

minutes

Special Audit and Risk Committee

MEETING HELD ON

TUESDAY 31 JANUARY 2023

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 SPECIAL AUDIT AND RISK COMMITTEE MEETING HELD IN CONFERENCE ROOM 2 AND 3, JOONDALUP CIVIC CENTRE, BOAS AVENUE, JOONDALUP ON TUESDAY 31 JANUARY 2023.

ATTENDANCE

Committee Members

Cr John Raftis	<i>Presiding Member</i>
Mayor Hon. Albert Jacob, JP	
Cr Tom McLean, JP	
Cr Nige Jones	<i>Deputy Presiding Member</i>
Cr Russell Poliwka	
Cr Russ Fishwick, JP	
Cr John Logan	
Mr Richard Thomas	<i>External Member</i>

Observers

Cr John Chester
Cr Adrian Hill
Cr Daniel Kingston
Cr Suzanne Thompson

Guest

Ms Renuka Venkatraman Director Financial Audit Officer, Auditor General *absent from 6.39pm*

Officers

Mr James Pearson	Chief Executive Officer	
Mr Jamie Parry	Director Governance and Strategy	<i>absent from 6.05pm to 6.06pm</i>
Mr Mat Humfrey	Director Corporate Services	
Mr Chris Leigh	Director Planning and Community Development	
Ms Christine Robinson	Manager Audit and Risk Services	
Mr Roney Oommen	Manager Financial Services	<i>absent from 6.39pm to 6.42pm</i>
Mrs Kylie Bergmann	Manager Governance	
Mrs Vivienne Stampalija	Governance Coordinator	
Ms Avril Schadendorf	Governance Officer	
Mrs Susan Hateley	Governance Officer	

DECLARATION OF OPENING

The Presiding Member declared the meeting open at 6.00pm.

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

Nil.

APOLOGIES AND LEAVE OF ABSENCE

Nil.

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 2021-22 ANNUAL FINANCIAL REPORT

WARD	All
RESPONSIBLE DIRECTOR	Mr Mat Humfrey Corporate Services
FILE NUMBERS	109174, 101515
ATTACHMENTS	Attachment 1 2021-22 Annual Financial Report Attachment 2 Independent Auditor's Report Attachment 3 Management Letter 2021-22
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 and accept the *2021-22 Annual Financial Report* and Independent Auditor's Report.

EXECUTIVE SUMMARY

In accordance with Section 6.4 of the *Local Government Act 1995*, the *2021-22 Annual Financial Report* has been prepared and, together with the City's accounts, has been submitted to the Office of the Auditor General of Western Australia (OAG) to conduct the annual audit.

The OAG has completed its audit, in accordance with the terms of their engagement and the requirements of Part 7 Division 3 of the *Local Government Act 1995* and the Independent Auditor's Report has been issued. The *Annual Financial Report* will form part of the City's *2021-22 Annual Report*.

It is therefore recommended that Council:

- 1 *BY AN ABSOLUTE MAJORITY, ACCEPTS the Annual Financial Report of the City of Joondalup for the financial year 2021-22, forming Attachment 1 to this Report;*
- 2 *BY AN ABSOLUTE MAJORITY, ACCEPTS the Independent Auditor's Report for the financial year 2021-22, forming Attachment 2 to this Report;*
- 3 *NOTES the Auditor's Management Letter in respect of the financial audit for the year ended 30 June 2022, forming Attachment 3 to this Report;*
- 4 *NOTES that no interim Management Letter was issued in respect of the financial audit for the year ended 30 June 2022.*

BACKGROUND

Section 6.4 of the *Local Government Act 1995* requires local governments to prepare an annual financial report and to submit both the report and its accounts to its auditor by 30 September each year. The City of Joondalup has met those requirements and the City’s auditor, the OAG, has completed its audit of the accounts and the *2021-22 Annual Financial Report*.

The OAG undertook its audit in two stages. The interim audit was undertaken during May and June 2022, while the final audit commenced at the beginning of October 2022. Following the completion of the interim audit, the OAG issued a management letter which incorporated responses from management on the items noted (Attachment 3 refers).

No interim management letter was issued.

The *2021-22 Annual Financial Report* is included as Attachment 1 to this Report.

DETAILS

The preparation and submission of the Annual Financial Report to the auditors for audit are statutory requirements under the *Local Government Act 1995*.

The Annual Financial Report is required to be accepted by Council prior to the holding of the Annual General Meeting of Electors, at which the City’s Annual Report containing the Annual Financial Report will be considered. The Annual Financial Report is also required to be submitted to the Department of Local Government, Sport and Cultural Industries (DLGSC).

Issues and Options Considered

Outcome of the Financial Audit

The financial audit has been completed with an unqualified audit report issued (Attachment 2 refers). The OAG has issued a final management letter in respect of the financial audit (Attachment 3 refers). An interim management letter was not issued.

End of Financial Year Position

The City has finished the financial year with a Rate Setting Statement surplus higher than estimated. An anticipated end of year surplus as at 30 June 2022 of \$53,549 was used as the opening balance in the *2022-23 Annual Budget*. The final end of year Rate Setting Statement surplus for 2021-22 is \$9,148,338, being \$9,094,790 more than estimated.

When comparing the actual end of year results to the estimate shown in the *2022-23 Annual Budget*, in summary terms the variance comprises:

Description	Sub Total	Total
Increased Operating Cash Surplus	\$ 23,323,474	
Reduced Capital Revenue	(\$ 559,989)	
Reduced Capital Expenditure	\$ 8,008,512	\$ 30,771,997
Reduced Net Funding including equity investment movements		(\$ 21,677,207)
Net Variance		\$ 9,094,790

The increased operating cash surplus relative to forecast is driven primarily by Materials and Contracts as a result of a change in the accounting treatment of the \$14,166,667 payment made to Mindarie Regional Council for the City's contribution towards the termination of the Resource Recovery Facility (RRF) agreement. An amendment to the 2021-22 Budget was approved by Council in August 2021 to include this as an operating cost within Materials and Contracts, with the expectation that when the City's share of MRC's 2021-22 results were accounted for this would be reported in the same manner. However, during the course of the City's audit for 2021-22, advice was received that MRC had included retrospective restatements in their 2020-21 financial statements – after the City had approved the Budget amendment. Consequently, the cost of the City's contribution towards the termination of the RRF agreement is not reflected as an operating expense in the City's 2021-22 financial results but as a non-operating equity investment movement instead.

