

minutes

Policy Committee

MEETING HELD ON

MONDAY 31 OCTOBER 2022 AND RESUMED ON
MONDAY 7 NOVEMBER 2022

Acknowledgement of Traditional Custodians

The City of Joondalup acknowledges the traditional custodians of the land, the Whadjuk people of the Noongar nation, and recognises the culture of the Noongar people and the unique contribution they make to the Joondalup region and Australia. The City of Joondalup pays its respects to their Elders past and present and extends that respect to all Aboriginal and Torres Strait Islander peoples.

This document is available in alternate formats upon request

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Note:

Clause 15.10 of the City's *Meeting Procedures Local Law 2013* states:

This local law applies generally to committee meetings except for clause 7.1 in respect of members seating and clause 7.8 in respect of limitation on members speaking.

CITY OF JOONDALUP

MINUTES OF THE POLICY COMMITTEE MEETING HELD IN CONFERENCE ROOM 1, JOONDALUP CIVIC CENTRE, BOAS AVENUE, JOONDALUP ON MONDAY 31 OCTOBER 2022.

ATTENDANCE

Committee Members

Cr Suzanne Thompson	<i>Presiding Member</i>	
Cr Adrian Hill		<i>absent from 7.59pm to 8.00pm</i>
Cr Daniel Kingston	<i>Deputy Presiding Member</i>	<i>absent from 8.02pm to 8.03pm</i>
Cr John Raftis		<i>absent from 8.30pm to 8.31pm</i>
Cr John Chester		
Cr Russell Poliwka		<i>from 6.17pm</i> <i>absent from 6.26pm to 6.27pm</i>

Officers:

Mr James Pearson	Chief Executive Officer	
Mr Jamie Parry	Director Governance and Strategy	
Mr Nico Claassen	Director Infrastructure Services	
Mr Mat Humfrey	Director Corporate Services	
Mr Chris Leigh	Director Planning and Community Development	<i>absent from 6.58pm to 7.00pm</i>
Mrs Kylie Bergmann	Manager Governance	
Ms Jennifer Nebel	Coordinator Cultural Services	<i>to 7.25pm</i>
Mrs Vivienne Stampalija	Governance Coordinator	<i>absent from 7.50pm to 7.52pm</i> <i>absent from 8.24pm to 8.25pm</i>
Ms Avril Schadendorf	Governance Officer	

DECLARATION OF OPENING

The Presiding Member declared the meeting open at 6.01pm.

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

Nil.

APOLOGIES AND LEAVE OF ABSENCE

Apologies

Mayor Hon. Albert Jacob, JP.

Leave of Absence Previously Approved

Cr Nige Jones	1 November 2022 inclusive.
Cr John Logan	18 to 27 November 2022 inclusive.
Cr Nige Jones	29 November to 6 December 2022 inclusive.
Cr John Raftis	19 to 31 December 2022 inclusive.

CONFIRMATION OF MINUTES

MINUTES OF THE POLICY COMMITTEE HELD ON 1 AUGUST 2022

MOVED Cr Kingston, **SECONDED** Cr Chester that the minutes of the meeting of the Policy Committee held on 1 August 2022 be confirmed as a true and correct record.

The Motion was Put and

CARRIED (5/0)

In favour of the Motion: Crs Thompson, Chester, Hill, Kingston and Raftis.

ANNOUNCEMENTS BY THE PRESIDING MEMBER WITHOUT DISCUSSION

Nil.

IDENTIFICATION OF MATTERS FOR WHICH THE MEETING MAY BE CLOSED TO THE PUBLIC

In accordance with Clause 5.2 of the City's *Meeting Procedures Local Law 2013*, this meeting is not open to the public.

PETITIONS AND DEPUTATIONS

Nil.

REPORTS

ITEM 1 **PROPOSED LEASE OF SHOP 47, SORRENTO QUAY – COMMUNITY ART GALLERY**

WARD	All
RESPONSIBLE DIRECTOR	Mr Mat Humfrey Corporate Services
FILE NUMBER	14158, 101515
ATTACHMENTS	Attachment 1 Community Art Groups Attachment 2 Confidential - Venues Considered Attachment 3 Expression of Interest 036/22 Community Art Gallery – Creative North <i>(Please Note: Attachment 2 is Confidential and will appear in the official Minute Book 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 enter into a commercial lease at Shop 47, Sorrento Quay for the provision of an art gallery in the City of Joondalup, to be available for hire by community groups and local artists to exhibit their work.

EXECUTIVE SUMMARY

There is a need for a local art gallery to be available for hire to support the development of local visual artists throughout the year.

The proposed location for the gallery is at Hillarys Boat Harbour, a tourism precinct that attracts an estimated four million visitors per annum. As a commercial food and entertainment destination and terminal point for the Rottnest Ferry, the Hillarys shopping precinct has a steady stream of tourists and visitors that are inclined to visit a gallery and purchase art.

The net cost to the City for the gallery will be \$86,000 per annum and will allow local artists to sell their work commission free.

It is therefore recommended that Council:

- 1 *NOTES the limited availability of existing City community facilities for community groups to receive subsidised venue hire;*
- 2 AGREES to enter into a lease of Shop 47, Sorrento Quay for a period of two years with an option to extend for a further three years, expiring 2027 for the purposes of community art gallery;

- 3 BY AN ABSOLUTE MAJORITY AMENDS the 2022-23 budget by the addition of \$32,000 (pro rata) in the 'Arts in focus' program, to meet the costs associated for the leased area as detailed in Part 2 above.

This report was presented to the Policy Committee at its meeting held on 9 May 2022 where it was resolved:

That Item 1 – Proposed Lease of Shop 47, Sorrento Quay – Community Art Gallery BE REFERRED BACK to the Chief Executive Officer to further clarify matters related to the strategic intent of the proposal, the recuperation of costs, and presentation of a draft Expression of Interest specification.

The additional information supplied addresses each of the points raised as part of the motion carried at the 9 May 2022 meeting.

BACKGROUND

There is a significant undersupply of cultural infrastructure within the City of Joondalup to meet the needs for cultural services and facilities within its region. Infrastructure includes art studios / galleries, workshop spaces, dark rooms, wet areas, and performing art theatres. Lack of such infrastructure results in residents leaving the City to seek suitable venues.

One of the ways Local Government help local community groups is through the provision of subsidised venue hire or lease. The City operates 35 community facilities of which none have a permanent gallery or workshop space for local art groups to operate from.

Due to the lack of suitable City operated facilities, the City in 2010 entered into a commercial lease for 4/48 Central Walk, Joondalup for the purpose of an art exhibition venue. The venue was managed by the Joondalup Community Arts Association (JCAA) and originally named blend(er) and later changed to the Joondalup Art Gallery (JAG). The lease on this commercial space cost the City approximately \$85,000 per annum (inclusive of rent, electricity, cleaning costs and the like).

This partnership between the City and the JCAA ran from 2004 to 2020 at which time the City undertook a review as the tenure agreement was due to expire and the gallery was not operating efficiently under the custodianship of the JCAA.

Following the review, the lease expired and on 30 April 2020, the City determined not to enter into a new lease and subsequently the JCAA vacated the commercial premise on Central Walk and the Joondalup Art Gallery closed.

DETAILS

Creative North

In response to the gallery closure in 2020, the City trialled a new initiative called Creative North. Creative North was a pilot program in response to the COVID-19 pandemic as a local economic stimulus opportunity, it was also an experiment to test options following the closure of Joondalup Art Gallery.

The City worked with commercial partners (Hillarys Boat Harbour and Warwick Grove) to occupy vacant tenancies and provide an opportunity for local artists to exhibit and sell their artwork.

Expressions of Interest were sought from interested art associations, clubs, art groups and individuals living within the City to oversee their own Creative North 'shop' for a three-week period on rotation. Over 14 artist groups activated the two shops during this period.

The Creative North model is different to the Joondalup Art Gallery setup with the following key distinctions:

- It provides a venue for hire to all local community groups and artists, not an exclusive agreement for one community group.
- The proposed location is set within a commercial / tourism precinct with high foot traffic and visitation, setting the gallery up for success.
- The City would enter a 'venue hire agreement' similar to that used for community facilities, parks and reserves, improving operational governance of the gallery.
- The artists and groups that hire the gallery are not charged commission on art work sales by the City and instead are responsible for their own sales.
- The programming of the gallery undertaken by the City will provide equitable access to community groups and local artists.

A summary of the outcomes achieved at Warwick Grove Shopping Centre and Hillarys Boat Harbour is detailed as follows:

Creative North		
Outcome	Warwick (Feb 2020 – July 2020)	Hillarys (Aug 2020 – March 2021)
Total of visitors	2,182	12,848
Exhibiting Artists numbers	28	119
Total artworks sold	276	882
Total artwork sales	\$10,070	\$55,707
City commission	\$0	\$0
Lease cost	\$0	\$2,949

For comparison, JAG on average had 5,000 visitors and sold \$33,000 in artwork over a 12-month period (figures from 2018-2019).

City programming

Exhibitions

The City runs a number of exhibitions throughout the year and the lack of gallery space is problematic for the following project delivery:

- Arts *in focus* Exhibition Award solo exhibition.
- NAIDOC exhibition.
- Art Collection exhibitions.

It is proposed the gallery is used to accommodate the abovementioned exhibitions throughout the year.

Local community groups

The City has a role to play in cultural facility provision to service the local art clubs, groups and associations. A total of nine local groups use City community facilities in the absence of having access to an art gallery. This venue would be available to these groups for hire and will assist in improving artwork sales and visibility of their work.

Issues and options considered

There are four options available to provide a gallery for hire to the community and these are canvassed as follows:

Option	Advantages	Disadvantages
<p>Baseline Option 1 – Continue to use shopping centres and the Joondalup Library for temporary pop-up exhibitions.</p>	<ul style="list-style-type: none"> • Service levels to the community do not change. 	<ul style="list-style-type: none"> • Shopping centre managers will consider a short-term lease at reduced cost but the City will be exposed to termination of agreement at short notice when a paid tenant becomes available. • This arrangement does not allow for clear communication with the community groups and long-term planning. • Limited opportunity to support the visual arts community with a platform to exhibit or sell artwork in this model. • No permanent subsidised venue available to community groups to hire for exhibitions in Joondalup's catchment. • Restricted by the conditions of the temporary spaces (lighting, lack of walling, lack of engaged audiences). • Limits the ability to grow the visual arts program and build audiences. • Reputational damage by not providing accessible venue options to community groups.
<p>Option 2 – Provide a Gallery to the community through leasing a commercial premise.</p>	<ul style="list-style-type: none"> • The City can present its own smaller exhibitions (NAIDOC, Arts <i>in focus</i>) • Support local creatives to share their work with the community. • Foster the development of a destination gallery space in a tourism and leisure precinct. 	<ul style="list-style-type: none"> • Resourcing impacts on the visual arts team to administer hire agreements and access to the gallery. • Ongoing financial commitment to fund a commercial lease in the absence of any City owned gallery asset. • Damage to facility by third parties. • In the Joondalup Art Gallery model, the operations were devolved from the City and therefore curatorial and artistic programming was managed by the gallery (limited censorship or involvement from the City). If the City is hiring the gallery space out to community groups and individuals there is a risk that the exhibitors may present adventurous or confronting work.

Option	Advantages	Disadvantages
	<ul style="list-style-type: none"> This can be actioned immediately rather than a long-term approach to build a facility. 	<p>As part of the hire agreement the users would sign acceptance to terms and conditions that would prohibit exhibiting work that brings the City into disrepute.</p>
Option 3 – Allocate municipal funding to a capital account to raise funding for the City to build a gallery on City land or incorporate as part of future facility redevelopments.	<ul style="list-style-type: none"> The City will own a gallery outright with no long-term commitment to a commercial lease. 	<ul style="list-style-type: none"> Gallery needs to be built in a location that has high visitation and the City may not own land in the right place to build a gallery. The City would be responsible for maintenance and depreciation of the building. This is a long-term option that could take five years to realise and does not resolve the immediate need in the community now.
Option 4 – Undertake a facility audit and identify existing community facilities that can be retrofitted with an art gallery.	<ul style="list-style-type: none"> Utilise existing assets may reduce the overall cost of building or retrofitting a gallery. 	<ul style="list-style-type: none"> Co-location of arts and cultural groups is critical to the success of cultural venues. Community facilities are generally not located in high visitation areas and therefore provide limited opportunity to sell art work.

Venues considered

The City has explored a range of venue options for a gallery space including options in the Joondalup City Centre, Hillarys Boat Harbour, Warwick and Woodvale (some may have been subsequently leased during the publication of this report). A list of options considered is available in Attachment 2. Each venue has been assessed against a criteria of suitability including; adequate natural light, retail commercial viability for artists to sell their work, level of foot traffic, visibility, hospitality options in close proximity, floor plan and exhibition suitability, precinct location and suitability of collocated businesses.

Using the abovementioned criteria, the preferred location for the gallery is at Hillarys Boat Harbour.

Legislation / Strategic Community Plan / Policy implications

Legislation *Local Government Act 1995.*

10-Year Strategic Community Plan

Key theme Community.

Outcome Artistic and creative - you celebrate, support and participate in art and events in your local area.

Strategic initiative

- Invest in publicly accessible visual art that will present a culturally-enriched environment.
- Promote local opportunities for arts development.

Policy *Visual Art Policy.*

Risk management considerations

Committing to a commercial lease to fill the void of the lack of gallery or workshop facility provision, does mean that when the lease agreement expires the City is left without a venue to provide to the community for gallery use. This option does give the City flexibility to move the facility to alternative locations, but it does not create a permanent home for the visual arts.

A lease agreement does allow the City to provide a facility in the interim, while it explores a longer-term investment in facility provision.

If approved, the preferred position would be for the City to negotiate a tenancy for a two-year lease with an option for extension. The intended outcome would be an ongoing rotation of community artists and groups complimented by City led small-scale exhibitions year-round.

An Expression of Interest would reset the terms and conditions of tenancy for exhibitors using the space. The City would then enter into hire agreements with these community groups, named as legal entities, specific individuals or ideally as incorporated groups.

By rotating through different art groups every three weeks, the exclusivity issues experienced at the Joondalup Art Gallery are mitigated, and while the City remains in control of the roster it can include its own small-scale exhibitions in the program.

Financial / budget implications

Hire agreements would be in accordance with the adopted fees and charges schedule and the *Facility Subsidy Hire Policy* and Terms / Condition of hire.

The City would be committed to \$96,200 per annum for a lease at Hillarys Boat Harbour. In addition, there would be setup costs of \$3,000 for plinths and to prepare the venue for exhibition standard (paint walls, install sales desk, signage). Each year the City could expect to generate \$10,000 in venue hire fees from exhibiting artists and groups, therefore a net cost of \$86,200 per annum.

There are currently no funds listed in the draft 2022-23 budget to meet these costs.

Future financial year impact

Annual operating cost \$96,200 lease costs + outgoings + GST.

Estimated annual income \$10,000 in gallery hire fees.

Capital replacement Not applicable.

10-Year Strategic Financial Plan impact The total impact on the *10-Year Strategic Financial Plan* is a cost of \$0.6 million.

All amounts quoted in this report are exclusive of GST.

Regional significance

Hillary's Boat Harbour consists of 82 tenancies and attracts an estimated four million visitors per annum. This is a ratio of 48,780 visitors per tenancy, which is close to 20% higher than the City's busiest shopping centre, Lakeside at 41,030 visitors per tenancy. As a commercial food and entertainment destination and terminal point for the Rottneest Ferry, the Hillarys shopping precinct has a steady stream of day trippers with discretionary money to spend.

Sustainability implications

The *Cultural Plan* has identified a major need for improved cultural service infrastructure (gallery, performing arts facility, studios, rehearsal space and the like).

There is a demonstrable need for a gallery in the City of Joondalup and there is no existing City facility available to provide this service to the community. In addition, a gallery needs to be in a commercial setting with high visitation to ensure artists are given the opportunity to sell their artwork.

There would be a positive social impact on the community as it will improve services and provide an opportunity to support local artists and local community art groups to exhibit and sell their artwork. The Community Art Exhibition provides an annual platform over two weeks for artists to sell work, but a permanent gallery provides a more frequent and visible option for local artists.

The gallery has the potential to promote growth for local community art groups and the wider visual arts sector and drive economic activity at Hillarys Boat Harbour.

The gallery would also provide an opportunity for partnerships with the Hillarys Boat Harbour Traders Association and foster activity between local business and the arts community. The gallery would provide additional visitors to the precinct, and it is likely to impact hospitality venues by increasing the need for catering options for exhibition openings and visitors after seeing a show.

COMMENT

The City of Joondalup is dedicated to supporting local visual artists and initiatives to enable the local artistic community to thrive. The City's Visual Arts program is aligned to the *Joondalup 2022* strategic planning document and designed: "*For the community to have access to world-class cultural and artistic events and facilities*".

The City has taken the opportunity to further shape its arts and cultural program by incorporating community defined aspirations and the *Joondalup 2022* Vision to form the City of Joondalup *Cultural Plan 2021-2025*; adopted by Council on 15 June 2021 (CJ087-06/21 refers).

The plan provides strategic direction for the City's activities for the period of 2021-2025, ensuring investment is directed towards the programming and infrastructure most valued by the community. In line with this, the City runs a wide range of programs to engage the local visual arts community and for the appreciation of the non-arts community.

Many Australian local governments fund their own art gallery or assist in funding a local arts organisation and gallery, including rental, multiple staff salaries and operational costs, in recognition of the unique value such facilities offer the local community. Examples in Western Australia include the Heathcote Cultural Precinct (Melville), Mundaring Arts Centre, Vancouver Arts Centre (Albany) and the Fremantle Arts Centre.

By providing an art gallery for hire, the City of Joondalup facilitates a local visual arts facility for the costs of rental and outgoings alone, allowing the community to hire the venue and manage their own exhibitions.

Additional Information

This report was presented to the Policy Committee at its meeting held on 9 May 2022 where it was resolved:

That Item 1 – Proposed Lease of Shop 47, Sorrento Quay – Community Art Gallery BE REFERRED BACK to the Chief Executive Officer to further clarify matters related to the strategic intent of the proposal, the recuperation of costs, and presentation of a draft Expression of Interest specification.

This additional information will address each of the points raised as part of the motion carried at the 9 May 2022 meeting.

1 Strategic intent of the proposal

The City's strategic initiatives include the following:

- Investing in publicly accessible visual and performing art that will present a culturally-enriched environment.
- Promote local opportunities for arts development.
- Increase the number and diversity of quality visual arts projects in the Joondalup region.
- Overall enhance the quality of life of the community.

The City's support for provision of a gallery venue contributes to achievement of the *Strategic Community Plan 2022-2032*, particularly to the Community goal where inclusive, creative, cultural and diverse outcomes are outlined. In addition, the Economy goal regarding the City as an innovative, welcoming and prosperous destination is also addressed by the proposed location and programming potential of the initiative.

The provision of a local gallery venue, and its role in achieving these strategic goals, is supported by the adopted *Cultural Plan 2021-25*. The main challenge identified was the lack of local and appropriate venues for artists to exhibit their work, especially given the considerable number of practitioners found living within the City. Many of these practitioners were found to be creating in private studios within the City of Joondalup and travelling to exhibit externally.

Notably, this was identified during the City's operation of the Joondalup Arts Gallery, however the closure of this facility in June 2020 has further limited progress towards building a vibrant arts and cultural scene within the City of Joondalup. The postponement of the purpose-built Performing Arts and Cultural Facility also compounds the challenges in both this and the sectors perceptions of the City's intentions.

In order to realise Joondalup as a City with a vibrant cultural scene, where local organisations and community-led activities are supported, the provision of a gallery venue and its programming potential provides several opportunities:

- a It prevents artists and community groups leaving the City to pursue opportunities to exhibit their work and generate income (Wanneroo, Bayswater and Perth were cited by local respondents in the Connecting Creatives Audit).
- b It demonstrates the City is committed to supporting local artists, organisations and community-led activities in the absence of purpose-built infrastructure.
- c For local and potential residents, the venue (particularly its proposed location) maintains engagement with, and promotion of, arts and cultural activity in the City.

- d It will increase the number and diversity of quality visual arts projects in the Joondalup region, and celebrates the depth of practice already established.
- e The venue would serve as a centralised hub that facilitates professional networking and visual arts sector development amongst artists and arts workers.
- f It assists in generating both community-led programming and public support towards the future development of the Performing Arts and Cultural Facility.
- g It provides a centralised venue for City programmed arts and cultural activity (as well as community-led activity), such as NAIDOC exhibitions and Arts in Focus programming, which can progressively build and engage audiences.

2 **Recuperation costs**

Venue Hire Fees and Charges Policy

The way a Local Government can support and nurture the arts community, artists and organisations is through venue and facility provision.

Many local groups hire City facilities for workshop activity however for exhibition purposes they leave the City because there is no appropriate venue to exhibit in. For this reason, it is proposed the City consider entering a commercial lease to hire out to local artists for exhibition purposes.

The City already provides subsidised venue hire across 300 passive and active parks and 35 venues. To ensure equity, the City takes a strategic approach to the way it collects fees and charges associated with venue hire. The *Facility Hire Subsidy Policy* provides guidance on determining the extent of subsidy to be offered to groups hiring City-managed facilities. To ensure facility hire subsidies are applied in a consistent, transparent and equitable manner, on 16 August 2022 Council adopted changes to the *Venue Hire Fees and Charges Policy* (Attachment 2 refers) (CJ139-08/22 refers).

The same methodology would be applied for the hire of the art gallery ensuring all hirers would be charged a fee for use based on a cost contribution methodology.

3 **Presentation of an Expression of Interest specification and respondent's summary**

The City issued EOI 036/22 community art gallery – Creative North (Attachment 3 refers).

The request for Expressions of Interest (EOI) was advertised in The West Australian newspaper and published on Tenderlink on Wednesday 17 August 2022.

The closing time and date for lodgement of a response was 2.00pm Thursday 1 September 2022 via the City of Joondalup's e-procurement portal.

This request specified the requirements of the City and invited suitably qualified and experienced respondents to submit bids for the provision of a leased space to operate as a community art gallery in the City of Joondalup.

The specification noted the community art gallery will be made available as a venue-for-hire to local community groups and artists to host exhibitions and workshops. It also noted that the gallery will provide local artists with a space to sell and exhibit their work and therefore needs to have substantial foot traffic and commercial viability.

Six copies of the EOI 036/22 were issued however the City received no submissions.

In accordance with Part 4 Division 2 Regulation 11(2)(c)(ii) of the *Local Government (Functions and General) Regulations 1996*, tenders do not have to be publicly invited for this requirement. The City may seek a suitable gallery space by quotation or direct negotiation.

Therefore, it is recommended to pursue the intent of the report presented to the May 2022 Policy Committee for the City to engage directly with the owners of Shop 47 at Sorrento Quay.

VOTING REQUIREMENTS

Absolute Majority.

Cr Poliwka entered the room at 6.17pm.

Cr Poliwka left the room at 6.26pm and returned at 6.27pm.

OFFICER RECOMMENDATION

That Council:

- 1 NOTES the limited availability of existing City community facilities for community groups to receive subsidised venue hire;
- 2 AGREES to enter into a lease of Shop 47, Sorrento Quay for a period of two years with an option to extend for a further three years, expiring 2027 for the purposes of community art gallery;
- 3 BY AN ABSOLUTE MAJORITY AMENDS the 2022-23 budget by the addition of \$32,000 (pro rata) in the 'Arts in focus' program, to meet the costs associated for the leased area as detailed in Part 2 above.

PROCEDURAL MOTION – THAT THE ITEM BE REFERRED BACK

MOVED Cr Chester, SECONDED Cr Kingston that Item 1 – Proposed Lease of Shop 47, Sorrento Quay, Community Art Gallery be REFERRED BACK to the Chief Executive Officer to allow further investigation of more cost-effective sites for an art gallery space.

The Motion was Put and

CARRIED (5/1)

In favour of the Motion: Crs Thompson, Chester, Hill, Poliwka and Raftis.

Against the Motion: Cr Kingston.

Appendix 1 refers

To access this attachment on electronic document, click here: [Attach1agnPOLICY221031.pdf](#)

ITEM 2 VISUAL ART COMMISSIONING PROGRAM 2023-24: PROPOSED ARTISTS

WARD	All
RESPONSIBLE DIRECTOR	Mr Mat Humfrey Corporate Services
FILE NUMBER	14158, 101515
ATTACHMENTS	Attachment 1 Bruno Booth Attachment 2 Perdita Phillips
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 select one artist from the shortlist as the recipient of the Visual Art Commission for 2023-24.

EXECUTIVE SUMMARY

This report provides information relating to the forthcoming Visual Art Commission in 2023-24 where the recipient of the commission will be asked to respond to the social, urban or natural attributes of the City of Joondalup. The report contains details from the Expressions of Interest received from visual artists.

The Visual Art Commissioning program provides the City with a unique opportunity to acquire artworks that are significant to the region by a high-profile artist. Established in 2012, the Visual Art Commissioning program has commissioned seven artworks for the City's Art Collection.

In 2020, the schedule of the Visual Art Commissioning program was adjusted to a biennial program (CJ121-08/20 refers). The amount of \$20,000 is listed every two years in the draft budget to fund the Visual Art Commissioning program.

Of the Expressions of Interest received, two submissions have been shortlisted for the commission. Each submission is by an artist who is of high professional standing, have confirmed that they can deliver the artwork within the allocated budget and timeframe, and are well qualified to produce an artwork that will be a sound investment for the City. It is recommended that the Council endorse Bruno Booth or Perdita Phillips from the shortlisted submissions to undertake the commission.

BACKGROUND

At its meeting held on 19 April 2011 (CJ064-04/11 refers), Council agreed to establish an annual Visual Art Commissioning program designed to commission artists to develop an artwork, documenting and capturing the iconic landmarks and people who represent the City of Joondalup to be acquired for the City's Art Collection.

The intent of this decision was to allow the Council to determine the overall content or theme of an artwork rather than the artwork acquired through the City's Invitation Art Prize, which is an independent, professionally judged competition.

At its meeting held on 28 June 2016 (CJ100-06/16 refers), Council endorsed the proposal to alternate between an annual artwork commission from a high profile Western Australian artist in one year and an artist residency for international / interstate artists that takes place over two years. The process of commissioning an artwork by an interstate or international artist was comprised of two parts, a residency and commission, to allow for research to occur in the year preceding the commission.

A review of the Visual Art Commissioning program was provided to Council in August 2020. At its meeting held 18 August 2020 (CJ181-08/20 refers), Council approved changing the cycle of the Visual Art Commissioning program to become an artwork commission from a high profile Western Australian, interstate or international artist every second year (biennial) and listed for consideration an amount of \$20,000 every two years in the draft budget to fund the Visual Art Commissioning program.

The City's Art Collection is directed by the City's *Visual Art Policy*.

DETAILS

Visual Art Commission / Residency program

Since the City introduced a Visual Art Commissioning program in 2011 and the Artist Residency program in 2015, it has commissioned artworks by Western Australian, interstate and international artists as follows:

Artist	Artwork	Local / Interstate / International	Financial Year	Budget
Commissioning Program Commences				
Tony Windberg	<i>Meeting Points</i>	Western Australian	2012–13	\$15,000
Lindsay Harris	<i>Woolagut Koorling, Yey Kwodjungut Koorling (Long ago behind going, Today in front going).</i>	Western Australian	2013–14	\$15,000
Residency Cycle Introduced to Commissioning Program				
Brandon Ballengée	N/A (residency year)	International	2015–16	\$15,000
Brandon Ballengée	<i>Emperor Gum Moth</i>	International	2016–17	\$54,800
Nien Schwarz	<i>Place of Glistening</i>	Western Australian	2017–18	\$15,000
Helen Pynor	N/A (residency year)	Interstate	2018–19	\$15,000
Helen Pynor	<i>Capacity 1,2 & 3</i>	Interstate	2019–20	\$15,000
Paul Kaptein	<i>Mute Figure #11 (the tide to the stars and back again), 2021</i>	Western Australian	2020–21	\$15,000
Christopher Pease	<i>Doondalup</i>	Western Australian	2021-22	\$15,000

Artist brief

The Visual Art Commissioning program aims to document and capture the landmarks and/or people who represent the City of Joondalup. It is expected that the commissioned artist will explore one or more of the themes identified below and engage with the Joondalup community / local area to deliver an artwork that relates to the City of Joondalup. Any locations or landmarks cited within the artwork must be within the boundaries of the City of Joondalup.

Three themes have been identified to assist artists to develop their artwork proposals, these themes are as follows:

- Social Environment: people, community and history.
- Urban Environment: the city, urban and suburban.
- Natural Environment: the local environment, including flora and fauna.

Shortlisted artists

The City requested Expressions of Interest from visual artists between 20 June 2022 and 15 August 2022. The City received 43 responses.

In alphabetical order, the list of 43 artists who expressed interest include:

- Alan Meyburgh
- Anne-Marie Bloor
- Annette Peterson
- Ant Muia
- Bruno Booth
- Clare Cummings
- Coster Mkoki
- David George Ledger
- Elisa Markes-Young
- Elizabeth Edmonds
- Elmari Steyn
- Eric Hynynen
- Gregory Pryor
- Hiroshi Kobayashi
- Imogen Palmer
- Jeremy Blank
- John Mason
- Jose Bacarreza
- Kiandra Buchanan
- Kitman Yeung
- Lance Chadd
- Liam Dee
- Marian Giles
- Marsha Brawls
- Martine Perret
- Marwah Eid
- Melissa Cameron
- Michael Francas
- Monia Allegre
- Nada Murphy
- Naomi Antenucci
- Natalie Scholtz
- Paul Caporn-Bennett
- Paul Uhlmann
- Perdita Phillips
- Rachelle Dusting
- Rebecca Corps
- Regan Tamanui
- Ronald Nyisztor
- Sid Pattni
- Sioux Tempestt
- Terez Borbala Benko
- Warren Gundry

Criteria

All Expressions of Interest contained information about the artist and a specific proposal for the commission which has been assessed against the following criteria:

- The artist's experience, skill, and professional standing.
- Likelihood that the work produced will be original, unique and of high quality.

- Likelihood that the proposed work will be engaging and represent Joondalup's identity and capture the social, urban, cultural or natural attributes of the City of Joondalup.
- The proposed artwork will complement the scope of the art collection or extend the art collection to reflect a diversity of views and interpretations.
- The current market value of the artist's work and that the work produced will represent a sound financial investment.
- The proposed artwork meets the aims of the Art Collection.

Based on the criteria, two artists have been shortlisted for consideration with honourable mentions to three other artists and these have been listed in alphabetical order.

Shortlisted:

- 1 Bruno Booth
- 2 Perdita Phillips.

Honourable mention:

- 3 Gregory Pryor
- 4 Paul Uhlmann
- 5 Terez Borbala Benko (Bori Benko).

The full submissions by the two shortlisted artists have been provided (Attachments 1 and 2 refers).

Options considered (listed alphabetically)

Artist 1 – Bruno Booth

Bruno Booth is a Fremantle/Walyalup based disabled artist interested in exploring ideas of representation, access and equality. Bruno described his disability as a constant background hum, like a social tinnitus. This lived experience is instrumental in informing his art practice and processes. Recently his work has used audience engagement to make experiential and engaging works that encourage viewers to reflect on what it means to be disabled.

For this commission, Bruno Booth has proposed to create a dynamic wall work inspired by conversations he has within the City of Joondalup about his disability. The selection panel noted the strong community engagement that accompanied his proposal and for his willingness to allow the interactions within the context of the City to shape the artwork. This provides an exciting prospect of having a work that is grounded in the social environment of Joondalup today and through acquisition, be a record that can be reflected upon for generations to come. The City would work closely with Booth to offer any assistance in organising and facilitating the community engagement. This may manifest in several ways but for example could be intermittent engagement sessions in the City's public facing building such as libraries.

The selection panel also noted that the proposed artistic outcome was ambitious, representing what would be a major example of Booth's practice and a major artwork of the City's Art Collection.

Bruno Booth's art practice has gone from strength to strength in recent years with the artist being awarded several significant state and national residencies and exhibitions. In 2023 Booth will have solo exhibitions at Perth's two leading art institutions: Perth Institute of Contemporary Arts and the Art Gallery of Western Australia. Booth's proposal represents an opportunity for the City to acquire an artwork by a leading disabled artist and to further extend the scope of artworks exploring disability, access and equality within the Art Collection. Booth is not currently represented in the Collection.

