

MINUTES

Policy Committee

MINUTES OF THE POLICY COMMITTEE MEETING

HELD ON

MEETING DATE



TUESDAY, 6 FEBRUARY 2007

CITY OF JOONDALUP

MINUTES OF THE POLICY COMMITTEE MEETING HELD IN CONFERENCE ROOM 2, JOONDALUP CIVIC CENTRE, BOAS AVENUE, JOONDALUP ON TUESDAY, 6 FEBRUARY 2007

ATTENDANCE

Committee Members:

Cr Sue Hart	<i>Presiding Person</i>	South-East Ward
Cr Kerry Hollywood	<i>Deputy Presiding Person</i>	North Ward
Mayor Troy Pickard		
Cr Steve Magyar		North-Central Ward
Cr Marie Evans	<i>To 2021 hrs</i>	South-West Ward
Cr Russ Fishwick		South Ward

Officers:

Mr Garry Hunt	Chief Executive Officer	
Mr Ian Cowie	Director Governance and Strategy	
Mr Clayton Higham	Director Planning and Community Development	<i>to 1848 hrs</i>
Ms Janet Harrison	Administrative Services Coordinator	

DECLARATION OF OPENING

The Presiding Person declared the meeting open at 1805 hrs.

APOLOGIES/LEAVE OF ABSENCE

Nil

ELECTION OF DEPUTY PRESIDING PERSON

Following the resignation of Cr John Park, a vacancy exists for the position of deputy presiding person on the Policy Committee. It is advisable that the committee appoints a deputy presiding person, who would chair the meeting in the absence of the presiding person.

The Chief Executive Officer sought nominations for the position of Deputy Presiding Person.

Cr Fishwick nominated Cr Kerry Hollywood. Cr Hollywood accepted the nomination.

There being no further nominations, Cr Hollywood was elected unopposed to the position of Deputy Presiding Person.

CONFIRMATION OF MINUTES**MINUTES OF THE POLICY COMMITTEE MEETING HELD ON 9 NOVEMBER 2006**

MOVED Cr Magyar SECONDED Cr Hollywood that the minutes of the meeting of the Policy Committee held on 9 November 2006 be confirmed as a true and correct record.

The Motion was Put and

CARRIED (6/0)

In favour of the motion: Mayor Pickard, Crs Hart, Hollywood, Magyar, Evans and Fishwick

ANNOUNCEMENTS BY THE PRESIDING PERSON WITHOUT DISCUSSION

Nil.

DECLARATIONS OF INTEREST**Disclosure of interest affecting impartiality**

Elected members and staff are required under the Code of Conduct, in addition to declaring any financial interest, to declare any interest that may affect their impartiality in considering a matter. This declaration does not restrict any right to participate in or be present during the decision-making process. The Elected member/employee is also encouraged to disclose the nature of the interest.

Name/Position	Mayor Troy Pickard
Item No/Subject	Item 3 Proposed Amendment to Policy 8-2 – Elected Member Allowances Item 4 Code of Conduct: Gifts and Acts of Hospitality
Nature of interest	Interest that may affect impartiality
Extent of Interest	Allowances, gifts and acts of hospitality are relevant to his position as Mayor.

Name/Position	Cr Sue Hart
Item No/Subject	Item 3 Proposed Amendment to Policy 8-2 – Elected Member Allowances Item 4 Code of Conduct: Gifts and Acts of Hospitality
Nature of interest	Interest that may affect impartiality
Extent of Interest	Cr Hart could receive a benefit under these policies.

Name/Position	Cr Steve Magyar
Item No/Subject	Item 3 Proposed Amendment to Policy 8-2 – Elected Member Allowances
Nature of interest	Interest that may affect impartiality
Extent of Interest	Cr Magyar could receive a benefit under this policy.

Name/Position	Cr Russ Fishwick
Item No/Subject	Item 3 Proposed Amendment to Policy 8-2 – Elected Member Allowances
Nature of interest	Interest that may affect impartiality
Extent of Interest	Cr Fishwick is an elected member of Council.

Name/Position	Cr Kerry Hollywood
Item No/Subject	Item 3 Proposed Amendment to Policy 8-2 – Elected Member Allowances
Nature of interest	Interest that may affect impartiality
Extent of Interest	Cr Hollywood could receive a benefit under this policy.

Name/Position	Cr Marie Evans
Item No/Subject	Item 3 Proposed Amendment to Policy 8-2 – Elected Member Allowances
Nature of interest	Interest that may affect impartiality
Extent of Interest	Cr Evans could receive a benefit under this policy.