Higher than estimated net revenue from Catalina Estate sales \$1,420,250 as well as lower than forecast employee costs of \$1,813,306, and other materials and contracts expenditure of \$5,170,663, partly offset by higher depreciation and amortisation \$1,418,150 further contributed to the additional operating cash surplus.

Lower employee costs arose mainly due to vacancies and recruitment processes that were ongoing as at 30 June 2022 as well as new enterprise bargaining agreements not having been finalised by the end of the year and, consequently, no pay increases reflected in the actual results. The current conditions in the labour market have had an impact on the City's ability to retain and recruit in certain areas, which shows in the results. In addition, some of the vacancies are the result of internal restructuring undertaken in certain areas of the organisation, for which recruitment has been progressing.

Lower materials and contracts expenditure includes lower consultancy costs of \$1,019,342, due to progress on various projects compared to estimates including the Local Housing Strategy Review, Multi-Storey Car Park Concept and Social Needs Assessment. In particular, as well as lower external contractors expenses \$1,181,279 spread across a number of areas, reflecting progress on various projects and activities.

Reduced capital expenditure pertains primarily to capital works projects that did not progress to the extent anticipated by 30 June 2022, including projects that received grant funding during the year that were not expended by year end, and are continuing into the subsequent financial year. Municipal and reserve funding unspent on these projects has been carried forward or retained in reserves, respectively.

Management Letter – Financial Audit

The auditors identified one finding that was classified significant (Attachment 3 refers).

The significant finding concerns assessments of fair value of land and building assets as well as infrastructure assets and the frequency of valuations. Under the provisions of the *Local Government (Financial Management) Regulations*, the City revalues classes of assets held at fair value at intervals not exceeding five years. In the intervening years, in accordance with accounting standards, the City considers annually whether the carrying values at which assets are reported are reasonable, or whether there exist factors that may indicate that these reported values could be materially misstated.

One class of assets, namely Drainage assets, was revalued during the 2021-22 in accordance with the requirement of accounting standard *AASB 13 Fair Value Measurement*. In addition, as is the practice each year, the City also undertook a high-level assessment of the carrying values of other assets at fair value to determine whether any factors existed that might indicate whether these could be materially misstated at 30 June 2022. The matter raised by the auditor, as well as the management comments provided are detailed in Attachment 3.

Timing and completion of audit process

At the commencement of the 2021-22 audit planning process in March 2022, the OAG advised the City of its intent to perform and complete the audit in October 2022, with the audit report to be made available to the scheduled Audit and Risk Committee meeting in early November 2022. In accordance with the audit plan, an interim audit was performed and completed in June 2022.

No interim management letter was issued.

The OAG returned to the City at the beginning of October 2022 for the final audit. None of the audit team conducting this phase of the audit were the same as those who undertook the interim audit, which meant that continuity was impacted. The main consequence of this for the City was that the audit queries were often sent to City staff multiple times.

In the third week of October, the City was advised in an update meeting with the OAG that no major issues had been identified at that stage and no significant information was pending from the City. The OAG team wrapped up fieldwork and left the City's offices at the end of October. The City, expecting to have the audit finalised shortly, then began receiving several audit queries from the beginning of November through December, many of which ought to have been raised while the audit team was on site.

For example, the City is typically required to send out bank confirmation requests to various banks for balance information at 30 June to be sent by the banks directly to the auditors. The City submitted all these requests to the various banks in June 2022, when the OAG audit team was on site for the interim audit. At the time, two banks advised the City that an audit request could only be made via their designated portal and only by the auditors themselves. The City duly informed the OAG of this at the time. The OAG approached the City for its cash and bank balance accounting information in November 2022, after it had left the City's offices, and it then transpired that the OAG had not approached the two banks in question for balance confirmations despite being informed by the City in June. Requests were only lodged by the OAG with these banks in November 2022.

As another example, the City received multiple requests for standard asset information in November 2022, after the audit team had left the City's offices. This is information that is typically considered while an audit team is present on site, such as information on asset revaluations, additions, disposals, etc. and involves discussions with asset management staff as well.

There were several iterations of the draft annual financial report that the City had to prepare and submit to the OAG, primarily because each time the auditors requested incremental changes that were not previously flagged in the version before it.

Following a delayed audit process for Mindarie Regional Council (MRC) in the previous year, the OAG had indicated its intention to finalise the regional council audits in 2021-22 in sufficient time for the information to be incorporated into the member councils' financial report. The 2021-22 final audit for MRC, however, only commenced at the same time as the City's own audit did, at the beginning of October. The City did not receive final draft financial information for MRC until late November, meaning that even if the City's other audit work had been completed by the end of October, the City still would not have been able to receive its audit report before this.

It may also be noted that, although reporting by Program was discontinued from the 2021-22 financial year following changes to the *Local Government (Financial Management) Regulations 1996*, the OAG directed the City to include a note to the annual financial report incorporating the same Program information, for revenue (including non-operating) and expenditure to comply with *AASB 1052 Disaggregated Disclosures*, in mid-December after multiple iterations of the draft financial statements (without this note) had already been reviewed and confirmed by the OAG.

There is no question that the City provided all requested audit information in a timely fashion. The City had expectations in early March 2022, during the audit planning stage, that the 2021-22 audit would be completed and signed off in early November, which the OAG had advised that it would be seeking to deliver.

