

# minutes

## Policy Committee

MEETING HELD ON **MONDAY 10 AUGUST 2015**

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## CITY OF JOONDALUP

MINUTES OF THE POLICY COMMITTEE MEETING HELD IN CONFERENCE ROOM 1,  
JOONDALUP CIVIC CENTRE, BOAS AVENUE, JOONDALUP ON  
MONDAY 10 AUGUST 2015.

### ATTENDANCE

#### Committee Members

Cr Liam Gobbert	<i>Presiding Member</i>	
Mayor Troy Pickard		
Cr John Chester	<i>Deputy Presiding Member</i>	<i>Absent from 7.25pm to 7.27pm</i>
Cr Kerry Hollywood		
Cr Mike Norman		
Cr Teresa Ritchie, JP		<i>from 6.19pm</i>
Cr Philippa Taylor		

#### Officers

Mr Mike Tidy	Director Corporate Services	
Ms Dale Page	Director Planning and Community Development	
Mr Jamie Parry	Director Governance and Strategy	
Mr Nico Claassen	Director Infrastructure Services	<i>Absent from 7.02pm to 7.04pm</i>
Mr Brad Sillence	Manager Governance	
Mr John Corbellini	Manager Planning Services	<i>to 7.31pm; Absent from 6.09pm to 6.18pm</i>
Mr Rohan Klemm	Recreation Services Coordinator	<i>absent from 7.08pm to 7.13pm</i>
Mr John Byrne	Governance Coordinator	<i>to 6.55pm</i>
Mrs Lesley Taylor	Governance Officer	

### DECLARATION OF OPENING

The Presiding Member declared the meeting open at 6.00pm.

**DECLARATIONS OF INTEREST**

Nil.

**APOLOGIES/LEAVE OF ABSENCE****Leave of Absence Previously Approved:**

Cr Christine Hamilton-Prime	9 August to 16 August 2015 inclusive;
Cr Geoff Amphlett, JP	18 August to 28 August 2015 inclusive;
Cr Russ Fishwick, JP	25 August to 8 September 2015 inclusive;
Cr Christine Hamilton-Prime	25 August to 7 September 2015 inclusive;
Cr Philippa Taylor	25 August to 7 September 2015 inclusive.

**CONFIRMATION OF MINUTES****MINUTES OF THE POLICY COMMITTEE HELD 9 MARCH 2015**

**MOVED** Cr Chester, **SECONDED** Cr Norman that the minutes of the meeting of the Policy Committee held on 9 March 2015 be confirmed as a true and correct record.

**The Motion was Put and**

**CARRIED (6/0)**

**In favour of the Motion:** Cr Gobbert, Mayor Pickard, Crs Chester, Hollywood, Norman and Taylor.

**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 was not open to the public.

## PETITIONS AND DEPUTATIONS

### **DEPUTATION NO. 1 – ITEM 6 – SPECIFIED AREA RATING POLICY – REVIEW**

Mr Bryan Saunders on behalf of the Woodvale Waters Landowners Association addressed committee members in relation to the proposed review of the *Special Area Rating Policy*.

Mr Saunders raised a number of matters with respect to the *Special Area Rating Policy*, in particular the interpretation of only allowing soft landscaping works, despite the policy being silent on this. The Association felt either the interpretation or the policy required amendment.

*The Manager Planning Services left the room at 6.09pm.*

### **DEPUTATION NO. 2 – ITEM 6 – SPECIFIED AREA RATING POLICY – REVIEW**

Mr Adrian Hill on behalf of the Burns Beach Residents Association addressed Committee members in relation to the proposed review of the *Special Area Rating Policy*.

Mr Hill made reference to the consultation package released to the community and was of the belief the package contained limited information, specifically there was no information with respect to the 'pros and cons' of a specified area rating.

Mr Hill advised the Association would like the matter of a specified area rating for Burns Beach reconsidered in the future with a view to revisiting the current policy.