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

Nil.

PETITIONS AND DEPUTATIONS

Nil.

REPORTS

ITEM 1 DRAFT LOCAL PLANNING POLICY – SHORT STAY ACCOMMODATION – [72584]

WARD: All

RESPONSIBLE A/DIRECTOR: Mr Clayton Higham
 Planning and Community Development

PURPOSE

The purpose of this report is for the Policy Committee to consider a draft local planning policy relating to short stay accommodation.

EXECUTIVE SUMMARY

Currently there is no specific land use in the City's District Planning Scheme No 2 (DPS2), and no local planning policy or guidelines, in relation to short stay accommodation.

Short stay accommodation applications have been classified as a 'Residential Building' under DPS2. The current provisions within DPS2 and the Residential Design Codes do not provide specific requirements for short stay accommodation, and each proposal is assessed on its merits. The Hon Minister for Planning and Infrastructure also raised this issue with the Council in 2004 and requested that guidance be developed. As a result, a draft policy has been prepared for the Committee's, and ultimately, Council's consideration.

A draft policy and associated scheme amendment were presented to Council at its meeting of 19 September 2006, where it resolved to defer the matter, pending further consideration by the Policy Committee.

The draft policy aims to provide parameters for the evaluation of proposals that may be lodged, addressing issues of location, density, and management. It is anticipated that the policy will be enforced by a future amendment to DPS2 that will provide a definition of short stay accommodation and will specify in which zones short stay accommodation would be permissible.

In order to implement a policy on short stay accommodation as soon as possible, it is proposed that a policy that is not reliant on a scheme amendment, be initiated. It is recommended that the Committee endorses the draft Policy and recommends that the matter be presented to Council for further consideration.

BACKGROUND

DPS2 currently has no definition for short stay accommodation. Proposals for short stay accommodation have been assessed as a 'Residential Building' for the purposes of DPS2.

Neither the DPS2 nor the Residential Design Codes provide specific development standards and requirements for a Residential Building.

A 'Residential Building' is a discretionary use within the Residential, Mixed Use, Business, Commercial and Private Clubs and Recreation zones.

Following an inquiry into the Mullaloo tavern development, which did not have any adverse findings against the City, the Minister for Planning and Infrastructure recommended that a policy be put in place to guide the development of short stay accommodation. Specifically, the Minister recommended:

"The introduction of measures to guide the development of short stay accommodation in those zones where such development is permissible. As a minimum, such measures should address the density of those forms of residential development for which there is currently no explicit density control."

Currently, the DPS2 is silent on issues of permitted density and the cut off between a dwelling and a residential building (or other forms of temporary accommodation), mostly occurs by virtue of the determination of what length of stay satisfies a reasonable test of being considered as permanent.

It could be stated that the DPS2 contains a 'gap' on this issue, however, it is notable that the Council has received only two applications over the past two years for short stay accommodation outside the City Centre area. In these circumstances, which are effectively rare applications, the Council is required to consider applications on merit rather than merely in relation to standards. That is, if standards were developed for all matters, including those which may only occur once or twice, the process would become inefficient and cumbersome.

The two applications referred to above are:

- 3 Glenelg Place, Connolly. This proposal was to convert an existing medical centre into short stay accommodation. The proposal was refused by Council at its meeting of 26 April 2005. A subsequent appeal by the applicant to the State Administrative Tribunal was upheld, effectively reversing Council's decision.
- 17 Foston Drive, Duncraig. This proposal is to utilise an existing residential dwelling for short stay accommodation. The proposal was refused at Council's meeting of 19 September 2006. Prior to this decision being issued, the applicant had already lodged an appeal to the State Administrative Tribunal, based on the 'deemed refusal' provisions of DPS2. This appeal is yet to be determined.

While an amendment to DPS2 could establish clear rules and provide more certainty in relation to the development of short stay accommodation, the scheme amendment process generally takes a long period (usually 9-12 months) until final gazettal.

It is considered appropriate that in the interim, a policy on short stay accommodation (currently classified as a 'Residential Building' under DPS2) be introduced to provide guidelines which will assist in assessing development proposals.

It is noted that the draft policy has been amended from that presented to Council on 19 September 2006 to allow the policy to be implemented independently of the proposed scheme amendment.

DETAILS

Issues and options considered:

Draft Policy

The draft policy (Attachment 1 refers) proposes guidelines for the operation of short stay accommodation. The policy provides guidance with regard to the management and record keeping processes. In addition the policy encourages short stay accommodation in areas of tourist potential and close to main access roads.