Legislation / Strategic Community Plan / Policy Implications

Legislation

Local Government (Financial Management) Regulation 51(2) states:

“A copy of the annual financial report of a local government is to be submitted to the Departmental CEO within 30 days of the receipt by the local government’s CEO of the auditor’s report on that financial report.”

Section 5.53 of the *Local Government Act 1995* states:

5.53 Annual Reports

- (1) *The local government is to prepare an annual report for each financial year.*
- (2) *The annual report is to contain:*
 - (f) *the financial report for the financial year;*

Section 5.54 of the *Local Government Act 1995* states:

5.54 Acceptance of annual reports

- (1) *Subject to subsection (2), the annual report for a financial year is to be accepted by the local government no later than 31 December after that financial year.*

** Absolute majority required.*
- (2) *If the auditor’s report is not available in time for the annual report for a financial year to be accepted by 31 December after that financial year, the annual report is to be accepted by the local government no later than 2 months after the auditor’s report becomes available.*

Section 6.4 of the *Local Government Act 1995* states:

6.4 Financial Report

- (1) *A local government is to prepare an annual financial report for the preceding financial year and such other financial reports as are prescribed.*

- (2) *The financial report is to –*
- (a) *be prepared and presented in the manner and form prescribed; and*
 - (b) *contain the prescribed information.*
- (3) *By 30 September following each financial year or such extended time as the Minister allows, a local government is to submit to its auditor –*
- (a) *the accounts of the local government, balanced up to the last day of the preceding financial year; and*
 - (b) *the annual financial report of the local government for the preceding financial year.*

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

Current financial year impact

Account no.	Not applicable.
Budget Item	Closing surplus.
Budget amount	\$ 53,549
Actual amount	\$ 9,148,338
Proposed cost	\$ Not applicable.
Balance	\$ 9,094,790

All amounts quoted in this report are exclusive of GST.

Regional Significance

Not applicable.

Sustainability Implications

Not applicable.

Consultation

There is no legislative requirement to consult on the preparation of the Annual Financial Report, although the *Local Government Act 1995* requires the local government to hold an Annual General Meeting of Electors and the City's Annual Report, incorporating the Annual Financial Report is to be made available publicly.

COMMENT

The Annual Financial Report for 2021-22 reflects the City's financial performance and position for the year ended 30 June 2022.

The Annual Financial Report will be made available on the City's public website as part of the City's Annual Report. A limited number of printed, bound colour copies of the Annual Report, including the Annual Financial Report, will be available for viewing at libraries, leisure centres and the customer service centre.

In order for the City to meet its legislative requirements, it is recommended that the Council accepts the Annual Financial Report for the financial year 2021-22.

VOTING REQUIREMENTS

Absolute Majority.

The Director Governance and Strategy left the meeting at 6.05pm and returned at 6.06pm.

The Director Financial Audit Officer from Office of the Auditor General left the meeting at 6.39pm.

The Manager Financial Services left the meeting at 6.39pm.

MOVED Cr Poliwka, SECONDED Cr McLean that Council:

- 1 BY AN ABSOLUTE MAJORITY, ACCEPTS the Annual Financial Report of the City of Joondalup for the financial year 2021-22, forming Attachment 1 to this Report;**
- 2 BY AN ABSOLUTE MAJORITY, ACCEPTS the Independent Auditor's Report for the financial year 2021-22, forming Attachment 2 to this Report;**
- 3 NOTES the Auditor's Management Letter in respect of the financial audit for the year ended 30 June 2022, forming Attachment 3 to this Report;**
- 4 NOTES that no interim Management Letter was issued in respect of the financial audit for the year ended 30 June 2022.**

The Manager Financial Services returned to the meeting at 6.42pm.

AMENDMENT MOVED Cr Fishwick, SECONDED Cr Poliwka that additional Parts 5 and 6 be ADDED to the Motion to read as follows:

- “5 EXPRESSES its disappointment to the Office of the Auditor General for the delay in finalisation of the 2021-22 financial year audit, resulting in a delay to the conduct of the City's General Meeting of Electors;**
- 6 EXPRESSES its concerns to the Premier and Minister for Local Government regarding the performance of the Office of the Auditor General.”**

It was requested that each part of the Motion be voted upon separately.

AMENDMENT MOVED Cr Fishwick, SECONDED Cr Poliwka that Council:

- 5 **EXPRESSES its disappointment to the Office of the Auditor General for the delay in finalisation of the 2021-22 financial year audit, resulting in a delay to the conduct of the City's General Meeting of Electors;**

The Amendment was Put and CARRIED (8/0)

In favour of the Amendment: Cr Raftis, Mayor Jacob, Crs Fishwick, Jones, Logan, McLean, Poliwka and Mr Thomas.

AMENDMENT MOVED Cr Fishwick, SECONDED Cr Poliwka that Council:

- 6 **EXPRESSES its concerns to the Premier and Minister for Local Government regarding the performance of the Office of the Auditor General.**

The Amendment was Put and TIED (4/4)

In favour of the Amendment: Crs Fishwick, Jones, McLean and Poliwka.

Against Amendment: Cr Raftis, Mayor Jacob, Cr Logan and Mr Thomas.

There being an equal number of votes, the Presiding Member exercised his casting vote and declared the Amendment Motion **LOST (4/5)**

During debate an amendment to Part 6 of the Motion was foreshadowed by Mayor Jacob.

AMENDMENT MOVED Mayor Jacob, SECONDED Cr Poliwka that Council:

- 6 **FORMALLY REQUESTS the Mindarie Regional Council work with the Office of the Auditor General and other member Councils to progress their 2022-23 Audit process in a more timely manner.**

The Amendment was Put and CARRIED (8/0)

In favour of the Amendment: Cr Raftis, Mayor Jacob, Crs Fishwick, Jones, Logan, McLean, Poliwka and Mr Thomas.

