enhance the Burns Beach area.
- Hope the café will be open well into the evenings, particularly on weekends.
- Additional car bays will improve the streetscape.

The above comments are noted and generally align with the structure plan objectives.

Out of the total responses, the following summarises the comments detailed in the 59 letters of objection, which represents 26% of the total submissions:

- Inconsistency of the proposal with the intended use of the land.
- Traffic impacts and safety of pedestrians.
- Adequacy of parking and vehicle accessibility.
- Noise from patrons and operation of the restaurant.
- Privacy issues.
- Impacts to views.
- Negative social impacts for residents.
- Negative impacts on the streetscape.
- Competition with the existing Burns Beach Café.
- Negative impact on property values.
- Antisocial behaviour from patrons vacating the premises.
- Environmental impacts.
- Limited space in the park to facilitate such a development.

The City's responses to the concerns raised are summarised below:

- *Inconsistency of the proposal with the intended use of the land (32% of objections received).*

During the preparation of the *Burn Beach Structure Plan*, it was evident there was a need to provide areas of amenity for local residents and visitors.

Under the structure plan, 'Lunch Bar and Restaurant / Café Precinct' was identified for the subject site, where the land use 'Restaurant' is a permissible land use.

It is noted that the subject site is ideally located next to the Beachside Park and Burns Beach Foreshore Reserve and is conveniently accessible via the dual use pathway and the existing footpath and road networks within the Burns Beach Estate. The location is therefore broadly consistent with the City's position on establishing high quality cafes, kiosks and restaurants within close proximity to areas of amenity and natural assets, including the coastal foreshore.

- *Traffic impacts and safety of pedestrians (51% of objections received).*

The proposed 'Restaurant' is expected to generate 96 vehicle movements per day (vpd). Beachside Drive and Grand Ocean Parade provides access to the subject site.

Beachside Drive is identified as a higher order access street in the structure plan. Higher order access streets are expected to experience an indicative daily traffic flow of 1,000 to 3,000vpd. It is noted that a maximum traffic flow of 3,000vpd is appropriate to maintain residential amenity. Beachside Drive has a projected demand of less than 300vpd once Burns Beach is fully developed. The proposed 'Restaurant' is projected to generate an additional 96vpd. This totals 396vpd and is consistent with the indicative daily traffic flow.

Grand Ocean Parade is identified as a Neighbourhood Connector in the structure plan. Neighbourhood Connectors are expected to experience an indicative daily traffic flow of 3,000vpd to 7,000vpd. Grand Ocean Parade has a projected demand of 2,000vpd at the western end and 6,930vpd on the eastern end, adjacent to Marmion Avenue. The additional 96vpd generated by the proposal will increase traffic volumes to a total of 2,096vpd at the west and 7,026vpd adjacent to Marmion Avenue.

With reference to the traffic report, the WAPC Transport Assessment Guidelines for Developments (WAPC guidelines) considers that an increase of less than 10% in traffic capacity is unlikely to have a material impact on any particular section of the road. Considering that the 7,026vpd is projected adjacent Marmion Avenue resulting in a 0.14% increase in traffic capacity to this section of the road, the projected increase is consistent with the WAPC guidelines.

Established footpaths are provided throughout the Burns Beach Estate providing ample opportunities for pedestrians and cyclists to commute to the proposed 'Restaurant.'

Therefore, the expected vehicle movements generated by the proposed 'Restaurant' is shown to not impact residential amenity or pedestrian safety.

- *Adequacy of parking and vehicle accessibility (56% of objections received).*

The City acknowledges that the proposed 'Restaurant' will rely exclusively on on-street car parking. The structure plan stipulates that there are opportunities for on-street car parking in the vicinity of the subject site and any on-site car parking should be minimised. Noting this, the provision of car parking is considered appropriate. The design of on-street car parking and vehicle accessibility is in accordance with Australian Standard for Parking Facilities On-Street Parking (AS/NZS2890.5 1993).

During the course of construction of the on-street car parking, any removal or modifications to existing service infrastructure and landscaping within the streetscape will be reinstated and / or repaired at the cost of the applicant where applicable, to the satisfaction of the City.

Any illegal verge parking is managed by the City on a case-by-case basis under the *Local Government Act 1995* and the *City of Joondalup Parking Local Law 2013*.

- *Noise from patrons and operation of the restaurant (46% of objections received).*

It is noted that some level of noise emitted from the proposed 'Restaurant' is inevitable. Any noise emitted from the site will be subject to a *Noise Management Plan* and compliance with the *Environmental Protection (Noise) Regulations 1997* to ensure the operations of the proposed 'Restaurant' do not result in an undue amenity impact to the surrounding occupiers and/or landowners.

- *Privacy issues (7% of objections received).*

The proposed 'Restaurant' building orientates the main dining areas to have an outlook to the Beachside Park and Burns Beach Foreshore Reserve, providing optimal privacy to adjoining residential properties. Minimal direct overlooking to the adjoining residential properties is expected from the proposed restaurant. It is noted that the Beachside Park, dual use path and existing on-street car parking along Beachside Drive are all currently well utilised by visitors to Beachside Park and Burns Beach Foreshore.

The building is proposed to be a single storey building and does not result in overlooking to the adjoining residential properties. It is noted that overlooking issues are typically related to major openings or balconies from a second storey or a roof terrace – none of which are proposed as part of this development.

Considering the existing busy coastal node and the subject site being identified for a 'Restaurant' use as part of the structure plan, the proposed 'Restaurant' is considered to not result in undue privacy impacts to adjoining landowners and / or occupiers.

- *Impacts to views (5% of objections received).*

Under the provisions of the City's *Height of Non-Residential Buildings Local Planning Policy*, the building height to the top of external wall (concealed roof) is permitted to be seven metres. The proposed development is five metres in height and therefore complies with the City's policy. Considering this, undue impacts to views of the Burns Beach Foreshore and the surrounding area is unlikely.

- *Negative social impacts for residents (5% of objections received).*

The site has always been envisaged to accommodate a kiosk or café / restaurant. The site is appropriately located and the 'Restaurant' will have positive social benefits for the broader Burns Beach community.

- *Negative impacts on the streetscape (10% of objections received).*

As detailed within the 'Details' section of this report, the overall appearance of the development is considered to be of a good design and appropriate to its location. The proposed building responds positively to the surrounding natural and built environment, including Beachside Park, the adjacent Reserve and the surrounding existing residential development.

The JDRP were generally supportive of the design and the comments and suggestions made by panel have been adequately addressed.

- *Competition with the existing Burns Beach Café (7% of objections received).*

Competition with surrounding businesses is not a valid land use planning consideration and cannot be taken into account in assessment and determination of this development application. It is further noted that the subject site was originally identified as the 'Beach Shop / Lunch Bar and Restaurant Precinct' in the structure plan which was subject to community consultation and adopted by Council in 2005.

- *Negative impact on property values (10% of objections received).*

Potential impact on property values is not a valid land use planning consideration and the City is unable to take this issue into consideration in the assessment and determination of this development application. As previously discussed, the subject site was originally identified as the 'Beach Shop / Lunch Bar and Restaurant Precinct' in the structure plan which was subject to community consultation and adopted by Council in 2005.

- *Antisocial behaviour from patrons vacating the premises (10% of objections received).*

The subject site is located next to Beachside Park and the Burns Beach Foreshore Reserve where the proposed 'Restaurant' is expected to improve the surveillance to these areas and will likely deter antisocial behaviour during operating hours. Antisocial behaviour occurring outside of operating hours cannot reasonably be linked to the operations of the proposed restaurant. In the instance that antisocial behaviour occurs, residents can contact the City's Rangers or the Police for assistance.

- *Environmental impacts (15% of objections received).*

The development does not propose any removal of existing natural vegetation within Beachside Park or the Burns Beach Foreshore Reserve.

The provision of new landscaping associated with the development is appropriate and considered to positively contribute to the existing natural environment of the locality.

- *Limited space in the park to facilitate such a development (24% of objections received).*

The subject site is a freehold lot, owned by the developer of the Burns Beach Estate. It was always envisaged to be developed with a kiosk or café / restaurant. The site is not vested as public open space. The subject lot size is 500m² and is considered an appropriate size to facilitate the development at the scale and intensity proposed.

Specific landowner and occupier analysis

In addition to analysis undertaken on submissions received more broadly, further analysis on submissions received from landowners and occupiers considered to be potentially more directly affected by the proposal has been done, being:

- residents located within 100 metres of subject site
- residents located adjacent the proposed on-street parking bays subject of this proposal
- residents located adjacent to existing on-street parking bays within 400 metres of the subject site.

Landowners and occupiers located within 100 metres of the proposal are considered to be more likely to be affected by the operations occurring on-site, while residents and landowners located next to proposed on-street and existing on-street parking bays and those within a 400 metre walkable catchment of the proposal, are considered to be more likely to be impacted by guests commuting to the subject site via car.

Responses supporting the proposal are summarised in the following points:

- The structure is very pleasing to the eye and will enhance the Burns Beach area.
- Great asset and benefit to the Burns Beach Estate and the local community.
- Wonderful idea and it is long overdue.
- Additional car bays will improve the streetscape.

The potentially most directly affected landowners and occupiers that support the proposal, do so for similar reasons to the broader support for the proposal and these reasons align with the intent of the structure plan for the site.

Responses opposing the proposal are summarised in the following points:

- Inconsistency of the proposal with the intended use of the land.
- Traffic impacts and safety of pedestrians.

- Adequacy of parking and vehicle accessibility.
- Noise from patrons and operation of the restaurant.
- Privacy issues.
- Impacts to views.
- Negative social impacts for residents.
- Negative impacts on the streetscape.
- Competition with the existing Burns Beach Café.
- Negative impact on property values.
- Antisocial behaviour from patrons vacating the premises.
- Environmental impacts.
- Limited space in the park to facilitate such a development.

The nature of the concerns raised by landowners and occupiers potentially most directly affected generally reflect the broader concerns raised during public consultation and have been addressed earlier in the report.

Consultation outcome summary

Consultation was undertaken broadly, with all landowners and occupiers within the Burns Beach Estate provided an individual letter. In addition, a sign was erected on site and information provided on the City's website for the duration of the consultation. A total of 229 submissions were received, resulting in a response rate of 14%.

There was a majority of support for the proposal (almost 70%), with reasons of support aligning with the objectives and intent of the structure for the site.

The concerns raised throughout public consultation were consistent for those potentially most directly affected by the proposal and others who provided a submission on the proposal. It is considered that the concerns raised have been met through technical reporting, appropriate justification or can be managed through appropriate conditions imposed on the approval.

COMMENT

As outlined above, it is considered that the proposed 'Restaurant' meets the objectives and requirements of the structure plan, relevant local planning policies and Clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations). It also meets the intent of SPP3.7 and DPS2.

The application is therefore recommended for approval, subject to conditions.

VOTING REQUIREMENTS

Simple Majority.

RECOMMENDATION

That Council APPROVES under clause 68(2) of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* the application for development approval, dated 10 November 2017 submitted by Creative Design and Planning, for Restaurant at Lot 1436 (59) Beachside Drive, Burns Beach, subject to the following conditions:

- 1 **This approval is for ‘Restaurant’ as defined under the *City of Joondalup District Planning Scheme No. 2*;**
- 2 **A maximum of 163 guests shall be accommodated on the premises at any given time;**
- 3 **The restaurant opening hours are restricted to between 6.00am and 8.00pm Monday to Sunday;**
- 4 **A total of 30 on-street parking bays shall be installed within the Beachside Drive and Grand Ocean Boulevard road reserves to the specification of the City. Detailed engineering drawings shall be submitted to the City for approval prior to commencement of development. These on-street car bays shall be constructed and be publicly available prior to occupation of the development at the cost of the applicant;**
- 5 **The car parking bays and access points shown on the approved plans are to be designed, constructed, drained and marked in accordance with the *Australian Standard for Parking Facilities On-street parking (AS/NZS2890.5 1993)*;**
- 6 **A notification, pursuant to section 70A of the *Transfer of Land Act 1893*, shall be placed on the Certificate of Title for the subject lot. The notification shall be at the owner / applicant’s expense and lodged with the Registrar of Titles for endorsement on the Certificate of Title, prior to the commencement of development. The notification is to state as follows:**

‘VULNERABLE COASTAL AREA - This lot is located in an area likely to be subject to coastal erosion and / or inundation over the next 100 years.’;
- 7 **A notification, pursuant to section 70A of the *Transfer of Land Act 1893*, shall be placed on the Certificate of Title for the subject lot. The notification shall be at the owner / applicant’s expense, and lodged with the Registrar of Titles for endorsement on the certificate of title, prior to the commencement of development. The notification is to state as follows:**

‘This land is within a bushfire prone area as designated by an Order made by the Fire and Emergency Services Commissioner.’;
- 8 **A *Bushfire Emergency Evacuation Plan* in accordance with *Australian Standard-Planning for Emergencies in facilities (AS 3745 - 2010)* shall be submitted to the City and approved by the Department of Fire and Emergency Services prior to the occupation of the development;**
- 9 **A *Construction Management Plan* shall be submitted to and approved by the City prior to the commencement of development. The management plan shall detail how it is proposed to manage:**
 - 9.1 **all forward works for the site;**
 - 9.2 **the delivery of materials and equipment to the site;**
 - 9.3 **the storage of materials and equipment on the site;**
 - 9.4 **the parking arrangements for the contractors and subcontractors;**
 - 9.5 **the management of dust during the construction process;**

9.6 other matters likely to impact on the surrounding properties,

and works shall be undertaken in accordance with the approved Construction Management Plan;

- 10 A full schedule of colours and materials for all exterior parts to the development (including any retaining walls) shall be submitted to and approved by the City prior to the commencement of development. Development shall be in accordance with the approved schedule and all external materials and finishes shall be maintained to a high standard, including being free of vandalism, to the satisfaction of the City;**
- 11 Any proposed building plant and equipment, including air conditioning units, piping, ducting and water tanks shall be located so as to minimise any visual and noise impact on surrounding landowners, and screened from view from the street, and where practicable from adjoining buildings. Details shall be submitted to and approved by the City prior to the commencement of development;**
- 12 The external surface of the development, including roofing, shall be finished in materials and colours that have low reflective characteristics, to the satisfaction of the City. The external surfaces shall be treated to the satisfaction of the City if it is determined by the City that glare from the completed development has a significant adverse effect on the amenity of adjoining or nearby neighbours;**
- 13 A *Waste and Delivery Management Plan* indicating the timing of deliveries shall be submitted prior to the commencement of development, and approved by the City prior to the development first being occupied. Waste and Delivery management shall then be undertaken in accordance with the approved plan;**
- 14 A *Noise Management Plan* shall be submitted prior to the commencement of development and approved by the City prior to the development first being occupied. Noise management shall then be undertaken in accordance with the approved plan;**
- 15 Bicycle parking facilities shall be provided in accordance with the *Australian Standard for Off-street Carparking – Bicycles* (AS2890.3-1993 as amended) prior to the development first being occupied. Details of bicycle parking area(s) shall be provided to the City for approval prior to the commencement of development;**
- 16 Detailed landscaping plans shall be submitted to and approved by the City prior to the commencement of development. These landscaping plans are to indicate the proposed landscaping treatment(s) of the subject site and the adjoining road verge(s), and shall:**
 - 16.1 be drawn at an appropriate scale of either 1:100, 1:200 or 1:500;**
 - 16.2 provide all details relating to paving and treatment of verges;**
 - 16.3 show spot levels and/or contours of the site;**
 - 16.4 indicate any natural vegetation to be retained and the proposed manner in which this will be managed;**
 - 16.5 be based on water sensitive urban design principles to the satisfaction of the City;**

- 16.6** be based on Designing out Crime principles to the satisfaction of the City;
- 16.7** show all irrigation design details;
- 17** Landscaping and reticulation shall be established in accordance with the approved landscaping plans, Australian Standards and best trade practice prior to the development first being occupied and thereafter maintained to the satisfaction of the City;
- 18** All development shall be contained within the property boundaries;
- 19** All stormwater shall be collected on-site and disposed of in a manner acceptable to the City;
- 20** The storeroom area shall be adequately screened to minimise any visual impact on surrounding landowners and visitors to the area, and screened from view from the street, Burns Beach Foreshore Reserve, and where practicable from adjoining buildings. Details shall be submitted to and approved by the City prior to the commencement of development. Development shall be in accordance with these approved details.

Appendix 2 refers

To access this attachment on electronic document, click here: [Attach2brf180612.pdf](#)

ITEM 3 RETROSPECTIVE DEVELOPMENT APPLICATION FOR SEATING ADDITION TO THE LITTLE H CAFÉ (RESTAURANT) AT LOT 702 (24/34) MARRI ROAD, DUNCRAIG

WARD	South
RESPONSIBLE DIRECTOR	Ms Dale Page Planning and Community Development
FILE NUMBER	106277, 101515
ATTACHMENT	Attachment 1 Location plan Attachment 2 Development plans Attachment 3 Applicant Justification Attachment 4 Traffic Statement
AUTHORITY / DISCRETION	Administrative - Council administers legislation and applies the legislative regime to factual situations and circumstances that affect the rights of people. Examples include town planning applications, building licences and other decisions that may be appealable to the State Administrative Tribunal.

PURPOSE

For Council to determine a retrospective development application for outdoor restaurant seating at Lot 702 (24/34) Marri Road, Duncraig.

EXECUTIVE SUMMARY

A development application was received on 27 October 2017 for the retrospective approval of outdoor seating appurtenant to the approved 'Little h Café'. The application originally involved the expansion of the café into two adjacent tenancies however the applicant chose not to pursue these portions of the proposal.

The subject site is zoned 'Commercial' under the City's *District Planning Scheme No. 2* (DPS2), with the land use 'Restaurant' being a 'P' use in this zone.

The subject site currently has an approved six car parking bay shortfall. This car parking shortfall will increase to 10 bays for the site should this application be approved, with 43 bays required, and 33 bays available on site. The site provides 13 parking bays for the commercial tenancies, with the remaining 20 bays being provided for the use of the residential apartments.

As the proposal involves a car parking shortfall of greater than 10% of the required amount it is required to be determined by Council. A parking shortfall of 23.3% is proposed.

The City advertised the application to surrounding potentially affected landowners for a period of 14 days from 30 January to 13 February 2018. A total of 57 responses were received, consisting of one letter of objection, one letter of support, one letter not stating a position on the proposal and 54 pro-forma letters supporting the proposal.

The application has been assessed against DPS2 and it is considered that the applicant has not provided sufficient reasons for the Council to exercise its discretion in approving the proposed car parking shortfall and it is therefore recommended that the application be refused.

BACKGROUND

Suburb/Location	Lot 703 (34) Marri Road, Duncraig.
Applicant	URBANISTA Town Planning.
Owner	JHF Holdings Pty Ltd.
Zoning	DPS Commercial.
	MRS Urban.
Site area	1,583m ² .
Structure plan	Not applicable.

On 19 July 2016, the City approved a change of use from shop to restaurant for the subject tenancy, and in doing so, approved a six car parking bay shortfall. This determination approved an indoor seating area of 40m² or a maximum of 32 dining seats which, at the time of approval were located internally. Subsequent to this approval, the operator increased the seating area to include the paved outdoor area in front of the tenancy. The submitted plans indicate an outdoor seating area of 30.36m² or a maximum of 19 seats in addition to that currently approved.

The applicant now seeks retrospective approval for the use of the outdoor restaurant seating area. Aerial photography indicates that the outdoor seating has been in place since at least 1 March 2017.

The initial proposal submitted to the City involved the expansion of the existing tenancy into the two adjacent tenancies, which were originally approved for 'shop' and 'office' use and included retrospective consideration of the outdoor seating. Upon further consideration, the applicant amended the proposal to include the outdoor seating only and proposed a reduction to the overall number of seats to be located inside the approved restaurant from 32 to 19, for a total number of seats of 48 and a seating area of 60.34m².

DETAILS

Car Parking

The proposal increases the car parking shortfall from six bays to 10 bays. A detailed car parking assessment for the application is included below.

Land Use & Car Parking Standard	Car Parking Requirement - Current	Car Parking Requirement - Proposed
Restaurant - 1 bay per 5m ² of dining area; or - 1 bay per 4 guests Whichever is greater	40m ² /5 = 8 bays 32 seats/4 = 8 bays	60.34m ² /5 = 12.07 bays 48 seats/4 = 12 bays
Office - 1 bay per 50m ² NLA	190.5m ² /50 = 3.81 bays	190.5m ² /50 = 3.81 bays
Shop - 5 bays per 100m ² NLA	30m ² /20 = 1.5 bays	30m ² /20 = 1.5 bays
Residential - 1 bay per dwelling plus 0.25 bays per dwelling	20 units = 20 bays & 5 visitor bays =25 bays	20 units = 20 bays & 5 visitor bays =25 bays

Land Use & Car Parking Standard	Car Parking Requirement - Current	Car Parking Requirement - Proposed
Car parking required	39 bays (38.31 bays)	43 bays (42.38 bays)
Car parking provided	33 bays (13 publicly available)	33 bays (13 publicly available)
Resultant parking shortfall	Six bays	10 bays

In addition to the car parking concerns raised in response to consultation undertaken by the City, it is noted that several complaints have been raised in relation to car parking in the immediate locality, involving on street parking along Cassinia Road.

In order to consider the parking shortfall, the City requested that the applicant provide a technical report from an appropriately qualified traffic engineer. The applicant elected not to provide this report and instead provided non-technical justification to substantiate the additional shortfall. The City's technical officers advised that the parking shortfall was not supported in the absence of a transport statement justifying the shortfall.

The applicant's justification for the shortfall is summarised below, together with the City's response:

- *The application does not involve weather protection and it is unlikely that the outdoor seating will be used at all times. When in use the outdoor seating will 'provide interaction with the streetscape and a sense of community in the local area'.*

The outdoor seating has operated with outdoor umbrellas to provide weather protection, thereby permitting regular use of the seating area. While streetscape interaction and sense of community is considered desirable, it is not directly relevant to the consideration of car parking impacts and the resultant potential impact on amenity as a result of the parking shortfall.

- *A range of land uses are present on site with different peak periods, including an office which would only operate during the week, while the restaurant and residential components would have peak demand periods in the mornings and on the weekend.*

It is noted that the office component of the development may not operate over the weekend, however bays used by employees of this business and others in the building will generally use bays for the full day, necessitating offsite parking for customers of the café.

While the office bays may not be in use on weekends, it is noted that the usage of the café would likely increase during this period as well.

It is also noted that even if a 100% reciprocal relationship existed between the office component and other land uses (including the café), the parking shortfall would not be completely offset.

- *Due to the suburban location of the site, a majority of the customers may walk to the site and some customers may visit multiple tenancies on site, thereby reducing the need for individual car parking provision.*

The applicant has not provided any patron data which supports this statement, and further, other justification provided suggests that the other land uses, such as the office, will not operate at the same peak times of the café (when parking is in its highest demand) and therefore multi-purpose trips would not occur in such a scenario.

One of the listed objectives of DPS2 is to “encourage development which will provide high standards of amenity, safety and welfare”. It is considered that the increased seating for the café is not consistent with this objective as the resultant car parking shortfall will result in unsafe and unsightly offsite car parking in the immediate locality.

Alfresco Activities Policy

The additional outdoor seating proposed serves a similar function to ‘alfresco seating’, which is typically accommodated within the road reserve (that is outside a property boundary). The City’s *Alfresco Activities Policy* does not require additional parking to be provided for alfresco seating provided in road reserves. Accordingly, if the outdoor seating subject of this application was proposed in the road reserve and assessed under the City’s *Alfresco Activities Policy*, no additional parking would be required and the existing parking shortfall for the site of six bays would remain unchanged. It is however noted, that in considering seating within the road reserve in this instance, the alfresco seating would be limited by required setbacks to the street and footpath and would be separated from the café tenancy by the footpath.

The applicant is able to provide for outdoor seating under their current approval, should the overall seating for the café be reconfigured so that the parking requirement is not increased from the previous approval.

Consultation

The application was advertised to 10 property owners and occupiers adjoining and directly opposite the subject site, for a period of 14 days concluding on 21 February 2018. The application was also advertised to the owners of the other tenancies and apartments on site, for a period of 14 days concluding on 10 May 2018. A total of 57 responses were received, consisting of one letter of objection, one letter of support, one letter not stating a position on the proposal and 54 pro-forma letters supporting the proposal.

The pro-forma letter stated the following:

“I/We SUPPORT the proposal to increase the dining area and the number of seats at the Little H Café at No. 34 Marri Road, Duncraig.

Many of us local residents walk to this café and don’t see the need to provide more parking on the site. We appeal to the City of Joondalup to approve this application without the need for more carparking.

This is a great café and is needed in our area!”

Consultation Summary

The support for the café is noted and it is advised that the café use is established and can remain in place irrespective of the determination of this application, provided that it operates in accordance with its previous approval. This application relates to the car parking shortfall resulting from the additional seating provided by the café, and the potential impact on the amenity of the subject site and surrounding properties as a result.

The issues raised during public consultation are included below, along with the City's response to each comment:

Objection

- There exists problematic parking along Marri Road and Cassinia Road verges. One commenter requested that people be asked to not double park on the roadside as this results in sightline issues for vehicles exiting the subject site.

The City has received several complaints and requests for investigation in relation to car parking in the immediate locality of the café in the last 12 months. It is considered that the additional seating provided for café patrons increases the car parking demand for the land use and due to the insufficient provision of onsite car parking, this results in an undue impact upon the immediate locality in the form of on street and verge parking.

Support

- The café provides a community meeting place improving local amenity and many patrons walk to the café.

It is noted that the café has been successful in its operations and is popular, however it is considered the inadequate provision of car parking in the locality results in undue impact to the amenity of the locality in the form of unsafe and excessive parking within the roadway and on property verges.

Comment

- How late will the café stay open and will it be noisy for residents with cars leaving and 'loud goodbye shouts'.

It is noted that the café has operated since its initial approval without concerns being raised in relation to noise. Further, it is noted that noise matters are controlled by the *Environmental Protection (Noise) Regulations 1997*.

Issues and options considered

Council is required to determine whether the application for retrospective approval for additional restaurant seating is appropriate and meets the relevant requirements of DPS2.

Council may determine an application for development approval by:

- granting development approval without conditions
- granting development approval with conditions
- or
- refusing to grant development approval.

Legislation / Strategic Community Plan / policy implications

Legislation

*City of Joondalup District Planning Scheme No. 2 (DPS2).
Planning and Development (Local Planning Schemes)
Regulations 2015 (the Regulations).*

Strategic Community Plan

Key theme	Economic Prosperity, Vibrancy and Growth.
Objective	Quality built outcomes.
Strategic initiative	Building and landscape is suitable for the immediate environment and reflect community values.
Policy	Not applicable.

Planning and Development (Local Planning Schemes) Regulations 2015 (the Regulations).

Clause 67 of Schedule 2 of the Regulations sets out the matters to be considered by Council when determining an application for development approval.

In considering an application for development approval the local government is to have due regard to the following matters to the extent that, in the opinion of the local government, those matters are relevant to the development the subject of the application —

- (a) *the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;*
- (b) *the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the Planning and Development (Local Planning Schemes) Regulations 2015 or. any other proposed planning instrument that the local government is seriously considering adopting or approving;*
- (c) *any approved State planning policy;*
- (d) *any environmental protection policy approved under the Environmental Protection Act 1986 section 31(d);*
- (e) *any policy of the Commission;*
- (f) *any policy of the State;*
- (g) *any local planning policy for the Scheme area;*
- (h) *any structure plan, activity centre plan or local development plan that relates to the development;*
- (i) *any report of the review of the local planning scheme that has been published under the Planning and Development (Local Planning Schemes) Regulations 2015;*
- (j) *in the case of land reserved under this Scheme, the objectives for the reserve and the additional and permitted uses identified in this Scheme for the reserve;*
- (k) *the built heritage conservation of any place that is of cultural significance;*
- (l) *the effect of the proposal on the cultural heritage significance of the area in which the development is located;*

- (m) *the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;*
- (n) *the amenity of the locality including the following —*
 - (i) *environmental impacts of the development;*
 - (ii) *the character of the locality;*
 - (iii) *social impacts of the development;*
- (o) *the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource;*
- (p) *whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;*
- (q) *the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk;*
- (r) *the suitability of the land for the development taking into account the possible risk to human health or safety;*
- (s) *the adequacy of —*
 - (i) *the proposed means of access to and egress from the site; and*
 - (ii) *arrangements for the loading, unloading, manoeuvring and parking of vehicles;*
- (t) *the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;*
- (u) *the availability and adequacy for the development of the following —*
 - (i) *public transport services;*
 - (ii) *public utility services;*
 - (iii) *storage, management and collection of waste;*
 - (iv) *access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);*
 - (v) *access by older people and people with disability;*
- (v) *the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses;*
- (w) *the history of the site where the development is to be located;*
- (x) *the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;*
- (y) *any submissions received on the application;*
- (za) *the comments or submissions received from any authority consulted under clause 66;*
- (zb) *any other planning consideration the local government considers appropriate.*

Risk management considerations

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

It is noted that the application statutory timeframe has been exceeded and the applicant may consider the application to be deemed refused at any point up to Council Determination and therefore the applicant may appeal this deemed refusal in accordance with the *State Administrative Tribunal Act 2004*.

Financial / budget implications

The applicant has paid fees of \$885 (excluding GST) in accordance with the Schedule of Fees and Charges, for assessment of the retrospective application.

Regional significance

Not applicable.

Sustainability implications

There are not considered to be sustainability implications as a result of the additional seating.

Consultation

The proposal was advertised for a period of 14 days concluding on 21 February 2018 to 10 potentially affected property owners and occupiers by direct mail.

The City received 56 submissions at the conclusion of consultation, including 54 letters of support, one objection and one letter which did not state a position. Details of the submissions, along with the City's response are contained in the details section of the report.

COMMENT

As outlined above, it is considered that the impact of the additional restaurant seating is not appropriate and does not meet the objectives of the City's *District Planning Scheme No. 2* as they relate to the amenity of the locality as it is considered that the reduced onsite car parking provision will lead to unsafe and unsightly offsite car parking.

The application is therefore recommended for refusal.

VOTING REQUIREMENTS

Simple Majority.

RECOMMENDATION

That Council REFUSES under clause 68(2) of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* the application for development approval, dated 26 October 2017 submitted by D Mrdja, for Change of use (retrospective – outdoor restaurant seating) at Lot 702 (24/34) Marri Road, Duncraig, for the following reasons:

- 1 In accordance with clause 67(a) and (s) of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* the development does not provide the number of car parking bays required by Table 2 of the City's *District Planning Scheme No. 2* and the amount of parking proposed is considered inadequate for the scale of the development;
- 2 In accordance with clause 67(m) of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, the development is incompatible with other land in the locality and adjoining properties as the insufficient provision of car parking is considered to result in an undue negative impact to the amenity of the immediate locality and adjoining properties;
- 3 The development does not meet objective (e) of the *City of Joondalup District Planning Scheme No. 2*, as the development is considered to result in a detrimental impact to the amenity of the immediate locality due to the insufficient provision of onsite car parking.

Appendix 3 refers

To access this attachment on electronic document, click here: [Attach3brf180612.pdf](#)

ITEM 4 PROPOSED CHILD CARE CENTRE DEVELOPMENT AT LOT 703 (50) MARRI ROAD, DUNCRAIG

WARD	South		
RESPONSIBLE DIRECTOR	Ms Dale Page Planning and Community Development		
FILE NUMBER	107062, 101515		
ATTACHMENT	Attachment 1	Location plan	
	Attachment 2	Development plans	
	Attachment 3	Building perspectives	
	Attachment 4	Landscaping concept plan	
	Attachment 5	Traffic statement	
	Attachment 6	Environmental noise assessment	
	Attachment 7	Arborist report	
	Attachment 8	Environmentally	sustainable design checklist
AUTHORITY / DISCRETION	Administrative - Council administers legislation and applies the legislative regime to factual situations and circumstances that affect the rights of people. Examples include town planning applications, building licences and other decisions that may be appealable to the State Administrative Tribunal.		

PURPOSE

For Council to determine an application for a new 'Child Care Centre' development at Lot 703 (50) Marri Road, Duncraig.

EXECUTIVE SUMMARY

An application for development approval was received on 6 December 2017 for a new 'Child Care Centre' development at Lot 703 (50) Marri Road, Duncraig.

The subject site is zoned 'Commercial' under the City's *District Planning Scheme No. 2* (DPS2). The land use 'Child Care Centre' is a discretionary ("D") use in this zone. The site is currently developed with the Duncraig shopping centre, two free standing buildings and associated car parking. The development is proposed to replace one of the existing free-standing buildings (restaurant) located in the south-eastern corner of the subject site.

The application has been assessed against the non-residential development requirements of DPS2, and the City's relevant local planning policies, including the City's *Child Care Centres Policy*, *Height of Non-Residential Buildings Local Planning Policy* and draft *Commercial, Mixed Use and Service Commercial Zone Local Planning Policy* (draft LPP).

The application was advertised for a period of 21 days by way of letters to surrounding landowners. In addition, a sign was erected on site, and notices were placed in the local newspaper and on the City's website. A total of 34 responses were received, being 33 objections and one letter which was neither an objection or a letter of support.

The application was referred to the City's Joondalup Design Reference Panel (JDRP) on 9 January 2018. The JDRP raised some concerns with the development. Specifically, the JDRP was concerned about the location and design of the entrance and associated pedestrian connections to car parking areas, the bulk and scale of the retaining walls and associated lack of landscaping, the overall appearance of the child care centre building and the lack of retention of the established tree on site. The applicant subsequently made minor modifications to the development in response to the feedback received; however, the applicant has not addressed all the issues raised by the JDRP.

The application is required to be determined by Council due to the following:

- A proposed nil setback of the building (retaining walls) to the Roche Road street boundary in lieu of a minimum of nine metres.
- A proposed 1.1 metre setback of the building (shade sails) to the Roche Road street boundary in lieu of a minimum of nine metres.
- A proposed four metre setback of the building (verandah) and 5.988 metre setback of the building (ground floor) to the Roche Road street boundary in lieu of nine metres.
- A proposed increase in the existing car parking shortfall of eight bays (4.7%) across the site to a shortfall of 20 bays (11.05%).

The extent of the car parking shortfall outlined above is considered inappropriate, and the proposed parking arrangements will not allow visitors to the child care centre to park adjacent to the building. This is considered unsatisfactory given the nature of the use, along with the topography of the site and existing vehicle access arrangements to the shopping centre, which result in difficulty in achieving adequate and safe pedestrian connections between the parking areas and entrance to the building. Additionally, the discretion sought in relation to building setbacks are considered to adversely impact on the streetscape and character of the area.

It is therefore recommended that the application be refused.

BACKGROUND

Suburb/Location	Lot 703 (50) Marri Road, Duncraig.
Applicant	Aveling Homes.
Owner	CCW Childrens Fund Pty Ltd.
Zoning	DPS Commercial.
	MRS Urban.
Site area	15,664m ² .
Structure plan	Not applicable.

Lot 703 (50) Marri Road, Duncraig (subject site) is bound by Marri Road to the north, Duncraig Primary School to the east, Roche Road to the south and Cassinia Road to the west. The subject site currently accommodates the Duncraig Shopping Centre, two free standing buildings and associated car parking. The development is proposed to replace the existing free-standing building (restaurant) located in the south-east corner of the subject site. A location plan is provided as Attachment 1.

The subject site is zoned 'Urban' under the *Metropolitan Region Scheme* (MRS) and 'Commercial' under the City's *District Planning Scheme No. 2* (DPS2). The land use 'Child Care Centre' is a discretionary ("D") use under DPS2 within the Commercial zone, and is subject to the requirements of DPS2, the City's *Child Care Centres Policy* (CCC Policy), *Height of Non-Residential Buildings Local Planning Policy* and draft *Commercial, Mixed Use and Service Commercial Zone Local Planning Policy* (draft LPP).

In 2016, the Joint Development Assessment Panel (JDAP) approved a development application for 22 multiple dwellings, which are to be constructed on the existing car parking area in the south-western corner of the lot, immediately adjacent to Lot 702 (34) Marri Road at the intersection of Roche Road and Cassinia Road. The loss of car bays resulting from this development has been accounted for in parking calculations for the subject proposal.

DETAILS

The proposed development comprises the following:

- Demolition of an existing freestanding building (restaurant) and removal of established tree.
- Construction of a double storey building with access to the existing shopping centre car parking bays via existing vehicle access points from Roche and Marri Road.
- Child care centre with a capacity of 62 children and 13 employees.
- Modifications to the internal car park to replace nine angled car bays immediately to the north of the development site with a disabled car parking space and seven bays (four of which will be allocated to the child care centre for staff and the remaining three allocated to the existing liquor store located opposite).
- Additional pedestrian crossing to link a path next to the shopping centre building with the entry to the child care centre.
- A 322m² ground floor and 113m² first floor outdoor play area.
- Landscaping in the outdoor play area and next to Roche Road in a 0.6 metre wide retaining wall planter box.
- Two new verge trees.

The development plans and landscaping concept plans are provided as Attachments 2 and 3 respectively.

Land use

The land use 'Child Care Centre' is a discretionary ("D") use under DPS2 in the Commercial zone. Under clause 3.7 of DPS2, the Commercial zone aims to provide for a wide range of uses within existing commercial areas not covered by a Structure Plan, including retail, entertainment, professional offices, business services and residential.

The City's *Child Care Centres Policy* sets out further locational requirements. It states that, where possible, it is preferred to locate child care centres next to non-residential uses such as shopping centres, medical centres/consulting rooms, school sites and community purpose buildings to minimise the impact such centres will have on the amenity of residential area.

While the development is proposed to be located on a shopping centre site, the policy states that new child care centres should be located on local distributor roads due to the fact that child care centres are reasonably high traffic-generators and that existing vehicle access points should be utilised instead of proposing new or additional access points. The proposed development is located in an existing commercial centre with access from either Marri Road or Roche Road. While Marri Road is classed as a Local Distributor Road by Main Roads Western Australia, the development fronts Roche Road which is classified as a Local Access Road.

When considered in isolation, the 'Child Care Centre' land use is considered to be appropriate within the Commercial zone.

Building setbacks

The *Child Care Centres Policy* requires child care centre building setbacks to be in accordance with the requirements of DPS2, which specifies a nine metre building setback to the street boundary. The definition of 'building' in DPS2 is broad and includes other structures such as the proposed verandah, shade sails and retaining walls in addition the walls of the building itself.

The child care centre building is proposed to have a minimum setback of six metres to the Roche Road street boundary, with a verandah setback of four metres, a shade sail structure setback of 1.1 metres and retaining walls with a nil setback to the Roche Road street boundary.

An existing curved retaining wall ranging in height from approximately 2.2 metres to 2.9 metres and set back a minimum of 1.6 metres to the Roche Road street boundary is proposed to be kept; however, will be buried by the new ground level proposed. A new terraced limestone retaining wall along the street boundary in front of the existing retaining wall is proposed to have a maximum wall height of between approximately 2.5 metres and 3.4 metres above natural ground level, as viewed from Roche Road. However, a proposed solid rendered brick fence on top of the proposed retaining wall will increase the solid wall height to between 3.4 metres and 4.4 metres, with the top of the rendered brick piers and visually permeable infill panels ranging between approximately 4.6 metres and 5.6 metres above natural ground level. The wall is stepped back slightly with the inclusion of a planting area 0.6 metres wide. This reduces the overall impact of the retaining wall slightly; however, there is little room between the tiers for any significant landscaping capable of screening the wall or adequately softening its impact.

Other than building setback requirements, there are no specific development provisions in DPS2 or the City's *Child Care Centres Policy* relevant to retaining walls. However, the draft *Commercial, Mixed Use and Service Commercial Zone Local Planning Policy* requires retaining walls visible from a street or car park greater than one metre in height to be tiered so that no tier is greater than one metre in height and that a landscaping area of no less than one metre in width be provided between tiers. In this instance, the lower tier varies between approximately 1.3 metres and 1.65 metres high and the upper tier varies between approximately 1.3 metres and 1.8 metres as viewed from Roche Road (with fencing above). The two tiers of the wall are separated by a landscaped strip; however, taking into account the width of the limestone blocks, the submitted plans show a width of only around 0.6 metres available for landscaping. The width of the area available for landscaping is considered inadequate to allow for appropriate scale of planting that would mitigate the impact of the proposed retaining wall.

The existing Roche Road streetscape immediately to the north-west and south-east of the development site is characterised by wide landscaped setback areas on both the shopping centre site and the adjoining primary school site. The existing retaining wall to the restaurant building - while somewhat out of context with the character of the streetscape to the north-west and south-east - has a relatively minimal impact, given it is curved, not excessively high and is landscaped in front of the wall. Additionally, the building above the wall is set well back and the existing mature tree softens the overall impact.

The proposed development does not adequately respect the existing streetscape character or topography of the site as the proposed nil setback to the retaining wall and the height of the retaining wall and associated fence on top, results in excessive bulk and scale and inadequate landscaping to soften the impact of the wall between wall tiers or within the outdoor play area. The setback of the shade sails and building itself, while less imposing than the wall, are likely to exacerbate the impact of the reduced setback and overall scale of the retaining walls. The setbacks of the development to the street are therefore considered inappropriate, given the adverse overall impact they will have on the streetscape.

Parking and Traffic

The car parking requirement for the proposed 'Child Care Centre' development is 21 bays as set out under DPS2 and the *Child Care Centres Policy*. This is based on the requirement to provide eight spaces in association with 57-64 children in addition to one bay per staff member.

The proposal increases the existing car parking shortfall from eight bays to 20 bays. A detailed car parking assessment for the application is included below.

Land Use & Car Parking Standard	Car Parking Requirement - Current	Car Parking Requirement - Proposed
Shop - 5 bays per 100m ² NLA	3,364m ² NLA = 168.2 bays	Existing 199.9m ² restaurant NLA removed 3164.1m ² NLA = 158.2 bays
Child Care Centre - 8 bays based on 57-64 children on site - 1 bay per staff member	N/A	8 + 13 =21 bays
Car parking required	168.2 bays (169 bays)	179.2 bays (180 bays)
Car parking provided	161 bays	160 bays
Resultant parking shortfall	8 bays	20 bays

The City's most recent approval for modifications to the 'Nourish and Feed' kiosk and drive-through results in two additional bays on site resulting in a total of 161 bays on Lot 703. Due to the proposed re-configuration of car parking bays directly north of the proposed child care centre building to incorporate a disabled car parking bay; there is a reduction of one car bay resulting in a total of 160 bays to remain at the shopping centre site.

The above calculations take into consideration the loss of 62 car parking bays in association with the multiple dwelling development application approved to the south-west corner of the site in 2016. It is also noted that until the multiple dwellings are constructed (should this development commence), a 42.8 (43) car parking bay surplus will remain for the site.

The *Child Care Centres Policy* requires regard to be given to the need to minimise disruption of existing traffic safety measures and traffic flows close to proposed child care centres, the potential for substantial traffic increases, particularly on residential streets, and the provision of safe access to proposed on-site car parking areas. The policy also states that car parking is to be located on site in an arrangement that enables a free flow of traffic movement internal and external to the site and that the incorporation of a designated 'pick-up' and 'drop-off' area is recommended to reduce congestion and improve safety for patrons and prevent traffic build up.

There is to be no designated pick-up and drop-off area proposed close to the entrance to the development, and it is proposed by the applicant that all visitors and some of the staff associated with the child care centre will park in the main shopping centre car park. Only four (staff) bays and the disabled bay immediately next to the proposed development will be available for use in direct association with the development.

It is considered that the intended parking arrangement proposed by the applicant is inconsistent with the requirements of the City's policy in that the absence of designated visitor bays next to the development will increase the potential for pedestrian/vehicle conflicts and poor pedestrian connections between the car parking areas and the proposed development. These are unable to be easily improved due to the topography of the site and existing carpark configuration.