Options

In considering the draft local planning policy, the Policy Committee can:

- Endorse the policy and recommend it be presented to Council for consideration;
- Modify the draft policy, and recommend it be presented to Council for consideration;
- Not endorse the draft policy.

Link to Strategic Plan:

Short stay accommodation is likely to be used as tourist accommodation and therefore links with Strategy 3.2 (Lifestyle) of the City's Strategic Plan, which is intended to develop and promote the City of Joondalup as a tourist attraction.

Legislation – Statutory Provisions:

Clause 8.11 of DPS2 outlines the provisions with respect to the preparation of local planning policies. Clause 8.11.1 enables the Council to prepare a local planning policy in respect of any matter related to the planning and development of the scheme area.

Once the draft policy is prepared it is required to be advertised in accordance with Clause 8.11.3 by way of a notice published once a week for two consecutive weeks in a local newspaper giving notice where the draft policy may be inspected. The draft policy would also be advertised on Council's website. The specified period for advertising should not be less than twenty one (21) days.

Risk Management considerations:

Not Applicable.

Financial/Budget Implications:

Not Applicable.

Policy Implications:

It is proposed to implement a new policy.

Regional Significance:

Not Applicable.

Sustainability Implications:

The proposed short stay accommodation policy could (if adopted) support tourism by providing alternative accommodation choices.

Consultation:

Clause 8.11.3 of DPS2 requires that the draft policy be advertised for a twenty one (21) day period. A notice would be published in the local newspaper for two consecutive weeks, and a notice would also be placed on the City's website.

COMMENT

It is considered appropriate to amend the DPS2 to include a definition and provisions for short stay accommodation. However, as an amendment to DPS2 to include a definition of short stay accommodation may take up to 12 months, the draft policy has been amended to allow it to be implemented without relying on the scheme amendment. In the event that the scheme amendment is approved, any associated adopted policy on short stay accommodation would be required to be reviewed and aligned with the DPS2.

Should the Committee and Council resolve to adopt the policy (following public advertising) it is anticipated that it will be further enforced by an amendment to DPS2, which will introduce an appropriate definition, car parking standards and land use permissibility provisions in the Scheme.

While a policy does not have the same statutory power as DPS2, it could be implemented relatively quickly to address current uncertainties relating to short stay accommodation.

Draft Policy

The policy will provide guidance and attempt to ensure that short stay accommodation is appropriately managed.

Specifically, the policy will address:

- The management of the accommodation, including submission of a Management Plan (this includes requiring appropriate documentation to be kept by the proprietor of the accommodation, and the submission of a plan detailing how the accommodation will be managed and operated).
- The density of the development. As short stay accommodation are not 'dwellings' for the purposes of the Residential Design Codes, R-Codes densities (eg R20, R40) do not apply. However, for the purposes of assessment, equivalent densities could be used. For areas outside the City Centre, an equivalent maximum density of R40 (1 unit per 250 sqm) is suggested. In the City Centre, given that short stay accommodation should be expected and encouraged in the City Centre, the density applicable to be site is proposed.
- The preferred location of short stay accommodation. Appropriately located short stay accommodation has the potential to encourage tourist and economic opportunities in the City of Joondalup. To maximise this potential, the draft policy requires the applicant to demonstrate that the short stay accommodation meets the needs of the intended clients, by reason of being in close proximity to main road, public transport, education facilities, areas of tourist interest, or the city centre.

A good example of the location of short stay accommodation is the Sorrento Beach Resort, West Coast Drive, Sorrento, which is close to Hillarys Boat Harbour, the coast, and transport routes.

Some aspects of the draft Policy are further discussed below:

Location

Due to the potential impact on residential amenity, the draft Policy outlines that short stay accommodation will not be supported in the Residential Zone. As the draft policy does not have the statutory power of the Scheme, it provides only guidance on the location of short stay accommodation. The policy will, however, assist the City in assessing the merit of the location of any proposed short stay accommodation.

Length of Stay

Standard residential leases generally run for a minimum of three months. As short stay accommodation is more commercial in its nature, the draft policy requires that stays be limited to a maximum of three months in any twelve month period. If multiple stays are proposed, a minimum gap of one month is required and the total aggregated length of stay cannot be more than three months.

This time period is considered appropriate in ensuring that such developments will provide their intended “holiday” function, and will prevent potential conflicts between ‘long term’ and ‘short term’ residents within short stay accommodation by not allowing permanent residency.

Conclusion

The draft policy will provide the City with interim guidelines to regulate the development of short stay accommodation. The policy provides key elements to address length of stay, location, maintenance, car parking and density. It is anticipated that the policy will be further strengthened by an amendment to DPS2.