Artist 2 – Perdita Phillips

Perdita Phillips is a mid-career Fremantle/Walyalup based artist interested in exploring the relationships between humans and non-human others such as rocks, plants, animals and places through a multi-disciplinary art practice. Since her initial career as an environmental scientist, Phillips has pursued ways of engaging and understanding how humans engage with the world around us and specifically with climate change and ecosystems.

For this commission, Perdita Phillips has proposed an artwork in the form of a 'cabinet of curiosity'. Noting that Joondalup does not currently have a museum or gallery, the artist intends to engage with Joondalup's rich and varied history, attempting to capture moments, stories and ephemera from its social, urban and natural environments. The artist envisages the finished artwork to be interactive, for example the viewer may be able to open a door, triggering an LED.

The selection panel was impressed with the level of research undertaken by Phillips to develop the proposal. This research is complimented by the strong community engagement aspects of the proposal. Phillips is looking to engage with a wide range of groups, communities and organisations from Indigenous people, community groups engaging with Yellagonga Regional Park, nature study groups, Joondalup's Local History Collection and more. The City would help Phillips initiate any contact with these groups or Collections where appropriate.

Perdita is a well-respected artist within Western Australia's artistic community having held over 20 solo exhibitions and been included in over 130 group exhibitions. Her practice engages with concepts relevant to our time while engaging in the local in an authentic and meaningful way. This commission would provide an artwork heavily rooted in the many facets of the City of Joondalup, in how we engage with local history and across different areas of the City of Joondalup; connecting the Art Collection with the Local History Collection.

Once the successful artist has been selected the commissioning process will follow. This includes contracting the selected artist who will be asked to produce a Detailed Concept Response which will be provided for comment prior to commencement of the artwork. The artwork will be completed by June 2024 and the project will be delivered within budget. The artwork will be accessioned into the City's Art Collection as per the *Art Collection Management Plan*.

Legislation / Strategic Community Plan / Policy implications

Legislation Not applicable.

Strategic Community Plan

Key theme Community.

Outcomes Artistic and creative - you celebrate, support and participate in art and events in your local area.

Strategic initiative Invest in publicly accessible visual art that will present a culturally-enriched environment.

Policy *Visual Arts Policy.*

Risk management considerations

Not applicable.

Financial / budget implications

An allocation of \$20,000 for this commission has been made. It spans two financial years with \$5,000 allocated upon contract execution in 2022-23 and \$15,000 in 2023-24 upon delivery of the commissioned artwork. Noting the draft 2023-24 budget is yet to be determined by the Council.

All amounts quoted in this report are exclusive of GST.

Regional significance

The City's Art Collection, including its public art, plays an important role in shaping and developing the community's identity. The on-going provision of an accessible and high calibre art collection is integral to the cultural development and vibrancy of the City of Joondalup region.

Sustainability implications

Social

The commissioning of special purpose artworks has positive social sustainability implications. Artworks that reflect the City of Joondalup foster the place-identity of the community, enhancing social wellbeing through a sense of belonging.

Economic

One of the stated purposes of the Art Collection is to grow the value of the City's art and cultural assets. Procuring artworks from professional artists in the mid and later stages of their careers is the most secure investment choice.

Consultation

Not applicable.

COMMENT

The Visual Art Commissioning program provides a significant opportunity to acquire an artwork by a high-profile artist that represents a sound financial investment and specifically responds to the social, urban or natural attributes of the City of Joondalup.

Selection of either of the two artists would be a progressive step to the development of an artwork that would be a valued addition to the City's Art Collection. Both artists in the EOI respond to the requirements of the collection. Bruno Booth's work will result in a commissioned work by an artist living with a disability and fills a gap in representation in the collection. While Perdita Phillip's concept responds to the local history of Joondalup and would result in a work that considers Joondalup's heritage in a year where the City celebrates its 25 year anniversary.

VOTING REQUIREMENTS

Simple Majority.

OFFICER'S RECOMMENDATION

That Council **SELECTS** one artist to undertake the Visual Art Commission 2023-24 to the value of \$20,000.

MOVED Cr Hill, SECONDED Cr Chester that Council SELECTS Ms Perdita Phillips as the artist to undertake the Visual Art Commission 2023-24 to the value of \$20,000.

The Motion was Put and

CARRIED (5/1)

In favour of the Motion: Crs Thompson, Chester, Kingston Poliwka and Raftis.

Against the Motion: Cr Hill.

Appendix 2 refers

To access this attachment on electronic document, click here: [Attach2agnPOLICY221031.pdf](#)

ITEM 3 VISUAL ART POLICY – MINOR REVIEW

WARD	All
RESPONSIBLE DIRECTOR	Mr Mat Humfrey Corporate Services
FILE NUMBER	14158, 101291, 101515
ATTACHMENTS	Attachment 1 <i>Visual Arts Policy (marked up and clean)</i> Attachment 2 <i>Arts Development Scheme Policy</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 adopt the revised *Visual Arts Policy*.

EXECUTIVE SUMMARY

The City has a prestigious contemporary art collection. The collection is directed by the City's *Visual Arts Policy* and the Art Collection Management Plan.

The *Visual Arts Policy* is due for a scheduled review, being last updated in 2016. The policy does not require major change and it is recommended there are four minor amendments made to the definition of "Contemporary Art", the focus of the Art Commission, accessioning approvals, and an inclusion for national and international partnerships.

It is therefore recommended that Council:

- 1 *ADOPTS changes to the Visual Arts Policy as included in Attachment 1 to this Report;*
- 2 *NOTES the role of the City in performing arts is a supporting role through the provision of:*
 - 2.1 *Venue provision;*
 - 2.2 *Engagement for direct event delivery;*
 - 2.3 *Sponsoring events;*
 - 2.4 *Provision of grants and sponsorship;*
- 3 *AGREES not to amend the Visual Arts Policy to include reference to performing arts.*

BACKGROUND

The City of Joondalup has had a *Visual Arts Policy* since June 1999; after the split of the former City of Wanneroo. The Policy has had six reviews since its adoption with the latest occurring in 2016 (CJ044-03/16 refers).

The objective of the policy is:

To guide the delivery of a contemporary visual arts program that supports quality cultural opportunities for the local community, recognising the value of culture in our society as a driving force for change, innovation, vibrant communities, a strong sense of place, the economy and tourism.

In addition, this report considers the recent request made at the 9 May 2022 Policy Committee meeting to include reference to Performing Arts as part of the policy.

Joondalup 2032 and Cultural Plan 2021 – 2025

Supporting the *Joondalup 2032 Strategic Community Plan* is the *Cultural Plan 2021-2025*, adopted by Council on 15 June 2021 (CJ087-06/21 refers). The *Cultural Plan* provides strategic direction for the City of Joondalup activities for the period of 2021-2025, ensuring investment is directed towards the programming and infrastructure most valued by the community.

The City of Joondalup is dedicated to supporting local visual artists and initiatives to enable our local artistic community to thrive. The City's Visual Arts program is aligned to the *Joondalup 2032 Strategic Community Plan* with the following key theme goals relevant to Visual Art:

Community:

- Inclusive and connected: You enjoy local services and programs that cater for different ages, abilities and backgrounds.
- Artistic and Creative: You celebrate, support and participate in art and events in your local area.
- Cultural and diverse: You understand, value and celebrate the City's unique Aboriginal and other diverse cultures and histories.

The Art Collection

The City of Joondalup Art Collection was first established following the separation of the City of Joondalup from the City of Wanneroo in 1997. The art collection was divided equally by value, with the City of Wanneroo retaining the historical collection, the regional landscapes, and the Indigenous collection; and the City of Joondalup acquiring the contemporary artworks.

The Art Collection currently holds 277 artworks in a diverse range of media including painting, sculpture, drawing, ceramic, print, photography, digital media and textiles.

With a focus on contemporary Western Australian art, the City aims to conserve, maintain and grow the collection to preserve, protect and promote the unique identity of the City of Joondalup and provide the community with access to high quality, contemporary visual art.

The art collection is on display throughout City buildings, including the Council Chambers, Libraries, Leisure Centre and Administration Building. Much of the collection is available to be viewed by the public via the City's website www.joondalup.wa.gov.au/artcollection. A virtual tour of artworks currently on display in the [Joondalup Library](#) and [Local History/Reference Library](#) is also available online.

The Art Collection is a growing asset – works are collected by purchasing existing works (acquisitions), donations from artists and other collections (donation), or through appointing an artist to produce new work in response to an artwork brief (commissions).

Value of Collection

A valuation of the collection is undertaken regularly by an external and qualified valuer.

In October 2020, the collection's total value was \$1,057,163. This valuation is based on research of each artist and the validation of values in the current market of each artwork in the collection. Essentially, valuations are an estimated cost of replacing artworks lost, stolen or irretrievably damaged by works of similar replacement value or the nearest equivalent. The collection is insured accordingly.

The collection also holds significant cultural value as it represents a unique cultural asset that records, interprets and celebrates the City of Joondalup as it has developed, reflecting our community's part in the fabric of Western Australian cultural identity.

Acquisitions

The City has an annual budget of \$20,000 for acquisitions into the Art Collection. In 2022-23 \$15,000 has been allocated to facilitate a new artwork commission as part of the Visual Art Commission Program (see below).

The Invitation Art Prize (IAP) is the City's annual acquisitive art prize for professional Western Australian artists. Each year the winning artwork is acquired for the art collection. The winner is selected by an external panel of industry professionals. The Curator may also recommend artworks for purchase from the Invitation Art Prize exhibition or from the Community Art Exhibition.

Recommendations for acquisitions are made in accordance with strict selection criteria, as outlined in the Art Collection Management Plan. This includes artistic merit, investment potential and value as a cultural investment and historical reference point in the future, as well as the available budget.

Commission Program

In April 2011 (CJ064-04/11 refers), Council resolved to establish an annual \$15,000 visual art commission program which would see the creation of new artworks by high profile Western Australian, Australian or international artists, that "depict iconic landmarks within the City of Joondalup" for the City's Art Collection. In August 2020, Council resolved to change the commission cycle to every second year (biennial) (CJ121-08/20 refers).

DETAILS

Review of Policy

As part of the regular review, the City considered the following items when assessing the *Visual Arts Policy*:

- Evaluate the workings of the current Policy.
- Complete industry bench-marking.
- Assess compliance with current industry trends, codes of practice, regulations and laws (if applicable).
- The City's overall strategic direction (contained in Joondalup 2032) in so far as this was relevant to the future of the City's art collection.
- The current direction and composition of the City's art collection.
- Definitions of the term 'contemporary art' and how this applied to the City's visual arts program.

Following the review, the City recommends four changes to the following items:

- Definitions: “Contemporary Art”.
- Statement: Focus of the Art Collection Commission.
- Statement: Insertion of “partnerships”.
- Statement: Change to approval requirements for acquisitions.

Definition of Contemporary Art

The current *Visual Arts Policy* provides the definition of “contemporary art” as:

“an artwork that is conceptually resolved and is reflective of the artist’s current practice. It is not based on style, subject matter, medium or artistic approach.”

This definition lacks specificity in connection to the City’s programs and Art Collection. The revised definition aims to specify the application of the term towards the City’s cultural programs and Art Collection and not the value, uniqueness and relevance of the City’s approach to programming contemporary art.

The following revised definition is recommended:

*“**contemporary art**” is a movement that belongs to the present and relates to the time and place in which it is produced. Its artforms speak to our experiences of today. As an examination and reflection of present-day life, contemporary art may provide multi-faceted interpretations and diverse perspectives, while reflecting the culture in which it is made and offer social and cultural commentary.*

Contemporary art is also defined by new methods and platforms for creating and experiencing art. Contemporary artists may respond to new conditions and contexts and produce innovative combinations of traditional and contemporary mediums. Contemporary art may offer a sign of something new, innovative or distinct from previous artforms or art-making practices and challenge us to understand and engage in our world.

Commissioning program – Art Collection

The establishment of the commissioning program for the City’s Art Collection was intended to provide the Policy Committee with the ability to commission an artwork to recognise a special milestone, event or Joondalup theme.

The current *Visual Arts Policy* refers to the focus of the art commission in Item 2. d. as:

“Enhancing the City’s historical records through commissioning artworks that reflect and capture local flora, fauna and iconic landmarks of the City.”

This definition is limiting in responding to the full breadth of the City’s attributes and may be restrictive to literal interpretations of the City’s plants, animals and landmarks. The revised definition allows for a broader interpretation of the City’s social, urban or environmental attributes. It captures a more accurate and inclusive representation of the City and increases the chance of acquiring high quality works for the Collection to ensure its increased financial value and relevance as a cultural asset.

The following revised definition is recommended:

“Enhancing the City’s historical records through commissioning artworks that reflect and capture the social, urban, cultural or natural attributes of the City of Joondalup.”

Partnerships

The pursuit of national and international programming opportunities has been included in this revised policy. This reflects the City's aspirations to be "a global City: bold, creative and prosperous" as outlined in Joondalup 2032, the 10-year Strategic Community Plan.

The intention is to recognise the benefit to the City in fostering national and international relationships, which will further the profile of the City's Australian and global reputation and also contribute meaningfully to the life of this region. Partnership has been added to the amended Policy in Item 2. e.

Change to approval requirements for acquisitions

Since 2018, the City has consulted with members of the Policy Committee on future acquisitions for the Art Collection. Generally, this has been via a memo to members of the Policy Committee recommending an acquisition by the City's Curator with a summary of the proposed art work. From 2018-2022 the CEO has engaged with members of the Policy Committee regarding nineteen pieces of art work for acquisition to the collection. On average there was three responses received from Elected Members, with every recommendation to acquire being supported.

To assist with the procurement process it is suggested that the CEO engages members of the Policy Committee for acquisitions over the value of \$10,000. This change has been amended in Policy Item 3.3.

The role of *Visual Arts Policy*

The *Visual Arts Policy* provides the framework for procurement and collection/acquisition. The Art Collection is a capital asset valued over \$1 million.

Policy framework (visual and performing arts)

To ensure there is a focus at the strategic level, the terms of reference of the Policy Committee were recently amended to oversee the strategic direction of the City's Art Awards, Visual Art Collection and Visual and Performing Arts Programs.

The *Visual Arts Policy* provides the framework for procurement and acquisition, whereas the performing arts tend to be more ephemeral or short-term engagements where the final outcome is never acquired or 'owned' by the City. Following benchmarking of seven Western Australian Local Governments it was found that no other Local Governments have a dedicated performing arts policy.

Instead, if a Local Government owns a dedicated performing arts facility the strategic direction is provided by a Charter or equivalent, outlining the service levels around audience development and art form type. A Charter would provide strategic direction around KPIs for audience growth, revenue targets and minimum programming requirements across art forms (First Nations work, theatre, traditional or contemporary dance, classical or contemporary music, comedy, spoken word).

The City does not own a dedicated performing arts and cultural facility and therefore does not have a strategic policy or charter for a facility of this nature. However, the City does have the *Arts Development Scheme Policy* which has the objective to support the development of new audiences in the Joondalup area through attraction of professional performing arts companies to the City of Joondalup for performances and workshops. This Policy was last reviewed in August 2021 (Attachment 2 refers).

Local Government's role in supporting performing arts activities

The way a Local Government can support and nurture the performing arts community, artists and organisations is through the following services:

1. Venues and facilities	Provision of dedicated professional Performing Arts and Cultural Facilities or community centres available for subsidised hire by local groups and artists.	<i>Facility Hire Subsidy Policy</i>
2. Direct event delivery	The City delivers an annual events program that provides Western Australian performing artists with opportunities to perform to audiences.	Events such as Joondalup Festival, Little Feet Festival, Sunday Serenades, Music in the Park and the like
3. Sponsoring events	The City's sponsorship program provides financial sponsorship to local events such as carols by candlelight, performing arts competitions, markets and the like.	Corporate Sponsorship Program
4. Grant funding	Provision of grants to local performing arts groups to purchase equipment, support new initiatives or projects.	<i>Community Funding Policy and Arts Development Scheme Policy</i>

Issues and options considered

Council can either choose to:

- adopt changes to the Visual Arts Policy as included in Attachment 1 to this Report or
- retain the policy in its current format.

It is recommended that option 1 is implemented as the current policy is effective and only minor amendments are required.

Legislation / Strategic Community Plan / Policy implications

Legislation *Local Government Act 1995.*

10-Year Strategic Community Plan

Key theme Community.

Outcomes Healthy and safe - you feel healthy and safe in your local community.

Inclusive and connected - you enjoy local services and programs that cater for different ages, abilities and backgrounds.

Active and social - you enjoy quality local activities and programs for sport, learning and recreation.

Artistic and creative - you celebrate, support and participate in art and events in your local area.

Cultural and diverse - you understand, value and celebrate the City's unique Aboriginal and other diverse cultures and histories.

Policy *Visual Arts Policy.*

Risk management considerations

The City's Art Collection and the wider visual art program are guided by the *Visual Arts Policy*, and it is critical to ensure the definitions in the Policy remain relevant and prescribe the strategy for future acquisitions, commissioning and public programming.

Financial / budget implications

Not applicable.

Regional significance

The City of Joondalup Art Collection and the associated visual art program, particularly the annual Invitation Art Prize has a direct impact on the wider community of Western Australia. The visual art program helps to position the City as a leader in innovation by investing in quality art and culture experiences for the community, creating a tourism opportunity and providing reasons for outsiders to visit and network professionally in the City of Joondalup.

The Art Collection is an asset for the community that provides generations to come with an insight to the life and development of the Joondalup region.

Sustainability implications

The acquisition of artworks for the collection has positive social sustainability implications for the City. The collection acts as a catalyst for public discussion about current social, economic and environmental issues. The collection physically enhances public places and the public realm by creating points of interest, animating spaces and providing beauty, character and colour to the City. It also enhances the relevance for the local community of the City's cultural position and increases the value of the City's cultural resources.

Consultation

Not applicable.

COMMENT

It is recommended that these four changes are made to the *Visual Arts Policy*, to ensure the City's practices and programming towards visual art remain current and valued. The Art Collection Management Plan will be updated to support the changes made to the *Visual Arts Policy* once endorsed by Council.

Given the differences between visual and performing arts and the differing roles the City plays in supporting both sectors, it is not recommended that the Visuals Arts Policy be amended to include reference to performing arts.

VOTING REQUIREMENTS

Simple Majority.

Director Planning and Community Development left the room at 6.58pm and returned at 7.00pm.

OFFICER'S RECOMMENDATION

That Council:

- 1 ADOPTS changes to the *Visual Arts Policy* as included in Attachment 1 to this Report;
- 2 NOTES the role of the City in performing arts is a supporting role through the provision of:
 - 2.1 Venue provision;
 - 2.2 Engagement for direct event delivery;
 - 2.3 Sponsoring events;
 - 2.4 Provision of grants and sponsorship;
- 3 AGREES not to amend the *Visual Arts Policy* to include reference to performing arts.

MOVED Cr Hill, SECONDED Cr Kingston that Council:

- 1 **ADOPTS changes to the revised and renamed *Visual Arts Collection Policy* as included in Attachment 1 to this Report;**
- 2 **NOTES the role of the City in performing arts is a supporting role through the provision of:**
 - 2.1 **Venue provision;**
 - 2.2 **Engagement for direct event delivery;**
 - 2.3 **Sponsoring events;**
 - 2.4 **Provision of grants and sponsorship;**
- 3 **AGREES not to amend the *Visual Arts Collection Policy* to include reference to performing arts.**

AMENDMENT MOVED Cr Kingston, SECONDED Cr Poliwka that Council:

That Part 1 of the Motion be AMENDED to read as follows:

“1 ADOPTS the revised and renamed *Visual Arts Collection Policy* as included in Attachment 1 to this Report subject to retaining the original definition for “contemporary art” being:

1.1 “contemporary art” means an artwork that is conceptually resolved and is reflective of the artist’s current practice. It is not based on style, subject matter, medium or artistic approach.”

The Amendment was Put and

CARRIED (6/0)

In favour of the Amendment: Crs Thompson, Chester, Hill, Kingston, Poliwka and Raftis.

The Original Motion as amended being:

That Council:

1 ADOPTS changes to the revised and renamed *Visual Arts Collection Policy* as included in Attachment 1 to this Report subject to the retaining the original definition for “contemporary art” being:

1.1 “contemporary art” means an artwork that is conceptually resolved and is reflective of the artist’s current practice. It is not based on style, subject matter, medium or artistic approach;

2 NOTES the role of the City in performing arts is a supporting role through the provision of:

2.1 Venue provision;

2.2 Engagement for direct event delivery;

2.3 Sponsoring events;

2.4 Provision of grants and sponsorship;

3 AGREES not to amend the *Visual Arts Collection Policy* to include reference to performing arts.

was Put and

CARRIED (6/0)

In favour of the Motion: Crs Thompson, Chester, Hill, Kingston, Poliwka and Raftis.

Appendix 3 refers

To access this attachment on electronic document, click here: [Attach3agnPOLICY221031.pdf](#)

There are currently no circuses operating in Australia that use exotic performing animals. In April 2021, the last remaining circus in Australia to use exotic performing animals announced it was unable to obtain insurance for its exotic animals and had permanently retired them.

Policy development

At its meeting held on 26 April 2000 (CJ085-04/00 refers), Council made a decision that it would not endorse any policy regarding circuses, "... *due to the fact that Council has no wish to interfere with the right of residents in the City of Joondalup to attend performances if they so desire.*"

At its meeting held on 16 October 2007 (CJ207-10/07 refers), it was recommended that Council adopt a policy on circuses in the City given the ongoing demand for that type of entertainment.

At its meeting held on 15 April 2008 (CJ052-04/08 refers), Council adopted the *City Policy – Statement on Circuses*, which was amended to provide consistency with other policies. Further clarity to the content of the policy was approved at the Council meeting held on 15 May 2012, when it became the *Circuses Policy* (CJ093-05/12 refers).

Further research was conducted by the City in 2017 into relevant industry standards and found that the policy did not align with either the *Code of Practice for the Conduct of Circuses in Western Australia 2003* (Attachment 2 refers) or the Royal Society for the Prevention of Cruelty to Animals (RSPCA) *Policy C02 Performing Animals* (Attachment 3 refers). The policy was revised to clarify the stance of the City and provide consistency with other City policies. The revised wording also allowed discretion in approving or denying access to City owned or controlled land for circuses using domesticated animals. Subsequently, the current *Circus Policy* was adopted by Council at its meeting held on 12 June 2017 (CJ104-06/17 refers).

Circus events in the City

Since the adoption of the current policy in 2017, the City has approved two public event applications for circus events on City managed land. Both events were run by The Great Moscow Circus, the first being in April 2018 at Belrose Park, Kallaroo, and the most recent in September and October 2022 at James Cook Park, Hillarys.

For the 2018 event, The Great Moscow Circus used domestic dogs and horses during its performances, in conjunction with human-based attractions such as trapeze artists and motorcycle stunts. The circus ceased the use of animals in its shows in 2019, and now features solely human-based entertainment. There are domestic dogs that travel with the circus as pets, but these dogs are not used during the performances.

DETAILS

Circus animal regulations

The Western Australian *Animal Welfare Act 2002* provides for the protection of animals by regulating the conduct of people in relation to animals, and prohibiting cruelty to, or inhumane / improper treatment of animals. As part of section 25 of the Act, the *Code of Practice for the Conduct of Circuses in Western Australia 2003* was developed to assist persons handling or using circus animals in Western Australia.

The code outlines a number of conditions around the use and keeping of circus animals, in addition to providing guidance around the suitability of animal species for performing purposes. The code does not explicitly prohibit the use of exotic performing animals, however acknowledges that these animals have unique needs that are unlikely to be met in a circus environment without qualified keepers and specific social and enrichment needs.

The RSPCA is an independent charity providing animal care and protection services in Australia. While the RSPCA do not have the authority to create legislation relating to animal welfare, it does have an inspectorate function that enables the organisation to investigate and prosecute animal cruelty complaints.

In order to reduce the incidence of animal cruelty, the RSPCA have a strong focus on advocating for the welfare of animals across a range of industries, environments and issues, including circuses. The RSPCA's *Policy C02 Performing Animals* outlines the organisations position to oppose the use of animals for performance or entertainment where pain, injury, suffering or distress is likely to be caused to the animal.

Similar to the *Code of Practice for the Conduct of Circuses in Western Australia 2003*, the RSPCA's *Policy C02 Performing Animals* acknowledges that the requirements of circus life are not compatible with the physiological, social and behavioural needs of most animals, and opposes the use of animals in circuses unless there is scientific evidence available to demonstrate otherwise. The policy also outlines the RSPCA's position in advocating for compulsory and enforced animal welfare standards for circus animals, in addition to registration and licencing requirements.

The City's *Local Government and Public Property Local Law 1999* and *Animals Local Law 2018* do not contain any provision that prohibits the use of animals for performance purposes.

Current policy

The current *Circus Policy* opposes the operation of circuses or organisations with performing exotic animals on any City owned or controlled land. It also requires that circuses or other organisations keep domestic performing animals in accordance with the *RSPCA Policy C02 Performing Animals*.

The policy does not apply to domestic pets participating in recreational activities (such as horse riding or dog agility), petting zoos or similar wildlife displays where animals are not used for performance purposes and are kept in humane conditions appropriate for the type of animal.

The policy is consistent with the *Code of Practice for the Conduct of Circuses in Western Australia 2003* and the *RSPCA Policy C02 Performing Animals*.

Issues and options considered

- Option 1 Retain the *Circus Policy* in its current form. This would ensure the City's position on performing animals is consistent with the *RSPCA Policy C02 Performing Animals* and the *Code of Practice for the Conduct of Circuses in Western Australia 2003*. This option is recommended.
- Option 2 Repeal the *Circus Policy*. This option will remove the City's ability to refuse a public event application on the basis that the event features exotic performing animals. This would be in conflict with the *RSPCA Policy C02 Performing Animals* and the *Code of Practice for the Conduct of Circuses in Western Australia 2003*. This option is not preferred.

COMMENT

Despite no circuses in Australia currently using exotic performing animals, there is still a risk that a circus or other organisation may reintroduce these animals into their performances.

Retaining the current policy will allow the City to continue to use discretion in decision-making in relation to circuses on City land, while also clarifying the stance of the City about exotic and domestic performing animals. As such, it is considered appropriate that the *Circus Policy* is retained by Council.

VOTING REQUIREMENTS

Simple Majority.

Coordinator Cultural Services left the room 7.25pm.

MOVED Cr Chester, SECONDED Cr Raftis that Council NOTES the outcomes of the review of the *Circus Policy* and AGREES to retain the *Circus Policy* in its current form provided as Attachment 1 to this Report.

The Motion was Put and

CARRIED (6/0)

In favour of the Motion: Crs Thompson, Chester, Hill, Poliwka, Kingston and Raftis.

Appendix 4 refers

To access this attachment on electronic document, click here: [Attach4agnPOLICY221031.pdf](#)

ITEM 5 REQUESTS FOR NEW OR CAPITAL UPGRADES TO EXISTING COMMUNITY BUILDINGS POLICY - MINOR REVIEW

WARD	All
RESPONSIBLE DIRECTOR	Mr Mat Humfrey Corporate Services
FILE NUMBER	101265, 101515
ATTACHMENTS	Attachment 1 Draft Revised Requests for New or Capital Upgrades to Existing Community Venues Policy – tracked changes Attachment 2 Draft Revised Requests for New or Capital Upgrades to Existing Community Venues Policy – clean version
AUTHORITY / DISCRETION	Legislative - includes the adoption of local laws, planning schemes and policies.

PURPOSE

For Council to consider and adopt the revised *Requests for New or Capital Upgrades to Existing Community Venues Policy*.

EXECUTIVE SUMMARY

The *Requests for New or Capital Upgrades to Existing Community Buildings Policy* is due for review in 2022 as part of the annual policy review process.

The review found that the policy is effective and only minor amendments (changes that do not impact on the application of the policy) are required to reflect current practices and document / process names.

It is therefore recommended that Council ADOPTS the revised Requests for New or Capital Upgrades to Existing Community Venues Policy as outlined in Attachment 2 of this Report.

BACKGROUND

The *Requests for New or Capital Upgrades to Existing Community Buildings Policy* was originally adopted in 2005 as an outcome of a policy review process (the policy was then referred to as the *Community Facilities – Built Policy*).

In 2012, a major review of the policy was undertaken and proposed to be renamed the *Requests for New or Capital Upgrades to Existing Community Buildings Policy*. At its meeting held on 20 November 2012 (CJ260-11/12 refers), Council adopted the recommended changes to the policy and the new policy name.

The *Requests for New or Capital Upgrades to Existing Community Buildings Policy* is due for review in 2022 as part of the annual policy review process. This report presents the outcomes of the review and suggested changes to the policy for consideration.

DETAILS

The objective of the *Requests for New or Capital Upgrades to Existing Community Buildings Policy* is to provide a coordinated approach to the assessment and approval of requests for new or capital upgrades to existing community venues.

A review completed in 2022, found that the policy is effective since the major review undertaken in 2012 and only minor amendments (changes that do not impact on the application of the policy) are required to reflect current practices and document / process names.

The recommended amendments to the policy are shown as tracked changes (Attachment 1 refers) and a clean version (Attachment 2 refers). A summary of the proposed amendments are as follows:

- Reference to the City's Club Funded Upgrade (CFU) process that organisations use to make an application to the City to self-fund an upgrade project.
- Removed reference to community-based organisations and referenced organisations generally, as requests received from commercial operators would follow the same process.
- Removed specific clause regarding leased premises, as these follow the same process as the rest of the policy.
- Standardised terminology used from facility to venues to align with other policies.
- Broadened references to standard specifications and asset hierarchies as the policy is relevant beyond buildings / facilities.
- Amendment to wording and document / process names to reflect current practices.

Issues and options considered

Council can either choose to:

- ADOPT the proposed amendments to the *Requests for New or Capital Upgrades to Existing Community Venues Policy* as outlined in Attachment 2 to this Report
or
- RETAIN the *Requests for New or Capital Upgrades to Existing Community Buildings Policy* in the current format.

It is recommended that option 1 is adopted as the current policy is effective and only minor amendments are required.

Legislation / Strategic Community Plan / Policy implications

Legislation *Local Government Act 1995.*
 Building Code of Australia.
 Access to Premises Standards 2010.

10-Year Strategic Community Plan

Key theme Place.

Outcome Functional and accessible - you have access to quality community facilities that are functional and adaptable.

Policy *Requests for New or Capital Upgrades to Existing Community Buildings Policy.*

Risk management considerations

The policy aims to minimise risk through a coordinated approach to the assessment and approval of requests for new or capital upgrades to existing community venues.

Financial / budget implications

In alignment with current asset management practices, it is the City's position that the development and upgrade of community venues should be undertaken in an affordable and sustainable manner, which requires a strategic and long-term approach to asset planning and management. The City aims to deliver this through defined levels of venue provision that is cost effective and provides value for money.

Regional significance

Not applicable.

Sustainability implications

The policy includes sustainability principles in the assessment process for proposals for new and capital upgrades to existing community venues. This includes the consideration of social, financial and environmental impacts prior to supporting applications for capital works projects.

Consultation

Not applicable.

COMMENT

The review of the *Requests for New or Capital Upgrades to Existing Community Buildings Policy* completed in 2022 found that the policy is effective and only minor amendments are required to reflect current practices and document / process names. It is recommended that the minor amendments are made to the policy to ensure the document remains current.

VOTING REQUIREMENTS

Simple Majority.

MOVED Cr Raftis, **SECONDED** Cr Thompson that Council **ADOPTS** the revised *Requests for New or Capital Upgrades to Existing Community Venues Policy* as outlined in Attachment 2 of this Report.

The Motion was Put and

CARRIED (6/0)

In favour of the Motion: Crs Thompson, Chester, Hill, Kingston, Poliwka and Raftis.

Appendix 5 refers

To access this attachment on electronic document, click here: [Attach5agnPOLICY221031.pdf](#)

ITEM 6 CORPORATE CREDIT CARD POLICY

WARD	All
RESPONSIBLE DIRECTOR	Mr Mat Humfrey Corporate Services
FILE NUMBER	101275
ATTACHMENTS	Attachment 1 Draft Corporate Credit Card Policy
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 draft Corporate Credit Card Policy.