As stated previously, the development is located on an existing commercial centre with access from either Marri Road or Roche Road. Marri Road is classed as a Local Distributor Road by Main Roads Western Australia but the development will front Roche Road which is classified as a Local Access Road. The traffic statement provided as part of the application indicates that the additional traffic generated by the development can be adequately accommodated within the existing road network (Attachment 5 refers). However, no information has been provided by the applicant regarding the current total number of vehicles per day utilising either Marri or Roche Road. It is therefore difficult to ascertain whether the likely increase in traffic associated with the development is acceptable.

In support of the proposed car parking shortfall and allocation of car parking bays, the traffic statement provides the following conclusions and recommendations:

- The overall planning scheme parking requirement of 180 bays does not take into consideration linked trips or reciprocal parking between the Child Care Centre and the remainder of the site, which would both reduce the overall parking demand. Based on a shared parking analysis conducted on 12 February 2018 by Uloth and Associates there is an overall shared parking requirement for the shopping centre of 156 spaces. Thus, resulting in a five bay surplus across the site.
- With the proposed Child Care Centre co-located within the existing shopping centre car park, it is expected that many pick-up and drop-off trips to the centre will be linked with a trip to the shops. It is therefore not necessary to allocate specific pick-up and drop-off parking spaces for the Child Care Centre.
- The pedestrian crossing and pram ramp have been provided to accommodate the shared parking arrangement.
- Three of the existing bays directly north of the shopping centre should be retained and marked for 'Liquor Store Parking only' and the four remaining bays (excluding the disabled parking space) allocated for 'Child Care Centre Staff only'. Signage will be used to direct parents picking-up or dropping-off children to park within the main car park.
- If pick-up and drop-off is permitted within the four spaces in lieu of staff parking, should all four spaces be occupied, then vehicles will be forced to either stop and queue in the one-way parking aisle or circulate around the development and back out onto the street and re-enter the car park to search for available parking.

Notwithstanding the comments provided by the traffic consultant, the proposed development is not considered to provide for appropriate or acceptable access between on-site car parking areas and the proposed development. The development is within an existing and constrained lot that due to topography and existing development is incapable (without major reconstruction of the Roche Road access and southeast portion of the shopping centre carpark) of accommodating acceptable pedestrian access between the car parking areas and the development in accordance with Australian Standards.

The issues described above and the separation of the parking areas from the development by an access road with a steep descent down to Roche Road results in an unsafe environment which remains unaddressed in relation to the proposed development.

Noise

As required by the *Child Care Centres Policy*, an acoustic assessment submitted with the application demonstrates that the development will meet the requirements of the *Environmental Protection (Noise) Regulations 1997*.

The acoustic assessment contains recommendations to ensure the noise impact on the adjoining properties is minimised. The report recommendations are as follows:

- The behaviour and 'style of play' of children should be monitored to prevent particularly loud activity such as loud banging / crashing of objects, 'group' shouts / yelling.
- Crying children should be taken inside to be comforted.
- No amplified music should be played outside.

The acoustic assessment is provided as Attachment 6.

Should the child care centre operate in accordance with the above-mentioned recommendations, the City is satisfied that the development would meet the requirements of the *Environmental Protection (Noise) Regulations 1997*.

Landscaping

The *Child Care Centres Policy* requires landscaping to be in accordance with the requirements of DPS2 and verge areas adjacent to the child care centre to be suitably landscaped to discourage patrons from parking on the verge. The proposed amount of soft landscaping across the site is 12.31%, exceeding the 8% requirement under DPS2.

Outdoor play areas and the terraces associated with the retaining wall along the Roche Road street boundary are to be landscaped as per the concept plan provided as Attachment 4.

An existing London Plane tree located in the south west corner of the subject site is proposed to be removed. A summary of the considerations contained within the Arborist report (Attachment 7 refers) is provided below:

- At 12 to 15 metres tall the tree is half its potential mature size.
- The tree protection zone (TPZ) for this tree is 5.04 metres and the structural root zone (SRZ) is 2.15 metres.
- The tree has no faults and is structurally sound. If retained, site growing improvements would ensure the tree remains healthy.
- The existing retaining wall may not be able to accommodate future root development and is already fractured.

The report comments that the tree cannot remain if the current design is approved. To retain the tree, the design of the child care centre building would need to be amended to meet the following requirements:

- The limit of approach to the tree as it currently presents should be 5.04 metres from the centre of the main stem at ground level. This should include the area below and above ground.
- The pavers beneath the tree should be removed and either replaced with mulch or permeable paving.
- The soil level within the Tree Protection Zone (TPZ) area should not be raised or lowered.
- A structural engineer would need to assess the stability of the current retaining wall.

In relation to the removal of the established London Plane tree, the applicant has stated the following:

- An assessment has been undertaken for the existing mature tree on the subject land and the possibility of retaining the tree as part of the development. The assessment supports our claim that the existing tree cannot be retained in regard to the current design layout of the child care centre. Two replacement trees within the outdoor activity area of the centre and two trees within the Roche Road verge area abutting the proposed child care centre are proposed in lieu of the removal of the established tree.

While it is acknowledged that the existing plane tree makes an environmental and aesthetic contribution to the Roche Road streetscape, it is not afforded any special protection and is located on private property. Retention has been encouraged, but cannot be enforced through any specific legislation, and the proposed development does not allow for its retention. Therefore the City is required to assess the suitability of the proposed development and landscaping rather than removal of the tree, however it is noted that retention of the tree may have a positive result on improving the amenity impact of the development.

In relation to the proposed landscaping concept plan, all species are considered appropriate for the climate/soil type. Specifically, the four proposed peppermint trees would be considered appropriate as the species has been proven very reliable as a street tree as it is easy to grow and will tolerate a wide variety of soils and is both pollution and drought tolerant. The trees usually grow to less than 10 metres in height. Of concern to the City, however is the inadequacy of the proposed landscaping between retaining wall tiers. As outlined previously, the two tiers of the wall are separated by a landscaped strip, however taking into account the width of the limestone blocks the submitted plans provide a width of approximately 0.6 metres available for landscaping. This is insufficient to allow adequate screening of the retaining wall to soften its impact, and the proposed species indicated on the landscaping plan do not achieve adequate screening to soften the impact of the wall.

Joondalup Design Reference Panel

The development was reviewed by the JDRP at its meeting held on 9 January 2018. The feedback from the panel, applicant and the City's response is summarised in the table below.

JDRP Comment	Applicant Response	City Response
<p>The Panel stated that the proposed retaining wall could be articulated more as it currently looks bland, especially around the corners adjacent to the car park access roads. The Panel also questioned vehicle sightlines and raised concerns regarding the impact of the wall from a pedestrian perspective in terms of bulk and scale. The incorporation of a circular planter at each corner was suggested.</p>	<p>The retaining wall along the land's Roche Road frontage has been reduced in height by stepping down the outdoor activity area from the finished floor level of the building. Furthermore, additional landscaping has been provided within the tiered level and along the top of the retaining wall. It is contended that the amended plans result in the overall impact of the retaining wall on the local streetscape being softened.</p> <p>In addition to the above, the retaining wall truncations at the intersection of the driveways and the Roche Road road reserve have increased to be two metres x two metres to provide improved vehicle sightlines.</p>	<p>While it is acknowledged that modifications have been made to the retaining wall along the Roche Road frontage and vehicle truncations increased; the issues surrounding the bulk and scale of the development are considered unresolved.</p>

JDRP Comment	Applicant Response	City Response
<p>The panel commented on the lack of landscaping in the play area and commented that substantial planting and shading is needed in this area. It was also queried as to why the established tree which appears to be of a significant size, has been removed and not incorporated into the design of the outdoor play area. The panel queried as to whether an arborist had been engaged in the preliminary design process.</p>	<p>The amended plans include the provision of shade structures within the outdoor activity area. Furthermore, the outdoor activity area will include the planting of trees to provide additional shaded areas to benefit the future use of the area by children</p> <p>An assessment has been undertaken for the existing mature tree on the subject land and the possibility of retaining the tree as part of the development. The assessment supports our claim that the existing tree cannot be retained with the current design layout of the child care centre.</p> <p>Given the above, the application proposes to remove the tree and the provision of two replacement trees within the outdoor activity area of the centre and the provision of two trees within the Roche Road verge area abutting the proposed child care centre.</p>	<p>While the environmental and aesthetic contribution that the established tree makes to the established streetscape, trees that are on private property are not controlled by the City and therefore maintenance, including removal or retention, is at the discretion of the landowner.</p> <p>The City has not been presented with alternative design options whereby the tree is able to be retained.</p>
<p>The panel expressed concerns in relation to the parking arrangements and considered it necessary that the bays at the front of the centre be designated for drop off/pick up between certain times in the morning and afternoon.</p> <p>Additionally, it was suggested that safe access from the shopping centre to the child care centre be provided given the intention for parents to use the shopping centre car parking bays to the north west of the development site.</p>	<p>A revised car park layout has been submitted restricting the use of the parking bays immediately north of the site to staff parking (four bays) and 15-minute liquor store parking (three bays), to remove circulating traffic from this area of the car park. This also removes the need to provide a footpath along the northern edge of the proposed child care centre, since it will only be staff accessing the child care centre from these bays.</p>	<p>Four of the eight car bays to the north of the development are to be allocated to staff associated with the child care centre development and not for parent pick up/drop off.</p> <p>Despite the inclusion of a pedestrian crossing between the shopping centre and the pathway to the entrance of the centre; broader issues surrounding the lack of pedestrian connections from the main shopping centre car park to the child care centre remain outstanding.</p>

JDRP Comment	Applicant Response	City Response
Further to this, it was recommended that a continuous pathway be provided along the northern façade to allow for parents to safely set down children/park prams at pick up/drop off times. Shade or shelter should also be added for weather protection.	Also included is the reconfiguration of the disabled bay to facilitate a safer pedestrian crossing from the shopping centre, the provision of a marked pedestrian pathway within the car parking area to assist movement and a pedestrian respite area on the eastern side of the car parking bays adjacent the centre.	Shade sail structures have been added to the development plans within the ground floor outdoor play areas.
The panel noted that many users of child care centres tend to arrive by foot and will require an internal parking area for prams.	The internal foyer for the centre is sufficient to accommodate patrons, including parents with prams.	The foyer area is a reasonable size so as to be able to provide for pram storage/parking.
<p>The panel expressed concerns with the northern elevation of the development and front door. It was commented that the design provides for little sense of arrival and is disjointed. It was commented that the design of the entrance and northern building façade should be reviewed in order to present a more attractive and inviting frontage.</p> <p>It was also noted that the location and visibility of the air conditioning units is undesirable.</p>	<p>The entry comprises a porch area that provides shelter from the elements and a waiting point for patrons. Modifications have been made to the entry to be more distinguished, defined and to provide more activation to the existing shopping centre. There is use of various materials and colours along the building façade. In addition, the façade has been articulated to provide visual interest when viewed from Roche Road.</p> <p>Air-conditioning units are to remain along the northern façade of the building and screened through by metal slat panels.</p>	<p>Modifications have been made to the northern façade of the development to increase the amount of glazing and contrasting feature render colours added to brick work/retaining walls surrounding the entrance visually guide patrons to the front door.</p> <p>Despite being screened, the location of the air-conditioning units is considered undesirable directly adjacent to the pedestrian path.</p>
<p>The panel queried the two highlight windows located near the top of the stairs and suggested that these be full length as it would allow for more natural light and mutual surveillance opportunities.</p> <p>It was also suggested that the nappy change room and prep room have windows fitted to allow for more natural light into the building.</p>	Provisions of additional glazing within the front façade of the centre, including a number of major openings to assist with improved passive surveillance. The glazing now equates to 21.09% of the façade, which is considered to be sufficient given the proposed use is a child care centre in lieu of a traditional commercial development (such as retail or office).	Additional windows have been added to the foyer, office/reception and accessible bathroom on the ground floor. On the upper floor, glazing associated with the staff room and stair case has been modified to be allow for more natural light and windows have been added to the prep, nappy and cot rooms.

As outlined above, the applicant has not addressed all of the issues raised by the JDRP, particularly the concerns surrounding the bulk and scale of the fencing/retaining walls adjacent to Roche Road, pedestrian connectivity and the allocation of car bays to allow for parent pick up/ drop off at the front of the child care centre.

Issues and options considered

Council is required to consider whether the proposed setbacks to the Roche Road boundary and the amount and configuration of on-site car parking is appropriate or not.

Council has the discretion to:

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

Legislation / Strategic Community Plan / policy implications

Legislation *City of Joondalup District Planning Scheme No. 2. Planning and Development (Local Planning Scheme) Regulations 2015 (the Regulations).*

Strategic Community Plan

Key theme Quality Urban Environment.

Objective Quality built outcomes.

Strategic initiative Buildings and landscaping is suitable for the immediate environment and reflect community values.

Policy *Child Care Centres Policy.
Environmentally Sustainable Design Policy.
Height of Non-Residential Buildings Local Planning Policy
Draft Commercial, Mixed Use and Service Commercial Zone
Local Planning Policy.*

City of Joondalup District Planning Scheme No. 2 (DPS2)

Clause 3.7 of DPS2 sets out the objectives for development within the 'Commercial' zone:

3.7 THE COMMERCIAL ZONE

3.7.1 *The Commercial zone is intended to accommodate existing or proposed shopping and business centres where it is impractical to provide a Structure Plan in accordance with Part 5 of the deemed provisions.*

The objectives of the Commercial zone are to:

- (a) *make provision for existing or proposed retail and commercial areas that are not covered by a Structure Plan;*
- (b) *provide for a wide range of uses within existing commercial areas, including retailing, entertainment, professional offices, business services and residential.*

- 3.7.2 *Notwithstanding clause 3.7.1, subject to clause 43 of the deemed provisions, any major development on land in the Commercial zone which is wholly or partly within one of the following activity centres shall not be approved unless an activity centre plan has been prepared and adopted in accordance with the requirements of State Planning Policy 4.2 – Activity Centres for Perth and Peel and Part 5 of the deemed provisions:*

Clause 4.5 of DPS2 gives Council discretion to consider the variations sought to the standards and requirements.

4.5 VARIATIONS TO SITE AND DEVELOPMENT STANDARDS AND REQUIREMENTS.

- 4.5.1 *Except for development in respect of which the Residential Design 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.*

Planning and Development (Local Planning Schemes) Regulations 2015 (the Regulations).

Clause 67 of Schedule 2 of the Regulations sets out the matters to be considered by Council when determining an application for development approval.

In considering an application for development approval the local government is to have due regard to the following matters to the extent that, in the opinion of the local government, those matters are relevant to the development the subject of the application:

- (a) *the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;*
- (b) *the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the Planning and Development (Local Planning Schemes) Regulations 2015 or. any other proposed planning instrument that the local government is seriously considering adopting or approving;*

- (c) *any approved State planning policy;*
- (d) *any environmental protection policy approved under the Environmental Protection Act 1986 section 31(d);*
- (e) *any policy of the Commission;*
- (f) *any policy of the State;*
- (g) *any local planning policy for the Scheme area;*
- (h) *any structure plan, activity centre plan or local development plan that relates to the development;*
- (i) *any report of the review of the local planning scheme that has been published under the Planning and Development (Local Planning Schemes) Regulations 2015;*
- (j) *in the case of land reserved under this Scheme, the objectives for the reserve and the additional and permitted uses identified in this Scheme for the reserve;*
- (k) *the built heritage conservation of any place that is of cultural significance;*
- (l) *the effect of the proposal on the cultural heritage significance of the area in which the development is located;*
- (m) *the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;*
- (n) *the amenity of the locality including the following:*
 - (i) *environmental impacts of the development;*
 - (ii) *the character of the locality;*
 - (iii) *social impacts of the development;*
- (o) *the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource;*
- (p) *whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;*
- (q) *the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk;*
- (r) *the suitability of the land for the development taking into account the possible risk to human health or safety;*
- (s) *the adequacy of:*
 - (i) *the proposed means of access to and egress from the site; and*
 - (ii) *arrangements for the loading, unloading, maneuvering and parking of vehicles;*

- (t) *the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;*
- (u) *the availability and adequacy for the development of the following:*
 - (i) *public transport services;*
 - (ii) *public utility services;*
 - (iii) *storage, management and collection of waste;*
 - (iv) *access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);*
 - (v) *access by older people and people with disability;*
- (v) *the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses;*
- (w) *the history of the site where the development is to be located;*
- (x) *the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;*
- (y) *any submissions received on the application;*
- (za) *the comments or submissions received from any authority consulted under clause 66;*
- (zb) *any other planning consideration the local government considers appropriate*

Child Care Centres Policy

The *Child Care Centres Policy* provides assessment criteria for 'Child Care Centre' developments.

The objective of the policy is:

To provide guidelines for the location, siting and design of child care centres.

The statement within the policy also sets out:

In considering applications for child care centres, Council shall take into consideration a variety of criteria that aim to ensure that such developments are compatible with, and avoid adverse impacts on, the amenity of adjoining and surrounding areas.

Height of Non-Residential Buildings Local Planning Policy

The *Height of Non-Residential Buildings Local Planning Policy* sets provisions for the height of non-residential buildings in the City of Joondalup.

The objective of this policy is:

To ensure that the height of non-residential buildings is appropriate to the context of any development site and sympathetic to the desired character, built form and amenity of the surrounding area.

Environmentally Sustainable Design Policy

The *Environmentally Sustainable Design Policy* encourages the integration of environmentally sustainable design principles into the construction of all new developments.

The objective of this policy is:

To encourage the integration of environmentally sustainable design principles into the siting, design and construction of both new and redeveloped residential, commercial and mixed-use buildings (excluding single and grouped dwellings, internal fit outs and minor extensions) in the City of Joondalup. Environmentally sustainable design considers the environmental impact of a building for the entire life of the asset.

The applicant has completed the Environmentally Sustainable Design checklist. A copy of the checklist is provided as Attachment 8.

Risk management considerations

The proponent has the right of review against Council's decision, including any conditions included therein, 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 \$3,342.29 (excluding GST) in accordance with the City's Schedule of Fees and Charges for the assessment of the application.

Regional significance

Not applicable.

Sustainability implications

The applicant has completed the City's Environmentally Sustainable Design Checklist to the extent that it is applicable to the development.

The applicant has advised that the development has been designed to include:

- retention of existing vegetation within the verge (lawn)
- a northerly orientation of daytime living / working areas with large windows, and minimal windows to the east and west
- passive shading of glass, sufficient thermal mass in building materials for storing heat and insulation and draught sealing
- floor zone based water and heating needs and the supply of hot water
- low energy technologies, natural and/or fan forced ventilation and water efficient technologies.

The completed checklist is provided as Attachment 8.

Consultation

The application was advertised for a period of 21 days, commencing on 8 March 2018 and concluding on 29 March 2018. Consultation was undertaken in the following manner:

- A letter outlining the nature of the proposal was sent to 118 land owners and / or occupiers that are adjacent to, or in close proximity to the subject site inclusive of the Duncraig Primary School and the established three storey mixed use development at 34 Marri Road, Duncraig.
- A sign was placed on Roche Road.
- A notice was placed in the 'Joondalup Weekender' on 8 March 2018.
- Notice placed on the City's website.

A total of 34 responses were received, being 33 objections to the development and 1 response which was neither an objection or a letter of support. Three responses were received after the consultation period closed.

Concerns raised in the submissions included:

- negative impact on the Roche Road streetscape
- inadequacy of parking and exacerbation of existing verge parking issues following construction of the apartment building
- added congestion within the existing shopping centre car park and surrounding streets
- Impacts on the existing delivery truck loading area and associated safety concerns
- lack of pedestrian connections within the car park and associated safety concerns
- impact of the proposed retaining walls on vehicle and pedestrian safety
- noise in association with open style fencing surrounding the outdoor play areas
- removal of a significant tree
- concerns with regards to the immediately surrounding land use mix.

The City's response to the concerns raised are summarised below:

- *Negative impact on the Roche Road streetscape.*

Applicant response:

The proposed child care centre building will comprise sufficient setbacks from the Roche Road frontage with a minimum setback of 5.988 metres. Other than the minor intrusion into the setback area, the majority of the building complies with the front setback requirements prescribed in DPS2. The site currently comprises a commercial building in a similar location, along with a retaining wall along the land's Roche Road frontage.

The proposed building has been designed to provide a residential character in lieu of being of a commercial building in appearance. Given this fact, the design is more in keeping with the residential character along Roche Road.

The proposed development will have minimal impact in terms of visual privacy for the existing residential dwellings on the south-western side of Roche Road. The nearest dwelling is approximately 30 metres away from the edge of the play area of the child care centre, which is adequate separation.

The proposed development has been designed to include landscaping along the land's Roche Road frontage along with the inclusion of the planting of mature trees to soften the overall impact on the development when viewed from the street.

In addition to the above point, the proposed development will provide improved passive surveillance over Roche Road.

City response:

As outlined in the Details section of this report, the overall impact of the reduced setback of the building and nil setback for the retaining walls to the Roche Road boundary (along with their height) is not considered to be appropriate. The development is not considered to respond positively to the surrounding natural and built environment and is considered to result in a negative impact on the surrounding existing residential development and streetscape.

- *Adequacy of parking and exacerbation of existing verge parking issues following construction of the apartment building.*

Applicant response:

A car parking assessment has been carried out by Uloth and Associates, confirming that the overall peak parking demands will be accommodated on site, including the approved apartment development and the proposed modifications to Nourish and Feed.

The parking study includes a comprehensive survey of existing parking usage at the overall centre between 8.00am and 6.00pm on Thursday 8 February 2018, which identifies the total number of vehicles parking within the overall site (including any school parents using the car park as a pick-up or drop-off area), confirming that there is currently more than enough parking to satisfy the existing peak demands.

The analysis of future parking demands then confirms that the peak parking demand for the child care centre can also be accommodated within the site.

The existing centre has a parking management plan that instructs staff to park in the south-west car park area, where staff vehicles are authorised to park in excess of the four hour general limit. When the apartments are constructed the centre will have to update this parking management plan to identify alternative locations for staff to park, and to also reassess the number of parking bays provided for staff parking. Staff parking for the child care centre will also be taken into account in this revised parking management plan.

City response:

As outlined in the Details section of this report, there is considered to be an insufficient amount of car parking available on site in order to accommodate for the proposed Child Care Centre development. The lack of available patron parking immediately adjacent to the proposed child care centre and poor pedestrian connectivity between the main shopping centre car parking area and the proposed development may discourage patrons from parking in designated parking areas.

Any illegal verge parking is managed by the City on a case-by-case basis under the *Local Government Act 1995* and the *City of Joondalup Parking Local Law 2013*.

- *Added congestion within the existing shopping centre car park and surrounding streets.*

Applicant response:

The overall site has four access driveways to the main car park plus two additional driveways for the service areas along the eastern boundary, which is more than sufficient to accommodate traffic flows for each of the currently proposed modifications and additions.

City response:

As outlined in the Details section of this report, the proposed child care development is considered to result in additional internal car park congestion given the absence of a dedicated child care centre 'pick-up' and 'drop-off' zone and the lack of allocated car parking bays directly adjacent to the front door of the development will result in added congestion and confusion for patrons rather than prevent traffic build up.

- *Impacts on the existing delivery truck loading area and associated safety concerns.*

The proposed child care centre has no impact on the existing (approved) servicing arrangement for the overall development. Any deliveries, etc, for the child care centre itself will be able to make use of the existing loading bay adjacent to the liquor store.

City response:

There are no proposed modifications to the existing loading bay arrangement next to the bottle store and north of the proposed child care centre. All proposed new line marking associated with the child care centre intended for staff car parking (inclusive of the disabled bay) appears to be adequate with regards to relevant Australian Standards. The proposed bays to be used by liquor store patrons are considered unacceptable and will need to be amended (widened) to reflect requirements associated with short-term, high frequency parking (user class 3A as per AS2890.1:2004).

- *Lack of pedestrian connections within the car park and associated safety concerns.*

Applicant response:

By providing the proposed pedestrian link between the child care centre and the shopping centre, pedestrians will be able to access the child care centre via the existing car park. The parking aisles within the main car park are oriented towards the shopping centre, allowing pedestrians to walk within the aisles to access the centre, in accordance with Australian Standard AS 2890.1, with a brick-paved zebra crossing at the main entrance.

City response:

As outlined in the Details section of this report, given the intention for patrons to park in the main shopping centre car park and not directly adjacent to the entrance of the child care centre development, the pedestrian links within the existing car park are not considered to be adequate. While it is acknowledged that a new pedestrian link is to be provided from the shopping centre building to the northern edge/entrance of the development, pedestrian links within the existing car park should also be upgraded to provide for safe pathways within the car parking area.

- *Impact of the proposed retaining walls on vehicle and pedestrian safety.*

Applicant response:

The existing development on the land comprises a retaining wall and signage along the land's Roche Road frontage. The proposed retaining wall has been designed to be tiered to facilitate the inclusion of landscaping to soften the overall appearance of the retaining wall when viewed from the street. The design of the retaining walls includes the required truncations to the retaining wall structure to facilitate visual sightlines to ensure pedestrian safety.

City response:

As outlined in the Details section of the report, despite compliance with relevant Australian Standard the proposed retaining walls are considered to restrict visibility along Roche Road and further exacerbate current vehicle and pedestrian sight line issues.

- *Noise in association with open style fencing surrounding the outdoor play areas.*

Applicant response:

An acoustic report has been prepared in support of the application, which addresses the noise requirements to the satisfaction of the City of Joondalup. In addition, the nearest dwelling is approximately 30 metres away from the edge of the play area of the child care centre, therefore an adequate buffer area has been provided between the proposed centre and nearby residents.

In addition to the above point, the subject land is classified 'Commercial' zone under the City's DPS2. The zoning allows for various uses on the land including bulky good showroom, equipment hire, garden centre, place of worship, service station and a take-away food outlet to name a few. It is contended that a number of these allowable uses would have a greater impact on the local streetscape and adjacent residential properties than the proposed child care centre on the land.

The claim that the centre will disrupt the residential area is unsubstantiated. It is common throughout the Perth metropolitan area that child care centres are located within residential areas to provide a service to the local community.

City response:

As outlined in the Details section of the report, an acoustic report has been prepared in support of the application. The report has been reviewed by relevant City technical officers and the development has been designed so as to comply with the *Environmental Protection Act 1986* and the *Environmental Protection (Noise) Regulations 1997*.

- *Removal of a significant tree.*

Applicant response:

Whilst there is a perception that the existing tree on the land is a community asset, it is in fact on private property and not owned or maintained by the community.

An arboriculture assessment has been undertaken for the existing mature tree on the subject land and the possibility of retaining the tree as part of the development. The assessment supported the applicant's proposal that the existing tree cannot be retained with the current design layout of the child care centre. It should also be noted the current retaining wall, located on the west boundary, is not sufficient to support any future root development and is already fractured which may pose a considerable danger to the public.

The building designer has investigated various design philosophies for the proposed development. Given the level difference and the requirement to provide a relatively flat outdoor play area, the design has resulted in the need to provide some retaining of the land which will impact the retention and health of the existing tree.

The proposal will replace one mature tree with two mature trees to the satisfaction of the City. A landscaping plan will be prepared and lodged with the City as part of any approval issued so that the species and size of trees to be installed will be to the satisfaction of the City.

City response:

As outlined in the Details section of the report, despite the negative impact the removal of the established London Plane tree will have on the Roche Road streetscape, the removal of trees on private property is not controlled by the City. Maintenance, including removal or retention, is at the discretion of the landowner.

The proposed peppermint trees are considered to be appropriate in terms of species selection.

- *Concerns with regards to the immediately surrounding land use mix, specifically adjacent to a bottle shop.*

Applicant response:

Whether it is appropriate to locate a child care centre within the vicinity of a bottle shop is not a valid planning matter and is a commercial decision that needs to be considered by the operators of the centre. It is significant to note that the centre has been designed to locate the play area away from the bottle shop and adequate security will be provided to address any potential concerns that could be raised by patrons to the centre.

There are a number of child care centres throughout the metropolitan area that are located within close proximity to taverns, bottle shops and night clubs. Therefore, the proposed scenario is not uncommon. Furthermore, the child care centre is being located within a shopping centre, abutting a primary school. The centre will provide a vital service to the employees within the centre and parents which have children attending the nearby school.

Under the terms of the City's DPS2, a child care centre is a discretionary use on land classified 'Commercial' zone. Therefore, the City has the discretion to approve the use.

City response:

As outlined in the Details section of the report, the subject site is located within the Commercial zone and the land use 'Child Care Centre' is a discretionary ("D") use under DPS2 and for the reasons outlined, the land use is considered to be acceptable.

COMMENT

The proposed child care centre results in an increased car parking shortfall that does not meet the requirements of DPS2. Additionally, the configuration of the proposed car parking, specifically, the inability for patrons to park adjacent to the child care centre building and the lack of acceptable and safe pedestrian connections between parking areas and the building entrance will increase the potential for vehicle congestion and vehicle pedestrian conflicts. Additionally, the discretions sought in relation to building setbacks are considered to adversely impact on the streetscape and character of the area.

The proposed child care centre development is therefore not considered to be an appropriate built form outcome.

The application is therefore recommended for refusal.

VOTING REQUIREMENTS

Simple Majority.

RECOMMENDATION

That Council **REFUSES** under clause 68(2) of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* the application for development approval, dated 30 November 2017 submitted by Aveling Homes, on behalf of the owners, CCW Children's Fund Pty Ltd, for a proposed Child Care Centre development at Lot 703 (50) Marri Road, Duncraig, for the following reasons:

- 1 In accordance with clause 67(a) of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* the development does not provide the number of car parking bays required by Table 2 of the City's *District Planning Scheme No. 2* and the amount of parking proposed is considered inadequate for the scale of the development;
- 2 In accordance with clause 67(g) of Schedule 2 of the *Planning and Development (Local Planning Scheme) Regulations 2015*, the proposed development does not comply with the provisions of the City's *Child Care Centres Policy* as the proposed development is not considered to provide:
 - 2.1 an appropriate setback from the street boundary;
 - 2.2 sufficient on-site car parking;
 - 2.3 safe and functional access to on-site car parking areas;
- 3 In accordance with clause 67(m) of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, the development is not compatible with its setting and relationship to other development/land within the locality as:
 - 3.1 the height, bulk and scale of retaining walls at a nil setback to the Roche Road street boundary is considered to result in an undue negative impact to the amenity of the Roche Road streetscape and nearby surrounding residential properties;
 - 3.2 the insufficient provision of on-site car parking has the potential to result in an undue negative impact to the amenity of the immediate locality and adjoining properties;
- 4 In accordance with clause 67(s) of Schedule 2 of the *Planning and Development (Local Planning Scheme) Regulations 2015*, the proposed means of vehicle access and parking is not adequate in respect to the following:
 - 4.1 lack of designated 'pick up/drop off' area for patrons as a result of parking for patrons being proposed within the main shopping centre carpark;

- 4.2** there is inadequate pedestrian connectivity between the proposed child care centre and the main shopping centre carpark which could increase the risk of pedestrian/vehicle conflict, particularly given the nature of the land use;
 - 4.3** line markings associated with the liquor store parking bays are inadequate as they do not reflect requirements associated with short-term, high frequency parking (user class 3A as per AS2890.1:2004);
- 5** In accordance with clause 67(zb) of Schedule 2 of the *Planning and Development (Local Planning Scheme) Regulations 2015*, the issues raised by the Joondalup Design Reference Panel on 9 January 2018 have not been adequately addressed by the applicant in terms of the bulk and scale of the fencing / retaining walls adjacent to Roche Road, pedestrian connectivity and the allocation of car bays to allow for parent 'pick-up/drop-off' at the front of the child care centre.

Appendix 4 refers

To access this attachment on electronic document, click here: [Attach4brf180612.pdf](#)

ITEM 5 PROPOSED UNLISTED USE (TELECOMMUNICATIONS INFRASTRUCTURE) AT RESERVE 46877 (19) WINTON ROAD, JOONDALUP (DRAINAGE RESERVE)

WARD	North
RESPONSIBLE DIRECTOR	Ms Dale Page Planning and Community Development
FILE NUMBER	74514, 101515
ATTACHMENTS	Attachment 1 Location plan Attachment 2 Development plans and photomontages Attachment 3 Western Australian Planning Commission <i>State Planning Policy No. 5.2 – Telecommunications Infrastructure</i> Attachment 4 City of Joondalup <i>Installation of Telecommunications Facilities Policy</i> Attachment 5 Environmental Electromagnetic Energy report
AUTHORITY / DISCRETION	Administrative - Council administers legislation and applies the legislative regime to factual situations and circumstances that affect the rights of people. Examples include town planning applications, building licences and other decisions that may be appealable to the State Administrative Tribunal.

PURPOSE

For Council to determine an application for a proposed telecommunication facility at Lot 14609 (19) Winton Road, Joondalup (Drainage Reserve).

EXECUTIVE SUMMARY

An application for development approval has been received for a proposed telecommunication facility and associated ground infrastructure at Lot 14609 (19) Winton Road, Joondalup (Drainage Reserve).

The proposed development has been assessed having due regard to the City's *District Planning Scheme No. 2 (DPS2)*, the Western Australian Planning Commission *State Planning Policy No. 5.2 – Telecommunications Infrastructure (SPP 5.2)* and the City's *Installation of Telecommunications Facilities Policy*. The requirements of *State Planning Policy 3.7 – Planning in Bushfire Prone Areas (SPP 3.7)* are noted, however they do not apply to the proposed development, as the development is considered 'unavoidable development' and is therefore exempt from the requirements of SPP 3.7.

The proposal was advertised for a period of 21 days to surrounding landowners and occupiers within a 400 metre radius of the site in accordance with the City's policy. A total of nine submissions were received, being three submissions stating no objections from ATCO Gas, Landgate, and Main Roads WA. A letter was received from the Minister for Transport; Planning; Lands requesting that Main Roads respond on her behalf. Five objections to the proposal were received, raising concern regarding electromagnetic emissions (EME), visual impact, the necessity of the infrastructure and the potential effect on property values.

Having regard to the nature of the proposed facility and the issues raised by submitters, it is considered that the proposal meets the requirements of DPS2, SPP 5.2 and the City's *Installation of Telecommunications Facilities Policy*.

It is therefore recommended that Council approves the proposed development, subject to conditions.

BACKGROUND

Suburb/Location	Lot 14609 (19) Winton Road, Joondalup (Drainage Reserve).
Applicant	Planning Solutions.
Owner	Crown Land – City of Joondalup Management Order.
Zoning	DPS Public Use Reserve.
	MRS Urban.
Site area	1,949m ² .
Structure plan	Draft <i>Joondalup Activity Centre Plan</i> (JACP).

The subject site is bound by the Mitchell Freeway reserve to the west and south, Winton Road to the north east, the Wanneroo-Joondalup State Emergency Services to the north, and the City of Joondalup Parks Depot to the south east (Attachment 1 refers). Located on site is a drainage sump and an existing outbuilding and car parking associated with the adjacent City of Joondalup Parks Depot.

DETAILS

The development consists of the following:

- A new galvanised monopole telecommunications tower to a maximum height of 31.75 metres.
- Three antennas fixed to the upper part of the tower.
- A ground equipment shelter.
- Fencing to surround the infrastructure.
- Upgrading of the existing access track on site.

The development plans and perspectives are located at Attachment 2.

The proposed works are located on a drainage sump and abut an existing outbuilding. Site access is provided via a crossover to Winton Road and an existing access track on site. Access to and maintenance of the existing drainage sump will not be impacted.

The site is subject to a management order to the City of Joondalup, for the purposes of 'Drainage'. Accordingly, this management order will require modification to enable the leasing of the portion of the site proposed to be used for telecommunication infrastructure, should the application be approved.

The proposed facility is not exempt from the need to obtain planning approval as it is not considered 'low impact' under the Federal Government's *Telecommunications (Low Impact Facilities) Determination 1997*.

City of Joondalup Installation of Telecommunications Facilities Policy

Clauses 67(g) and (y) of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) detail that the Council should have due regard to Local Planning Policies and submissions received in the determination of development applications. Accordingly, the City's *Installation of Telecommunications Facilities Policy* is considered below:

- *The provisions outlined in State Planning Policy 5.2: Telecommunications Infrastructure.*

The City has assessed the proposal against the provisions of *State Planning Policy 5.2: Telecommunications Infrastructure* (SPP 5.2), as outlined in the SPP 5.2 section of this report.

- *Compliance with the Telecommunications Code of Practice 1997.*

The *Telecommunication Code of Practice 1997* was recently repealed and replaced by the *Telecommunication Code of Practice 2018*.

The proposed infrastructure is considered to comply with the code of practice as the subject site has been selected to minimise its impact upon the locality while improving service delivery. Furthermore, it has been demonstrated through the provision of an Environmental EME report that community exposure to electromagnetic energy will comply with the relevant legislation.

- *The topography of the site and surrounding area, the size, height and type of the proposed facility, the location and density of surrounding vegetation, and the general visibility of the proposal from surrounding development.*

The applicant has provided indicative photomontages of the proposed infrastructure as viewed from the surrounding locality (Attachment 2 refers). The location of the subject site, being within a commercial area and well separated from residential uses, is considered to adequately address this requirement. While the infrastructure will be visible due to its height, its visual impact is consistent with the presence of other vertical elements such as other telecommunication facilities and light poles in the immediate area.

- *The merits of the particular proposal, including the need for services to be located to optimise coverage.*

In selecting the site, Optus identified a lack of adequate mobile network coverage in the immediate area of the subject site, "*occasioned by substantial increased demand for wireless data download coverage and capacity by users of tablets and smartphones*".

- *Submissions received in response to public consultation, noting that submissions on health or safety grounds cannot be considered.*

The submissions received are discussed in the consultation section of this report.

Draft Joondalup Activity Centre Plan

The proposed development is not a land use listed in DPS2, however the land use 'Telecommunications Infrastructure' is intended to become a discretionary ("D") land use through the use class table prepared for the *Joondalup Activity Centre Plan* (JACP). The JACP was recently approved by the Western Australian Planning Commission, however the JACP will not become operational until draft *Local Planning Scheme No. 3* (LPS3) is gazetted. The subject site is located within the 'Joondalup West' precinct of the draft JACP. The land use is considered appropriate to be located within the 'Joondalup West' precinct, being co-located with other commercial and light industrial land uses.

In relation to the height of the infrastructure, the maximum building height permitted within the 'Joondalup West' precinct is 13.5 metres. While the proposed structure exceeds this height, it is considered appropriate due to the proximity of the subject site to the Mitchell Freeway as well as being consistent with surrounding industrial and commercial land uses.

As shown in the photomontages submitted by the applicant, when viewed from surrounding residential areas, the appearance of the infrastructure will not be obtrusive and will be consistent with other vertical structures in the locality.

State Planning Policy No. 5.2 – Telecommunications Infrastructure

Clause 67(c) of the Regulations details that the Council should have due regard to State planning policies in the determination of development applications. Accordingly, *State Planning Policy No. 5.2 – Telecommunications Infrastructure* is considered below and outlines matters for consideration in determining development applications for telecommunication infrastructure:

Clause 6.3(a), of SPP 5.2, recommends that consideration should be given to the extent to which the proposal adheres to the policy measures, outlined in Clause 5, relating the visual impact of above ground infrastructure:

Clause 5.1.1 ii) Telecommunications infrastructure should be designed to minimise visual impact and whenever possible:

- (a) *Be located where it will not be prominently visible from significant viewing locations such as scenic routes, lookouts and recreation sites.*

Huntingdale Park is located 220 metres from the subject site (across the Mitchell Freeway) and the existing, mature trees to the eastern side of the park will provide sufficient screening to the tower. Accordingly, the proposed development will not be readily visible from any of the listed locations.

- (b) *Be located to avoid detracting from a significant view of a heritage item or place, a landmark, a streetscape, vista or a panorama, whether viewed from public or private land.*

The proposed telecommunications tower will be visible from the Winton Road streetscape. This streetscape in the immediate vicinity of the subject site is currently characterised generally by warehouses, industrial sheds and buildings to support light industrial activities and therefore it is considered that the proposed tower will not detract from the existing streetscape.

- (c) *Not be located on sites where environmental or cultural heritage, social and visual landscape values may be compromised.*

The works are proposed to an existing drainage sump which is not considered to exhibit significant environmental, cultural, social or visual landscape value.

- (d) *Display design features, including scale, materials, external colours and finishes that are sympathetic to the surrounding landscape.*

The proposed galvanised finish of the tower is intended to be unobtrusive, thereby sympathetic to the surrounding landscape. The panel antennas are to be close-mounted and shrouded to reduce the profile and visual impact of the tower. The use of bamboo screened security fencing for the compound will ensure that ground infrastructure is not readily visible.

As outlined above, the proposed location of the telecommunication tower is considered to be consistent with the provisions of the Western Australian Planning Commission's *State Planning Policy No. 5.2 – Telecommunications Infrastructure* which states, where practical, telecommunication towers should be located within commercial areas and should be designed and sited to minimise adverse impacts on the visual character and amenity of residential areas.

The proposed telecommunication facility is located in a light industrial area, approximately 180 metres from the nearest residential development across the freeway. The photomontages provided by the applicant demonstrate minimal visual impact upon residential areas (Attachment 2 refers). The photomontages have been taken from Buick Way and the Hodges Drive Freeway overpass in Joondalup and Huntingdale Crescent in Connolly.

Clause 6.3(b) gives consideration to the necessity of the proposed development in providing optimised coverage. In selecting the site Optus identified a lack of adequate mobile network coverage in the immediate area of the subject site.

Planning and Development (Local Planning Schemes) Regulations 2015 (the Regulations).

Clause 67 of Schedule 2 of the Regulations sets out the matters to be considered by Council when determining an application for development approval. In addition to the matters discussed above, the following matters for consideration are relevant to the proposal:

- *Clause 67(m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development.*

The development is considered compatible with the surrounding land uses and is not considered to be visually obtrusive to residential properties as the subject site is set back 180 metres from residential land uses. In addition, as shown in the applicant's photomontages (Attachment 2 refers), the proposed development will be consistent with other vertical elements in the locality such as light poles.

- *Clause 67(n) the amenity of the locality including the following —*
 - (i) *environmental impacts of the development;*
 - (ii) *the character of the locality;*
 - (iii) *social impacts of the development.*

The subject site is well separated from residential land uses and its location is considered appropriate in the existing commercial area.

- *Clause 67(r) the suitability of the land for the development taking into account the possible risk to human health or safety.*

The applicant has provided an EME report confirming that the proposed development will be compliant with relevant Federal legislation which relates to the minimisation of health risks in the installation of telecommunications infrastructure.

Issues and options considered

Council must consider the proposed telecommunication facility in accordance with the City's local planning policy and state planning policy, and determine whether the proposed development is appropriate or not.

Council has the discretion to:

- approve the application without conditions
- approve the application with conditions
or
- refuse to grant its approval of the application.

Legislation / Strategic Community Plan / policy implications

Legislation *City of Joondalup District Planning Scheme No. 2.
Planning and Development (Local Planning Schemes)
Regulations 2015.
Telecommunications Act 1997.*

Strategic Community Plan

Key theme Quality Urban Environment.

Objective Quality built outcomes.

Strategic initiative Buildings and landscaping is suitable for the immediate environment and reflect community values.

Policy *City of Joondalup Installation of Telecommunications
Facilities Policy.
State of Planning Policy No. 5.2 – Telecommunications
Infrastructure.*

City of Joondalup District Planning Scheme No. 2 (DPS2)

Clause 2.3.4 of DPS2 sets out the requirements for use, development and planning approval within a 'Public Use' Reserve:

- 2.3.4.1 The local government may consider applications for Planning Approval for land within a Local Reserve but shall have due regard to the ultimate purpose intended for the Local Reserve and the matters set out in Clause 67 of the deemed provisions ("Matters to be Considered by the local government").*

- 2.3.4.2 *Provisions in the Scheme relating to applications for Planning Approval and the exercise of any discretion thereon shall, insofar as they are not inconsistent with this clause, apply to Local Reserves.*
- 2.3.4.3 *To the extent that it is reasonable to do so, the local government shall apply or impose development standards and requirements which would be imposed for development of the kind in question on zoned land, and the local government shall for that purpose stipulate the zone most relevant for comparison.*
- 2.3.4.4 *Where any land is partly zoned under the Scheme and partly included in a Local Reserve, then the general provisions of the Scheme shall apply to the part which is zoned, and where the circumstances permit, the local government may give one decision in respect of the part of the land which is zoned and a different decision in respect of the part of the land included in the Local Reserve.*
- 2.3.4.5 *The local government shall, in the case of land reserved for the purposes of a public authority, consult with that authority before giving its approval.*

Planning and Development (Local Planning Schemes) Regulations 2015 (the Regulations).