It is recommended that the draft policy be endorsed, and be presented to Council for further consideration.

ATTACHMENTS

Attachment 1 Draft Policy – Short Stay Accommodation

VOTING REQUIREMENTS

Simple Majority

OFFICER’S RECOMMENDATION

That the Policy Committee ENDORSES the draft Local Planning Policy – Short Stay Accommodation forming Attachment 1 to this Report and RECOMMENDS to Council that the draft Policy be advertised for public comment for a period of 21 days.

The Director Planning and Community Development provided an overview of the proposed policy.

Discussion ensued, with the following points raised:

- Draft policy to be advertised for 28 days, instead of 21 days.
- Appropriate newspaper advertising was requested to educate the community on the requirements of the policy.

- Policy to be amended as follows:
 - Under “Location”, the end of paragraph one to read: “...areas of tourist interest, *or the city centre.*”
 - Under “Location”, last sentence of paragraph two to read: “*Therefore, short stay accommodation will not generally be supported in the Residential Zone, however, Council reserves the right in particular circumstances to consider matters and conditions that apply to proposals in a Residential Zone.*”
 - Under “Requirements”, Point 5, 5th dot point to read: “*Control of antisocial behaviour and potential conflict between the long term and short term guests. A Code of Conduct shall be prepared detailing the expected behaviour of residents in order to minimise any impact on adjoining properties.*”
 - Under “Requirements” The following sentence to be added at the end of Point 5: “*The management plan shall be kept at the premises at all times, and the Code of Conduct shall be displayed in a prominent position within the premises.*”
 - Under “Requirements”, Point 8 to read: “*For the purposes of assessing the number of short stay units on a site, the maximum density will be equivalent to the density applicable to the site, calculated on a total land area.*”

MOVED Cr Magyar SECONDED Cr Fishwick that the Policy Committee ENDORSES the draft Local Planning Policy – Short Stay Accommodation forming Attachment 1 this Report, as amended by the Policy Committee, and RECOMMENDS to Council that the draft Policy be advertised for public comment for a period of 28 days.

The Motion was Put and

CARRIED (6/0)

In favour of the motion: Mayor Pickard, Crs Hart, Hollywood, Magyar, Evans and Fishwick

Appendix 1 refers

ITEM 2 POLICIES RELATING TO RECOGNITION OF COMMUNITY/SPORTING GROUPS AND VOLUNTEERS – [18107]

WARD: All

RESPONSIBLE Mr Ian Cowie
DIRECTOR: Governance and Strategy

PURPOSE

For the Policy Committee to give consideration to the proposed policies relating to:

- Recognition of community/sporting groups; and
- Recognition of volunteers.

EXECUTIVE SUMMARY

The City of Joondalup currently benefits from countless unpaid hours provided by volunteers and community/sporting groups in delivering services, programs and activities to the community.

The City has in the past recognised volunteers that assist the City in specific programs or services to the community.

Options have been prepared for consideration on how to recognise the efforts of volunteers and community/sporting groups.

BACKGROUND

The City of Joondalup has since its establishment recognised volunteers that have assisted the City in delivering various services or programs to its residents.

Predominantly the volunteer functions related to volunteers that assisted the City in the following areas:

- Library Services;
- Joondalup Eisteddfod;
- Justices of the Peace;
- Joondalup Festival and Summer Events Programs;
- Seniors and Youth (SWRHA); and
- Surf Lifesaving and State Emergency Services.

The City also has hundreds of community groups that are predominantly staffed by volunteers that provide various services and programs to the community of the City of Joondalup. A request has been made from a community group for the City of Joondalup to acknowledge and provide funding to assist it in celebrating an anniversary date of its existence. The City of Joondalup does not have a policy to deal with such a request.

DETAILS

The City currently recognises those volunteers who assist it in delivering various services and programs. There are in excess of 400 community groups that operate within the City providing various community based programs, services and activities.

It has been requested that consideration be given to the development of policies that recognise the contribution of these community groups.

Issues and options considered:

A number of options have been canvassed and are attached to the report. The Council could:

- Agree to continue with the current practice of recognising volunteers that assist the City;
- Consider and select one of the attached options;
- Decide not to recognise volunteers.

Link to Strategic Plan:

Objective 1.2	To meet the cultural needs and values of the community.	
	Strategy 1.2.1	Continue to enhance and create new cultural activities and events.
Objective 1.3	To continue to provide services that meet changing needs of a diverse and growing community.	
	Strategy 1.3.2	Provide quality-of-life opportunities for all community members.
	Strategy 1.3.3	Provide support, information and resources.