The Original Motion as amended being:

That Council:

- 1 **BY AN ABSOLUTE MAJORITY, ACCEPTS the Annual Financial Report of the City of Joondalup for the financial year 2021-22, forming Attachment 1 to this Report;**
- 2 **BY AN ABSOLUTE MAJORITY, ACCEPTS the Independent Auditor's Report for the financial year 2021-22, forming Attachment 2 to this Report;**
- 3 **NOTES the Auditor's Management Letter in respect of the financial audit for the year ended 30 June 2022, forming Attachment 3 to this Report;**

- 4 **NOTES** that no interim Management Letter was issued in respect of the financial audit for the year ended 30 June 2022;
- 5 **EXPRESSES** its disappointment to the Office of the Auditor General for the delay in finalisation of the 2021-22 financial year audit, resulting in a delay to the conduct of the City's General Meeting of Electors;
- 6 **FORMALLY REQUESTS** the Mindarie Regional Council work with the office of the Auditor General and other member Councils to progress their 2022-23 Audit process in a more timely manner.

The Motion was Put and

CARRIED (8/0)

In favour of the Motion: Cr Raftis, Mayor Jacob, Crs Fishwick, Jones, Logan, McLean, Poliwka and Mr Thomas.

Appendix 1 refers

To access this attachment on electronic document, click here: [Attach1AUDIT230131.pdf](#)

ADJOURNMENT OF MEETING

The meeting ADJOURNED at 7.04pm on 31 January 2023 with the following Committee Members being present at that time:

Cr John Raftis
Mayor Hon. Albert Jacob, JP
Cr Tom McLean, JP
Cr Nige Jones
Cr Russell Poliwka
Cr Russ Fishwick, JP
Cr John Logan
Mr Richard Thomas

In accordance with clause 10.8(2) of the *City of Joondalup Meeting Procedures Local Law 2013*, no elected members had spoken to the motion prior to the adjournment.

RESUMPTION OF MEETING

The Presiding Member declared the **Special Audit and Risk Committee** meeting **RESUMED** at 7.16pm on 31 January 2023 with the following persons being present:

ATTENDANCE

Committee Members

Cr John Raftis	<i>Presiding Member</i>
Mayor Hon. Albert Jacob, JP	
Cr Tom McLean, JP	
Cr Nige Jones	<i>Deputy Presiding Member</i>
Cr Russell Poliwka	
Cr Russ Fishwick, JP	
Cr John Logan	
Mr Richard Thomas	<i>External Member</i>

Observers

Cr John Chester
Cr Adrian Hill
Cr Daniel Kingston
Cr Suzanne Thompson

Guest

Mr Steven Tweedie Consultant – Conway Highbury to 8.10pm

Officers

Mr James Pearson	Chief Executive Officer	<i>absent from 8.10pm to 8.13pm</i>
Mr Jamie Parry	Director Governance and Strategy	
Mr Mat Humfrey	Director Corporate Services	
Mr Chris Leigh	Director Planning and Community Development	
Ms Christine Robinson	Manager Audit and Risk Services	
Mr Roney Oommen	Manager Financial Services	
Mrs Kylie Bergmann	Manager Governance	<i>to 8.10pm</i>
Mrs Vivienne Stampalija	Governance Coordinator	
Ms Avril Schadendorf	Governance Officer	
Mrs Susan Hateley	Governance Officer	

ITEM 2 REVIEW OF REGISTER OF DELEGATION OF AUTHORITY

WARD	All
RESPONSIBLE DIRECTOR	Mr Jamie Parry Governance and Strategy
FILE NUMBER	07032, 101515
ATTACHMENT	Attachment 1 Consultant's Report Attachment 2 Confidential - Combined Attachments to Consultant's Report Attachment 3 City of Joondalup Delegations Register Attachment 4 City of Perth Delegations Register Attachment 5 City of Stirling Delegations Register Attachment 6 City of Wanneroo Delegations Register Attachment 7 City of Gosnells Delegations Register Attachment 8 WALGA Template Delegations (Please Note: Attachment 2 is Confidential and will appear in the official Minute Book only.)
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 Audit and Risk Committee to receive a report on the review of the City of Joondalup's Register of Delegation of Authority.

EXECUTIVE SUMMARY

At the Council meeting held on 28 June 2022 (CJ092-06/22 refers) the City's annual review of its Register of Delegation of Authority was submitted to the Council, whereby it was resolved as follows:

That Council:

- 1 *ENDORSES* the review of its delegations in accordance with sections 5.18 and 5.46 of the Local Government Act 1995;
- 2 *BY AN ABSOLUTE MAJORITY* and in accordance with sections 5.16 and 5.42 of the Local Government Act 1995, section 127 of the Building Act 2011, section 48 of the Bush Fires Act 1954, section 44 of the Cat Act 2011, section 10AA of the Dog Act 1976, section 118(2)(b) of the Food Act 2008, section 16 and 17 of the Graffiti Vandalism Act 2016, sections 214(2), (3) and (5) of the Planning and Development Act 2005, clause 82 of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 and section 21 of the Public Health Act 2016 *DELEGATES* the local government functions as listed in the amended Register of Delegations of Authority forming Attachment 2 to Report CJ092-06/22.

- 3 *REQUESTS the Chief Executive Officer provide a full review of the Register of Delegation of Authority that would include, but not be limited to, comparisons with best practice and other similar sized local governments, as well as explanations and examples of the required delegations, with a subsequent report to be tabled to the Audit and Risk Committee by October 2022.*

Part 3 of the resolution was carried as an amendment to the Officer Recommendation.

It is therefore recommended that the Audit and Risk Committee:

- 1 *NOTES the consultant's report received on the City of Joondalup's Register of Delegation of Authority;*
- 2 *NOTES the City will consider the recommendations from the Consultant's report as part of the 2023 review of the City's Register of Delegation of Authority.*

BACKGROUND

With regard to Part 3 of the Council resolution on 28 June 2022, the City engaged the assistance of a consultant, Conway Highbury, to carry out the review of the City's Register of Delegation of Authority.