Clause 67 of Schedule 2 of the Regulations sets out the matters to be considered by Council when determining an application for development approval.

In considering an application for development approval the local government is to have due regard to the following matters to the extent that, in the opinion of the local government, those matters are relevant to the development the subject of the application —

- (a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;*
- (b) the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the Planning and Development (Local Planning Schemes) Regulations 2015 or any other proposed planning instrument that the local government is seriously considering adopting or approving;*
- (c) any approved State planning policy;*
- (d) any environmental protection policy approved under the Environmental Protection Act 1986 section 31(d);*
- (e) any policy of the Commission;*
- (f) any policy of the State;*
- (g) any local planning policy for the Scheme area;*
- (h) any structure plan, activity centre plan or local development plan that relates to the development;*
- (i) any report of the review of the local planning scheme that has been published under the Planning and Development (Local Planning Schemes) Regulations 2015;*
- (j) in the case of land reserved under this Scheme, the objectives for the reserve and the additional and permitted uses identified in this Scheme for the reserve;*

- (k) *the built heritage conservation of any place that is of cultural significance;*
- (l) *the effect of the proposal on the cultural heritage significance of the area in which the development is located;*
- (m) *the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;*
- (n) *the amenity of the locality including the following —*
 - (i) *environmental impacts of the development;*
 - (ii) *the character of the locality;*
 - (iii) *social impacts of the development;*
- (o) *the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource;*
- (p) *whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;*
- (q) *the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk;*
- (r) *the suitability of the land for the development taking into account the possible risk to human health or safety;*
- (s) *the adequacy of —*
 - (i) *the proposed means of access to and egress from the site; and*
 - (ii) *arrangements for the loading, unloading, manoeuvring and parking of vehicles;*
- (t) *the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;*
- (u) *the availability and adequacy for the development of the following —*
 - (i) *public transport services;*
 - (ii) *public utility services;*
 - (iii) *storage, management and collection of waste;*
 - (iv) *access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);*
 - (v) *access by older people and people with disability;*
- (v) *the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses;*
- (w) *the history of the site where the development is to be located;*
- (x) *the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;*
- (y) *any submissions received on the application;*

- (za) the comments or submissions received from any authority consulted under clause 66;
- (zb) any other planning consideration the local government considers appropriate.

City of Joondalup Installation of Telecommunications Facilities Policy

The City's *Installation of Telecommunications Facilities Policy* sets out provisions for telecommunications facilities deemed not to be 'low impact' under the *Telecommunications (Low-impact Facilities) Determination Act 1997*. In addition to provisions regarding the advertising of an application, the policy sets out the following criteria which Council is to have regard to when determining an application:

- The provisions outlined in *State Planning Policy 5.2: Telecommunications Infrastructure*.
- Compliance with the *Telecommunications Code of Practice 1997*.
- The topography of the site and surrounding area, the size, height and type of the proposed facility, the location and density of surrounding vegetation, and the general visibility of the proposal from surrounding development.
- The merits of the particular proposal, including the need for services to be located to optimise coverage.
- Submissions received in response to public consultation, noting that submissions on health or safety grounds cannot be considered.

State Planning Policy No. 5.2 – Telecommunications Infrastructure

The Western Australian Planning Commission's *State Planning Policy No. 5.2 – Telecommunications Infrastructure* provides matters for consideration in determining development applications for telecommunications infrastructure. Clause 6.3 (a) requires the consideration of the extent to which the proposal adheres to the policy measures relating to the minimisation of the visual impact of above ground infrastructure. Clause 6.3 (b) gives consideration to the necessity of the proposed development in providing optimised coverage.

Risk management considerations

The proponent has the right of review against Council's decision, including any conditions included therein, 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 \$576 (excluding GST) for the assessment of the application. The cost of the consultation undertaken by the City is to be paid by the applicant in accordance with the City's *Installation of Telecommunications Facilities Policy*.

Regional significance

Not applicable.

Sustainability implications

The City recognises the importance of telecommunication facilities in supporting industry development. One of the key strategic initiatives of the City's *Strategic Community Plan 2012 – 2022* is to actively seek opportunities for improving local communication network infrastructure. The proposal will provide improved telecommunication services within the City of Joondalup.

Consultation

The application was advertised to 261 land owners and occupiers within a 400 metre radius of the development site, in accordance with the City's policy, for a period of 21 days, concluding on 25 September 2017.

A total of nine submissions were received, being three submissions stating no objections from ATCO Gas, Landgate, and Main Roads WA. A letter was received from the Minister for Transport; Planning; Lands requesting that Main Roads WA respond on her behalf. Five objections to the proposal were received, with the majority of objections received from property owners in Connolly on Huntingdale Crescent, Oakmont Turn and Riviera Court located across the Mitchell Freeway.

Concerns raised in the submissions are included below, along with the City's response to each concern.

- *Impact on property values*

The potential impact of a proposed development on property values is not a valid land use planning consideration.

- *Necessity of the tower*

In selecting the site Optus identified a lack of adequate mobile network coverage in the immediate area of the subject site, "occasioned by substantial increased demand for wireless data download coverage and capacity by users of tablets and smartphones". The applicant also provided the details of other sites in the vicinity which had been considered as a part of the identification of the subject site and the reasons these sites were not utilised.

- *Visual Impact*

The applicant has provided photomontages of the proposed development as viewed from Huntingdale Crescent in Connolly and from within the immediate area of the works (Attachment 2 refers). The photomontages demonstrate that the installation of the telecommunication infrastructure in this location will not be unduly visually obtrusive due to the presence of other vertical elements such as substantial light poles in the immediate vicinity. As shown in the submitted photomontages, the height of the tower will also be ameliorated by the 180 metre setback between the subject site and residential land uses.

The applicant provided further information in relation to the potential visual impact of the works stating that an investigation of the Connolly area, from which a majority of objections originated, showed that the topography of the area and existing vegetation minimised the visual appearance of the infrastructure. It was noted that the infrastructure would likely be visible from two storey dwellings at the high points of the Connolly area, being Riviera Court and Oakmont Turn.

- *Health matters relating to proximity to telecommunication facilities*

A concern was raised relating to the perceived adverse long-term health risk associated with telecommunication facilities. Electromagnetic emissions (EME) are controlled and regulated by separate Federal Government legislation and EME is not considered to be a valid land use planning consideration.

It is a mandatory requirement for all telecommunications carriers to comply with the *Australian Safety Standards* set by the Australian Communication and Media Authority and the EME limits established by the Australian Radiation Protection and Nuclear Safety Agency. A report submitted with this application (Attachment 6 refers) indicates estimations for the EME levels that will be present at different areas surrounding the proposed communication facility. The estimated maximum level of cumulative EME at ground level is 0.74% of the Australian Radiation Protection and Nuclear Safety Agency general public exposure limit, well within the mandatory standards.

COMMENT

As outlined above, it is considered that the development is appropriate in the context of its location and meets the requirements of relevant legislation and policies.

The application is therefore recommended for approval, subject to conditions.

VOTING REQUIREMENTS

Simple Majority.

RECOMMENDATION

That Council APPROVES under clause 68(2) of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* the application for development approval, dated 24 May 2017 submitted by Planning Solutions, for proposed UNLISTED USE (Telecommunications Infrastructure) at Lot 14609 (19) Winton Road, Joondalup, subject to the following conditions:

- 1 This approval relates to the telecommunications infrastructure and associated works only, as indicated on the approved plans. It does not relate to any other development on the lot;**
- 2 All development shall be contained within the property boundaries;**
- 3 All stormwater shall be collected on-site and disposed of in a manner acceptable to the City;**
- 4 The applicant shall make good any damage to the existing vegetation within the Mitchell Freeway reservation and shall ensure that any damage to a City-owned or managed asset is remediated, to the specification and satisfaction of the City of Joondalup and at the cost of the applicant;**
- 5 The external surface of the development shall be finished in materials and colours that have low reflective characteristics, to the satisfaction of the City. The external surfaces shall be treated to the satisfaction of the City if it is determined by the City that glare from the completed development has a significant adverse effect on the amenity of adjoining or nearby neighbours;**
- 6 The monopole and associated infrastructure shall be finished in colours that are unobtrusive to the specifications and satisfaction of the City;**

- 7 Detailed plans of the proposed access track shall be submitted to, and approved by the City prior to commencement of development. The access track shall be constructed to the specifications and satisfaction of the City, prior to use of the telecommunications infrastructure;**
- 8 The works are to be established and thereafter maintained to the specifications and satisfaction of the City.**

Appendix 5 refers

To access this attachment on electronic document, click here: [Attach5brf180612.pdf](#)

**ITEM 6 SCHEME AMENDMENT NOS. 88 AND 90 TO
DISTRICT PLANNING SCHEME NO. 2 –
CONSIDERATION FOLLOWING PUBLIC
CONSULTATION**

WARD

South

**RESPONSIBLE
DIRECTOR**

Ms Dale Page
Planning and Community Development

FILE NUMBER

106679, 107060, 101515

ATTACHMENT

Attachment 1	Amendment 88 Location Plan	
Attachment 2	Amendment 88 Maps	
Attachment 3	Amendment 90 Location Plan	
Attachment 4	Amendment 90 Maps	
Attachment 5	Community Engagement Report	Outcomes

(Please Note: Attachment 5 is available electronically only).

AUTHORITY / DISCRETION

Legislative - includes the adoption of local laws, planning schemes and policies.

PURPOSE

For Council to:

- consider the results of community consultation on Amendment Nos. 88 and 90 to *District Planning Scheme No. 2* (DPS2), which propose to change the residential density code of the portion of Housing Opportunity Area 1 west of the Mitchell Freeway from R20/R40 and R20/R60 to R20/R30
- decide whether to support (with or without modifications) or not support the amendments
- advise the Western Australian Planning Commission of its decision.

EXECUTIVE SUMMARY

At its meeting held on 27 June 2017 (CJ086-06/17 refers), Council resolved to initiate Scheme Amendment No. 88 to DPS2 and at its meeting held on 12 December 2017 (CJ193-12/17 refers) resolved to initiate Scheme Amendment No. 90. The effect of the amendments is a proposal to recode the area of Housing Opportunity Area 1 (HOA1) west of the Mitchell Freeway from R20/R40 and R20/R60 to R20/R30.

In initiating Amendment No. 90, Council required Amendment Nos. 88 and 90 to be advertised together and noted that, following the conclusion of the advertising period, the amendments would be considered by Council in the one report.

Community consultation was undertaken for 60 days from 22 February to 23 April 2018 and the key outcomes are summarised as follows:

- 1,014 people / stakeholders received an information package from the City.
- A total of 511 valid submissions were received.
- 373 responses were received from all the 1,014 people / stakeholders directly written to, an overall response rate of 38.9%.
- 366 responses were received from owners / residents in the two amendment areas (43.4% of owners/residents in these areas).
- 272 responses were received from owners / residents inside the Amendment No. 88 area. 209 of these respondents (76.8%) indicated strong support or support for the amendment, 53 of these respondents (19.5%) indicated strong opposition or opposition to the amendment, one respondent was unsure and nine respondents did not provide a response to the question.
- 94 responses were received from owners / residents inside the Amendment No. 90 area. 74 of these respondents (78.7%) indicated strong support or support for the amendment, 19 of these respondents (20.2%) indicated strong opposition or opposition to the amendment, and one respondent was unsure.
- 138 responses were received from people living outside both amendment areas.
- 24 responses were received from members of the community engagement network.
- The balance of responses came from industry stakeholders and a community group.

Comments in support of the proposed scheme amendments cited concerns with the current densities of the amendment areas, loss of gardens, trees and verges, issues with traffic and parking, as well as concern regarding the quality of the developments.

Comments opposing the proposed scheme amendments indicated the following:

- That redevelopment of the areas is needed and should be encouraged.
- That higher density development is necessary to accommodate a growing population.
- There is a desire to develop their property at the current densities.
- The proposed amendments are contrary to State Government policy and targets.

Although it is acknowledged that some members of the community are concerned about development that can occur at the current density codes and therefore want the density coding decreased, it is recommended that Council does not proceed with Amendment Nos. 88 and 90, for the following reasons:

- A reduction in the density coding as proposed by Amendment Nos. 88 and 90 will not address all the issues raised by the community.
- The amendments are ad hoc and conflict with the City's strategic documents, such as the *Local Housing Strategy*, the *Local Planning Strategy* and draft *Local Planning Scheme No. 3*.
- Approval of the amendments will appear to favour a few and will not be equitable or easily defensible, given residents in other Housing Opportunity Areas (HOAs) are also concerned about density and would like Council to take the same action to address their concerns.
- Council has already agreed to progress a range of new initiatives and a more strategic approach to dealing with the impacts of density across all the HOAs. This new approach will align with State Government policy, will be developed with the input of all residents affected by density, will provide a much more considered and finer grain, design-led response to development in HOAs.

BACKGROUND

Suburb/Location	Properties within HOA1 west of Mitchell Freeway, Duncraig.
Applicant	City of Joondalup.
Owner	Various.
Zoning	DPS 'Residential', 'Public Use', 'Parks and Recreation'.
	MRS 'Urban'.
Site area	Various.
Structure plan	Not applicable.

Since implementation of the *Local Housing Strategy* (LHS) in early 2016, development has commenced throughout all 10 Housing Opportunity Areas (HOAs) in the City of Joondalup. As this development has commenced, some members of the community have raised concern with some development occurring in HOAs.

These concerns have manifested in a number of requests to Council for intervention, including a Special Electors Meeting held on 24 April 2017 in relation to the portion of HOA1 bounded by the Mitchell Freeway to the East, Davallia Road to the West, Beach Road to the South and Warwick Road to the North.

Subsequently at its meeting held on 27 June 2017 (CJ086-06/17 refers), Council initiated Amendment No. 88 to the City's DPS2 to reduce the density coding of the above-mentioned portion of HOA1 from R20/R40 and R20/R60 to R20/R30 (Attachments 1 and 2 refer).

A petition received by Council at its meeting held on 19 September 2017 (CJ64-09/17 refers) requested that Council include an additional portion of HOA1, west of Davallia Road, into Amendment No. 88. At that stage it was not possible to simply include additional properties into Amendment No. 88 so, at its meeting held on 12 December 2017 (CJ193-12/17 refers), Council initiated Amendment No. 90 to DPS2 to amend the residential density code of the portion of HOA1 west of Davallia Road, Duncraig, from R20/40 and R20/60 to R20/30 (Attachments 3 and 4 refer).

At its meeting held on 12 December 2017, Council also resolved that Amendment Nos. 88 and 90 be advertised for public comment at the same time with the outcomes to be subsequently considered by Council in a single report and to request that the Western Australian Planning Commission consider the amendments together.

Separately, Council considered a report on addressing the issues being experienced in all HOAs at its meeting held on 21 November 2017 (CJ177-11/17 refers) and resolved to progress the implementation of a number of strategies that seek to both better inform the community and to better manage the impact of urban infill. These proposed strategies include, in summary, the following:

- Amending the City's current consultation procedures for planning proposals.
- Developing a new planning consultation policy.
- Expanding the role and influence of the Joondalup Design Reference Panel.
- Introducing additional provisions in the City's scheme to better manage impacts of density.
- Preparing a design-led local planning policy for multiple dwellings (apartments) in the City's HOAs.
- Engaging appropriate planning and community engagement specialists to prepare the design-led local planning policy and additional provisions to the planning scheme.

In recognition of the potential impact that grouped dwellings may also have, the scope of some of these strategies has been broadened to also capture grouped dwelling developments.

DETAILS

The effect of Amendment Nos. 88 and 90 is a proposal to recode the area of HOA1 west of the Mitchell Freeway from R20/R40 and R20/R60 to R20/R30. The remainder of HOA1 to the east of the Mitchell Freeway is not impacted by the proposed amendments.

Community consultation

Community consultation on the proposed amendments was undertaken by the City between 22 February and 23 April 2018, as per Council's decision, as follows:

- Letters were sent to all landowners within the two scheme amendment areas - 624 letters for the Amendment No. 88 area and 218 letters for the Amendment No. 90 area. A set of Frequently Asked Questions (FAQs) was attached to each letter, as well as a comment form and a reply-paid envelope. People were also able to complete the form on-line, if they preferred, making it as easy as possible for people to respond.
- Letters were sent to local businesses (48 letters).
- Letters were sent to local Members of Parliament (10 letters).
- A letter was sent to the Marmion, Sorrento, Duncraig Progress and Ratepayers Association.
- A notice was placed in the *Joondalup Community newspaper*.
- A notice, documents and on-line comment form were placed on the City's website.
- Documents were available to view at the City's Administration Building.
- Letters to relevant service authorities (12 letters).
- A notice was placed through the City's social media platforms.
- An article was placed in the City's Autumn edition of *City News*, which is delivered to every household in the City.
- Notification was provided to the City's community engagement network (101 members).

The above consultation process meets and well exceeds that required by the *Planning and Development (Local Planning Schemes) Regulations 2015*. In addition, the FAQs were independently reviewed by a private market research firm to ensure there was no biased or leading questions and that the information was as user-friendly as possible.

511 valid responses were received. Of the 1,014 people / stakeholders directly consulted, an overall response rate of 38.9% was achieved (373 responses). 138 responses were received from people living outside both amendment areas and 24 responses were received from members of the community engagement network.

The City provided the opportunity for submissions to be made online or in hard copy, with a reply-paid envelope supplied. The majority of respondents (60.3%) elected to make a submission online.

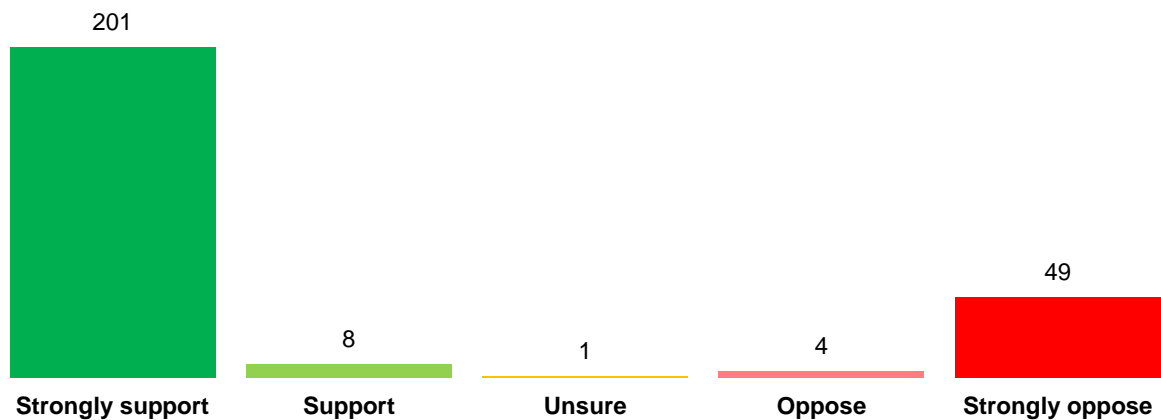
Through the comment form, respondents were asked to indicate their level of support for the proposed scheme amendments on a five-point scale from strongly support to strongly oppose.

The following are the key outcomes of the survey:

Amendment No. 88

- A total of 511 responses were received - 376 of these respondents (73.6%) indicated strong support or support for the amendment.
- 272 responses were received from owners / residents inside the amendment area.

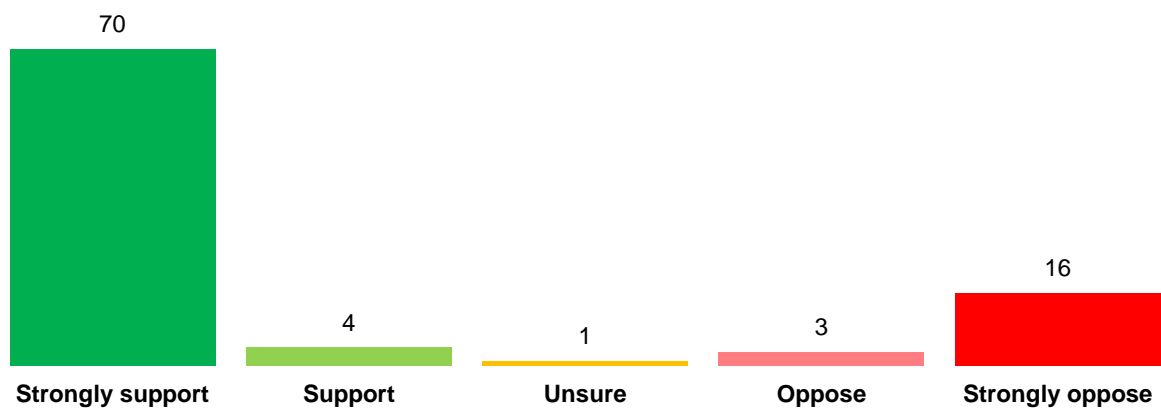
- 209 of these respondents (76.8%) indicated strong support or support for the amendment and 53 of these respondents (19.5%) indicated strong opposition or opposition to the amendment.



Respondents to Amendment 88 owning/residing within Amendment 88 area

Amendment No. 90

- A total of 511 responses were received - 362 of these respondents (70.8%) indicated strong support or support for the amendment.
- 94 responses were received from owners / residents inside the amendment area.
- 74 of these respondents (78.7%) indicated strong support or support for the amendment and 19 of these respondents (20.2%) indicated strong opposition or opposition to the amendment.



Respondents to Amendment 90 owning/residing within Amendment 90 area

Respondents were also able to make open-ended comments on the proposal. These comments are all included in Attachment 5. The highest category or theme of comments received in support of the proposed amendments were:

- Do not want to lose garden / yards / verges/ trees/ "leafiness".

Officer Comment:

While it is acknowledged that redevelopment in HOAs has resulted in clearing of sites, the proposed down coding is unlikely to alleviate concerns over the loss of backyards or garden areas. The dwelling yield per lot may decrease, however, multiple and grouped dwellings would still be able to be developed, resulting in the loss of existing backyards.

Infill development, by its nature, is development on sites that are already created and developed. Grouped and multiple dwellings would still be permitted at the R30 density code and it is unlikely that the proposed down coding, in itself, will provide any greater protection to existing vegetation on any site. With the exception of existing trees within common property, there are currently no requirements under the *Residential Design Codes* (R-Codes) for a landowner to retain any vegetation on a site, whether a site is developed for a single house, grouped or multiple dwelling. The City's current *Residential Development Local Planning Policy* (RDLPP) requires the provision of verge trees as part of development at higher densities.

The State Government has prepared *State Planning Policy 7 – Design of the Built Environment* (SPP 7) which, once completed, will incorporate a suite of documents that will replace and augment the existing state planning framework for residential development (the R-Codes). The draft *Apartment Design Policy* that forms part of SPP 7 includes requirements for retention of existing trees and for the establishment of 'deep soil zones', which will provide improved standards for retention of existing vegetation and landscaped areas, when operational. In addition, it is anticipated the design-led built form framework that the City is progressing will also include consideration for retention of appropriate on-site vegetation.

- Higher density would cause parking/traffic issues.

Officer Comment:

Additional vehicular movements and parking, on and off-site, are an unavoidable consequence of infill development and an issue that the City has grappled since commencing development of its *Local Housing Strategy*. It is a challenge facing policy makers at both state and local government level and one for which there is no easy solution or answer.

The provision of car parking, for residents and visitors, is currently principally dictated by the requirements of the R-Codes. The City has augmented the R-Code requirements via the City's *Residential Development Local Planning Policy*, which includes a more onerous, increased requirement for visitor bays and to mitigate the effects of informal parking on verges and in streets, encourages the provision of formal parking embayments within the verge, where possible. It is acknowledged however that not all road or lot layouts are readily conducive to accommodate this parking, particularly where the width of verge areas may be constrained.

It is therefore considered that a finer-grained and more strategic approach to the identification of sites suitable for development of particular types and scale (like apartments) is an appropriate way to respond to concerns regarding parking and traffic issues, along with a range of other design and amenity considerations.

The work to be undertaken in preparation of a new design-led built form framework will consider this detail and the consultants appointed to undertake this work may, following early public consultation and their own research and analysis, feel that certain streets are unable to accommodate the increased traffic and parking that results from medium density development. As a result, they may recommend changes to densities of certain lots or streets or parts of HOAs or they may develop provisions that otherwise restrict larger grouped or multiple dwellings to certain areas or types of streets / lots. However, at this stage, it is not certain what the outcomes of this consultant work will be.

It is also worth noting that while increased residential densities will result in some increase in traffic volumes, local roads generally operate below capacity in terms of the amount of traffic that they carry.

- Higher density would destroy the "family" nature of the area / wish to retain amenity / attractiveness / beauty of the area.

Officer Comment:

One of the aims of the City's LHS is to facilitate a range of dwellings to allow people who may wish to downsize their dwelling, or who are not seeking large backyards, to remain in the area. Allowing a range of dwelling sizes and forms of housing will not necessarily compromise the amenity of an area. It is acknowledged, however, that positive amenity attributes should be maintained to the greatest degree possible and that the R-Codes, being the primary control of residential development, do not provide enough guidance on this issue. In progressing with a more strategic approach to managing the potential impacts of infill development in accordance with Council's resolution in November 2017, an intentional decision was made to ensure that the City's new framework will be 'design-led', meaning it will be focused on high quality built form outcomes and amenity.

- Previous engagement on re-coding was poor.

Officer Comment:

The consultation undertaken as part of the City's LHS and Amendment No. 73, which gave statutory effect to the recommendation of the LHS, has been widely discussed in a number of previous reports to Council and at a number of Council meetings. It is acknowledged that the community could have been better informed about the changes in proposed density that the State Government directed the City to implement and the implications of these changes, during the process of finalising the LHS. However, at that time the City and the Council found themselves in a difficult position given:

- the untested implications of the introduction of the State Government's Multi-Unit Housing Code
- the (then) Department of Planning's response to the initial draft LHS and the requirement to increase the proposed densities
- the City was an early adopter of State Government policy direction without the tools, support or direction that were needed.

As such, Council made the decision it felt was appropriate at that time. That the community feels this decision was not appropriate and that the consultation was inadequate at the time of finalising a position on higher density is, of itself, not adequate justification for down-coding the area.

The City's Request for Tender for consultants requires that a community engagement expert form an integral part of the consultant team. Once these consultants have been engaged by the City, extensive consultation with residents living in HOAs will be undertaken by the consultant team to inform the new policy approach. Additionally, once the new planning framework has been prepared, further extensive public consultation / surveys will occur on the draft framework before Council makes any decision to endorse or approve it.

- Concerned about the quality of developments / poor design.

Officer Comment:

Down-coding part of HOA1 via these amendments will have no direct effect on the design and quality of development.

The proposed scheme amendments will change the development potential and dwelling yield of a lot. The reduced coding will not, of itself, improve the quality of the built form outcomes of development. Controlling the quality of design of a development is complex, and there is not currently the ability to adequately address this through the R-Codes alone.

The suite of documents prepared as part of draft *State Planning Policy 7 – Design of the Built Environment*, aims to provide better guidance on this issue, however, it is currently unclear when this new State Government policy will be finalised. Notwithstanding this, the work to be undertaken by the consultants appointed by the City will be based on the draft State Government policy, but will adapt and tailor certain of these policy provisions to suit local circumstances and communities. The new design-led policy to be developed by the consultants could, for example, establish guiding principles, such as context, character, functionality, build quality and scale, with a requirement to demonstrate how a development outcome will achieve these principles. This is a somewhat different approach to the current R-Codes where, although good outcomes are the desired goal, the R-Codes seek to achieve this through a set of prescriptive requirements.

In addition, the Joondalup Design Reference Panel (JDRP) is a Council-appointed panel of industry representatives from the Australian Institute of Architects, the Planning Institute of Australia and the Australian Institute of Landscape Architects. The JDRP provides external, independent design advice on development proposals in the City of Joondalup.

At its meeting held on 17 April 2018 (CJ056-04/18 refers), Council resolved to expand the terms of reference of the JDRP to ensure all applications for multiple dwellings and grouped dwelling developments of five or more dwellings are reviewed by this independent panel of experts. This expansion of the panel's role will assist in adding greater integrity to the approval process and will achieve higher quality design outcomes for multiple and larger grouped dwelling developments.

- Concerned about the impact on property values.

Officer Comment:

Property values are generally not appropriate to consider as part of the consideration of planning proposals, given that there are many factors that influence property prices.

The primary comments / reasons provided for non-support of the proposed scheme amendments are as follows:

- Redevelopment should be encouraged / higher density is necessary for a growing population.

Officer Comment:

In August 2010, the State Government released *Directions 2031 and Beyond* - a high level spatial framework and strategic plan to guide the future development of Perth. *Directions 2031 and Beyond* set a target of accommodating 47% of population growth within existing suburbs across metropolitan Perth, including in the City of Joondalup.

The principles of *Directions 2031 and Beyond* have also been captured in the State Government's latest strategic plan, known as *Perth and Peel @ 3.5 million*.

For local governments like the City of Joondalup, which do not have many or any greenfield sites left, this growth needs to be accommodated as infill development. The City responded to State Government policy by preparing its LHS. It was established early in the development of the LHS that the City did not want to take an ad hoc approach that would allow densification to occur everywhere throughout the City of Joondalup. Rather, a strategic approach was favoured that enabled residential density to increase in identified, appropriate areas such as around train stations, activity centres and high frequency bus routes, consistent with State Government policy.

Ten areas were identified where increased residential densities were considered appropriate. These areas are referred to as HOAs.

The higher density coding applied to HOAs allows for infill redevelopment to occur and serves as one mechanism by which the City is facilitating the achievement of State Government policy objectives.

- Have invested in the area / want to develop own property.

Officer Comment:

Amendment Nos. 88 and 90 propose to down code the areas from R20/R40 and R20/R60 to R20/R30. At the coding proposed by the amendments (R20/R30), most properties within the amendment area would still be able to redevelop, albeit at a lower yield and scale than that which could be achieved at the current densities.

- Amendments are inconsistent with State Government targets.

Officer Comment:

Amendment Nos. 88 and 90 will make it more difficult for the City to meet its infill targets set by the State Government.

Directions 2031 and Beyond included an infill target that local governments needed to achieve and quantified each local government's proportionate share of accommodating 47% of population growth within existing suburbs.

The 2010 infill target set in *Directions 2031 and Beyond* for the City of Joondalup out to 2031 was 12,700. The State Government has recently reaffirmed its commitment toward encouraging infill development by endorsing *Perth and Peel @ 3.5 million* and has set a new (increased) target out to 2050 of 20,670 infill dwellings. This new target equates (roughly) to the provision of 646 new dwellings per year from now out to 2050, in-lieu of the previous infill target which equated to an average of 605 new dwellings per year out to 2031.

Current activity within the City's HOAs, since their implementation in February 2016 translates to an average provision of 211 additional dwellings per year. Based on this trend, it would take nearly 98 years (that is to 2114) to reach the City's infill target of 20,670 dwellings set out in the recently endorsed State Government framework.

A reduced density coding as proposed by Amendment Nos. 88 and 90 would make the ability to achieve the State Government's infill target even more difficult to achieve.

The full outcomes of the community engagement process are provided in the report at Attachment 5.

Issues and options considered

Council has three options in dealing with Amendment Nos. 88 and 90:

- support the amendments without modification
- support the amendments with modifications in response to the submissions received or
- not support the amendments.

The three options, along with considerations for each, are discussed below.

Option 1 – Support the amendments without modification

Council may elect to support Amendment Nos. 88 and 90 in their current form. This option is not recommended for a number of reasons, as set out below.

Amendment Nos. 88 and 90 will not address all resident concerns.

It is acknowledged that some members of the community have expressed concern with the current residential density code within the Duncraig portion of HOA1. However, as outlined above, the proposed reduction in density will not address all the issues that have been raised in support of the proposed amendments.

Some of the submissions lodged in support of the proposed amendments indicated that the current densities are resulting in loss of existing vegetation and trees and creating concern regarding the quality of development being constructed in the amendment areas.

The reduced coding proposed by Amendment Nos. 88 and 90 will have no direct impact on the retention of existing on-site vegetation, nor on the quality of developments that could be constructed. Even at a density coding of R20/R30, the amendments would not result in any further obligations on an applicant to retain vegetation or provide a higher quality development than what is already required under the current planning framework.

It is considered more appropriate to address these particular concerns through an improved built form planning framework, consistent with that which the City is currently progressing and procuring consultants for.

Amendment Nos. 88 and 90 will not address the concerns of the Minister for Planning.

The Minister for Planning wrote to the Mayor of the City of Joondalup on 22 March 2018 in relation to the City's proposed planning scheme, draft *Local Planning Scheme No. 3* (LPS3), and community concern regarding infill development.

One of the concerns highlighted by the Minister in her letter is that the consideration of individual amendments relating to residential infill could be ad hoc in the absence of a strategic review of HOAs.

It is considered that the work to be undertaken by the appointed consultants will respond to the Minister's suggestion for a strategic review of the City's HOAs.

The work to be undertaken in preparation of a new design-led built form framework will include analysis of each HOA and may, following early public consultation and research and analysis undertaken by the consultants, recommend changes to densities of certain lots or streets or parts of HOAs. Alternatively, it may be that the outcomes of the consultant work suggest that changes in density are not required and that other scheme and / or policy provisions are put in place to restrict larger grouped or multiple dwellings to certain areas or types of streets / lots, however it is not certain at this stage what the outcomes of this consultant work will be.

Advancing Amendment Nos. 88 and 90 in the absence of this strategic review is considered ad hoc and inequitable and therefore inconsistent with the direction suggested by the Minister.

Amendment Nos. 88 and 90 are inconsistent with the strategic direction of the City of Joondalup.

Draft LPS3 is an important, strategic document for the City that has been in development for many years and deals with much more than density codes in HOAs, and includes a number of zoning and land use changes:

- The 'Civic and Cultural' zone that exists in the current scheme will be deleted and these lots will either be zoned 'Private Clubs, Institutions and Places of Worship' or reserved for 'Civic and Community' purposes.

Of particular interest to Council during consideration of LPS3, the zoning of Lot 971 Creaney Drive will be changed from a 'Civic and Cultural' zoning to a "Civic and Community" reserve.

- The 'Parks and Recreation' reserve will be split into the 'Public Open Space' reserve or 'Environmental Conservation' reserve depending on its conservation value and recreation purpose. The new 'Environmental Conservation' Reserve will replace Schedule 5 under DPS2, and will give visibility to the conservation areas as they will be marked on the scheme map.
- Residential land uses will no longer be permitted in the 'Service Commercial' zone.
- Short Stay Accommodation could be considered in the 'Residential' zone. As well as providing for the demonstrated demand for this type of land use, it will also allow for better compliance regulation and management of these uses.
- 'Consulting Rooms' will be an 'A' land use in the 'Residential' zone, meaning an application must be advertised for public comment prior to determination. LPS3 will also allow two practitioners to operate from a 'Consulting Room'. The current scheme only permits one practitioner.
- 'Shop' will be a discretionary ('D') use in the 'Mixed Use' zone with no restriction on floorspace. Lifting the current 200sqm restriction on retail floorspace will allow greater flexibility to provide true mixed-use development.
- Shops will not be permitted in the 'Service Commercial' zone.
- The policies that have been prepared to supplement LPS3 will guide development with significantly more detail than current scheme provisions, which will assist in improved built form outcomes.
- LPS3 includes provisions that will exempt some minor development from the need for development approval. This will make it quicker, easier and cheaper for residents who want to make minor improvements to their properties.

Draft LPS3, in the context of the amendment areas and HOAs more broadly, does not seek to change densities and merely carries over the densities of the existing scheme, *District Planning Scheme No. 2 (DPS2)*.

At its meeting held on 27 June 2017 (CJ089-06/17 refers), Council adopted draft LPS3 and in doing so, adopted a highly important strategic planning document that, once gazetted, would apply to all the City of Joondalup. This decision also reinforced the recommendations of the City's adopted LHS, which is consistent with draft LPS3.

At the same meeting, Council also initiated Amendment No. 88 (CJ086-06/17 refers) and then subsequently Amendment No. 90 at its meeting held on 12 December 2017 (CJ193-12/17 refers).

Amendment Nos. 88 and 90 propose densities contrary to higher level, strategic planning documents adopted by Council and collectively affect approximately 1.3% of lots in the City of Joondalup.

It is not considered appropriate to progress proposals that are inconsistent with higher order strategic planning adopted by Council.

Amendment Nos. 88 and 90 risk refusal or delay of draft LPS3 and delay of the Joondalup Activity Centre Plan (JACP).

In her letter, the Minister advised it is open to her to refuse draft LPS3 (which would also stall the JACP) to allow Council to finalise consultation and a decision on Amendment Nos. 88 and 90 and to progress a strategic review of HOAs.

In the event Council elects to support Amendment Nos. 88 and 90, the Minister may, in turn, elect to refuse draft LPS3 as outlined in her letter. Alternatively, and although not outlined in her letter, the Minister may elect to hold draft LPS3 in abeyance while Amendment Nos. 88 and 90 run their course.

Draft LPS3 and the associated JACP are critically important and long awaited strategic documents for the City. These important documents should not be held up (or in the case of draft LPS3, potentially refused).

Refusing or delaying LPS3 will have no positive impact on the community, including those seeking a reduction in density. The density codes are already in place under the current planning scheme. By refusing or delaying LPS3, this will not change the existing density codes in HOAs. All that will happen, is the City will be bereft of, not only one, but two extremely important strategic documents which contain a number of key reforms and improvements outside of residential density issues.

The initial draft LPS3 was overtaken by the new *Planning and Development (Local Planning Schemes) Regulations 2015* and needed to be re-written, which was a significant setback in this important process.

The City cannot afford any further delays to finalisation of the LPS3, not only because of the importance of this strategic document, but also because the recent WAPC decision to approve the JACP is linked to finalisation of draft LPS3.

The JACP is also a critically important document that is needed to respond to the State Government employment targets for the City of Joondalup and to drive built form excellence, activation, small business and economic development, leading to job creation in the Joondalup Activity Centre.

Progression of Amendment Nos. 88 and 90 may result in requests for further ad hoc amendments.

The proposed scheme amendments potentially provide a catalyst for other similar scheme amendment proposals. Council did not support a similar proposed amendment for HOA8, however final support for Amendment Nos. 88 and 90 may make it difficult to defend not supporting other similar scheme amendment proposals for individual HOAs (or portions of individual HOAs). For the reasons outlined above, this could be considered by the Minister as additional ad hoc scheme amendments in the absence of a strategic review of HOAs and therefore risks even further delay of draft LPS3 and the JACP.

Amendment Nos. 88 and 90 will make it more difficult for the City to meet its infill targets set by the State Government.

As outlined above, even at the current densities, based on current trends and activities within the City's HOAs, it would take nearly 98 years (that is to 2114) for the City to accommodate the number of dwellings set as its current infill target. It is recognised, however, that a number of economic and social factors will dictate the uptake of rate of development at any given time.

The fact that the City's new JACP (once finalised) envisages the future development of between 9,000 and 10,000 dwellings in the Joondalup City Centre does not negate the need for increased density in the HOAs. This simply means that an additional 11,000 or more dwellings need to be developed in the HOAs and given the City's new planning framework is likely to restrict the number of sites that can be developed with larger grouped and multiple dwellings in the HOAs, it is important not to reduce the development potential of all other lots in the HOAs by reducing the density coding.

It should also be noted that the R20/R30 density coding proposed by Amendment Nos. 88 and 90 is actually a lower density code than what was originally proposed and supported by most of the community for some pockets of HOA1 (the area closest to the station was to be coded R40, not R30).

A more appropriate alternative solution is available and is being progressed.

At its meeting held on 21 November 2017 (CJ177-11/17 refers), Council agreed to proceed with a number of initiatives to better manage the impacts of infill development occurring in HOAs.

These proposed strategies include the following:

- Amending the City's current consultation procedures for planning proposals.
- Developing a new planning consultation policy.
- Expanding the role and influence of the JDRP.
- Introducing additional provisions in the City's scheme to better manage the impacts of density.
- Preparing a design-led local planning policy for multiple dwellings (apartments) in the City's HOAs.
- Engaging appropriate planning and community engagement specialists to prepare the design-led local planning policy and additional provisions to the planning scheme.

The proposed strategies that Council have agreed to proceed with are considered to be a more appropriate away of responding to concerns raised by some members of the community, particularly in relation to the concerns raised during the public consultation of Amendment Nos. 88 and 90.

Option 2 – Support the amendments with modifications in response to the submissions received

Council may elect to support the amendments, but include modifications that respond to the submissions received during public consultation.

This option is not recommended as it has the same inherent issues as those outlined in Option 1 and it is considered that there are no suitable modifications that could be incorporated into the scheme amendments to address the submissions (such as retention of vegetation, parking and development quality) that are not already captured and currently being advanced, as part of the strategic approach endorsed by Council at its meeting held on 21 November 2017 (CJ177-11/17 refers).

If Council decides to make modifications to the amendments and these proposed modifications are significant, the City may need to advertise the modifications.

Option 3 – Not support the amendments

Council may elect to not support Amendment Nos. 88 and 90.

This option is recommended as it will address the following:

- Address the Minister's concerns outlined in her letter dated 22 March 2018 as it will clarify that Council prioritises the progression of draft LPS3 (as well as the JACP) and a strategic response to infill development in all HOAs, over individual amendments to individual HOAs (or portions of individual HOAs).
- Provide consistency with the City's adopted LHS and adopted new planning scheme (LPS3) and will therefore be consistent with the higher level strategic planning for the City.
- Clarify Council's direction that it intends to and is responding to the impacts of infill development in a strategic manner, consistent with its decision in November 2017 and in accordance with the suggestion recommended by the Minister in her letter dated 22 March 2018.
- Allow the City's officers to focus their attention and continue to progress this important package of work to deliver a range of strategic measures to better manage the impacts of infill development, including work to be undertaken by the appointed consultant which may suggest amendments to LPS3.

Legislation / Strategic Community Plan / policy implications

Legislation *Planning and Development Act 2005.
Planning and Development (Local Planning Schemes) Regulations 2015.*

Strategic Community Plan

Key theme Quality Urban Environment.

Objective Quality built outcomes.

Strategic initiative Housing infill and densification is encouraged and enabled through a strategic, planned approach in appropriate locations.

Policy Not applicable.

Planning and Development Act 2005 and Planning and Development (Local Planning Schemes) Regulations 2015

Part 5 of the *Planning and Development Act 2005* along with the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) enables a local government to prepare or initiate an amendment to a local planning scheme and sets out the process to be followed.

In accordance with the Regulations regarding complex amendments, the City referred Amendment Nos. 88 and 90 to the Western Australian Planning Commission (WAPC) and received advice that they were suitable for the purposes of advertising. The Environmental Protection Authority (EPA) also advised that it did not consider that Amendment Nos. 88 or 90 should be assessed under Part IV Division 3 of the *Environmental Protection Act 1986* and, as such, the amendments were advertised for public comment.

Upon closure of the advertising period, Council is required to consider the submissions received and to either adopt the amendments, with or without modifications, or refuse 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 the amendment.

Risk management considerations

Risks associated with support of Amendment Nos. 88 and 90

If Council elects to support Amendment Nos. 88 and 90, the risks and their potential consequences are primarily outlined previously in the 'Issues and Options' section of this Report; however, are summarised below:

- Progression of Amendment Nos. 88 and 90 may result in delay or refusal of draft LPS3 and delay of the JACP.
- All community concerns raised with respect to current densities will not be addressed by Amendment Nos. 88 and 90 and therefore residents may continue to remain concerned with the impacts of infill development in HOA1.
- Progression of Amendment Nos. 88 and 90 may make it difficult for Council to justify not initiating other ad hoc amendments to individual HOAs (or portions of individual HOAs).
- Amendment Nos. 88 and 90 may make it more difficult for the City to achieve the infill targets that have been set by the State Government.