*Members of the Deputations left the room at 6.18pm.*

*The Manager Planning Services entered the room at 6.18pm.*

*Cr Ritchie entered the room at 6.19pm.*

### **CONSIDERATION OF CHANGE TO ORDER OF BUSINESS – [08122, 02154]**

**MOVED Mayor Pickard, SECONDED Cr Hollywood, that the Policy Committee in accordance with clause 14.1 of the *City of Joondalup Meeting Procedures Local Law 2013*, suspends the operation of clause 4.3 – Order of Business of the *City of Joondalup Meeting Procedures Local Law 2013*, to enable Item 6 – Specified Area Rates - Review to be discussed after Petitions and Deputations.**

**The Motion was Put and**

**CARRIED (7/0)**

**In favour of the Motion:** Cr Gobbert, Mayor Pickard, Crs Chester, Hollywood, Norman, Ritchie and Taylor.

**REPORTS****ITEM 6 SPECIFIED AREA RATING POLICY – REVIEW**

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<b>WARD</b>	All
<b>RESPONSIBLE DIRECTOR</b>	Mr Mike Tidy Corporate Services
<b>FILE NUMBER</b>	101278, 101515
<b>ATTACHMENT</b>	Attachment 1 <i>Revised Specified Area Rating Policy</i>
<b>AUTHORITY / DISCRETION</b>	Executive - The substantial direction setting and oversight role of Council, such as adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.

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**PURPOSE**

For Council to consider a revised *Specified Area Rating Policy*.

**EXECUTIVE SUMMARY**

The *Specified Area Rating Policy* guides the circumstances under which a Specified Area Rate (SAR) may be established and the requirements for managing and expending funds collected under such arrangements.

The City currently has three SAR arrangements in place that are negotiated through the following representative bodies: Woodvale Waters Landowners Association (WWLA), Iluka Homeowners Association (IHA) and Harbour Rise Association of Homeowners (HRAH).

In October 2014, Council received a request from the Burns Beach Residents Association (BBRA) to consider establishing a SAR within the suburb of Burns Beach (CJ124-07/14 refers). For a request to proceed, the current policy requires a minimum 75% support from all affected ratepayers to be demonstrated. The consultation process obtained a much lower return rate of 44% and only garnered 55% support, as such, Council resolved not to proceed with the request (CJ192-10/14 refers).

After Council's consideration of the matter, the following was requested at the Policy Committee meeting in December 2014:

*"...a report analysing the current Special Area Rates Policy following the recent consultation for special area rates in Burns Beach, with a view to identifying any gaps as a result of the public consultation and how the policy could be amended to achieve a better outcome."*

To support the review process a survey was sent in April 2015 to all Resident and Ratepayer Associations currently subject to a SAR, (including the BBRA as recent requestors of a SAR), seeking their views on the City's current policy. Clarification from Elected Members was also sought regarding their views on the current consultation requirements within the policy and the provision and funding of infrastructure through SAR agreements.

Preliminary feedback revealed a general view to reduce the current 75% support and return rate target for community consultation in the establishment of new SARs and to support the provision of capital infrastructure through SAR agreements, with some variation in opinion on the preferred means in which this should be managed.

In addition to the issues highlighted above, a minor amendment to clarify the potential application of SARs to commercial areas has also been considered in the review process, following previous requests.

As a result, it is recommended that several amendments are made to the current *SAR Policy*, namely:

- reduce the consultation support and return rate targets from 75% to over 50%
- clarify that capital infrastructure items can be funded through a SAR agreement, subject to the consideration by the City and approval by the Council, via the *Five Year Capital Works Program*
- expand the potential application of SARs to commercial areas by removing references to established “residential” areas only.

In support of these amendments it is also recommended that guidelines are developed, to further clarify the processes associated with the provision, approval, funding, maintenance and renewal of capital infrastructure items under a SAR agreement.

## BACKGROUND

At its meeting held on 21 July 2009, Council requested that *"a Specified Area Rates Policy be developed by the City – a policy that would guide other areas of the City that might wish to pay a specified area rate for additional landscaping services"* (C63-07/09 refers).

In response to this request, a draft policy was presented to the Policy Committee in February 2010 and was subsequently adopted by Council on 16 March 2010 (CJ039-03/10 refers). The policy was based on the knowledge and experience attained in the management of existing SARs operating within the City of Joondalup, (namely Woodvale Waters, Iluka and Harbour Rise).

The policy considers three major issues:

- *the circumstances under which the City may consider applying a SAR* (either by request of a developer of a new subdivision or a resident/ratepayer group representing the property owners of an established residential area)
- *the management arrangements for a SAR once introduced* (providing broad management parameters in relation to interactions with representative SAR bodies, the timing of agreement negotiations and the collection and expenditure of funds)
- *the termination arrangements for a SAR* (including the circumstances under which a SAR should no longer apply, the expectations for reverting or maintaining levels of service and the effective timing of termination).