The scope of the review was as follows:

- Comparison of each City of Joondalup Delegation of Authority against the relative Delegation of Authority of four similar sized local governments.
- Comparison between the City of Joondalup and comparative local governments to include:
 - documenting the assigned function and conditions relative to each delegation
 - documenting any key differences between the City of Joondalup delegation and the comparative local governments.

The comparison excludes the delegation of functions (under the *Local Government Act 1995*) from the CEO to officers as this is at the CEO's discretion.

- Desktop assessment of each City of Joondalup Delegation of Authority to the *WALGA Decision Making in Practice – Delegations Guide* and whether it is considered the City's delegations meets the City's legislative obligations as expressed by the Guide.
- Liaison with individual City of Joondalup Directors to obtain a brief explanation of how each Delegation of Authority is applied and two written examples of decisions made under each Delegation of Authority.
- Desktop assessment of the implications of removing City of Joondalup Delegations of Authority, for example; should the delegated tender threshold be lowered, how many tender reports would need to be written and submitted to the Council, and the type of tenders to be reported on.
- Collating the input, information and opinion into a written schedule (proposed manner of presenting the information to be endorsed by the City prior to commencing the project) and report for the use of the City and Audit and Risk Committee in fulfilling the terms of reference of the project.

DETAILS

A key outcome of the review was to provide a schedule of comparative information (against four other similar sized local governments) and expert opinion on the City of Joondalup Delegation of Authority Register, as well as the following:

- Whether the City of Joondalup's Delegations of Authority meets current legislative obligations.
- Whether the City of Joondalup's Delegations of Authority compares favourably with comparative local governments, identifying key differences.
- Whether the City of Joondalup's Delegations of Authority are written and constructed in a manner that might be considered good practice, demonstrated by the way each delegation is applied and the efficiency/effectiveness of decision-making with the delegations in place; and identification of any opportunities for improvement.
- The implications on the City's operations should the City of Joondalup's Delegations of Authority be removed.

A report received from the consultant, addressing the above criteria, is provided as Attachment 1, together with the combined attachments to the consultant's report, copies of the Cities of Joondalup, Perth, Stirling, Wanneroo and Gosnells Delegations Registers, and copy of the WALGA delegations template, provided at Attachments 2 to 8.

The report is provided in two parts being:

- 1 Table 1 of the report highlights key issues for consideration by the City of Joondalup.
- 2 Table 2 of the report is further separated into two parts as follows:
 - a The first part of Table 2 (blue headings) compares delegations and conditions between the Cities of Joondalup, Perth, Gosnells, Wanneroo and Stirling, and the WALGA template.
 - b The second part of Table 2 (orange headings) lists matters in the WALGA template or other Cities' delegations not specifically addressed in the City of Joondalup Register of Delegations.

It is clear from the consultant's report that there is considerable diversity in subjects, approaches and conditions taken by each of the Cities and WALGA. As quoted from the consultant's report, *"the fact that some Cities or WALGA have specific delegations may not of itself be a concern to the City of Joondalup because it may reflect specific circumstances, such as absence of a Local Law on a particular function, or even where there is a Local Law, the absence of a particular function within it may be addressed by a delegation, whereas such an approach may not be necessary at the City of Joondalup."*

The key issues for consideration by the City of Joondalup are provided in the following table.

Key Issues for consideration

CoJ Register of Delegations Ref No	Issue	Recommendation	CoJ Management Response
All delegations	<p>As a matter of principle, the CEO should be delegated all functions possible to be delegated to an employee, or other person.</p> <p>In some Acts, such as the <i>Food Act 2008</i>, where sub delegation is not permitted, it may be more efficient and effective for other employees to be delegated to undertake functions, as well as the CEO (noting that in some cases under some legislation there may be specific qualifications required of an employee, or person to undertake a function delegated, and which may preclude the CEO from being so delegated).</p>	The City should consider that wherever possible the CEO is delegated all functions possible to be delegated to an employee, or other person, in addition to any other employee, or person.	The recommendation is noted. This is a matter for the CEO to decide and will be dependent on whether they are permitted to undertake the delegation through the relevant legislative framework.
All delegations	Some delegations quote specific legislative references in support of, or as the function being delegated – for example Delegation 1.19 which references Regulations 5, 11 and 12 of the <i>Local Government (Financial Management) Regulations 1996</i> , others reference a Part of an Act - for example delegation 3.6 which references Division 5 of Part 8 of the <i>Building Act 2011</i> .	That the City consider a uniform approach to the legislative references in Delegations, using the WALGA template which specifies each legislative provision being delegated.	This recommendation is supported.

CoJ Register of Delegations Ref No	Issue	Recommendation	CoJ Management Response
	<p>In the same way some Delegations provide an englobo reference - for example Delegation 3.8, which while sound would be better (and consistent with other Delegations) if the relevant legislative references were clearly stated.</p>		
<p>All delegations</p>	<p>Some delegations require compliance with the relevant City Policy/ies, others do not.</p> <p>While all delegates must comply with relevant City Policies and procedures, it is a question for the City to determine as to whether such a condition needs to be imposed.</p> <p>As a matter of policy, the City should also consider providing a hyperlink on all delegations to the relevant Policy or Procedure.</p> <p>This has the advantage of ensuring the delegate/s are aware of the relevant Policy/Procedure, and applicants for the exercise of a discretion can use the link to become aware of the Policy/Procedure.</p>	<p>If the City decides to impose a condition on all delegations for the delegate/s to comply with relevant City Policies/Procedures, then the City should consider providing a hyperlink on all delegations to the relevant Policy or Procedure.</p>	<p>Any hyperlinks will only be to City policies which are publicly available. City protocols, procedures and processes are internal operational documents to assist delegated officers.</p>