Legislation – Statutory Provisions:

Not Applicable.

Risk Management considerations:

There is a minimal risk involved being that failure for the City of Joondalup to recognise the efforts of the community/sporting groups and volunteers may see a decline in the numbers of volunteers and community/sporting groups.

Financial/Budget Implications:

Increasing the number of events and number of guests will increase the financial cost to the City.

Policy Implications:

There is currently no policy addressing these issues. This report has been presented to the Policy Committee for consideration.

Regional Significance:

The efforts of volunteers and community/sporting groups not only benefit the residents of the City of Joondalup, but also those of the region.

Sustainability Implications:

Social sustainability is a life achieving condition within communities, and is a positive condition marked by a strong sense of social cohesion. Volunteers and community/sporting groups play a vital role in achieving social sustainability.

From an economic sustainability perspective, volunteers and community/sporting groups contribute numerous hours of unpaid contribution to the community. The financial implication on the City and other levels of government would be enormous if volunteers failed to serve the community or alternatively many service programs would not be delivered, which would greatly impact on the social sustainability and general community well being.

Consultation:

It is not recommended that the policies be subject to consultation.

COMMENT

The volunteers and community groups provide an invaluable contribution to sustaining the communities in which we live. The policies submitted attempt to address ways to recognise their efforts and contributions.

ATTACHMENTS

Attachment 1	Draft Policy – Recognition of Community/Sporting Groups
Attachment 2	Draft Policy – Recognition of Volunteers
Attachment 3	Options for functions

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION

That the Policy Committee CONSIDERS the draft policies on Attachments 1 and 2 to this Report and determines the nature of the policies to be forwarded to Council for endorsement.

The Director Governance and Strategy provided an overview of the report.

Discussion ensued in relation to the draft policy on Recognition of Community/Sporting Groups, with the following points raised:

- The groups recognised under this policy would include members of Council's advisory committees and community service volunteers, such as bus drivers.
- Policy to be amended as follows:
 - First sentence under "Community Groups" to be amended to read: *"Community/sporting groups that have operated for the following number of years may apply for the following amounts to celebrate the milestone."*
 - Amounts shown on page 1 to be amended.
 - Additional dot point on page 1 to read *"Host a civic reception to celebrate the group's milestone"*.
 - Under "Eligibility", 2nd dot point to be amended to read: *"have been operational within the suburbs/localities within the current boundaries of the City of Joondalup...."*
 - Under "Eligibility", an additional sentence to read: *"Applications for support under this Policy must be submitted to the CEO on the relevant form"*.

Discussion ensued in relation to the draft policy on Recognition of Volunteers, with the following points raised:

- The attached matrix was for the information of the Committee and is not to form part of the policy.
- Policy to be amended within “Statement” as follows:
 - The following sentence to be added at the end of dot point 1: *“The volunteer functions will be held, where possible, to coincide with dates and weeks of recognised significance.”*
 - *Dot point 2 to be deleted.*
 - Dot point 3 to be amended to read: *“Invite volunteers from recognised community groups who have operated within the City of Joondalup to functions to recognise their service. The invitation to volunteers will also include partners.”*
 - Delete last sentence.

MOVED Mayor Pickard SECONDED Cr Evans that the Policy Committee DETERMINES the draft policies on Attachments 1 and 2 to this Report, as amended by the Policy Committee, be forwarded to Council for endorsement.

The Motion was Put and

CARRIED (6/0)

In favour of the Motion: Mayor Pickard, Crs Hart, Hollywood, Magyar, Evans and Fishwick

Appendix 2 refers

ITEM 3 PROPOSED AMENDMENT TO POLICY 8-2 – ELECTED MEMBER ALLOWANCES – [27122, 18058]

WARD: All

RESPONSIBLE Mr Ian Cowie
DIRECTOR: Governance and Strategy

PURPOSE / EXECUTIVE SUMMARY

To propose amendments to Policy 8-2, which relates to allowances for Elected Members.

BACKGROUND

It is important that provisions in relation to allowances are as clear and unambiguous as possible to avoid potential disputes.

DETAILS

The proposed amendments to Policy 8-2 are tracked in Attachment 1. A 'clean' version of the Policy with proposed amendments is at Attachment 2. There are numerous changes, with the key ones as follows.