Since its introduction in 2010, no additional SARs have been established within the City and all existing SARs have been managed in accordance with the parameters set by the policy. Issues experienced throughout this period have related mainly to the use of accumulated surplus funds (in particular, the legislative restrictions placed over what these funds are able to be spent on in years outside of the period in which they were collected) and identifying appropriate forms of infrastructure that could be funded through a SAR.

The establishment clauses within the policy were tested for the first time in 2014, following a request by the BBRA to introduce a SAR within the suburb of Burns Beach. A consultation process was undertaken over a 30 day period in August-September 2014, whereby all affected property owners within the suburb of Burns Beach were sent an information package in the mail, which included a survey and Frequently Asked Questions document.

Of the 1,251 property owners surveyed, 552 households responded, equating to a return rate of 44.1%. Of these respondents, 54.9% supported the introduction of a SAR, which was significantly less than the 75% required under the current *SAR Policy*. As a result, Council resolved not to proceed with the request (CJ192-10/14 refers). It was noted in the report that, while the results were below the targets set within the policy, they were statistically reliable and relatively high when compared to average consultation return rates achieved by the City (which is less than 30%). Furthermore, some respondents indicated a concern for the lack of information provided by the City on the pros and cons of introducing a SAR. This resulted in some respondents indicating they were “unsure” as to whether they supported the proposal or not (4% of respondents provided this feedback).

As a result of these issues, the following was requested at the Policy Committee meeting in December 2014:

*“...a report analysing the current Special Area Rates Policy following the recent consultation for special area rates in Burns Beach, with a view to identifying any gaps as a result of the public consultation and how the policy could be amended to achieve a better outcome.”*

This report outlines the outcomes of a review process on the current *SAR Policy*.

## DETAILS

To commence the review process, preliminary feedback was sought from all Resident and Ratepayer Associations currently subject to a SAR, (including the BBRA as recent requestors of a SAR), seeking their views on the City’s current policy. This was achieved by way of a survey that asked groups what they thought worked well, could be improved or raised concerns for them with regard to the management of their current SAR agreements? Specific issues relating to the use of surplus funds collected under a SAR and the level of support for funding capital infrastructure items through a SAR were also canvassed for opinion.

Feedback received from the survey varied, as summarised below:

Question	Summarised Responses	Respondents
What works well?	<ul style="list-style-type: none"> <li>• Agreement and approval process works well</li> <li>• Covers general and annual maintenance requirements, which work well</li> <li>• Interactions with the City, provision of information and service outcomes work well and are achieved</li> </ul>	<ul style="list-style-type: none"> <li>• WWLA, HRAH</li> <li>• WWLA</li> <li>• IHA</li> </ul>
What needs improving?	<ul style="list-style-type: none"> <li>• No improvements required</li> <li>• The ability to include capital improvements within SAR agreements more effectively</li> </ul>	<ul style="list-style-type: none"> <li>• HRAH, IHA</li> <li>• WWLA</li> </ul>
What raises concerns for you?	<ul style="list-style-type: none"> <li>• No concerns</li> <li>• Differing interpretations between</li> </ul>	<ul style="list-style-type: none"> <li>• IHA</li> <li>• WWLA</li> </ul>

Question	Summarised Responses	Respondents
	<p>the City and Association as to whether SAR agreements apply to soft landscaping only, or whether they also include capital improvements</p> <ul style="list-style-type: none"> <li>• SAR can't allow for funding of the administrative body (Association)</li> <li>• The current 75% consultation targets being too unrealistic to achieve.</li> </ul>	<ul style="list-style-type: none"> <li>• HRAH</li> <li>• BBRA</li> </ul>
Should accumulated surplus funds offset existing services or fund new/alternative services?	<ul style="list-style-type: none"> <li>• Should be able to fund either/remain flexible</li> <li>• Should only offset existing services.</li> </ul>	<ul style="list-style-type: none"> <li>• WWLA, BBRA</li> <li>• HRAH, IHA</li> </ul>
Should SARs be able to fund capital infrastructure items?	<ul style="list-style-type: none"> <li>• Yes, through the development of strategic improvement plans that are developed in consultation with the City</li> <li>• No/a change in the use of funds may be opposed</li> <li>• Yes, but at the discretion of the Association and for lower budget capital items.</li> </ul>	<ul style="list-style-type: none"> <li>• WWLA</li> <li>• HRAH, BBRA</li> <li>• IHA</li> </ul>
Other	<ul style="list-style-type: none"> <li>• Fully in favour of SARs and the value they provide the suburb</li> <li>• Appreciate opportunity to contribute to review process</li> <li>• The community consultation package distributed to Burns Beach ratepayers lacked detail and did not make it clear what would/would not be included in the SAR and gave the impression that current levels of service would remain following handover from PEET Ltd.</li> </ul>	<ul style="list-style-type: none"> <li>• IHA</li> <li>• WWLA</li> <li>• BBRA</li> </ul>