CoJ Register of Delegations Ref No	Issue	Recommendation	CoJ Management Response
	<p>For example, the City may have a Policy/Procedure regarding assessing application to keep three to six dogs under delegated authority and which might address:</p> <ul style="list-style-type: none"> • The extent and duration of any calling for submissions on the proposal • The requirement for the assessment to include a search to determine if the applicant has been the subject of complaints relating to dogs, any convictions etc, which may be relevant factors in determining the application • The adequacy of the gates, fences, and latches at the property the subject of the application, having regard to the size and breed of the dogs <p>Thus, a potential applicant can ascertain the processes and requirements to be addressed and met.</p>		
<p>Some Delegations</p>	<p>Some Delegations are englobo delegations, such as 3.8 (<i>Cat Act 2011</i>), 3.9 (<i>Dog Act 1976</i>), which while addressing all possible delegations would benefit from the attachment of conditions pertaining to some delegations.</p>	<p>The City should consider using the WALGA template approach, rather than englobo delegations, to ensure that full details of functions, and conditions where relevant are properly addressed by delegates.</p>	<p>The City will review these delegations as part of the 2023 review.</p>

CoJ Register of Delegations Ref No	Issue	Recommendation	CoJ Management Response
Some delegations	The City's Register of Delegations appears to contain no delegations in relation to the <i>Local Government (Uniform Local Provisions) Regulations 1996</i> - unless covered by the City's Local Laws.	The City should review, and determine, whether Delegations are needed to address the provisions of the <i>Local Government (Uniform Local Provisions) Regulations 1996</i> .	The City will review these delegations as part of the 2023 review.
1.1, 1.6, 1.16	<p>These delegations are made by the CEO, as of right, rather than because of a delegation from Council, as the local government, to the CEO, and which may be sub delegated.</p> <p>Council has no authority to make or amend such delegations.</p>	If a single Register of Delegations is to be maintained, then delegations by the CEO should be in a separate part.	This recommendation is supported. The City will review the structure of the delegation manual as part of the 2023 review.
1.8	<p>The City's current limit under the delegation is \$500,000.</p> <p>For a large and complex local government this seems low and should be reviewed, based on:</p> <ul style="list-style-type: none"> Assessment of tenders which were determined by Council in previous 12 months – how many times were the officer's recommendations rejected by Council? If none, or few, it is indication that the officer's assessments are sound and valid, and an increase could be considered in the threshold. 	<p>The City should consider an increase in the threshold of delegation to the CEO to determine tenders.</p> <p>Such an increase should follow consideration of relevant delegations at other similar local governments, and an assessment of purchasing/procurement patterns and Council's assessment of the officer recommendations.</p>	This is a matter for the Council to determine and may be considered as part of the 2023 review.

CoJ Register of Delegations Ref No	Issue	Recommendation	CoJ Management Response
	<ul style="list-style-type: none"> Assessment of how many tenders in previous 12 months would not have needed to be determined by Council, had the threshold been \$750,000 or \$1 million? Whatever the number of examples, had the CEO been able to determine those tenders, it would have meant the tender could have been determined and actioned, without the need of a wait of up to four weeks for Ordinary Council Meeting to determine. 		
1.8	<p>The City should consider an englobo delegation to the CEO to determine all tenders between the December Ordinary Council Meeting and whenever the first Ordinary Council Meeting occurs in the New Year.</p> <p>This overcomes the need to call a Special Council Meeting to determine a tender, at a time of the year when many Council Members may be on leave, thus raising possible quorum issues.</p>	<p>The City should consider an englobo delegation to the CEO to determine all tenders between the December Ordinary Council Meeting and whenever the first Ordinary Council Meeting occurs in the New Year.</p> <p>Such a resolution could be considered at the December Ordinary Council Meeting each year.</p>	This is a matter for the Council to determine and may be considered as part of the 2023 review.

CoJ Register of Delegations Ref No	Issue	Recommendation	CoJ Management Response
1.9	<p>The City's delegation addresses one item within the WALGA template (and other Cities Register of Delegations), being WALGA delegation 1.2.10, but not the other matters. Those matters do not appear to be addressed elsewhere in the Register of Delegations.</p> <p>Should all proposals for permanent closure be determined by Council?</p>	<p>The City should consider adopting the other delegations within the relevant WALGA template delegation to provide a completeness of record.</p> <p>The City should consider the City of Wanneroo condition whereby all proposals for permanent closure are determined by Council?</p>	<p>The City will consider as part of the 2023 review whether WALGA delegations are appropriate for the City's circumstances.</p>
1.11	<p>Some of the conditions in the WALGA template, and of the Cities may have merit.</p>	<p>The City should consider the conditions proposed in the WALGA template and in Cities of Perth, Wanneroo and Stirling delegations for their appropriateness and relevance to City of Joondalup.</p>	<p>The City will consider as part of the 2023 review whether WALGA/other local government delegations are appropriate for the City's circumstances and add value.</p>
1.14	<p>The City's instrument of delegation refers to Regulations 24AB, 24AH and 24AJ of the <i>Local Government (Functions and General) Regulations 1996</i>.</p> <p>A more comprehensive approach is offered by the WALGA template which includes Regs 24AC(1)(b), 24AD (3), 24AD (6) and the City should consider including same – assuming the Council wishes delegations to extend to such matters.</p>	<p>The City should consider the delegations proposed in the WALGA template for their appropriateness and relevance to City of Joondalup.</p>	<p>The City of Joondalup Purchasing Policy contains provisions related to Panels of Pre-Qualified Suppliers and as such the delegations is appropriate.</p> <p>The City will consider as part of the 2023 review whether WALGA delegations are appropriate for the City's circumstances.</p>

CoJ Register of Delegations Ref No	Issue	Recommendation	CoJ Management Response
	<p>This Delegation cannot be made unless the Council has adopted a Policy (Panels of Pre-Qualified Suppliers) in accordance with the <i>Local Government (Functions and General) Regulations 1996 24AC</i>. It is noted that the City does have this matter addressed under its Purchasing Policy under heading 3.9 - Panels of Pre-Qualified Suppliers.</p>		
1.21	<p>Not clear why this delegation is needed to this extent as open to Council to delegate to the CEO, who may then sub delegate, and either Council could attach conditions, or the CEO could do so as part of sub delegation.</p> <p>Not clear why this delegation condition is needed as such matters could be addressed under delegated authority to the CEO to determine by way of a condition? That said it is open to Council to attach whatever conditions it sees fit.</p>	The City should review the condition and consider the CEO determining same, under delegated authority.	The City will consider as part of the 2023 review.
1.22	The delegation is sound but would benefit from the addition of conditions, especially those in the WALGA template.	The City should consider the addition of conditions, especially those in the WALGA template.	The proposed additional conditions are business as usual for the City with regard compliance, however, for additional clarity the City will consider as part of the 2023 review.