- A range of minor grammatical and operational enhancements is made (ie. associating access to telephone facilities with suitable accommodation rather than secretarial services; referring consistently to conference and training events; and reflecting the fact that it is the City which makes payment rather than the Council).
- Words have been taken from the Objective of the Policy and included as a new Introduction. This has been done to better reflect the nature of the comments.
- The annual period has been amended from May-May to October-October to conform to the new electoral cycle.
- A clear statement has been made that equipment issued to Elected Members should either be new or in a very good condition. This was unclear before with a previous reference relating to the balance of an Elected Member's term.
- The insertion of a provision which allows Elected Members who do not wish to obtain the uniform to have access to a cash payment which equates to the value of the uniform. This must be used to purchase other clothing.
- The insertion of several new clauses to explain the process for reimbursement including what can be reimbursed when visits to conference or training events are extended.
- The insertion of additional provisions in relation to the payment of a daily allowance to explain the allowance. Allowance amounts are not included in the Policy as these can change regularly as the Award is amended.
- Deleting the requirement for Council approval to transfer conference and training money to another Elected Member to enhance efficiency.
- Incorporating clauses relevant to overseas travel in the part relating to overseas travel.
- Providing greater flexibility in relation to the timeline for making claims for reimbursement. While it is considered important for claims to be made in a timely manner, some flexibility is considered reasonable.
- Deleting the concept of a delegation to the CEO in relation to Conference and Training events as this is not required and placing the onus on Elected Members to select the events they would like to attend.

Issues and options considered:

The proposed amendments to the Policy could be:

- Accepted;
- Modified; or
- Rejected

Link to Strategic Plan:

Not Applicable.

Legislation – Statutory Provisions:

Sections 5.98, 5.98A, 5.99, 5.99A and 5.102 of the *Local Government Act 1995* together with the Local Government (Administration) Regulations govern the allowances which can be paid.

Risk Management considerations:

The wording within the current Policy is sometimes confusing and there are areas that could be further clarified. The proposed amendments to the Policy make such changes to minimise future risk about the Policy being misinterpreted.

Financial/Budget Implications:

There are no financial implications associated with the changes being proposed.

Policy Implications:

An amendment to Policy 8-2 is proposed.

Regional Significance:

Not Applicable.

Sustainability Implications:

Not Applicable.

Consultation:

Not Applicable.

COMMENT

Not Applicable.

ATTACHMENTS

Attachment 1	Proposed amendments to Policy 8-2 – tracked changes.
Attachment 2	Proposed amendments to Policy 8-2 – clean version.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION

That the Policy Committee CONSIDERS the proposed amendments to Policy 8-2 provided at Attachment 1 to this Report, and, if supported, PRESENTS these to Council as proposed amendments to the Policy.

The Director Governance and Strategy provided an overview of the report.

Discussion ensued, with a number of additional amendments being requested to be made to the policy, as follows:

- Clause 1.2(d) to read: *“Suitable contemporary office accommodation within the Civic Centre”*
- Clause 1.3(d) to read: *“The cost of the Deputy Mayor or Councillor, plus his or her partner, attending”*
- Clause 2.2(1) to read: *“laptop computer and all in one printer.”*
- New Clause 2.2.(2) added to read: *“router and hub for internet use.”*
- Clause 2.4(1) to read: *“Two name badges for members and one name badge for their partners”.*
- Clause 2.4(7) to read: *“....3 shirts/blouses. Should an Elected Member not wish to receive the uniform, they will be entitled to receive a cash payment which equates to the cost of supplying the uniform to purchase their own clothing that is suitable for civic attire. Such a cash payment must be acquitted within 3 months through the provision of receipts for clothing purchased. Any monies not acquitted in this way should be returned to the City. Such a payment will only be made once in a term of office.”*
- Clause 2.6(1) to read: *“An elected member is entitled to retain, at no charge, equipment, documents and other items issued by Council, with the exception of the following which cannot be retained.”*
- Clause 4.3(1)(a) to read: *“.... allocation of \$10,000, inflated at the CPI rate for Perth on 1 July each year and rounded to the nearest \$1,000”*
- Clause 4.3(1)(b) to read: *“.... allocation of \$5,000, inflated at the CPI rate for Perth on 1 July each year and rounded to the nearest \$1,000”*
- Clause 4.7(6)(g) to be amended to change all reference to *“two days”* to *“three days”*.
- Clause 4.7(7), heading to be amended to read: *“Cash Advances associated with payment through the reimbursement of expenses”.*

A query was raised in relation to the requirement under Clause 6, for Elected Members to submit a report following their attendance at a conference. It was understood that the timeframe for submission of such report was two weeks, and a request was made to extend this period of time. This matter will be investigated.

Cr Evans left the Room at 2021 hrs.