The feedback received through this process informed a more detailed consideration of issues with Elected Members to provide additional context to the review. Matters included:

- should the current community consultation targets within the *SAR Policy* be reduced
- should amendments be made to the consultation materials distributed as part of a request to establish a SAR
- should the funding of capital infrastructure items be supported through a SAR agreement.

As a result of feedback received to date, the following amendments to the current *SAR Policy* are recommended:

1 Reduce the consultation support and return rate targets from 75% to over 50%

If the current consultation requirements within the policy remain as they are, there is little chance of a new SAR ever being established within the City of Joondalup due to the difficulty of achieving the 75% return rate and support targets. While a large majority of support should be demonstrated from the affected community, there is the

capacity to adjust the return rate to reflect a more appropriate target that is still statistically reliable. If the current consultation targets remain, there may be a view from the community that the City is intentionally setting its targets too high to avoid the introduction of any new SARs.

By way of example, a statistically reliable result on a population size of 1,251 (the number of ratepayers within Burns Beach), is 295 responses or a return rate of 24% (based on a confidence rating of 95%, +/- 5% margin of error). The City received a total of 522 responses through its consultation process, with a return rate of 44%. While significantly less than the 75% return rate required within the policy, it is still statistically reliable and considered very high in comparison to average consultation return rates achieved by the City (which is less than 30%).

The return rate of 44% was also achieved without significant campaigning during the consultation process. If undertaken again, it would not be unreasonable to consider a minimum return rate target of 50% as potentially achievable, statistically reliable and high enough to substantiate the views of the majority of affected property owners.

In terms of determining the level of support, a minimum majority of over 50% is the general indicator used by the City in its decision-making processes and when combined with a higher than usual return rate target of 50%, may also be considered a reasonable target to achieve. It should also be noted that the target provides a minimum guide only. Council would still have discretion to decide if a support rate of 50% was appropriate in the circumstances.

2 Clarify that capital infrastructure items can be funded through a SAR agreement, subject to the consideration and approval of the request by the City

While opinions varied with regard to the use of SAR agreements to fund capital infrastructure items, opposition to its inclusion centred mainly around a lack of guidance on the circumstances in which it could be managed over the long-term.

The City currently has no official position on how to handle requests for hard-landscaping/capital items under a SAR agreement. There is also no clear guidance on the types of infrastructure that may be considered appropriate to include under these arrangements and the responsibilities for funding the ongoing maintenance of the assets or their potential renewal at the end of their useful lives.

Outdoor exercise equipment was installed in Harbour View Park, Hillarys in 2013 following a request from the HRAH. The purchase and installation of the equipment was funded through a successful Lotterywest grant application rather than through excess SAR funds collected for the purpose of maintenance, while the ongoing maintenance costs of the equipment are borne by the City

A previous request for capital upgrade at McCubbin Park included lighting, signage and hard and soft landscaping was managed through the City's *Capital Works Program*.

The City continues to receive requests for capital infrastructure by SAR representative groups for items such as bench seating, feature lighting, entry statements and signage. In most scenarios, the requests have sought permission to use accumulated surplus SAR funds to pay for the installation of new landscaping infrastructure. Section 6.37 of the *Local Government Act 1995* requires funds to be used for the purpose in which the monies were collected and as such, requests to spend reserves on services or works that were not originally identified within the SAR agreement at the time of collecting the funds, can create compliance issues.

Notwithstanding these concerns, they could be mitigated through the development of guidelines, (in consultation with current SAR representatives and Elected Members), to provide more detailed information on:

- the types of infrastructure that could be funded through a SAR agreement
- the processes associated with the approval of infrastructure requests
- the responsibilities between the City and the SAR representative group with regard to funding the initial purchase and ongoing maintenance of the infrastructure item once approved for installation
- the processes associated with the renewal or disposal of the infrastructure item.