CoJ Register of Delegations Ref No	Issue	Recommendation	CoJ Management Response
1.23	Delegation is sound although only reference is to s6.56 of the <i>Local Government Act 1995</i> and would be useful to include WALGA template delegation referring to s6.64.	The City should consider the addition of the s6.64 of the <i>Local Government Act 1995</i> delegation as per WALGA template.	The City will consider as part of the 2023 review.
1.25	<p>It is not clear why this delegation is needed, given Delegation 1.19?</p> <p>It is also noted that neither the WALGA template, nor the other Cities have a similar delegation.</p>	The City should review the need for this delegation, and if additional authority is needed, consider attaching it as a specific delegation or condition at Delegation 1.19.	The City will consider as part of the 2023 review.
1.28	The reference to a maximum of \$20,000 for an "individual" item takes no account of cumulative/multiple amounts for an individual - thus whilst the condition would allow the delegation to be applied to a write off of up to \$20,000, a request for a write off of \$25,000 would need to be referred to Council to determine, yet two, or more requests for a write off, of less than \$20,000 from the same individual could be determined under delegation? In this regard note the condition of the City of Perth regarding cumulative debts.	The City should consider reviewing and amending the "individual" limit, and to take account of cumulative provisions, like the approach taken by the City of Perth condition.	It is considered that the proposed amendment can be supported and the City to include as part of the 2023 review.

CoJ Register of Delegations Ref No	Issue	Recommendation	CoJ Management Response
3.1	The delegation is sound, but it is not clear why it is needed, given the function relates to <i>City of Joondalup Parking Local Law 2013</i> and it (along with other City of Joondalup Local Laws) is addressed with Delegation 1.3?	The City should review the need for this specific delegation pursuant to the <i>City of Joondalup Parking Local Law 2013</i> which should be adequately covered by Delegation 3.1.	The City will consider as part of the 2023 review.
3.4	It is noted that Delegations 3.4, 3.5.1, 3.5.2 deal with granting or refusing and cancelling or extending building and demolition permit applications, building approval certificates and occupancy permits – accordingly they could be combined into a single instrument of Delegation, although it is noted that the WALGA template has two instruments - 2.1.1 Grant a Building Permit and 2.1.2 Demolition Permits.	The City should consider combining Delegations 3.4, 3.5.1 and 3.5.2 into a single Delegation, or as per the WALGA template, into two Delegations – one for building permits, and one for demolition permits.	The City will consider as part of the 2023 review.
3.5.1	It is noted that Delegations 3.4, 3.5.1, 3.5.2 deal with granting or refusing and cancelling or extending building and demolition permit applications, building approval certificates and occupancy permits – accordingly they could be combined into a single instrument of Delegation, although it is noted that the WALGA template has two instruments - 2.1.1 Grant a Building Permit and 2.1.2 Demolition Permits.	<p>Not clear why this delegation is number 3.5.1 – there is no 3.5, and all other Delegations in the Register are numbered sequentially?</p> <p>City should consider whether 3.5.1 is needed given Delegation 3.4?</p> <p>The City should consider combining Delegations 3.4, 3.5.1 and 3.5.2 into a single Delegation, or as per the WALGA template, into two Delegations – one for building permits, and one for demolition permits.</p>	<p>The numbering of the delegations will be reviewed as part of the 2023 review.</p> <p>Consideration will be given to the requirement to retain delegation 3.5.1 as part of the 2023 review including other recommendations to combine delegations.</p>

CoJ Register of Delegations Ref No	Issue	Recommendation	CoJ Management Response
	s24, 60 <i>Building Act 2011</i> is a consequence of a determination and does not require a delegation, separate to the authority at 3.4.	The City should review this reference.	
3.5.2	It is noted that Delegations 3.4, 3.5.1, 3.5.2 deal with granting or refusing and cancelling or extending building and demolition permit applications, building approval certificates and occupancy permits – accordingly they could be combined into a single instrument of Delegation, although it is noted that the WALGA template has two instruments - 2.1.1 Grant a Building Permit and 2.1.2 Demolition Permits.	<p>Not clear why this delegation is number 3.5.2 – there is no 3.5, and all other Delegations in the Register are numbered sequentially?</p> <p>The City should consider combining Delegations 3.4, 3.5.1 and 3.5.2 into a single Delegation, or as per the WALGA template, into two Delegations – one for building permits, and one for demolition permits.</p>	<p>The numbering of delegations will be reviewed as part of the 2023 review.</p> <p>Consideration will be given to the requirement to retain delegation 3.5.2 as part of the 2023 review including other recommendations to combine delegations.</p>
3.7	This has an englobo delegation relating to all the functions of the local government, to the CEO, and whilst this is sound for most matters, there are some matters in the <i>Bush Fires Act 1954</i> which require specific attention, because they are not matters for delegation to the CEO.	The City should review the potential delegations under the <i>Bush Fires Act 1954</i> to ensure that all potential delegations are addressed, ideally using the WALGA template.	The City will consider as part of the 2023 review.
3.9	Care needs to be taken to ensure that delegates are aware that there are several matters at s31 of the <i>Dog Act 1976</i> Control of dogs in certain public places, which cannot be delegated because they require an absolute majority.	The City should consider a condition highlighting that s31 of the <i>Dog Act 1976</i> matters are not delegated and must be determined by the Council.	Acknowledged. The City has reported on matters related to s31 to the Council for an absolute majority decision and not presumed to be able to make such decisions under delegated authority. It is noted that the WALGA template offers this information as part of its guidance note and not part of a delegation.