EXECUTIVE SUMMARY

At its meeting on 1 August 2022, the Policy Committee considered a draft Corporate Credit Card policy on the management of all corporate credit cards.

The Committee referred the draft Policy back to the Chief Executive Officer to include an amendment requiring that all credit card statements be reported to the Audit and Risk Committee as confidential attachments.

In addition, an amendment to clause 4.1.17 of the draft Policy is also proposed to require that an overall credit card limit increase offered to the City, rather than applied by the card issuer without consultation with the City, requires approval of Council prior to acceptance.

The amended draft Policy is appended as Attachment 1.

BACKGROUND

The City procures a range of goods and services that are required for the efficient conduct of the City's various operations and activities. The City has a *Purchasing Policy* and a number of purchasing protocols that govern the manner in which procurement is undertaken. Most suppliers of such goods and services are engaged through purchase orders and, following delivery to the City, invoices are issued which the City subsequently pays.

In several instances, the standard procurement provisions are not suitable for efficient procurement of certain goods or services, including (but not limited to):

- air travel
- use of taxi or ride-sharing services
- booking accommodation
- acquiring goods or services from overseas suppliers
- engaging and paying for online advertising

- goods/services from suppliers/vendors who do not accept purchase orders, for example supermarkets for items that are required for council event catering
- software or related programs or tools procured digitally.

The City currently has four corporate credit cards issued to specified employees to facilitate such procurement, as detailed in the earlier report to the Policy Committee on 1 August 2022. The *Use of Corporate Credit Cards* Protocol governs the use and management of corporate cards and includes parameters for the issue of such cards and requirements for cardholders.

At its meeting held on 9 May 2022, the Policy Committee requested a report on the development of a policy on the management of all corporate credit cards. A draft Corporate Credit Cards Policy was presented to the Policy Committee for consideration at its 1 August 2022 meeting, which the Committee referred back to amend. The required amendment has been incorporated and the updated draft Policy is included as Attachment 1.

A further amendment to the earlier draft Policy is also proposed to accommodate situations where the card issuer may offer an increased credit card limit to the City, as opposed to applying a new limit by default. Where this may occur, it is proposed that Council approve the increased limit prior to acceptance by the City.

DETAILS

The Policy Committee meeting of 1 August 2022 considered a draft *Corporate Credit Cards* Policy and referred this back to the Chief Executive Officer to “*amend the Policy requiring all credit card statements be reported to the Audit and Risk Committee as a confidential attachment*”.

In addition, it is proposed to amend clause 4.1.7 to require Council approval before the City can accept an increase to overall corporate card credit limit by the card issuer where this is offered to the City for acceptance, as opposed to being applied by the card issuer without consulting the City.

The amended draft Policy is included as Attachment 1.

Legislation / Strategic Community Plan / Policy implications

Legislation *Local Government Act 1995.*
 Local Government (Financial Management) Regulations 1996.

10-Year Strategic Community Plan

Key Theme Leadership.

Outcome Accountable and financially sustainable - you are provided with a range of City services which are delivered in a financially responsible manner.

Policy Not applicable.

Risk management considerations

Not applicable.

Financial / budget implications

No material financial implications are expected.

Regional significance

Not applicable.

Sustainability implications

Not applicable.

Consultation

No specific consultation was undertaken in respect of the development of the draft Corporate Credit Card Policy or the requested amendment.

COMMENT

The draft Corporate Credit Card Policy sets out the high-level framework and principles to guide the management of corporate credit cards at the City.

VOTING REQUIREMENTS

Simple Majority.

MOVED Cr Thompson, **SECONDED** Cr Chester that Council **ADOPTS** the *Corporate Credit Card Policy* as set out in Attachment 1 to this Report.

The Motion was Put and

CARRIED (5/1)

In favour of the Motion: Crs Thompson, Chester, Hill, Kingston and Paliwka.

Against the Motion: Cr Raftis.

Appendix 6 refers

To access this attachment on electronic document, click here: [Attach6agnPOLICY221031.pdf](#)

ITEM 7 PURCHASING POLICY

WARD	All
RESPONSIBLE DIRECTOR	Mr Mat Humfrey Corporate Services
FILE NUMBER	59174, 101515
ATTACHMENT S	Attachment 1 Draft Revised Purchasing Policy
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 approve the proposed amendments to the City's *Purchasing Policy*.

EXECUTIVE SUMMARY

Some necessary improvements have been identified to the City's *Purchasing Policy* to enhance operational efficiency and reflect the prevailing economic environment in the context of procurement activity.

The specific quotation requirements currently provided for the engagement of artists and performers in the Summer Events Season have been reviewed and updates are proposed to reflect the current market and the cultural events calendar by raising the value threshold to which this requirement applies. It is proposed to expand the provision to the Cultural Services Program as a whole, insofar as it pertains to engagement of artists, performers and/or entertainment services.

In addition, the quotation requirements for all procurement values have been reviewed and updated to reflect the ongoing market conditions, as well as to better align these requirements with those in comparable organisations, by prescribing a minimum number of quotations to be sought and a minimum number to be obtained.

It is therefore recommended that Council ADOPTS the revised Purchasing Policy forming Attachment 1 to this Report.

BACKGROUND

A number of years ago, the City's *Purchasing Policy* introduced specific quotation requirements for procurement of services from artists and performers during the Summer Event to accommodate the lower likelihood of multiple providers offering the exact same service/product. This provision has been reviewed for currency in the present environment.

Quotation requirements for the different procurement thresholds have been reviewed and updated to enhance the request for quotation process. The market conditions that have been a feature of the economy for the past three years have rendered it particularly difficult, particularly in respect of construction, maintenance and related services, to meet the requirement to obtain the prescribed minimum quotations, in spite of requests being issued to multiple potential respondents.

DETAILS

Quotation Requirements - Cultural Services Program

The *Purchasing Policy* prescribes quotation requirements for different procurement value thresholds. In general, a minimum of two verbal quotations are required for procurement between \$5,001 and \$10,000 while at least three written quotations are required for values from \$10,001 and up.

Special provision is included in the Policy for procurement of services from artists or performers for events during the City’s Summer Events season, which allows the City to procure services up to \$10,000 on the strength of a single quotation, in recognition of the uniqueness of product offerings from different artists/performers.

The current requirement is:

<p><i>\$5,001 to \$10,000 Summer Season Events Only</i></p>	<p><i>One verbal/written quotation required by officers within Leisure and Cultural Services for unique artists or performers at events including, but not limited to:</i></p> <ul style="list-style-type: none"> <i>• Music in the Park</i> <i>• Valentine’s Concert</i> <i>• Joondalup Festival.</i> <p><i>A record of details of the quotation received is to be made in accordance with the Purchasing Protocols and clause 3.6 of this Policy.</i></p>
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The current market for artists/performers has been considered in reviewing this provision and it is proposed to amend the requirement as highlighted below:

<p><i>\$5,001 to \$20,000 Cultural Services Program</i></p>	<p><i>One verbal/written quotation required by officers within Leisure and Cultural Services for unique artists, performers, acts or entertainment at events within the Cultural Services Program including, but not limited to:</i></p> <ul style="list-style-type: none"> <i>• Music in the Park</i> <i>• Valentine’s Concert</i> <i>• Joondalup Festival</i> <i>• Any other event requiring artists or performers</i> <p><i>A record of details of the quotation received is to be made in accordance with the Purchasing Protocols and clause 3.6 of this Policy.</i></p>
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The review has not only considered the current market but has also taken account of the broader requirements of the Cultural Services Program, and concluded that the City regularly engages artists or performers for cultural events within the Program outside the Summer Events Season.

The proposed change would allow the City to engage artists/performers with a unique product or service offering for any cultural services events during the year, through the same purchasing policy provision that is currently available only for the Summer Events Season.

The value threshold is also proposed to be increased to \$20,000 in recognition of the current market.

Quotation requirements – General

The Policy currently prescribes a minimum number of quotations to be obtained for the different procurement value thresholds, as follows:

Procurement threshold (ex GST)	Current Quote requirements
Up to \$5,000	Direct procurement, no quotes required
\$5,001 to \$10,000	Minimum of two verbal quotations required
\$10,001 to \$50,000	Minimum of two written quotations required
\$50,001 to \$250,000	Minimum of three written quotations required

For the past three years, it has become increasingly difficult to obtain the minimum number required in several Request for Quote (RFQ) processes, despite RFQs being issued to several potential respondents.

The nature of the current market conditions has meant that several suppliers have limited spare capacity to take on additional work and, therefore, often do not respond to RFQs issued by the City.

This presents a challenge to the City to obtain the requisite number of quotes, and lengthens the procurement process – considerably, in some cases – unnecessarily, in order to ensure compliance with the policy.

The proposed amendments therefore seek to ease this pressure and require officers to seek a minimum number of quotations and obtain a lesser minimum to progress with procurement, as follows:

Procurement threshold (ex GST)	Proposed Quote requirements
Up to \$5,000	Direct procurement, no quotes required
\$5,001 to \$10,000	Seek a minimum of two verbal quotations, obtain a minimum of one
\$10,001 to \$50,000	Seek a minimum of two written quotations, obtain a minimum of one
\$50,001 to \$250,000	Seek a minimum of three written quotations, obtain a minimum of one

This is a well-established procurement practice, as evidenced in the procurement policies of other similar organisations, such as:

City of Wanneroo	Purchasing policy requires a minimum number of quotations to be sought
City of Swan	Purchasing policy requires a minimum number of quotations to be sought with a smaller minimum to be obtained
City of Stirling	Procurement policy requires a minimum number of quotations to be sought with a smaller minimum to be obtained

It is also noteworthy that the WA State Government procurement rules, while prescribing in great detail the procurement process to be followed by state agencies, do not stipulate a minimum number of responses to be obtained in a request for quotes process.

The proposed amendment will also deliver a similar outcome to the City's tender process which, while a public process, does not prescribe a minimum number of respondents and allows the City to progress with procurement even in the event that there is a single response to the request for tender, provided the tender evaluation panel determines this to be value for money to the City.

In addition to the above, there are also a few minor wording changes to better clarify phrases and expressions in the Policy, which do not alter either the meaning or intent, and some minor structure and formatting changes.

Issues and options considered

Option 1 – Approve the proposed changes to the Purchasing Policy

Should the proposed amendments be approved, the value threshold to which unique artists and/or performers can be engaged by means of a single quotation will rise to \$20,000, giving the City more flexibility to engage entertainment, acts, artists or performers in the current market. The expansion of the provision to the full Cultural Services Program recognises that the events the City may undertake in any year, which do not all fall within the Summer Events season.

In addition, amending the quotation requirement as outlined would allow procurement to progress more easily where the City encounters difficulties obtaining sufficient quotation responses to satisfy the policy requirements. There would be no increased risk of obtaining less value in the procurement process as the policy requirements as to value for money, sustainability and the like will not change.

This option is recommended.

Option 2 – Not approve the proposed change to the Purchasing Policy

Should the proposed amendment not be approved, the existing provisions in the Purchasing Policy remains in place.

Since the provision for artists and performers was originally introduced into the Policy, there have been significant changes in the environment for arts and entertainment offerings. The current policy provision is no longer fit for purpose and limits the City's ability to engage with the market in a flexible and reasonable manner.

Retaining the existing general provision to obtain a minimum number of quotations, as opposed to seeking a minimum number will continue the City's current constraints in obtaining sufficient quotations to meet the policy requirement. Should the current economic climate persist or deteriorate further, as expected in the medium term, the City's difficulties in this vein can be expected to worsen and cause the procurement process to become even less efficient and more burdensome.

This option is not recommended.

Legislation / Strategic Community Plan / Policy implications

Legislation *Local Government (Functions and General) Regulations 1996.*

10-Year Strategic Community Plan

Key theme Leadership.

Outcome Accountable and financially sustainable - you are provided with a range of City services which are delivered in a financially responsible manner.

Policy Not applicable.

Risk management considerations

There is no increased risk to procurement controls as a consequence of these amendments.

Financial / budget implications

Not applicable.

Regional significance

Not applicable.

Sustainability implications

Not applicable.

Consultation

No specific consultation was undertaken. Purchasing policies of other entities, as well as the WA State Government procurement rules, were reviewed during this process.

COMMENT

The proposed amendments are expected to improve outcomes of the procurement process while not increasing any attendant risks.

VOTING REQUIREMENTS

Simple Majority.

The Governance Coordinator left the room at 7.50pm and returned at 7.52pm.

Cr Hill left the room at 7.59pm and returned at 8.00pm.

Cr Kingston left the room at 8.02pm and returned at 8.03pm.

OFFICER'S RECOMMENDATION

That Council ADOPTS the revised *Purchasing Policy* forming Attachment 1 to this Report.

PROCEDURAL MOTION – THAT THE ITEM BE REFERRED BACK

MOVED Cr Thompson, **SECONDED** Cr Poliwka that Item 7 – Purchasing Policy be **REFERRED BACK** to the Chief Executive Officer to provide further clarity with regard to the City's Purchasing Protocols and integrity controls.

The Motion was Put and

CARRIED (6/0)

In favour of the Motion: Crs Thompson, Chester, Hill, Kingston, Poliwka and Raftis.

Appendix 7 refers

To access this attachment on electronic document, click here: [Attach7agnPOLICY221031.pdf](#)

ITEM 8 FREEHOLD LAND DISPOSAL PROCEEDS - REQUEST FOR A REPORT

WARD	All
RESPONSIBLE DIRECTOR	Mr Mat Humfrey Corporate Services
FILE NUMBER	103963, 21587, 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

To provide the Policy Committee with responses to an Elected Member's request for a report on what the City's current policy is concerning land disposals that also considers 25% of land disposal proceeds being used to reduce ratepayers' local government rates.

EXECUTIVE SUMMARY

At the Policy Committee Meeting held on 9 May 2022, Item 6 under the '*Request for Reports for Future Consideration*' section was the following request:

"6 Cr Poliwka requested a report on what the City's policy currently is with regard to the sale of land and to include options to consider 25% of land sales to be placed into reducing rates for ratepayers."

It should be noted that under the *Local Government Act 1995* (Act), sale of land is referred to as land 'disposal' and land disposal includes leasing of land. Lease rent paid to the City has not been considered as land disposal proceeds as part of this report.

Currently, the City does not have a policy related to the sale of its freehold land. It has a standard practice where reports are submitted to the Major Projects and Finance Committee (MP&FC) and Council seeking authorisation to dispose of land. All land disposals require Council's support and compliance with the relevant sections of the Act.

The sale proceeds from the City's land disposal project that ran from 2010 to 2019 were placed in the Joondalup Performing Arts and Cultural Facility (JPA&CF) Reserve Fund. The JPA&CF Reserve Fund is a reserve to assist funding the future development of the JPA&CF. Over the course of the project period, the reports to the MP&FC and Council regularly confirmed that the proceeds of sale were being placed in the JPA&CF Reserve Fund which was noted by the MP&FC and Council.

During the revised budget 2019-20 the net sales proceeds from Lot 80 (15) Burlos Court and Lot (20) Kanangra was to be transferred to the Strategic Asset Reserve (SAR). During the early onset of the pandemic, the revised budget was amended to revoke these discretionary transfers (CJ050-04/20 refers).

Other land sale proceeds that involve the City are the annual dividends from the sale of residential lots in the Catalina Estate within the City of Wanneroo, the City being a co-owner of land at this location. These funds are placed in the Tamala Park Reserve (TPR).

Notwithstanding the above information concerning the transfer of land sale proceeds, before the City considers local government rates for the next financial year, all income and expenditure have been taken into account.

It is therefore recommended that the Policy Committee:

- 1 *NOTES that Council noted at its meeting held on 21 September 2010 (CJ163-09/10 refers) that the proceeds from the sale of City freehold land were to be placed in the Joondalup Performing Arts and Cultural Facility Reserve Fund;*
- 2 *NOTES that at its meeting held on 17 February 2014 (CJ032-02/14 refers) Council, by an absolute majority, approved the creation of a Tamala Park Land Sales Reserve to receive the City's share of dividends from the proceeds of the sales of Tamala Park Land to be held and subsequently applied for the purpose of investing in income producing facilities, to build significant one-off community facilities and to assist with the cash flow requirements of developing significant infrastructure assets aligned to the 20-Year Strategic Financial Plan;*
- 3 *NOTES that existing resolutions, as per recommendations 1 and 2 above, and the annual budget preparation process are sufficient mechanisms to ensure an effective outcome when considering the application of local government rates;*
- 4 *NOTES that based on Part 3 above, a policy to apply 25% of land sale proceeds towards the reduction of ratepayers' local government rates payments is considered unnecessary.*

BACKGROUND

There are various considerations required when dealing with the proceeds acquired from local government land disposals.

Under the *Local Government Act 1995* (LGA) land disposals include facility and land leasing in addition to land sales. Where lease rental revenue is concerned, this is recorded as operating income and it has not been considered as land disposal proceeds as part of this report.

Proceeds generated from the sale of City-owned freehold land are likely to be generated via City driven projects. Land disposals require Council approval and compliance with the relevant sections of the LGA. Additionally, the proceeds are to be placed in a nominated reserve account where the purpose of the reserve and the use of the funds have been approved.

Reserve accounts are generally created, or changes made, during the annual budget process. Outside of the annual budget process, as part of *section 6.11* of the LGA, a local government must give one month's local public notice if a change is proposed to the purpose of a reserve or the use of the funds in the reserve.

The Strategic Asset Reserve (SAR) was created in 2010-11. The SAR was a merger of the then Strategic Asset Management and Asset Replacement Reserves. The intent of the SAR is to fund the acquisition and development of new and renewal of existing City infrastructure and building assets.

The Tamala Park Reserve was created in 2013-14 to receive the City's share of the dividends from the proceeds of the sales of Tamala Park land to be held and subsequently applied for the purpose of investing in income producing facilities, to build significant one-off community facilities and to assist with the cash flow requirements of developing significant infrastructure aligned to the *10-Year Strategic Financial Plan*.

All reserves will accumulate interest earnings unless the reserve is exhausted.

DETAILS

Current reserve accounts related to land disposals are as follows:

Land Disposal Project

In 2010, investigations commenced into the potential disposal of City-owned freehold sites considered surplus to requirements. Fourteen properties were identified, with two withdrawn and twelve properties sold during the above period. Unit development for the 'over 55s' was the selected land use by Council. The benefits of this land disposal project can be measured by the activation of vacant land, the rates revenue received to date, the City facilitating the opportunity for residents to 'age in place,' and the sale proceeds of approximately \$10,753,388 as shown in Table 1 below being placed into the JPA&CF Reserve Fund.

The change of reserve was due to Council deciding that the JPA&CF project was to be deferred for further consideration until the 2023-24 financial year (CJ066-05/20 refers).

Table 1

Property	Date Sold	Net Proceeds
Lot 200 (18) Quilter Drive, Duncraig.	March 2013	\$ 1,333,553
Lot 766 (167) Dampier Avenue, Kallaroo.	March 2013	\$ 1,036,006
Lot 147 (25) Millport Drive, Warwick.	March 2013	\$ 1,317,088
Lot 613 (11) Pacific Way, Beldon.	March 2013	\$ 685,781
Lot 671 (178) Camberwarra Drive, Craigie.	March 2013	\$ 808,068
Part Lot 702 (11) Moolanda Boulevard, Kingsley.	August 2015	\$ 1,043,430
Lot 745 (103) Caridean Street, Heathridge.	December 2015	\$ 840,596
Lot 23 (77) Gibson Avenue, Padbury	December 2016	\$ 1,791,519
Lot 900 (57) Marri Road, Duncraig	July 2017	\$ 959,668
Lot 1001 (14) Camberwarra Drive, Craigie	December 2017	\$ 936,679
	TOTAL	\$10,753,388

Table 2

Sales proceeds which occurred following the pandemic were considered discretionary and therefore not transferred into the Strategic Asset Reserve.

Property	Date Sold	Net Proceeds
Lot 2 (20) Kanangra Crescent, Greenwood	May 2019	\$ 1,156,418
Lot 803 (15) Burlos Court, Joondalup	October 2020	\$ 1,499,835
	Total	\$2,656,253

Lot 12223 (12) Blackwattle Parade, Padbury (Lot 12223)

Lot 12223 is a former Crown land community purpose site acquired from State Government by the City in June 2019 at a concessional purchase price. The City rezoned Lot 12223 to 'Commercial' and has received Council approval for its disposal.

The Department of Planning Lands and Heritage (DPLH) approved the use of the future sale proceeds from Lot 12223 towards parking, traffic, and pedestrian issues at this location. Having the DPLH's approval for these uses allows Council the option to use the funds for these uses or community purposes. Community purposes for the future sale proceeds should be part of the consideration given Lot 12223 was a former community purpose site.

Use of the sale proceeds from Lot 12223 will need to be expended within the proximity of Lot 12223.

At its meeting held on 19 April 2022, a report (CJ057-04/22 refers) concerning the proposed disposal of the above property resulted in part as follows:

- “5 *NOTES the information in this report concerning the proximity related to Lot 12223 (12) Blackwattle Parade, Padbury of where the site's future sale proceeds can be utilised and that the Department of Planning Lands and Heritage can be contacted to confirm that the proposed project locations are within an acceptable proximity;*
- 6 *SUPPORTS deferring its decision on where the proceeds from the future disposal of Lot 12223 (12) Blackwattle Parade, Padbury will be utilised until the outcome of the City and Main Roads WA's examination of the traffic improvement options for the intersection of Walter Padbury Boulevard and Hepburn Avenue, Padbury.”*

Tamala Park – Catalina Estate

The City is a co-landowner of an area of land in the suburbs of Clarkson and Mindarie within the boundaries of the City of Wanneroo with other owners being the Cities of Perth, Stirling, Vincent, and Wanneroo and the Towns of Cambridge and Victoria Park.

The Tamala Park Regional Council is a regional local government established to undertake the rezoning, subdivision, development, marketing, and sale of the Tamala Park land, known as the Catalina Estate on behalf of all the above-mentioned landowners. The Catalina Estate is a 180-hectare portion of the overall land co-owned for the specific purpose of creating an urban development.

Council resolved on 17 February 2014 (CJ032-02/14 refers) to create the Tamala Park Land Sales Reserve. Annual dividends are provided to the City from the Tamala Park Regional Council and placed into the Reserve as determined by Council. Proceeds are recorded as part of the City's investment and form part of that value.

Issues and options considered

If changes were proposed to the SAR, a review of the funding requirements for future capital expenditure projects would need to take place.

Business cases related to future potential land disposal projects may result in land leasing being the preferred option on occasions – so retaining the asset. Land availability for future service provision would also be an important consideration.

Selling further freehold land may well be infrequent, therefore irregular one-off payments of 25% of the sale of freehold property may not be of particular value to residents given the magnitude of the City's rates base. Additionally, placing funds in reserves is likely to have a positive indirect impact on rates on an ongoing basis due to interest accumulation.

Concerning any proposed changes to the Tamala Park Reserve, a review of the funding requirements for future capital expenditure projects would need to take place. The reserve held and subsequently applied for to Council was for the purpose of investing in income producing facilities, to build significant one-off community facilities and to assist with the cash flow requirements of developing significant infrastructure assets.

Crown land acquisition negotiations with State Government can be financially beneficial to the City, however, conditions are usually put in place by State Government concerning the future land use of the acquired site and where and what the sale proceeds can be spent on.

Legislation / Strategic Community Plan / Policy implications

Legislation Sections 3.58 and 3.59 of the *Local Government Act 1995*, together with the *Local Government (Functions and General) Regulations 1996* determine how a local government may dispose of property.

10-Year Strategic Community Plan

Key theme Leadership.

Outcomes Accountable and financially sustainable - you are provided with a range of City services which are delivered in a financially responsible manner.

Capable and effective – you have an informed and capable Council backed by a highly-skilled workforce.

Policy Not applicable.

Risk management considerations

Disposal of property needs to comply with the requirements of sections 3.58 and 3.59 of the *Local Government Act 1995*, which are designed to ensure openness and accountability in the land disposal process.

The recommendations for land disposal are based on a combination of the best financial return, planning outcomes, and community benefit.

Withholding transfers into the Strategic Asset Reserve risks reducing the amount of funds available for future asset additions and renewals, respectively.

Financial / budget implications

Withholding transfers could cause a long-term financial impact to the City. However, being aware of these impacts will allow planning to recover the position in future financial years.

The City's annual budgetary process aims to align expenditure with the objectives of the City's *10-Year Strategic Financial Plan* and the City's *Strategic Community Plan - Joondalup 2032*. As part of the budget review process, proceeds in City reserves and all other financial income are considered prior to assessing future rates payments.

Regional significance

Not applicable.

Sustainability implications

City freehold land that has been set aside for community use should not be disposed of without there being a nominated purpose addressing a community need.

Concerning the freehold land disposal project to date, Council has supported the restricted use of 'Aged or Dependent Persons' Dwellings' to provide alternative housing choices for the City's ageing population.

The expenditure of the funds from the eventual sale of Lot 12223 (12) Blackwattle Parade, Padbury, has yet to be decided upon by Council.

Consultation

Public auction, public tender, and private treaty methods have been used regarding the City's land disposal project. Advertising is a requirement with all three methods unless, in respect of private treaty, the disposal is exempt under Regulation 30 of the *Local Government (Functions and General) Regulations 1996*.

The statutory public advertising period of 42 days for amendments to DPS2 provides an opportunity for the community to forward a submission on the future intent for the site on disposal.

The method of community consultation followed during the acquisition process concerning Lot 12223 (12) Blackwattle Parade, Padbury, was conducted in accordance with the City's approved *Community Consultation and Engagement Policy* and *Community Engagement Protocol*.

COMMENT

Due to the complicated arrangements involving the Tamala Park Reserve where annual land sale dividends related to the Catalina Estate are placed in the TPR, it is assumed that the subject sale proceeds are those related to the City's land within its boundaries. As asset retention and land leasing are other options to be considered with the City's remaining freehold land sites, offsetting rates from sale proceeds is likely to be limited and therefore negligible.

Resolutions are in place that determine where land sale proceeds are reserved. All City revenue/reserves/expenditure are considered as part of the annual budget review process and the calculation of future rates payments.

VOTING REQUIREMENTS

Simple Majority.

The Governance Coordinator left the room at 8.24pm and returned at 8.25pm.

Cr Raftis left the room at 8.30pm and returned at 8.31pm.

MOVED Cr Hill, SECONDED Cr Chester that the Policy Committee:

- 1 **NOTES that Council noted at its meeting held on 21 September 2010 (CJ163-09/10 refers) that the proceeds from the sale of City freehold land were to be placed in the Joondalup Performing Arts and Cultural Facility Reserve Fund;**
- 2 **NOTES that at its meeting held on 17 February 2014 (CJ032-02/14 refers) Council, by an absolute majority, approved the creation of a Tamala Park Land Sales Reserve to receive the City's share of dividends from the proceeds of the sales of Tamala Park Land to be held and subsequently applied for the purpose of investing in income producing facilities, to build significant one-off community facilities and to assist with the cash flow requirements of developing significant infrastructure assets aligned to the *20-Year Strategic Financial Plan*;**
- 3 **NOTES that existing resolutions, as per Parts 1 and 2 above, and the annual budget preparation process are sufficient mechanisms to ensure an effective outcome when considering the application of local government rates;**
- 4 **NOTES that based on Part 3 above, a policy to apply 25% of land sale proceeds towards the reduction of ratepayers' local government rates payments is considered unnecessary.**

The Motion was Put and

CARRIED (5/1)

In favour of the Motion: Crs Thompson, Chester, Hill, Kingston and Raftis.

Against the Motion: Cr Poliwka.

ITEM 9 SETTING OF THE 2023 MEETING DATES - POLICY COMMITTEE

WARD	All
RESPONSIBLE DIRECTOR	Mr Jamie Parry Governance and Strategy
FILE NUMBER	02153, 103963, 101515
ATTACHMENT	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 the Policy Committee to consider the setting of the first committee meeting date for 2023.

EXECUTIVE SUMMARY

In order to assist with forward planning for all Elected Members, management and staff, a schedule of meeting dates is required to be prepared for the Policy Committee, ensuring synergy between meeting dates and the flow of information and decision-making.

The setting of the 2023 Council meeting dates is scheduled to be presented at the Council meeting to be held on 15 November 2022. This report will provide Elected Members with two alternative meeting cycles options for their consideration, which may impact the committee meeting dates.

Due to the timing of the last Policy committee meeting for 2022 and the Council decision in November, only the first Committee meeting date is proposed to be set for the committee's consideration. A further report will be presented to the first Policy committee meeting in 2023 setting the remainder of the committee dates for 2023.

It is therefore recommended that the Policy Committee:

- 1 ADOPTS the following meeting date and time for the Policy Committee of the City of Joondalup to be held on Monday 27 February 2023, commencing at 6.00pm to be held at the Joondalup Civic Centre (Conference Room 1), Boas Avenue, Joondalup;*
- 2 NOTES that a further report will be presented to the first Policy committee meeting in 2023 setting the remainder of the Policy committee dates for 2023.*

BACKGROUND

The Policy Committee was established at the Special Council Meeting held on 1 November 2021 and the Policy Committee's Terms of Reference were initially adopted at the time.

Subsequently, the Policy Committee's Terms of Reference were reviewed by Council at its meeting held on 16 August 2022 (CJ134-08/22 refers) and it was resolved that the revised Terms of Reference for the Policy Committee, are as follows:

- Make recommendations to Council on the development and review of the City's policies and overall policy framework.
- Make recommendations to Council on the development and review of the City's local laws.
- Oversee the strategic direction of the City's Art Award events, Visual Art Collection and Visual and Performing Arts Programs.

DETAILS

The Policy Committee will oversee the development and review of the City's policies, local laws as well as oversee the strategic direction of the City's Art Award events, Visual Art Collection and Visual Art Programs.

It has been requested that committee meetings not be held on the same week as Briefing Sessions and Council Meetings to reduce Elected Member fatigue in reading multiple meeting papers. This request has been incorporated into the Committee meeting schedule.

The setting of the 2023 Council meeting dates is scheduled to be presented at the Council meeting to be held on 15 November 2022. This report will provide Elected Members with two alternative meeting cycle options for their consideration, which may impact the committee meeting dates.

It is therefore recommended that the first meeting of the Policy Committee for 2023 be held on Monday 27 February 2023, commencing at 6.00pm and a further report be presented to that meeting for the setting of the remainder of the Policy Committee meetings for 2023.

Issues and options considered

The Policy Committee can either:

- adopt the meeting date as proposed in this Report
or
- amend the meeting date.

Legislation / Strategic Community Plan / Policy implications

Legislation *Local Government Act 1995.*
Local Government (Administration) Regulations 1996.
City of Joondalup Meeting Procedures Local Law 2013.

10-Year Strategic Community Plan

Key theme Leadership.

Outcomes Capable and effective – you have an informed and capable Council backed by a highly-skilled workforce.

Policy Not applicable.

Risk management considerations

Should forward planning of committee meetings not be identified, then there is a risk for meetings to be held on an ad-hoc basis; lacking coordination with other key meetings and corporate planning processes.

Financial / budget implications

Not applicable.

Regional significance

Not applicable.

Sustainability implications

Not applicable.

Consultation

Not applicable.

COMMENT

The proposed Policy Committee meeting date for the first meeting in 2023 has been set based on the expected demand and timeframes associated with policy and local law reviews, and with an oversight over the City's arts collections, art awards and programs.

VOTING REQUIREMENTS

Simple Majority.

MOVED Cr Poliwka, SECONDED Cr Kingston that the Policy Committee:

- 1 ADOPTS the following meeting date and time for the Policy Committee of the City of Joondalup to be held on Monday 27 February 2023, commencing at 6.00pm to be held at the Joondalup Civic Centre (Conference Room 1), Boas Avenue, Joondalup;**
- 2 NOTES that a further report will be presented to the first Policy committee meeting in 2023 setting the remainder of the Policy committee dates for 2023.**

The Motion was Put and

CARRIED (6/0)

In favour of the Motion: Crs Thompson, Chester, Hill, Kingston, Poliwka and Raftis.

ITEM 10 RECORDING AND LIVE-STREAMING OF COUNCIL MEETINGS POLICY

WARD	All
RESPONSIBLE DIRECTOR	Mr Jamie Parry Governance and Strategy
FILE NUMBER	110327, 101515
ATTACHMENTS	Attachment 1 Draft Recording and Live Streaming of Council Meetings Policy
AUTHORITY / DISCRETION	Legislative - includes the adoption of local laws, planning schemes and policies.