MOVED Cr Magyar SECONDED Mayor Pickard that the Policy Committee PRESENTS Policy 8-2 on Attachment 1 to this Report, and as amended by the Policy Committee, to Council for endorsement.

The Motion was Put and

CARRIED (4/1)

In favour of the motion: Mayor Pickard, Crs Hart, Hollywood and Magyar **Against the Motion:** Cr Fishwick

Appendix 3 refers

ITEM 4 CODE OF CONDUCT: GIFTS AND ACTS OF HOSPITALITY – [09358]

WARD: All

RESPONSIBLE Mr Ian Cowie
DIRECTOR: Governance and Strategy

PURPOSE / EXECUTIVE SUMMARY

To propose amendments to the section of the Code of Conduct relating to gifts and acts of hospitality to improve the clarity of the Code's requirements and to ensure it aligns with relevant legislation.

BACKGROUND

Gifts and acts of hospitality provided to, and accepted by, Elected Members, Committee Members and employees can be a contentious issue. Consequently, this area of the Code has been given close consideration to determine its operational effectiveness.

DETAILS

There are several areas within the Code of Conduct relating to gifts (Attachment 1) that give cause for concern. These are as follows:

- 1 The first paragraph makes a categorical statement (ie. Elected Members “shall not seek or accept” gifts). However, clearly gifts can be accepted. Consequently it would be better if this paragraph commenced with the words “in general”.
- 2 The second paragraph says that “the Mayor and/or the CEO may accept acts of hospitality for local community-related events”. There is no indication as to whether this only applies to token gifts and moderate acts of hospitality or whether it relates to all acts of hospitality, no matter what the cost. It also begs the question about Councillors being offered and accepting hospitality for “local community-related events”.
- 3 The third paragraph appears to be out of place. It starts “notwithstanding the preceding paragraph, Elected Members, etc may accept token gifts”. This statement really relates to the first paragraph that says acts of hospitality and gifts cannot be accepted rather than the second paragraph that talks about accepting acts of hospitality.
- 4 The Code notes that “the term gift does not include...the giving of gifts in accordance with social customs”. Most gifts are given in accordance with social customs. For instance, gifts at Christmas could be seen as being given in accordance with social customs. It could also be seen as a social custom to invite people to functions or events. Each of these would then be excluded from the definition of gift (and presumably not be covered by the Code). It is unlikely that this is what was envisaged when the Code was drafted.

5 The Code notes that the term 'gift' would not include token gifts of appreciation. Here it is noted that gifts, in working or public life, are generally given on two bases. The first is in anticipation of something being done while the second is in appreciation of something having been done. In reality, many gifts will cover the two (ie. an invitation to a Christmas event ostensibly to thank the person for past work but which also anticipates future work). If the term 'gift' does not include gifts of appreciation, many gifts received would not need to be recorded. It is unlikely that this was envisaged when the Code was drafted.

6 The Code identifies tangible items that are not covered by the term 'gift'. The Regulations make no such allowance for tangible items but cover acts of hospitality. Specifically, the Regulations require as follows:

- Only token gifts can be accepted;
- The Code is to require token gifts to be recorded in a Register;
- The Register is to contain specific information about the token gift; and
- Acts of hospitality specified by a local government in its Code do not need to be recorded.

The City's definition of what is excluded from the term 'gift' relates to tangible items rather than actual acts of hospitality. Consequently, it could be questioned whether this is appropriate and legal.

7 The definition of the items, which the term 'gift' does not cover, makes no mention of the item's value. It talks about "small items". However, some small items can have large values. This would appear a weakness and the concept of low value should be added.

8 The Code mentions that token gifts from the same person or organisation should not be received on a frequent basis. However, 'frequently' is not defined. This appears to be a particularly important issue and one that should be defined in the Code.

9 The Code contains a paragraph about contributions to inspect, evaluate or trial a good or service which the City may wish to acquire. This paragraph comes "out of the blue" and is poorly worded. Its wording and location should be improved.

10 The paragraph which contains points (a)(b)(i) and (ii) is confusing. It starts by saying "All gifts not of a token kind" which indicates that the paragraph relates to those gifts valued at \$250 or more.

Then point (b)(i) talks about "any gift received at any time". This position is further qualified in paragraph (b)(ii) which relates to annual financial interest returns and which talks about the amount of the gift not exceeding the prescribed amount in Regulation, which is \$200. This mixing of token gifts and the reporting of gifts in annual financial interest returns is potentially confusing and could be worded better.