In addition to the above, if Council does elect to support Amendment Nos. 88 and 90, the following risks also exist:

- The Western Australian Planning Commission (WAPC) and / or the Minister for Planning may not support Amendment Nos. 88 and 90. If this was to occur, it would result in delays not only to the implementation of draft LPS3 and the JACP, but could also potentially delay the implementation of the strategic response to managing the impacts of infill development as a component of this work is to initiate an amendment to the City's new scheme, draft LPS3.
- Given that the City's draft LPS3 is currently with the Minister for determination, there is a risk that this determination could be made ahead of the finalisation of Amendment Nos. 88 and 90. If the Minister decides to approve LPS3 ahead of finalisation of Amendment Nos. 88 and 90, these amendments to the current scheme will fall away. This has been outlined as a risk in all relevant Council reports on the matter since the initiation of draft Amendment No. 88 in June 2017.
- If this occurs and if Council is still of a mind to progress the intent of the amendments, this can be done as a new amendment to LPS3. This will cause delays for the residents who are seeking a solution in the quickest timeframe possible, but Council could formally request, as part of a formal resolution on the matter, that the processes for the new amendment are expedited.

Risks associated with not supporting Amendment Nos. 88 and 90

If Council elects to not progress Amendment Nos. 88 and 90, some members of the community may feel that Council is not appropriately representing their interests, given the level of support for the amendments.

The residents are concerned that, in the absence of lower densities, there is an increased risk of large multiple dwelling developments occurring in Duncraig. This concern is acknowledged, however, in the two years since the new density codes were gazetted in early 2016, there has only been an uptake of 2.8% across the whole of HOA1 (including the area east of the freeway in Warwick). For multiple dwellings, the uptake has only been 0.6% of lots. So, while the risk exists, the extent of the risk and the scale of the impact may not be as significant, or occurring as quickly, as some residents believe.

Financial / budget implications

The City, as the proponent, is required to cover the costs associated with the scheme amendment process. The costs incurred are for the advertising of the scheme amendment, including letters to all owners, the printing of reply-paid envelopes, the return postage cost of the reply-paid envelopes, and placing a notice in the local newspaper. The total cost of advertising is estimated to be \$2,600. A notice will also be placed in the *Government Gazette*, in the event the scheme amendments are ultimately approved.

Regional significance

Amendment Nos. 88 and 90 apply to two pockets within HOA1 in the suburb of Duncraig, representing 1.3% of lots within the City of Joondalup. Therefore, in and of themselves, they do not necessarily have a great deal of regional significance.

However, for the reasons outlined above, Council's decision on Amendment Nos. 88 and 90 could potentially delay or result in refusal of draft LPS3 and delay the JACP.

Although LPS3 only applies to the City of Joondalup itself, the City forms part of the broader metropolitan region, in particular the north-west sub-region. Both LPS3 and the JACP will facilitate the provision of additional housing for a growing population, facilitate the provision of additional jobs and promote the Joondalup City Centre as the centre of the north. This has regional significance, particularly for the north-west sub-region.

It is also noted that the Joondalup City Centre is recognised as one of the highest order activity centres (Strategic Metropolitan Centre) in the hierarchy set out in the State Government's overarching planning policy for activity centres. The implementation of a planning framework (the JACP) that more accurately reflects the intent and expectations of the centre as contemplated by the State's policy, in turn also provides greater guidance and certainty for future planning and development of other centres throughout the region.

Sustainability implications

Not applicable.

Consultation

Public consultation on Amendment Nos. 88 and 90 met and exceeded the requirements of the *Planning and Development (Local Planning Schemes) Regulations 2015*. The results of the community engagement on the proposed scheme amendments have been outlined in the 'Details' section of this Report and the outcomes are summarised at Attachment 5.

COMMENT

The community support for the amendments is acknowledged, though some of this support may arguably have been garnered by the distribution of factually incorrect and misleading material distributed to residents of Duncraig by parties other than the City, during the public consultation period. One such flyer made statements, inter alia, about “massive apartment blocks” and “massive developments towering above your home”. Wording such as this would conjure images in any reasonable person’s mind that would be quite at odds with the reality of the two-storey developments that are currently being developed with comparable bulk and scale to some existing single dwellings in the area.

While Amendment Nos. 88 and 90 may have initially been seen as a solution to the issues raised by some members of the Duncraig community, the amendments will not address all the concerns raised by the community.

A more appropriate way to manage the issues is to continue to pursue the implementation of an equitable, coordinated, cohesive and strategic approach to addressing the issue across the whole of the City and throughout all HOAs, as outlined in Council's resolution at its meeting held on 21 November 2017.

It is therefore recommended that Council not support Amendment Nos. 88 and 90 on the basis that Council has adopted and is pursuing a strategic approach to addressing issues associated with infill development across all HOAs.

VOTING REQUIREMENTS

Simple Majority.

RECOMMENDATION

That Council:

- 1** **NOTES** the submissions received in response to the community consultation on Amendment Nos. 88 and 90;
- 2** **Pursuant to section 75 of the *Planning and Development Act 2005* and regulation 41(3) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, RESOLVES** not to support Scheme Amendment Nos. 88 and 90 to the *City of Joondalup District Planning Scheme No. 2*;
- 3** **NOTES** an equitable, coordinated strategic suite of measures to better manage built form outcomes and other density impacts in all of its Housing Opportunity Areas is being pursued;
- 4** **ADVISES** the Western Australian Planning Commission of its decision;
- 5** **ADVISES** submitters of its decision.

Appendix 6 refers

To access this attachment on electronic document, click here: [Attach6brf180612.pdf](#)

ITEM 7 LOCAL HOUSING STRATEGY – UPDATE

WARD	All
RESPONSIBLE DIRECTOR	Ms Dale Page Planning and Community Development
FILE NUMBER	106679, 30622, 101515
ATTACHMENT	Attachment 1 Letter received from the Minister Transport; Planning; Lands
AUTHORITY / DISCRETION	Executive – The substantial direction setting and oversight role of Council, such as adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.

PURPOSE

The purpose of this report is to:

- provide Council with information in relation to correspondence received from the Minister for Transport; Planning; Lands and a subsequent meeting held with the Minister
- seek confirmation of Council's position on whether *Local Planning Scheme No. 3* (LPS3) and the *Joondalup Activity Centre Plan* (JACP) should be progressed as a priority or whether these documents should be placed on hold pending the outcomes of draft Amendment Nos. 88 and 90 to the current planning scheme
- provide Council with an update on the progression of draft *Multiple Dwellings within HOA1 Local Planning Policy* and the work being done to progress a new strategy for managing the impacts of density in all the City's Housing Opportunity Areas (HOAs)
- address the petition received from residents in Housing Opportunity Area 8 (HOA8) at the Council meeting held on 17 April 2018 (C35-04/18 refers), requesting reinstatement of the density coding for HOA8, as per Council's decision at its meeting held on 15 February 2011.

EXECUTIVE SUMMARY

The Minister for Transport; Planning; Lands wrote to the Mayor of the City on 22 March 2018 and a meeting was held with the Minister and the local members for Joondalup and Kingsley on 5 April 2018 in relation to draft LPS3 and community concern regarding infill development in the City of Joondalup.

Draft LPS3 has been considered by the Western Australian Planning Commission (WAPC) and is currently before the Minister for a final decision. The Minister is also aware that Council has initiated Amendment Nos. 88 and 90 to its current planning scheme, which propose different residential densities to those in draft LPS3, and that these amendments will cease to have effect if they are not finalised before LPS3.

The Minister has therefore noted it is open to her to refuse LPS3 so that the City can finalise its position on Amendment Nos. 88 and 90 and undertake a review of the planning framework for infill development. The Minister is of a view that consideration of individual amendments relating to residential infill could be ad hoc without such a review.

The Minister has therefore requested the City to clarify whether it supports the development outcomes proposed by LPS3 or those proposed by Amendment Nos. 88 and 90.

In relation to the new strategy / approach for dealing with density in the HOAs, consultants are currently being engaged to assist the City with this complex body of work. The City's Request for Tender for consultants specifies that a community engagement expert should form an integral part of the consultant team. Once these consultants have been engaged by the City, extensive consultation with residents and ratepayers' groups and with residents living in HOAs will be undertaken by the consultant team to inform the new strategy / approach.

In relation to the draft *Multiple Dwellings within HOA1 Local Planning Policy*, the City met with the Department of Planning, Lands and Heritage (DPLH) early April to discuss this draft policy, among other matters, as detailed later in this report. The DPLH suggested the City should formally refer the document to the WAPC, so any feedback or decision on the draft policy could help the City to decide how best to progress the draft policy and to inform the consultant's development of new policy provisions for all HOAs. Feedback from the DPLH indicated that the draft policy would likely be formally considered by the WAPC towards the end of May, however this did not occur. The most recent update from the DPLH is that the policy will now likely be formally considered by WAPC in July.

BACKGROUND

Scheme Amendment No. 73

Following endorsement of the *Local Housing Strategy* (LHS) by the WAPC, the new dual density codes needed to be implemented via an amendment to the City's current planning scheme. This scheme amendment is known as Scheme Amendment No. 73.

Council initiated Scheme Amendment No. 73 for the purposes of public advertising at its meeting held on 10 December 2013 (CJ236-12/13 refers) and, following public consultation, the Council adopted Scheme Amendment No. 73 at its meeting held on 31 March 2015 (CJ032-03/15 refers). Scheme Amendment No. 73 was approved by the (then) Minister for Planning on 28 January 2016.

Following gazettal of Scheme Amendment No. 73, the densities proposed by the LHS became embedded in the current planning scheme and owners of properties in HOAs are now able to develop their properties in line with the new densities.

Draft Local Planning Scheme No. 3 (LPS3)

At the same time that Scheme Amendment No. 73 embedded the new density codes into the City's current planning scheme, the City was preparing its new LPS3.

The local planning scheme is the principal statutory tool which classifies land into zones and applies residential density codes and outlines how land within those zones may be used and developed.

The *Planning and Development Act 2005* and associated Regulations require local governments to review their planning schemes in the fifth year after the planning scheme is gazetted. The City's current planning scheme was gazetted on 28 November 2000 and a review of the current planning scheme commenced in early 2009.

This process of scheme review and development of a new planning scheme has been slowed and interrupted by changes in State Government legislation and the need to finalise both the LHS and the *Local Commercial Strategy*. These documents informed the *Local Planning Strategy* which, in turn, informed draft LPS3.

At its meeting held on 16 February 2016 (CJ005-02/16 refers), Council formally considered draft LPS3 and resolved to advertise the document for a period of 90 days. Following public consultation, minor modifications were made to the document and at its meeting held on 27 June 2017 (CJ089-06/17 refers), Council resolved to adopt LPS3 and to refer it to the WAPC for consideration.

The draft LPS3 that was adopted by Council at its meeting held on 27 June 2017, perpetuated the density codes that were embedded in the existing planning scheme by Scheme Amendment No. 73.

Draft Scheme Amendments No. 88 and 90

At its meeting held on 16 May 2017 (CJ078-05/17 refers), when considering the minutes of the Special Electors Meeting held on 24 April 2017, Council resolved that it supported initiating an amendment to the current planning scheme to reduce the density coding of properties in Housing Opportunity Area 1 (HOA1), bounded by the Mitchell Freeway to the East, Davallia Road to the West, Beach Road to the South and Warwick Road to the North, from R20/R40 and R20/R60 to R20/R30.

A draft scheme amendment was initiated at the Council meeting held on 27 June 2017 (CJ086-06/17 refers) – the same meeting at which Council resolved to adopt LPS3 (see above section).

This draft scheme amendment is known as Scheme Amendment No. 88.

The density code proposed under draft Scheme Amendment No. 88 is in direct conflict with the densities included in LPS3 for the relevant portion of HOA1 in Duncraig.

In September 2017, a second petition was formally received by Council, requesting down-coding of an additional portion of HOA1, west of Davallia Road. At its meeting held on 12 December 2017 (CJ193-12/17 refers), Council resolved to initiate a second amendment (Scheme Amendment No. 90) to deal with the additional properties the subject of the second petition.

The density code proposed under draft Scheme Amendment No. 90 is also in direct conflict with the densities included in LPS3 for the relevant portion of HOA1 in Duncraig.

When draft Scheme Amendment Nos. 88 and 90 were initiated by Council, Council reports highlighted there was a risk in progressing these amendments, given the status of LPS3 and the possibility the amendments could cease to have effect upon gazettal of LPS3. However, given the City could not be certain about the timing of final adoption of LPS3, the community and the Council were reluctant to wait until the gazettal of LPS3 to consider initiating the draft amendments.

Draft Scheme Amendment Nos. 88 and 90 concluded public consultation on 23 April 2018 and a report on the consultation outcomes is the subject of a separate report.

Draft Multiple Dwellings within HOA1 Local Planning Policy and the City's proposed new strategic approach to managing the impacts of density in the HOAs.

At its meeting held on 16 May 2017 (CJ078-05/17 refers), when Council considered the minutes of the Special Electors Meeting held on 24 April 2017 and resolved to support the initiation of an amendment to the planning scheme to reduce density coding in portion of HOA1 (see above section), Council also resolved that it supported the development of a new Local Planning Policy, to restrict the development of multiple dwellings in that same portion of HOA1. This draft local planning policy was endorsed by Council, for the purposes of advertising at its meeting held on 27 June 2017 (CJ110-06/17 refers).

It was initially the City's intent to advertise the draft policy with draft Scheme Amendment No. 88 (including referral to the Western Australian Planning Commission) to enable one information package to be distributed to residents (with FAQs) so as to minimise confusion.

However, a second petition was then received from residents in a different part of HOA1, also seeking to reduce the density coding of their properties. The advertising of Scheme Amendment No. 88 was placed on hold, pending a Council decision on how to address the request in the second petition. When Scheme Amendment No. 88 was placed on hold to accommodate the second petition, so was advertising of the draft policy.

At its meeting on held on 12 December 2017 (CJ193-12/17 refers), Council resolved to initiate a second amendment (Scheme Amendment No. 90) to deal with the additional properties the subject of the second petition.

In line with Council's decision at its meeting held on 12 December 2017 (which was reinforced at a Special Council Meeting held on 23 January 2018 (JSC01-01/18 refers) community consultation on the draft amendments began on 22 February 2018.

The draft *Multiple Dwellings within HOA1 Local Planning Policy* was not advertised at the same time as the amendments because:

- by the time a decision was made by Council at its meeting held on 12 December 2017, to initiate Scheme Amendment No. 90 in response to the second petition, Council had also (in November 2017) decided to develop a new Local Planning Policy to deal with all HOAs (CJ177-11/17 refers)
- in mid-January 2018, the City had discussions with officers from the Department of Planning, Lands and Heritage on the draft *Multiple Dwellings within HOA1 Local Planning Policy* and these officers raised some concerns about the draft policy.

In recognition of community concerns about density in HOA1 and other HOAs in the City, at its meeting held on 21 November 2017 (CJ177-11/17 refers), Council agreed to pursue a more strategic approach to implementing and managing density across all the HOAs.

Joondalup Activity Centre Plan (JACP)

The current planning framework for the Joondalup City Centre has been in place since 1995 and is the operative planning framework that has most recent formal endorsement from the WAPC for the City Centre. It is outdated and is a disincentive to physical and economic development in the City Centre.

At its meeting held on May 2010 (CJ073-05/10 refers), Council adopted a new structure plan for the City Centre, but this document was overtaken by the release of the State Government's *Activity Centres Policy* in August 2010, which required that an *Activity Centre Structure Plan* be prepared for the Joondalup Strategic Metropolitan Centre.

The draft *Joondalup Activity Centre Plan* (JACP) was subsequently developed and at its meeting held on 21 February 2017 (CJ004-02/17 refers), Council resolved to advertise the draft JACP for a period of 28 days. Following public consultation, at its meeting held on 27 June 2017 (CJ090-06/17 refers), Council considered submissions received on the draft JACP and resolved to support the JACP and forward it to the WAPC for consideration and endorsement.

On 13 March 2018, the WAPC considered the draft JACP and endorsed the document, noting that the JACP will not come into effect until LPS3 is finalised and gazetted, given that the land use permissibility of the JACP is enshrined in draft LPS3. These documents are therefore inextricably linked and the City cannot implement its new plan for the city centre until LPS3 is gazetted.

The JACP provides an up-to-date planning framework to achieve the desired future economic and social development that will reinforce the Joondalup City Centre as the pre-eminent Strategic Metropolitan Centre of the north-west sub-region.

The JACP is also considered a more appropriate framework to support the City's objective of being the CBD of the North as outlined in its Strategic Community Plan, *Joondalup 2022*.

DETAILS

The letter from the Minister for Transport; Planning; Lands

The Minister for Transport; Planning; Lands wrote to the Mayor on 22 March 2018 and a meeting was held with the Minister and the State Members of Parliament for the seats of Joondalup and Kingsley on 5 April 2018 in relation to draft LPS3 and community concern regarding infill development in the City of Joondalup.

Following this meeting, the Minister advised that a subsequent letter would be provided to the City in due course. At the time of writing this report, the follow-up letter had not yet been received.

In her letter in March 2018, the Minister reconfirmed the State Government's commitment to the delivery of infill development to manage the extent of growth on the outer suburbs of Perth and confirmed the new infill dwelling target for the City, as contained in the *North West Sub-Regional Planning Framework*, which forms part of the final version of the State Government's strategy for the future development of the Perth metropolitan area, *Perth and Peel @ 3.5 Million*.

The State Government's commitment to infill development is noted. The 2010 infill target for Joondalup out to 2031 was 12,700. The confirmed new target out to 2050 is 20,670 infill dwellings. This new target equates (roughly) to the provision of 646 new dwellings per year from now out to 2050, in-lieu of the previous infill target which equated to an average of 605 new dwellings per year out to 2031. Since the gazettal of scheme Amendment No. 73, approvals have been granted for 432 additional dwellings, which equates to around 216 dwellings per year. These approvals have not all yet translated into actual dwellings, and there is the possibility that some may never. Additionally, the current figures possibly also reflect early heightened activity resulting from pent up demand, which may taper off in due course.

The Minister also advised that the current State Government places priority on locating infill development in areas such as those with access to good public transport, METRONET station precincts and major activity centres; however, local governments are responsible and have authority for establishing more detailed strategies, in consultation with their communities, which identify the specific location of infill development.

The State Government's criteria relating to the identification of suitable areas for infill development is noted. The approach the City took with its LHS, in identifying areas best suited for density, aligns with the above comments made by the Minister. When the City first started developing its draft LHS, it was not considered appropriate for density to be permitted broadly or everywhere in the City given the negative impacts such an approach may have on the residents, tree canopy and the streetscapes. Instead, a strategic approach was favoured for density to occur in identified, appropriate areas. A set of locational criteria was identified, based on State Government policy and these criteria were used to identify 10 areas around train stations, activity centres and on high frequency transport routes, where increased residential densities were considered appropriate. In relation to the area of HOA1 the subject of Scheme Amendment Nos. 88 and 90, some parts are located less than 50 metres from the platform of Warwick Train Station and all parts are located within a walkable catchment (less than 400 metres) to a high frequency transport route, train station or activity centre.

In her letter the Minister advised there appears to be significant community discontent with the current approach to infill development and that this seems, in part, to be a result of a lack of genuine community consultation.

It is acknowledged that the community could have been better consulted and informed about the changes in proposed density and the exact implications of these changes. However, the City and the Council found themselves in a difficult position given:

- the untested implications of the introduction of the State Government's *Multi-Unit Housing Code*
- the Department of Planning's response to the initial draft LHS
- the City was an early adopter of State Government policy direction without the tools, support or direction that were needed.

In her letter, the Minister suggests that the City undertakes more consultation with residents on their expectations and aspirations around infill development and conducts a strategic review of the City's infill planning, culminating in presentation of proposals for State Government consideration.

The City is currently doing exactly that. In November 2017, Council declined to progress more ad hoc scheme amendments. Council also agreed to pursue a more strategic approach to implementing and managing density across all its HOAs and the City is currently in the process of procuring consultants to assist the City in engaging with the residents in HOAs and developing new scheme and policy provisions to better manage built form outcomes and other density impacts in HOAs. Council also agreed to the development of a new planning consultation policy and to expand the terms of reference of the City's Design Reference Panel to ensure all applications for multiple dwellings and larger grouped dwelling developments are reviewed by this independent panel of experts.

In relation to the progression of LPS3 and draft Scheme Amendment Nos. 88 and 90, the Minister's letter noted / advised that:

- the WAPC recently forwarded draft LPS3 to the Minister for her decision
- draft LPS3 proposes the same density codes for HOAs as those in the current planning scheme
- however, the Council has initiated scheme Amendment Nos. 88 and 90, which propose different densities to those in draft LPS3
- the Minister is concerned that the City is advertising amendments to the current planning scheme at the same time LPS3 is with her for consideration.

Confusion has been created by:

- the decision to approve LPS3 and initiate draft scheme Amendment No. 88 at the same Council meeting, which reflects different positions on density and infill development
- the subsequent decisions not to initiate an amendment for HOA8 in Edgewater, but to initiate draft Scheme Amendment No. 90 for properties for part of HOA1 in Duncraig, made at the same Council meeting
- the November 2017 decision to take a strategic approach to implementing and managing density across all HOAs via a new scheme amendment and local planning policy.

The Minister has therefore advised it is unclear whether the City supports the development outcomes facilitated by LPS3 or the alternative development outcomes proposed by draft Scheme Amendment Nos. 88 and 90 and has urged the City to clarify its position on the progression of LPS3 and, by association, the JACP versus its position on planning for infill development.

The Minister has advised it is open for her to refuse LPS3 (which would stall the JACP) to allow the City to finalise consultation and a decision on Scheme Amendment Nos. 88 and 90 and to progress the strategic review of HOAs.

The Minister is of a view that consideration of individual amendments relating to residential infill could be ad hoc without such a review.

It is not clear to the Minister what the Council's position on density is, given the different decisions in this regard.

LPS3 is currently with the Minister for a decision, however, the Minister is aware she may need to make decisions on two amendments to the existing planning scheme, which conflict with LPS3. If LPS3 is approved by the Minister, prior to completion of draft Scheme Amendment Nos. 88 and 90, these amendments will cease to have effect.

The Minister is therefore considering an option whereby she refuses LPS3 to allow the Council to finalise a decision on draft Scheme Amendment Nos. 88 and 90 and to allow the City to progress its new strategy / approach to managing the impacts of density in the HOAs.

The City strongly suggests refusal, or even delay to LPS3, is not necessary and is an undesirable option, for the following reasons:

- 1 LPS3 is an extremely important, strategic document for the City that has been in development for many years and deals with much more than density codes in HOAs.

The initial draft LPS3 was overtaken by the new *Planning and Development (Local Planning Schemes) Regulations 2015* and needed to be re-written, which was a significant setback in this important process.

The City cannot afford any further delays to finalisation of the LPS3, not only because of the importance of this strategic document, but also because the recent WAPC decision to approve the JACP is linked to finalisation of draft LPS3. The JACP is also an extremely important document that is needed to respond to the State Government employment targets for the City of Joondalup and to drive built form excellence, activation, economic development and job creation in the Joondalup Activity Centre.

- 2 Council agreed to initiate draft Scheme Amendment Nos. 88 and 90 to test community sentiment about current densities in part of HOA1. Council has since declined to initiate a similar amendment for HOA8 in Edgewater. There is no certainty about the position the Council and / or the WAPC will ultimately take on these amendments and therefore the Minister should be advised that these amendments should not be given priority over the progression of LPS3.
- 3 When draft Scheme Amendment Nos. 88 and 90 were initiated by Council, it was highlighted in numerous Council reports that there was a risk in progressing these amendments, given the status of LPS3 and the possibility the amendments could cease to have effect upon gazettal of LPS3. Despite this, the community and Council were reluctant to wait until the gazettal of LPS3 to progress the draft amendments. As a result, this has put finalisation of two of the most important strategic planning documents for the City of Joondalup at risk.

The City does not believe that LPS3 needs to be refused or held in abeyance to protect Scheme Amendment Nos. 88 and 90 from falling over. Should gazettal of LPS3 cause the draft amendments to cease to have effect, and if Council is still of a mind to progress with the intent of the draft amendments, the City can initiate a new amendment to LPS3 and the State Government can be formally requested to make all attempts to progress the new amendment to LPS3 as quickly as possible.

- 4 Additional petitions have and may continue to be received, requesting decreases in density. The City has no control over the timing of requests for ad hoc amendments in pockets of HOAs across the City. If Council is of a mind to continue to initiate scheme amendments to the current scheme to address community concern, LPS3 (and by extension, the JACP) will be held in abeyance for (potentially) a long time on the basis of amendments which may or may not receive approval from the WAPC and the Minister.
- 5 The outcome of the new strategy / approach to dealing with density in the HOAs may not require changes in actual density codes and is anticipated to focus more on other scheme and policy provisions to restrict multiple dwellings to certain areas or types of streets / lots and to provide a design led approach to better manage the impacts of density. The consultant work and community consultation may still take some time if it is to be done properly and it would be undesirable if LPS3 was refused or delayed, pending the yet to be determined outcomes of this process.
- 6 Refusing or delaying LPS3 will have no positive impact on the community, including those seeking a reduction in density. The density codes are already in place under the current planning scheme. By refusing or delaying LPS3, this will not change the existing density codes in HOAs. All that will happen, is the City will be bereft of, not only one, but two extremely important strategic documents.

Progression of LPS3, draft scheme Amendment Nos. 88 and 90 and the new strategy / approach to dealing with density in the HOAs should not need to be mutually exclusive.

LPS3 and the associated JACP are extremely important and long-awaited strategic documents for the City. These important documents should not be held up, pending decisions on scheme Amendment Nos. 88 and 90 or development of the new strategy / approach.

In context, LPS3 applies to all lots in the City of Joondalup, which is approximately 56,000 lots. The JACP applies to all 960 lots in the Joondalup Activity Centre. Draft Scheme Amendment Nos. 88 and 90 apply to 752 lots. While it is acknowledged that these amendments are important to some community members within the amendment areas, risking refusal of an extremely important strategic document (LPS3) and the delay of another that is extremely important to the economic development of the City Centre (JACP), for amendments that affect only approximately 1.3% of lots within the City of Joondalup, is not considered to be consistent with the broader strategic objectives of the City.

The Council has decided to progress a new strategy for the HOAs and City staff are trying to focus attention on this important piece of work and make sure that development applications in HOAs undergo rigorous assessment to protect the amenity of existing residents. The new scheme provisions that will be developed as part of the new strategy will be introduced via an amendment to LPS3, once gazetted.

Scheme Amendment Nos. 88 and 90 should follow due process and be given due consideration. If there is an inclination to approve them and LPS3 is gazetted before they are, the intent of Scheme Amendment Nos. 88 and 90 could also be progressed as a new amendment to LPS3 (hopefully with an expedited process and timeframe).

Draft Multiple Dwellings within HOA1 Local Planning Policy and the City's proposed new strategic approach to managing the impacts of density in the HOAs.

The City is currently in the process of procuring consultants to assist the City in engaging with the residents in HOAs and developing new scheme and policy provisions to better manage built form outcomes and other density impacts in HOAs. The Request for Tender (RFT) for the consultants outlines that the early involvement and engagement of the community will be pivotal in developing a suitable planning framework for the HOAs. Therefore, the City requires that the consultant team should be overseen by, or include the integral participation of a team member with a skill set that specialises in community engagement.

Given the importance of assistance and support from the State Government in progressing a new policy position and the strategy outlined above and to prevent delays or resistance down the track, it was important for the City to receive feedback from the DPLH on the consultant RFT as well as feedback on the following:

- How the City should deal with the fact it will end up with two policies that will need to be considered by the WAPC – an existing draft policy for part of an HOA and a proposed new policy for the balance of that HOA and for all other HOAs in the City.
- The content of the draft *Multiple Dwellings within HOA1 Local Planning Policy* and likelihood of formal support from the WAPC.
- Timing of finalisation and release of the State Government's *Apartment Design Guide (Design WA)*, which will replace R-Code provisions for multiple dwellings. Timing of release of this document will potentially influence the content of the City's policy and the City is eager to understand which provisions of the *Apartment Design Guide* the State Government will allow the City to vary and which it will not. The DPLH has previously advised it will likely allow variation to some provisions and not to others. The City needs to have more certainty around this issue, so that the new scheme and policy provisions will have the best chance of success through DPLH and the WAPC.
- The scheme and policy provisions the DPLH is likely to accept, based on recent scheme and policy provisions that other LGs have adopted.

A meeting with relevant staff from the Department was held on Tuesday 3 April 2018. In relation to the above points, the following were the key take outs from the conversation:

- State Government's commitment to density / infill has been reaffirmed in the housing targets set for the City in the final version of the *Perth and Peel @ 3.5 Million* document, which was recently released by the State Government.
- The *Apartment Design Guide* is anticipated to be released later this year and this will be the document upon which the City should base any policy provisions.
- Local government will be able to vary certain provisions of the *Apartment Design Guide* but there is no certainty at this stage which provisions the City will be able to vary with new policy provisions.
- Earlier concerns about the draft *Multiple Dwellings within HOA1 Local Planning Policy* were reiterated. Notwithstanding this, the DPLH suggested the City should formally refer the document to the WAPC now, so any feedback or decision on the draft policy could help the City to decide how best to progress the draft policy and to inform the consultant's development of new policy provisions for all HOAs.

The DPLH recently provided the City with feedback on the draft consultant RFT and this feedback has been incorporated into the final RFT document.

The DPLH previously advised that the draft *Multiple Dwellings within HOA1 Local Planning Policy* would likely be formally considered by the WAPC towards the end of May, however this did not occur. The most recent update from the DPLH is that the policy will now likely be formally considered by WAPC in July.

Legislation / Strategic Community Plan / policy implications

Legislation

Planning and Development Act 2005.
Planning and Development (Local Planning Schemes) Regulations 2015.
State Planning Policy 3.1: Residential Design Codes.

Strategic Community Plan

Key theme

Quality Urban Environment.

Objective

Quality built outcomes.

Strategic initiative

Building and landscape is suitable for the immediate environment and reflect community values.

Policy

Residential Development Local Planning Policy.

Risk Management Considerations

LPS3 is an important, strategic document for the City that has been in development for many years and deals with much more than density codes in HOAs. The JACP is also a extremely important document that is needed to respond to the State Government employment targets for the City of Joondalup and to drive built form excellence, activation, economic development and job creation in the Joondalup Activity Centre.

If the Council does not advise the Minister that LPS3 (and the associated JACP) are a priority for the City, the Minister may refuse LPS3 to allow Scheme Amendment Nos. 88 and 90 to run their course and to allow the City to prepare its new scheme amendment and policy for HOAs. As mentioned earlier, these three courses of action do not need to be mutually exclusive.

If the Minister decides to approve LPS3 ahead of finalisation of Scheme Amendment Nos. 88 and 90, these amendments to the current scheme will fall away. This has been outlined as a risk in all relevant Council reports on the matter since the initiation of draft Scheme Amendment No. 88 in June 2017. If this occurs and if Council is still of a mind to progress the intent of the amendments, this can be done as a new amendment to LPS3. This will cause delays for the residents who are seeking a solution in the quickest timeframe possible, but Council could formally request, as part of a formal resolution on the matter, that the processes for the new amendment are expedited and that, at the very least, State Government should consider waiving any consultation on a new amendment – accepting that the consultation outcomes on draft Scheme Amendment Nos. 88 and 90 would adequately serve that purpose.

The residents are concerned that delays to the process increase the risk of large multiple dwelling developments occurring in Duncraig. This concern is acknowledged; however, in the two years since the new density codes were gazetted in early 2016, there has only been an uptake of 2.8% across the whole of HOA1 (including the area east of the freeway in Warwick). For multiple dwellings, the uptake has only been 0.6% of lots. So, while the risk exists, the extent of the risk and the scale of the impact may not be as significant as most people think.

Financial / Budget Implications

LPS3 and the JACP deal with much more than density codes in HOAs. These documents will address zoning anomalies and issues for other properties outside HOAs, the owners of which have been waiting patiently for years for this to occur. The documents will also provide certainty to business owners and investors in the City Centre.

The longer these documents take to be finalised, the greater the possible negative financial implications for the City and all its residents, not only those who reside in a portion of HOA1.

Regional Significance

Although LPS3 only applies to the City of Joondalup itself, the City forms part of the broader metropolitan region, in particular the north-west sub-region. Both LPS3 and the JACP will facilitate the provision of additional housing for a growing population, facilitate the provision of additional jobs and promote the Joondalup City Centre as the centre of the north. This has regional significance, particularly for the north-west sub-region.

It is also noted that the Joondalup City Centre is recognised as one of the highest order activity centres (Strategic Metropolitan Centre) in the hierarchy set out in the State Government's overarching planning policy for activity centres. The implementation of a planning framework (the JACP) that more accurately reflects the intent and expectations of the centre as contemplated by the State's policy, in turn also provides greater guidance and certainty for future planning and development of other centres throughout the region.

Draft Scheme Amendment Nos. 88 and 90 apply to two pockets within HOA1 in Duncraig.

CONSULTATION

Consultation on draft Scheme Amendment Nos. 88 and 90 closed on 23 April 2018. The results of this consultation have been collated and are the subject of a separate report.

In relation to the new strategy / approach for dealing with density in the HOAs, consultants are currently being engaged to assist the City with this complex body of work. The City's RFT for consultants specifies that a community engagement expert should form an integral part of the consultant team. Once these consultants have been engaged by the City, extensive consultation with residents and ratepayers groups and with residents living in HOAs will be undertaken by the consultant team to inform the new strategy / approach.

COMMENT

The Minister for Transport; Planning; Lands has written to the Mayor of the City, highlighting the community's concerns with the current approach to infill development. The Minister has also outlined her own concerns about the different positions Council appears to be taking on the issue of infill development in LPS3 and draft scheme Amendment Nos. 88 and 90. This puts her in a difficult position, given she is the ultimate decision-maker on both these two contradictory sets of documents.

The Minister has therefore sought clarification and guidance from the Mayor in relation to the City's position on infill development as reflected in LPS3, versus the position reflected in draft scheme Amendment Nos. 88 and 90. The Minister has also advised it is open to her to refuse LPS3 to allow decisions to be made on draft Scheme Amendment Nos. 88 and 90 and to allow the City to finalise its strategic review of infill planning.

Draft Scheme Amendment Nos. 88 and 90 are yet to be considered by Council. Council may or may not decide to progress with the amendments. If Council decides to progress with the amendments, the WAPC may or may not support the amendments and the Minister may or may not approve them. This process will still take many months.

City staff are trying to focus attention on progressing development of the new strategy / approach as a priority. This will be a complex body of work and will involve significant community engagement, which will mean that this process will also take many months to complete. It is unlikely this body of work will be finalised before the end of the year.

If the Minister refuses LPS3 to allow the above amendments and the new strategy to be progressed, the JACP will also not be able to be implemented. Both these documents are extremely important, strategic documents that have been in development for many years and deal with much more than density codes in HOA1. These important documents should not be held up, pending decisions on Scheme Amendment Nos. 88 and 90 or development of the new strategy / approach.

It is the City's firm view that progression of LPS3, draft Scheme Amendment Nos. 88 and 90 and the new strategy / approach to dealing with density in the HOAs should not need to be mutually exclusive.

The Council should advise the Minister the following:

- LPS3 should be considered by the Minister and finalised as soon as possible.
- Draft Scheme Amendment Nos. 88 and 90 should follow due process and be given due consideration. If there is a Council and WAPC inclination to progress them and LPS3 is gazetted before they are, the intent of the amendments will be progressed as a new amendment to LPS3 and the WAPC will be requested to expedite the process and prioritise consideration of these amendments.
- The City remains committed to the implementation of State Government policy and the infill targets for Joondalup.
- Therefore, no new ad hoc scheme amendments for HOAs or parts of HOAs will be initiated by Council as Council has decided to pursue a more strategic approach to implementing and managing density across all its HOAs (CJ117-11/17 refers).
- The City is currently in the process of procuring consultants to assist the City in engaging with the residents in HOAs and developing new scheme and policy provisions to better manage built form outcomes and other density impacts in HOAs. City staff are prioritising this important piece of work while making sure that development applications in HOAs undergo rigorous assessment to protect the amenity of existing residents. The new scheme provisions that will be developed as part of the new strategy will be introduced via an amendment to LPS3.

- To successfully progress the new strategy above and to find a solution that meets both State Government objectives and the expectations of the local community, support and assistance from the Minister, the local members and the DPLH, will be essential.

VOTING REQUIREMENTS

Simply Majority.

RECOMMENDATION

That Council:

- 1 **NOTES** the letter received by the Mayor of the City of Joondalup from the Minister Transport; Planning; Lands on 22 March 2018 and that a meeting was held with the Minister and the local members for Joondalup and Kingsley on 5 April 2018 in relation to draft *Local Planning Scheme No. 3* (LPS3) and community concern regarding infill development in the City of Joondalup;
- 2 **NOTES** that the Minister has sought clarification and guidance in relation to the Council's position on infill development as reflected in LPS3, versus the position reflected in draft Scheme Amendment Nos. 88 and 90;
- 3 **NOTES** that the Minister has advised it is open to her to refuse LPS3 to allow decisions to be made on draft Scheme Amendment Nos. 88 and 90 and to allow the City to finalise its strategic review of infill planning;
- 4 **ADVISES** the Minister that:
 - 4.1 LPS3 and the *Joondalup Activity Centre Plan* (which cannot become operational until LPS3 is gazetted) are priorities for the City and the Minister is therefore requested to finalise consideration of LPS3 as soon as possible;
 - 4.2 The City is of the view that progression of LPS3, draft Scheme Amendment Nos. 88 and 90 and the new strategy / approach to dealing with density in the HOAs should not need to be mutually exclusive;
 - 4.3 Draft Scheme Amendment Nos. 88 and 90 should follow due process and be given due consideration. If there is a Council and WAPC inclination to progress these amendments and LPS3 is gazetted before they are, the intent of the amendments will be progressed as a new amendment to LPS3 and the WAPC will be requested to expedite the process and prioritise consideration of these amendments;
 - 4.4 The City remains committed to the implementation of State Government policy and the infill targets for Joondalup;
 - 4.5 No new ad hoc scheme amendments for HOAs or parts of HOAs will be initiated by Council as Council has decided to pursue a more strategic approach to implementing and managing density across all its HOAs (CJ117-11/17 refers);

- 4.6 **The City is currently in the process of procuring consultants to assist the City in engaging with the residents in HOAs and developing new scheme and policy provisions to better manage built form outcomes and other density impacts in HOAs. City staff are prioritising this important piece of work while making sure that development applications in HOAs undergo rigorous assessment to protect the amenity of existing residents. The new scheme provisions that will be developed as part of the new strategy will be introduced via an amendment to LPS3;**
- 4.7 **To successfully progress the new strategy mentioned in 4.6 above and to find a solution that meets both State Government objectives and the expectations of the local community, support and assistance from the Minister, the Local Members and the Department of Planning, Lands and Heritage, will be essential;**
- 5 **AGREES not to initiate a new scheme amendment to *District Planning Scheme No. 2* in response to the petition received from residents in Housing Opportunity Area 8 at the Council meeting held on 17 April 2018 (C35-04/18 refers), requesting reinstatement of the density coding for HOA8, as per Council's decision of 15 February 2011;**
- 6 **ADVISES the lead petitioner of its decision.**

Appendix 7 refers

To access this attachment on electronic document, click here: [Attach7brf180612.pdf](#)

ITEM 8 PROPOSED LAND EXCISION FOR WATER CORPORATION PURPOSES – GRADIENT PARK, BELDON

WARD	Central	
RESPONSIBLE DIRECTOR	Ms Dale Page Planning and Community Development	
FILE NUMBER	79522, 101515	
ATTACHMENT	Attachment 1 Attachment 2 Attachment 3 Attachment 4	Location plan – Gradient Park Site layout plan Building perspective drawing Construction footprint
AUTHORITY/DISCRETION	Executive – The substantial direction setting and oversight role of Council, such as adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.	

PURPOSE

For Council to consider a proposal to excise portions of Gradient Park, Beldon, to facilitate the installation of a water bore and associated equipment by the Water Corporation.

EXECUTIVE SUMMARY

The Water Corporation is seeking to construct new water bores and associated equipment at Gradient Park (Reserve 33472), Beldon, as part of the Perth Regional Confined Aquifer Capacity project to upgrade the existing Neerabup Groundwater Treatment Plant. The areas to be used for the bore and associated infrastructure are proposed to be excised from the park in order to come under the management of the Water Corporation.

Two areas within Gradient Park totalling 322m² are proposed to be utilised for the bore and infrastructure. The areas would be used to accommodate the bore, vehicle access areas, small sections of above ground pipe work and electrical cubicles or small buildings housing electrical equipment and controls. The bore and associated equipment will be fenced for security and safety reasons.

The Water Corporation has indicated that there are few sites that meet the criteria needed to be suitable for the bores. The proposed location of the bore has been chosen to be close to existing bore mains, large enough to accommodate drilling rigs, minimise any clearing and also ensure minimal impact to residents.

Excisions from reserves created pursuant to Section 20A of the former *Town Planning and Development Act 1928* for public purposes and are less than 5% of the area of the reserve, do not require public advertising or approval from the Minister for Lands. However, given the location of the proposal being opposite residential properties on Craigie Drive, it was considered appropriate to directly contact these owners and place a sign on Gradient Park advising of the proposal and inviting comment for a period of 21 days. Two submissions of objection were received from nearby owners.

It is also noted that under the provisions of the *Planning and Development Act 2005* and the *Metropolitan Region Scheme* (MRS), planning approval for this public work is not required to be provided under *District Planning Scheme No. 2* (DPS2), however planning approval is required to be issued by the Western Australian Planning Commission (WAPC) under the MRS, with a recommendation provided to the WAPC by the City.

It is recommended that the Department of Planning, Lands and Heritage (DPLH) be advised that Council supports the proposed land excisions to accommodate the new bore and associated equipment.

BACKGROUND

The excision proposal involves Gradient Park (Reserve 37726 - 22,860m² in area). The park is reserved under DPS2 as 'Parks and Recreation', and is zoned 'Urban' under the MRS.

The Water Corporation has provided the following information (in part):

"Since 2012, the Department of Water (now DWER) has been undertaking a project investigating deeper, confined aquifers in order to improve the way they are managed and used. This project, known as the Perth Regional Confined Aquifer Capacity (PRCAC) study, aims to improve the certainty of how much water can be extracted from Perth's deep aquifers without impacting their long-term sustainability..."

...Parameters set by DWER have resulted in few sites being identified as suitable for bore construction. The sites must be close to existing bore mains, large enough to accommodate drilling rigs and also ensure minimal impact to residents and the environment. Within the City of Joondalup boundaries, Gradient Way Park has been identified as a suitable location."

Under the provisions of the *Planning and Development Act 2005* and the MRS, planning approval for this public work is not required to be provided under DPS2, however planning approval is required to be issued by the WAPC, with a recommendation provided to the WAPC by the City. An application for planning approval under the MRS has been submitted by the Water Corporation.

A similar proposal for the excision of a portion of Lysander Park, Heathridge, was considered and supported by Council at its meeting held on 15 August 2017 (CJ128-08/17 refers). The WAPC granted development approval for the bore and associated equipment in April 2018.

DETAILS

The proposal is to excise two areas totalling 322m² from Gradient Park, being within the area fronting Craigie Drive (Attachments 1 and 2 refer). One area (49m²) would house the bore, while the other site (273m²), approximately 3.5 metres away, would house the electrical building. An indicative building perspective drawing is included at Attachment 3.

The sites proposed to be excised are located adjacent to each other and set back 16 metres from the Craigie Drive property boundary. The sites are located within an existing generally cleared area, however will require the removal of a small Banksia tree.