PURPOSE

For Council to consider the proposed Recording and Live-Streaming of Council Meetings Policy provided as Attachment 1 to this Report.

EXECUTIVE SUMMARY

On 3 July 2022, the Minister for Housing; Lands; Homelessness and Local Government, the Hon John Carey BA MLA, announced the most significant local government reforms in Western Australia, including the requirement for all Band 1 and Band 2 local governments to record and live-stream their Council meetings.

In accordance with the Salaries and Allowances Tribunal *Determination No. of 2021 for Local Government Chief Executive Officers and Elected Members*, the City of Joondalup is classified as a Band 1 local government and will be required to implement live video streaming of its Council meetings once the reforms are legislated.

It is therefore recommended that Council ADOPTS the Recording and Live-Streaming of Council Meetings Policy, provided as Attachment 1 to this Report.

BACKGROUND

On 21 September 2021, Council received a petition from residents of the City of Joondalup requesting for live video streaming and recordings of all City of Joondalup Council and Annual General Meetings of Electors.

A report was presented to the Council meeting held on 15 February 2022 (CJ011-02/22 refers), for Council to consider the petition received requesting live video streaming and video recordings of all Council meetings and Annual General Meetings of Electors.

Currently, local governments are only required to make written minutes of their Council meetings available. While there is no legal requirement for live streaming of video and/or audio recordings of Council meetings, many local governments do so. The City of Joondalup currently live-streams audio of its Council meetings and electors meetings and makes audio-records available on the City's website following the meeting.

Under the proposed local government reforms, it will become mandatory for all Band 1 and Band 2 local governments to live stream Council meetings and post the recordings online. Below is a summary of the proposed requirements for live video streaming:

- all local governments will be required to record meetings
- Band 1 and Band 2 local governments will be required to live-stream meetings and make video recordings available as public archives
- Band 3 and Band 4 local governments will be required to record and make public audio recordings, at a minimum
- limited exceptions will be made available for meetings held outside the ordinary council chambers, where audio/video recordings are generally used
- all Council meeting recordings will need to be published at the same time as the meeting minutes
- recordings of all confidential items will also need to be submitted to the Department of Local Government for archiving.

Given that the proposed local government reforms will make it mandatory for local governments to live stream their Council meetings, it was recommended, and Council approved the development of a new policy to allow for the recording and live video streaming of Council meetings.

The Council has also allocated funding of \$40,000 in the 2022-23 budget for the implementation of live video streaming technology for Council meetings.

DETAILS

Clause 5.16 of the *City of Joondalup Meeting Procedures Local Law 2013*, currently provides for the recording of proceedings as follows:

- (1) *A person is not to use any electronic, visual or audio recording device or instrument to record the proceedings of a meeting, without the permission of the presiding member.*
- (2) *If the presiding member gives permission under subclause (1), the presiding members is to advise the meeting, immediately before the recording is commenced, that such permission has been given and the nature and extent of that permission.*

In addition, the *Procedures for Strategy Sessions, Briefing Session, Council/Committee Meetings and Electronic meetings* provide further information on the recording of Briefing Session and Council Meetings (adopted by the Council at its September 2022 meeting):

Proceedings of the Briefing Session shall be electronically recorded, and made available to the public on the City's website, except for matters of a confidential nature.

While a timeline for the implementation of mandatory live video streaming/recording has not been announced, it is expected that the changes will occur in 2023 with Minister Carey advising that local governments should be starting to prepare for the changes now.

For this reason, a draft policy has been prepared for the Policy Committee's consideration (Attachment 1 refers). The following items will require Committee direction:

Meetings to be recorded:

- Does the Committee want Briefing Sessions video recorded/live streamed, as well as Council meetings and meetings of electors?

- It is suggested that the recording of confidential items (in accordance with s5.23 of the *Local Government Act 1995* be excluded until further information is provided by the Minister in relation to legislative reforms which proposes this to occur.

Camera positioning:

- Shall cameras be positioned so that only images of Council members and relevant officers of the City appear on the video?
- Shall cameras be positioned so that images of members of the public who address the Council, through a public question, statement or deputation are captured on the video?
- Shall cameras be positioned so as to avoid capturing members of the public, whether they are addressing the Council or not?

Access to Public by Virtual Means:

- Should members of the public be permitted to participate in meetings conducted by virtual means? Noting that this would create a range of administrative resource implications in order to adequately manage the meeting.

Issues and options considered

Council can either:

- adopt the proposed *Recording and Live-Streaming of Council Meetings* Policy as presented in Attachment 1
or
- propose changes to the proposed *Recording and Live-Streaming of Council Meetings* Policy.

Legislation / Strategic Community Plan / Policy implications

Legislation

Local Government Act 1995.

9.57A Local government protected from liability for defamation: council proceedings on website.

(1) In this section –

***council proceedings** means proceedings at a meeting of the council or a committee of the council **matter** has the meaning given in the Defamation Act 2005 section 4.*

(2) A local government is not liable to an action for defamation in relation to matter published on its official website as part of a broadcast, audio recording, or video recording, of council proceedings.

City of Joondalup Meeting Procedures Local Law 2013.

10-Year Strategic Community Plan

Key theme

Leadership.

Outcome

Capable and effective – you have an informed and capable Council backed by a highly-skilled workforce.

Policy

*Code of Conduct for Employees.
Code of Conduct for Council Members, Committee Members and Candidates.*

Risk management considerations

1. Defamation

In accordance with section 9.57A(2) of the *Local Government Act 1995*, the City is not liable for an action for defamation in relation to matter published on its official website as part of a broadcast, audio recording or video recording of council proceedings.

Opinions expressed or statements made by persons during the course of a meeting and contained within a video and/or audio recording, are the opinions or statements of those individual persons and not necessarily the opinions or statements of the City.

Council officers and Elected Members are not liable in defamation for any statements made in good faith. Council officers, Elected Members and members of the public are not liable in defamation for any statement to which a defence is available under the *Defamation Act 2005*.

2. Technical disclaimer

There may be situations where, due to technical difficulties a live-stream of the Council meeting may not be available. While all reasonable efforts will be made to ensure that live-streaming and the City's website are functioning, the City takes no responsibility for and cannot be held liable for the live-streaming or the City's website being temporarily unavailable due to technical issues.

3. Privacy

A public notice will be displayed in the public gallery area to notify visitors of live streaming and recording of meetings. The Presiding Member will also be provided with a script to alert members of the gallery of the live-streaming and recording of the meeting at the commencement of the meeting.

The Committee will need to consider the camera positioning and the impacts this may have on concerns around privacy for members of the public and make a suitable recommendation to the Council.

Financial / budget implications

There are no costs to the City associated with adopting the proposed *Recording and Live-Streaming of Council Meetings Policy*.

There will be capital costs associated with the purchase of equipment to allow for video recording/streaming.

Current financial year impact

Budget amount	\$ 40,000
Amount spent to date	\$ 0
Proposed cost	\$ 40,000
Balance	\$ 40,000

All amounts quoted in this report are exclusive of GST.

Regional significance

Not applicable.

Sustainability implications

Not applicable.

Consultation

Not applicable.

COMMENT

On 3 July 2022, the Minister for Housing; Lands; Homelessness and Local Government, Hon John Carey BA MLA, announced the final local government reform package. The reforms include the requirement for all Band 1 and Band 2 local governments to record and live-stream their Council meetings. In accordance with the Salaries and Allowances Tribunal *Determination No. of 2021 for Local Government Chief Executive Officers and Elected Members*, the City of Joondalup is classified as a Band 1 local government and will be required to implement live video streaming of its Council meetings once the reforms are legislated.

VOTING REQUIREMENTS

Simple Majority.

OFFICER'S RECOMMENDATION

That Council **ADOPTS** the Recording and Live Streaming of Council Meetings Policy, provided as Attachment 1 to this Report.

MOVED Cr Thompson, SECONDED Cr Kingston that Council:

- 1 ADOPTS the Recording and Live-Streaming of Council Meetings Policy, provided as Attachment 1 to this Report subject to the following amendments to the Policy:**
 - 1.1 Clause 3.4 is amended to reflect the Committee's preference regarding camera positioning to capture only Councillors and City employees;**
 - 1.2 The Committee's preference is that Briefing Sessions are only audio recorded and audio live-streamed;**
 - 1.3 Removal of the words 'and/or CEO' in Clause 3.6 Termination of live-streaming;**
- 2 DOES NOT SUPPORT the public being permitted access to participation in meetings by virtual means.**

The Motion was Put and

CARRIED (6/0)

In favour of the Motion: Crs Thompson, Chester, Hill, Kingston, Poliwka and Raftis.

Appendix 8 refers

To access this attachment on electronic document, click here: [Attach8agnPOLICY221031.pdf](#)

ITEM 11 MEETING PROCEDURES LOCAL LAW 2013 - REVIEW

WARD	All
RESPONSIBLE DIRECTOR	Mr Jamie Parry Governance and Strategy
FILE NUMBER	05885, 101515
ATTACHMENTS	Attachment 1 <i>City of Joondalup Meeting Procedures Local Law 2013 (marked-up)</i> Attachment 2 <i>Schedule of Submissions</i> Attachment 3 <i>Local Government Reforms: Full Reform Proposals (including amended proposals)</i>
AUTHORITY / DISCRETION	Legislative - includes the adoption of local laws, planning schemes and policies.

PURPOSE

For Council to note the review of the *City of Joondalup Meeting Procedures Local Law 2013*, and the Local Government Reforms, in particular the standardisation of meeting procedures, and agree to make no changes to the *City of Joondalup Meeting Procedures Local Law 2013*.

EXECUTIVE SUMMARY

At its meeting held on 16 August 2022, Council resolved to refer the *Amendment Local Law 2021* back to the Policy Committee for further consideration so that each local law could be considered separately.

The Minister for Housing; Lands; Homelessness and Local Government, the Hon John Carey BA MLA, recently announced that local government reforms are proposed to be introduced in February 2023, including standardised meeting procedures during 2023.

It is therefore recommended that Council:

- 1 *NOTE the current review of the City of Joondalup Meeting Procedures Local Law 2013;*
- 2 *AGREE to make no changes to the City of Joondalup Meeting Procedures Local Law 2013, given the impending Local Government reforms, in particular the standardisation of meeting procedures.*

BACKGROUND

At its meeting held on 16 February 2021 (CJ006-02/21 refers), Council received a report on the statutory review of its local laws, and resolved that amendments were required to the *City of Joondalup Meeting Procedures Local Law 2013*.

At its meeting held on 15 February 2022 (CJ014-02/22 refers), Council resolved to:

- “1 *MAKES the proposed City of Joondalup Amendment Local Law 2021, as detailed in Attachment 1 to Report CJ014-02/22, for the purposes of public advertising subject to the following amendment;*
 - 1.2 *AMENDS clause 10.6(2) of the City of Joondalup Local Government and Public Property Local Law 2014, to read:*

“10.6 Retailer to remove abandoned trolley

(2) A retailer must remove a shopping trolley within 3 hours of being so advised under subclause (1).”
- 2 *in accordance with section 3.12(3)(a) of the Local Government Act 1995, gives local public notice stating that:*
 - 2.1 *the City of Joondalup proposes to make the City of Joondalup Amendment Local Law 2021, and a summary of its purpose and effect is as follows:*

Purpose: The purpose of this local law is to amend certain provisions within the City of Joondalup Animals Local Law 1999, City of Joondalup Local Government and Public Property Local Law 2014, City of Joondalup Meeting Procedures Local Law 2013 and City of Joondalup Parking Local Law 2013.

Effect: The effect of this local law is to better clarify the provisions and requirements within the City of Joondalup Animals Local Law 1999, City of Joondalup Local Government and Public Property Local Law 2014, City of Joondalup Meeting Procedures Local Law 2013 and City of Joondalup Parking Local Law 2013 and to ensure information is current with prevailing legislation;
 - 2.2 *copies of the proposed local law may be inspected at or obtained from the City’s Administration office, public Libraries or the City’s website;*
 - 2.3 *submissions about the proposed local law may be made to the City within a period of not less than 6 weeks after the notice is given;*
- 3 *in accordance with s3.12(3)(b) of the Act, as soon as the notice is given a copy of the proposed local law be sent to the Minister for Local Government;*
- 4 *in accordance with s3.12(3)(c) of the Act, a copy of the proposed local law be supplied to any person requesting it;*
- 5 *the results of the public consultation be presented to Council for consideration of any submissions received;*
- 6 *in relation to the petition requesting a working group be created to review and develop appropriate signage guidelines and policy for small businesses, ADVISES the lead petitioner of its decision in Part 1 above;*
- 7 *NOTES the creation of a separate Cat Local Law and Dog Local Law will progress at a later time once any amendments to the Dog Act 1976 and the Cat Act 2011 are better known, and in addition NOTES that an additional review of the City of Joondalup Animals Local Law 1999 will be progressed in 2022, in relation to additional measures being incorporated for the control of cats;*

8 *NOTES a review of the City of Joondalup Pest Plant Local Law 2012 will be progressed in 2022”*

A notice advising of Council’s intention to make the proposed local law, and of the purpose and effect of the proposed local law, was published in accordance with section 3.12 of the Act for a period of six weeks.

In accordance with the requirements of the Act, a copy of the proposed local law was also submitted to the Minister for Local Government on 7 April 2022 for consideration.

The time for making public submissions closed on Friday 20 May 2022.

At the Council meeting on 16 August 2022 (CJ124-08/22 refers), Council considered the public submissions received following the public advertising period and resolved:

“That item CJ124-08/22 – Amendment Local Law 2021 – Adoption BE REFERRED BACK to the Policy Committee for further consideration so that each local law can be considered separately.”

DETAILS

In consultation with elected members, the *Amendment Local Law* (Part 4) contained the following clauses to amend certain provisions in the *Meeting Procedures Local Law* (marked up in Attachment 1 to this Report):

- Clause 4.2 – this clause amends clause 1.4 in the *Meeting Procedures Local Law* by deleting the reference to the Rules of Conduct Regulations (that is the former *Local Government (Rules of Conduct) Regulations 2007*) and inserting reference to the new *Local Government (Model Code of Conduct) Regulations 2021*, which came into effect on 3 February 2021.
- Clause 4.3 – this clause amends clause 1.5 in the *Meeting Procedures Local Law* by inserting a new definition for the *Local Government (Model Code of Conduct) Regulations 2021* and deleting various other definitions used throughout the *Meeting Procedures Local Law* that no longer apply.
- Clause 4.4 – this clause amends clause 4.3 in the *Meeting Procedures Local Law* (relating to the order of business at a committee) by deleting the reference to petitions. It is current practice that Council receives petitions and not committees.

The ability for an elected member to request a report for future consideration at a committee is also suggested to be removed (clause 4.3(2)(m)). Any call for a report (or a request for a report), should be made, through a formal motion, that is carried by the required majority of members present at a Council or a committee meeting. Such motions can be raised through the current notice of motion provisions, or through an amendment to a presented recommendation, that is carried by the majority of members at the respective meeting. Such action will allow the Chief Executive Officer to provide background information in respect of any legal, financial or policy implications before it is considered and subsequently determined.

- Clause 4.5 – this clause amends clause 4.6 in the *Meeting Procedures Local Law* (relating to motions for which previous notice has been given) by including a new subclause that prevents a notice of motion being submitted that is similar to a notice of motion submitted in the previous three months, and subsequently defeated by the required majority vote. This suggestion places a time caveat on when Council can again deal with the same matter, that has already been dealt with by Council in the previous three months.

- Clause 4.6 – this clause amends clause 4.8 in the *Meeting Procedures Local Law* (relating to adoption by exception resolution) by deleting the reference to special majority voting as this no longer applies under the Act. The amendment also clarifies that an exception resolution can be used where an employee has declared a financial or proximity interest in an item, however, maintains that it cannot be used when the Mayor or a Councillor so declares. There is no legislative requirement for employees to leave meetings when such declarations are made.
- Clause 4.7 – this clause amends a typographical error in clause 5.7(5) in the *Meeting Procedures Local Law*.
- Clause 4.8 – this clause replaces clause 5.17(2) in the *Meeting Procedures Local Law* (relating to prevention of disturbances) to clarify a person must not use their mobile phone or other electronic device to cause an audible disturbance, which is the intent of the clause as opposed to preventing people from using such devices to read statements, or viewing such devices while in silent mode.
- Clause 4.9 – this clause amends clause 6.6 in the *Meeting Procedures Local Law* by correctly referencing the *Local Government (Model Code of Conduct) Regulations 2021* which deals with impartiality interests for elected members at meetings.
- Clause 4.10 – this clause replaces clause 9.12(1) in the *Meeting Procedures Local Law* (relating to amendments to motions) by inserting a new subclause that an amendment cannot be moved by a mover or seconder to a primary motion. The existing exceptions for amendments are maintained.
- Clause 4.11 – this clause amends clause 10.1 in the *Meeting Procedures Local Law* (relating to procedural motions) by correctly referencing the intent of the procedural motion that “the item be deferred”, not “the motion be deferred”. Motions can technically be deferred through the other listed procedural motion “that the debate be adjourned”.
- Clause 4.12 – this clause replaces clause 10.5 in the *Meeting Procedures Local Law* by correctly referencing the effect of the procedural motion of “that the item be deferred” as detailed above.
- Clause 4.13 – this clause amends clause 17.1 by correctly referencing the *Local Government (Model Code of Conduct) Regulations 2021*.

Should Council wish to proceed with making these changes to the *City of Joondalup Meeting Procedures Local Law 2013*, it is suggested that a new meeting procedures local law is drafted given the comments received from the Department of Local Government. See schedule of submissions at Attachment 2.

Council should note, however, that local government reforms, announced by the Minister for Housing; Lands; Homelessness and Local Government Hon. John Carey BA MLA, on 3 July 2022 call for the standardisation of meeting procedures for all local governments. See Local Government reforms package at Attachment 3. While a timeline for the implementation of this particular reforms has not been announced, it is expected that the regulation of changes to meeting procedures will occur in 2023.

Given the impending local government reforms for the standardisation of meeting procedures, it is suggested that Council do not make any changes to the current *City of Joondalup Meeting Procedures Local Law 2013*. The time taken to draft and prepare a new local law for Council’s consideration can take between 6-12 months, meaning the new standardised meeting procedures may well have been regulated in that time.

Issues and options considered

Council can either:

- note the review of the *City of Joondalup Meeting Procedures Local Law 2013*, and resolve to make no changes, given the impending Local Government reforms, in particular the standardisation of meeting procedures
or
- resolve to make changes to the *City of Joondalup Meeting Procedures Local Law 2013*.

Legislation / Strategic Community Plan / Policy implications

Legislation *Local Government Act 1995.*
City of Joondalup Meeting Procedures Local Law 2013.

10-Year Strategic Community Plan

Key theme Leadership.

Outcome Capable and effective – you have an informed and capable Council backed by a highly-skilled workforce.

Policy Not applicable.

Risk management considerations

There is currently no timeline for the implementation of the Local Government reforms however, it is expected that the changes with regard to the standardisation of meeting procedures will occur in 2023. There is a risk that the implementation of these reforms will take longer than expected. In this case the *City of Joondalup Meeting Procedures Local Law 2013* will continue in force until the standardised meeting procedures are regulated. From a compliance perspective, the City of Joondalup has completed the 8-year review of its local laws and there is no issue in retaining the current *City of Joondalup Meeting Procedures Local Law 2013* until the new standardised meeting procedures are regulated.

Should Council wish to make changes to the *City of Joondalup Meeting Procedures Local Law 2013*, there is a risk that City Officers will start the process of making/amending a local law (which can take between 6-12 months), and the local government reforms will be regulated within that time, meaning the work undertaken will be wasted.

Financial / budget implications

There are no costs to the City should Council wish to retain the *City of Joondalup Meeting Procedures Local Law 2013* with no changes.

Should Council wish to make changes to the *City of Joondalup Meeting Procedures Local Law 2013*, costs are expected to be approximately \$3,000 for advertising the proposed changes and publishing in the *Government Gazette*. Funds are available in the *2022-23 Budget* for statutory advertising.

All amounts quoted in this report are exclusive of GST.

Regional significance

Not applicable.

Sustainability implications

Not applicable.

Consultation

Should Council wish to make changes to the *City of Joondalup Meeting Procedures Local Law 2013*, public consultation will be required in accordance with section 3.12 of the *Local Government Act 1995*.

COMMENT

On 3 July 2022, the Minister for Housing; Lands; Homelessness and Local Government Hon. John Carey BA MLA, announced the final local government reform package (including some amendments to the initial proposals). The reforms include the standardisation of meeting procedures across all local governments to provide greater clarity for ratepayers and applicants for decisions made by council. Regulations would also be introduced to include standard requirements for public question time and the procedures for meetings generally, to allow members of the public to have the same opportunities to address council and ask questions across all local governments.

The amended reforms also include minor changes to Electors' meetings to increase the number of electors required to call an Special Electors' Meeting to 300 (from 100) or five percent of the number of electors (whichever is less); to allow a Presiding Member to refuse to hold a second Electors' Special Meeting if the matter raised has already been considered at a Special Electors' meeting within the last 12 months; and the new meeting procedures regulations would also apply to Electors' meetings, including the Annual Electors' meeting.

VOTING REQUIREMENTS

Simple Majority.

MOVED Cr Chester, SECONDED Cr Kingston that Council:

- 1** **NOTES** the current review of the *City of Joondalup Meeting Procedures Local Law 2013*;
- 2** **AGREES** to make no changes to the *City of Joondalup Meeting Procedures Local Law 2013*, given the impending Local Government reforms, in particular the standardisation of meeting procedures.

The Motion was Put and

CARRIED (6/0)

In favour of the Motion: Crs Thompson, Chester, Hill, Kingston, Poliwka and Raftis.

Appendix 9 refers

To access this attachment on electronic document, click here: [Attach9agnPOLICY221031.pdf](#)

PROCEDURAL MOTION – THAT THE MEETING BE ADJOURNED

MOVED Cr Raftis, **SECONDED** Cr Thompson that the meeting **NOW ADJOURN** under clause 10.8(1) of the *City of Joondalup Meeting Procedures Local Law 2013*, to Monday 7 November 2022 commencing at 6:00pm to be held at the Joondalup Civic Centre (Conference Room 1), Boas Avenue Joondalup.

The Motion was Put and

CARRIED (6/0)

In favour of the Motion: Crs Thompson, Chester, Hill, Kingston, Poliwka and Raftis.

The meeting **ADJOURNED** at 8.57pm with the following Committee Members being present at that time:

CR SUZANNE THOMPSON
CR ADRIAN HILL
CR DANIEL KINGSTON
CR RUSSELL POLIWKA
CR JOHN RAFTIS
CR JOHN CHESTER

RESUMPTION OF MEETING

The Presiding Member declared the **Policy Committee** meeting that commenced on 31 October 2022 **RESUMED** at 6.01pm on Monday 7 November 2022, the following persons being present:

ATTENDANCE

Committee Members

Cr Suzanne Thompson	<i>Presiding Member</i>
Mayor Hon. Albert Jacob, JP	
Cr Adrian Hill	
Cr Daniel Kingston	<i>Deputy Presiding Member</i>
Cr John Raftis	
Cr John Chester	
Cr Russell Poliwka	

Officers:

Mr James Pearson	Chief Executive Officer
Mr Jamie Parry	Director Governance and Strategy
Mr Nico Claassen	Director Infrastructure Services
Mr Mat Humfrey	Director Corporate Services
Mr Chris Leigh	Director Planning and Community Development
Mrs Kylie Bergmann	Manager Governance
Mrs Deborah Gouges	Governance Officer

APOLOGIES AND LEAVE OF ABSENCE

Leave of Absence Previously Approved

Cr John Logan	18 to 27 November 2022 inclusive.
Cr Nige Jones	29 November to 6 December 2022 inclusive.
Cr John Raftis	19 to 31 December 2022 inclusive.

REPORTS

ITEM 12 CITY OF JOONDALUP POLICY MANUAL

WARD	All
RESPONSIBLE DIRECTOR	Mr Jamie Parry Governance and Strategy
FILE NUMBER	110327, 101515
ATTACHMENTS	Attachment 1 Existing (Council) Policies Organised Under New Categories Attachment 2 Introduction to the Policy Manual
AUTHORITY / DISCRETION	Review – Council reviews a decision made by officers.

PURPOSE

To provide an update to Council on the review of the City of Joondalup Policy Manual.

EXECUTIVE SUMMARY

This report provides a broad overview of the review of the City of Joondalup Policy Manual and the resulting administrative changes. These include:

- changing the existing policy types from “City Policy”, “Council Policy” and “Local Planning Policy” to just “Council Policy” and “Local Planning Policy”
- the further categorisation of Council Policies to facilitate navigation of the Policy Manual
- a new introduction to the Policy Manual
- minor updates to the Policy Template
- an annual Policy Review Schedule to be presented to the Policy Committee.

It is therefore recommended that Council:

- 1 *ENDORSES the proposed policy types of “Council Policy” and “Local Planning Policy”, combining the existing policy types of “City Policy” and “Council Policy” as “Council Policies”;*
- 2 *NOTES the new policy categories, and the existing (Council) Policies organised under the new categories provided as Attachment 1;*
- 3 *NOTES the new Introduction to the Policy Manual document provided as Attachment 2;*
- 4 *NOTES the additional information to be included in the Policy Template;*
- 5 *NOTES that an annual Policy Review Schedule will be presented at the first Policy Committee meeting each year.*

BACKGROUND

The initiation, development, adoption and review of the City of Joondalup Policy Manual is one of the roles of Council, outlined in section 2.7 of the *Local Government Act 1995*.

As a fundamental element of corporate governance, local government policies are developed to provide guidance and direction on City activities. Regular reviews ensure that policies remain relevant and applicable.

The City of Joondalup Policy Manual was previously subject to a major review in 2018. It is currently undergoing another major review, with a policy review schedule already partially completed for 2022.

The layout of the electronic Policy Manual and supporting documentation has also been reviewed for relevance and accessibility of information.

DETAILS

Review of policy types

As part of the Policy Manual review, it was identified that the separate policy types of “City”, “Council” and “Planning” were causing confusion, with policies often being mislabelled, and members of the community unsure as to whether the Council was responsible for endorsing *all* of the policies. In addition, queries from the community have trended towards Local Planning Policies far more often than City and Council Policies, with feedback received that it is confusing and difficult to locate policies they are searching for on the City’s website.

Policies are currently defined as follows:

- **City Policies** — developed for administrative and operational purposes with an internal focus.
- **Council Policies** — strategic policies that set governing principles and guide the direction of the organisation to align with community values and aspirations.
- **Planning Policies** — a subset of either City or Council Policies that are prepared in accordance with Clauses 3, 4 and 5 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*. These allow Council to prepare local planning policies relating to planning and development in the Scheme area.

The original intention of these policy types was to differentiate between a strategic policy, an internal facing/operational policy and a local planning policy. Best practice is for policies to be high-level in nature, with the more administrative and operational details being addressed via internal protocols and processes and various levels of planning documents. For this reason, it is proposed that these be changed to only two broad policy types, with the following definitions:

- **Council Policies** — are policies that set the Council’s position in relation to identified matters of interest. Council Policies are adopted by the Council and align with the vision, goals and outcomes of the City’s 10-Year Strategic Community Plan. Council Policies are then further categorised into themes for ease of locating a specific policy within the manual (see below).
- **Local Planning Policies** — are policies that relate to planning and development within the Local Planning Scheme area. Local Planning Policies are developed under the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Policy categories (Council Policies)

Policies are not currently displayed in thematic categories in the Policy Manual, they are shown on the City's website simply in an A–Z table. This can make it difficult to find a specific policy if unsure of the policy name.

A new list of thematic categories has been created for Council Policies to make it easier for community members, Elected Members and City officers to locate specific policies. These categories are intended to be flexible in nature, offering freedom to adapt to address the changing nature and relevance of policies over time. The initial categories are as follows:

- Arts and culture.
- Buildings and facilities.
- Community wellbeing.
- Elected Members and Council.
- Governance and management.
- Parks and public open spaces.
- Rates and finance.
- Roads, parking and transport infrastructure.

The City's existing policies have been categorised as per these categories in Attachment 1.

Introduction to the Policy Manual

The City's electronic Policy Manual is located on the City's website, and currently contains an A–Z list of all policies. There is also a Frequently Asked Questions document that provides information on types of policies, how policies are developed, reviewed and implemented and the role of the Policy Committee.

The new Introduction to the Policy Manual document (Attachment 2 refers) is intended to replace this document. It has been rewritten in "plain English" and is intended to help facilitate understanding of the steps involved in the development and review of policies. This document will be submitted for branding prior to being uploaded to the City's website.

Additional information to be included in the Policy Template

As part of the review, minor changes have been made to the current Policy Template to reflect the proposed changes to the policy types (such as "Council Policies" and "Local Planning Policies"). The template also includes the addition of former policy names, a last reviewed date, and a recordkeeping reference. These changes are largely administrative, but will assist the community, Elected Members and City officers to navigate the Policy Manual and review policy history.

Annual Policy Review Schedule

As part of the review, it was determined that an annual Policy Review Schedule will be created to list all of the existing policies that are planned for review in the upcoming calendar year. This schedule will then be tabled at the first Policy Committee meeting for the calendar year (usually occurring in February). It is anticipated that this will assist Policy Committee members and community members in identifying the proposed review timeframes for each year. Note that the schedule may be subject to change as a result of any issues identified through the policy review process, or where the Policy Committee/Council have requested further changes or review.

COMMENT

The following changes to the electronic Policy Manual on the City's website will be made progressively over the next months:

- Separating the existing policies into thematic categories to make it easier for users to locate specific policies.
- Replacement of the Frequently Asked Questions document with the new Introduction to the Policy Manual document.
- Transition of all current policies to the updated Policy Template.

In regard to the ordering of the categories, it is understood that a number of queries are received from the community relating to Local Planning Policies and how to locate these on the City's website. To ensure that these are easily accessible, they will be listed first, with all the other Council Policy categories to follow.

MOVED Cr Thompson, SECONDED Cr Poliwka that Council:

- 1 ENDORSES the proposed policy types of "Council Policy" and "Local Planning Policy", combining the existing policy types of "City Policy" and "Council Policy" as "Council Policies";**
- 2 NOTES the new policy categories, and the existing (Council) Policies organised under the new categories provided as Attachment 1;**
- 3 NOTES the new Introduction to the Policy Manual document provided as Attachment 2;**
- 4 NOTES the additional information to be included in the Policy Template;**
- 5 NOTES that an annual Policy Review Schedule will be presented at the first Policy Committee meeting each year.**

The Motion was Put and

CARRIED (7/0)

In favour of the Motion: Cr Thompson, Mayor Jacob, Crs Chester, Hill, Kingston, Poliwka and Raftis.

Appendix 10 refers

To access this attachment on electronic document, click here: [Attach10agnPOLICY221031.pdf](#)

ITEM 13 MEMORIALS IN PUBLIC OPEN SPACES POLICY

WARD	All
RESPONSIBLE DIRECTOR	Mr Jamie Parry Governance and Strategy
FILE NUMBER	101273, 101515
ATTACHMENTS	Attachment 1 Memorials in Public Open Spaces Policy — draft revised (and renamed) policy Attachment 2 Memorials in Public Reserves Policy – current policy Attachment 3 Memorials in Public Reserves Policy – Marked up review copy
AUTHORITY / DISCRETION	Legislative – includes the adoption of local laws, planning schemes and policies.

PURPOSE

For Council to adopt the revised *Memorials in Public Reserves Policy* (renamed to *Memorials in Public Open Spaces Policy*).

EXECUTIVE SUMMARY

The *Memorials in Public Reserves Policy* provides guidance on the circumstances in which the City will support and manage the installation of memorials in public open spaces.

Since its introduction in 2009, this policy had a minor amendment in 2012 (CJ093-05/12 refers) and a major amendment in 2016 (CJ228-12/16 refers). As this policy was last reviewed in 2016, it is now due for review as part of the 2022 Policy Manual Review process.

A recent review of this policy, including its supporting documentation and internal processes, has identified the need to streamline the policy to align it with the City's preferred approach to policies and the correct policy template. It is proposed that the more detailed operational components of the policy be removed and incorporated into the supporting documentation instead. This will effectively align the policy to a more strategic level and make it easier for the reader to understand the key aspects of the assessment and application process for memorials in public open spaces.