It is not suggested that the guidelines are incorporated within the *SAR Policy*, (which is only intended to provide broad management parameters), but rather provide supporting information in the policy's implementation. The policy itself could be amended in clause 2.2(a) to provide a general statement that capital infrastructure items requested through a SAR agreement will be subject to the consideration and approval of the City. This aims to acknowledge the City's in principle support for infrastructure to be funded through SAR agreements, without determining the specific circumstances under which they will be approved and managed under the policy.

It is noted that further discussion with SAR representatives and Elected Members will be required to develop guidelines if supported by Council.

3 Expand the potential application of SARs to commercial areas by removing references to established "residential" areas only

This issue was not canvassed through the preliminary feedback process, however, the review does provide an opportunity to remove current restrictions within the policy to require that SARs apply to residential areas only. There may be merit in considering requests for the introduction of SARs to large commercial precincts or the CBD area, should they be coordinated through an association representing the landowners.

As such, it is recommended that clause 2.1(b) of the *SAR Policy* is amended to remove references to established "residential" areas, to allow future requests for large commercial areas to be considered by the City in accordance with the parameters set within the policy.

### Issues and options considered

There are several options for the Council to consider that relate to three major issues:

#### Community Consultation Targets:

- Option 1 support an amendment to clause 2.1(b)(ii) of the current *SAR Policy* to reduce the support rate from "not less than 75% of all property owners surveyed" to "more than 50% of all property owners surveyed", as shown in Attachment 2 of this report.
- Option 2 support an alternate support rate target within clause 2.1(b)(ii).
- Option 3 retain the current support rate target within the *SAR Policy* of "not less than 75% of all property owners surveyed".

**Capital Infrastructure Items:**

- Option 4 support an amendment to clause 2.2(a) within the current *SAR Policy* to clarify the City's in principle support to allow capital infrastructure items to be funded through a SAR agreement, including the development of supporting guidelines.
- Option 5 support the development of guidelines only.
- Option 6 support the incorporation of more detailed information from a potential guideline within the *SAR Policy* itself.
- Option 7 do not support the ability for SAR agreements to fund capital infrastructure items.

**Expanding the application of SARs to non-residential areas:**

- Option 8 support an amendment to clause 2.1(b) to remove references to established "residential" areas.
- Option 9 do not support the capacity for SARs to apply to non-residential areas.

In light of feedback received from SAR representatives and Elected Members to date, options one, four and eight are the preferred options to finalise the review of the *SAR Policy* and provide further clarity to the circumstances under which capital infrastructure requests should be managed through a SAR agreement.

**Legislation / Strategic Community Plan / policy implications**

**Legislation** Section 6.37 of the *Local Government Act 1995*.

**Strategic Community Plan**

**Key theme** Quality Urban Environment.

**Objective** Quality built outcomes.

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

**Policy** *Specified Area Rate Policy*.

**Risk management considerations**

The most notable risks associated with the review of the current *SAR Policy* relate to:

- approving the funding of capital infrastructure items through a SAR agreement and the potential long-term financial implications these assets may have on the City
- the suggestion to reduce the support and return rate targets for community consultation in the establishment of a new SAR.

With regard to the first issue, the development of guidelines in discussion with SAR representative groups and Elected Members will provide an opportunity to clearly articulate the circumstances under which infrastructure items may be considered and approved. This aims to mitigate the inheritance of financial burdens by the City and to facilitate the equitable improvement of landscaping outcomes within SAR areas.

In relation to the second issue, the reduction of the consultation targets may result in those opposed to the introduction of a SAR within Burns Beach raising concerns that the City is attempting to facilitate the establishment of a SAR, despite the outcome of the previous consultation process.

While this is an inevitable concern, the recommended amendments to reduce the targets from at least 75% to over 50% support from all affected ratepayers are still considered high and are provided as a guide only. Based on the previous consultation results for Burns Beach, the recommended targets would still not have been met, but would provide a more balanced consideration of results achieved. Council would still have discretion to support or oppose the introduction of a SAR, regardless of the consultation results.

### **Financial / budget implications**

SAR funds are raised to pay for the delivery of enhanced landscaping via an outsourced contract in alignment with agreed levels of service. This has included in some cases the upfront costs, either partially or in full, of purchasing and installing capital infrastructure.

The City funds the administration and contract management costs of the SAR agreement. The administration of the current three SARs is approximately \$48,592 annually with up to 0.5 of an FTE involved in tasks such as contract management and development, negotiating agreements, providing administrative support to SAR representatives and undertaking tender processes. Factors influencing the level of support required include a change in contractor or SAR representatives.