- 11 In the paragraph beginning “All gifts not of a token kind”, paragraph (a) states that such gifts should be “promptly returned (except in the case of acceptances by the Mayor or CEO referred to above)”. The only reference to the Mayor and CEO “above” relates to hospitality for community-based events. What happens in the case of tangible items? Consequently, it is unclear what gifts of a non-token nature can be accepted. Indeed it would appear illegal to accept non-token gifts as this would contravene Administration Regulation 34B(2).
- 12 Point (b) of the paragraph beginning “All gifts not of token kind” talks about the Register “kept by Council”. Regulation 34B(3) says that the Register is to be kept by the CEO.
- 13 Point (b) also talks about disclosing gifts in “a primary or annual return”. It should be noted that Form 2 of the Administration Regulations does not require declaration for gifts in a primary return but only in an annual return. This is because gifts given during an election are captured by the Electoral Gift Provisions. Gifts provided prior to this period are of no concern. Consequently, there are no gifts to be disclosed in a primary return.

To address these concerns, the section of the Code of Conduct relating to gifts has been completely rewritten and is included at Attachment 2 for consideration. Key elements of this rewrite include:

- Specific description of which gifts are excluded;
- Specific description of token gifts;
- Expansion on which gifts do not need to be recorded;
- Clarification on approach to frequent gifts;
- Separating annual financial interest return requirements from token gifts; and
- Elimination of the provision that allows variation to the gift provisions. It is considered inappropriate to provide flexibility in such an important, and publicly sensitive, area.

Issues and options considered:

The proposed wording for the Code could be:

- Accepted;
- Modified; or
- Rejected

Link to Strategic Plan:

Not Applicable.

Legislation – Statutory Provisions:

Sections 5.74, 5.82 and 5.83 of the Local Government Act relate to financial interest returns and Regulation 34B of Local Government (Administration) Regulations relates to token gifts.

Risk Management considerations:

The wording within the current Code of Conduct in relation to gifts is considered confusing. If this is not improved, there is a greater potential for people to make inappropriate decisions in relation to gifts, which carries risk.

Financial/Budget Implications:

Not Applicable.

Policy Implications:

An amendment to the Code of Conduct.

Regional Significance:

Not Applicable.

Sustainability Implications:

Not Applicable.

Consultation:

Not Applicable.

COMMENT

Not Applicable.

ATTACHMENTS

Attachment 1	The current Code of Conduct's provisions relating to gifts
Attachment 2	Alternative wording for Code relating to gifts

VOTING REQUIREMENTS

Simple majority.

OFFICER'S RECOMMENDATION

That the Policy Committee CONSIDERS the proposed alternative wording for the Code of Conduct in relation to gifts and acts of hospitality provided at Attachment 2 to this Report, and, if supported, PRESENTS to Council as an amendment to the Code.

The Director Governance and Strategy provided an overview of the report.

MOVED Cr Magyar SECONDED Cr Hollywood that the Policy Committee ADOPTS the alternative wording for the Code of Conduct in relation to gifts and acts of hospitality provided at Attachment 2 to this Report and presents it to Council as an amendment to the code

AMENDMENT MOVED Mayor Pickard SECONDED Cr Magyar that a point 2 be added to the Motion to read:

“2 REQUESTS the entire Code of Conduct of the City of Joondalup be reviewed and brought back to the Policy Committee.”

Discussion ensued.

The Amendment was Put and

CARRIED (4/1)

In favour of the motion: Mayor Pickard, Crs Hollywood, Magyar and Fishwick **Against the Motion:** Cr Hart

The Original Motion, as amended, being:

That the Policy Committee:

- 1 ADOPTS the alternative wording for the Code of Conduct in relation to gifts and acts of hospitality provided at Attachment 2 to this Report and presents it to Council as an amendment to the code**
- 2 REQUESTS the entire Code of Conduct of the City of Joondalup be reviewed and brought back to the Policy Committee.**

Was Put and

CARRIED (5/0)

In favour of the motion: Mayor Pickard, Crs Hart, Hollywood, Magyar and Fishwick

Appendix 4 refers

MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

REQUESTS FOR REPORTS FOR FUTURE CONSIDERATION

The following reports were requested:

- 1 Report on the feasibility of increasing the penalty for abandonment of shopping trolleys.**
- 2 Report on the development of a policy to provided free use of the City's facilities to organisations such as Lions Club, Rotary and Apex.**

CLOSURE

There being no further business, the Presiding Person declared the Meeting closed at 2100 hrs; the following Elected members being present at that time:

Cr Sue Hart
Mayor Troy Pickard
Cr Kerry Hollywood
Cr Steve Magyar
Cr Russ Fishwick