It is therefore recommended that Council ADOPTS the revised (and renamed) Memorials in Public Open Spaces Policy as detailed in Attachment 1.

BACKGROUND

The *Memorials in Public Reserves Policy* provides guidance on the circumstances in which the City will support and manage the installation of memorials in public open spaces.

Since its introduction in 2009, the City has received 39 applications to install permanent memorials within public locations throughout the City in memory of loved ones who have passed. The *Memorials in Public Reserves Policy* requires a decision of Council to support "significant person" applications for permanent memorials, with four requests supported to date.

In August 2015, the City received an application to consider the installation of a permanent memorial plaque within a City-owned hut on Iluka Beach in memory of a young local person who had passed away in tragic circumstances. The application was not supported on the basis that it did not meet the intentions of the current policy at the time, which required persons to have made a significant contribution to the local Joondalup community. A 947-signature petition was subsequently presented to Council by the applicants (family and community supporters), requesting re-consideration of the application (C56-09/15 refers).

At its meeting held on 23 November 2015 (CJ200-11/15 refers), Council considered a report in response to the petition where support was provided for the temporary installation of a memorial plaque for a period up to 12 months and a request was made for the Policy Committee to conduct a review of the current *Memorials in Public Reserves Policy*.

The policy was subsequently revised and at its meeting held on 28 June 2016 (CJ101-06/16 refers), Council resolved to advertise the revised policy for public comment. The revised policy was advertised for 21 days with 35 valid responses received. Following this consultation period, Council adopted the revised policy at its meeting held on 13 December 2016 (CJ228-12/16 refers).

Since the adoption of the revised policy in December 2016, the City has received seven applications to install temporary memorials within public locations throughout the City.

DETAILS

As part of the process of reviewing the current *Memorials in Public Reserves Policy*, a review of the supporting documentation and internal processes was also undertaken. In line with the City's approach to policies being written at a strategic level, rather than including operational details, the revised Policy has been redrafted, with the intention that the more detailed information will be captured in the supporting documentation instead.

While a new version of the *Memorials in Public Reserves Policy* (renamed to *Memorials in Public Open Spaces Policy*) has been drafted, the proposed changes are considered minor as they do not change the overall intent of the policy in any way. A summary of changes incorporated into the new draft version as are follows:

- 1 Change of the Policy name to align with updated terminology used by the City.
- 2 Change of responsible Directorate from Infrastructure Services to Governance and Strategy, as the focus of this Policy is more around eligibility and assessment criteria for the approval of memorial applications, rather than technical and operational aspects relating to the installations themselves.
- 3 Rewording of the 'Objective' to make it clear that the policy relates more to the eligibility and assessment of applications for memorials, rather than specific details about the actual installation.
- 4 Addition of 'Application' and 'Definitions' sections to the policy to set the scope of the policy and make the terminology clear for the reader.
- 5 Rewording of the policy 'Statement', including the removal of reference to encouraging applicants to install memorials in cemeteries as this is not the intent of the policy.
- 6 Removal of operational details from the Policy. These details will be incorporated into the *Memorials in Public Open Spaces Frequently Asked Questions* document and/or *Memorials in Public Open Spaces Applications Forms* (both temporary and permanent) where applicable. For example:
 - Removal of reference to specific design and technical specifications for types of memorials.
 - Removal of specific examples of eligibility criteria for memorial applications.
- 7 General wording and layout changes to plain English to provide greater clarity for the reader.

8 General formatting changes to align the policy with the correct policy template.

Attachment 1 and Attachment 3 provide the draft version of the revised *Memorials in Public Open Spaces Policy* and a change marked up version of the *Memorials in Public Reserves Policy* respectively for review. Attachment 2 provides the current *Memorials in Public Reserves Policy* for reference.

Issues and options considered

Further matters for consideration in managing memorials in public areas include the potential loss of amenity in popular public locations throughout the City from the installation of permanent memorials, where deceased persons have had a personal connection or association with.

Due to the nature of and reasons behind applications for memorials, flexibility is required in the decision-making process to accommodate the range of scenarios that such a policy may be applied to.

Option 1

Council can adopt the revised (and renamed) *Memorials in Public Open Spaces Policy*.

Option 2

Council can adopt with amendments the revised (and renamed) *Memorials in Public Open Spaces Policy*.

Option 3

Council can choose to retain the current *Memorials in Public Reserves Policy*.

It is recommended that Council adopts the revised (and renamed) *Memorials in Public Open Spaces Policy* included as Attachment 1 (Option 1).

Legislation / Strategic Community Plan / Policy implications

Legislation Not applicable.

10-Year Strategic Community Plan

Key theme Community.

Outcome Attractive and Leafy - you have access to quality public open spaces and enjoy appealing streetscapes.

Policy Not applicable.

Risk management considerations

While the *Memorials in Public Reserves Policy* has provided useful guidance to the City in the management and requests for public memorials, it is important that the content of the policy and its associated processes are straightforward and appropriately reflect the policy's stated intentions. Without amendment, there is a risk that the current policy may contain more information than is required at a policy level, and lead to confusion over the application requirements.

Financial / budget implications

Not applicable.

Regional significance

Not applicable.

Sustainability implications

Not applicable.

Consultation

Not applicable.

COMMENT

In addition to the proposed new version of the *Memorials in Public Open Spaces Policy*, there are a number of intended changes that will be incorporated into supporting documentation for this policy. These changes seek to inform the community through improved and clear information to make it easier for both the applicant and the City to consider and process memorial requests. These changes to supporting documentation and processes will be implemented when and if the new version of the policy is approved.

VOTING REQUIREMENTS

Simple Majority.

MOVED Cr Chester, SECONDED Cr Kingston that Council ADOPTS the revised (and renamed) *Memorials in Public Open Spaces Policy* provided as Attachment 1 to this Report.

AMENDMENT MOVED Cr Kingston, SECONDED Cr Thompson that Council ADOPTS the revised (and renamed) *Memorials in Public Open Spaces Policy*, provided as Attachment 1 to this Report subject to the following amendments to the Policy:

- 1 That Part 2. Definitions “permanent memorial” be amended so that the word “e.g” be replaced with the word “i.e” to read as follows:**

“permanent memorial” means a small, permanent monument (i.e engraved plaque, benchseat) to commemorate a person who made a significant contribution to the City of Joondalup community.”

The Amendment was Put and

CARRIED (6/1)

In favour of the Amendment: Cr Thompson, Mayor Jacob, Crs Chester, Kingston, Poliwka and Raftis.

Against the Amendment: Cr Hill.

The Original Motion as amended being:

That Council ADOPTS the revised (and renamed) *Memorials in Public Open Spaces Policy* provided as Attachment 1 to this Report subject to the following amendments to the Policy:

- 1 That Part 2. Definitions “permanent memorial” be amended so that the word “e.g” be replaced with the word “i.e” to read as follows:**

“permanent memorial” means a small, permanent monument (i.e engraved plaque, benchseat) to commemorate a person who made a significant contribution to the City of Joondalupcommunity.”

was Put and

CARRIED (7/0)

In favour of the Motion: Cr Thompson, Mayor Jacob, Crs Chester, Hill, Kingston, Poliwka and Raftis.

Appendix 11 refers

To access this attachment on electronic document, click here: [Attach11agnPOLICY221031.pdf](#)

ITEM 14 MODEL LITIGANT FOR CIVIL LITIGATION POLICY

WARD	All
RESPONSIBLE DIRECTOR	Mr Jamie Parry Governance and Strategy
FILE NUMBER	101515
ATTACHMENTS	Attachment 1 NSW Model Litigant Policy for Civil Litigation Attachment 2 Draft Model Litigant for Civil Litigation Policy
AUTHORITY / DISCRETION	Legislative - includes the adoption of local laws, planning schemes and policies.

PURPOSE

For Council to adopt the Model Litigant for Civil Litigation Policy (Attachment 2 refers).

EXECUTIVE SUMMARY

At the Policy Committee held on 9 May 2022, it was requested that the Chief Executive Officer prepare a report on the drafting of a Model Litigant Policy for the City.

At the Council meeting held on 16 August 2022 (Item CJ145-08/22 refers) it was resolved *that Council SUPPORTS the development of a Model Litigant for Civil Litigation Policy.*

The City of Joondalup (and legal practitioners representing the City) have various obligations to act fairly reflecting values related to:

- protecting the reasonable expectations of those dealing with the City (such as public trust)
- ensuring that the powers possessed by the City, whether conferred by statute or by contract, are exercised 'for the public good'
- requiring the City to act as 'moral exemplar' leading by example.

The report details how model litigant rules are applied, also giving consideration to current legal practitioner standards. Should the Council consider that the adoption of a Model Litigant for Civil Litigation Policy would enhance the City's ethical standards as a government body in civil litigation matters then consideration is to be given to adoption of the draft Policy.

It is therefore recommended that Council ADOPTS the Model Litigant for Civil Litigation Policy as shown in Attachment 2.

BACKGROUND

At the Policy Committee meeting held on 9 May 2022 Cr Raftis requested that the Chief Executive Officer prepare a report on the drafting of a Model Litigant Policy for the City. Cr Raftis requested that the report consider matters contained within the New South Wales Model Litigant Policy for Civil Litigation (Attachment 2 refers).

At its meeting held on 16 August 2022 (CJ145-08/22 refers) Council resolved *that Council SUPPORTS the development of a Model Litigant for Civil Litigation Policy.*

A Policy has been developed using the New South Wales Model Litigant Policy for Civil Litigation as a template, as referred to by the Policy Committee and Council.

DETAILS

Model Litigant Rules - Defined

Model litigant rules (obligations) are guidelines for how a government ought to behave before, during, and after litigation with another government body, a private company, or an individual. The model litigant rules provide best practice for government agencies in civil litigation matters.

The obligation of a model litigant is generally considered to encompass a range of specific duties, including dealing with claims promptly, minimising delay in proceedings, acting consistently in the handling of claims and litigation, using alternative dispute resolution options, minimising costs in proceedings and not taking technical points unless the agencies' interests would be compromised.

In civil litigation, there can sometimes be a significant imbalance of power (whether perceived or actual) between government agencies and other parties to the proceedings. Government agencies may have access to substantial resources, powers to investigate, greater power to compel people to provide information, and/or greater experience and expertise in dealing with complex and contentious legal matters.

Behind each of the duties is an overarching duty to act honestly, fairly, with complete propriety and in accordance with the highest professional standards.

The rules are designed to tread a middle ground. On the one hand, they recognise that a government body is often better resourced than small companies or individuals, and is supposed to lead by example, protecting the public interest as opposed to its own private interest.

However, these rules are not designed to prevent a government body from acting firmly and properly to protect their interests, taking all legitimate steps to pursue or defend claims, or even from pursuing litigation in order to clarify a significant point of law even if the other party wishes to settle the dispute. It must be recognised that government bodies pursuing or defending claims are doing so on behalf of the public, and the public's rights ought not to be undermined in the face of genuine litigation.

Adoption of Model Litigant Policies

In an effort to codify and confirm their commitment to their model litigant obligations, the Commonwealth Government and some state and territory governments have adopted written policies. The Commonwealth, Victoria, Queensland, New South Wales and the Australian Capital Territory all follow similar policies, while Western Australia, Tasmania and South Australia are subject to the principles of the common law (as such model litigant obligations are still likely to apply).

The policy proposed to be adopted is an amended version of the New South Wales Model Litigant Policy and is also similar to that adopted by the Town of Cambridge. The City of Rockingham recently considered whether to develop a similar Policy (as a result of a Notice of Motion), however, at its March 2022 meeting Council declined to progress.

The written policies of the Commonwealth and other States provide that the obligations apply before courts, tribunals, inquiries, in arbitration and other alternative dispute resolution processes.

The policy proposed is to apply to civil litigation only (as referred to in the reason for the proposal by Cr Raftis) and not apply to all prosecutions undertaken by the City including those related to parking, dog or building offences; or propagating Council's position at the State Administrative Tribunal.

For the purposes of this report, the proposed Policy applies to civil litigation only, as specifically referred to in the reasons by Cr Raftis to the Policy Committee for proposing a policy.

City's Involvement in Civil Litigation

The City's involvement in civil litigation generally involves:

- Civil actions by the City to recover rates (which are conducted by the City's external solicitors); and
- Civil actions against the City (to which the City's insurer responds).

Proceedings to recover rates are only commenced when less formal efforts have been unsuccessful via a letter of demand not resulting in the debtor agreeing to pay off the debt over time. The City has a *Rates Hardship Policy* which is intended to ensure that the City offers fair, equitable, consistent, respectful and dignified support to ratepayers experiencing financial hardship.

When proceedings are commenced, the City engages external solicitors who endeavour to bring the matter to a swift conclusion without the need for a trial, but this is not always possible to achieve. It is rare for such proceedings to proceed to a formal trial.

When proceedings are commenced (or a claim is made) against the City (such as for personal injury, workers' compensation or property damage), the City's insurer (LGIS) will generally take over the conduct of the matter and will either manage the claim itself or engage solicitors from its panel to represent the City. If the City were to act contrary to LGIS' instructions, the City may lose cover under the relevant policy. It is therefore suggested that any policy would need to extend to action undertaken by the City's insurers as a matter of their own accord.

When external solicitors are engaged, they must act in accordance with legislative requirements and onerous professional standards which are enforced by the Legal Practice Board and ultimately, the Supreme Court of Western Australia. General Counsel has general oversight of court proceedings in which the City is involved and is subject to the same professional obligations set out below.

The Professional Obligations

The primary legislation/rules governing these professional obligations comprises:

- *Legal Profession Uniform Law Application Act 2022*
- *WA Barristers' Rules 2017*
- *Supreme Court Act 1935*
- Supreme Court Rules.

The professional standards by which a legal practitioner's conduct will be judged include the following:

- Law Society of Western Australia's Ethical and Practical Guidelines [here](#).
- Western Australian Bar Association's Best Practice Paper - Confining the Issues in Dispute in Civil Litigation (Best Practice Paper) [here](#).
- Western Australian Bar Association's Best Practice Paper – Communication and Conferral (Best Practice Paper) [here](#).

The Law Society of Western Australia's Ethical and Practical Guidelines include the following:

- Practitioners are required to act with honesty and integrity, whether in litigious matters or commercial transactions. Practitioners must never misrepresent, mislead or deceive in any way: cl 1.
- The same ethical obligations apply in relation to mediation as apply in all other areas of practice. The paramount duty to the Court and to the administration of justice assumes great practical significance, since mediation is regarded as a primary means of achieving the objectives of case flow management: cl 10.2.
- The primary function of a practitioner in a mediation is to assist the client, not to engage in adversarial advocacy: cl 10.8.

The Western Australian Bar Association's Best Practice Paper *Confining the Issues in Dispute in Civil Litigation* includes the following:

- Lawyers owe ethical duties to their clients and general duties to the court to ensure that cases are conducted so as to avoid unnecessary expense and wastage of court time: cl 1.3.
- The ultimate narrowing of issues is a settlement. Lawyers should advise the acceptance of reasonable offers to settle: cl 3.1.
- Care should be taken when preparing pleadings to ensure that the disputed issues on the pleadings truly reflect the outstanding matters in issue in the proceedings: cl 3.4.
- Lawyers are required to engage in conferral by Order 59 Rule 9 of the SCR before making any interlocutory application: 4.7.

The Western Australian Bar Association's Best Practice Paper – *Communication and Conferral* includes the following:

- An adversarial system should not be unduly combative. Litigation is neither a game nor an opportunity for practitioners to demonstrate their knowledge of "The Art of War": cl 21.
- Practitioners should at all times communicate by reference to their role as professional advisers and officers of the court. This requires the exercise of professional judgment and the avoidance of communicating as a mere mouthpiece of the client. The practitioner's duty is to ensure that only matters necessary for the proper disposition of the claim are dealt with: cl 41

A search of the eCourts Portal provides that there are a number of decisions involving the City of Joondalup, including:

- Supreme Court – 17 decisions.
- State Administrative Tribunal – 169 decisions.
- Magistrates court – Nil.
- District Court – Nil.

Codes of Conduct

If the Council considers it would be beneficial to adopt a *Model Litigant for Civil Litigation Policy*, it should be satisfied whether such a policy is warranted given legal professional standards and guidelines and that the City's obligations under its *Code of Conduct for Employees* which establishes the principles and standards of behaviour employees must observe when performing their duties, intended to promote accountable and ethical decision-making. The code must be read in conjunction with the *Local Government Act 1995*, the *Local Government (Administration) Regulations 1996* and other legislation that affect employees while performing their duties and the code does not override or affect those provisions or requirements.

The City's inhouse legal officer is obliged to act in accordance with the City's Code and to be aware of the extent of the model litigant obligations as ethical issues will frequently arise. Active consideration of the obligations will prevent breaches occurring.

The City's engagement of legal representation to act on its behalf would take into account the City's values, principles and standards observed when performing duties, not excluding their own professional ethical obligations and any laws related to performance of legal work.

Issues and options considered

The Committee may either:

- 1 recommend to the Council to adopt the *Model Litigant for Civil Litigation Policy*, as presented in Attachment 2
- 2 recommend to the Council to adopt the *Model Litigant for Civil Litigation Policy*, as presented in Attachment 2 in an amended form
- 3 not progress development of a *Model Litigant for Civil Litigation Policy*
or
- 4 recommend to the Council that it advocate to the Minister for Local Government and/or WA Local Government Association that a *Model Litigant for Civil Litigation Policy* be considered as part of the review of the *Local Government Act 1995* to enhance the ethical standards of local governments.

Given section 2.7 of the *Local Government Act 1995* provides that the role of Council is in part to determine the local government's policies, it is considered that the Policy Committee considers its preferred option.

As the Council has endorsed the development of a policy Option 1 is the preferred option.

Legislation / Strategic Community Plan / Policy implications

Legislation Section 5.92 of the *Local Government Act 1992*.

10-Year Strategic Community Plan

Key theme Leadership.

Outcome Capable and effective – you have an informed and capable Council backed by a highly-skilled workforce.

Strategic initiative Demonstrate accountability through robust reporting that is relevant and easily accessible by the community.

Policy *City of Joondalup Rates Hardship Policy.*
City of Joondalup Payment of Rates and Charges Policy.
City of Joondalup Code of Conduct for Employees.

Risk management considerations

There is no direct enforcement mechanism to ensure compliance with Model Litigant Guidelines. Negative consequences of non-compliance include judicial and public criticism.

Financial / budget implications

Not applicable.

Regional significance

Not applicable.

Sustainability implications

Not applicable.

Consultation

Not applicable.

COMMENT

At the Commonwealth level, the Crown's model litigant rules are now grounded in the *Legal Services Directions*, enforced by the Attorney-General through a light-touch system of self-monitoring and reporting, and the common law through the court's procedural powers to impose costs and stay proceedings in which the government is a litigant, or in extreme cases where failure to meet the model litigant standards has resulted in a miscarriage of justice, overturn the outcome on appeal.

Western Australia has not adopted such rules and is subject to the principles of the common law (where model litigant obligations are still likely to apply).

The City of Joondalup (and legal practitioners representing the City) have various obligations to act fairly reflecting values related to:

- protecting the reasonable expectations of those dealing with the City (such as public trust)
- ensuring that the powers possessed by the City, whether conferred by statute or by contract, are exercised 'for the public good'
- requiring the City to act as 'moral exemplar' leading by example.

The adoption of a Model Litigant for Civil Litigation Policy may enhance the City's ethical standards as a government body in civil litigation matters, directed more to good governance and administration than mere conduct as a litigant in Court.

VOTING REQUIREMENTS

Simple Majority.

MOVED Cr Raftis, SECONDED Cr Kingston that Council ADOPTS the Model Litigant for Civil Litigation Policy as shown in Attachment 2 to this Report.

The Motion was Put and

CARRIED (7/0)

In favour of the Motion: Cr Thompson, Mayor Jacob, Crs Chester, Hill, Kingston, Poliwka and Raftis.

Appendix 12 refers

To access this attachment on electronic document, click here: [Attach12agnPOLICY221031.pdf](#)

ITEM 15 REVIEW OF PEST PLANT LOCAL LAW 2012

WARD	All
RESPONSIBLE DIRECTOR	Mr Jamie Parry Governance and Strategy
FILE NUMBER	102082, 101515
ATTACHMENTS	Attachment 1 <i>City of Joondalup Pest Plant Local Law 2012</i>
AUTHORITY / DISCRETION	Legislative – includes the adoption of local laws, planning schemes and policies.

PURPOSE

For Council to consider the recommendations made in this report regarding the inclusion of fleabane as a pest plant in the City's *Pest Plant Local Law 2012*.

EXECUTIVE SUMMARY

At its meeting held on 20 November 2012 (CJ232-11/12 refers), Council adopted the *City of Joondalup Pest Plant Local Law 2012*, currently only one plant species is prescribed as a pest, *Tribulus terrestris*, commonly known as Caltrop.

Within the City, there are 285 identified weeds including 15 declared pest plants and five weeds of national significance. These weed species are often widespread and without control can alter natural areas and public open spaces reducing biodiversity and amenity.

In 2016, Council adopted the *Weed Management Plan 2016 - 2021* which details an integrated weed management approach to prevent, monitor, prioritise and control the introduction and spread of weeds in the City. A review of the Weed Management Plan is in progress and an updated draft plan will be presented to Council to seek endorsement for community consultation.

At its meeting held on 18 May 2021 (CJ063-05/21 refers), Council considered a report on the motions carried at the Annual General Meeting (AGM) held on 23 March 2021 and resolved in part, that:

In relation to Motion No. 10 carried at the Annual General Meeting of Electors:

“11.5 SUPPORTS a review of the City's Pest Plant Local Law 2012 to include other species of weed, such as Fleabane;”

Fleabane is a widespread weed within Western Australia and is of most concern in agricultural areas where it competes for the vital resource of soil water in both crop and fallow phases of production. Given how widespread fleabane is within the City, the challenges in managing the weed on City land, and the substantial resources that would be required if it were to be designated as a pest plant, the City considers it may not be appropriate to include fleabane as a prescribed pest plant within the City's *Pest Plant Local Law 2012*.

It is therefore recommended that Council:

- 1 *NOTES that the City currently undertakes the control of known infestations of fleabane on land managed by the City;*
- 2 *NOTES that the City continues to raise community awareness of Fleabane and other environmental weeds through the Environmental Education Program;*
- 3 *NOTES that the City continues to work with the WALGA Local Government Herbicide Use and Integrated Weed Management Working Group to raise broader awareness of weed management on private property;*
- 4 *NOTES the previous Council decision (CJ006-02/21 refers) that the City of Joondalup Pest Plant Local Law 2012 be retained in its current form;*
- 5 *DOES NOT SUPPORT an amendment to the City's Pest Plant Local Law 2012, to include Fleabane as a prescribed pest plant.*

BACKGROUND

At its meeting held on 20 November 2012 (CJ232-11/12 refers), Council adopted the *City of Joondalup Pest Plant Local Law 2012*, as detailed in Attachment 1 to this Report.

The purpose of the *City of Joondalup Pest Plant Local Law 2012* is to:

Prescribe pest plants within the City of Joondalup district that, in the local government's opinion, are likely to adversely affect the value of property in the district or the health, comfort or convenience of the inhabitants of the district.

The effect of the *City of Joondalup Pest Plant Local Law 2012* is to:

Require the owner or occupier of private land within the City of Joondalup district to destroy, eradicate or otherwise control pest plants on and in relation to that land in a manner and within a time specified in a notice given by the local government and served on the owner or occupier of the land.

At its meeting held on 16 February 2021 (CJ006-02/21 refers), Council considered whether to retain, repeal or amend the *City of Joondalup Pest Plant Local Law 2012* as part of its eight-year statutory local law review process. It was noted that no submissions were received in relation to the *City of Joondalup Pest Plant Local Law 2012*, and council resolved in part, that:

2.2 *Local laws to be retained:*

2.2.1 *City of Joondalup Pest Plant Local Law 2012.*

At its meeting held on 18 May 2021 (CJ063-05/21 refers), Council considered a report on the motions carried at the AGM held on 23 March 2021 and resolved in part, that:

In relation to Motion No. 10 carried at the Annual General Meeting of Electors:

11.5 *SUPPORTS a review of the City's Pest Plant Local Law 2012 to include other species of weed, such as Fleabane.*

Fleabane germinates in spring and become major weeds in summer. Fleabane is a fast-growing tall plant that can grow to over a metre in height. The height of the plant makes it a highly visible weed in bushland, road verges and garden beds.

DETAILS

There are two main species of Fleabane in Australia, Flaxleaf Fleabane (*Conyza bonariensis*) and Tall Fleabane (*Conyza albida*), both of which are emerging weeds in Western Australia.

Fleabane is rated as a low priority weed under the *Environmental Weed Strategy for WA 1999* and is not classified as a Weed of National Significance or declared pest in Western Australia. Fleabane is not listed as a priority weed in the City's *Weed Management Plan 2016 – 2021*.

Fleabane is a common broadleaf weed that is managed in the City's parks and urban landscaped areas. The City manages in excess of 500 hectares of natural areas and fleabane is found in many bushland reserves. The weed is controlled with herbicides prior to seeding and large plants are removed by hand.

Effective weed control within private land is an important element to weed management, however it is considered that raising awareness of the species that should be planted and the importance of managing weeds on private property would be more effective mechanisms compared to expanding the current local law. The City has drafted a new Weed Management Plan which will provide ongoing direction for an integrated approach to weed management. The delivery of a comprehensive community weed education program is included in the new Weed Management Plan.

The City's *Environment Plan* includes a key objective to enhance community participation in environmental education initiatives and encourage community appreciation and ownership of the natural environment. As part of the Plan, the City delivers a series of environmental activities throughout the year to encourage conservation and greater interaction with the natural environment with its ongoing Environmental Education Program. The City has also developed the 'Being WEEDwise Environmental Weeds' brochure which specifies Tall Fleabane as a weed to control within residential property.

The City shares weed management information and research as part of the Western Australian Local Government Association (WALGA) Local Government Herbicide Use and Integrated Weed Management Working Group with other local governments in WA. The Working Group is currently establishing an integrated weed management communications campaign including community education and awareness raising regarding weed management and the various methods used to control weeds.

Caltrop (*Tribulus terrestris*) is a pest plant under the City's *Pest Plant Local Law 2012*. The City maintains a Caltrop register to document confirmed locations of Caltrop on land managed by the City and public property. All Caltrop locations are inspected annually. The addition of further prescribed species such as Fleabane would require an increase in resources to liaise with property owners and monitor and record Fleabane locations within the City, due to its widespread distribution.

Issues and options considered

With regard to the *Pest Plant Local Law 2012*, Council has the option to:

- note the review of the City's *Pest Plant Local Law 2012* does not recommend including Fleabane as a prescribed pest plant
or
- amend the City's *Pest Plant Local Law 2012* to include Fleabane as a pest plant.

Option 1 is the recommended option as Fleabane is a low priority weed that is widespread within the City and substantial resources would be required for management if it were to be designated as a pest plant. The City will continue to conduct an integrated weed management approach including targeting fleabane and also implement community education initiatives to encourage weed management on private property.

Legislation / Strategic Community Plan / Policy implications

Legislation *City of Joondalup Pest Plant Local Law 2012.*
Biosecurity and Agriculture Management Act 2007.

10-Year Strategic Community Plan

Key theme Environment.

Outcome Managed and protected - you value and enjoy the biodiversity in local bushland, wetland and coastal areas.

Policy *Sustainability Policy.*

Risk management considerations

The inclusion of Fleabane as a pest plant in the City's *Pest Plant Local Law 2012* could increase community focus on the City's management of fleabane on land under its jurisdiction. The City may receive criticism if it attempts to enforce control of Fleabane on private land and has not effectively controlled the weed on City managed land.

Financial / budget implications

The addition of Fleabane as a prescribed plant under the *City of Joondalup Pest Plant Local Law 2012* will have financial implications. Due to the widespread nature of the weed species additional resources will be required to record and monitor sightings within the City.

The delivery of community education campaigns to raise awareness of the need to control Fleabane and other environmental weeds on private property would be at a moderate cost and could be funded through existing operational budgets.

Regional significance

There are a variety of regionally, nationally and internationally significant natural areas located within and adjacent to the City including the Yellagonga Regional Park and a number of Bush Forever sites which contain species of high conservation value. Weeds can pose a threat to natural areas by degrading vegetation communities.

The WALGA Local Government Herbicide Use and Integrated Weed Management Working Group includes representatives from 27 Local Governments in WA and enables the sharing of information and research to assist local governments to make informed decisions on integrated weed management approaches. A key objective of the Working Group is to build community support for weed control programs.

Sustainability implications

The City implements an integrated weed management approach to protect biodiversity and maintain the amenity and aesthetics of the City's public open spaces. Weed control and management is undertaken to protect biodiversity, reduce bushfire risk, reduce damage to infrastructure and meet community expectations for the amenity and aesthetics of local areas.

Consultation

Not applicable.

COMMENT

Weeds are one of the major threats to Australia's natural environment and biodiversity and can change the natural diversity and balance of ecological communities. The City is committed to the ongoing management and conservation of the City's natural and urban environment. Integrated weed management, inclusive of utilising a suite of weed control techniques and timely interventions, is essential to the ongoing protection and enhancement of the City's natural environment.

In alignment with the adopted approach in the City's *Weed Management Plan 2016 – 2021* the City prioritises management of weeds that are identified as priority species, as per the list of State declared weed species and Federally listed Weeds of National Significance.

Given how widespread Fleabane is within the City, the challenges in managing the weed on City land, and the substantial resources that would be required if it were to be prescribed as a pest plant, the City considers it would not be appropriate to include Fleabane as a prescribed pest plant within the City's *Pest Plant Local Law 2012*.

The City will continue to raise awareness regarding the importance of weed control on private property through the Environmental Education Program and the WALGA Local Government Herbicide Use and Integrated Weed Management Working Group.

VOTING REQUIREMENTS

Simple Majority.

MOVED Cr Chester, SECONDED Cr Raftis that Council:

- 1** NOTES that the City currently undertakes the control of known infestations of fleabane on land managed by the City;
- 2** NOTES that the City continues to raise community awareness of Fleabane and other environmental weeds through the Environmental Education Program;
- 3** NOTES that the City continues to work with the WALGA Local Government Herbicide Use and Integrated Weed Management Working Group to raise broader awareness of weed management on private property;
- 4** NOTES the previous Council decision (CJ006-02/21 refers) that the *City of Joondalup Pest Plant Local Law 2012* be retained in its current form;
- 5** DOES NOT SUPPORT an amendment to the City's *Pest Plant Local Law 2012*, to include Fleabane as a prescribed pest plant.

The Motion was Put and

CARRIED (7/0)

In favour of the Motion: Cr Thompson, Mayor Jacob, Crs Chester, Hill, Kingston, Poliwka and Raftis.

Appendix 13 refers

To access this attachment on electronic document, click here: [Attach13agnPOLICY221031.pdf](#)

ITEM 16 REVIEW OF VARIOUS LOCAL PLANNING POLICIES

WARD	All
RESPONSIBLE DIRECTOR	Mr Chris Leigh Planning and Community Development
FILE NUMBER	105198, 101515, 89391, 106461, 102667, 100010, 05575
ATTACHMENTS	Attachment 1 <i>Coastal Local Planning Policy</i> – tracked changes Attachment 2 <i>Requests for Sale of Public Open Space Reserves Local Planning Policy</i> – tracked changes Attachment 3 <i>McLarty Avenue Local Planning Policy</i> – tracked changes Attachment 4 <i>Environmentally Sustainable Design Local Planning Policy</i> – tracked changes Attachment 5 <i>Notification of Approved Commercial Development Policy</i> Attachment 6 <i>Retaining Walls – Subdivision Policy</i>
AUTHORITY / DISCRETION	Legislative - includes the adoption of local laws, planning schemes and policies.

PURPOSE

For Council to consider a review of the operation of various existing local planning policies.

EXECUTIVE SUMMARY

The City has a suite of local planning policies that provide guidance on a range of planning matters, including specifying development standards and guiding the exercise of discretion.

Local planning policies are prepared in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* (LPS Regulations). While there is no requirement under the LPS Regulations for local planning policies to be reviewed regularly, it is good practice to ensure that the City's local planning policy framework remains appropriate and relevant to changes in planning legislation.