#### Current financial year impact

Existing Service Agreements are already in place for the three established SAR's (Harbour Rise, Woodvale Waters and Iluka) for the current 2015-16 financial year. Additional SAR funds could not be raised without issuing interim rate notices to the affected properties.

It is not possible to ascertain the cost relating to new SAR requests without knowing the specific details of the SAR proposal.

#### Future financial year impact

<b>Annual operating cost</b>	Estimated \$500,000 per annum to provide contracted services to the three existing SAR's (excluding administration costs). Approximately \$100,000 of this is sourced from municipal funds for the standard landscape maintenance component which is provided under the same contract as the enhanced landscaping.
<b>Estimated annual income</b>	Estimated \$400,000 raised by SAR levied on rateable properties for enhanced landscape maintenance component.
<b>Capital replacement</b>	Not applicable.

**20 Year Strategic Financial Plan impact** The net impact of SAR's is cost neutral for the enhanced landscaping. The standard landscaping component is included in forward estimates for operating costs.

**Impact year** Life of the plan for standard landscaping component only.

**Regional significance**

Not applicable.

**Sustainability implications**

There may be some implications from an environmental perspective, if it is suggested by local residents that the additional landscaping services expected with the SAR area are contrary to City or Council policies, goals and objectives in regards to environmental sustainability, for example, water consumption.

**Consultation**

The process of review of the *SAR Policy* has involved preliminary feedback from affected Resident and Ratepayer Associations, either currently subject to a SAR agreement, or as recent requesters of a SAR. Initial commentary has also been sought from Elected Members to inform the review process.

**COMMENT**

In seeking preliminary feedback from SAR representative groups and Elected Members, an issue was raised regarding the level of detail provided in the consultation materials that were distributed to ratepayers in the recent Burns Beach SAR consultation process. While it is not suggested that an amendment to the current *SAR Policy* is required, the feedback received is acknowledged and will be taken into consideration should a future request for a SAR be presented to the Council and approved for public consultation.

**VOTING REQUIREMENTS**

Simple Majority.

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

- 1 APPROVES the proposed amendments to the *Specified Area Rating Policy*, as shown in Attachment 1 to this Report;**
- 2 SUPPORTS the development of guidelines to clarify the processes associated with the provision, approval, funding, maintenance and renewal of capital infrastructure items under a SAR agreement.**

**AMENDMENT MOVED Mayor Pickard, SECONDED Cr Hollywood that part 1 be amended to read as follows:**

**“1 APPROVES the proposed amendments to the Specified Area Rating Policy, as shown in Attachment 1 to this Report , subject to the following changes:**

**1.1 Clause 1 of the policy be amended to read as follows:**

**“1. Statement:**

***A Specified Area Rate may be imposed under Section 6.37 of the Local Government Act 1995 for the purpose of meeting the cost of providing a higher standard of landscaping, capital infrastructure, specific work, service or facility that the Council considers has benefitted or will benefit the ratepayers or residents within the proposed Specified Area or that they have contributed or will contribute to the need for that higher standard, improvement, work, service or facility.”***

**The Amendment was Put and**

**CARRIED (7/0)**

**In favour of the Amendment:** Cr Gobbert, Mayor Pickard, Crs Chester, Hollywood, Norman, Ritchie and Taylor.

**AMENDMENT MOVED Mayor Pickard, SECONDED Cr Chester that an additional part 1.2 be added to the motion as follows:**

**“1.2 in 2.2(a) insert the words “capital costs and” before the word “on-going””.**

**The Amendment was Put and**

**CARRIED (7/0)**

**In favour of the Amendment:** Cr Gobbert, Mayor Pickard, Crs Chester, Hollywood, Norman, Ritchie and Taylor.

**AMENDMENT MOVED Mayor Pickard, SECONDED Cr Norman that an additional part 1.3 be added to the motion as follows:**

**“1.3 in 2.1(b)(i) insert the words “provide appropriate supporting information to” before the word “conduct””.**

**The Amendment was Put and**

**CARRIED (7/0)**

**In favour of the Amendment:** Cr Gobbert, Mayor Pickard, Crs Chester, Hollywood, Norman, Ritchie and Taylor.

**AMENDMENT MOVED** Mayor Pickard, **SECONDED** Cr Norman that an additional part 1.4 be added to the motion as follows:

**“1.4 in 2.1(b)(ii) insert the word “majority” before the word “support” and replace “50” with “40””.**

**The Amendment was Put and**

**CARRIED (6/1)**

**In favour of the Amendment:** Cr Gobbert, Mayor Pickard, Crs Hollywood, Norman, Ritchie and Taylor.  
**Against the Amendment:** Cr Chester.