Residential properties are located on the opposite side of Craigie Drive. While the bore equipment will be visible from these properties, it is noted that of the three most potentially affected properties, one property has a solid rear fence fronting Craigie Drive and another has a solid front fence to Craigie Drive, meaning that views of the proposed infrastructure from these properties will be obstructed.

The Water Corporation also indicates that in addition to the new bore, a section of the bore collector main will need to be constructed through Gradient Park to connect to an existing pipeline near Marmion Avenue, however the location will be determined in consultation with the City.

The excised areas would be used as the bore compound which will contain the bore, vehicle access areas, small sections of above ground pipe work and a small building housing electrical equipment and controls. The compounds will be fenced using palisade fencing for security and safety reasons.

In addition to the sites to be excised, the Water Corporation has advised that, during construction, an 'L' shaped area of approximately 23 metres by 42 metres and 53 metres by 20 metres is required as a temporary storage and equipment set up area for the drilling contractor, as well as a five metre wide temporary access path from Gradient Way (Attachment 4 refers). Access to the area would be restricted with temporary fencing for the period of construction. The Water Corporation has advised that it will reinstate any areas disturbed during construction.

The Water Corporation indicates it will endeavour to reduce the impact of noise to nearby residents during construction and drilling and will be liaising with potentially affected residents prior to and during construction works.

Issues and options considered

Consultation and submissions

Given the location of the proposal being visible from properties fronting Craigie Drive, nine landowners were directly contacted via a letter, inviting comment. A sign was also placed on Gradient Park in the vicinity of the proposed bore and equipment, inviting comment for a period of 21 days.

Two submissions were received during the advertising of the proposal. In summary, the submitters objected on the basis of:

- the removal of public open space
- the park is utilised by people walking dogs and children using the playground
- a more suitable site should be found
- the facility will make it difficult for police to detect anti-social behaviour
- trees will be lost due to the effect of pumping ground water and will affect the endangered Carnaby cockatoo's habitat.

The proposal will occupy a portion of the existing public open space, however, this is approximately 1.4% of the overall area of Gradient Park. It is acknowledged that the use of public open space is not ideal, however on occasion this may be necessary when retrofitting essential infrastructure. The Water Corporation has advised it has undertaken substantial investigation into a range of sites, however, very few are suitable.

The Water Corporation has advised that the well is to be constructed into the Leederville aquifer therefore not affecting the local water table and water supply to existing trees. A small banksia will need to be removed, however any large Cockatoo foraging trees will not be removed. It has also been advised that, while earthworks for the site are still being designed, the intent of the electrical building is to minimise depth to prevent damage to tree roots.

The Water Corporation also advise that building security will comply with state infrastructure standards with a 1.8 metre garrison fence, with screening landscaping and additional trees within the park if required. The requirement for landscaping will be addressed through recommended conditions to be applied to any development approval issued by the WAPC, with any landscaping provided to be an appropriate balance between screening without creating additional safety or security issues.

While the use of existing public open space for this purpose is not ideal, it is acknowledged that the proposed bore is an essential service and it is not uncommon for this type of infrastructure to be located within public open space.

Development application

A development application has been submitted for planning approval under the MRS. In such instances, the WAPC is the decision-maker for the application, however the City is required to provide comments to inform WAPC's decision and will include the following:

- Consideration of the need for the Water Corporation to liaise with any nearby residents prior to and during construction of the bores to ensure that disruption to those residents is minimised.
- The provision and approval of a construction and noise management plan.
- The need for any infrastructure to be located so as to avoid the clearing of existing vegetation.
- An arborist report to be prepared that outlines appropriate tree protection zones and measures to ensure the longevity of the existing trees.
- The perimeter of the bore sites to be appropriately landscaped to improve the visual amenity of the area, taking into account safety and security issues.
- Reinstatement of any areas disturbed during construction.

Issues and options considered

The options available to Council are either to:

- support the land excision proposal and forward the proposal to DPLH for further action or
- not support the land excision proposal.

In the event Council elects to support the land excision proposal, the City will advise DPLH that it supports the accompanying development application and recommend the conditions outlined above.

In the event Council elects not to support the land excision proposal, the City will advise DPLH that it does not support the accompanying development application. It is noted that the WAPC will remain the decision-maker for the development application and may still choose to approve the proposal.

Legislation / Strategic Community Plan / policy implications

Legislation

Land Administration Act 1997.
Planning and Development Act 2005.
Metropolitan Region Scheme.

Strategic Community Plan

Key theme

Quality Urban Development.

Objective Integrated spaces.

Policy Not applicable.

Land Administration Act 1997

The Department of Lands (now DPLH) through its publication '*Crown Land Administrative and Registration Practice Manual*' sets out the necessary procedures in respect to the land excision process for reserves created under Section 152 of the *Planning and Development Act 2005* (this includes reserves formerly created under Section 20A of the *Town Planning and Development Act 1928*). If the proposed excisions are to proceed, Council is required to make a recommendation of support to the Department of Lands.

Planning and Development Act 2005 and Metropolitan Region Scheme

Section 6 of the *Planning and Development Act 2005* effectively exempts the requirement for a public authority undertaking a public work to obtain planning approval under a local planning scheme (like DPS2). However, in regard to development of the proposed bores, the MRS requires the approval of the responsible authority (in this case the WAPC) for development on land zoned under the *Metropolitan Region Scheme*.

Risk management considerations

Not applicable.

Financial / budget implications

There are no financial implications for the City. The Water Corporation will be responsible for all costs associated with the excision process.

Regional significance

The Water Corporation indicated that this project is of regional significance, as it will increase the capacity and flexibility of its bore extraction operations.

Sustainability implications

Not applicable.

Consultation

The DPLH has advised that, where it is proposed to excise areas from reserves created pursuant to Section 20A of the former *Town Planning and Development Act 1928* that are less than 5% of the area of the reserve and the excision is required for a public purpose, the excision is not required to be advertised.

The Water Corporation has indicated that they will be undertaking consultation with any nearby owners in regard to the proposal.

Notwithstanding the above, given the location of the proposal being opposite residential properties on Craigie Drive, it was considered appropriate to directly contact these owners and place a sign on Gradient Park advising of the proposal and inviting comment. Two submissions of objection were received as outlined in the 'Details' section of this Report.

COMMENT

The City has liaised with the Water Corporation to ascertain the most suitable locations for the proposed bore and equipment, taking into account the requirements of the Water Corporation, as well as seeking to minimise the impact on the usability and safety of the reserve, as well as on any nearby residential properties. The proposal represents approximately 1.4% of the total area of the reserve. The comments of objection are noted, however, while it is not ideal that public open space is required, it is acknowledged that the need for essential services may on occasion require the use of public open space.

It is considered that the proposal will not have any adverse impact on public access to the reserve and on the basis that the Water Corporation will minimise any disturbance of nearby residents during construction, it is recommended that Council supports the land excisions for the purpose of the bore and associated equipment.

VOTING REQUIREMENTS

Simple Majority.

RECOMMENDATION

That Council:

- 1 SUPPORTS the request from the Water Corporation to excise portions of Reserve 33472 for the purpose of bore and equipment sites as shown at Attachment 1 to this Report;**
- 2 REQUESTS the Department of Planning, Lands and Heritage to:**
 - 2.1 proceed with the excision of portions of Reserves 33472 for the purpose of bore and equipment sites as shown at Attachment 1 to this Report;**
 - 2.2 in the event that the excision process is finalised, provide the Water Corporation management orders over the excised land areas;**
- 3 NOTES that the Water Corporation will liaise with any nearby residents prior to and during construction of the bore and associated equipment to ensure that disruption to those residents is minimised.**

Appendix 8 refers

To access this attachment on electronic document, click here: [Attach8brf180612.pdf](#)

ITEM 9 EXECUTION OF DOCUMENTS

WARD	All
RESPONSIBLE DIRECTOR	Mr Garry Hunt Office of the CEO
FILE NUMBER	15876, 101515
ATTACHMENT	Attachment 1 Documents executed by affixing the Common Seal during the period 8 May to 24 May 2018.
AUTHORITY / DISCRETION	Information - includes items provided to Council for information purposes only that do not require a decision of Council (that is for 'noting').

PURPOSE

For Council to note the documents executed by means of affixing the Common Seal for the period 8 May 2018 to 24 May 2018.

EXECUTIVE SUMMARY

The City enters into various agreements by affixing its Common Seal. The *Local Government Act 1995* states that the City is a body corporate with perpetual succession and a Common Seal. Those documents that are to be executed by affixing the Common Seal or signed by the Mayor and the Chief Executive Officer are reported to Council for information on a regular basis.

It is therefore recommended that Council NOTES the Schedule of Documents executed by means of affixing the Common Seal for the period 8 May 2018 to 24 May 2018, as detailed in Attachment 1 to Report.

BACKGROUND

For the period 8 May 2018 to 24 May 2018, four documents were executed by affixing the Common Seal. A summary is provided below:

Type	Number
Withdrawal of Caveat	1
Deed of Variation	1
Deed of Extension	1
Section 70A Notification	1

DETAILS

Issues and options considered

Not applicable.

Legislation / Strategic Community Plan / policy implications

Legislation *Local Government Act 1995.*

Strategic Community Plan

Key theme Governance and Leadership.

Objective Corporate capacity.

Strategic initiative Demonstrate accountability through robust reporting that is relevant and easily accessible by the community.

Policy Not applicable.

Risk management considerations

Not applicable.

Financial / budget implications

Not applicable.

Current financial year impact

Not applicable.

Future financial year impact

Not applicable.

Regional significance

Not applicable.

Sustainability implications

Not applicable.

Consultation

Not applicable.

COMMENT

The documents that have been executed by affixing the Common Seal of the City of Joondalup are submitted to Council for information (Attachment 1 refers).

VOTING REQUIREMENTS

Simple Majority.

RECOMMENDATION

That Council NOTES the Schedule of Documents executed by means of affixing the Common Seal for the period 8 May 2018 to 24 May 2018, as detailed in Attachment 1 to this Report.

Appendix 9 refers

To access this attachment on electronic document, click here: [Attach9brf180612.pdf](#)

ITEM 10 WESTERN AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION 2018 ANNUAL GENERAL MEETING

WARD	All
RESPONSIBLE DIRECTOR	Mr Jamie Parry Governance and Strategy
FILE NUMBER	00033, 101515
ATTACHMENTS	Nil.
AUTHORITY / DISCRETION	Executive - The substantial direction setting and oversight role of Council, such as adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.

PURPOSE

For Council to give consideration to nominating its voting delegates for the 2018 Annual General Meeting of the Western Australian Local Government Association (WALGA) to be held on Wednesday 1 August 2018.

EXECUTIVE SUMMARY

The Annual General Meeting of WALGA is traditionally held during the WA Local Government Convention. The majority of local governments in the state have representatives attending.

Crs Russ Fishwick and Nige Jones were nominated as the City's voting delegates in 2017, with Cr John Chester and Chief Executive Officer, Mr Garry Hunt as their proxy delegates (CJ094-06/17 refers).

BACKGROUND

The 2018 WALGA Annual General Meeting will be held on Wednesday 1 August 2018.

DETAILS

Voting Delegates

In order to participate in voting on matters received at the Annual General Meeting, each member Council must register its voting delegates by 2 July 2018. Pursuant to the WALGA Constitution, all member Councils are entitled to be represented by two voting delegates. Voting delegates may be either elected members or serving officers. Proxy voting is available where the Council's appointed representatives are unable to attend.

The current City of Joondalup members of the WALGA North Metropolitan Zone are as follows:

Members

Cr Russ Fishwick, JP.
Cr Nige Jones.
Cr Christopher May.
Cr Mike Norman.

Deputies

Cr Christine Hamilton-Prime (first alternative member).
Cr Sophie Dwyer (second alternative member).

Crs Russ Fishwick, JP and Nige Jones are the City's delegate and deputy delegate respectively, to the WALGA State Council.

Issues and options considered

Not applicable.

Legislation / Strategic Community Plan / policy implications

Legislation

Not applicable.

Strategic Community Plan

Key theme

Governance and Leadership.

Objective

Strong leadership.

Strategic initiative

Advocate and influence political direction to achieve local and regional development.

Policy

Not applicable.

Risk management considerations

If the City of Joondalup does not submit its voting members, it will not be able to vote on the matters to be debated as part of the Annual General Meeting of the WALGA.

Financial / budget implications

Not applicable.

Regional significance

Matters considered at the 2018 WALGA Annual General Meeting relate to local government as an industry.

Sustainability implications

Not applicable.

Consultation

Not applicable.

COMMENT

The North Metropolitan Zone Committee of WALGA, consisting of the Cities of Joondalup, Stirling and Wanneroo, is the main link the City has in considering matters relating to WALGA activities.

It is considered prudent to designate two voting delegates for the 2018 Annual General Meeting of WALGA to ensure the City is represented and is able to vote on matters affecting the City and the broader local government sector.

VOTING REQUIREMENTS

Simple Majority.

RECOMMENDATION

That Council NOMINATES:

- 1 two voting delegates for the 2018 Annual General Meeting of the Western Australian Local Government Association to be held on Wednesday 1 August 2018;**
- 2 two proxy voting delegates for the 2018 Annual General Meeting of the Western Australian Local Government Association to be held on Wednesday 1 August 2018 in the event that Council's appointed representatives are unable to attend.**

ITEM 11 MINUTES OF EXTERNAL COMMITTEES

WARD	All	
RESPONSIBLE DIRECTOR	Mr Jamie Parry Governance and Strategy	
FILE NUMBER	00033, 101515	
ATTACHMENT	Attachment 1	Minutes of WALGA North Metropolitan Zone meeting held on 26 April 2018
	Attachment 2	Summary Minutes of the WALGA State Council meeting held on 4 May 2018
<i>(Please Note: These minutes are only available electronically).</i>		
AUTHORITY / DISCRETION	Information - includes items provided to Council for information purposes only that do not require a decision of Council (that is for 'noting').	

PURPOSE

For Council to note the minutes of various bodies on which the City has current representation.

EXECUTIVE SUMMARY

The following minutes are provided:

- Minutes of WALGA North Metropolitan Zone meeting held on 26 April 2018.
- Summary Minutes of WALGA State Council meeting held on 4 May 2018.

DETAILS

The following information details those matters that were discussed at these external meetings and may be of interest to the City of Joondalup.

WALGA North Metropolitan Zone meeting – 26 April 2018

A meeting of the North Metropolitan Zone was held on 26 April 2018.

At the time of this meeting Cr Russ Fishwick, JP and Cr Mike Norman were Council's representatives on the North Metropolitan Zone.

Crs Nige Jones and Christopher May were apologies for this meeting.

For the information of Council, the following matters of interest to the City of Joondalup were resolved at the North Metropolitan Zone meeting:

1.2 Presentation – Auditor General's Office

Mr Jordan Langford-Smith from the Office of the Auditor General presented to the Zone following the passage through Parliament and proclamation of the Local Government Amendment (Auditing) Act 2017 the Office of the Auditor General (OAG) is attending the Zone Meeting to meet with as many Local Governments as possible and provide an overview of the role of the OAG in Local Government and what to expect from both the performance and financial audit.

Mr Langford-Smith outlined the current role of the Office of the Auditor General; types of audits undertaken by the Office; audit approaches; and Local Government audits specifically.

1.3 Presentation – Addressing the Risk of Losing State and Federal Road Funding

Mr Geoff Eves was appointed to the role of Local Roads Program Manager in August 2016 and has been working with Local Governments and Main Roads WA to improve timely delivery of road improvement projects in the Metropolitan area.

This presentation identified the six major issues that have been found to affect timely road project delivery and discuss actions that Councillors and Councils should consider to manage the risks.

In Brief at the end of 2016/17 Local Governments in the metropolitan area sought to carry forward \$3.7 million of State BlackSpot funding (48% of budget), \$4.2 million of Federal BlackSpot funding (46% of budget) and \$6.2 million in State Government funded Road Project Grants (21% of funding) largely for projects that were unable to be completed in time. This is consistent with the pattern over many years. State Treasury does not support the carry-over of funds between years, meaning that these dollars are potentially lost from road improvement projects. There is also a significant reputational risk for Local Governments.

The State Road Funds to Local Government Advisory Committee established a project to identify the issues affecting timely project delivery and work with Local Governments to implement corrective actions.

7.3 Department of Local Government and Communities Representative Update Report

Department of Local Government and Communities representative, Julie Knight updated the Zone on the review of the *Local Government Act 1995*; introduction into Parliament of the Local Government Amendment (Suspension and Dismissal) Bill 2018 in March 2018; and the Office of Multicultural Interests website.

WALGA State Council meeting – 4 May 2018

A meeting of the WALGA State Council was held on 4 May 2018.

At the time of this meeting Cr Russ Fishwick, JP was Council's representative at the WALGA State Council meeting.

For the information of Council, the following matters of interest to the City of Joondalup were resolved at the WALGA State Council meeting:

4.1 Proposed State Road Funds to Local Government Agreement 2017/18 – 2022/23 (05-001-03-0001 ID)

It was resolved by the WALGA State Council as follows:

- “1. That WALGA reject the State Government offer to allocate 20% of motor vehicle licence fee revenue to the State Road Funds to Local Government Agreement, and seek the following amended allocation:

2018 / 2019 22%
2019 / 2020 23%
2020 / 2021 24%

2. That WALGA insist on the State Government Direct Grants to Local Government be reinstated to the value (plus annual increase) prior to the \$9.8m reduction imposed by the State in 2017.”

5.1 Submission to ERA – Inquiry into Business Licensing (05-0100-04-0001 DM)

It was resolved by the WALGA State Council as follows:

“That WALGA’s submission to the Economic Regulation Authority Inquiry into Business Licensing be endorsed subject to the inclusion of the following additional comments:

- a) That delays are caused and costs increased due to the issues surrounding the slow and/or inadequate responses from state agencies; and
b) Full private certification has created significant costs for local government the building industry and their clients due to their lack of understanding of planning and health controls.”

5.2 Interim Submission – Development Control Policies 1.1, 1.2, 1.7, 2.5 and 5.1 (05-073-02-0001 CH)

It was resolved by the WALGA State Council as follows:

- “1. That the interim submission to the WA Planning Commission on Development Control Policies 1.1, 1.2, 1.7 and 5.1 be endorsed;
2. That the WA Planning Commission be advised of the additional justification of Special Residential Zones within Local Planning Strategies and Local Planning Schemes; and
3. In relation to Development Control Policy 2.5, WALGA supports the removal of future Special Residential Zones, however, supports the protection of existing Special Residential Zones.”

5.3 Interim Submission - State Planning Policy 4.1 Industrial Interface (05- 047-03-0008 CH)

It was resolved by the WALGA State Council as follows:

- “1. *That the interim submission to the WA Planning Commission on State Planning Policy 4.1 Industrial Interface be endorsed; and*
2. *That WALGA advocate for the Department of Planning, Land and Heritage to include within the ‘intent’ of the future state-wide Airports State Planning Policy a clear position on the economic benefit of airports in regional areas.”*

5.4 Third Party Appeal Rights – Consultation with Members (05-073-01-0002 VJ)

It was resolved by the WALGA State Council as follows:

“That WALGA:

1. *Note the results of the additional consultation with members on the possible introduction of Third Party Appeal Rights into the Planning System;*
 2. *Based on the feedback received, amend its current policy position to support the introduction of Third Party Appeal Rights for decisions made by Development Assessment Panels;*
 3. *Provide the State Government with the outcomes of this consultation and advocate for the introduction of Third Party Appeal Rights for decisions made by Development Assessment Panels as part of the upcoming Independent Planning Reform process;*
- and*
4. *Further consult with members to provide more clarity on the exact details of the criteria that would need to be established, before any system of Third Party Appeals for decisions made by Development Assessment Panels is implemented by the State Government.”*

5.5 Community Resource Centre Funding Cuts (05-018-03-0004 KD)

It was resolved by the WALGA State Council as follows:

“That

1. WALGA:
 - a. *Acknowledges the difficulties being faced by proposed funding cuts to Community Resource Centres and the flow on effects this will have to Local Governments; and*
 - b. *Considers previous reviews into the location and functionality of Community Resources Centres.*
2. *WALGA, as a high priority, coordinate a representative paper with affected Local Governments to highlight the long-term implications for the Local Government Sector; and*

3. *WALGA, as a matter of urgency, meets with the Minister to discuss the sector's absolute dismay at the potential loss of vital support services provided by Community Resource Centres to rural, regional and remote communities and the effect the cuts will have on the Local Government sector and request that this decision be reversed."*

5.6 Interim Submission on Infrastructure WA (05-001-03-0018 MM)

It was resolved by the WALGA State Council as follows:

"That the interim submission to the Department of Premier and Cabinet on the proposal for establishing Infrastructure WA as a statutory body under legislation be endorsed subject to the addition of a new recommendation that projects valued at \$50 million and above are included in the Infrastructure WA Strategy."

5.7 Interim Submission on 'Australia's Strategy for Nature 2018 – 2030 Australia's Biodiversity Conservation Strategy and Action Inventory (05-014-03-0001 MD)

It was resolved by the WALGA State Council as follows:

"That WALGA's interim submission to the Department of the Environment and Energy on 'Australia's Strategy for Nature 2018 – 2030: Australia's Biodiversity Conservation Strategy and Action Inventory' be endorsed."

5.8 Submission on the Emissions Reduction Fund Safeguard Mechanism (05-028-03-0016 LS)

It was resolved by the WALGA State Council as follows:

"That the submission to the Department of the Environment and Energy (Cwth) relating to proposed changes to the Emissions Reduction Fund Safeguard Mechanism be endorsed."

5.9 Surveillance Devices Act 1998 (WA) – Body Worn Camera Use in Local Government Law Enforcement (05-067-09-0001 LF)

It was resolved by the WALGA State Council as follows:

"That WALGA advocate for amendment of Regulation 4 of the Surveillance Devices Regulations 1999 (WA) so that it includes Local Government 'Authorised Persons' as a class of Law Enforcement Officers for the purposes of the Surveillance Devices Act 1998 (WA)."

5.10 Vexation or Malicious Freedom of Information Applications (05-103-01-0001 LF)

It was resolved by the WALGA State Council as follows:

"That WALGA advocates for the Freedom of Information Act 1992 (WA) to be reviewed, including consideration of:

1. *Enabling the Information Commissioner to declare vexatious applicants similar to the provisions of section 114 of the Right to Information Act 2009 (QLD); and*

2. *Enabling an agency to recover reasonable costs incurred through the processing of a Freedom of Information access application where the application is subsequently withdrawn.*
3. *Modernisation to address the use of electronic communications and information.”*

5.11 Social Media – Cyber Bullying (07-003-003-0004 LF)

It was resolved by the WALGA State Council as follows:

“That WALGA endorse a request to ALGA for its advocacy for changes to Commonwealth legislation to provide for implementing:

1. *Cyber-bullying protections for all Australians, similar to those provided to Australian children under the Enhancing Online Safety Act 2015 (Cth);*
2. *Identification validation checks before a new social media account can be establish, including a timeframe by which social media providers must ensure that all existing active accounts retrospectively comply;*
3. *A social media / communications control order, similar to a violence restraining order, which prevents a person from contacting any other person through social media.”*

5.12 Proposed Amendments to the WALGA Constitution (01-001-01-0001 TB & TL)

It was resolved by the WALGA State Council as follows:

- “1. *That Clause 18 and Clause 19 of the Association Constitution be amended as follows:*
 - I. *Clause 18, sub-clause (1) be amended with the addition of the underlined words, as follows:*
 - (2) *Following determination of the election of the President pursuant to clause 17 of this Constitution, the State Council shall elect a Deputy President from amongst its metropolitan and country representatives, provided the Deputy President represents the alternate constituency to the President elected pursuant to clause 17.*
 - II. *Clause 19 be amended with the addition of the underlined words and the deletion of the strikethrough words, as follows:*
 - (1) *If the office of the President becomes vacant or if for any other reason the President is unable to take or hold office at a period which exceeds six months from the date of the next scheduled election for that office, then the State Council shall meet to elect from among their number a President who, subject to this Constitution shall hold the office of President for the balance of the term of the President replaced.*

- (2) *Where a vacancy occurs in the office of President at a period which is six months or less from the date of the next scheduled election for that office, the State Council may convene a meeting to elect from among their number a President who, subject to this Constitution, shall hold the office of President for the balance of the term of the President replaced, or the State Council may in its discretion, determine that the vacancy be filled by the Deputy President until the date of the next scheduled election.*
- (3) *An election pursuant to sub-clause 19(1) or sub-clause 19(2) shall cause the office of Deputy President to be declared vacant immediately prior to the conduct of the election.*
- (4) *Following an election pursuant to sub-clause 19(1) or sub-clause 19(2) an election pursuant to Clause 19(5) will be conducted for the office of Deputy President from amongst representatives of the alternate constituency to that of the President just elected.*
- ~~(3)~~(5) *If the office of Deputy President becomes vacant or if for any other reason the Deputy President is unable to take or hold office, then the State Council shall meet to elect from among their number a Deputy President who shall hold the office for the balance of the term of the Deputy President replaced, provided the Deputy President represents the alternate constituency to that of the President.*
- ~~(4)~~(6) *A State Council representative elected to fill a vacancy of President or Deputy President pursuant to clause 48 19 shall still be eligible for election to a subsequent two (2) full consecutive terms.*
2. *That Clause 17A – Rotation of Presidency be added to the Association Constitution, as follows:*
- 17A – Rotation of Presidency*
3. *At an election for the position of President conducted under sub-clause 17(2), only the incumbent President, subject to complying with subclause 17(5), or State Councillors from the alternate constituency to the incumbent President will be eligible to be elected.*
4. *At an election for the position of President conducted under Clause 19, only State Councillors from the alternate constituency to the incumbent President will be eligible to be elected.*
3. *That Clause 20 of the Association Constitution be amended with the addition of the underlined words as follows:*
- A person shall cease or be disqualified from being a representative or deputy representative on the State Council, or from being President or Deputy President of the Association, or from attending State Council in an ex-officio capacity, if that person:*

4. *That sub-clause 20(j) of the Association Constitution be amended with the addition of the underlined words and the deletion of the strikethrough words as follows:*
 - (j) *Is a Councillor that has been suspended by the Minister for Local Government under Part 8 of an Ordinary Member that has been ~~peremptorily suspended under Section 8.15C(2)~~ of the Local Government Act 1995.*
5. *That sub-clause 10(2) of the Association Constitution be amended with the addition of the underlined words as follows:*
 - (2) *Each representative on the State Council shall be entitled to exercise one (1) deliberative vote on any matter considered by the State Council provided that this clause shall not apply to any ex-officio members of the State Council. The President shall exercise a casting vote only, in the event of there being an equality of votes in respect of a matter considered by the State Council but excluding an election held in accordance with Clause 16 in which the President is entitled to a deliberative vote only.*
6. *That sub-clauses 2(1), 5(7)(a), 9(1)(d), and 31(4)(b) be amended as follows:*
 - I. *That the following strikethrough words be replaced with the following underlined words in sub-clause 2(1):*

~~“Local Government Managers Australia” means the Western Australian Division of the Local Government Managers Australia (LGMA), which body is incorporated under the Victorian Companies Act 1961.~~

“Local Government Professionals Australia WA” means the Western Australian Division of Local Government Professionals Australia.
 - II. *That sub-clause 5(7)(a) of the Association Constitution relating to Associate Members of WALGA be amended with the words “Local Government Managers Australia (LGMA)” to be replaced with the words “Local Government Professionals Australia WA”.*
 - III. *That sub-clause 9(1)(a) of the Association Constitution relating to ex-officio members of State Council be amended to replace the words “Local Government Managers Australia (LGMA)” with the words “Local Government Professionals Australia WA”.*
 - IV. *That sub-clause 31(4)(b) of the Association Constitution relating to a dispute resolution panel be amended by replacing the word “LGMA” with the words “Local Government Professionals Australia WA”.*
7. *That sub-clause 14(4a)(h) be amended with the addition of the underlined words and the deletion of the strike through words as follows:*
 - (h) *Is a Councillor that has been suspended by the Minister for Local Government under part 8 of an Ordinary Member that has been ~~peremptorily suspended under Section 8.15C(2)(c)~~ of the Local Government Act 1995.”*

6.1 Review of the State Industrial Relations System – Update (05-034-01-0001 TL)

It was resolved by the WALGA State Council as follows:

“That State Council note the update on the Interim Report of the State Industrial Relations Review.”

6.2 Local Government Performance Monitoring Project (05-036-04-0004 VJ)

It was resolved by the WALGA State Council as follows:

“That the results of the Local Government Performance Monitoring Project be noted.”

6.3 Update on the Building Commission’s State Wide Cladding Audit (05-015-02-0010 VJ)

It was resolved by the WALGA State Council as follows:

“That State Council:

1. *Note the progress of the Building Commission’s State Wide Cladding Audit and its possible implications on the Local Government sector, and*
2. *Seeks an urgent audience with the Premier expressing Local Government’s extreme concern at the apparent withdrawal of the Building Commission from this process.”*

6.4 Public Libraries Strategy Consultation Forum (05-057-02-0051 EDR)

It was resolved by the WALGA State Council as follows:

“That the Association’s contribution to the consultation process for the Draft WA Public Libraries Strategy be noted.”

6.5 Aboriginal Heritage Act 1972 Review 05-032-01-0001 KD)

It was resolved by the WALGA State Council as follows:

“That State Council note the Association is currently engaging with Members in order to develop a submission to State Government for the review of the Aboriginal Heritage Act 1972.”

6.6 Heritage Bill 2017 (05-036-03-022 NH)

It was resolved by the WALGA State Council as follows:

“That State Council notes WALGA has received a response from the Hon David Templeman MLA, Minister for Local Government; Heritage; Culture and the Arts addressing the Goldfields Esperance Country Zone concerns regarding parts of the Heritage Bill 2017.”

6.7 Waste Levy Policy Review (05-037-04-0001 RNB)

It was resolved by the WALGA State Council as follows:

“That State Council note the Discussion Paper on the Review of the Waste Levy Policy Statement.”

6.8 Report Municipal Waste Advisory Council (MWAC) (01-006-03-0008 RNB)

It was resolved by the WALGA State Council as follows:

“That State Council note the resolutions of the Municipal Waste Advisory Council at its 28 February meeting.”

Legislation / Strategic Community Plan / policy implications

Legislation	Not applicable.
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Strategic Community Plan

Key theme Governance and Leadership.

Objective Strong leadership.

Strategic initiative	Seek out City representation on key external and strategic bodies.
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Policy	Not applicable.
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Risk management considerations

Not applicable.

Financial / budget implications

Not applicable.

Regional significance

Not applicable.

Sustainability implications

Not applicable.

Consultation

Not applicable.

VOTING REQUIREMENTS

Simple Majority.

RECOMMENDATION

That Council **NOTES** the minutes of the:

- 1 WALGA North Metropolitan Zone meeting held on 26 April 2018 forming Attachment 1 to this Report;**
- 2 WALGA State Council meeting held on 4 May 2018 forming Attachment 2 to this Report.**

To access this attachment on electronic document, click here: [EXTERNAL MINUTES180612.pdf](#)

ITEM 12 STRATEGIC COMMUNITY REFERENCE GROUP 2018 – TERMS OF REFERENCE

WARD	All
RESPONSIBLE DIRECTOR	Mr Jamie Parry Governance and Strategy
FILE NUMBER	102605, 101515
ATTACHMENT	Attachment 1 SCRG Terms of Reference
AUTHORITY / DISCRETION	Executive - The substantial direction setting and oversight role of Council, such as adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.

PURPOSE

For Council to consider revised Terms of Reference for the Strategic Community Reference Group (SCRG).

EXECUTIVE SUMMARY

In January 2018, the City sought nominations to fill six vacancies on the City's SCRG within the following wards:

- North Ward.
- North-Central Ward.
- Central Ward.
- South-West Ward.
- South-East Ward.
- South Ward.

Positions were advertised through the local community paper, the City's website, social media and the City's Community Engagement Network to seek interest from the broader community. All resident / ratepayer associations within the wards were also sent nomination details to distribute among their members and supporting networks.

The nomination period was open for four weeks from 11 January to 9 February 2018 and a total of 76 valid nominations were received.

Given the high number of nominations received, Council resolved to amend the Terms of Reference to allow for one member and one deputy member to be appointed from each of the six wards (CJ038-03/18 refers). The Terms of Reference stipulated that deputy members are only able to perform the function of a member if the member is unable to attend the meetings. Council subsequently appointed a member and deputy member for each of the six wards for the Strategic Community Reference Group.

The City conducted an Induction Session for members and deputy members on 21 May 2018 where issues of the role of the deputy members were canvassed. Following consideration of the matters raised by the SCRG members it is recommended that the SCRG Terms of Reference are amended to specify that all documentation prior to the SCRG meetings and the notes of the meetings are distributed to the deputy members to provide them with the necessary information should they be required to deputise for the members.

BACKGROUND

In 2012, Council established the SCRG as a new participation mechanism for the external provision of advice to Council. The group consists of appointed community representatives from each ward, elected members and seconded experts utilised on an as-needs basis.

In accordance with the SCRG Terms of Reference the terms for community members concluded in October in line with the ordinary Council election cycle. Community members were advised of the conclusion of their current term in September 2017 and were also informed that Council would consider the re-establishment of the SCRG and membership composition following the local government elections on 21 October 2017.

Public advertising of the nomination process commenced on 11 January and closed on 9 February 2018. Notices were placed on the City's website, in the local newspaper, through the social media networks and through the City's Community Engagement Network. A letter of invitation was also sent directly to all resident / ratepayer associations, providing an opportunity for active community members to offer their nomination on the SCRG.

The City received a total of 76 valid nominations. Given the high number of submissions received Council, on 20 March 2018, resolved to amend the Terms of Reference for the SCRG to allow the appointment of a maximum of one community member and one deputy member from each of the six wards. The amendment included a clause stipulating that a deputy member is only able to attend meetings when the member is unavailable.

At the same meeting Council appointed the following members and deputy members for the six wards:

WARD	MEMBER	DEPUTY MEMBER
North Ward	Dr Ross Hollett	Ms Victoria Brimelow
North-Central Ward	Ms Lara Silbert	Ms Karin Warwick
Central Ward	Mr Peter Beaton	Mr Ross Oxwell
South-West Ward	Mr Brian Yearwood	Ms Jo Stephens
South-East Ward	Ms Selina Gates	Mr David Healy
South Ward	Dr Susan Elizabeth King	Ms Tiffany Tonkin

DETAILS

The City held an Induction Session for all SCRG members and deputy members on 21 May 2018. At that meeting a number of issues were canvassed about the role of the deputy members, particularly in relation to the opportunity to attend the SCRG meetings as observers and inclusion on the distribution list for all pre-meeting reading material as well as the notes which are distributed following each meeting.

A number of the deputy members indicated that they would like to be able to attend meetings at least in an observer status. They also indicated that they would like to receive all material, pre-and post SCRG meetings, which is distributed to the SCRG members so that they are informed of the issues that will be discussed in order to be in a position to fully participate in the SCRG meetings if they are required to deputise for a member.

Issues and options considered

The SCRG Terms of Reference would require amendment to allow for deputy members to attend meetings and / or to receive all SCRG documentation including agendas, memorandums and meeting notes.

Council can choose to either:

Option 1

- Allow deputy members to attend all meetings in an observer capacity and receive all meeting documentation which is distributed prior to and following each SCRG meeting.

This will require an amendment to the SCRG Terms of Reference

Option 2

- Allow deputy members to receive all meeting documentation which is distributed prior to and following each SCRG meeting.

This will require an amendment to the SCRG Terms of Reference.

Option 3

- Support the status quo whereby deputy members can only attend meetings and receive meeting documentation if they are called on to deputise for a member who is unable to attend.

Option 2 is the preferred option. Given that deputy members may be called on at late notice to deputise for members, it is appropriate that they receive all SCRG meeting documentation. It is also appropriate for the meeting notes to be distributed to deputy members as there are occasions where two meetings are convened for a topic under discussion and deputy members may be called on to attend a second meeting and will, therefore, benefit from reviewing the meeting notes to ensure continuity.

Legislation / Strategic Community Plan / policy implications

Legislation *Local Government Act 1995.*

Strategic Community Plan

Key theme Governance and Leadership.

Objective Active democracy.

Strategic initiative Optimise opportunities for the community to access and participate in decision-making processes.

Adapt to community preferences for engagement formats.

Policy *Community Consultation and Engagement Policy.*

Risk management considerations

Should Council choose not to endorse deputy members receiving meeting documentation there is a risk that if deputy members are required to deputise for members they will have limited understanding of the topic and associated issues and will, therefore, not be in a position to fully participate in the SCRG meeting.

Financial / budget implications

Not applicable.

Regional significance

Not applicable.

Sustainability implications

The SCRG provides advice to Council on a variety of strategic matters, with the aim of influencing and contributing to increased sustainable outcomes for the City. To date, the group has considered matters pertaining to environmental, crime and community safety, community development, waste management, volunteer and community leadership, and community engagement matters.

Consultation

The SCRG is a mechanism for community engagement on strategic issues.

COMMENT

The SCRG provides a unique mechanism for community representatives and subject experts providing advice to Council on a range of issues of importance to the community. The high number and quality of applications received is evidence of the success of the group and the ability for deputy members to receive all meeting documentation will enhance their ability to fully participate in SCRG meetings if they are required to deputise for members who are unable to attend.

VOTING REQUIREMENTS

Simple Majority.

RECOMMENDATION

That Council AMENDS the Terms of Reference of the Strategic Community Reference Group as follows:

1 An additional clause 4.5 be included to read:

“4.5 To ensure that deputy members are well informed if they are required to attend meetings in the place of members, they are to receive all meeting documentation including agendas, memorandums, and meeting notes.”.

Appendix 10 refers

To access this attachment on electronic document, click here: [Attach10brf180612.pdf](#)

ITEM 13 STATUS OF PETITIONS

WARD	All
RESPONSIBLE DIRECTOR	Mr Jamie Parry Governance and Strategy
FILE NUMBER	05386, 101515
ATTACHMENTS	Attachment 1 Status of Petitions – 16 August 2016 to 15 May 2018
AUTHORITY / DISCRETION	Information – includes items provided to Council for information purposes only that do not require a decision of Council (that is for 'noting').

PURPOSE

For Council to note the status of outstanding petitions.

BACKGROUND

At its meeting held on 16 December 2008 (CJ261-12/08 refers), Council considered a report in relation to petitions.

As part of that report, it was advised that quarterly reports would be presented to Council in the future.

DETAILS

Issues and options considered

Attachment 1 provides a list of all outstanding petitions, which were received during the period 16 August 2016 to 15 May 2018, with a comment on the status of each petition.

Legislation / Strategic Community Plan / policy implications

Legislation *City of Joondalup Meeting Procedures Local Law 2013.*

Strategic Community Plan

Key Themes Governance and Leadership.

Objective Active democracy.

Strategic Initiatives

- Fully integrate community consultation practices into City activities.
- Optimise opportunities for the community to access and participate in decision-making processes.
- Adapt to community preferences for engagement formats.

Policy Implications

Each petition may impact on the individual policy position of the City.

Risk Management Considerations

Failure to give consideration to the request of the petitioners and take the appropriate actions may impact on the level of satisfaction of the community.

Financial/Budget Implications

Individual requests made by the way of petitions may have financial implications.

Regional Significance

Not applicable.

Sustainability Implications

Not applicable.

Consultation

Not applicable.

COMMENT

The list of petitions is presented to Council for information, detailing the actions taken to date and the actions proposed to be undertaken for those petitions that remain outstanding.

VOTING REQUIREMENTS

Simple Majority.

RECOMMENDATION

That Council **NOTES:**

- 1** the status of outstanding petitions submitted to Council during the period 16 August 2016 to 15 May 2018, forming Attachment 1 to this Report;
- 2** in relation to the petition requesting Council create a working group to review and develop appropriate signage guidelines and policy to allow small business to have a say on signage and place-making within the City of Joondalup, Council will consider the petition as part of its review of the City's *Signs Policy* that will commence once *Local Planning Scheme No. 3* has been endorsed by the Western Australian Planning Commission;
- 3** in relation to the petition requesting Council defer the work to install connections to the MRWA Mitchell Freeway Principal Shared Path (PSP) from Perivale Close, Whitton Court and Romford Place, Kingsley and explore all options for making the section of the PSP safer, a report was presented to Council at its meeting held on 17 April 2018 (CJ066-04/18 refers);

- 4 in relation to the petition requesting Council reinstate bulk waste verge collections, a report was presented to Council at its meeting held on 15 May 2018 (CJ083-05/18 refers);
- 5 in relation to the petition requesting that Council ensures community consultation with residents occurs before new trees are planted on verges outside their homes in all instances and immediately removes the trees recently planted in suburbs due to a failure to apply minimum distances from infrastructure laid out by the Water Corporation guidance or immediately indemnifies all residents and other state bodies indefinitely against sustained damage caused by roots systems, a report was presented to Council at its meeting held on 17 April 2018 (CJ066-04/18 refers);
- 6 in relation to the petition requesting that Council to introduce the following to drive growth and success in the Performing Arts and Cultural Sector, thereby making opportunities available to our families and businesses:
 - 6.1 establish a formal subcommittee of Council to manage and deliver all performing arts and cultural growth / events in the City with 80% of members drawn from this City's community;
 - 6.2 establish safe, secure and accessible equipment storage for groups along with a dedicated, City supplied, equipment library to supply (free of charge) key equipment;
 - 6.3 the City of Joondalup to have a professional Performing Arts and Cultural team that will:
 - 6.3.1 act as the production and support for all suburbs with activities being centralised;
 - 6.3.2 support all groups with fundraising applications, professional PR and memberships;
 - 6.3.3 facilitate access to all current facilities in the City of Joondalup such as school theatres, churches, parks or empty business units for all groups and activities;
 - 6.3.4 raise cross-cultural understanding and accessibility for families / disadvantaged groups;
 - 6.4 source a Performing Arts and Cultural Facility that is fully funded by grants and donations,

it is anticipated that a report will be presented to Council at its meeting to be held on 17 July 2018;
- 7 in relation to the petition requesting Council zone Broadbeach Park, Hillarys as a 'Dogs on Leash' park, a report was presented to Council at its meeting held on 20 March 2018 (CJ044-03/18 refers);
- 8 in relation to the petition requesting Council to consider the following items in relation to Galston Park, Duncraig:
 - 8.1 The installation of a seat and table view of the limestone bike track for parents to more easily supervise children;

8.2 Installation of the fourth side of the limestone retaining wall around the playground;

8.3 Upgrade or more regular maintenance of the limestone bike track;

8.4 Improved weed management,

Parts 8.1 to 8.3 listed above have been completed and Part 8.4 is scheduled to be undertaken as part of the City's scheduled winter maintenance program;

8.5 The lead petitioner will be advised of the above;

9 in relation to the petition requesting that Council revoke its previous decision not to allow residents and regular users of Beldon Park, Beldon to use the park to park cars on for the car boot sale to be held on Saturday, 3 March 2018, a report was presented to Council at its meeting held on 20 March 2018 (CJ045-03/18 refers);

10 in relation to the petition requesting that Council retain the current zoning in regard to dog access to Broadbeach Park, Hillarys, permitting dogs 'off lead' provided the dog is controlled by its owner, a report was presented to Council at its meeting held on 20 March 2018 (CJ044-03/18 refers);

11 in relation to the petition requesting permission from the State Administrative Tribunal to advertise any amended proposal in regards to the proposed multiple dwelling development at 1 and 3 Chipala Court, Edgewater for public comment prior to the City of Joondalup establishing a position on the proposed revision, a report is proposed to be presented to Council on a date yet to be determined;

12 in relation to the petition requesting a skate park facility be built at Chichester Park, Woodvale, the City is currently investigating suitable locations in parallel to the development of an overall skate strategy for the City of Joondalup, with a report to be presented to Council at the conclusion of investigations;

13 in relation to the petition opposing the siting of an Optus mobile phone base station and mast assembly at 63 Camberwarra Drive, Craigie, a report was presented to Council at its meeting held on 15 May 2018 (CJ069-05/18 refers);

14 in relation to the petition requesting an upgrade to Sycamore Park, Duncraig covering the following:

14.1 A new integrated playground / nature play space concept focusing on the play needs of children aged 0-12 years (medium size combination play unit, double swing set, senior and junior seats and other play equipment);

14.2 The needs of their parents and caregivers when visiting the park / playground;

14.3 A path system connecting the park to the amenities, as well as upgraded turf and flora maintenance to reduce the water wastage (natural mulch, native underplanting and turf improvement),

it is anticipated that a report will be presented to Council at its meeting to be held on 21 August 2018;

- 15 in relation to the petition requesting that Council protects and retains the residential amenity of the housing opportunity area of Edgewater by reinstating the residential coding decision made by Council at its meeting held on 15 February 2011 which was recommended by the City's planning staff and the planning consultant engaged to undertake the housing opportunity area review, a report is proposed to be presented to Council at its meeting to be held on 26 June 2018;
- 16 in relation to the petition requesting that Council improve the safety of (and / or shortens) the access for pedestrians / cyclists to the Greenwood railway station by opening Perivale Close (Whitton Court and possibly Romford Place) onto the public shared pathway beside the Mitchell Freeway, a report was presented to Council at its meeting held on 17 April 2018 (CJ066-04/18 refers);
- 17 in relation to the petition requesting the waiver of fees of \$9,754 for the Greenwood Tennis Club 2017-18 junior member court fees, a report is proposed to be presented to Council at its meeting to be held on 17 July 2018;
- 18 in relation to the petition requesting the waiver of hall hire fees of \$10,000 for the Fitness 50 Club located at Fleur Freame Pavilion, a report is proposed to be presented to Council at its meeting to be held on 17 July 2018.