The majority of the City's local planning policies were reviewed or implemented as part of the implementation of *Local Planning Scheme No. 3* (LPS3) in 2018, however there are a number of policies that were not directly impacted by changes to LPS3 and the operation of these policies have not been formally reviewed in over five years.

This report addresses the following local planning policies:

- *Coastal Local Planning Policy.*
- *Requests for Sale of Public Open Space Reserves Local Planning Policy.*
- *McLarty Avenue Local Planning Policy.*
- *Environmentally Sustainable Design Local Planning Policy.*
- *Notification of Approved Commercial Development Policy.*
- *Retaining Walls – Subdivision Policy.*

Following a review of the operation of these policies, it is recommended that amendments are made to the following policies, including format improvements and wording changes to improve consistency and clarity:

- *Coastal Local Planning Policy.*
- *McLarty Avenue Local Planning Policy.*
- *Requests for Sale of Public Open Space Reserves Local Planning Policy.*
- *Environmentally Sustainable Design Local Planning Policy.*

The proposed amendments are considered to be minor in nature and as such, consistent with the City's *Planning Consultation Local Planning Policy* and LPS Regulations, the policies are not required to be advertised for public comment.

It is recommended that the following policies be revoked as changes to the planning framework mean that the requirements of these policies are no longer considered relevant:

- *Retaining Walls – Subdivision Policy*
- *Notification of Approved Commercial Development Policy*

There is no requirement under the *Planning Consultation Local Planning Policy* or LPS Regulations for the revocation of local planning policies to be advertised for public comment.

It is therefore recommended that Council proceed with the amendment and revocation of policies as outlined above.

BACKGROUND

Local planning policies are prepared in accordance with the provisions of the LPS Regulations. While there is no requirement for local planning policies to be reviewed, it is good practice to ensure that the policy framework remains relevant to changes in the planning legislation.

The majority of local planning policies were prepared or reviewed as part of the implementation of *Local Planning Scheme No. 3* in 2018, however there are a number of policies that were not directly impacted by changes to LPS3 and a review of the operation of these policies have not been formally undertaken in over five years. The policies that are the subject of this report were adopted between 1999 and 2017.

DETAILS

Coastal Local Planning Policy

The *Coastal Local Planning Policy* was adopted in 2017 in response to *State Planning Policy 2.6 State Coastal Planning* and as part of the City's coastal hazard planning.

The policy outlines requirements for planning proposals relating to the subdivision and development of land in areas that are subject to coastal risk, including the requirement for a notice on the certificate of title, and coastal hazard risk management and adaptation planning in certain situations. The policy is not intended to cover the City's processes and response to monitoring and managing coastal risk.

The policy is still considered relevant and it is recommended that the policy be retained, with a minor amendment to the format of the policy as outlined in Attachment 1.

Requests for Sale of Public Open Space Reserves Local Planning Policy

The *Requests for Sale of Public Open Space Reserves Local Planning Policy* was adopted in 2006 in response to a number of requests from landowners to purchase adjoining portions of public open space, often to increase the size of their lot. The policy provides guidelines for the assessment of requests for sale of public open space. The policy and principles outlined in relation to the sale of public open space are still considered relevant, including outlining Council's position on the importance of public open space.

It is therefore considered that the policy should be retained. Minor amendments to the policy are recommended to reference the correct current planning documents and to align with the current policy template. It is also recommended that clause 4.1d. be reworded to remove the reference to the exercise of delegated authority as this is not appropriate within a local planning policy. The proposed amendments are outlined in Attachment 2.

McLarty Avenue Local Planning Policy

The *McLarty Avenue Local Planning Policy* was adopted in 2017. The policy was prepared in conjunction with the Department of Communities to guide the development of the vacant 9.6ha land at Lot 9000 Joondalup Drive and Lot 999 Piccadilly Circle, Joondalup. These sites are owned by the State Government and have previously been identified for a high density mixed use precinct. There has been no indication on timing for development occurring on this site.

The policy complements the *Joondalup Activity Centre Plan* by providing greater detail to guide any development of the sites. While there is no detail on timing for development the site, the policy still provides an appropriate framework to guide future development.

It is therefore considered that the policy should be retained. Minor amendments are recommended to the policy to reference the current site details, correct legislative references and update the format to include a policy statement, as outlined in Attachment 3.

Environmentally Sustainable Design Local Planning Policy

The *Environmentally Sustainable Design Local Planning Policy* and associated checklist was adopted in 2011 and responded to a Council resolution requesting the preparation of a policy to encourage construction of green star buildings.

The aim of the policy is to promote the incorporation of environmentally sustainable design (ESD) principles in the design of new and redeveloped residential, commercial and mixed-use buildings in the City (excluding single houses, grouped dwellings, internal fit-outs and minor additions). The policy requires applicants to complete a checklist as part of their application for development approval, outlining what ESD principles have been incorporated into the development. This checklist is subsequently assessed by the City and included in the documentation provided to the Joondalup Design Review Panel for consideration. Where there are opportunities to improve the design of developments, these are discussed with the applicant as part of the assessment process.

There is no state-wide guidance for implementing ESD requirements through the planning framework and different approaches have been taken by other local governments through local planning policies. The requirements of other local government policies include minimum standards for dwellings in dual density areas and a minimum green star rating for non-residential buildings.

The *National Construction Code - Building Code of Australia* (BCA) provides energy efficiency standards that are required to be met for developments. This is considered the appropriate mechanism for mandating ESD requirements as all building permit applications submitted to the City are required to demonstrate compliance. The energy efficiency requirements have been regularly reviewed and updated since their introduction in 2006. In 2019, more stringent energy efficiency requirements were released for commercial buildings. In August 2022, further energy efficiency measures for residential development were adopted, and it is intended these will begin to take effect in 2023.

Under the *Planning and Development Act 2005*, the requirements of the BCA prevail over any inconsistency with a local planning scheme, and a local government must have regard to the regulations made under the *Building Act 2011* when implementing its scheme.

In addition to the City's *Environmentally Sustainable Design Local Planning Policy*, other development standards are provided in State and City planning policies to improve the sustainability of buildings. These include the following:

- *State Planning Policy 7: The Design of the Built Environment* (SPP7) includes a sustainability design principle. This policy is a high level policy applying to all planning proposals. The design principles of SPP7 also form the basis for the Joondalup Design Review Panel to assess planning proposals.
- For commercial buildings, development controls in the City's policies require shading to windows, end of trip facilities and landscaping.
- For multiple dwellings, the *Residential Design Codes Volume 2* includes development standards to improve energy efficiency, influencing the siting and design of buildings.
- For single house and grouped dwellings, the *Residential Design Codes Volume 1* provides some environmentally sustainable design requirements, including the protection of solar access for residential buildings.
- The *Development in Housing Opportunity Areas Local Planning Policy* includes additional environmentally sustainable design requirements such as landscaping, solar passive design and natural ventilation.
- It is anticipated that the *Medium Density Code* will be released by the State Government and come into effect during 2023. This will require the City to review the *Development in Housing Opportunity Areas Local Planning Policy* and *Residential Development Local Planning Policy*. Part of this review will include considering opportunities to incorporate sustainable design elements for residential development.

Given these planning requirements and that work is being done to increase energy efficiency requirements through the BCA, it is considered that the requirements of the *Environmentally Sustainable Design Local Planning Policy* are sufficient for commercial and multiple dwellings developments.

It is considered that the policy is retained, with minor amendments to reference the correct legislative framework and align with the current policy template. It is also recommended to remove reference to development applications being prioritised where it includes the ESD checklist and uses a green rating tool, as this is not considered appropriate, as applications are required to follow a regulatory process which means that applications cannot be prioritised. These proposed amendments are outlined in Attachment 4.

Notification of Approved Commercial Development Policy

The *Notification of Approved Commercial Development Policy* (Attachment 5 refers) was adopted in 2009 and responded to a Council resolution requesting a policy to enable landowners adjacent to commercial areas to be informed of significant development when no other form of consultation is undertaken.

The policy requires that where development approval has been granted for a commercial development and no consultation has been undertaken as part of the development application process, the City is to send a letter notifying of the approval to properties on land zoned 'Residential' within 30 metres of the development site. The letter to residents is for information only, sent after a decision has been made, and is not a consultation process.

Since the policy came into effect, there have been a number of key changes to the planning framework that has impacted the effectiveness of this policy as follows:

- The LPS Regulations exempt a larger number of businesses from requiring development approval, especially where there is change of land use to a permitted ('P') use under the local planning scheme.
- The *Advertisements Local Planning Policy* exempts the need for development approval for signs that meet the requirements of the policy.
- The City is undertaking more consultation on development applications. The *Planning Consultation Local Planning Policy* which came into effect in 2019 provides greater clarity on when consultation will be undertaken. In relation to commercial developments, consultation is required for:
 - Commercial development where the cost is \$10 million or more.
 - Major commercial development less than \$10 million where discretion is required against applicable development standards.

Once an application is determined, submitters are notified of the outcome.

The result of the above means that more commercial developments do not require planning approval, and where approval is required, more consultation is being undertaken as part of the assessment process.

Given the changes to the planning framework and increase in consultation being undertaken as part of the development application process, the policy has more recently only been applicable to minor development. For example, in 2021, there were 27 applications where the policy was applicable, with these developments being for signage, change of use and/or minor additions (such as patio, outbuilding, awnings). The policy was not applicable to the other commercial development applications as consultation was undertaken as part of the assessment process or there were no properties zoned 'Residential' within 30 metres of the site.

It is considered that the original intent of the policy is no longer relevant and is resulting in information being provided to residents in an ad hoc manner on minor developments that may be occurring at a nearby commercial site, noting that it is likely that there could be other development occurring at these sites which did not require development approval.

It is therefore recommended that the policy be revoked.

Retaining Walls – Subdivision Policy

The *Retaining Walls – Subdivision Policy* (Attachment 6 refers) was adopted in 1999 and last reviewed in 2007 although this review did not relate to the operation of the policy. The policy was developed to outline the procedural process for the approval of subdivision retaining walls, primarily proposed through larger scale subdivisions (for example Burns Beach).

The policy is an outdated procedural policy and the procedure and purported delegated functions of the policy are no longer relevant and are not the City's current practice.

In addition, the principles regarding the development of retaining walls, including minimising the height of retaining walls, are now addressed through the current planning framework (such as Liveable Neighbourhoods and the Residential Design Codes) as well as building and engineering practices. Subdivision retaining walls that abut a site in different land ownership are assessed in accordance with the Residential Design Codes (for residential development) or relevant zoned-based local planning policy (for non-residential development).

It is recommended that the policy be revoked, as the purpose of a policy is not to outline procedural matters, and the current planning, building and engineering frameworks are appropriate to address the development of retaining walls.

Issues and options considered

Council has the option to either:

- proceed with the review of the various policies as recommended
- proceed with the review of the various policies, with modifications
or
- not proceed with the review of the various policies.

Legislation / Strategic Community Plan / Policy implications

Legislation *Local Planning Scheme No. 3.
Planning and Development (Local Planning Scheme) Regulations
2015.*

10-Year Strategic Community Plan

Key theme Place.

Outcome Well-planned and adaptable – you enjoy well-designed, quality buildings and have access to diverse housing options in your neighbourhood.

Policy *Coastal Local Planning Policy.
Requests for Sale of Public Open Space Reserves Local Planning
Policy.
McLarty Avenue Local Planning Policy.
Environmentally Sustainable Design Local Planning Policy.
Retaining Walls – Subdivision Policy.
Notification of Approved Commercial Development Policy.*

Risk management considerations

If the review of the policies is not progressed there will be no specific risk, however some policies will remain that are considered to be out of date or no longer fit for purpose. Not progressing with a review of these policies will also mean references to outdated planning documents and processes will be retained.

Financial / budget implications

There will be no cost associated with the notice of final adoption or revocation of the policies as they can be implemented by placing a notice on the City's website.

Regional significance

Not applicable.

Sustainability implications

Not applicable.

Consultation

The consultation requirements for proposed amendments to, or revocation of, a local planning policy are stipulated in the LPS Regulations and the City's *Planning Consultation Local Planning Policy*.

The LPS Regulations require a major amendment to a policy to be advertised for public comment for a period of not less than 21 days. The local government may make an amendment to a local planning policy without advertising if, in the opinion of the local government, the amendment is a minor amendment.

The *Planning Consultation Local Planning Policy* states minor amendments include correction of typographical or formatting errors, updates to legislation references and similar but does not include an amendment to development provisions or standards. The proposed amendments to the policies do not include modifications to development provisions or standards, mostly comprising updates to formatting and legislation references. The proposed amendment to the *Requests for Sale of Public Open Space Reserves Local Planning Policy* to remove reference to delegated authority and *Environmentally Sustainable Design Local Planning Policy* to remove the statement that development applications will be prioritised are considered minor as it is correcting a requirement that could not be applied through a local planning policy.

In regard to revocation, the LPS Regulations and *Planning Consultation Local Planning Policy* do not require these to be advertised for public comment.

Given the above, it is considered that consultation is not required. If Council resolves to proceed to advertise one or more of the policies, advertising would be carried out by way of:

- a notice published in the local newspaper
- letter sent to registered resident and ratepayer groups
- an email to the Community Engagement Network
- a notice and documents placed on the City's website
- a notice on the City's social media platforms.

COMMENT

The policies the subject of this report have been reviewed and, with the exception of two policies recommended to be revoked, minor amendments are recommended, including format improvements and wording changes to reflect current legislative framework references and improve consistency and clarity.

It is recommended that the *Notification of Approval Commercial Development Policy* and *Retaining Walls – Subdivision Policy* are revoked as these policies are no longer considered relevant given changes to the planning framework that have occurred since their adoption.

VOTING REQUIREMENTS

Simple Majority.

MOVED Cr Thompson, **SECONDED** Cr Kingston that Council:

- 1 In accordance with clauses 3 and 4 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, **PROCEEDS** with amendments to the following policies and **NOTES** the policies will come into effect when published on the City's website:
 - 1.1 *Coastal Local Planning Policy*, with amendments detailed in Attachment 1 to this Report;
 - 1.2 *Requests for Sale of Public Open Space Reserves Local Planning Policy*, with amendments detailed in Attachment 2 to this Report;
 - 1.3 *McLarty Avenue Local Planning Policy*, with amendments detailed in Attachment 3 to this Report;
 - 1.4 *Environmentally Sustainable Design Local Planning Policy*, with amendments detailed in Attachment 4 to this Report;
- 2 In accordance with Clause 6 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, **REVOKES** the *Notification of Approved Commercial Development Local Planning Policy and Retaining Walls - Subdivision Policy* and **NOTES** the revocation will come into effect when published on the City's website.

AMENDMENT MOVED Cr Raftis, **SECONDED** Cr Poliwka that Part 1.4 of the Motion be **AMENDED** to read as follows:

"1.4 *Environmentally Sustainable Design Local Planning Policy, with amendments detailed in Attachment 4 to this Report subject to reference to the retention of mature trees or vegetation being added to 4.1 Design Principles;*"

The Amendment was Put and

CARRIED (7/0)

In favour of the Amendment: Cr Thompson, Mayor Jacob, Crs Chester, Hill, Kingston, Poliwka and Raftis.

The Original Motion as amended being:

That Council:

- 1 In accordance with clauses 3 and 4 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, **PROCEEDS** with amendments to the following policies and **NOTES** the policies will come into effect when published on the City's website:
 - 1.1 *Coastal Local Planning Policy*, with amendments detailed in Attachment 1 to this Report;
 - 1.2 *Requests for Sale of Public Open Space Reserves Local Planning Policy*, with amendments detailed in Attachment 2 to this Report;

- 1.3 ***McLarty Avenue Local Planning Policy, with amendments detailed in Attachment 3 to this Report;***
- 1.4 ***Environmentally Sustainable Design Local Planning Policy, with amendments detailed in Attachment 4 to this Report subject to reference to the retention of mature trees or vegetation being added to 4.1 Design Principles;***
- 2 ***In accordance with Clause 6 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, REVOKES the *Notification of Approved Commercial Development Local Planning Policy and Retaining Walls - Subdivision Policy* and NOTES the revocation will come into effect when published on the City's website.***

was Put and

CARRIED (7/0)

In favour of the Motion: Cr Thompson, Mayor Jacob, Crs Chester, Hill, Kingston, Poliwka and Raftis.

Appendix 14 refers

To access this attachment on electronic document, click here: [Attach14agnPOLICY221031.pdf](#)

ITEM 17 DRAFT REVISED PLANNING CONSULTATION LOCAL PLANNING POLICY – CONSIDERATION FOLLOWING ADVERTISING

WARD	All
RESPONSIBLE DIRECTOR	Mr Chris Leigh Planning and Community Development
FILE NUMBER	109500, 101515
ATTACHMENTS	Attachment 1 Current <i>Planning Consultation Local Planning Policy</i> Attachment 2 Draft <i>Planning Consultation Local Planning Policy</i> (as advertised) Attachment 3 Draft <i>Planning Consultation Local Planning Policy</i> (as modified) Attachment 4 Summary of submissions received
AUTHORITY / DISCRETION	Legislative - includes the adoption of local laws, planning schemes and policies.

PURPOSE

For Council to consider the draft revised *Planning Consultation Local Planning Policy* following public advertising.

EXECUTIVE SUMMARY

On 15 February 2021, amendments to the *Planning and Development (Local Planning Schemes) Regulations 2015* (LPS Regulations) came into effect as part of the State Government's reform of the planning system. The amendments include changes to the way consultation can be undertaken for some strategic proposals and development (planning) applications. As a result, some consultation processes can no longer be undertaken in accordance with the City's current *Planning Consultation Local Planning Policy* as the requirements of the LPS Regulations override the City's policy. A review of the policy has been undertaken to ensure consistency with the LPS Regulations.

Further amendments to the policy are also proposed for development applications where approval is not required under the local planning scheme.

At its meeting held on 17 May 2022 (CJ078-05/22 refers), Council resolved to proceed to advertise the draft revised *Planning Consultation Local Planning Policy* for a period of 21 days. Public consultation concluded on 7 July 2022, with 11 submissions received, being one submission of support, eight objections and two neutral submissions.

Following a review of the submissions made, further modifications are proposed to the policy, which are generally aimed at providing additional clarification, and maintaining an appropriate level of consultation for strategic proposals. It is therefore recommended that Council proceeds with the draft revised *Planning Consultation Local Planning Policy*, subject to modifications.

BACKGROUND

As part of the Action Plan for Planning Reform, the State Government has implemented several initiatives to improve the planning system. On 15 February 2021, amendments to the LPS Regulations came into effect, which included modification to the way consultation is undertaken on some planning proposals. These amendments include the following:

- A new designation of complex development applications with a 28 day consultation period and defined minimum consultation catchment (200 metre radius).
- A 14 day consultation period for non-complex development applications.
- A 42 day consultation period for structure plans (previously 28 days).
- Provisions to exclude the Christmas and Easter holiday periods from the calculation of the required number of advertising days.
- Mandating a standard size and wording on advertising signs for development applications.
- The removal of any reference to displaying a notice at the local government office.
- A notice in the local newspaper is no longer mandatory however may be done if the local government considers it appropriate in the circumstances.
- A clause that specifically allows the local government to require the applicant to pay the advertising costs associated with a development application.
- Consultation periods are not able to be extended unless agreement is reached in writing between the applicant and local government.

The City's *Planning Consultation Local Planning Policy* was adopted by Council in March 2020 (CJ033-03/20 refers) to provide guidance on public consultation for a range of statutory planning proposals, particularly where a range of consultation options are available under the LPS Regulations. The requirements of the LPS Regulations that came into effect on 15 February 2021 override some provisions of the City's policy.

At its meeting held on 17 May 2022 (CJ078-05/22 refers), Council considered amendments to the *Planning Consultation Local Planning Policy* (Attachment 2 refers) and resolved to advertise proposed amendments to the policy for a period of 21 days.

DETAILS

It is proposed to amend the *Planning Consultation Local Planning Policy* to align with the LPS Regulations and to provide clarity on consultation on development applications that do not require approval under the local planning scheme. The proposed amendments (as advertised) include the following (Attachment 2 refers):

- Wording for consultation over the Christmas and Easter holiday period updated to align with the wording in the LPS Regulations. This requires consultation that occurs over these holiday periods to exclude the days between Christmas and New Year and seven days from Good Friday, from the advertising period, effectively adding additional time to for comments to be made on consultations undertaken over these periods. It is noted that this is not dissimilar to the approach already being undertaken by the City.
- Structure plan consultation period increased from 28 days to 42 days.
- Notification on the City/Libraries noticeboard removed as a communication method, noting this is currently only being undertaken for strategic proposals.
- A notice in the local newspaper is only required for strategic proposals where appropriate.
- Designating some applications as complex applications (refer to Table 4 in Attachment 2), with greater consultation requirements for these applications in accordance with the LPS Regulations.

- Outlining that consultation will not be undertaken for development applications where the City or Council is not the decision maker (such as applications for public works).
- Incorporating consultation requirements for minor residential development outlined specified in the draft *Minor Development Local Planning Policy*.

The following outlines the key comments received during advertising, and any further modifications recommended, with a more detailed summary and the City's response provided in Attachment 4.

Consultation on development applications where the City is not the decision maker

Under the *Planning and Development Act 2005*, some types of development do not require an approval under the local planning scheme but do require approval under the Metropolitan Region Scheme (MRS). This is due to the type of development itself or the underlying zoning/reservation of the land that development is proposed on.

The following examples include:

- New (or additions to existing) public education facilities (primary schools and TAFE buildings).
- Housing being undertaken by or on behalf of the Department of Communities.

The draft amendments to the policy outline that for these applications no consultation will be undertaken by the City and it will be the responsibility of the decision maker (typically the Department of Planning Lands and Heritage or Department of Communities). In the City's recommendation to the decision maker, it would be outlined whether consultation should be undertaken, having regard to the consultation requirements of the policy.

A number of submissions raised concerns with this approach, with some submissions requesting that consultation should be undertaken by the City to ensure adequate community engagement and feedback is considered as part of the City's assessment and recommendation. Other submissions requested that the City should inform residents and always advise the responsible authority that consultation should be undertaken and a copy of submissions be provided to the City.

The City's role in these applications differs to a 'typical' development application:

- the local government is a referral agency rather than a responsible authority or decision-maker. Depending on the type of application, the decision-maker could be the Department of Communities, the Western Australian Planning Commission or a Development Assessment Panel
- the local government typically has 42 days (in some cases less) to provide comment on the proposal to the responsible authority. The responsible authority undertakes its own assessment and considers the local government's comment, along with comments from other referral agencies as part of this assessment
- there is no application fee paid to the local government and there is no ability for the local government to recoup costs associated with public consultation (if undertaken) for developments of this nature.

Should the City undertake consultation on these applications?

- it could create confusion in the community that the local government is the decision-maker and has a greater role in influencing the outcome than is actually the case
- it comes at a cost to resident and ratepayers. This cost includes the tangible expenses associated with consultation (such as printing, postage, signage) which cannot be recouped, as well as the opportunity cost whereby resources are diverted from other activities.

- the consultation is usually undertaken ahead of an assessment in order to meet timeframes which means there is limited information able to be passed onto residents as part of the consultation or as part of any discussion with residents
- in order to meet tight timeframes, reprioritising of workloads and resources is required meaning other fee paying applications are disadvantaged.

While acknowledging the comments raised throughout consultation, given that the City's role in these applications is that of a referral agency, it is not considered appropriate that community consultation on these proposals be the responsibility of the City. The responsible authority should undertake any consultation as part of its assessment and decision-making process.

It is also not considered appropriate to amend the policy to require that the responsible authority be advised that consultation be undertaken in every instance. Some development applications are for minor works only (such as a shed internal to a school site) and consultation would not ordinarily be required. The responsible authority providing a copy of submissions to the City is not considered necessary as a recommendation would have already been provided prior to any consultation being undertaken.

Clarification of references to City/Council

The draft revised policy includes references to 'City/Council' in determining whether consultation should be undertaken for some strategic proposals or when advising a responsible authority on consultation requirements where a decision on a development application is not undertaken by the City. Submissions received requested that clarification be provided on whether references to 'City' in other parts of the policy refers to Council, or City officers acting under delegated authority.

The decision on the extent of consultation that is to be undertaken is dependent on the type of planning proposal, however in all instances is guided by the LPS Regulations and *Planning Consultation Local Planning Policy*. For example, the extent of consultation for development applications determined is established by City officers in accordance with the LPS Regulations and policy. Consultation on strategic proposals, such as local planning policies and amendments to the City's planning scheme are outlined in reports to Council to consider. It is acknowledged that including the term 'City/Council' in some sections of the policy creates confusion and it is recommended that 'City/Council' be modified to 'City', being the appropriate term for referring to the City of Joondalup as a local government.

Identification of stakeholders

Currently the policy states a number of factors that need to be considered when identifying stakeholders for consultation activities. In relation to amenity, vehicle movements, streetscapes and landscaping are listed as examples of amenity considerations.

Submissions received requested that noise be added as a consideration, given that this is an increasing concern for residents.

It is recommended that the policy is updated to include noise as an additional amenity example.

Consultation outcomes

The policy outlines actions that may be undertaken following consultation to keep submitters informed on the progress of a planning proposal. This includes notification of Council or Development Assessment Panel meetings, initiation of State Administrative Tribunal applications, additional consultation and the final outcome/decision.

Submissions received requested that these should always be undertaken and therefore reference to 'may be' should be changed to 'shall'.

It is recommended that the policy is amended to replace 'may be' with 'will be'. to provide certainty and confirm that the City will undertake these steps as relevant to a planning application.

Consultation over Christmas and Easter period

The policy outlines that, where possible, planning consultation over the Christmas and Easter period is avoided, however, may be required to meet statutory timeframes. To align with the LPS Regulations, the wording of the draft revised policy was amended to state that the time between Christmas and New Years Day (inclusive) and seven days from Good Friday are excluded from the required duration of consultation.

Submissions requested that this be reworded to require seven days be added to the consultation period where consultation is during the Christmas or Easter period. This approach would not align with the LPS Regulations, which would only exclude the days that fall within the defined Christmas or Easter period (for example two days would be excluded for consultation commencing on New Years Eve). Given the provision of the LPS Regulations overrides a policy requirement, the modification requested could not be implemented. It is recommended that this section of the policy be amended to clarify that the requirements are in accordance with the LPS Regulations.

Consultation methods

Consultation for non-residential development applications

Other than consequential changes as a result of some application types becoming complex applications, the non-residential development applications in Table 2 of the policy have not been amended.

Submissions requested changes to the consultation methods for these applications, specifically:

- A notice on the City's website should be included for discretionary 'D' uses.
- On-site signage and local newspaper advert should always be required.

It is recommended that the policy be amended to include notice on the website where consultation is undertaken for discretionary 'D' uses. This is the only application type that does not require a website notice under the policy and is inconsistent with the standard approach that is now taken for consultation on development applications.

It is not considered necessary to require a sign on site or notice in the local newspaper in all circumstances. As per the current policy a sign on site is required for new commercial developments. The remaining development types in Table 2 are for smaller scale developments (such as satellite dishes, short-term accommodation and discretionary 'D' uses) and are considered to have a more localised impact, with owners and occupiers in the locality that are directly affected being contacted by the City via a letter. Information is also made publicly available through the City's website. A notice in the local newspaper is also not a listed consultation method for development applications, meaning the City could not recoup costs from the applicant, estimated to be approximately \$130 per application.

Consultation for strategic proposals

The draft amendments to the policy advertised for public comment modify the requirement for a local newspaper advert from always being required, to only being undertaken where appropriate. This is a result of the LPS Regulations no longer mandating newspaper notices as a consultation method.

Submissions requested that the requirement for a local newspaper advert be reinstated, or where this is not possible, not advertising in the local newspaper should only be in exceptional circumstances.

Strategic proposals are more likely to have a broader impact across the City and it can be challenging to ensure that the community is aware of consultation being undertaken. Based on the feedback received during consultation it appears communicating via a local newspaper is still valued in some instances. Given the broader impact of strategic proposals, it is recommended that newspaper advertising be required as per the current policy.

A submission also requested that consultation methods for local planning policies be amended to include a sign on the site, and the notice to stakeholders be modified to include affected stakeholders in particular localities.

It is recommended that the consultation methods for local planning policies be amended to be made consistent with other strategic proposals, requiring a sign on site if relating to a specific site or a notice to stakeholders where appropriate. It is noted that local planning policies typically relate to broader areas of the City and not to a specific site which means there would not be any particular location or site where a sign could be erected, however it is noted that this could occur in exceptional circumstances.

Issues and options considered

The options available to Council in considering the amendments to the *Planning Consultation Local Planning Policy* are:

- proceed with the draft revised *Planning Consultation Local Planning Policy* without modifications
- proceed with the draft revised *Planning Consultation Local Planning Policy* with modifications
- or
- not proceed with the draft revised *Planning Consultation Local Planning Policy*.

Legislation / Strategic Community Plan / Policy implications

Legislation *Local Planning Scheme No. 3.
Planning and Development (Local Planning Scheme) Regulations
2015.*

10-Year Strategic Community Plan

Key theme Leadership.

Outcome Engaged and informed – you are able to actively engage with the City and have input into decision-making.

Policy *Community Consultation Policy.
Planning Consultation Local Planning Policy.*

Risk management considerations

The LPS Regulations override the requirements of the City's *Planning Consultation Local Planning Policy*. Should the policy not be updated to align with the LPS Regulations there is a risk that community expectations for consultation will differ from what is permitted under the LPS Regulations.

Should the City not designate any development applications as complex applications, consultation can only be undertaken for 14 days. There is a risk that this may be insufficient for larger scale proposals, particularly those development applications that previously had a consultation period of 21 days under the City's policy.

Financial / budget implications

There would be no cost associated with the notice of final adoption being placed on the City's website.

Regional significance

Not applicable.

Sustainability implications

Not applicable.

Consultation

The draft revised *Planning Consultation Local Planning Policy* was advertised for a period of 21 days closing on 7 July 2022, by way of:

- a notice published in the local newspaper
- letter sent to registered resident and ratepayer groups
- an email to the Community Engagement Network
- a notice and documents placed on the City's website
- a notice on the City's social media platforms.

Eleven submissions were received, comprising one submission of support, eight objections and two neutral submissions. The summary of submissions and the City's comment is at Attachment 4.

COMMENT

The draft revised *Planning Consultation Local Planning Policy* updates consultation requirements for planning proposals to align with statutory changes under the LPS Regulations and provides clarity on consultation on development applications that do not require approval under the local planning scheme.

As a result of the submissions received during community consultation, it is considered that a number of modifications to the draft policy would be appropriate to provide clarification and increase the effectiveness of consultation undertaken on planning proposals.

It is recommended that Council proceeds with the draft revised *Planning Consultation Local Planning Policy* with the modifications as discussed in this report.

VOTING REQUIREMENTS

Simple Majority.

MOVED Cr Raftis, **SECONDED** Cr Chester that Council:

- 1** in accordance with clauses 4 and 5 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, **PROCEEDS** with the revised *Planning Consultation Local Planning Policy*, with modifications as detailed in Attachment 3 to this Report;
- 2** **NOTES** that the revised *Planning Consultation Local Planning Policy* will come into effect when published on the City's website.

The Motion was Put and

CARRIED (7/0)

In favour of the Motion: Cr Thompson, Mayor Jacob, Crs Chester, Hill, Kingston, Poliwka and Raftis.

Appendix 15 refers

To access this attachment on electronic document, click here: [Attach15agnPOLICY221031.pdf](#)

ITEM 18 DRAFT MINOR RESIDENTIAL DEVELOPMENT LOCAL PLANNING POLICY – CONSIDERATION FOLLOWING ADVERTISING

WARD	All
RESPONSIBLE DIRECTOR	Mr Chris Leigh Planning and Community Development
FILE NUMBER	110179, 101515
ATTACHMENTS	Attachment 1 Draft <i>Minor Residential Development Local Planning Policy</i> (as advertised) Attachment 2 Draft <i>Minor Residential Development Local Planning Policy</i> (as modified) Attachment 3 Summary of submissions received
AUTHORITY / DISCRETION	Legislative - includes the adoption of local laws, planning schemes and policies.

PURPOSE

For Council to consider the draft *Minor Residential Development Local Planning Policy* following public advertising.