**The original motion as amended being:**

**That Council:**

**1 APPROVES** the proposed amendments to the *Specified Area Rating Policy*, as shown in Attachment 1 to this Report, subject to the following changes:

**1.1 Clause 1 of the policy be amended to read as follows:**

**“1 Statement:**

***A Specified Area Rate may be imposed under Section 6.37 of the Local Government Act 1995 for the purpose of meeting the cost of a providing a higher standard of landscaping, capital infrastructure, specific work, service or facility that the Council considers has benefitted or will benefit the ratepayers or residents within the proposed Specified Area or that they have contributed or will contribute to the need for that higher standard, improvement, work, service or facility.”;***

**1.2 in 2.2(a) insert the words “capital costs and” before the word “operational”;**

**1.3 in 2.1(b)(i) insert the words “provide appropriate supporting information to” before the word “conduct”;**

**1.4 in 2.1(b)(ii) insert the word “majority” before the word “support” and replace “50” with “40”;**

**2 SUPPORTS** the development of guidelines to clarify the processes associated with the provision, approval, funding, maintenance and renewal of capital infrastructure items under a SAR agreement.

**Was Put and**

**CARRIED (7/0)**

**In favour of the Motion as amended:** Cr Gobbert, Mayor Pickard, Crs Chester, Hollywood, Norman, Ritchie and Taylor.

*Appendix 6 refers*

*To access this attachment on electronic document, click here: [Attach6agnPOLICY100815.pdf](#)*

**RESUMPTION OF ORDER OF BUSINESS – [08122, 02154]**

**MOVED** Mayor Pickard, **SECONDED** Cr Hollywood that the Policy Committee **RESUMES** the operation of clause 4.3 of the *City of Joondalup Meeting Procedures Local Law 2013* – Order of Business.

**The Motion was Put and**

**CARRIED (7/0)**

**In favour of the Motion:** Cr Gobbert, Mayor Pickard, Crs Chester, Hollywood, Norman, Ritchie and Taylor.

**ITEM 1                    ARTIFICIAL SHADE IN CITY PLAYGROUNDS –  
RESULTS OF COMMUNITY CONSULTATION**

<b>WARD</b>	All
<b>RESPONSIBLE DIRECTOR</b>	Mr Nico Claassen Infrastructure Services
<b>FILE NUMBER</b>	41676, 101515
<b>ATTACHMENT</b>	Attachment 1    Draft <i>City Playground Shade Policy</i> Attachment 2    Community Consultation Analysis
<b>AUTHORITY / DISCRETION</b>	Executive - The substantial direction setting and oversight role of Council, such as adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.

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**PURPOSE**

For Council to consider the results of the community consultation undertaken on a draft policy for guiding the provision of artificial shade over playgrounds within the City of Joondalup.

**EXECUTIVE SUMMARY**

Community consultation was undertaken during the period 10 June 2015 to 1 July 2015 to gain community feedback on the draft *City Playground Shade Policy* (Attachment 1 refers).

A total of 32 formal responses were received and have been summarised into 86 individual comments (Attachments 2 refers).

The key concerns raised by respondents include the ambient heat of playground equipment without adequate shade; shade provided by trees does not provide adequate protection from UV light exposure; safety concerns (such as falling branches). The key concerns have been addressed within the content of this report.

Among the responses there was some support for the policy including artificial shade being used in the short term prior to natural shade being established and natural shade options over playgrounds should be used in all cases.

Shaded play spaces remains a significant focus for the City of Joondalup and the wider community. The City has maintained a preference for natural shade over built shade structures and has been proactive in providing natural shade to existing playgrounds since 2010.

This is demonstrated by the City undertaking an audit of natural shade in 2014. The audit has provided internal guidance for the provision of new shade trees, monitoring and maintaining the health and vigour of existing trees. In addition independent arborist assessments are undertaken on all existing mature trees in close proximity to the new playground installations and judicial pruning of dead plant material is undertaken.

Notwithstanding, it is recognised that during most months of the year, Perth, Western Australia, experiences high levels of UV radiation and artificial shade has a place in providing shade protection to the community in popular locations where natural shade is difficult or not possible to establish.