CoJ Register of Delegations Ref No	Issue	Recommendation	CoJ Management Response
3.10	<p>The delegation is sound, adopting an englobo approach to all matters capable of being delegated, and delegating all possible matters to the CEO.</p> <p>However, while the CEO may “work though” other employees in fulfilling the functions, it may be preferable that the Council delegates to other employees, as well as the CEO, given there are no powers to sub delegate under the Act.</p> <p>Consideration should be given to addressing some issues not specified, with limits, or conditions, such as in relation to s70(2), (3) of the <i>Food Act 2008</i> – determining compensation, where in the absence of any limits, the CEO has infinite discretion to determine – noting that may be Council’s specific intention, in which case no further edit is needed.</p>	<p>The City should review the Delegation to determine whether other employees should be delegated authority, in addition to the CEO.</p> <p>The City should review the delegation to determine whether any limits or conditions should attach to the delegation in relation to s70(2), (3) of the <i>Food Act 2008</i>.</p>	The City will consider as part of the 2023 review.
3.15	Delegation is sound, and although the Delegation delegates all functions to the CEO under the Public Health Act, it does not address the <i>Health (Asbestos) Regulations 1992</i> .	<p>The City should consider adopting a delegation to address <i>Health (Asbestos) Regulations 1992</i> - see WALGA template 8.1.1.</p> <p>The City should review the Delegation to determine whether other employees should be delegated authority, in addition to the CEO.</p>	The City will consider as part of the 2023 review.

CoJ Register of Delegations Ref No	Issue	Recommendation	CoJ Management Response
	<p>Englobo delegation to CEO is sound, and although the CEO can use “working through” on many matters, it may be prudent for Council to delegate some functions to other employees, as well as the CEO:</p> <ul style="list-style-type: none">• see WALGA template 8.1.2 Enforcement Agency Reports to the Chief Health Officer• see WALGA template 8.1.3 Designate Authorised Officers• see WALGA template 8.1.4 Determine Compensation for Seized Items - where in the absence of any limits, the CEO has infinite discretion to determine – noting that may be Council’s specific intention, in which case no further edit is needed.	<p>The City should review the delegation to determine whether any limits or conditions should attach to the delegation.</p>	

Part 3 of the Council Resolution on 28 June 2022, called for a report to be tabled to the Audit and Risk Committee by October 2022. However, with no Audit and Risk Committee meeting scheduled in October and the complexity of the requirements of the report, it was agreed, in consultation with the Presiding Member of the Audit and Risk Committee, to present this report to a Special Meeting of the Audit and Risk Committee.

Issues and options considered

The following options are provided for the Audit and Risk Committee's consideration:

- note the consultant's report and desktop assessment of the City of Joondalup Delegations and that the City will consider the consultant's recommendations as part of the 2023 review
or
- not support the consultant's report and desktop assessment of the City of Joondalup delegations.

Legislation / Strategic Community Plan / policy implications

Legislation	<i>Local Government Act 1995.</i>
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

Council is required to review its delegations under the *Local Government Act 1995* at least once every financial year and to review its delegations made under clause 82 of schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* every two years.

This statutory review has been completed and was presented to the Council meeting held on 28 June 2022.

Financial / budget implications

The provision of consultancy services to provide a report on the review of the City's Delegation of Authority was \$16,000 plus GST.

Regional significance

Not applicable.

Sustainability implications

Not applicable.

Consultation

Not applicable.

COMMENT

Where legislation confers a function or power in a “local government” it was generally intended by Parliament to mean Council. However, there are many instances within the Act and other legislation that a function given to a local government is not exercisable, at least on a day-to-day basis by a Council but by the Chief Executive Officer or the local government’s administration.

The Act itself makes it clear that:

- a Council’s role is not to exercise administrative (or management powers) but to exercise broader governance powers (section 2.7 of the Act)
- a Chief Executive Officer has the principal administration or management role of the local government – reflected in the specific statutory function to ‘manage the day-to-day operations of the local government’ (section 5.4(e) of the Act).

In view of this, local governments utilise levels of delegated authority to allow the Chief Executive Officer (and other officers) to undertake day-to-day statutory functions, thereby allowing Council to focus on policy development, representation, strategic planning and community leadership.

The use of delegated authority means the large volume of routine work of a local government can be effectively managed and acted on promptly, which in turn facilitates efficient service delivery to the community. The 2022 review has resulted in refining delegations to ensure the City’s continued ability to maintain high standards of service delivery and improved workflow processes.

The Consultant from Conway Highbury, Chief Executive Officer and Manager Governance left the Room at 8.10pm.

The Chief Executive Officer entered the Room at 8.13pm.

MOVED Cr McLean, SECONDED Cr Logan that the Audit and Risk Committee:

- 1 NOTES the consultant’s report received on the City of Joondalup’s Register of Delegation of Authority;**
- 2 NOTES the City will consider the recommendations from the Consultant’s report as part of the 2023 review of the City’s Register of Delegation of Authority.**

The Motion was Put and

CARRIED (8/0)

In favour of the Motion: Cr Raftis, Mayor Jacob, Crs Fishwick, Jones, Logan, McLean, Poliwka and Mr Thomas.

Appendix 2 refers

To access this attachment on electronic document, click here: [Attach2AUDIT230131.pdf](#)

CLOSURE

There being no further business, the Presiding Member declared the Meeting closed at 8.18pm the following Committee Members being present at that time:

CR JOHN RAFTIS
MAYOR HON. ALBERT JACOB, JP
CR TOM MCLEAN, JP
CR NIGE JONES
CR RUSSELL POLIWKA
CR RUSS FISHWICK
CR JOHN LOGAN
MR RICHARD THOMAS