Appendix 11 refers

To access this attachment on electronic document, click here: [Attach11brf180612.pdf](#)

ITEM 14 **ANIMALS AMENDMENT LOCAL LAW 2018 - ADOPTION**

WARD	All
RESPONSIBLE DIRECTOR	Mr Jamie Parry Governance and Strategy
FILE NUMBER	21067, 101515
ATTACHMENT	Attachment 1 Schedule of Submissions Attachment 2 <i>City of Joondalup Animals Amendment Local Law 2018</i> – marked-up copy Attachment 3 <i>City of Joondalup Animals Amendment Local Law 2018</i> – adoption copy Attachment 4 <i>City of Joondalup Animals Local Law 1999</i>
AUTHORITY / DISCRETION	Legislative - includes the adoption of local laws, planning schemes and policies.

PURPOSE

For Council to note the submissions received following public advertising of the proposed *City of Joondalup Animals Local Law 2018* and to make the local law.

EXECUTIVE SUMMARY

At its meeting held on 20 March 2018 (CJ040-03/18 refers) Council resolved to make the proposed *City of Joondalup Animals Amendment Local Law 2018* for the purpose of public advertising. The effect of the proposed *City of Joondalup Animals Amendment Local Law 2018* is to remove redundant provisions within the local law relating to the establishment of dog exercise and dog prohibited areas.

In accordance with section 3.13(3) of the *Local Government Act 1995* (the Act) the City publicly advertised the proposed local law for a period of six weeks and forwarded a copy to the Minister for Local Government.

At the close of the public submission period the City received a total of 10 submissions comprising nine individual submissions and one submission from the Department of Local Government, Sport and Cultural Industries (DLGSC). The individual submissions were queries relating to current enforcement issues and responded to operationally. These submissions did not impact the proposed local law. The submission from the DLGSC provided comment focussed on the setting out and formatting of the local law, resulting in some minor recommended changes.

It is therefore recommended that Council:

- 1 *NOTES the submissions received at the close of the public submissions period for the proposed City of Joondalup Animals Amendment Local Law 2018, as outlined in Attachment 1 to this Report;*

- 2 *BY AN ABSOLUTE MAJORITY MAKES the City of Joondalup Animals Amendment Local Law 2018 as detailed in Attachment 3 to this Report and AUTHORISES the Common Seal to be affixed;*
- 3 *NOTES the progression of the remaining actions to finalise the local law adoption process as detailed in section 3.12 and 3.15 of the Local Government Act 1995;*
- 4 *ADVISES all submitters of Council's decision.*

BACKGROUND

At its meeting held on 23 March 1999 (CJ67-03/99 refers), Council adopted the *City of Joondalup Animals Local Law 1999*. The local law provides for the regulation, control and management of the keeping of animals within the City of Joondalup. This also included the designation of dog exercise and dog prohibited areas in the City's district.

The *Dog Act 1976* was amended in 2014 to enable local governments to determine dog exercise and dog prohibited areas by simple resolution rather than through a local law. This legal change rendered the designation and enforcement of such areas within the City's *Animals Local Law 1999* void and unenforceable.

At its meeting held on 16 September 2014 (CJ169-09/14 refers), Council established a number of dog exercise and dog prohibited areas in the City's district in accordance with section 31 of the *Dog Act 1976*. These areas have been reviewed and amended as required since that time.

At its meeting held on 13 December 2016 (CJ208-12/16 refers), Council resolved to amend the *City of Joondalup Animals Local Law 1999*, including the removal of the ability to establish dog exercise and dog prohibition areas, as well as remove the horse exercise area at Hillarys Beach. However, that local law was subsequently disallowed by Parliament, requiring further amendment to remove the redundant provisions relating to the establishment of dog exercise and dog prohibited areas.

The *City of Joondalup Animals Amendment Local Law 2018* was developed to specifically deal with the removal of the ability to establish dog exercise and dog prohibited areas in the City's district.

At its meeting held on 20 March 2018 (CJ040-03/18 refers) Council resolved to make the proposed *City of Joondalup Animals Amendment Local Law 2018* for the purpose of public advertising. The effect of the proposed *City of Joondalup Animals Amendment Local Law 2018* is to remove redundant provisions within the local law relating to the establishment of dog exercise and dog prohibited areas.

DETAILS

In accordance with section 3.13(3) of the *Local Government Act 1995* (the Act) the City publicly advertised the proposed local law for a period of six weeks and forwarded a copy to the Minister for Local Government. Public notification of the proposed local law occurred as follows:

- Public notice boards at the City Administration Centre, the Whitfords Customer Service Centre and at each of the City's public libraries.
- Public notice on the City's website.
- An email to the City's 'Community Engagement Network'.
- *The West Australian*.
- *The Joondalup Weekender*.
- *The Joondalup Times*.

At the close of the public submission period the City received a total of 10 submissions comprising nine individual submissions and one submission from the Department of Local Government, Sport and Cultural Industries (DLGSC). The individual submissions were queries relating to current enforcement issues and responded to operationally. These submissions did not impact the proposed local law. The submission from the DLGSC provided comment focussed on the setting out and formatting of the local law, resulting in some minor recommended changes. A schedule of submissions is provided as Attachment 1.

Where suggested changes have been supported they have been included in the local law submitted to Council for adoption. In addition to the submissions, officers noted some minor text changes were needed, with the words “and dog” removed from the title of the Third Schedule and accompanying diagram, which now only relates to the restricted horse exercise area. A copy of the amended local law showing the marked-up changes is provided as Attachment 2 to this Report. The amended local law to be adopted and submitted to the State Law Publisher for publication in the *Government Gazette* is provided as Attachment 3. A copy of the City’s current *Animals Local Law 1999* is provided as Attachment 4.

Issues and options considered

Council can either:

- adopt the local law as advertised
- adopt the local law with modifications made following the public submission period, subject to the modifications not being significantly different to what was advertised or
- not adopt the proposed local law.

Option 2 is the recommended option, with some minor formatting and setting out changes made in response to comments from the DLGSC. These changes are considered to not significantly alter the local law from what was advertised.

Legislation / Strategic Community Plan / policy implications

Legislation

Local Government Act 1995.
Dog Act 1976.
City of Joondalup Animals Local Law 1999.

Strategic Community Plan

Key theme

- Governance and Leadership.
- Quality Urban Environment.

Objective

- Corporate capacity.
- Quality open spaces.

Strategic initiative

Apply a strategic approach to the planning and development of public open spaces.

Policy

Not applicable.

Subdivision 2, Division 2 of Part 3 of the Act applies to the creation, amending and repealing of local laws. It is anticipated that the amendment local law-making process will take a further four weeks to complete the process, following a decision of Council.

Risk management considerations

The amendment local law is yet to be considered by the Joint Standing Committee on Delegated Legislation (JSCDL), which reviews local laws created by local governments (including amendments) as well as other subsidiary legislation.

Should the City not follow the local law creation process as detailed in the Act, the JSCDL may recommend to the Parliament disallowance of the local law.

Financial / budget implications

Current financial year impact

Account no.	1.522.A5202.3277.0000.
Budget Item	Advertising – Public / Statutory.
Budget amount	\$6,073
Amount spent to date	\$4,631
Proposed cost	\$2,000
Balance	\$ (558)

All amounts quoted in this report are exclusive of GST.

Regional significance

Not applicable.

Sustainability implications

Not applicable.

Consultation

The development of local laws requires statutory advertising of the proposal and consultation with the public throughout the local law-making process. This has been undertaken and included:

- giving public notice advertising the proposed local law and inviting submissions to be made within no less than six weeks from the date of advertising, including:
 - statewide advertising in *The West Australian* newspaper
 - advertising in the *Joondalup Weekender* newspaper
 - advertising in the *Joondalup Times* newspaper
 - displaying public notices at the City of Joondalup Administration Centre, Whitfords Customer Service Centre and each City of Joondalup public library
 - advertising on the City's website
 - emailing the City's Community Engagement Network
- providing a copy of the notice and a copy of the proposed local law to the Minister for Local Government.

COMMENT

The *City of Joondalup Animals Amendment Local Law 2018* has been progressed to specifically deal with the removal of redundant clauses relating to the making of dog exercise and dog prohibition areas.

The proposed *City of Joondalup Animals Amendment Local Law 2018* was publicly advertised and subsequently minor amendments made, taking into account comments received from the DLGSC.

Should Council proceed with the making of the local law, the remaining actions as specified in the Act will progress, which, in summary, involves the publishing of the local law in the *Government Gazette* and submission of the local law to the JSCDL.

VOTING REQUIREMENTS

Absolute Majority.

RECOMMENDATION

That Council:

- 1 **NOTES** the submissions received at the close of the public submissions period for the proposed *City of Joondalup Animals Amendment Local Law 2018*, as outlined in Attachment 1 to this Report;
- 2 **BY AN ABSOLUTE MAJORITY MAKES** the *City of Joondalup Animals Amendment Local Law 2018* as detailed in Attachment 3 to this Report and **AUTHORISES** the Common Seal to be affixed;
- 3 **NOTES** the progression of the remaining actions to finalise the local law adoption process as detailed in section 3.12 and 3.15 of the *Local Government Act 1995*;
- 4 **ADVISES** all submitters of Council's decision.

Appendix 12 refers

To access this attachment on electronic document, click here: [Attach12brf180612.pdf](#)

ITEM 15 PARKING AMENDMENT LOCAL LAW 2018 - ADOPTION

WARD	All
RESPONSIBLE DIRECTOR	Mr Jamie Parry Governance and Strategy
FILE NUMBER	24185, 101515
ATTACHMENT	Attachment 1 Schedule of Submissions Attachment 2 <i>City of Joondalup Parking Amendment Local Law 2018</i> – marked-up copy Attachment 3 <i>City of Joondalup Parking Amendment Local Law 2018</i> – adoption copy Attachment 4 <i>City of Joondalup Parking Local Law 2013</i>
AUTHORITY / DISCRETION	Legislative - includes the adoption of local laws, planning schemes and policies.

PURPOSE

For Council to note the submissions received following public advertising of the proposed *City of Joondalup Parking Amendment Local Law 2018* and to make the local law.

EXECUTIVE SUMMARY

At its meeting held on 20 March 2018 (CJ043-03/18 refers) Council resolved to make the proposed *City of Joondalup Parking Amendment Local Law 2018* for the purpose of public advertising. The effect of the *City of Joondalup Parking Amendment Local Law 2018* is to better clarify the provisions relating to the control of parking throughout the district.

In accordance with section 3.13(3) of the *Local Government Act 1995* (the Act) the City publicly advertised the proposed local law for a period of six weeks and forwarded a copy to the Minister for Local Government.

At the close of the public submission period the City received a total of six submissions comprising five individual submissions and one submission from the Department of Local Government, Sport and Cultural Industries (DLGSC). Four of the individual submissions were queries about the proposed changes and responded to operationally. One individual submission objected to the increased fees and suggested increasing the availability of parking was required. The submission from the DLGSC provided comment primarily focussed on the setting out and formatting of the local law, resulting in some minor recommended changes.

It is therefore recommended that Council:

- 1 *NOTES the submissions received at the close of the public submission period for the proposed City of Joondalup Parking Amendment Local Law 2018, as outlined in Attachment 1 to this Report;*
- 2 *BY AN ABSOLUTE MAJORITY MAKES the City of Joondalup Parking Amendment Local Law 2018 as detailed in Attachment 3 to this Report and AUTHORISES the Common Seal to be affixed;*
- 3 *NOTES the progression of the remaining actions to finalise the local law adoption process as detailed in section 3.12 and 3.15 of the Local Government Act 1995;*

4 ADVISES all submitters of Council's decision.

BACKGROUND

At its meeting held on 16 July 2013 (CJ129-07/13 refers) Council adopted the *City of Joondalup Parking Local Law 2013*. The parking local law provides for the regulation, control and management of parking within the City of Joondalup.

At its meeting held on 17 August 2015 (CJ143-08/15 refers) Council resolved to amend the *City of Joondalup Parking Local Law 2013*, following a review of the operation of the local law after nearly two years of implementation.

At its meeting held on 20 March 2018 (CJ043-03/18 refers) Council resolved to make the proposed *City of Joondalup Parking Amendment Local Law 2018* for the purpose of public advertising. The effect of the proposed *City of Joondalup Parking Amendment Local Law 2018* is to better clarify provisions of the *City of Joondalup Parking Local Law 2013* and ensure it remains valid and consistent with statutory legislation.

DETAILS

In accordance with section 3.13(3) of the Act the City publicly advertised the proposed local law for a period of six weeks and forwarded a copy to the Minister for Local Government. Public notification of the proposed local law occurred in the following manner:

- Public notice boards at the City Administration Centre, the Whitfords Customer Service Centre and at each of the City's public libraries.
- Public notice on the City's website.
- An email to the City's 'Community Engagement Network'.
- *The West Australian* newspaper.
- *The Joondalup Weekender* newspaper.
- *The Joondalup Times* newspaper.

At the close of the public submission period the City received a total of six submissions comprising five individual submissions and one submission from the Department of Local Government, Sport and Cultural Industries (DLGSC). Four of the individual submissions were queries about the proposed changes and responded to operationally. One individual submission objected to the increased fees and suggested increasing the availability of parking was required. The submission from the DLGSC provided comment primarily focussed on the setting out and formatting of the local law, resulting in some minor recommended changes. A schedule of submissions is provided as Attachment 1.

Where suggested changes have been supported they have been included in the local law submitted to Council for adoption. A copy of the amended *City of Joondalup Parking Amendment Local Law 2018* showing the marked-up changes is provided as Attachment 2 to this report. The amended *City of Joondalup Parking Amendment Local Law 2018* to be adopted and submitted to the State Law Publisher for publication in the *Government Gazette* is provided as Attachment 3 to this Report. A copy of the City's current *Parking Local Law 2013* is provided as Attachment 4.

Issues and options considered

Council can either:

- adopt the local law as advertised

- adopt the local law with modifications following the public submission period, subject to the modifications not being significantly different to what was advertised or
- not adopt the proposed local law.

Option 2 is the recommended option, with some minor formatting and setting out changes made in response to comments from the DLGSC. These changes are considered to not significantly alter the local law from what was advertised.

Legislation / Strategic Community Plan / policy implications

Legislation

Road Traffic Code 2000.
Local Government Act 1995.
Local Government (Functions and General) Regulations 1996.
City of Joondalup Parking Local Law 2013.

Strategic Community Plan

Key theme Governance and Leadership.

Objective Corporate capacity.

Strategic initiative Not applicable.

Policy *Parking Schemes Policy.*

Subdivision 2, Division 2 of Part 3 of the Act applies to the creation, amending and repealing of local laws. It is anticipated that the amendment local law-making process will take a further four weeks to complete the process, following a decision of Council.

Risk management considerations

Should the City not follow the local law creation process as detailed in the Act, the local law may be disallowed by the JSCDL. This risk has been mitigated by the City strictly adhering to the legislated process.

There is also a risk that the general community may perceive the increases to existing modified penalties as negative and that this is simply a means of achieving additional revenue. This risk is minimised as the City has demonstrated that the existing level of modified penalties are at the lower end in comparison to other local governments and have not been effective in reducing the level of enforcement.

Financial / budget implications

Current financial year impact

Account no.	1.522.A5202.3277.0000.
Budget Item	Advertising *- Public / Statutory.
Budget amount	\$6,073
Amount spent to date	\$4,631
Proposed cost	\$2,000
Balance	\$ (558)

All amounts quoted in this report are exclusive of GST.

Regional significance

Not applicable.

Sustainability implications

Not applicable.

Consultation

The development of local laws requires statutory advertising of the proposal and consultation with the public throughout the local law-making process. This has been undertaken and included:

- giving public notice advertising the proposed local law and inviting submissions to be made within no less than six weeks from the date of advertising, including:
 - statewide advertising in *The West Australian* newspaper
 - advertising in the *Joondalup Weekender* newspaper
 - advertising in the *Joondalup Times* newspaper
 - displaying public notices at the City of Joondalup Administration Centre, Whitfords Customer Service Centre and each City of Joondalup public library
 - advertising on the City's website
 - emailing the City's Community Engagement Network
- providing a copy of the notice and the proposed local law to the Minister for Local Government.

COMMENT

The *City of Joondalup Parking Amendment Local Law 2018* has been progressed to better clarify provisions of the *City of Joondalup Parking Local Law 2013* and ensure it remains valid and consistent with statutory legislation.

The proposed *City of Joondalup Parking Amendment Local Law 2018* was publicly advertised and subsequently minor amendments made, taking into account comments received from the DLGSC.

Should Council proceed with the making of the local law, the remaining actions as specified in the Act will progress, which, in summary, involves the publishing of the local law in the *Government Gazette* and submission of the local law to the JSCDL.

VOTING REQUIREMENTS

Absolute Majority.

RECOMMENDATION**That Council:**

- 1** **NOTES** the submissions received at the close of the public submission period for the proposed *City of Joondalup Parking Amendment Local Law 2018*, as outlined in Attachment 1 to this Report;
- 2** **BY AN ABSOLUTE MAJORITY MAKES** the *City of Joondalup Parking Amendment Local Law 2018* as detailed in Attachment 3 to this Report and **AUTHORISES** the Common Seal to be affixed;
- 3** **NOTES** the progression of the remaining actions to finalise the local law adoption process as detailed in section 3.12 and 3.15 of the *Local Government Act 1995*;
- 4** **ADVISES** all submitters of Council's decision.

Appendix 13 refers

To access this attachment on electronic document, click here: [Attach13brf180612.pdf](#)

ITEM 16 WASTE AMENDMENT LOCAL LAW 2018 - CONSENT

WARD	All
RESPONSIBLE DIRECTOR	Mr Jamie Parry Governance and Strategy
ATTACHMENT	Attachment 1 Schedule of submissions Attachment 2 <i>City of Joondalup Waste Amendment Local Law 2018</i> – marked-up copy Attachment 3 <i>City of Joondalup Waste Amendment Local Law 2018</i> – consent copy Attachment 4 <i>City of Joondalup Waste Local Law 2017</i>
AUTHORITY / DISCRETION	Legislative - includes the adoption of local laws, planning schemes and policies.

PURPOSE

For Council to consider submissions received about the *City of Joondalup Waste Amendment Local Law 2018* and endorse submission of a final copy of the proposed local law to the Chief Executive Officer of the Department of Water and Environmental Regulation (DWER) for consent.

EXECUTIVE SUMMARY

At its meeting held on 20 March 2018 (CJ039-03/18 refers) Council resolved to make the proposed *City of Joondalup Waste Amendment Local Law 2018* for the purpose of public advertising. The effect of the *City of Joondalup Waste Amendment Local Law 2018* is to better clarify the provisions relating to the enforcement of the local law.

In accordance with section 3.13(3) of the *Local Government Act 1995* (the Act) the City publicly advertised the proposed local law for a period of six weeks and forwarded a copy to the Minister for Local Government and the Minister for Environment.

At the close of the public submission period the City received a total of six submissions comprising four individual submissions, one submission from the Department of Local Government, Sport and Cultural Industries (DLGSC) and one submission from the DWER. The individual submissions were queries about the proposed changes and responded to operationally. The submission from DWER indicated no changes were required. The submission from the DLGSC provided comment primarily focussed on the setting out and formatting of the local law, resulting in some minor recommended changes.

It is therefore recommended that Council:

- 1 *NOTES the submissions received at the close of the public submission period for the proposed City of Joondalup Waste Amendment Local Law 2018, as outlined in Attachment 1 to this Report;*
- 2 *BY AN ABSOLUTE MAJORITY AGREES to make the City of Joondalup Waste Amendment Local Law 2018 as detailed in Attachment 3 to this Report and forward the local law to the CEO of the Department of Water and Environmental Regulation for its consent;*

- 3 *NOTES following receipt of consent from the CEO of the Department of Water and Environmental Regulation, a further report will be presented to Council to make the local law.*

BACKGROUND

At its meeting held on 18 July 2017 (CJ117-07/17 refers) Council adopted the *City of Joondalup Waste Local Law 2017*. The waste local law provides for the regulation, control and management of waste services, including the use and control of receptacles for the deposit and collection of waste, undertaken by or on behalf of the local government within the district.

Upon review of the local law, the Joint Standing Committee on Delegated Legislation (JSCDL) requested the City to provide undertakings in relation to the future amendment and enforcement of the *City of Joondalup Waste Local Law 2017*. At its meeting held on 21 November 2017 (CJ188-11/17 refers) Council resolved, in part, to provide an undertaking to the JSCDL to delete clauses 4.3 and 4.4 when next amending the *City of Joondalup Waste Local Law 2017* and not enforce those clauses in the meantime.

At its meeting held on 20 March 2018 (CJ039-03/18 refers) Council resolved to make the proposed *City of Joondalup Waste Amendment Local Law 2018* for the purpose of public advertising. The effect of the *City of Joondalup Waste Amendment Local Law 2018* is to comply with the undertaking provided to the JSCDL. The amendments aim to better clarify the provisions relating to the enforcement of the local law by removing clauses 4.3 and 4.4.

DETAILS

In accordance with section 3.13(3) of the Act the City publicly advertised the proposed local law for a period of six weeks and forwarded a copy to the Minister for Local Government. Public notification of the proposed local law occurred in the following manner:

- Public notice boards at the City Administration Centre, the Whitfords Customer Service Centre and at each of the City's public libraries.
- Public notice on the City's website.
- An email to the City's 'Community Engagement Network'.
- *The West Australian* newspaper.
- *The Joondalup Weekender* newspaper.
- *The Joondalup Times* newspaper.

At the close of the public submission period the City received a total of six submissions comprising four individual submissions, one submission from the Department of Local Government, Sport and Cultural Industries (DLGSC) and one submission from the DWER. The individual submissions were queries about the proposed changes and responded to operationally. The submission from DWER indicated no changes were required. The submission from the DLGSC provided comment primarily focussed on the setting out and formatting of the local law, resulting in some minor recommended changes. A schedule of submissions is provided as Attachment 1.

Where suggested changes have been supported they have been included in the local law submitted to Council. A copy of the amended *City of Joondalup Waste Amendment Local Law 2018* showing the marked-up changes is provided as Attachment 2 to this report. The amended *City of Joondalup Waste Amendment Local Law 2018* to be referred to the CEO of DWER for consent is provided as Attachment 3 to this Report. A copy of the City's current *Waste Local Law 2017* is provided as Attachment 4.

Following receipt of consent from the CEO of DWER, a further report will be submitted to Council for it to adopt and make the local law.

Issues and options considered

Council can either:

- endorse the local law as advertised
- endorse the local law with modifications following the public submission period, subject to the modifications not being significantly different to what was advertised or
- not endorse the proposed local law.

Option 2 is the recommended option, with some minor formatting and setting out changes made in response to comments from the DLGSC. These changes are considered to not significantly alter the local law from what was advertised.

Legislation / Strategic Community Plan / policy implications

Legislation

Local Government Act 1995.
Waste Avoidance and Resource Recovery Act 2007.
Waste Avoidance and Resource Recovery Regulations 2008.

Strategic Community Plan

Key theme Governance and Leadership.

Objective Corporate capacity.

Strategic initiative Not applicable.

Policy Not applicable.

Subdivision 2, Division 2 of Part 3 of the Act applies to the creation, amending and repealing of local laws. It is anticipated that the amendment local law-making process will take a further four weeks to complete the process, following a decision of Council. In addition, Ministerial Directions apply to the local law-making process for matters concerning waste management. These Ministerial Directions require the final approved local law be submitted to the CEO of DWER for consent, prior to being adopted by Council.

Risk management considerations

Should the City not follow the local law creation process as detailed in the Act, the local law may be disallowed by the JSCDL. This risk has been mitigated by the City strictly adhering to the legislated process.

There is also a risk that the general community may perceive the increases to existing modified penalties as negative and that this is simply a means of achieving additional revenue. This risk is minimised as the City has demonstrated that the existing level of modified penalties are at the lower end in comparison to other local governments and have not been effective in reducing the level of enforcement.

Financial / budget implications

Not applicable.

Regional significance

Not applicable.

Sustainability implications

Not applicable.

Consultation

The development of local laws requires statutory advertising of the proposal and consultation with the public throughout the local law-making process. This has been undertaken and included:

- giving public notice advertising the proposed local law and inviting submissions to be made within no less than six weeks from the date of advertising, including:
 - statewide advertising in *The West Australian* newspaper
 - advertising in the *Joondalup Weekender* newspaper
 - advertising in the *Joondalup Times* newspaper
 - displaying public notices at the City of Joondalup Administration Centre, Whitfords Customer Service Centre and each City of Joondalup public library
 - advertising on the City's website
 - emailing the City's Community Engagement Network
- providing a copy of the notice and the proposed local law to the Minister for Local Government and the Minister for Environment.

COMMENT

The *City of Joondalup Waste Amendment Local Law 2018* has been progressed to comply with the undertaking provided to the JSCDL. The amendments aim to better clarify the provisions relating to the enforcement of the local law by removing clauses 4.3 and 4.4.

The proposed *City of Joondalup Waste Amendment Local Law 2018* was publicly advertised and subsequently minor amendments made, taking into account comments received from the DLGSC.

Should Council proceed with the making of the local law, the next step is to refer the *City of Joondalup Waste Amendment Local Law 2018* to the CEO of the DWER for consent. Upon receipt of consent, a further report will be presented to Council to make the local law and progress the remaining actions culminating in publication in the *Government Gazette* and submission of all documentation to the JSCDL.

VOTING REQUIREMENTS

Absolute Majority.

RECOMMENDATION**That Council:**

- 1** **NOTES** the submissions received at the close of the public submission period for the proposed *City of Joondalup Waste Amendment Local Law 2018*, as outlined in Attachment 1 to this Report;
- 2** **BY AN ABSOLUTE MAJORITY AGREES** to make the *City of Joondalup Waste Amendment Local Law 2018* as detailed in Attachment 3 to this Report and forward the local law to the CEO of the Department of Water and Environmental Regulation for its consent;
- 3** **NOTES** following receipt of consent from the CEO of the Department of Water and Environmental Regulation, a further report will be presented to Council to make the local law.

Appendix 14 refers

To access this attachment on electronic document, click here: [Attach14brf180612.pdf](#)

ITEM 17 2018 ANNUAL REVIEW OF REGISTER OF DELEGATED AUTHORITY

WARD	All
RESPONSIBLE DIRECTOR	Mr Jamie Parry Governance and Strategy
FILE NUMBER	07032, 101515
ATTACHMENT	Attachment 1 Schedule of Amendments Attachment 2 Amended Register of Delegation of Authority (marked-up version) Attachment 3 Amended Register of Delegation of Authority (clean version)
AUTHORITY / DISCRETION	Executive - The substantial direction setting and oversight role of Council, such as adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.

PURPOSE

For Council to undertake a formal review of its delegations within the Register of Delegation of Authority.

EXECUTIVE SUMMARY

Sections 5.18 and 5.46 of the *Local Government Act 1995* (the Act) require that at least once every financial year, delegations are to be reviewed by the delegator. The Council last reviewed its delegations on 27 June 2017 (CJ091-06/17 refers).

A schedule of proposed amendments to the Register of Delegation of Authority is submitted as Attachment 1 to this Report. The Register of Delegation of Authority incorporating the proposed amendments is submitted as Attachment 2 to this Report.

It is therefore recommended that Council:

- 1 *ENDORSES the review of its delegations in accordance with sections 5.18 and 5.46 of the Local Government Act 1995;*
- 2 *BY AN ABSOLUTE MAJORITY and in accordance with sections 5.16 and 5.42 of the Local Government Act 1995, section 127 of the Building Act 2011, section 48 of the Bush Fires Act 1954, section 44 of the Cat Act 2011, section 10AA of the Dog Act 1976, section 118(2)(b) of the Food Act 2008, sections 214(2), (3) and (5) of the Planning and Development Act 2005, clause 82 of Schedule 2 of the Planning and Development (Local Planning Scheme) Regulations 2015 and section 21 of the Public Health Act 2016 DELEGATES the local government functions as listed in the amended Register of Delegations of Authority forming Attachment 3 to this Report.*

BACKGROUND

In accordance with sections 5.16 and 5.42 of the Act, a local government can delegate certain functions to a committee of Council, or the Chief Executive Officer. A variety of other legislation also permits the delegations of functions to the Chief Executive Officer, as well as other officers.

Sections 5.18 and 5.46 of the Act require that at least once every financial year, delegations are to be reviewed by the delegator. The Council last reviewed its delegations on 27 June 2017 (CJ091-06/17 refers) and therefore, a formal review by Council is required.

At its meeting held on 24 June 2014 (CJ091-06/14 refers), Council undertook a comprehensive review of the Register of Delegation of Authority, incorporating the following measures:

- A revised layout for each instrument of delegation.
- Improvements to the wording and referencing of individual delegations.
- New and increased scope of individual delegations.

The 2018 review has focussed on assessing the suitability and relevance of delegations.

DETAILS

The 2018 annual review of the Register of Delegation of Authority was undertaken to determine:

- the appropriateness of the existing delegations and whether to amend or delete any delegations
- the need for any additional delegations.

Attachment 1 details those amendments that have been identified as requiring Council approval. The proposed amendments reflect:

- amending existing delegations to improve workflow processes and service delivery
- deletion of a delegation that is no longer required.

These changes involve extensive changes to building delegations and minor changes to a range of other general delegations.

Building Act 2011 delegations

A substantial review was undertaken of the delegations made under the *Building Act 2011* and associated regulations. The recommended changes align the delegations to the standard practice of delegating from Council to the Chief Executive Officer, who in turn will delegate to appropriate officers. In addition, some of the changes have taken place to align workflow processes, extent of authority and improve service delivery.

Amendments include the following:

- Updates to reflect changes in legislation
- Modification to position numbers
- Adding the Director Planning and Community Development as a delegated officer
- Removing conditions restricting the ability for officers to grant and issue permits and certificates that are not required to be authorised by a qualified building surveyor
- Removing conditions and changes to the delegated officers relating to building orders, and removing the requirements to notify Council on the issue of notices.

The detailed amendments are as follows:

Building Act 2011 – Certificates of Building Compliance, Construction Compliance and Design Compliance

- *Deleting references to building and demolition permit applications and building approval certificates from this component of the delegations*

This section of the delegations is proposed to be modified to include only those functions that are required to be undertaken by a person qualified under the *Building Services (Registration) Regulations 2011*, as set out under the *Building Act 2011*.

As the issuing of building and demolition permits and building approval certificates are not required to be undertaken by a qualified person these have been removed from this component of the delegations.

- *Deleting the Schedule setting out the extent of delegation, and delegating all functions to relevant officers, subject to a condition of meeting the qualification requirements under the Building Services (Registration) Regulations 2011. Adding Director Planning and Community Development as a delegated officer.*

The delegations have been restructured to remove the Schedule and delegate all functions to officers, subject to meeting the qualification requirements of the *Building Services (Registration) Regulations 2011*. The conditions previously contained within the Schedule restricting the scale of building works that can be certified has not been included as the level of qualification under the legislation sets out these restrictions, being:

- Building surveying practitioner Level 1 – any type of building or incidental structure. This level of qualification may be held by a Senior Building Surveyor or Building Surveyor.
- Building surveying practitioner Level 2 – a Class 1 or Class 10 building, otherwise restricted to buildings of no more than three storeys and 2,000m² in total floor area. This level of qualification may be held by a Senior Building Surveyor or Building Surveyor.
- Building surveying practitioner technician – a Class 1 or Class 10 building, otherwise restricted to buildings not greater than 500m² and not more than two storeys. This level of qualification may be held by an Assistant Building Surveyor.

The Director Planning and Community Development position has been added as a delegated officer. Currently the Director Planning and Community Development, Manager Compliance and Regulatory Services and Coordinator Building Approvals are unable to exercise this delegation as the people in these positions are not qualified. However, these positions have been included as they could be held by a qualified person in the future.

The Administration Officer and Development Compliance Officer positions have been removed from the delegations as the extent of delegation was restricted only to the issuing of building permit applications, which has now been removed from this component of the delegations.

Building Act 2011 – Building and Demolition Permit Applications, Building Approval Certificates, Building Approval Certificate Strata, Occupancy Permits

- *Adding building and demolition permit applications, building approval certificates and building approval certificates strata, and removing building orders.*

Building and demolition permit applications, and building approval certificates have been included as the delegation has been restructured to include functions that are not required to be undertaken by a qualified person under the *Building Act 2011*.

Building orders have been removed and included as a separate delegation, as set out below.

- *Delegating to the Chief Executive Officer and sub-delegating to relevant officers*

The functions previously included in this delegation were delegated directly from Council to the Manager Compliance and Regulatory Services, Coordinator Building Approvals, Senior Building Surveyors and Coordinator Compliance. As is normal practice, it is proposed that these functions be delegated to the Chief Executive Officer, and the Chief Executive Officer in turn delegate those powers to the following employees:

- Director Planning and Community Development
- Manager Compliance and Regulatory Services
- Coordinator Building Approvals
- Senior Building Surveyors
- Building Surveyors
- Assistant Building Surveyors
- Development Compliance Officers
- Administration Officers (building services and development compliance)

The extent of this sub-delegation largely reflects the current extent of delegation for the issuing of building permits, and is considered appropriate to apply to demolition permits, building approval certificates and occupancy permits. The Director Planning and Community Development has been included in the delegation.

- *Deletion of condition requiring the delegated officer to have a qualification under the Local Government (Building Surveyors) Regulations 2008*

This condition is being removed as these functions are not required to be undertaken by a qualified person under the *Building Act 2011*.

- *Deletion of condition requiring Council to be advised on the issue of notices*

This condition relates to the issuing of a building order. This condition has been deleted as this building orders have been removed from this component of the delegations.

Building Act 2011 – Building Orders

This function has been separated from the above component of the delegations. As is standard practice, it is proposed that this function be delegated to the Chief Executive Officer, and the Chief Executive Officer in turn delegate those powers to the Director Planning and Community Development, Manager Compliance and Regulatory Services and Coordinator Compliance.

The delegations previously included a condition requiring Council to be advised on the issuing of building orders. The issuing of a building order is an operational enforcement matter that may be required following extensive action by the City to address areas of non-compliance with the *Building Act 2011*. This includes stopping building works or undertaking rectification works. Given that the issuing of building orders is an operational enforcement matter it is not considered necessary to inform Council once these notices are issued.

General changes

Authority to approve alterations and additions to City Premises

This delegation is no longer required as approval for minor building alterations is an operational matter that does not require a delegation.

It is proposed that a detailed review of the planning delegations will occur should the draft *Local Planning Scheme No. 3* become operational. This will ensure delegations reflect new clause references and any modifications to provisions.

Attachment 2 is the Register of Delegation of Authority amended in mark-up form to illustrate the changes made during the review process.

Attachment 3 is a clean copy of the amended Register of Delegation of Authority for Council to adopt.

Issues and options considered

Council can either:

- accept the proposed amendments
- vary the proposed amendments
- or
- reject the proposed amendments

and adopt the Register of Delegation of Authority accordingly.

Legislation / Strategic Community Plan / policy implications

Legislation

Sections 5.16 – 5.18 and 5.42 – 5.46 of the *Local Government Act 1995*.
 Section 127 of the *Building Act 2011*.
 Section 48 of the *Bush Fires Act 1954*.
 Section 44 of the *Cat Act 2011*.
 Section 10AA of the *Dog Act 1976*.
 Section 118(2)(b) of the *Food Act 2008*.
 Sections 214(2), (3) and (50) of the *Planning and Development Act 2005*.
 Clause 82 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
 Section 21 of the *Public Health Act 2016*.

Strategic Community Plan

Key theme

Governance and Leadership.

Objective

Corporate capacity.

Strategic initiative Continuously strive to improve performance and service delivery across all corporate functions.

Policy Not applicable.

Risk management considerations

Council is required to review its delegations under the *Local Government Act 1995* at least once every financial year and to review its delegations made under clause 82 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* every two years. Failure to complete the review would result in non-compliance with its statutory responsibilities under these legislative frameworks.

Financial / budget implications

Not applicable.

Regional significance

Not applicable.

Sustainability implications

Not applicable.

Consultation

Not applicable.

COMMENT

Local governments utilise levels of delegated authority to undertake day-to-day statutory functions, thereby allowing Council to focus on policy development, representation, strategic planning and community leadership, with the organisation focussing on the day-to-day operations of the City. The use of delegated authority means the large volume of routine work of a local government can be effectively managed and acted on promptly, which in turn facilitates efficient service delivery to the community. The 2018 review has resulted in refining delegations to ensure the City's continued ability to maintain high standards of service delivery and approvals.

VOTING REQUIREMENTS

Absolute Majority.

RECOMMENDATION

That Council:

- 1 **ENDORSES** the review of its delegations in accordance with sections 5.18 and 5.46 of the *Local Government Act 1995*;
- 2 **BY AN ABSOLUTE MAJORITY** and in accordance with sections 5.16 and 5.42 of the *Local Government Act 1995*, section 127 of the *Building Act 2011*, section 48 of the *Bush Fires Act 1954*, section 44 of the *Cat Act 2011*, section 10AA of the *Dog Act 1976*, section 118(2)(b) of the *Food Act 2008*, sections 214(2), (3) and (5) of the *Planning and Development Act 2005*, clause 82 of Schedule 2 of the *Planning and Development (Local Planning Scheme) Regulations 2015* and section 21 of the *Public Health Act 2016* **DELEGATES** the local government functions as listed in the amended Register of Delegations of Authority forming Attachment 3 to this Report.

Appendix 15 refers

To access this attachment on electronic document, click here: [Attach15brf180612.pdf](#)

ITEM 18 REQUEST FOR ANNUAL LEAVE - CHIEF EXECUTIVE OFFICER

WARD	All
RESPONSIBLE DIRECTOR	Mr Mike Tidy Corporate Services
FILE NUMBER	98394, 101515 98394B
ATTACHMENTS	Nil
AUTHORITY / DISCRETION	Executive - The substantial direction setting and oversight role of Council, such as adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.

PURPOSE

To give consideration to the request for annual leave submitted by the Chief Executive Officer (CEO).

EXECUTIVE SUMMARY

The CEO has requested annual leave for the period 28 August to 14 September 2018 inclusive. The annual leave is within the CEO's entitlement under his contract of employment and he has sufficient accrued annual leave.

It is recommended that Council APPROVES the request from the Chief Executive Officer for annual leave for the period 28 August to 14 September 2018 inclusive.

BACKGROUND

The CEO commenced his employment on 31 January 2005. In accordance with his current employment contract the CEO is entitled to 25 days leave per annum.

DETAILS

The CEO has requested annual leave from duties for the period 28 August to 14 September 2018 inclusive for annual leave. The CEO has delegated authority to appoint an Acting CEO for periods where he is absent from work while on leave, where such periods are for less than 35 days.

Issues and options considered

During the employment of the CEO there will be periods of time where he will be absent from the City of Joondalup on annual leave.

The annual leave for the CEO is to be taken at a mutually convenient time subject to the operational requirements of the Council. It is recommended that Council approve the annual leave request.

Legislation / Strategic Community Plan / policy implications

Legislation Not applicable.

Strategic Community Plan

Key theme Governance and Leadership.

Objective Corporate capacity.

Strategic initiative Maintain a highly skilled and effective workplace.

Policy Not applicable.

Risk management considerations

Not applicable.

Financial / budget implications

Provision for the annual leave is included in the Budget for 2017-18.

Regional significance

Not applicable.

Sustainability implications

Not applicable.

Consultation

Not applicable.

COMMENT

The CEO has an entitlement in accordance with his employment contract for periods of annual leave. The dates requested are conducive to the operations of the City and are within his entitlements.

VOTING REQUIREMENTS

Simple Majority.

RECOMMENDATION

That Council APPROVES the request from the Chief Executive Officer for annual leave for the period 28 August to 14 September 2018 inclusive.

ITEM 19 LIST OF PAYMENTS MADE DURING THE MONTH OF APRIL 2018

WARD	All
RESPONSIBLE DIRECTOR	Mr Mike Tidy Corporate Services
FILE NUMBER	09882, 101515
ATTACHMENTS	Attachment 1 Chief Executive Officer's Delegated Municipal Payment List for the month of April 2018 Attachment 2 Chief Executive Officer's Delegated Trust Payment List for the month of April 2018 Attachment 3 Municipal and Trust Fund Vouchers for the month of April 2018
AUTHORITY / DISCRETION	Information - includes items provided to Council for information purposes only that do not require a decision of Council (that is for 'noting').

PURPOSE

For Council to note the list of accounts paid under the Chief Executive Officer's delegated authority during the month of April 2018.

EXECUTIVE SUMMARY

This report presents the list of payments made under delegated authority during the month of April 2018 totalling \$13,658,927.33.

It is therefore recommended that Council NOTES the Chief Executive Officer's list of accounts for April 2018 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 this Report, totalling \$13,658,927.33.

BACKGROUND

Council has delegated, to the Chief Executive Officer, 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 Chief Executive Officer 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 April 2018. 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	Municipal Cheques & EFT Payments 106490 – 106611 & EF070066 – EF070707 Net of cancelled payments.	\$8,620,969.78
	Vouchers 2216A & 2221A – 2237A	\$5,023,360.55
Trust Account	Trust Cheques & EFT Payments 207286 - 207290 & TEF001492 – TEF001506 Net of cancelled payments.	\$14,597.00
Total		\$13,658,927.33

Issues and options considered

There are two options in relation to the list of payments.

Option 1

That Council declines to note the list of payments paid under delegated authority. The list is required to be reported to Council in accordance with Regulation 13(1) of the *Local Government (Financial Management) Regulations 1996*, and the payments listed have already been paid under the delegated authority. This option is not recommended.

Option 2

That Council notes the list of payments paid under delegated authority. This option is recommended.

Legislation / Strategic Community Plan / policy implications

Legislation

The Council has delegated to the Chief Executive Officer 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 Chief Executive Officer is prepared each month showing each account paid since the last list was prepared.

Strategic Community Plan

Key theme Financial Sustainability.

Objective Effective management.

Strategic initiative Not applicable.

Policy Not applicable.

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 Annual Budget as adopted or revised by Council.

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 incurred in accordance with the *2017-18 Annual Budget* as adopted by Council at its meeting held on 27 June 2017 (CJ084-06/17 refers) and subsequently revised or has been authorised in advance by the Mayor or by resolution of Council as applicable.

VOTING REQUIREMENTS

Simple Majority.

RECOMMENDATION

That Council NOTES the Chief Executive Officer's list of accounts for April 2018 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 this Report, totalling \$13,658,927.33.