EXECUTIVE SUMMARY

On 15 February 2021, amendments to the *Planning and Development (Local Planning Schemes) Regulations 2015* (LPS Regulations) came into effect as part of the State Government's reform of the planning system. The amendments include the exemption from the need to obtain development (planning) approval for several types of minor development, where specific conditions are met.

The introduction of these exemptions means that any development that does not comply with the conditions of the exemption will require approval through a development application. However, in some instances where development approval is required, there is no criteria to assess the proposal against. It is therefore proposed to develop a new policy for minor development which includes objectives to assess development applications against. The objectives are primarily focussed on protecting the amenity and streetscape of the area.

In addition, the amendments to the LPS Regulations have introduced inconsistencies with several of the City's existing local planning policies which cover minor development. This provides the opportunity to review these policies and consolidate the relevant provisions into the draft *Minor Residential Development Local Planning Policy*. In preparing this consolidated policy it is consequently recommended that the existing *Cubby Houses Policy*, *Use of Sea Containers Policy* and the *Satellite Dishes, Aerials and Radio Equipment Policy* be revoked.

The draft *Minor Residential Development Local Planning Policy* provides appropriate objectives for assessing minor residential development within the City that does not meet the exemptions outlined in the *Planning and Development (Local Planning Schemes) Regulations 2015* (LPS Regulations).

At its meeting held on 17 May 2022 (CJ080-05/22 refers), Council resolved to proceed to advertise the draft *Minor Residential Development Local Planning Policy* for a period of 21 days. Public advertising concluded on 7 July 2022, with eight submissions received being five submissions of support, one objection and two neutral responses providing comments.

Following a review of the submissions made, minor modifications are proposed to the 'application' section of the draft LPP to reword the statement and clarify that the policy relates to development on private property. It is therefore recommended that Council proceeds with the draft *Minor Residential Development Local Planning Policy*, subject to modifications, and in accordance with the LPS Regulations, revokes the following policies:

- *Cubby Houses Policy.*
- *Use of Sea Containers Policy.*
- *Satellite Dishes, Aerials and Antennas Policy.*

BACKGROUND

As part of the Action Plan for Planning Reform, the State Government has implemented several initiatives to improve the planning system. On 15 February 2021, amendments to the LPS Regulations came into effect, which include the exemption from the need to obtain development approval for several types of minor development, where specific conditions are met. These minor development types are:

- cubby houses
- water tanks
- flagpoles
- solar panels.

The City currently has a number of individual policies that also address minor development, being:

- *Cubby Houses Policy*
- *Use of Sea Containers Policy*
- *Satellite Dishes, Aerials and Antennas Policy.*

The changes to the LPS Regulations to include exemptions for some types of minor development provides the opportunity to review the City's existing policies related to minor development with a view to consolidating those policies.

At its meeting held on 17 May 2022 (CJ080-05/22 refers), Council resolved to proceed to advertise the draft *Minor Residential Development Local Planning Policy* (Attachment 1 refers) for a period of 21 days.

DETAILS

The LPS Regulations have introduced a standard approach for local government in relation to water tanks, flagpoles, solar panels and cubby houses in that no development application is required where the conditions of exemption are met, regardless of the specific zone in which the development is to occur.

The issue arises in the event that the conditions of exemption are not met, a development application is required, however in some instances, there is no other criteria to assess the application against. Where there are no specific assessment criteria, a development application would be assessed against the objectives of the relevant zone. The objectives for each zone within LPS3 are high level statements, and do not address the impacts that specific developments may raise.

While it is not essential that specific criteria or guidance be included in a policy in order to assess a development application for minor residential development, such criteria does ensure that there is a consistent approach to assessment, as well as providing information for an applicant on how an application will be assessed and what is considered appropriate.

Given the changes to the LPS Regulations and the City’s existing policies related to minor development, it is considered appropriate to develop a new policy to address minor development. The purpose of developing a new minor development policy is to:

- include criteria to assess applications for minor residential development where the development does not meet the exemption conditions in the LPS Regulations
- consolidate several existing policies that address minor development into one policy, including the existing cubby house, satellite dishes/aerial, and sea container policies.

Draft Minor Residential Development Local Planning Policy

The draft *Minor Residential Development Local Planning Policy* has been prepared (Attachment 1 refers) to provide development objectives for the minor residential development that is included in the LPS Regulations (detailed in the table below) and to incorporate appropriate provisions from the City’s existing policies that cover minor residential development.

It is intended that the policy will only address minor development associated with residential land uses. It does not cover minor development associated with any other types of land uses such as commercial or industrial. This type of development is dealt with in the individual zone polies, such as the *Commercial, Mixed Use and Service Commercial Zone Local Planning Policy*. In addition, the draft policy only applies to the types of minor residential development specifically listed in the policy, it does not apply to all minor residential development. Other forms of minor residential development, not listed in the draft policy are still covered under clause 5.4.4 of the Residential Design Codes (R-Codes), which provides development standards, design principles and objectives associated with external fixtures to dwellings.

The development objectives of the draft policy focus on the potential amenity impacts of the proposed minor development on adjoining properties and streetscape. Consideration is also given to the need or desirability to consult adjoining owners on a proposed minor development.

Exemptions under the LPS Regulations

The following table outlines the development and conditions of exemption that are listed in the LPS Regulations, along with how the City will address any development that does not comply with the exemption conditions.

Development	Conditions	City’s position
The installation of a water tank	(a) The water tank is not installed in the street setback area of a building. (b) The volume of the water tank is no more than 5000L (c) The height of the water tank is no more than – (i) For a tank fixed to a building – the height of the eaves of the building; or	Water tanks that do not comply with the exemption conditions will require a DA that will be assessed under the design principles of clause 5.4.4 of the R-Codes.

Development	Conditions	City's position
	<ul style="list-style-type: none"> (ii) For a tank that is not fixed to a building and is more than 1 m from each boundary or the lot – 2.4m; or (iii) For a tank that is not fixed to a building and is 1m or less from a boundary of the lot – 1.8m. (d) The works are not located in a heritage-protected place. 	
The erection or installation of a cubbyhouse	<ul style="list-style-type: none"> (a) The cubbyhouse is not erected or installed in the street setback area of a building. (b) The floor of the cubbyhouse is no more than 1 m above the natural ground level. (c) The wall height of the cubbyhouse is no more than 2.4m above the natural ground level. (d) The building height of the cubbyhouse is no more than 3m above the natural ground level. (e) The area of the floor of the cubbyhouse is no more than 10m² (f) The cubbyhouse is not erected or installed within 1 m of more than 1 boundary of the lot. 	Cubby houses that do not comply with the exemption conditions will require a development application that will be assessed under the development objectives of the <i>Minor Residential Development Local Planning Policy</i> .
The erection or installation of a flagpole	<ul style="list-style-type: none"> (a) The height of the flagpole is no more than 6m above the natural ground level. (b) The flagpole is no more than 200mm in diameter. (c) The flagpole is not used for advertising. (d) There is no more than 1 flagpole on the lot. (e) The works are not located in a heritage-protected place. 	Flag poles that do not comply with the exemption conditions will require a development application that will be assessed under the development objectives of the <i>Minor Residential Development Local Planning Policy</i> which refers to the design principles of clause 5.4.4 of the R-Codes
The installation of solar panels on the roof of a building.	<ul style="list-style-type: none"> (a) The solar panels are parallel to the angle of the roof. (b) The works are not located in a heritage-protected place. 	Solar panels that do not comply with the exemption conditions will require a development application that will be assessed under the design principles of clause 5.4.4 of the R-Codes.

Cubby houses and flag poles are proposed to be included in the draft policy, however, water tanks and solar panels are not included in the draft policy as they are specifically listed as external fixtures under clause 5.4.4 of the R-Codes and therefore already subject to specific provisions.

Cubby Houses Policy

Council adopted the *Cubby Houses Policy* in February 2009 (CJ007-02/09 refers). The policy was developed in the absence of any provisions within the local planning scheme or R-Codes at the time, and in response to a number of complaints that were received, in particular with regard to privacy. The policy has worked well in establishing the City's expectations when building or erecting such a structure.

It is noted that the City's existing *Cubby House Policy* already includes conditions that allow a compliant cubby house to be exempt from the need for development approval.

The amendments to the LPS Regulations have included cubby houses in the list of exemptions, subject to meeting the conditions outlined in the table above. These conditions differ slightly to those within the *Cubby Houses Policy* as outlined below:

Cubby House Policy criteria	LPS Regulations Conditions
The structure does not have a floor level elevated more than 0.5 metres above natural ground level.	The floor of the cubbyhouse is no more than 1 m above the natural ground level.
The structure is not located within the primary street setback area.	The cubbyhouse is not erected or installed in the street setback area of a building.
The structure will not be used for habitable purposes.	N/A
There will be a limit of one cubby house per survey strata or green title lot	N/A
The structure will not exceed 2.1m in height above the natural ground level, with the exception of architectural features or a flagpole, which shall not exceed 2.5m above natural ground level.	The wall height of the cubby house is no more than 2.4m above the natural ground level. The building height of the cubby house is no more than 3m above the natural ground level.
The structure will not exceed 6 square metres in total floor area.	The area of the floor of the cubbyhouse is no more than 10m ²
The structure will not be attached to a boundary fence or other buildings. The structure will not abut more than one side or rear boundary. The structure will not abut more than one side or rear boundary.	The cubbyhouse is not erected or installed within 1m of more than 1 boundary of the lot.
The structure will contain all stormwater run-off on-site.	N/A

The exemption conditions of the LPS Regulations regarding the development of a cubby house override the provisions of the *Cubby Houses Policy*, thereby making City's exemption conditions redundant. However, it is noted that the exemption conditions are similar to those of the *Cubby Houses Policy* in that they both allow small cubby houses near to one boundary only and not within the street setback area. The permitted height and floor level above natural ground level are slightly greater in the LPS Regulations, however, this is not considered to have a significant impact.

It is proposed to include development objectives in the draft *Minor Residential LPP* against which to assess proposals for cubby houses that do not comply with the exemption conditions of the LPS Regulations.

The following provisions from the current *Cubby Houses Policy* are proposed to be included in the policy:

- The degree to which the proposal impacts the amenity of adjoining properties and/or streetscape.
- The need to protect the privacy of adjoining properties by preventing views into adjoining active habitable spaces and outdoor living areas.

An additional development objective is proposed to be included that allows cubby houses to abut two boundaries (where all other development conditions are met), which allows the cubby house to be built in the corner of a property.

A submission received during consultation also suggested clarification was needed in regard to the reference to the 'street setback area' and whether this includes the verge. It is recommended that the policy be modified to reference the policy as applying to private property only to ensure clarity around this element (Attachment 2 refers).

A number of other comments were received in regard to the cubby house provisions, including the use of diagrams to demonstrate requirements, allowing a cubby house to be raised more than one metre above ground level, and whether noise is an amenity consideration. All comments are outlined and addressed in the summary of submissions (Attachment 3 refers), however, no further changes to the policy are considered necessary.

Use of Sea Containers Policy

The *Use of Sea Containers Policy* was adopted by Council in 2015 (CJ146-08/15 refers) in response to the City having no specific guidelines or policies on their use. It was considered that the use of sea containers can have a negative visual impact on the surrounding area, particularly when used in residential areas.

The use of sea containers (permanent and temporary) in non-residential areas is no longer relevant for inclusion in the policy as the provisions have been incorporated into the individual zone policies that were developed when LPS3 was introduced (such as *Commercial, Mixed Use and Service Commercial Zone Development Local Planning Policy* and *Non-Residential Development in the Residential Zone Local Planning Policy*).

Therefore, only the use of sea containers associated with residential development is considered for inclusion in the draft *Minor Residential Development LPP*.

The *Use of Sea Containers Policy* allows the permanent use of sea containers associated with residential development where the sea container is:

- not visible from the street
- clad with materials and is a colour that matches, or is complementary to, the materials and colour of the existing buildings on the property.

The *Use of Sea Containers Policy* also allows for the temporary approval of sea containers in any zone, provided:

- it is only used in conjunction with building construction or subdivision work that has been approved for the site, up to a maximum of 12 months
- it is only used for the loading or unloading of goods that is occurring on the subject site and only up to a maximum of seven days
- is positioned so as not to obscure vehicle sightlines
- a formal request is received, and a letter is issued from the City approving the temporary nature and its period of use in accordance with the provisions of the scheme.

The *Use of Sea Containers Policy* has been working well since its adoption, however, there have only been seven applications for permanent sea containers, of which only two were in the 'Residential' zone.

A number of other comments were received during consultation in regard to the sea container provisions, including questioning the need for the policy and whether a fact sheet would suffice, and the provision of sightlines. All comments are outlined and addressed in the summary of submissions (Attachment 3 refers), however, no changes to the policy are considered necessary.

Satellite Dishes, Aerials and Radio Equipment Policy

The *Satellite Dishes, Aerials and Radio Equipment Policy* was developed in 2006 in response to the lack of parameters around the maximum height and location of equipment within the 'Residential' zone. There was concern that without a policy, communication equipment could be installed which would potentially detrimentally impact on the visual amenity of adjoining owners and the locality.

In 2012 the provisions of the policy were revisited to ensure that the provisions allowed for the installation of dishes associated with providers such as Foxtel without needing a formal development approval.

As digital technology has evolved, the need for satellite dishes and antennas has significantly reduced. However, some technology providers are offering fixed wireless internet through roof mounted dishes. It is important to ensure provisions are retained to allow these providers to operate without the need for development approval and without detriment to adjoining properties.

The *Satellite Dishes, Aerials and Radio Equipment Policy* allows the following:

- A satellite dish to be located on the roof with a diameter of not greater than 0.9 metres.
- A combined satellite dish and support to be located at existing ground level and is 2.4m or less in any dimension (the dish is to be located so as not to be visible from any street or adjoining property).
- A radio antenna that is not greater than two metres in height if mounted on the roof and does not project more than two metres above the roof ridge if located at ground level and is not located between the street and the house.
- A domestic television antenna that is not greater than four metres in any dimension.
- A maximum of one satellite dish and one form of radio equipment per property exclusive of a domestic antenna.

The *Satellite Dishes, Aerials and Radio Equipment Policy* has been working well since its adoption, with 11 applications for satellite dishes and antennas in this time.

It is proposed to include reference to internet dishes with a maximum diameter of 400mm in the antenna/aerial section of the draft *Minor Residential Development Local Planning Policy* as this type of antenna equipment did not exist when the *Satellite Dishes, Aerials and Radio Equipment Policy* was originally drafted. This will provide clarity regarding the exemption conditions for this type of equipment.

A number of comments were received in regard to the satellite dishes, aerials and radio equipment provisions during consultation including whether the R-Codes deal with these structures, whether the provisions are feasible and/or excessive, and whether the dish diameter aligns with that offered in the marketplace. All comments are outlined and addressed in the summary of submissions (Attachment 3 refers), however, no changes to the policy are considered necessary.

Other comments

A number of general comments were received on the draft policy including that the policy is sensible, that the value of the policy is unclear, that the opportunity should be taken to ban play equipment on verges, that the policy should include a range of other minor development including carports, garden sheds and fences, and, in terms of flag poles, whether sporting team flags are advertising and whether there is government legislation that should be included in respect of flying the Australian flag.

All comments are outlined and addressed in the summary of submissions (Attachment 3 refers), however no additional changes to the policy are considered necessary.

Issues and options considered

Council has the option to either:

- proceed with the draft *Minor Residential Development Local Planning Policy*, without modifications
- proceed with the draft *Minor Residential Development Local Planning Policy*, with modifications
or
- not proceed with the draft *Minor Residential Development Local Planning Policy*.

Legislation / Strategic Community Plan / Policy implications

Legislation *Local Planning Scheme No. 3.
Planning and Development (Local Planning Scheme) Regulations
2015.*

10-Year Strategic Community Plan

Key theme Place.

Outcome Well-planned and adaptable – you enjoy well-designed, quality buildings and have access to diverse housing options in your neighbourhood.

Policy *Cubby Houses Policy.
Use of Sea Containers Policy.
Satellite Dishes, Aerials and Radio Equipment Policy.*

Risk management considerations

There is a risk that if the policy is not progressed there will be no specific criteria or objectives against which to assess applications for development approval for development that does not comply with the conditions of exemption under the LPS Regulations.

Financial / budget implications

There would be no cost associated with the notice of final adoption being placed on the City's website.

Regional significance

Not applicable.

Sustainability implications

Not applicable.

Consultation

The draft *Minor Development Local Planning Policy* was advertised for a period of 21 days closing on 7 July 2022, by way of:

- a notice published in the local newspaper
- letter sent to registered resident and ratepayer groups
- an email to the Community Engagement Network
- a notice and documents placed on the City's website
- a notice on the City's social media platforms.

Eight submissions were received, comprising five submissions of support, one objection and two neutral submissions. The summary of submissions and the City's comment is at Attachment 3 to this Report.

COMMENT

The draft *Minor Residential Development Local Planning Policy* provides objectives for assessing minor residential development that does not meet the exemptions as contained within the LPS Regulations. In addition, it seeks to incorporate provisions from existing City policies that cover other minor residential development and to revoke these, providing a simpler approach to the assessment of these on residential properties within the City. The objectives focus on protecting the amenity of both the streetscape and adjoining or nearby residential properties.

It is recommended that Council supports the draft *Minor Residential Development Local Planning Policy*, subject to modifications (Attachment 2 refers) and revokes the following local planning policies:

- *Cubby Houses Policy.*
- *Use of Sea Containers Policy.*
- *Satellite Dishes, Aerials and Antennas Policy.*

VOTING REQUIREMENTS

Simple Majority.

MOVED Mayor Jacob, SECONDED Cr Thompson that Council:

- 1** In accordance with clauses 3 and 4 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, PROCEEDS with the *Minor Development Local Planning Policy*, with modifications as detailed in Attachment 2 to this Report;
- 2** NOTES that the *Minor Development Local Planning Policy* will come into effect when published on the City's website;
- 3** In accordance with Clause 6 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, REVOKES the *Cubby Houses Policy, Use of Sea Containers Policy and Satellite Dishes, Aerials and Antennas Policy* and NOTES the revocation will come into effect when published on the City's website.

The Motion was Put and

CARRIED (7/0)

In favour of the Motion: Cr Thompson, Mayor Jacob, Crs Chester, Hill, Kingston, Poliwka and Raftis.

Appendix 16 refers

To access this attachment on electronic document, click here: [Attach16agnPOLICY221031.pdf](#)

ITEM 19 DEVELOPER CONTACT POLICY

WARD	All
RESPONSIBLE DIRECTOR	Mr Chris Leigh Planning and Community Development
FILE NUMBER	101515
ATTACHMENTS	Attachment 1 Town of Cambridge Policy No. 33 (Developer Contact with Staff) Attachment 2 Town of Cambridge Policy No. 39 (Elected Member Relationships with Developers Policy) Attachment 3 City of Vincent Policy No. 4.2.15 (Council Member Contact with Developers) Attachment 4 City of South Perth Policy P700 (Developers and Lobbyists)
AUTHORITY / DISCRETION	Legislative - includes the adoption of local laws, planning schemes and policies.

PURPOSE

For Council to consider options on the development of a 'Developer Contact Policy' for City of Joondalup Elected Members and employees.

EXECUTIVE SUMMARY

At the Policy Committee held on 9 May 2022, Councillor Kingston requested a report be presented to the Policy Committee by October 2022 on options for developing a 'Developer Contact Policy' for Elected Members and Employees, with the intent of the policy to ensure that every instance of contact between an Elected Member or employee, with a developer, regarding a planning and development proposal, or a land transaction, must be disclosed and a record of contact be kept in accordance with the *State Records Act 2000*.

In responding to the request for a report the City has undertaken a review of the suite of suggested definitions and policy requirements provided with the request for a report; an analysis of approaches undertaken by other local governments; and has considered the City's existing governance framework in relation to recordkeeping and integrity.

The conclusions drawn from the work undertaken is that the City considers the intent of the proposed policy is already largely met by the City's existing framework.

It is therefore recommended that Council:

- 1 *NOTES the existing governance, recordkeeping and integrity requirements in place for City of Joondalup Elected Members and employees;*
- 2 *DOES NOT PROGRESS with the development of a Developer Contact Policy.*

Notwithstanding the officer recommendation, in the event Council does elect to progress with the development of Developer Contact Policy, guidance on a number of matters highlighted through the review of suggested definitions and policy requirements and approaches taken by other local governments would be beneficial as this will allow the City to prepare a policy that most closely aligns with Council's intent.

BACKGROUND

At the Policy Committee held on 9 May 2022 Councillor Kingston requested a report be presented to the Policy Committee by October 2022 on options for developing a 'Developer Contact Policy' for Elected Members and employees.

Following the meeting, on 10 May 2022, Councillor Kingston provided further context for the request for a report stating that:

*"The intent of the requested policy is that every instance of contact between an Elected Member or Employee, with a **developer**, regarding a **planning and development proposal**, or a **land transaction**, must be disclosed and a **record of contact** be kept in accordance with the State Records Act 2000.*

That the creation of the policy be informed by both other Local Government's policies on contact with developers and lobbyists, and, the following definitions:

developer means an individual, body corporate or company engaged in a business that:

- a) involves the making of relevant planning applications in connection with the development of land, with the ultimate purpose of the sale, lease, or, use of the land for profit; and,
- b) includes any consultant, lobbyist, advisor, agent, representative or person closely associated with a Developer and who is appointed to promote or advocate for the Developer's interests or proposal.

planning or development proposal means and includes:

- a) a proposed Local Planning Policy or amendment to a Local Planning Policy under the City's Local Planning Scheme;
- b) a proposed amendment to the City's Local Planning Scheme;
- c) an application under the City's Local Planning Scheme or the Metropolitan Region Scheme for approval of the use or development of land and which is currently before or at the time of contact known to require determination by City, Council, or the Joint Development Assessment Panel.

land transaction means and includes an agreement, or several agreements for a common purpose, under which a local government is to —

- a) acquire or dispose of an interest in land; or
- b) develop land;

acquire has a meaning that accords with the meaning of **dispose**;

dispose includes to sell, lease, or otherwise dispose of, whether absolutely or not.

record of contact is a record with the content:

- a) Elected Member's, or, Employee's name;
- b) Developer's name;
- c) Date and time of contact;
- d) Type of contact (such as in person, telephone call, letter, email and the like);

- e) *Property or properties within the City to which the contact related;*
- f) *Nature of the matters covered in the contact; and,*
- g) *Elected Member, or, Employee response.”*

Links to an article from the Journal of Urban Economics from 2016 and a news article from the Sydney Morning Herald from 2015 were provided as context for the request for a report.

A statement was also made in support of the request for a report that many other local governments across the State and nationally have adopted policies, with specific reference made (and links provided) to a policy the Town of Cambridge has for employees and a policy the City of Vincent has for Elected Members.

DETAILS

Supporting Articles

In support of the request to provide options for developing a ‘Developer Contact Policy’ for Elected Members and Employees links to two articles, one from 2015 and one from 2016 were provided:

- [Clean money in a dirty system: Relationship networks and land rezoning](#) (Journal of Urban Economics)
- [In the zone: Insider trading rife in land rezoning racket](#) (Sydney Morning Herald).

The articles focus on the rezoning of land in Queensland and New South Wales and the representations made to decision-makers through the rezoning process.

In Western Australia, the rezoning of land occurs via an amendment to a relevant planning scheme. In relation to an amendment to the local planning scheme to rezone land, the Minister for Planning (such as the State Government) is responsible for the final decision. Local government is involved in the process whereby the local government (and in the case of any scheme amendments proposed in the City of Joondalup, the Council) will consider a proposal to amend the scheme and elect to initiate the amendment or not. If Council choose not to initiate the amendment, it does not progress any further. If Council choose to initiate the amendment, a process is followed whereby Council make a recommendation on whether the amendment should proceed (sometimes after public consultation). The recommendation is then forwarded to the Western Australian Planning Commission to make a subsequent recommendation to the Minister for Planning.

As such, the level of influence a Western Australian local government has in the final decision in the rezoning process is somewhat limited. It is therefore considered that there is not a direct correlation between the examples referred to in the articles shared and the need for the City to develop a ‘Developer Contact Policy’.

Department of Local Government Guidelines

The Department of Local Government (DLG) has published a guide relating to [Elected Members’ Relationship with Developers](#). The guide acknowledges that Elected Members may face pressures when dealing with development (planning) applications. The guideline states that in order to protect the openness and transparency of a council’s decision-making, Elected Members need to understand the limitations on their decision-making in relation to development applications and should avoid situations where they become too close to a development proposal, an applicant or objectors.

The purpose of the guideline is to alert Elected Members to the risks associated with their role as a decision-maker on development applications and to provide guidance on those areas of risk. The purpose of the guideline is to also assist local governments to develop and adopt procedures for Elected Members that will help prevent unsubstantiated allegations and protect the integrity of the decision-making process.

The areas of risk that the guideline explores include:

- Elected Members meeting with applicants individually
- Elected Members meeting with applicants in the company of other Elected Members
- Elected Members attending meetings between employees and applicants
- Council as both the developer and consenting authority
- Being offered a gift or benefit.

The local government policies discussed below that relate to Elected Member contact with developers are broadly structured with regard to the areas outlined in the guideline.

Other Local Government policies

In support of the request for a report a statement was also made that many other local governments have adopted policies, with specific reference made (and links provided) to a policy the Town of Cambridge has for employees and a policy the City of Vincent has for Elected Members.

A review of those policies, along with others identified by the City from Western Australian local governments has been undertaken and summarised below.

Town of Cambridge

Policy No. 33 – Developer Contact with Staff

Based on information contained in the policy, the policy was adopted by the Town of Cambridge Council in 2017 and was most recently reviewed and amended in November 2021.

The purpose of the policy is to provide guidelines to all Town of Cambridge staff for the management of contact with developers, and define the staff's duties, responsibilities and recording of such contact.

The policy includes several definitions to clarify what a 'developer' is considered to be as well as setting a threshold of what is considered to be 'prescribed contact' that needs to be recorded as per the policy.

The policy outlines the specific details that need to be captured as part of any 'prescribed contact' and that the record needs to be captured on a register.

The policy also outlines what Town of Cambridge planning staff can provide information on and what information they are unable to provide information on.

Policy No. 39 – Elected Member Relationships with Developers Policy

Based on information contained in the policy, the policy was adopted by the Town of Cambridge Council in 2017 and was most recently reviewed and amended in July 2020.

The purpose of this policy is to provide guidelines to Town of Cambridge Elected Members for the management of their meetings with developers, and define Elected Members' duties, responsibilities and recording of such meetings.

The policy notes that contact with developers is a normal and necessary function of the role of an Elected Member and that the implementation of a transparent decision-making process will reduce opportunities for allegation or perceptions of bias to be raised.

The policy includes several definitions to clarify what a 'developer' is considered to be and sets a threshold of what is considered to be 'prescribed contact' and 'exempt contact' under the policy. It is noted the definitions in this policy differ to those contained in the Town of Cambridge's *Policy No. 33 (Developer Contact with Staff)*.

The policy outlines the specific details to be captured as part of any 'prescribed contact' and rather than requiring the record to be captured in a register (like Policy No. 33), requires the Elected Member to declare any 'prescribed contact' at the time of a proposal being considered by a Committee and/or Council. The policy then requires the declaration to be recorded in the relevant minutes.

The policy also sets out a series of protocols for Elected Member relationships with developers including when Elected Members are meeting with applicants individually, in the company of other Elected Members or attending meetings between employees and applicants. The policy also provides guidance to Elected Members in relation to being offered a gift or benefit by a developer.

City of Vincent

Policy No. 4.2.15 – Council Member Contact with Developers

Based on information contained in the policy, the policy was adopted by the City of Vincent Council in 2015 and was most recently reviewed and amended in October 2016.

The policy notes that contact with developers is a normal and necessary function of the role of an Elected Member and that the implementation of a transparent decision-making process will reduce opportunities for allegation or perceptions of bias to be raised.

The policy includes several definitions to clarify what a 'developer' is considered to be as well as setting a threshold of what is considered to be 'prescribed contact' and 'exempt contact' under the policy.

The policy outlines the details to be captured as part of any 'prescribed contact' and requires the Elected Member to advise the Chief Executive Officer of the details of any 'prescribed contact' within 10 days of the contact. The policy then requires the Chief Executive Officer to maintain a [publicly available register](#) of all Elected Member contact with developers and for this register to be updated on a fortnightly basis.

City of South Perth

Policy P700 – Developers and Lobbyists

Based on information contained in the policy, the policy was adopted by the City of South Perth Council in March 2022.

The purpose of the policy is to provide guidance to Elected Members on disclosing their association with developers and lobbyists to ensure openness and transparency are maintained ensuring integrity in the Council's decision-making.

The policy includes several definitions to clarify what a 'developer' is considered to be, a separate definition for 'lobbyist' and sets a threshold of what is considered to be 'prescribed contact' and 'exempt contact' under the policy.

The policy outlines the details to be captured as part of any 'prescribed contact' and requires the Elected Member to advise the Chief Executive Officer of the details of any 'prescribed contact' within 10 days of the contact. The policy then requires the Chief Executive Officer to maintain a [publicly available register](#) of all Elected Member contact with developers and for this register to be updated on a quarterly basis.

The policy also sets out a series of protocols for Elected Members relationships with developers including when Elected Members are meeting with developers and lobbyists individually, in the company of other Elected Members or attending meetings between employees and developers and lobbyists. The policy also provides guidance to Elected Members in relation to being offered a gift or benefit by a developer.

Current City of Joondalup recordkeeping and code of conduct requirements

As outlined in the Background section of this report, the intent of the requested policy is that every instance of contact between an Elected Member or employee, with a developer, regarding a planning and development proposal, or a land transaction, must be disclosed and a record of contact be kept in accordance with the *State Records Act 2000*.

The request for a report does not outline what the purpose of capturing every instance of contact between an Elected Member or employee with a developer (other than according with requirements of the *State Records Act 2000*), however when considering the DLG guideline and reviewing other local government policies the fundamental objectives are providing a policy to maintain integrity and ensure an open, unbiased and transparent decision-making process.

There are already a range of plans, procedures and protocols that apply to both Elected Members and employees of the City of Joondalup that ensure appropriate records are maintained and integrity is embedded into decision-making.

State Records Act 2000

The *State Records Act 2000* governs recordkeeping for all State and local government organisations in Western Australia.

Under the *State Records Act 2000* a record is defined as any record of information (in any form) created, received, or maintained by a government organisation or parliamentary department in the course of conducting its business activities.

Recordkeeping plans capture key information about process and systems used by government organisations to manage records of information.

Local Government Act 1995

In accordance with the *Local Government Act 1995*, the Chief Executive Officer is to ensure that records and documents of the local government are properly kept for the purposes of the *Local Government Act 1995* and any other written law.

The management of the City's records is underpinned by a recordkeeping plan (currently the *Recordkeeping Plan 2020*) and controlled by an electronic recordkeeping system, Content Manager.

Content Manager is an integrated Electronic Document and Record Management System (EDRMS) capable of managing the City's corporate information and using it supports the City in complying with legislative record keeping requirements as well as enabling employees to access and retrieve vital information.

Recordkeeping Plan 2020

Broadly, the purpose of the *Recordkeeping Plan 2020* is to meet the City's obligations under the *State Records Act 2000* and to set out the matters about which records are to be created by the City and how these records are kept.

The *Recordkeeping Plan 2020* is also supported by:

- *Records Management Policy*
- *Recordkeeping Responsibilities – All Employees Protocol*
- *Recordkeeping Responsibilities – Elected Members Protocol.*

Records Management Policy

The current *Records Management Policy* was endorsed by Council at its meeting dated 20 August 2019 (CJ112-08/19 refers).

The policy applies to all City Elected Members, employees and contractors. The policy confirms that a corporate record is any hard-copy, digital or online record that either:

- conveys information essential or relevant in decision-making processes
- conveys information upon which others will, or may, use to make decisions affecting the City's operations, rights and obligations under legislation
- commits the City to certain courses of action, the commitment of resources or provision of services
- conveys information about matters of public safety or public interest, or involves information upon which contractual undertakings are entered into
- is likely to be needed for future use or is of historical value.

The policy also provides that Elected Members, employees and contractors are responsible for maintaining complete, accurate and reliable evidence of all business transactions, and ensuring all corporate records are retained within the City's official recordkeeping systems at the point of creation, regardless of the format.