Appendix 16 refers

To access this attachment on electronic document, click here: [Attach16brf180612.pdf](#)

ITEM 20 FINANCIAL ACTIVITY STATEMENT FOR THE PERIOD ENDED 30 APRIL 2018

WARD	All	
RESPONSIBLE DIRECTOR	Mr Mike Tidy Corporate Services	
FILE NUMBER	07882,101515	
ATTACHMENT	Attachment 1	Financial Activity Statement
	Attachment 2	Investment Summary
	Attachment 3	Supporting Commentary
AUTHORITY/ DISCRETION	Information - includes items provided to Council for information purposes only that do not require a decision of Council (that is for 'noting').	

PURPOSE

For Council to note the Financial Activity Statement for the period ended 30 April 2018.

EXECUTIVE SUMMARY

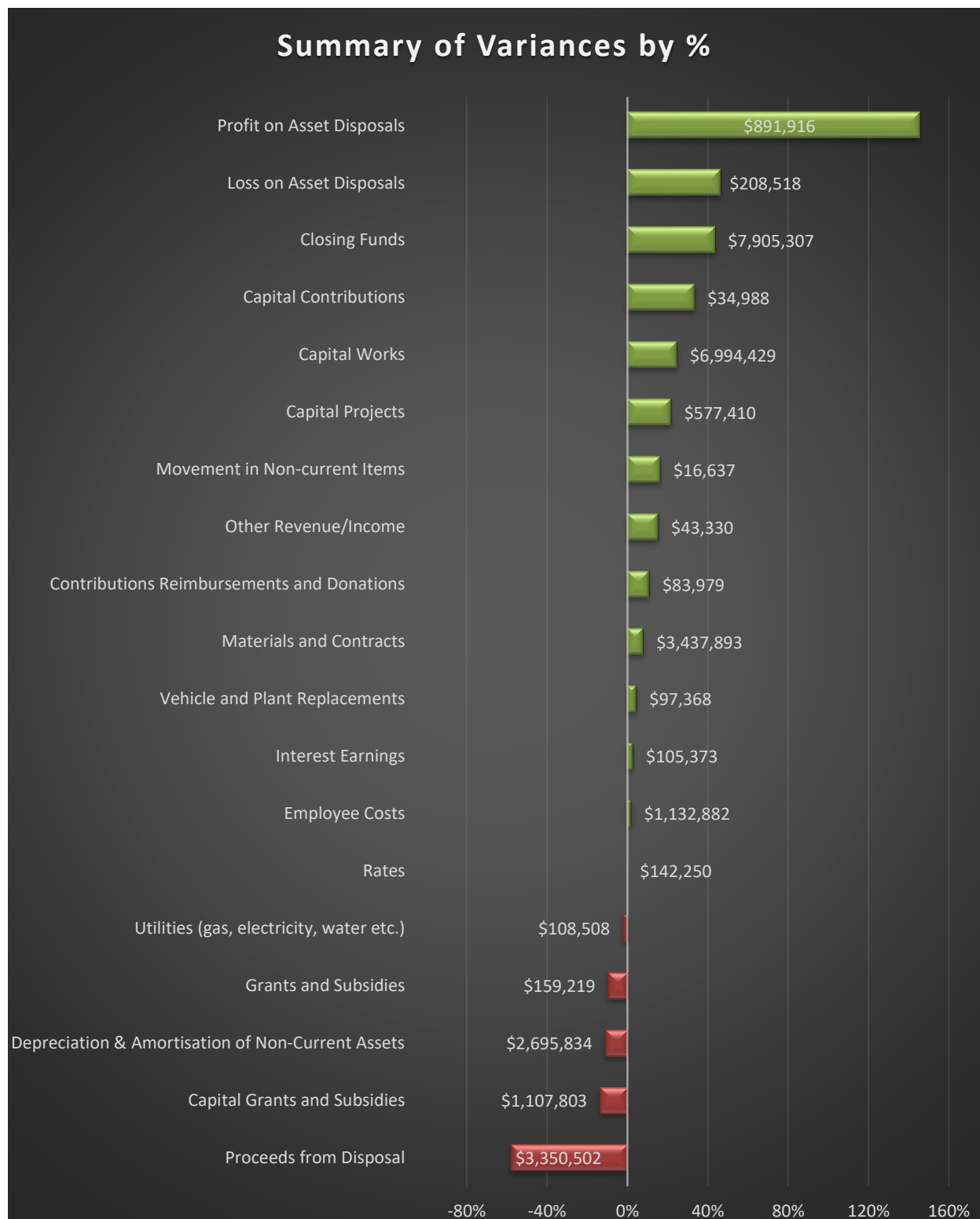
At its meeting held on 27 June 2017 (CJ084-06/17 refers), Council adopted the Annual Budget for the 2017-18 financial year. Council subsequently revised the budget at its meeting held on 20 February 2018 (CJ022-02/18 refers). The figures in this report are compared to the revised budget.

The April 2018 Financial Activity Statement Report shows an overall favourable variance from operations and capital, after adjusting for non-cash items, of \$7,905,307 for the period when compared to the revised budget.

It should be noted that this variance does not represent a projection of the end of year position or that these funds are surplus to requirements. It represents the year to date position to 30 April 2018 and results from a number of factors identified in the report.

There are a number of factors influencing the favourable variance, but it is predominantly due to the timing of revenue and expenditure compared to the budget estimate. The notes in Appendix 3 to Attachment 1 identify and provide commentary on the individual key material revenue and expenditure variances to date.

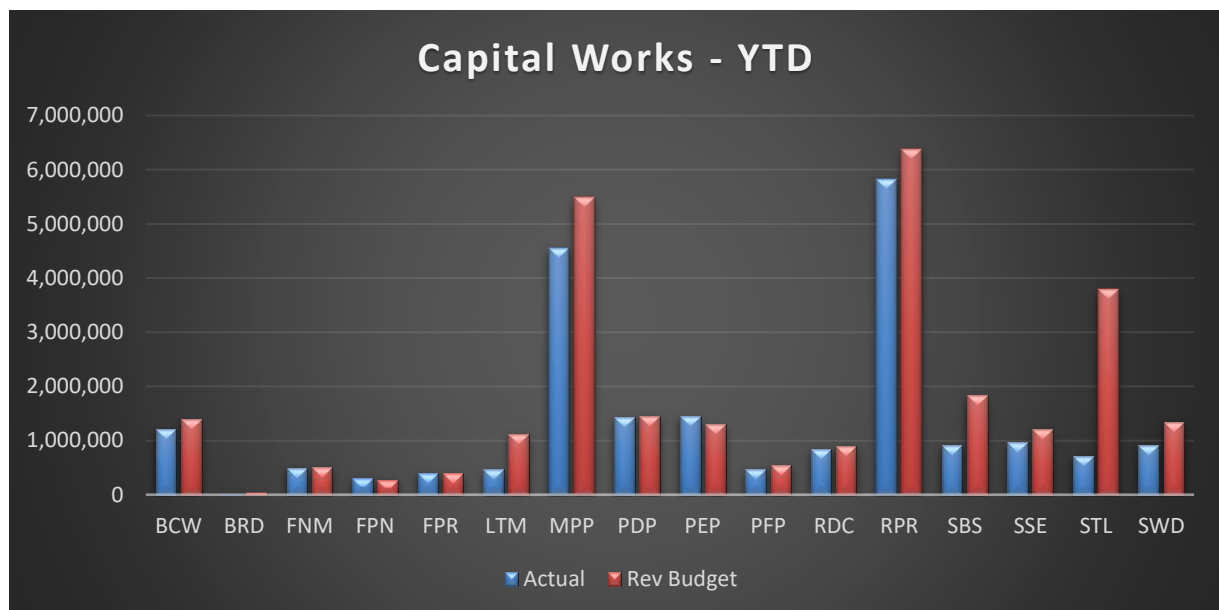
The key elements of the variance are summarised below:



The significant variances for April were:

Capital Works

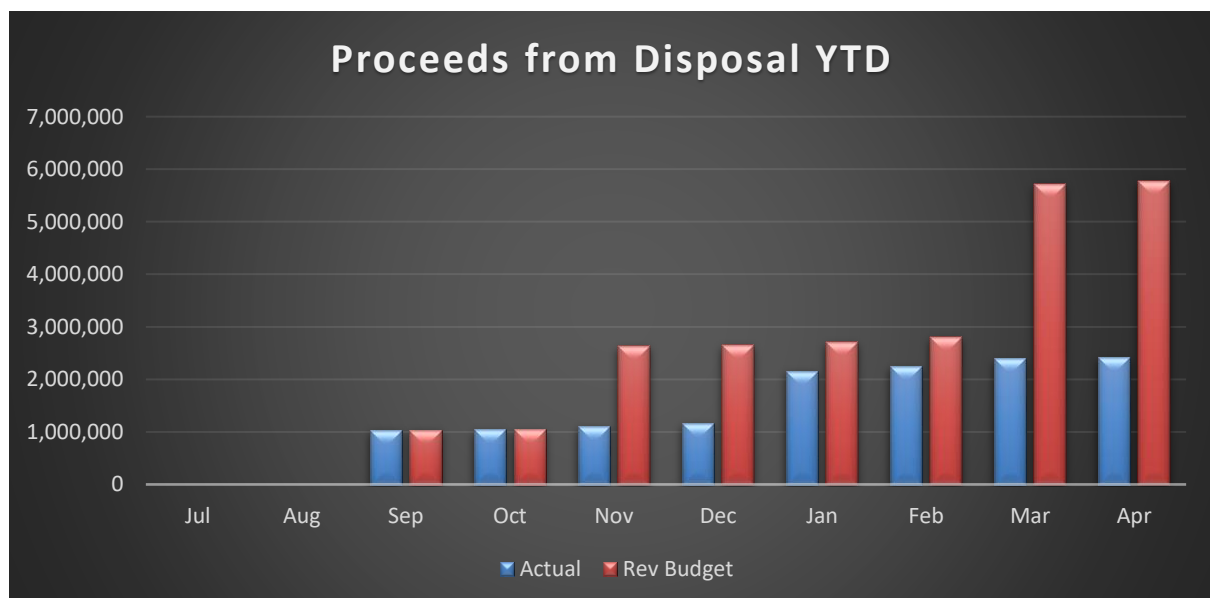
\$6,994,429



Capital Works expenditure is \$6,994,429 below budget. This includes favourable timing variances for Street Lighting Program \$3,070,018, Major Projects Program \$936,335 and Blackspot Projects Program \$922,092.

Proceeds from Disposal

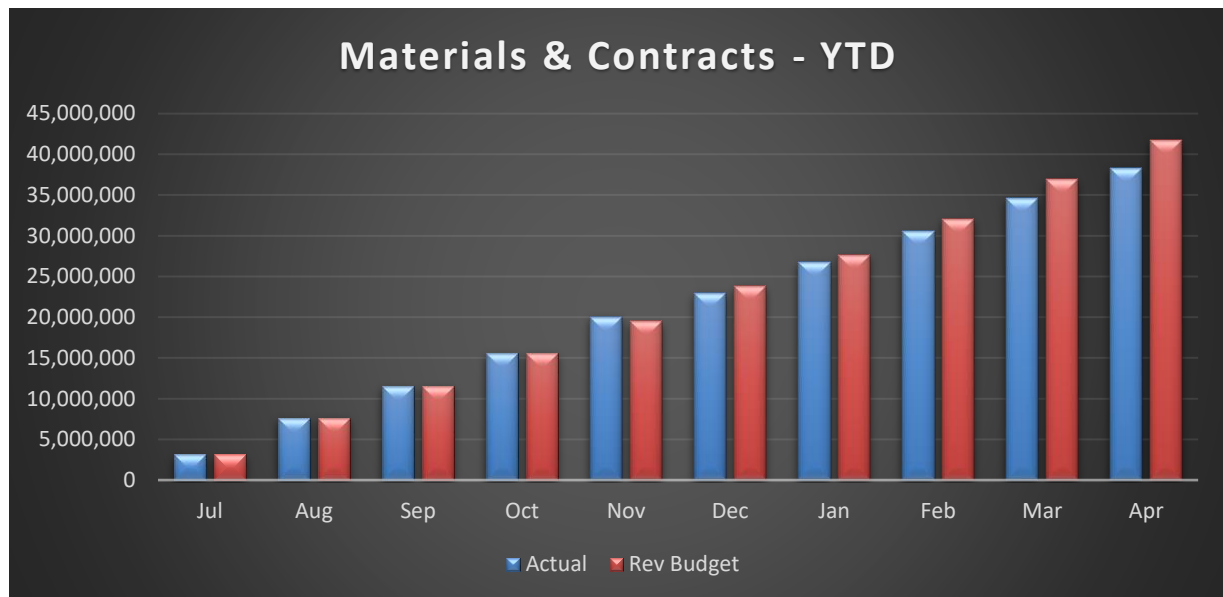
(\$3,350,502)



Proceeds from Disposal revenue is \$3,350,502 below budget due to the timing of disposal of surplus land holdings (\$3,422,777). Remaining land identified for sale in the current year is expected to be disposed by 30 June 2018.

Materials and Contracts

\$3,437,893



Materials and Contracts expenditure is \$3,437,893 below budget. This is spread across a number of different areas including favourable timing variances for External Service Expenses \$1,091,697, Professional Fees and Costs \$697,532 and Furniture, Equipment and Artworks \$364,565.

It is therefore recommended that Council NOTES the Financial Activity Statement for the period ended 30 April 2018 forming Attachment 1 to this Report.

BACKGROUND

The *Local Government (Financial Management) Regulations 1996* requires a monthly Financial Activity Statement. At its meeting held on 11 October 2005 (CJ211-10/05 refers), Council approved to accept the monthly Financial Activity Statement according to nature and type classification.

DETAILS

Issues and options considered

The Financial Activity Statement for the period ended 30 April 2018 is appended as Attachment 1.

Legislation / Strategic Community 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* 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 Community Plan

Key theme Financial Sustainability.

Objective Effective management.

Strategic initiative Not applicable.

Policy Not applicable.

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 funds for an additional purpose except where the expenditure is authorised in advance by an absolute majority of Council.

Financial / budget implications

All amounts quoted in this report are exclusive of GST.

Regional significance

Not applicable.

Sustainability implications

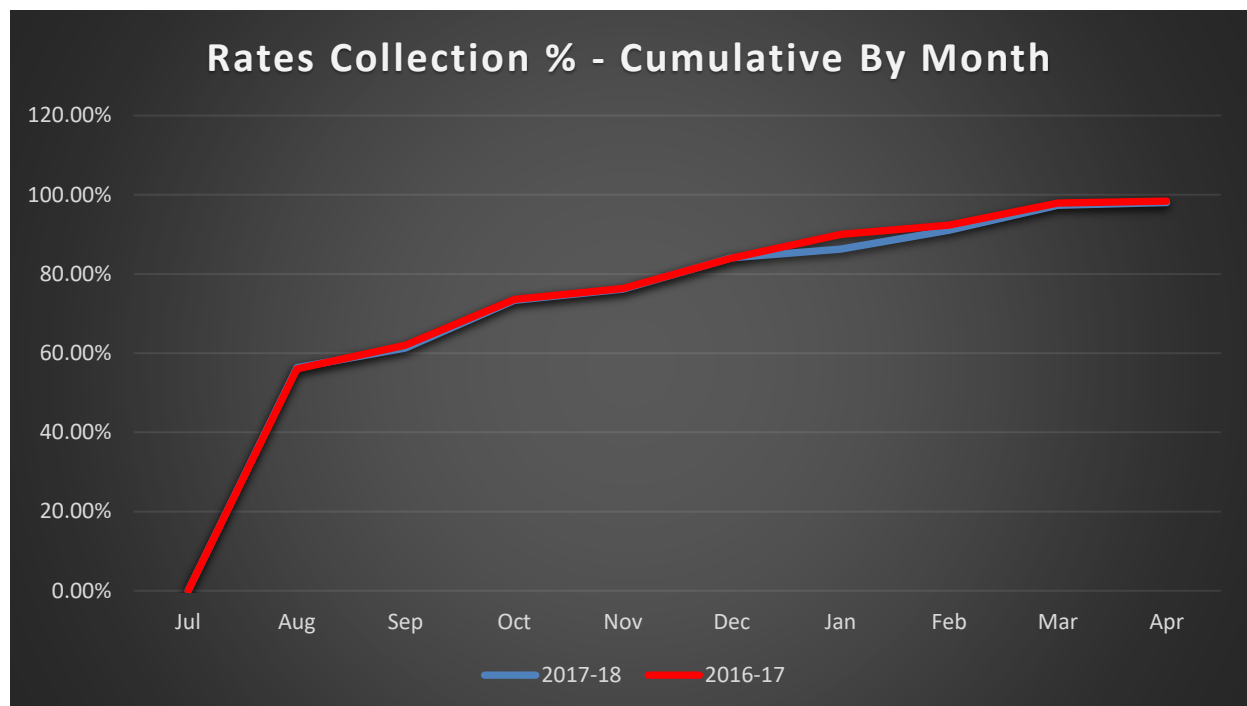
Expenditure has been incurred in accordance with adopted budget parameters, which have been structured on financial viability and sustainability principles.

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*.

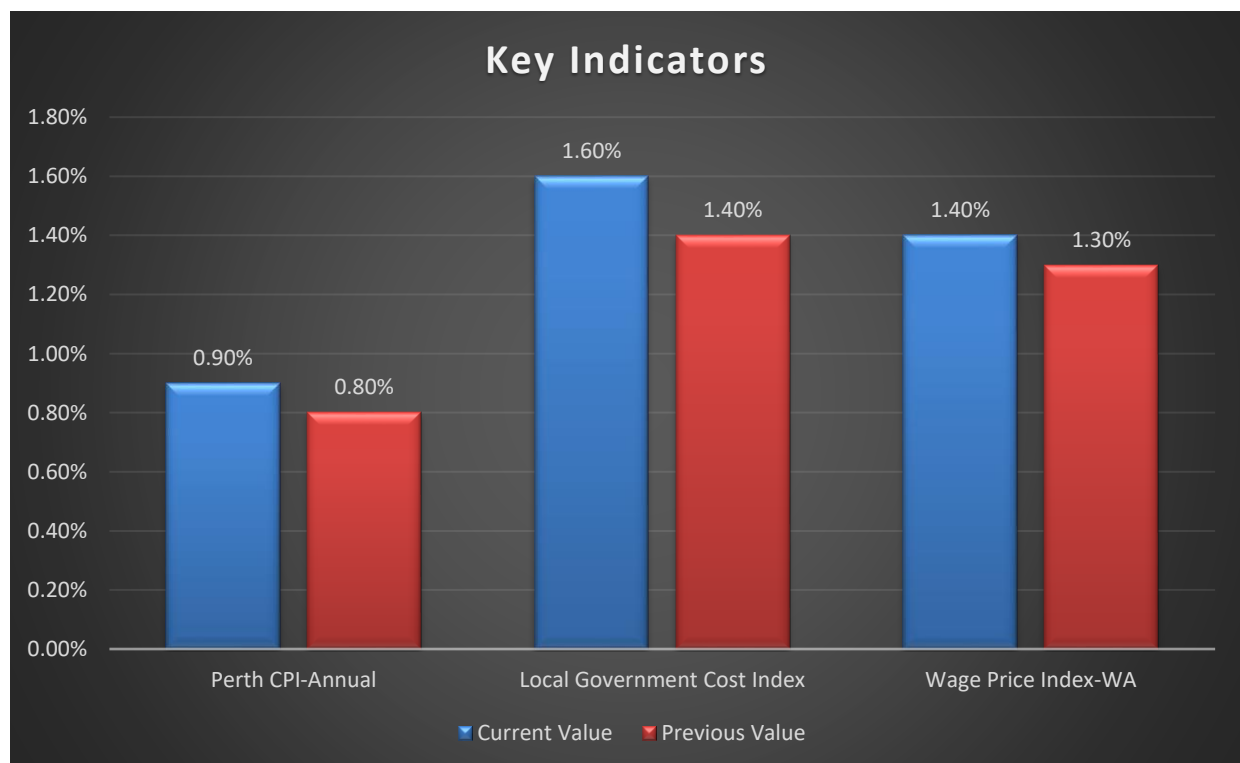
KEY INDICATORS

Rates Collection



Rates collections as a percentage of rates issued (debtors) continues on par with the prior year at the end of April. This trend is expected to continue to the end of the financial year.

Economic Indicators



The Local Government Cost Index remains well above CPI, indicating that cost pressures in the local government industry remain higher than the general economy. Wage inflation remains above CPI, although significantly lower than in the past.

COMMENT

All expenditure included in the Financial Activity Statement is incurred in accordance with the provisions of the 2017-18 revised budget or has been authorised in advance by Council where applicable.

VOTING REQUIREMENTS

Simple Majority.

RECOMMENDATION

That Council NOTES the Financial Activity Statement for the period ended 30 April 2018 forming Attachment 1 to this Report.

Appendix 17 refers

To access this attachment on electronic document, click here: [Attach17brf180612.pdf](#)

ITEM 21 TENDER 007/18 - PROVISION OF CLEANING SERVICES FOR CITY BUILDINGS

WARD	All
RESPONSIBLE DIRECTOR	Mr Mike Tidy Corporate Services
FILE NUMBER	107244, 101515
ATTACHMENTS	Attachment 1 Schedule of Items Attachment 2 Summary of Tender Submissions
AUTHORITY / DISCRETION	Executive - The substantial direction setting and oversight role of Council, such as adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.

PURPOSE

For Council to accept the tender submitted by ASF Cleaning Pty Ltd for the provision of cleaning services for City buildings.

EXECUTIVE SUMMARY

Tenders were advertised on Saturday 7 April 2018 through statewide public notice for the provision of cleaning services for City buildings for a period of three years. Tenders closed on 24 April 2018. A submission was received from the following:

- Academy Services (WA) Pty Ltd.
- Alpha Corporate Property Services Pty Ltd.
- Appollo Property Group.
- ASF Cleaning Pty Ltd.
- BrightMark Group Pty Ltd.
- CSCH Pty Ltd (Charles Service Company).
- Dongray Discretionary Trust No 4 t/as Sanyati Property Services Pty Ltd.
- G.J & K Cleaning Services Pty Limited t/as GJK Facility Services.
- Glad Group Pty Ltd t/as Glad Commercial Cleaning.
- Golden West Corporate Total Management Pty Ltd t/as GWC Total Management.
- Iconic Property Services Pty Ltd.
- JCA Property Maintenance Pty Ltd t/as JCA Corporate Cleaning.
- Office Cleaning Experts Pty Ltd t/as OCE Corporate Cleaning.
- Quayclean Australia Pty Ltd.
- SCC (SA) Pty Ltd t/as Southern Cross Cleaning (SA).
- Storm International Pty Ltd.
- Pickwick Group Pty Ltd ATF The Pickwick Cleaning Services Unit Trust (Pickwick Integrated Facilities Services).
- DMC Cleaning Corporation Pty Ltd ATF Panich Family Trust t/as DMC Cleaning.
- The Trustee for S & S Samawi Family Trust t/as Mission Impossible Group Services.
- TJS Services Group Pty Ltd.
- Wilson Property Services Pty Ltd t/as Wilson Facility Services.

The submission from ASF Cleaning Pty Ltd represents best value to the City. The company demonstrated a thorough understanding and appreciation of the City's requirements. It demonstrated extensive experience in providing similar cleaning services to Farmer Jacks, Department of Agriculture and Food and the Cities of South Perth, Swan, Busselton, Belmont and Bunbury. ASF Cleaning Pty Ltd is an established company with sufficient resources and personnel to provide the services for the City

It is therefore recommended that Council ACCEPTS the tender submitted by ASF Cleaning Pty Ltd for the provision of cleaning services for City buildings for a period of three years for requirements as specified in Tender 007/18 for the fixed lump sum of \$433,233 (GST Exclusive) for year one of the Contract and schedule of additional rates with annual price variations subject to the percentage change in the Perth CPI (All Groups).

BACKGROUND

The City has a requirement to engage a contractor to provide cleaning services to 33 of the City's buildings.

The City currently has a contract for these services with Quayclean Australia Pty Ltd which expires on 31 July 2018.

Tender assessment is based on the best value for money concept. Best value is determined after considering whole of life costs, fit for purpose, tenderers' experience and performance history, productive use of City resources and other environmental or local economic factors.

DETAILS

Tenders were advertised on Saturday 7 April 2018 through statewide public notice for the provision of cleaning services for City buildings for a period of three years. The tender period was for two weeks and tenders closed on 24 April 2018.

Tender Submissions

A submission was received from the following:

- Academy Services (WA) Pty Ltd.
- Alpha Corporate Property Services Pty Ltd.
- Appollo Property Group.
- ASF Cleaning Pty Ltd.
- BrightMark Group Pty Ltd.
- CSCH Pty Ltd (Charles Service Company).
- Dongray Discretionary Trust No 4 t/as Sanyati Property Services Pty Ltd.
- G.J & K Cleaning Services Pty Limited t/as GJK Facility Services.
- Glad Group Pty Ltd t/as Glad Commercial Cleaning.
- Golden West Corporate Total Management Pty Ltd t/as GWC Total Management.
- Iconic Property Services Pty Ltd.
- JCA Property Maintenance Pty Ltd t/as JCA Corporate Cleaning.
- Office Cleaning Experts Pty Ltd t/as OCE Corporate Cleaning.
- Quayclean Australia Pty Ltd.
- SCC (SA) Pty Ltd t/as Southern Cross Cleaning (SA).
- Storm International Pty Ltd.
- Pickwick Group Pty Ltd ATF The Pickwick Cleaning Services Unit Trust (Pickwick Integrated Facilities Services).
- DMC Cleaning Corporation Pty Ltd ATF Panich Family Trust t/as DMC Cleaning.
- The Trustee for S & S Samawi Family Trust t/as Mission Impossible Group Services.

- TJS Services Group Pty Ltd.
- Wilson Property Services Pty Ltd t/as Wilson Facility Services.

The schedule of items as listed in the tender is provided in Attachment 1.

A summary of the tender submissions including the location of each tenderer is provided in Attachment 2.

Evaluation Panel

The Evaluation Panel comprised three members:

- one with tender and contract preparation skills
- 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 in a fair and equitable manner.

Compliance Assessment

The following offers received were assessed as fully compliant:

- Academy Services (WA) Pty Ltd.
- Alpha Corporate Property Services Pty Ltd.
- Appollo Property Group.
- ASF Cleaning Pty Ltd.
- BrightMark Group Pty Ltd.
- Charles Service Company.
- Sanyati Property Services Pty Ltd.
- GJK Facility Services.
- Glad Commercial Cleaning.
- GWC Total Management.
- Iconic Property Services Pty Ltd.
- JCA Corporate Cleaning.
- Quayclean Australia Pty Ltd.
- Southern Cross Cleaning (SA).
- Storm International Pty Ltd.
- Pickwick Integrated Facilities Services.
- DMC Cleaning.
- Mission Impossible Group Services.
- TJS Services Group Pty Ltd.
- Wilson Facility Services.

The following offer was assessed as non-compliant and was not considered further:

- Office Cleaning Experts Pty Ltd t/as OCE Corporate Cleaning – The Offer did not comply with clause 5.27.1 of the tender as it cannot waive its insurer's rights of subrogation.

Qualitative Assessment

The Qualitative Weighting method of tender evaluation was selected to evaluate the Offers for this requirement. The predetermined minimum acceptable pass score was set at 55%.

The qualitative and price criteria and weighting used in evaluating the submissions received were as follows:

Qualitative and Price Criteria		Weighting
1	Demonstrated experience in providing similar services	35%
2	Capacity	30%
3	Demonstrated understanding of the required tasks	30%
4	Social and economic effects on the local community	5%

Storm International Pty Ltd scored 8.2% in the qualitative assessment. The submission did not respond to any of the qualitative criteria except providing three referees and a copy of its safety management system (AS/NZS 4801:2001) accreditation.

Appollo Property Group scored 17% in the qualitative assessment. It did not demonstrate sufficient experience completing services of a similar nature and scale to the City's requirements. Its response to capacity did not provide the organisational chart of the company, its ability to source additional resources, safety management plan and safety records. The company did not submit any response to demonstrate its understanding.

Sanyati Property Services scored 20.2% in the qualitative assessment. The company did not submit any response to demonstrate its understanding. It did not demonstrate sufficient experience completing services of a similar nature and scale to the City's requirements. No information was provided on the organisational chart of the company, its key personnel, ability to provide additional resources, safety management plan and safety records.

Mission Impossible Group Services scored 33% in the qualitative assessment. The company demonstrated its capacity in terms of staff and management structure, however the response did not specifically address after hours contacts, its ability to provide additional resources and safety records. Mission Impossible Group has experience in performing a variety of cleaning with clients including Programmed, JB HiFi, Landgate, LD Total, Lockhead Martin and the Cities of Perth, Vincent and Belmont. The company did not submit any response to demonstrate its understanding of the requirements.

Southern Cross Cleaning scored 38.7% in the qualitative assessment. It did not provide sufficient information on its capacity within WA and nominated sub-contractors to undertake the work. The response did not address after hours contacts, its ability to provide additional resources and contact details of supervisors. It demonstrated limited understanding of the City's requirements with a generic response. It demonstrated some experience providing cleaning services to ALDI Group (all SA stores), Scotch College, 200 government and private schools, Asset Services Qld and South Australian Health and Medical Research Institute. Only durations of these contracts were provided without any dates.

JCA Corporate Cleaning scored 43.1% in the qualitative assessment. The company has the capacity to provide the services. It did not demonstrate sufficient experience providing similar services. None of the three examples provided by the company are similar to this contract in scale, scope and value. Limited details were provided to demonstrate its understanding of the requirements.

Pickwick Integrated Facilities Services scored 46% in the qualitative assessment. The company demonstrated experience providing cleaning services to the City of Whitehorse (VIC), Brisbane City Council and Randwick City Council (NSW). It is likely the company has the capacity to provide the services but the response did not supply sufficient details of the organisational chart of the company, three nominated key personnel for this contract, the number of staff in WA or its ability to provide additional personnel and resources. It demonstrated some understanding of the requirements.

Alpha Corporate Property Services scored 46.2% in the qualitative assessment. The company demonstrated an understanding of the requirements. It demonstrated experience providing cleaning services to the City of Monash (VIC), City of Wyndham (VIC), public toilets cleaning for the City of Mandurah and routine and periodic cleaning services to Water Corporation WA. Its response to capacity did not address its time in business, number of staff in WA, organisational structure and its ability to provide additional personnel and resources.

BrightMark Group Pty Ltd scored 51.1% in the qualitative assessment. The company demonstrated an understanding of the requirements. It has provided a variety of cleaning services to the Cities of Gosnells, Rockingham and Fremantle and departments of Child Protection and Parks and Wildlife. Its response to capacity did not address its number of staff and safety records.

Wilson Property Services scored 51.3% in the qualitative assessment. It demonstrated an understanding of the requirements and the capacity to perform the required services. The company demonstrated some experience providing services on a smaller scale including Surf Coast Shire (VIC), MRWA, Department of Transport Albany and Villa Maria Catholic Homes and Community Centres.

Academy Services (WA) scored 53.3% in the qualitative assessment. The company demonstrated experience providing similar services to the Cities of Vincent, Port Adelaide Enfield SA, Playford SA, Armadale WA and the Town of Victoria Park. It also demonstrated an understanding of the requirements. Its response to capacity included details of only one key personnel without qualifications. The copy of its safety policy and integrated management system was not included in the submission.

GJK Facility Services scored 53.5% in the qualitative assessment. The company demonstrated some experience providing cleaning services to the Cities of Perth (35 carparks) and Mandurah (46 ablution facilities), Housing Authority WA (three sites) and Department of Transport Mirrabooka Customer Service Centre. The scope of works under these contracts are smaller in scale to this contract. It demonstrated an understanding of the requirements and the capacity to perform the required services.

Iconic Property Services scored 55.05% in the qualitative assessment. The company demonstrated experience performing cleaning services for four CBD office buildings, a shopping centre and walkways and train stations for the City of Perth. The company has the capacity to perform the work but the response did not provide information on its number of staff and safety record. Iconic It demonstrated an understanding of the requirements.

GWC Total Management Pty Ltd scored 55.6% in the qualitative assessment. The company demonstrated experience providing similar services to seven campuses of South Metro TAFE, two campuses of St Stephen's School and Karratha Primary and Senior High schools. It demonstrated an understanding of the requirements. It has the capacity to provide the services, however its response did not supply contact details of supervisors.

TJS Services (WA) Pty Ltd scored 56.1% in the qualitative assessment. It demonstrated considerable experience providing cleaning services to IKEA, Australian Institute of Management, ENI House and the Cities of Joondalup (leisure centres), Melville and Subiaco. The company has the capacity to perform the work, however it did not indicate how many staff are based in Perth. It demonstrated an understanding of the requirements.

Glad Commercial Cleaning scored 56.3% in the qualitative assessment. It demonstrated an understanding of the requirements. It is a national company with the capacity to perform the services however the number of staff in WA was not supplied. It demonstrated considerable experience providing a variety of cleaning services to various local, state and federal governments including the Cities of Swan, Perth, Melville, Fremantle, Department of Child Protection (office building) and Australian Federal Police (office building).

DMC Cleaning scored 56.4% in the qualitative assessment. It has the capacity to provide the services, but did not provide its safety record. The company demonstrated extensive experience in providing similar services for local government and state government clients including the Shires of Kalamunda, Boddington, Merredin, Capel, Northam, Brookton and Toodyay, the Cities of Fremantle and Gosnells. The company demonstrated some understanding of the requirements submitting a general methodology with limited details relevant to the City's requirements.

Charles Service Company scored 64% in the qualitative assessment. The company demonstrated substantial experience performing similar services for the Towns of Victoria Park and Cottesloe, Shire of Peppermint Grove and City of Nedlands, Fremantle and Kwinana. Charles Service Company provided cleaning services to the City of Joondalup buildings from 2010 to 2015. It demonstrated a thorough understanding of the requirements. Its response to capacity did not include after-hours contacts and contact details of supervisors. Safety was briefly addressed as part of contract management but no safety record and policy were supplied.

ASF Cleaning Pty Ltd scored 68.4% in the qualitative assessment. It demonstrated a thorough understanding of the requirements. The company has the capacity to provide the services, however its response did not specifically address its ability to supply additional personnel and resources. It demonstrated extensive experience providing similar cleaning services to Farmer Jacks, Department of Agriculture and Food and the Cities of South Perth, Swan, Busselton, Belmont and Bunbury.

Quayclean Australia Pty Ltd scored 74.1% in the qualitative assessment. It demonstrated extensive experience providing similar services to Venues West, Perth Zoo, Perth Racing, the Town of Cambridge and the Cities of Joondalup and Vincent (Beatty Park Leisure Centre). It is the City's current contractor for cleaning of City buildings. The company has the capacity to perform the services and demonstrated a thorough understanding of the requirements.

Based on the minimum acceptable score (55%), following respondents qualified for stage 2 (price) assessment:

- ASF Cleaning Pty Ltd.
- Charles Service Company.
- Glad Commercial Cleaning.
- GWC Total Management.
- Iconic Property Services Pty Ltd.
- Quayclean Australia Pty Ltd.
- DMC Cleaning.
- TJS Services Group Pty Ltd.

Price Assessment

The panel carried out a comparison of the lump sum price and schedule of rates offered by each tenderer qualified for stage 2 (price assessment) to assess value for money to the City.

To arrive at the estimated financial value of the tender, the lump sum price offered for scheduled cleaning was aggregated with an estimated cost using the tendered rates for Saturdays and Sundays offered by each respondent applied to historical additional / emergency cleaning of five buildings that do not have seven day cleaning. This provides a value of the tender based on the assumption that the historical pattern of cleans is maintained. The estimated expenditure over a 12 month period will vary based on demand and is subject to change in accordance with ongoing requirements and number of reactive cleans.

The rates are fixed for the first year of the contract, but are subject to a price variation in years two and three of the contract to a maximum of the CPI for the preceding year. For estimation purposes, a 2% CPI increase was applied to the rates in years two and three.

Tenderer	Year 1			Year 2			Year 3			Estimated Contract Total
	Lump Sum	Reactive Clean*	Total	Lump Sum	Reactive Clean*	Total	Lump Sum	Reactive Clean*	Total	
ASF Cleaning Pty Ltd	\$433,233	\$5,980	\$439,213	\$441,897	\$6,100	\$447,998	\$450,735	\$6,222	\$456,958	\$1,344,168
Charles Service Company	\$474,296	\$9,008	\$483,304	\$483,782	\$9,188	\$492,970	\$493,457	\$9,373	\$502,830	\$1,479,104
Glad Commercial Cleaning	\$499,428	\$8,394	\$507,822	\$509,416	\$8,562	\$517,978	\$519,606	\$8,733	\$528,339	\$1,544,139
GWC Total Management	\$461,855	\$8,124	\$469,979	\$471,092	\$8,286	\$479,378	\$480,512	\$8,453	\$488,965	\$1,438,322
Iconic Property Services	\$509,655	\$8,470	\$518,125	\$519,848	\$8,640	\$528,488	\$530,245	\$8,813	\$539,058	\$1,585,671
Quayclean Australia	\$498,505	\$6,610	\$505,115	\$508,475	\$6,742	\$515,217	\$518,645	\$6,877	\$525,522	\$1,545,854
DMC Cleaning	\$452,375	\$8,592	\$460,967	\$461,422	\$8,764	\$470,186	\$470,651	\$8,939	\$479,590	\$1,410,743
TJS Services Group	\$682,354	\$11,144	\$693,498	\$696,001	\$11,367	\$707,368	\$709,921	\$11,594	\$721,515	\$2,122,382

* The number of reactive cleans will vary based on demand and is subject to change in accordance with requirements.

During 2016-17, the City incurred \$540,538 for cleaning services for City buildings.

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	Qualitative Ranking	Weighted Percentage Score
Quayclean Australia	5	\$1,545,854	1	74.1%
ASF Cleaning Pty Ltd	1	\$1,344,168	2	68.4%
Charles Service Company	4	\$1,479,104	3	64%
DMC Cleaning	2	\$1,410,743	4	56.4%
Glad Commercial Cleaning	6	\$1,554,139	5	56.3%
TJS Services Group	8	\$2,122,382	6	56.1%

Tenderer	Price Ranking	Estimated Contract Price	Qualitative Ranking	Weighted Percentage Score
GWC Total Management	3	\$1,438,322	7	55.6%
Iconic Property Services	7	\$1,585,671	8	55.05%

Based on the evaluation result, the panel concluded that the tender that provides best value to the City is that of ASF Cleaning Pty Ltd and is therefore recommended.

Issues and options considered

The City has a requirement for the provision of cleaning services for City buildings. The City does not have the internal resources to supply the required services and as such requires an appropriate external service provider.

Legislation / Strategic Community Plan / policy implications

Legislation

A statewide public tender was advertised, opened and evaluated in accordance with Clauses 11(1) and 18(4) 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 \$150,000.

Strategic Community Plan

Key theme Community Wellbeing.

Objective Quality facilities.

Strategic initiative Not applicable.

Policy Not applicable.

Risk management considerations

Should the contract not proceed, the risk to the City will be high as the City will not be able to maintain the cleanliness of its community facilities.

It is considered that the contract will represent a low risk to the City as the recommended tenderer is an established company with industry experience and the capacity to provide the services to the City.

Financial / budget implications

Current financial year impact

Account no.	642 A6402 3359 6340
Budget Item	Cleaning Services
Budget amount	\$ 515,973
Amount spent to date	\$ 482,988
Proposed cost	\$ 0
Balance	\$ 32,985

The cost of scheduled cleaning in 2018-19 is expected to be \$433,233 with a contract commencement date of 1 August 2018.

All amounts quoted in this report are exclusive of GST.

Regional significance

Not applicable.

Sustainability implications

Not applicable.

Consultation

Not applicable.

COMMENT

The evaluation panel carried out the evaluation of the submissions in accordance with the qualitative criteria in a fair and equitable manner and concluded that the offer representing best value to the City is that as submitted by ASF Cleaning Pty Ltd.

VOTING REQUIREMENTS

Simple Majority.

RECOMMENDATION

That Council ACCEPTS the tender submitted by ASF Cleaning Pty Ltd for the provision of cleaning services for City buildings for a period of three years for requirements as specified in Tender 007/18 for the fixed lump sum of \$433,233 (GST Exclusive) for year one of the Contract and schedule of additional rates with annual price variations subject to the percentage change in the Perth CPI (All Groups)

Appendix 18 refers

To access this attachment on electronic document, click here: [Attach18brf180612.pdf](#)

ITEM 22 NATIONAL PREMIER LEAGUE (NPL) REGIONAL FACILITY - PERCY DOYLE RESERVE, DUNCRAIG

WARD	South	
RESPONSIBLE DIRECTOR	Mr Mike Tidy Corporate Services	
FILE NUMBER	05056, 28197, 00967, 06471, 29528, 104765, 101515	
ATTACHMENTS	Attachment 1	Percy Doyle Reserve aerial map
	Attachment 2	Soccer precinct site plan and floor plan
	Attachment 3	AFL oval site plan and floor plan
	Attachment 4	Feasibility study
	Attachment 5	Football West venue requirements
	Attachment 6	Existing active reserve usage
	Attachment 7	Capital cost estimates
	Attachment 8	Financial evaluation report
	<i>(Please Note: Attachment 4 is available electronically only).</i>	
AUTHORITY / DISCRETION	Executive - The substantial direction setting and oversight role of Council, such as adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.	

PURPOSE

For Council to consider the development of a regional National Premier League (NPL) facility at Percy Doyle Reserve, Duncraig.

EXECUTIVE SUMMARY

Percy Doyle Reserve is a sport and recreation area located on the corner of Marmion Avenue and Warwick Road, Duncraig. It consists of the Duncraig Library, Duncraig Leisure Centre and various sporting infrastructure including tennis courts, bowling greens, croquet court, four active sporting ovals and many community and sporting buildings.

At its meeting held on 13 December 2016 (CJ236-12/16 refers), Council requested a report be developed to consider designating Percy Doyle Reserve as a NPL stadium site for use by Sorrento Football Club as their home ground and by other City of Joondalup clubs for NPL matches, including potential scope of project, cost estimates and timing, to be prepared in consultation with Football West, Sorrento Football Club (SFC), Joondalup United Football Club (JUFC) and ECU Joondalup Football Club.

The need to undertake such a report was prompted because JUFC achieved promotion to the top league of football within Western Australia, known as the National Premier League (NPL) and that developing a suitable facility at the reserves they currently utilise was not viable.

To investigate the development of a NPL stadium at Percy Doyle Reserve, the City engaged a consultant to undertake a feasibility study. The report investigated the user needs, opportunities analysis, accommodation schedule requirements, concept design, management and operation modelling for the project.

The feasibility study indicated that the development of a NPL facility at Percy Doyle Reserve would be possible in terms of space at the site and could provide a centralised accessible facility. The study examined two location options at the site – within the existing soccer precinct (estimated at approximately \$9.1 million) and within the existing AFL oval area (estimated at approximately \$7.6 million).

While a development of a NPL facility would be possible at Percy Doyle Reserve, there are several challenges that a development of this nature would cause. The size and scale of a NPL development would create additional noise, traffic and lighting impacts on the nearby residents (closest residents are approximately 30-35 metres away from the main playing pitch).

The development of a NPL stadium is not currently included in the *20 Year Strategic Financial Plan*. The total 20 year impact in cash terms of adding the project is a cost of \$15 million (soccer precinct location option). The annual operating deficit that is estimated if a NPL stadium is developed is approximately \$400,000. The City currently (2017-18 budget) has an operating deficit of \$6.7 million and therefore the NPL stadium would worsen the deficit to over \$7 million.

Based on the estimated capital cost, ongoing likely financial impact to the City and likely impact on the nearby residents in regard to noise, traffic and lighting; it is not recommended the City progress the development of a regional NPL stadium at Percy Doyle Reserve.