Recordkeeping Responsibilities – All Employees Protocol

The objective of this protocol is to introduce new and existing employees or Elected Members of the City to their responsibilities for proper recordkeeping. Its objectives are to also ensure that all employees and Elected Members are responsible for keeping accurate records and adhering to the City's recordkeeping procedures.

The protocol notes that an online induction on recordkeeping at the City and a hands-on training session for the usage of the City's electronic records management system (Content Manager) is a requirement for all employees and that such training must be completed within the first three months of an employee's commencement date.

The protocol also notes that Elected members are provided with the 'Guidelines for Recordkeeping Responsibilities for Elected Members' in their 'Welcome Pack' when first being appointed to Council.

Recordkeeping Responsibilities – Elected Members Protocol

The purpose of this protocol is to assist Elected Members in their recordkeeping responsibilities.

The protocol acknowledges that Elected Members have a different work environment to that of City employees and that Elected Members are made aware of their recordkeeping responsibilities, via the Elected Members Induction Program, which is currently carried out every two years following local government elections.

The protocol also provides guidance to Elected Members in how to appropriately maintain a variety of records including:

- inwards correspondence received via Australia Post, email and other correspondence
- responses to correspondence
- internal communications
- telephone/verbal conversations.

Governance Framework 2021

Section 9.2.9 of the City's [Governance Framework 2021](#) relates to lobbying and meetings with external parties.

The framework includes details consistent with the DLG's 'Elected Members' Relationship with Developers' guideline, noting that lobbying is an acceptable and normal part of society and opportunities for stakeholders to communicate with Elected Members and employees occurs as part and parcel of our society's democratic and accessible system of government.

The framework provides guidance for Elected Members on what is considered to be appropriate actions when lobbied.

Codes of Conduct

In accordance with the *Local Government Act 1995*, the City has adopted two codes of conduct:

- a [Code of Conduct for Elected Members, committee members and local government election candidates](#)
- a [Code of Conduct for Employees](#).

Each code has different provisions, but includes matters such as:

- values and general principles of behaviour
- requirements in relation to behaviour
- appropriate relationships with others and the broader community
- use of City resources and information
- conflicts of interest
- reporting breaches of the code and other statutory reporting mechanisms.

City of Joondalup Developer Contact Policy

Prior to Council electing to progress or not progress with a 'Developer Contact Policy', there are a number of matters that require consideration. In the event Council elect to progress with a 'Developer Contact Policy', it would be beneficial if clarity or guidance is provided in relation to a number of these matters so that the City is able to draft a policy that aligns with Council's intent.

Implementation / output of a Developer Contact Policy

As outlined above, the current governance, recordkeeping and integrity obligations for Elected Members and employees set out the way in which interactions with a range of stakeholders (including developers) is required to be captured and recorded.

Clarification on whether an alternate or additional way that contact is required to be stored under a 'Developer Contact Policy' would assist in understanding the implications of implementing the policy and what the outputs of the policy will be.

It is noted that a number of the other local government policies reviewed require a 'contact register' to be prepared and maintained (at varying frequencies).

As an example, a 'contact register' is an example of an alternate or additional way that contact would be stored if a City of Joondalup 'Developer Contact Policy' required such as register to be maintained.

Contact register details

Of the policies reviewed, most policies that require a 'contact register' to be maintained only apply to Elected Members (and not employees) and therefore it is only interactions between Elected Members and developers that are captured. This sets a manageable scale of contact to maintain via a 'contact register' as typically most contact from a developer on a planning or development proposal occurs between the City's administration and the applicant.

It is noted that the Town of Cambridge's policy (Policy No. 33) requires a register of employee contact to be maintained, however the definition of what that policy considers 'prescribed contact' is much narrower (such as development which is inconsistent with the local planning strategy and/or an actual development with a value equal to or greater than \$2 million) than that suggested for a City of Joondalup 'Developer Contact Policy'. This narrower definition reduces the number of records that would need to be captured in a 'contact register' and would make a register more manageable to maintain.

If there is an intent for a 'contact register' to be an output of the City of Joondalup 'Developer Contact Policy', the suggested definition for what is a 'record of contact' is broad. This would make administering and maintaining a 'contact register' a significant undertaking and would most likely require additional resources.

It is also noted the frequency by which a 'contact register' is required to be updated will also have an impact on the amount of time and resourcing that is required for it to be maintained. The City of Vincent's policy (which relates to Elected Members only) requires a contact register to be updated fortnightly. The City of South Perth's policy (which also relates to Elected Members only) requires a contact register to be updated quarterly.

The availability of a 'contact register' also requires consideration. Contact registers required under other local government policies are publicly available, however some consideration should be given to interactions that, by virtue of other legislation, are confidential and therefore may not be able to be recorded. An example of such contact includes interactions that take place through a State Administrative Tribunal mediation process.

Definitions

Along with the request to prepare a report on options for developing a Developer Contact Policy, a suite of definitions was provided to guide the creation of a policy. The definitions have been reviewed and there may be merit in considering some modification of those provided to better capture the intent of the policy and to also provide clarity for its implementation.

Developer

The suggested definition of 'developer' provided is:

developer means an individual, body corporate or company engaged in a business that:

- c) involves the making of relevant planning applications in connection with the development of land, with the ultimate purpose of the sale, lease, or, use of the land for profit; and,
- d) includes any consultant, lobbyist, advisor, agent, representative or person closely associated with a Developer and who is appointed to promote or advocate for the Developer's interests or proposal.

In implementing the policy, while best endeavours would be used to clarify the 'ultimate purpose' of the person making contact (ie. potentially a 'developer'), Elected Members and employees would in some instances be relying on information from the person making contact as to what the ultimate purpose is to then confirm whether or not the contact falls within the parameters of the policy.

It is also noted that the definition as provided would capture contact with residents applying for typically smaller scale commercial activities. Examples include applications for home businesses as well as instances where a resident is seeking to subdivide and sell the back of their block, as both instances the purpose is to use the land (at least in part) for profit. Clarity is needed if the intent of the policy is to capture these types of interactions or whether refinements to the definition is needed to exclude this type of contact.

Clarity is also required on whether the definition of 'developer' is intended to capture not-for-profit organisations. The suggested definition indicates that a 'developer' is an organisation whose ultimate purpose is to use the land for profit. Not-for-profit organisations typically do not operate for the profit, personal gain or other benefit of particular people, however such organisations, in some instances, do generate a commercial return to access their services. Not-for-profit organisations do also undertake development and enter into land transactions that may result in engagement with Elected Members or employees and may also require Elected Members or employees to be part of decision-making processes.

Planning or development proposal

The suggested definition of 'planning or development proposal' provided is:

planning or development proposal means and includes:

- d) a proposed Local Planning Policy or amendment to a Local Planning Policy under the City's Local Planning Scheme;
- e) a proposed amendment to the City's Local Planning Scheme;
- f) an application under the City's Local Planning Scheme or the Metropolitan Region Scheme for approval of the use or development of land and which is currently before or at the time of contact known to require determination by City, Council, or the Joint Development Assessment Panel.

In reviewing the suggested definition, it is noted that other planning instruments and types of development exist in the development process that may also be worthy of inclusion in the definition, such as:

- local development plans
- structure plans (including precinct structure plans)
- subdivision.

Further, it is also noted that other decision-makers exist in the development process that may also be worthy of inclusion in the definition, such as:

- Western Australian Planning Commission
- State Administrative Tribunal
- Department of Communities
- Department of Finance
- Department of Planning, Lands and Heritage.

If Council elect to progress with the preparation of a 'Developer Contact Policy', it would be beneficial if clarity is provided as to whether these additional planning instruments, types of development and decision-makers should be included in an expanded definition for 'planning or development proposal'.

Additional definition – Third party

Of the policies reviewed, the recurring core purpose is the need to provide open, transparent and unbiased decision-making. The policies seek to ensure integrity in the process by capturing the nature and frequency of interaction between proponents (for example a 'developer') of a proposal, Elected Members and employees.

It is however noted that through the preparation and processing of a 'planning or development proposal', while contact is made from a proponent, contact is also received from third parties. At times, the concerns raised by a third party relate to perceived negative commercial impacts that may be inflicted on the third party's interest if the proposal was to proceed.

To maintain balance, transparency and unbiased decision-making process, consideration should therefore be given to whether contact from third parties to a 'planning or development proposal' is also required to be captured under the policy. If so, an additional definition can be prepared and included in the policy, however it would be beneficial if guidance is provided as to whether the definition should limit the nature of any third party contact. For example, the definition could be prepared such that third party contact is only captured if the nature of the concern relates to a commercial element such as increased competition or impact on property/asset values, in the same way that the definition of 'developer' is geared toward someone that has an ultimate purpose of using the land for commercial gain.

Issues and options considered

There are two options available to Council:

- 1 progress with the development of a Developer Contact Policy
or
- 2 do not progress with the development of a Developer Contact Policy.

Option 1 Progress with the development of a Developer Contact Policy

This option is not recommended.

While progressing with the development of a 'Developer Contact Policy' is not recommended, if Council do elect to progress, it is recommended that guidance on the following matters is provided in order to draft a policy that aligns with Council's intent:

- Whether any contact captured under the policy is to be recorded in the same way current records are captured or if a different / additional output is required (such as a 'contact register' or similar).

Risk management considerations

In the event Council elects not to progress with developing a 'Developer Contact Policy', while there are recordkeeping and code of conduct obligations in place to manage the appropriate recording of contact between proponents and Elected Members and/or employees, it is noted that the way this contact is captured and recorded may not reflect the specific format provided with the request for a report. There is therefore a risk that while there are structures already in place to ensure the type of contact referred to in the request for a policy is captured, the format of the recorded contact may not reflect that which is intended by the policy.

In the event Council elect to progress with developing a 'Developer Contact Policy' there is the likelihood that the intent and requirements of the policy are already addressed to a large extent by existing recordkeeping and code of conduct obligations. This creates a risk that an additional policy may overcomplicate existing governance frameworks and result in confusion and inefficiency for Elected Members and employees in undertaking their duties.

In the event Council elect to progress with developing a 'Developer Contact Policy' there is also a risk that service delivery will be reduced (if the preparation and implementation of the policy is required to come from existing resources) or that operational costs will increase in order to meet the increased level of service of implementing the policy.

Financial / budget implications

There are currently no funds allocated in the *2022-23 Budget* to support the preparation and implementation of a 'Developer Contact Policy'.

The implementation of a 'Developer Contact Policy' will have financial implications. The extent of financial implications however cannot be accurately determined at this stage as guidance is required in relation to a number of policy aspects, such as clarification on definitions to confirm scope of the policy as well as clarification on the outputs of a policy (such as a 'contact register'), which have subsequent administrative (and therefore financial) impacts.

Regional significance

Not applicable.

Sustainability implications

Not applicable.

Consultation

In the event Council elect to progress with the development of a 'Developer Contact Policy' it is recommended that community consultation be undertaken prior to Council's final decision is made on whether or not to adopt the policy.

COMMENT

At the Policy Committee held on 9 May 2022 a request was made to prepare a report on options for developing a 'Developer Contact Policy' for Elected Members and employees.

The stated intent of the policy is to ensure that every instance of contact between an Elected Member or employee, with a developer, regarding a planning and development proposal, or a land transaction, is disclosed and a record of contact be kept in accordance with the *State Records Act 2000*.

Along with the request for a report on options for preparing a 'Developer Contact Policy' a suite of suggested definitions and policy requirements were provided for consideration.

Analysis undertaken has identified that several other local governments have similar policies to guide the recording of interactions between proponents and Elected Members or employees. Each of the other local government policies reviewed differ in some of the specifics, such as who the policy applies to, the scope of contact required to be recorded under the policy and the way (and frequency) in how a register of the contact is to be made available. However, fundamentally the overarching objective of each of the policies is to maintain balance and transparency to facilitate an unbiased decision-making process.

Along with an analysis of other local government policies consideration has also been given to the City's existing governance framework for the recording of contact between stakeholders and Elected Members or employees.

As outlined in the report, the conclusions drawn from the analysis is that the intent of the proposed policy is already largely met by the City's existing framework and therefore it is recommended that Council does not progress with the development of a 'Developer Contact Policy'.

However, notwithstanding the officer recommendation, in the event Council does elect to progress with the development of 'Developer Contact Policy', guidance on a number of matters would be beneficial as this guidance will allow the City to prepare a policy that aligns with Council's intent.

VOTING REQUIREMENTS

Simple Majority.

MOVED Mayor Jacob, SECONDED Cr Poliwka that Council:

- 1 NOTES the existing governance, recordkeeping and integrity requirements in place for City of Joondalup Elected Members and employees;**
- 2 DOES NOT PROGRESS with the development of a Developer Contact Policy.**

The Motion was Put and

CARRIED (4/3)

In favour of the Motion: Mayor Jacob, Crs Chester, Hill and Poliwka.

Against the Motion: Crs Thompson, Kingston and Raftis.

Appendix 17 refers

To access this attachment on electronic document, click here: [Attach17agnPOLICY221031.pdf](#)

The first iteration of the *Asset Management Policy* established a vision for the City, namely, “to provide the desired level of service in the most cost-effective manner for present and future customers” and set out a number of key principles for service delivery that promoted an integrated and sustainable approach to asset management and the concept of minimising ‘whole-of-life’ costs for infrastructure assets.

In 2010, the Department of Local Government released its *Integrated Planning and Reporting Framework* to guide and strengthen the strategic planning and reporting capacity of local governments within Western Australia, with asset management identified as one of its key components. Supplementary guidelines were released in 2011 to assist local governments in developing a number of documents, including Asset Management Policies.

During this period the City also commenced a process to review its Policy Manual. Given the significance of asset management to strategic planning activities, a decision was made to postpone the review of the *Asset Management Policy* until the City’s *Strategic Community Plan 2012-22* was adopted by Council, which occurred in October 2012 (CJ210-10/12 refers).

The *Asset Management Policy* was subsequently amended by Council in November 2012 (CJ261-11/12 refers) to:

- reflect the City’s new standardised policy template
- outline the City’s commitment to maintaining and managing assets in accordance with best practice standards and relevant external guidelines and frameworks
- reflect the City’s new strategic objectives under the *Strategic Community Plan 2012-22* that promoted high quality facilities, integrated transport planning, financially sustainable decision-making, long-term funding capacity, high utilisation, demographic and design relevance, agreed service levels and the highest standard of liveability for the community.

Following the recent adoption of the City’s *Strategic Community Plan 2022-32* by Council (CJ093-06/22), the *Asset Management Policy* has been reviewed for the first time since 2012, with suggested amendments proposed for the Policy Committee’s consideration.

DETAILS

The City’s infrastructure asset portfolio is large, diverse and complex, with individual assets experiencing different lifespans and containing components that deteriorate at different rates. These assets also represent a significant level of investment over generations and contribute to a community’s sense of safety and liveability.

The City’s *Asset Management Policy* provides a commitment to managing infrastructure assets with a long-term view that is coordinated, affordable and reflective of the agreed needs of the community.

Strategic Community Plan 2022-32

The new *Strategic Community Plan 2022-2032* outlines a series of outcomes that are relevant to the manner in which asset management activities are undertaken by the City. They include:

- *3-1 - Connected and convenient*
You have access to a range of interconnected transport options
- *3-3 - Attractive and leafy*
You have access to quality public open spaces and enjoy appealing streetscapes

- *3-4 - Functional and accessible*
You have access to quality community facilities that are functional and adaptable.
- *5-4 - Responsible and financially-sustainable*
You are provided with a range of City services which are delivered in a financially responsible manner.

Many of these outcomes are consistent with the previous *Strategic Community 2012-22*, particularly around the concepts of quality asset provision, integrated transport options and financial sustainability. Emphasis on achieving the highest standard of liveability, through direct asset provision by the City, is less relevant in the new plan.

As such the revised policy, as shown in Attachment 1, retains the concept of financial sustainability and incorporates a commitment to providing infrastructure assets that are functional, adaptable and of a quality standard, in alignment with these strategic outcomes.

International Standards for Asset Management

In its commitment to best practice, the City is guided by international standards for asset management, including:

- ISO 55000 and 55001: 2014
- International Infrastructure Management Manual 2015 (IPWEA Australasia)
- International Infrastructure Financial Management Manual 2015 (IPWEA Australasia).

The ISO standards enables an organisation to achieve its objectives through the effective and efficient management of its assets, ensuring the system adopted by the organisation provides assurance that these objectives can be achieved consistently and sustainably over time. It is essentially the “what to do” to deliver sound asset management practices.

The IIMM and IIFMM guides are aligned to the ISO standards and provide the “how to” in applying the standards for infrastructure assets. They promote the concepts of lifecycle management and continuous improvement and define the various elements of a fully functional asset management system (such policy, levels of service, demand forecasting, asset registers, condition assessments, risk management, funding strategies and the like).

While not certified in the ISO standards, the City leverages all relevant international guidance material to support its approach to asset management.

The ISO standards define an AM Policy as *“the intention and directions of an organisation as formally expressed by its top management”*.

The IIMM defines an AM Policy as *“outlining the principles and requirements for undertaking asset management across the organisation in a structured and coordinated way, consistent with the organisation’s Strategic Plan.”*

The revised policy, as shown in Attachment 1, draws from these definitions and terminology to more effectively align with current international practice as follows:

- Changes to the policy objective to reflect the public purpose intent of asset provision by the City.
- Adjustments to the policy statement to refer to the agreed needs of the community, rather than references to liveability standards.
- Minor changes to wording throughout the policy to better align with the language used in ISO 55001: 2014.
- Updates and amendments to the list of related documentation.

Issues and options considered

The Policy Committee can either choose to:

- 1 recommend that Council adopts the revised *Asset Management Policy* provided as Attachment 1 to this Report
- 2 recommend to Council further modifications to the *Asset Management Policy*
or
- 3 recommend that Council retains the *Asset Management Policy* in its current format.

It is recommended that Option 1 is implemented by the Policy Committee.

Legislation / Strategic Community Plan / Policy implications

Legislation Not applicable.

10-Year Strategic Community Plan

Key theme

Outcome Connected and convenient - you have access to a range of interconnected transport options.

Attractive and leafy - you have access to quality public open spaces and enjoy appealing streetscapes.

Functional and accessible - you have access to quality community facilities that are functional and adaptable.

Key theme

Outcome Responsible and financially-sustainable - you are provided with a range of City services which are delivered in a financially responsible manner.

Policy *City of Joondalup Asset Management Policy.*

Risk management considerations

This policy aims to minimise the risk associated with the management of infrastructure assets by committing the City to adopting a strategic and long-term approach to asset planning and management.

Financial / budget implications

The *Asset Management Policy* guides organisational activities that will impact on the financial “whole of life” costs associated with the planning, acquisition, maintenance, renewal, replacement, rationalisation, and disposal of City infrastructure assets.

The policy directs the City to undertake these activities in an affordable and sustainable manner, which requires a strategic and long-term approach to asset planning and management. The City aims to deliver this through defined levels of service that are cost effective and reflective of risk management considerations.

Regional significance

It is acknowledged that some of the City's infrastructure will be provided on a regional scale however, the regional nature of an asset will not impact on the manner in which it is managed according to the *Asset Management Policy*.

Sustainability implications

The *Asset Management Policy* is underpinned by general principles relating to sustainability, particularly regarding the financial costs of managing infrastructure which must be balanced against the public benefit of its provision.

Consultation

Not applicable.

COMMENT

The review of the *Asset Management Policy* is the first step in the review of all asset planning documents including the *Asset Management Strategy 2014-2024*. It is a high-level policy that provides context for the City's overall approach to asset management and covers overarching principles as they relate to all City asset classes.

Over the 2022-23 financial year, further work will be conducted in reviewing the current *Asset Management Strategy* and the associated framework for the development of levels of service documentation in alignment with the revised policy.

VOTING REQUIREMENTS

Simple Majority.

MOVED Mayor Jacob, SECONDED Cr Thompson that Council ADOPTS the revised *Asset Management Policy* as detailed in Attachment 2 to this Report.

AMENDMENT MOVED Cr Thompson, SECONDED Cr Kingston that Council ADOPTS the revised *Asset Management Policy* as detailed in Attachment 2 to this Report subject to the following amendments to the Policy:

1 AMEND paragraph 3 under section 1. Statement to read as follows:

“Effective stakeholder engagement, appropriate governance structures and resource allocations will support the City's coordinated and integrated approach to asset management. Decision-makers will act under the concept of stewardship, ensuring asset management practices benefit present and future generations.”;

The Amendment was Put and

CARRIED (7/0)

In favour of the Amendment: Cr Thompson, Mayor Jacob, Crs Chester, Hill, Kingston, Poliwka and Raftis.

AMENDMENT MOVED Cr Raftis, SECONDED Cr Poliwka that Council ADOPTS the revised *Asset Management Policy* as detailed in Attachment 2 to this Report subject to the following amendments to the Policy:

2 ADD an additional part, being f. under section 2. Details to read as follows:

“f. Ensuring that defined technical and community levels of service for each infrastructure asset are compiled and made available to Elected Members.”

The Amendment was Put and

CARRIED (5/2)

In favour of the Amendment: Crs Thompson, Chester, Kingston, Poliwka and Raftis.
Against the Amendment: Mayor Jacob and Cr Hill.

The Original Motion as amended being:

That Council ADOPTS the revised *Asset Management Policy* as detailed in Attachment 2 to this Report subject to the following amendments to the Policy:

1 AMEND paragraph 3 under section 1. Statement to read as follows:

“Effective stakeholder engagement, appropriate governance structures and resource allocations will support the City’s coordinated and integrated approach to asset management. Decision-makers will act under the concept of stewardship, ensuring asset management practices benefit present and future generations.”;

2 ADD an additional part, being f. under section 2. Details to read as follows:

“f. Ensuring that defined technical and community levels of service for each infrastructure asset are compiled and made available to Elected Members.”

was Put and

CARRIED (7/0)

In favour of the Motion: Cr Thompson, Mayor Jacob, Crs Chester, Hill, Kingston, Poliwka and Raftis.

Appendix 18 refers

To access this attachment on electronic document, click here: [Attach18agnPOLICY221031.pdf](#)

ITEM 21 STORMWATER MANAGEMENT POLICY – MINOR REVIEW

WARD	All
RESPONSIBLE DIRECTOR	Mr Nico Claassen Infrastructure Services
FILE NUMBER	101283, 101515
ATTACHMENTS	Attachment 1 <i>Current Stormwater Management Policy</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 review of the *Stormwater Management Policy*, as a result of the Policy Manual review process.

EXECUTIVE SUMMARY

The *Stormwater Management Policy* (the Policy) sets out the key considerations for the management of stormwater resources, stormwater drainage and stormwater management planning.

Since the *Stormwater Management Policy* was first established and adopted by the City of Joondalup in 1999, the Policy has undergone several amendments, including name changes to the Policy, changes in scope and additions to the Policy objectives. The policy review conducted in 2015 (CJ226-12/15 refers), did not result in any significant changes however, the overall objective was modified to include the consideration of climate change impacts.

As part of the 2020 Policy Manual review, no amendments were identified for this Policy, as the City's stance on stormwater management remains relevant and consistent when benchmarked against other local government policies. The Policy was previously considered by the Policy Committee at its meeting held on 5 October 2020 where it was noted that no changes were required.

The Policy also continues to be implemented effectively by the City.

It is therefore recommended that Council NOTES the outcomes of the review of the Stormwater Management Policy and AGREES to retain the Stormwater Management Policy in its current form provided as Attachment 1 to this Report.

BACKGROUND

Originally adopted as the *Stormwater Drainage into Wetlands Policy*, prior to the split of the Cities of Wanneroo and Joondalup, the purpose of the Policy was to establish an in-principle position to oppose the discharge of piped or artificially channelled stormwater into specific lake and wetland areas and discourage the establishment of sumps within these locations. Two qualifications were also provided that permitted such stormwater discharges if there were no other reasonable discharge alternatives or if satisfactory pre-treatments could be applied.

At its meeting held 21 September 2004 (CJ214-09/04 refers), Council endorsed a complementary *Preventing of Stormwater Discharge into Natural Bushland Areas Policy* on the recommendation of the Conservation Advisory Committee, to incorporate bushland areas into the stormwater management process. During the 2005 Policy Manual review (CJ206-10/05 refers), policy duplication was acknowledged and resulted in the consolidation of the abovementioned policies to form the renamed *Stormwater Drainage Policy*.

As part of the 2012 Policy Manual review (CJ172-08/12 refers), the *Stormwater Drainage Policy* underwent significant amendments which included renaming the Policy to the *Stormwater Management Policy*, broaden the Policy's scope to incorporate stormwater management in general rather than focussing on drainage in isolation, reflected current State Government directions regarding water sensitive design principles; and facilitated the integration of these principles into planning and development activities within the City.

In 2015, the overall objective of the *Stormwater Management Policy* was modified to include the consideration of climate change impacts (CJ226-12/15 refers). This amendment brought the Policy in line with the City's *Climate Change Strategy 2014-2019*, strengthened the existing stormwater and climate change stance and projects, and also enabled the Policy to be more flexible should there be any future adjustments in best practice to stormwater management implementation.

In the 2020 Policy Manual review, no amendments were identified for this Policy, as the City's stance on stormwater management remains relevant and consistent when benchmarked against other local government policies. The Policy was previously considered by the Policy Committee at its meeting held on 5 October 2020 where it was noted that no changes were required.

The Policy also continues to be implemented effectively by the City.

DETAILS

The Policy continues to be used effectively as part of the City's capital works projects to gradually improve outcomes for the City's drainage network. While it is expected that housing density increases over time will directly impact the drainage network, this should not require any changes to the wording used in the Policy.

As no changes have been identified in relation to the City's stance on stormwater management, the Policy has undergone a minor review to ensure relevance and currency by benchmarking against other local government policies relating to stormwater management.

Local Government Comparison

An analysis of other local government stormwater policies was undertaken to inform the review of the City's *Stormwater Management Policy*. Of the 70 local governments benchmarked in the Greater Perth Metropolitan area and regional WA, ten local governments have policies relating to the management of stormwater. These policies are summarised in the table below:

Name of Local Government	Policy Name	Notes
City of Nedlands	Stormwater	<ul style="list-style-type: none"> Policy aims to ensure stormwater is managed to protect environmental, social and economic values of the community Objective similar to the City of Joondalup.
City of Mandurah	Water Sensitive Urban Design	<ul style="list-style-type: none"> Policy acknowledges that urban development disrupts the natural water cycle and significantly impacts on the environment, both in terms of water quality and quantity. Applies to all activities, works, services and programs conducted by the administration, contractors, consultants and volunteers. Similar level of policy detail to City of Joondalup.
City of Stirling	Stormwater Runoff Disposal	<ul style="list-style-type: none"> Policy primarily applies to the disposal of stormwater runoff from the City's road network. Policy also applies to the disposal of runoff from other land under the care, control of management of the City, including car parks and public open spaces. Policy excludes the disposal of runoff from City buildings and private property.
City of South Perth	Stormwater Drainage Requirements for Proposed Buildings	<ul style="list-style-type: none"> Policy only affects certain internal business units, and the wider community who plan to purchase and/or renovate buildings in the City.
Town of Victoria Park	Stormwater Runoff Containment	<ul style="list-style-type: none"> Policy only provides guidance on connections from private property to the Town's stormwater drainage system.
City of Vincent	Stormwater Drainage Connections	<ul style="list-style-type: none"> Policy only provides basic guidance on the controlled disposal of stormwater from commercial and residential properties and whether a property needs to apply for connection to the City's stormwater drainage system.
Shire of Collie	Stormwater Discharge from Building Sites	<ul style="list-style-type: none"> Policy applies more specifically to all planning and building approvals that have a condition requiring stormwater management. Mainly used by applicants in developing proposals or when City officers provide advice on stormwater management matters. Contains significant level of detail; not consistent with wording in the City of Joondalup policies.
City of Wanneroo	Urban Water Management	<ul style="list-style-type: none"> All three policies mention stormwater management; however, policies incorporate other topic areas outside of stormwater management. Contains significant level of detail; not consistent with wording in the City of Joondalup policies.
	Wetlands	
	Public Open Space	

Name of Local Government	Policy Name	Notes
City of Rockingham	Urban Water Management	<ul style="list-style-type: none"> • Policy applies to proposals that facilitate residential (on both rural and urban land), commercial and industrial zoning, subdivision or development. • Consistent with responsibilities applied to the activities, works, services and programs conducted. • Contains significant level of detail; not consistent with wording in the City of Joondalup policies.

This benchmarking exercise confirms that other WA local governments also address the issue of stormwater management through their policy documents, but the scope and level of detail in these policies varies significantly. This research has not led to any recommended changes in the *Stormwater Management Policy*, as the Policy intends to maintain a high-level strategic focus to be consistent with the City's other policies.

Issues and options considered

Council can either:

- retain the *Stormwater Management Policy* in its current format, as shown in Attachment 1 to this Report
or
- suggest modifications to the *Stormwater Management Policy*.

Legislation / Strategic Community Plan / Policy implications

Legislation Section 26 of the *Planning and Development Act 2005*.

10-Year Strategic Community Plan

Key theme Environment.

Outcome Resilient and prepared – you understand and are prepared for the impacts of climate change and natural disasters.

Policy *Stormwater Management Policy*.

Risk management considerations

In order to remain transparent and facilitate appropriate decision-making processes, it is imperative that policies reflect the current positions of Council and work practices at the City, as well as contemporary best practice approaches.

Financial / budget implications

Not applicable.

Regional significance

Stormwater management in the City of Joondalup can impact and affect other surrounding local governments areas.

Sustainability implications

Appropriate management of stormwater is important for the continued protection and improvement of stormwater quality for the natural environment as well as management of stormwater volumes for control of storm events and flooding.

Consultation

Not applicable.

COMMENT

The *Stormwater Management Policy* continues to provide guidance on how stormwater is managed to protect environmental, social and economic values. The City continues to facilitate the integration of water sensitive design principles and consider climate change impacts into planning and development within the City of Joondalup.

VOTING REQUIREMENTS

Simple Majority.

MOVED Cr Chester, **SECONDED** Cr Kingston that Council **NOTES** the outcomes of the review of the *Stormwater Management Policy* and **AGREES** to retain the *Stormwater Management Policy* in its current form provided as Attachment 1 to this Report.

The Motion was Put and

CARRIED (7/0)

In favour of the Motion: Cr Thompson, Mayor Jacob, Crs Chester, Hill, Kingston, Poliwka and Raftis.

Appendix 19 refers

To access this attachment on electronic document, click here: [Attach19agnPOLICY221031.pdf](#)

URGENT BUSINESS

Nil.

MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

REQUESTS FOR REPORTS FOR FUTURE CONSIDERATION

Cr Raftis requested that reports be prepared on the following:

1 Specified Area Rating:

That the CEO undertake a review of the Specified Area Rating (SAR) Policy with specific requests for the inclusion of:

- A statement specifying that the service agreement and each annual service arrangement agreed with each SAR is to be made freely available on the City's website, noting that commercial in confidence information may be obfuscated.
- The recognition of all additional costs incurred in the delivery of the SAR service arrangement, including but not limited to, the additional City staff costs in managing the additional services delivered and opportunity costs such as the value of groundwater utilised that is in excess of the standard utilised in City parks and reserves.

2 Groundwater Use:

That the City develop a groundwater use policy to cover all aspects of the City's use of that resource noting that:

- groundwater is a precious resource vital to the cost-effective delivery of City facilities, parks and reserves
- there are annual usage limits imposed on the City by the state government authorities
- the likely impact of climate change on future groundwater usage limits
- the opportunity costs of all groundwater utilisation, particularly given the City is now utilising paid scheme water in some City parks and reserves
- the additional higher usage for sporting fields as against other parks/reserves
- a detailed reporting structure to Council of the water usage across all aspects of the City
- the costs of infrastructure required to deliver the groundwater for the City for example bore establishment and maintenance costs, applicable employment costs, utility costs (power).

CLOSURE

There being no further business, the Presiding Member declared the meeting closed at 7.48pm the following Committee Members being present at that time:

CR SUZANNE THOMPSON
MAYOR HON. ALBERT JACOB, JP
CR ADRIAN HILL
CR DANIEL KINGSTON
CR RUSSELL POLIWKA
CR JOHN RAFTIS
CR JOHN CHESTER