It is therefore recommended that Council:

- 1 *NOTES the findings of the feasibility study and potential site and floor plans undertaken for the development of a regional National Premier League stadium at Percy Doyle Reserve, Duncraig;*
- 2 *AGREES not to progress the development of a regional National Premier League stadium at Percy Doyle Reserve, Duncraig;*
- 3 *REQUESTS the Chief Executive Officer to notify Football West, Sorrento Football Club, Joondalup United Football Club and Edith Cowan University Joondalup Football Club of its decision not to progress the development of a regional National Premier League stadium at Percy Doyle Reserve, Duncraig.*

BACKGROUND

Suburb/Location	Percy Doyle Reserve, Warwick Road Duncraig WA 6023.
Applicant	City of Joondalup.
Owner	Crown Land – City of Joondalup Management Order.
Zoning	DPS Parks and Recreation.
	MRS Urban.
Site area	190,290m ² (approximately 19 hectares).
Structure plan	Not applicable.

Percy Doyle Reserve is a sport and recreation area located on the corner of Marmion Avenue and Warwick Road, Duncraig and is classified as a regional park within the City's existing *Parks and Public Open Spaces Classification Framework*. Most of the site is crown land vested in the City for the purpose of parks and recreation (Attachment 1 refers). It consists of the Duncraig Library, Duncraig Leisure Centre and various sporting infrastructure including tennis courts, bowling greens, croquet court, four active sporting ovals and many community and sporting buildings.

The *Percy Doyle Reserve Masterplan* project commenced in February 2009. A feasibility study, concept plans and estimated capital costs were undertaken for the project, however in 2014 it was agreed that the project was not a high priority for the City and it was put on hold. Since then the City has been undertaking critical refurbishment works on the facilities at the site to extend their end of life until a decision on the masterplan's future is determined.

At its meeting held on 13 December 2016 (CJ236-12/16 refers), Council requested a report be developed to consider designating Percy Doyle Reserve as a NPL stadium site for use by SFC as their home ground and by other City of Joondalup clubs for NPL matches, including potential scope of project, cost estimates and timing, to be prepared in consultation with Football West, SFC, JUFC and ECU Joondalup Football Club.

The resolution of Council at that meeting was as a result of discussion in relation to finding a home venue for JUFC, who had recently been promoted to Football West's highest level of competition for football in Western Australia, the NPL.

Teams competing at the NPL level need to be based at a venue that meets certain standards and the current venue that JUFC hires does not meet those standards set by Football West. As a temporary arrangement, JUFC, the City and the SFC have entered into an arrangement for both clubs to play their NPL fixtures from the existing facilities at Percy Doyle Reserve, however this is not a long-term solution because of the impact on the SFC volunteer base having to operate the facility on JUFC match days; the long-term impact on the grass playing surface and the need for SFC to relocate usage of existing members due to utilisation by JUFC.

DETAILS

The City of Joondalup has 34 community facilities and 51 active reserves that 128 sporting clubs utilise. These facilities and reserves are traditionally hired to sporting clubs on a seasonal basis through an established booking process. The City is constantly under pressure to find locations for many sporting clubs wanting to base themselves within the City of Joondalup.

Most of the City's reserves are traditionally oval in shape to accommodate AFL in the winter season, but also include a cricket wicket in the middle for summer season clubs. There is anecdotal evidence that there is a growth within the City in those sports that play on a rectangular pitch and this places pressure in accommodating the increasing request for active reserves. As the City has limited ability to create additional reserves on new land, it is important to implement a strategic approach to the ongoing management of reserves and provision of infrastructure.

With the increasing demand by clubs for access to City facilities and the limited number of facilities, there are increasing challenges associated with finding home based locations for clubs and groups.

Football in Perth

There are five levels of competition football in Perth (male) which are governed by the State Sporting Association, Football West. These levels include the following:

- NPL.
- State Leagues (two divisions).
- Amateurs.
- Metropolitan.
- Masters.
- Juniors.

For a club to play in the various levels of competition, their venue must meet certain requirements and these requirements vary across the competitions. NPL is a national competition that was launched in Western Australia in 2014. It operates as the second tier to the national A-League competition, with three clubs within the City of Joondalup competing at this level, SFC, JUFC and ECU Joondalup Football Club (who are based at the facilities at Edith Cowan University).

Football West sets the venue requirements as either a 'minimum' requirement or a 'recommended' requirement for NPL games. The following is a summary list of the 'minimum' requirements for venues:

- Playing field at least 60 metres wide.
- Perimeter fence around the playing area with a recommended height of 80 centimetres to one metre.
- Technical area and team benches within the perimeter fence.
- Smooth and level playing surface.
- White line markings, with no other visible line markings on the playing surface.
- White goal posts.
- Access to stretcher and corner flags.
- Twenty four metres of linear sponsorship signage.
- Permanent seating structure to accommodate 120 people.
- Selling points for food and beverage (including alcohol).
- Public toilets for spectators.
- Sufficient parking for match officials.
- Home and away change rooms.
- Match official change room.
- PA system (to announce first team players at the start of the game).
- Scoreboard (can be temporary).

A full list of venue requirements for all Football West's competitions is included in Attachment 5.

City of Joondalup football participation

The following information is included in Football West's participation data for football within the City of Joondalup:

- The City of Joondalup is home to six football clubs and three NPL teams (SFC, JUFC and ECU Joondalup).
- There are several other football clubs which may in the foreseeable future be relegated or promoted into the NPL competition, furthers the need for NPL level facilities. It is likely that the current NPL clubs will seek to obtain a female NPL licence, therefore will likely increase overall participation and membership growth within the sport.
- There is a high demand for junior participation within the City, with some football clubs turning players down as they do not have the capacity.
- Women's leagues are growing rapidly within the City as well as Western Australia.

Existing active reserve usage

The active playing areas at Percy Doyle Reserve are used by four sporting clubs during the summer and winter sporting seasons (Attachment 6 refers). The clubs have the following current member / team numbers:

- SFC (seniors) – seven teams.
- SFC (juniors) – 448 members.
- Wanneroo Joondalup Teeball Club (WJTC) – 550 members.
- Greenwood Football (AFL) Club (GFC) – two teams.
- Sorrento Duncraig Football (AFL) Club (SDFC) (juniors) – 1,100 members.

Feasibility study

To investigate the development of an NPL stadium at Percy Doyle Reserve, the City engaged a consultant to undertake a feasibility study (Attachment 4 refers).

The purpose of the study was to determine the feasibility of developing a regional NPL Stadium which would be home to the SFC and where all NPL and higher games would be played within the City. The report investigated the user needs, opportunities analysis, accommodation schedule requirements, concept design, management and operation modelling for the project.

The following was considered as part of the feasibility study:

- Assess how the reserve currently meets the needs of all the users – acknowledging SFC long-term tenure of the clubrooms and active reserve.
- Identify current trends of similar regional precincts with state level football NPL facilities.
- Identify needs based on current evidence provided by the City and associated stakeholders.
- Determine whether the current operations of clubs' meet the needs of users now and into the future in an efficient manner.
- Identify potential options for the site and provide justification to the City.
- Establish key partnerships with associated stakeholders to enable broad support for the proposal.
- Provide guidance on a management model approach for the site and with stakeholders mindful that SFC will remain on-site tenants.
- Provide final recommendations for the site.
- Consideration of the proposed development and any conflict with surrounding uses.

The feasibility study indicated that the development of a NPL facility at Percy Doyle Reserve would be possible in terms of space at the site and would provide a centralised accessible facility to benefit the community and clubs.

The feasibility study examined two location options at Percy Doyle Reserve for the development of a NPL stadium – within the existing soccer precinct and within the existing AFL oval area. The study and proposed concept plans did not include the provision of floodlighting as this is subject to a separate project detailed within the City's *Five Year Capital Works Program*.

Soccer precinct location option

Site

This option proposes the development of a NPL stadium within the existing soccer precinct into the embankment between the existing pitch one and two (Attachment 2 refers). This option would require pitch two to be realigned from east / west to north / south. It would also become the main playing pitch and is proposed to be a synthetic surface. In this option the proposed main pitch would be the same distance to residents as the existing pitch (approximately 30-35 metres).

This option includes the following:

- Realignment of pitch two from east / west to north / south orientation.
- Pitch two would be a fully fenced synthetic surface and meet Football West's NPL venue requirements.
- Pitch one would remain as grass.
- Three additional junior pitches developed at the site (two synthetic and one grass).
- Demolition of the existing SFC club room facility.
- Two storey facility to be developed between pitch one and two, including covered seating.
- New access road at the southern end of synthetic pitch connecting to the new facility (deliveries / emergency uses only).
- Entrance to the site located at north central point.
- Dual use path through public open space, connecting entrances to the site and park amenities.
- Park amenities (playground / BBQ / picnic areas) to eastern side of synthetic pitch to encourage activation of public open space.

Building

The proposed two storey facility would accommodate the SFC in a separate portion of the facility, possibly under a lease arrangement. The remainder of the facility would be managed similar to other community sporting facilities within the City and be available for hire by SFC, other NPL clubs and other groups who may want to access the venue. It is important to note that the proposed plans are indicative concept only and are likely to change during the detailed design stage should the project proceed.

The facility is proposed to be approximately 1,260m² and include the following components:

- SFC clubroom (180m²).
- Function room (273m²).
- Six sets of change rooms to service both pitch one and two.
- Two umpire change rooms.
- Toilet facilities including universal access park toilet.
- Meeting rooms.
- Kitchen / bar / kiosk.
- Media room.
- Offices.
- Storage.
- First aid room.

Site challenges

While this location option has many benefits, it also presents some challenges including the following:

- The site has poor access with restricted entry points.
- Pitch two would require realignment if it is to be used for NPL games.
- Floodlighting requirements, size of facility and additional noise may impact adjacent residents.
- The topography of the site causes challenges in playing surface realignment and the need for significant earth works.
- The site will require significant works to connect services.

AFL oval location option

Site

This option proposes the development of a NPL stadium within the existing AFL oval area (Attachment 3 refers). In this option, SFC would remain in their existing facility and the new facility and synthetic pitch would be available for them to hire for all NPL fixtures. It is important to note that the proposed plans are indicative concept only and are likely to change during the detailed design stage should the project proceed. In this option the proposed main pitch would be the same distance to residents as the soccer precinct option (approximately 30-35 metres).

This option includes the following:

- Main pitch would be a fully fenced synthetic surface and meet Football West's NPL venue requirements.
- Three additional synthetic junior pitches developed at the site.
- Demolition of the existing football tee-ball club room facility.
- Two storey facility to be developed including covered seating.
- New access road off Beddi Road connecting the current access road to the main car park (deliveries / emergency uses only).

Building

The proposed two storey facility would be managed similar to other community sporting facilities within the City and be available for hire by SFC, other NPL clubs and other groups who may want to access the venue. In this option, SFC remain in their current club room facility for most of their operations and hire the new NPL facility for match days.

The facility is proposed to be approximately 960m² and include the following components:

- Function room (215m²).
- Four sets of change rooms.
- One umpire change room.
- Toilet facilities including universal access park toilet.
- Meeting room.
- Kitchen/ bar / kiosk.
- Media room.
- Office.
- Storage.
- First aid room.

Site challenges

While this location option has many benefits, it also presents some challenges including the following:

- The AFL oval is utilised by several sporting clubs, including the City's only tee-ball club who have over 500 members. If this option was progressed then existing users would need to be relocated which may be difficult given the demand for active reserves in the City.
- Floodlighting requirements, size of facility and additional noise may impact adjacent residents, however this may be less of an issue in comparison to the soccer precinct as this location is closer to a main road.
- The site will require significant works to connect services.

Management model options

The feasibility study considered a number of management options including the following:

- Management by the City of Joondalup.
- Management by an established independent trust.
- Management by an incorporated sports association consisting of tenant clubs.
- Management by the State Sporting Association (Football West).
- Management by an independent management group.

The aim of the project would be to develop one facility that can host all NPL games for City of Joondalup clubs rather than construct individual facilities at various locations. Therefore, the ability to develop a multi-purpose facility while acknowledging the SFC presence on-site is important. The management model should also take into consideration the potential for the City to make a return on investment in a modern facility.

The feasibility study recommended either the City or sports association management models as the preferred options. After consideration, it is recommended that if a NPL stadium is developed, the facility be managed by the City (with SFC to have a lease arrangement for the club room portion of the facility in the soccer precinct option). This management model would apply to both the building and synthetic pitches and would ensure the facility is available to all user groups within the City in a fair and equitable manner.

The sports association model may prove to be problematic as teams are promoted / relegated in the NPL. This would mean that the membership of an established association may alter season to season, therefore requiring change to governance models.

A further option not explored by the feasibility study is for the facility to be managed by the SFC. The disadvantage of this option is that other NPL clubs may not get equitable access to the site as SFC may prioritise their own access. This option may also impact other NPL club's ability to generate income through bar / kiosk sales.

Issues and options considered

It is considered there are two options for the project:

- 1 Do not develop a regional NPL stadium at Percy Doyle Reserve, Duncraig (status quo)
or
- 2 Develop a NPL stadium at Percy Doyle Reserve, Duncraig:
 - 2.1 Within the existing soccer precinct
 - 2.2 Within the existing AFL oval area.

If a NPL stadium is to be developed at Percy Doyle Reserve, it is recommended that the City considers an industry standard fees and charges model for clubs / groups to hire the facilities instead of the City's standard fees and charges due to the size of the proposed development and specific nature of the infrastructure required for example synthetic pitches.

Legislation / Strategic Community Plan / policy implications

Legislation Not applicable.

Strategic Community Plan

Key theme Community Wellbeing.

Objective Quality facilities.

Strategic initiative Support a long-term approach to significant facility upgrades and improvements.
Understand the demographic context of local communities to support effective facility planning.
Employ facility design principles that will provide for longevity, diversity and inclusiveness and where appropriate, support decentralising the delivery of City services.

Policy *Requests for New or Capital Upgrades to Existing Community Buildings Policy.*
Facility Hire Subsidy Policy.

Risk management considerations

While it is acknowledged that Percy Doyle Reserve is a regional active reserve, significant change to the existing infrastructure may cause issues for the nearby residents in regards to noise, traffic and lighting.

Not developing a regional NPL stadium will result in the City remaining under increasing pressure to accommodate those clubs currently and aspiring to play NPL within their suburban locations, which given the specific venue requirements for such facilities may prove challenging.

Financial / budget implications

Over the last few years, the City has contributed funds to developments within the boundaries for high level sport such as hockey (contributed \$4.7 million to the centre at Warwick) and AFL / rugby/ basketball (contributed \$4 million to the redevelopment of HBF Arena).

There are currently no funds listed within the City's *Five Year Capital Works Program* or the *20 Year Strategic Financial Plan* for the development of a NPL stadium.

Capital cost estimate

As part of the feasibility study, a high level indicative cost estimate was provided. However, the City undertook a separate independent cost estimate with a contractor familiar with the City's standard facility projects, design and fit out. A capital cost estimate was developed for each location option (Attachment 7 refers):

- Soccer precinct – approximately \$9.1 million (\$7.4 million construction; \$700,000 contingencies; \$1 million professional fees).
- AFL oval area – approximately \$7.6 million (\$6.2 million construction; \$600,000 contingencies; \$800,000 professional fees).

Component	Soccer precinct capital cost	AFL oval capital cost
Facility	\$4,804,000	\$3,277,500
Demolition and alterations	\$161,300	\$115,200
Grandstand seating	\$217,500	\$244,000
Scoreboard	\$21,500	\$21,500
Synthetic pitch works	\$1,854,000	\$2,118,500
Access roads and pathways	\$291,200	\$618,500
Other external works	\$1,738,100	\$1,187,200
Public artwork allowance	\$37,000	\$25,000
TOTAL	\$9,124,600	\$7,607,000

The cost estimate for the facility component is comparable to other recent facility redevelopment projects and is estimated at an average of \$3,500/m².

The capital cost estimates excluded the following items as the level of works cannot be determined until the detailed design stage:

- Headworks fees and charges and upgrading of existing services (desktop review has estimated the soccer precinct option at approximately \$380,000 and the AFL oval option at approximately \$340,000).
- Gas connection (desktop review has estimated the soccer precinct option at approximately \$10,000 and the AFL oval option at approximately \$20,000).
- Sewer connections and associated works (desktop review has estimated the soccer precinct option at approximately \$150,000 and the AFL oval option at approximately \$350,000).
- Stormwater and drainage.
- Floodlighting (subject to a separate project - \$1,240,700 listed in 2020-21).
- Lighting to new access roads.
- Removal of asbestos and contaminated materials.
- Excavation in rock.
- Landscaping.
- Works outside the site boundaries.
- Children's play equipment and shade sails.
- Individual bucket seats to grandstand.
- Lockers to change rooms.
- Works to other existing facilities at the site, carparks and bushland.
- Works to pitch one, two and three (AFL oval option only).
- Window treatments.
- Water bore.
- Escalation.
- Goods and services tax.

Financial evaluation

As part of the project, a financial evaluation report was undertaken for each location option (Attachment 8 refers). The report evaluates the two location options and considers the options for income including the City's current fees and charges (which includes subsidisation based on the *Facility Hire Subsidy Policy*) versus industry standard fees and charges. Based on the size of the proposed development and specific nature of the infrastructure for example synthetic pitches, it is recommended that the City considers an industry standard fees and charges model for clubs/groups to hire the facilities.

Current financial year impact

The City has spent \$37,000 from the 2016-17 and 2017-18 consultancy budget for the development of the feasibility study and capital cost estimates.

Future financial year impact (based on soccer precinct location option)

Capital costs and funding	The capital costs are estimated to be \$9.9 million including escalation, although there are several large exclusions at this early stage in the project. An assessment of eligible State Government grant funding is estimated at \$2 million. The remaining \$7.9 million costs are assumed to be funded by the City and the working assumption is that borrowings would be required which would result in interest expenses. If the City can fund the project using reserves, it is still necessary to assume an interest expense for the project as the use of reserve funds would result in less interest earned on cash at bank. The total one-off costs of establishment are estimated at \$10.2 million which includes both the principal repayment of \$7.9 million and interest on borrowings of \$2.3 million.
Capital replacement	The new infrastructure would create an additional future burden of capital replacement costs, for example the synthetic pitch would likely need to be replaced every 10 years. The annual costs that the City should set aside for capital replacement is estimated at \$165,000. Over the next 40 years it is estimated that the capital replacement for all items in the project are approximately \$15.7 million which includes escalation.
Annual operating cost including depreciation	The development of an NPL Stadium and synthetic pitches may increase the operating costs by \$629,000 per year in comparison to the existing costs. The increased costs relate to higher operating cash expenses as the City proposes to manage the facility (facility manager, building maintenance costs), operating costs for the pitches, additional depreciation and interest on the borrowings to construct the facility (which would be a cost for 10 years only during the repayment of borrowings).
Annual operating income	The City currently receives \$7,000 per year at the soccer precinct comprising of the pitch hire and building lease to SFC. The NPL stadium may generate income of \$285,000 per year so the net increase in operating income may be \$278,000. However, this increase has a very high level of uncertainty as it is based on industry standard fees and charges and the underlying volume assumptions need to be further developed during the detailed design stage if the project proceeds.
Write-off costs	If the existing building that SFC lease was demolished, there would be impairment costs of approximately \$1.8 million. These impairment costs would impact the City's operating deficit, with increased depreciation costs each year until the building was demolished (\$360,000 per year for five years). This estimate is based on the existing inventory and includes the \$700,000 refurbishment works that are currently in progress. If the City demolished the building, the \$700,000 spent on the refurbishment works would be considered an inefficient use of funds.

**20 Year Strategic
Financial Plan impact**

The development of a NPL stadium is not currently included in the *20 Year Strategic Financial Plan*. The total 20 year impact in cash terms of adding the project is a cost of \$15 million.

The annual operating deficit that is estimated for the NPL stadium is approximately \$400,000 per year which is the difference between the operating income and operating expenses. However as there are several exclusions for the capital estimates, it is likely that the operating deficit would be higher, potentially \$700,000 per year. The City currently (2017-18 budget) has an operating deficit of \$6.7 million and therefore the NPL stadium would worsen the deficit to \$7 million. In addition, there are other factors that will influence the operating deficit in the years ahead.

The *20 Year Strategic Financial Plan* currently projects that it will only achieve an operating surplus within target by 2026-27 and the addition of projects such as the NPL stadium makes it more difficult to address the operating deficit. The City should consider only planning for new projects if it can provide a positive operating surplus, or no worse than break-even. Projects may also need to recommend rationalisation of existing services / assets to mitigate the impacts. Alternatively, projects may consider commercial elements so that additional income stream can be earned.

All amounts quoted in this report are exclusive of GST.

Regional significance

With the number of football clubs within the City's district aspiring to compete at the NPL level, a regional venue would be better suited to house such fixtures rather than duplicating venue requirements at reserves located within the various suburbs of the City which may not be best suited to host NPL fixtures. However, an appropriate site is required for a development of this size and scale to ensure minimal noise, traffic and lighting impacts on nearby residents.

Sustainability implicationsEnvironmental

All facility development projects are planned to reduce the impact of the carbon footprint and consider environmental sustainability design features where possible within the project budget.

Social

The project has included consultation with SFC, JUFC and Football West to ensure that feedback received represents their needs. It is expected that if a multi-purpose NPL stadium facility managed by the City is developed, other clubs / groups will also utilise it. Furthermore, any development at the site would consider access and inclusion principles and will aim to enhance the amenity of the public space.

Economic

One of the main principles of the City's masterplan framework is the development of 'shared' and 'multi-purpose' facilities to avoid duplication and to reduce the ongoing maintenance and future capital expenditure requirements.

Consultation

As part of the feasibility study key stakeholders including SFC, JUFC and Football West were engaged to provide feedback on their requirements for a regional facility. The ECU Joondalup Football Club were contacted, however declined to be involved due to their newly signed lease with ECU Joondalup Campus.

If the development of a NPL stadium at Percy Doyle Reserve is to proceed, it would follow the City's agreed planning process which includes further consultation, not only with the key stakeholders, but also the wider community and would be conducted in accordance with the City's *Community Consultation and Engagement Policy and Protocol*.

COMMENT

While the development of a NPL facility would be possible at Percy Doyle Reserve, there are several challenges that a development of this nature would cause. The size and scale of a NPL development would create additional noise, traffic and lighting impacts on the nearby residents (closest residents are approximately 30-35 metres away from the main playing pitch).

The development of a NPL stadium is not currently included in the *20 Year Strategic Financial Plan*. The total 20 year impact in cash terms of adding the project is a cost of \$15 million (soccer precinct location option). The annual operating deficit that is estimated if a NPL stadium is developed is approximately \$400,000. The City currently (2017-18 budget) has an operating deficit of \$6.7 million and therefore the NPL stadium would worsen the deficit to over \$7 million.

Based on the estimated capital cost, ongoing likely financial impact to the City and likely impact on the nearby residents in regard to noise, traffic and lighting; it is not recommended the City progress the development of a regional NPL stadium at Percy Doyle Reserve.

VOTING REQUIREMENTS

Simple Majority.

RECOMMENDATION

That Council:

- 1** **NOTES** the findings of the feasibility study and potential site and floor plans undertaken for the development of a regional National Premier League stadium at Percy Doyle Reserve, Duncraig;
- 2** **AGREES** not to progress the development of a regional National Premier League stadium at Percy Doyle Reserve, Duncraig;
- 3** **REQUESTS** the Chief Executive Officer to notify Football West, Sorrento Football Club, Joondalup United Football Club and Edith Cowan University Joondalup Football Club of its decision not to progress the development of a regional National Premier League stadium at Percy Doyle Reserve, Duncraig.

Appendix 19 refers

To access this attachment on electronic document, click here: [Attach19brf180612.pdf](#)

ITEM 23 REQUEST FOR WAIVER OF HIRE FEES FOR KINGSLEY AMATEUR FOOTBALL CLUB AND FARMERS MARKET (WA) PTY LTD

WARD	All
RESPONSIBLE DIRECTOR	Mr Mike Tidy Corporate Services
FILE NUMBER	101271, 101515
ATTACHMENTS	Nil
AUTHORITY / DISCRETION	Executive - The substantial direction setting and oversight role of Council, such as adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.

PURPOSE

For Council to consider waiving the fees for hire applicable to the Kingsley Amateur Football Club's booking of Kingsley Memorial Clubrooms, Kingsley and the Farmers Market (WA) Pty Ltd's booking of Central Park, Joondalup in 2018.

EXECUTIVE SUMMARY

At its meeting held on 20 November 2012 (CJ234-11/12 refers), Council adopted a *Property Management Framework* (PMF) which provides the City with a guide to managing all property under the City's ownership, care and control. It contains specific requirements for the classifying of property and its usage.

As part of the framework, Council also reviewed various supporting policies to assist it in managing property and users of City facilities. The revised *Facility Hire Subsidy Policy* (FHSP) allows for various levels of subsidisation of the hire fees for certain community groups. The policy states that where a community group wishes for further subsidisation application must be made to the City with a report presented to Council for its consideration for requests over \$5,000.

The City has recently completed the regular booking application process for use of its facilities for the 2018 winter season booking period (1 April to 30 September 2018). Consequently, the Kingsley Amateur Football Club has been assessed as eligible for a subsidy for its hire of Kingsley Memorial Clubrooms and the club is seeking a further waiver of hire fees in recognition for its financial contribution to the construction of the clubrooms.

Additionally, the City has been negotiating with Farmers Markets (WA) Pty Ltd regarding the level of financial support to be provided for the 2018 Joondalup Growers' Market at Central Park, Joondalup. The City has proposed to support the organisation in seeking a waiver of hire fees for 2018.

It is therefore recommended that Council:

- 1 *AGREES to the request to waive 75% of the subsidised fees for the Kingsley Amateur Football Club for the use of Kingsley Memorial Clubrooms, Kingsley in 2018, to the value of \$12,421;*
- 2 *AGREES to the proposal to waive 100% of the fees for Farmers Markets (WA) Pty Ltd to use Central Park, Joondalup for the Joondalup Growers' Market in 2018, to the maximum value of \$25,350;*
- 3 *NOTES that the Facility Hire Subsidy Policy states that requests for additional subsidies apply for one year / season and a new application must be made each following year / season.*

BACKGROUND

At its meeting held on 20 November 2012 (CJ234-11/12) refers, Council adopted the PMF which is intended to provide a consistent and concise methodology to property management. Also at that meeting, Council adopted the FHSP which provides direction relating to subsidised use of City facilities that is to:

- provide guidance on determining the extent of subsidy to be offered to groups hiring City-managed facilities
- ensure facility hire subsidies are applied in a consistent, transparent and equitable manner.

The policy applies to all local not-for-profit community groups and groups from educational institutions hiring City-managed facilities on a regular or casual basis, excluding facilities contained within the City of Joondalup Leisure Centre, Craigie. The policy applies to organised groups only and does not apply to individuals.

The policy allocates a level of subsidy to user groups. The City will subsidise the cost of facility hire charges for City-managed facilities for local not-for-profit community groups and groups from educational institutions if the group is able to demonstrate that at least 50% of its active members / participants reside within the City of Joondalup. These groups are categorised within the policy based on the nature of the group; groups that provided recreation, sporting activities and / or targeted services exclusively for people aged 55 years and over.

Notwithstanding the above, the City reserves the right that if a group is booking a facility at a subsidised rate and it is not being utilised it may charge that group for the unutilised booking of that facility at the full community rate.

The process the City follows when booking facilities for regular hire groups is via two ways, being:

- annual users
- seasonal users.

Annual users are those groups who hire a City facility for a calendar year, whereas seasonal users are groups that book either for a winter or summer season (which are regarded as traditional sport seasons).

In regard to dealing with requests for additional subsidies over and above what is permitted within the policy, the policy states:

“A group may apply for an additional subsidy under special circumstances. Applications must be made in a written submission to the Chief Executive Officer. The Chief Executive Officer will determine such requests where the value of the additional subsidy is below \$5,000. Requests for additional subsidies above \$5,000 will be addressed by the Chief Executive Officer and referred to Council for determination.

Additional subsidies will be provided for the following:

- *Any group who has provided recent, significant cash or in-kind contribution(s) towards the total value of the construction of a hire facility.*
- *Any group who is experiencing significant financial difficulties.*
- *Any other group who can provide reasonable justification for receiving an additional subsidy.*

Submissions for additional subsidies will be assessed on a case-by-case basis and will apply for one year / season. A new application must be made each following year / season.”

The PMF allows Council to apply additional subsidies to rent fees where a facility is under a lease arrangement with an exclusive user group, where that group has contributed at least 30% of the cost of the construction of the building.

Further the FHSP allows Council to consider providing additional subsidies to ‘any group who has provided recent, significant cash or in-kind contribution(s) towards the total value of the construction of a hired facility’.

DETAILS

The City has recently completed the booking process for use of Central Park, Joondalup for the Joondalup Grower’s Market and for the use of its facilities during the 2018 winter booking period. Consequently, the below groups have sought a waiver of fees in accordance with the policy.

Kingsley Amateur Football Club

Facility Hired	Classification within the policy	Current extent of subsidy	Hours booked per week	Hours exceeding subsidy per week
Kingsley Memorial Clubrooms – Sports Hall	Adult Recreation or Sporting Group	50%	19.5	Not applicable

In 2002, following the Bali bombings, which directly affected the Kingsley Amateur Football Club, the club undertook fundraising activities to redevelop the clubrooms and create a memorial for those affected. At its meeting held on 18 February 2003 (CJ011-02/03 refers), Council endorsed the planned redevelopment and approved a \$150,000 (25%) contribution from the City, with the remaining project costs of \$441,270 (75%) to be provided by the club.

At its meeting held on 17 February 2004 (CJ037-02/04 refers), the Joint Commissioners endorsed a seasonal hire fee of \$1,200 per year for the club to hire the redeveloped clubrooms. This annual fee remained in place until the implementation of the PMF in 2013.

Through the winter 2013 booking process, the club submitted a proposal seeking free hire of the Kingsley Memorial Clubrooms for up to 15% of the facility's bookable hours (equivalent to 821 hours per year) for the life of the asset. At its meeting held on 27 May 2013 (CJ082-05/13 refers) Council did not support this proposal and instead agreed to an hourly rate of hire for the Kingsley Memorial Clubrooms by the Kingsley Amateur Football Club to be 25% of the subsidised fee for an 'Adult Recreation or Sporting Group' (equivalent to \$2.91 in 2013 and \$3.36 in 2017) in recognition of the club's contribution to the 2004 facility redevelopment. This revised rate was to apply for the 2013 year only as the FHSP requires every request for a waiver of fees or an additional subsidy be submitted annually.

Between 2014 and 2017 the City incorrectly applied the above hourly rate (being 25% of the applicable subsidised fee) to the Kingsley Amateur Football Club's bookings of Kingsley Memorial Clubrooms. This application was incorrect as the decision of Council in 2013 was applicable for one year only. The City has identified the issue in 2018 and is now applying the correct charge (being 100% of the subsidised fee for an 'Adult Recreation or Sporting Group') which has prompted a request for a waiver of 75% of the remaining hire fees (equivalent to an hourly rate of 25% of the applicable subsidised fee). A summary of the 2018 booking and waiver request has been provided below.

Total booking cost	Current		Requested		Recommended	
	Subsidy value	Group payment	Subsidy value	Group payment	Subsidy value	Group payment
\$14,196	\$7,098	\$7,098	\$12,421	\$1,775	\$12,421	\$1,775

The club has requested special consideration is granted in the form of a reduced hire fee for its contribution to the clubroom facility in 2004.

It is estimated that since the decision of the Council in 2004 and based on the current principles of the FHSP, the Kingsley Amateur Football Club has received an additional \$60,000 in subsidy for the hire of the Kingsley Memorial Clubrooms.

A summary of the club's bookings and applicable hire fees between 2013 and 2018 is provided below.

	2013	2014	2015	2016	2017	2018
Hourly rate	\$2.91	\$3.01	\$3.13	\$3.27	\$3.36	\$14.00 or \$3.50
Total hours	488	416	554	466	445	507
Total cost	\$1,418	\$1,252	\$1,734	\$1,527	\$1,497	\$7,098 or \$1,774.50

The FHSP allows the Kingsley Amateur Football Club to be provided a 50% subsidy for its hire of Kingsley Memorial Clubrooms during 2018. However, given the substantial capital contribution towards the construction of the clubrooms it is recommended that Council agrees to the request to waive 75% of the applicable subsidised fee (equivalent to an hourly rate of 25% of the applicable subsidised fee).

Farmers Markets (WA) Pty Ltd

Facility Hired	Classification within the policy	Current extend of subsidy	Hours booked per week	Hours exceeding subsidy per week
Central Park	Ineligible	Not applicable	7	Not applicable

At its meeting held on 28 June 2016 (CJ094-06/16 refers), Council, in response to an expression of interest, requested that the City enter into negotiations with Farmers Markets (WA) Pty Ltd to establish a weekly farmers' market in Central Park, Joondalup.

The City undertook discussions with Farmers Markets (WA) Pty Ltd regarding the proposed event and associated deliverables and subsequently developed a Memorandum of Understanding between the City and Farmers Markets (WA) Pty Ltd. The memorandum identified the level of support to be provided by the City during 2017 and included support to waive the hire fees for Central Park.

Approximately 2,000 people attended the official opening of the farmers markets in February 2017 and continued to attract an estimated weekly attendance of 750 people. The Joondalup Growers Market has 5,373 followers on Facebook and 1,613 on Instagram.

The City is negotiating with Farmers Markets (WA) Pty Ltd to agree upon the level of support to be provided during 2018 and is proposing to waive the hire fees for Central Park again. A summary of the City's financial contribution to Farmers Markets (WA) Pty Ltd as listing in the 2017 agreement and proposed 2018 agreement is provided below:

Support item to Farmers Markets (WA) Pty Ltd	Maximum contribution	
	2017	2018 proposed
Waiver of fees associated with the hire of Central Park, Joondalup.	\$17,321	\$19,000
Provision and service of four x 220 litre rubbish bins and service them.	\$2,600	\$2,600
Provide funding to FMWA for off-site storage.	\$16,350	\$0
Provide funding for the commissioning of a <i>Bushfire Assessment and Action Plan</i> .	\$1,793	Not applicable
Providing funding to launch the markets, and in-kind support through cross-promotion on the City's social media platforms.	\$10,000 + in-kind	In-kind only
Pay an annual fee to assist in the operation of the 'Welcome to Spring' and 'Christmas Festival' events.	\$7,500	\$3,750
Total	\$55,564 + in-kind	\$25,350 + in-kind

Farmers Markets (WA) Pty Ltd is not eligible for a subsidy of hire fees under the *Facility Hire Subsidy Policy* as it is classified as a commercial organisation. However, the City has wholly assessed the operations of the Joondalup Growers' Market and recommends a waiver of fees to ensure Farmers Markets (WA) Pty Ltd can continue to provide this event to the local community.

It is therefore recommended that Council agrees to waive 100% of the fees for Farmers Markets (WA) Pty Ltd to use Central Park for the Joondalup Growers' Market in 2018, to the maximum value of \$19,000.

Issues and options considered

Council may agree or not agree to each of the requests for additional subsidies and wavier of fees on a case by case basis.

Legislation / Strategic Community Plan / policy implications

Legislation Section 6.12 of the *Local Government Act 1995*.

Strategic Community Plan

Key theme Financial Sustainability.

Objective Financial diversity.

Strategic initiative Identify opportunities for new income streams that are financially sound and equitable.

Policy *Facility Hire Subsidy Policy*.

Risk management considerations

The following risks may arise pending the consideration of the request for a waiver for hire fees for use of City facilities:

- The Kingsley Amateur Football Club or Farmers Markets (WA) Pty Ltd may not have the financial capacity to meet the costs proposed by the City.
- The City compromises its strategic initiative in examining alternative revenue streams.
- Making exceptions for groups may set a precedent and cause complications when determining subsidies for other groups.

Financial / budget implications

The cost to the City across all levels of subsidised use of City managed community facilities is approximately \$1.18 million.

If the City approves the requests for a waiver of hire fees, the City will lose approximately \$31,421 in income for 2018 winter season bookings. In 2017-18 to date, Council has approved \$71,972 in additional subsidies and waivers of hire fees beyond what is provided for in the policy.

The City currently has a \$6.7 million per annum operating deficit with it paying significant amounts in grants and contributions, while also waiving and subsidising a large amount of City fees for use of reserves and facilities. Continuing to approve fee waivers and additional subsidy requests for groups that do not meet the criteria of the policy will not assist the City in managing its ongoing operating deficit.

All amounts quoted in this report are exclusive of GST.

Regional significance

Not applicable.

Sustainability implications

The PMF supports the equitable, efficient and effective management of City-owned and managed properties. The framework recognises the value and community benefit of activities organised and provided for by community groups, by subsidising such groups where appropriate. The framework also aims to protect and enhance the City's property assets for the benefit of the community and for future generations.

Consultation

Not applicable.

COMMENT

The intent of the adopted *Facility Hire Subsidy Policy* is to achieve more equitable and greater use of City facilities. It is important that the classification of groups within the policy for levels of subsidisation remains consistent. However, if a group requires that further consideration relating to fees, Council has the option to waive those fees.

VOTING REQUIREMENTS

Simple Majority.

RECOMMENDATION

The Council:

- 1** **AGREES** to the request to waive 75% of the subsidised fees for the Kingsley Amateur Football Club for the use of Kingsley Memorial Clubrooms in 2018, to the value of \$12,421;
- 2** **AGREES** to the proposal to waive 100% of the fees for Farmers Markets (WA) Pty Ltd to use Central Park for the Joondalup Grower's Market in 2018, to the maximum value of \$25,350;
- 3** **NOTES** that the *Facility Hire Subsidy Policy* states that requests for additional subsidies apply for one year / season and a new application must be made each following year / season.

REPORT OF THE CHIEF EXECUTIVE OFFICER

MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

REPORTS REQUESTED BY ELECTED MEMBERS

CLOSURE



DECLARATION OF FINANCIAL INTEREST/INTEREST THAT MAY AFFECT IMPARTIALITY

**To: CHIEF EXECUTIVE OFFICER
CITY OF JOONDALUP**

Name/ Position	
Meeting Date	
Item No/ Subject	
Nature of Interest	Financial Interest * Proximity Interest* Interest that may affect impartiality* <div style="text-align: right;"><i>* Delete where not applicable</i></div>
Extent of Interest	
Signature	
Date	

Section 5.65(1) of the *Local Government Act 1995* states that:

“A member who has an interest in any matter to be discussed at a Council or Committee meeting that will be attended by that member must disclose the nature of the interest:

- (a) in a written notice given to the CEO before the meeting; or*
- (b) at the meeting immediately before the matter is discussed.”*

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**QUESTION TO BE ASKED AT
BRIEFING SESSION/COUNCIL MEETING**

TITLE <i>(Mr/Mrs/Ms/Dr)</i>	FIRST NAME	SURNAME	ADDRESS

QUESTIONS

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Please submit this form at the meeting or:

- email to council.questions@joondalup.wa.gov.au

Please note that:

- Questions asked at a **Briefing Session** must relate to matters contained on the draft agenda.
- Questions asked at a **Council meeting** can relate to matters that affect the operations of the City of Joondalup.
- Questions asked at a **Special Meeting of the Council** must relate to the purpose for which the meeting has been called.



**STATEMENT TO BE MADE AT
BRIEFING SESSION/COUNCIL MEETING**

TITLE <i>(Mr/Mrs/Ms/Dr)</i>	FIRST NAME	SURNAME	ADDRESS

STATEMENT

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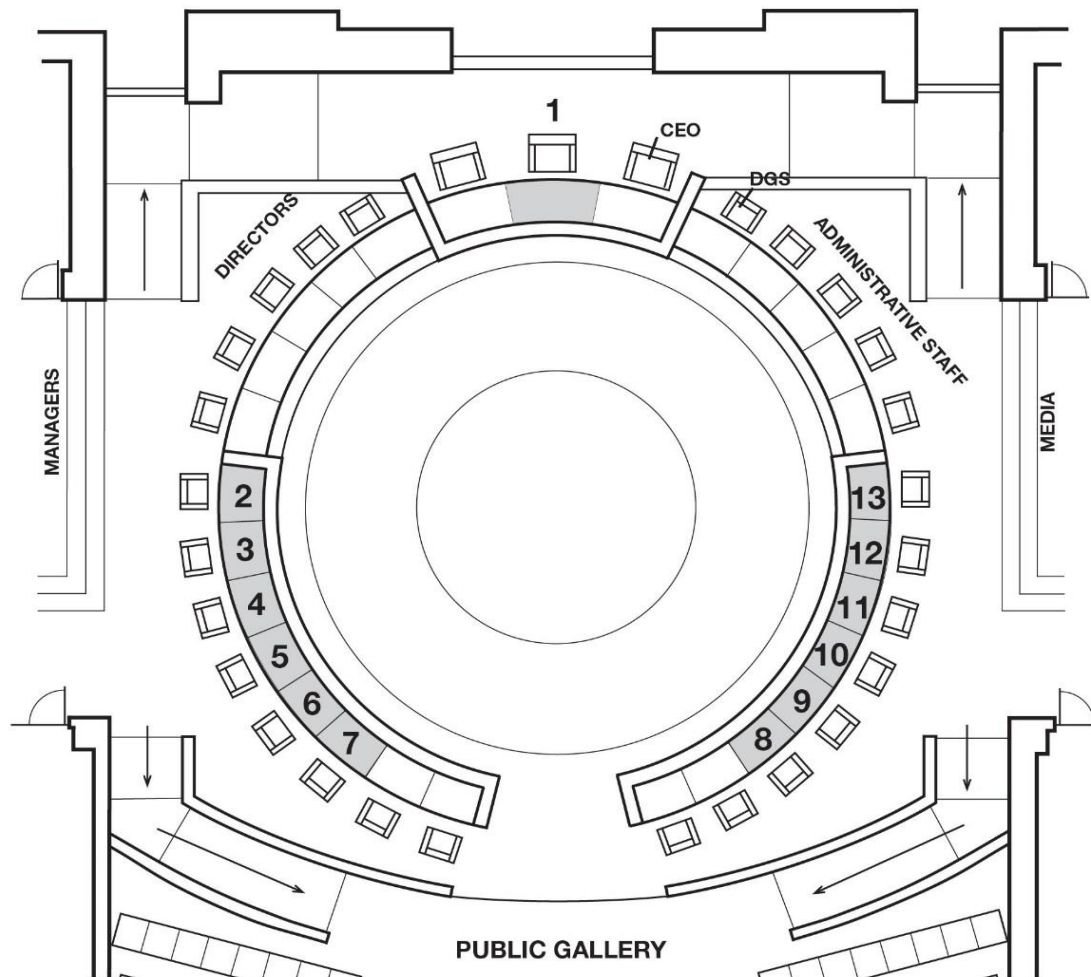
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Please submit this form at the meeting.

Please note that:

- Statements made at a **Briefing Session** must relate to matters contained on the draft agenda.
- Statements made at a **Council meeting** can relate to matters that affect the operations of the City of Joondalup.
- Statements made at a **Special Meeting of the Council** must relate to the purpose for which the meeting has been called

Council Chamber – Seating Diagram



Mayor

1 His Worship the Mayor, Hon. Albert Jacob, JP (Term expires 10/21)

North Ward

- 2 Cr Kerry Hollywood (Term expires 10/21)
- 3 Cr Tom McLean, JP (Term expires 10/19)

North-Central Ward

- 4 Cr Philippa Taylor (Term expires 10/21)
- 5 Cr Nige Jones (Term expires 10/19)

Central Ward

- 6 Cr Christopher May (Term expires 10/21)
- 7 Cr Russell Poliwka (Term expires 10/19)

South-West Ward

- 8 Cr Christine Hamilton-Prime (Term expires 10/21)
- 9 Cr Mike Norman (Term expires 10/19)

South-East Ward

- 10 Cr John Chester (Term expires 10/21)
- 11 Cr John Logan (Term expires 10/19)

South Ward

- 12 Cr Russ Fishwick, JP (Term expires 10/21)
- 13 Cr Sophie Dwyer (Term expires 10/19)