The draft *City Playground Shade Policy* provides a guide for the circumstances where artificial shade is to be provided on City managed playgrounds and allows for future review and eventual removal of built shade structures where natural shade has been established.

Capital and ongoing maintenance costs for built shade structures are high and have the potential to be a large financial impact to the City (223 playgrounds within the City of Joondalup). A rationalised approach to the distribution of built shade to park playgrounds is imperative.

A built shade structure installation program has been approved for listing in the draft *Capital Works Program* to accommodate installations in the short listed and high priority locations of Burns Beach Park, Delamere Park, Mawson Park and Tom Simpson Park, Southern playground, commencing in 2020-21 (CJ052-03/15 refers). However, Mawson Park does not meet all the criteria for selection and recommendations will be made for Mawson Park in a separate report to Council.

*It is therefore recommended that Council:*

- 1 *ADOPTS the City Playground Shade Policy, as shown in Attachment 1 of this Report;*
- 2 *NOTES a further report will be presented to Council on the request for shade sails for Mawson Park, Hillarys.*

## **BACKGROUND**

The City has maintained a preference for natural shade over built shade structures and has been proactive in providing natural shade to existing playgrounds since 2010. All replacement playgrounds are being relocated under existing shade trees where possible and supplementary tree planting undertaken as required.

During most months of the year, Perth, Western Australia, experiences high levels of UV radiation and the provision of shaded play spaces remains a significant focus for the City of Joondalup and the wider community. This is demonstrated through the City undertaking a Natural Shade Audit in 2014 of playground areas, whereby an action plan has been developed to manage, monitor and maintain natural shade on parks now and into the future.

A 174 signature petition was received by Council at its meeting held on 20 May 2014 (C19-05/14 refers) requesting that the City erect shade sails over the larger of the two playground areas at Mawson Park, Hillarys.

At its meeting held on 18 November 2014 (CJ221-11/14 refers) a number of options were presented and it was resolved that Council:

- 1 *REQUESTS the Policy Committee consider the adoption of a City Playground Shade Policy;*
- 2 *ADVISES the lead petitioner that a decision in relation to the provision of shade sails at Mawson Park, Hillarys will not be made until such time that Council has made a decision based on the Policy Committee's recommendation on part 1 above.*

The draft *City Playground Shade Policy* (Attachment 1 refers) was presented to Council on 31 March 2015 (CJ052-03/15 refers) and at that meeting it was resolved that Council:

- 1 *ADOPTS the City Playground Shade Policy, as shown in Attachment 1 of Report CJ052-03/15 for the purposes of public advertising;*
- 2 *APPROVES the introduction of a built shade structure program in the draft Capital Works Program to accommodate the short listed shade structure installations commencing in 2020-21.*

## DETAILS

Community consultation was undertaken on the draft *City Playground Shade Policy* during the period 10 June 2015 to 1 July 2015. A total of 32 formal responses were received and have been summarised into 86 individual comments (Attachments 2 refers). A summary of the comments have been listed below:

COMMENTS	RESPONSES	
	Number	%
Believe that playgrounds need to be covered with artificial shade (in general)	17	19.8%
Would like artificial shade within their local park (Mawson Park, Delamere Park, Picnic Cove Park, Penistone Park, Tom Simpson Park, Sir James McCusker Park, Broad Beach Park)	16	18.6%
Concern that playground equipment gets too hot without the protection of artificial shade	13	15.1%
Concern that natural shade does not provide adequate protection from UV light exposure	7	8.1%
Believe larger playgrounds should be covered by artificial shade	5	5.8%
Support the Policy (in general)	5	5.8%
Believe artificial shade should be used in the short-term while trees become established	4	4.7%
Believe natural shade should be used in all cases	4	4.7%
Believe that artificial shade should be determined by usage	4	4.7%
Concern that natural shade produces more safety hazards (such as falling branches etc.)	4	4.7%
Concern that current Policy does not allow for artificial shade	3	3.5%
Concern that playgrounds without artificial shade would reduce the life expectancy of the equipment	2	2.3%
Believe artificial shade would be too expensive to provide for all parks	1	1.2%
Believe that artificial shade should not be determined by usage	1	1.2%
<b>TOTAL COMMENTS RECEIVED</b>	<b>86</b>	<b>100%</b>

A number of comments received support artificial shade over the City's playgrounds. Many of these comments were of a general nature, preferring artificial shade over natural shade options.

Respondents were concerned that playground equipment will get too hot without the protection of artificial shade and that natural shade does not provide adequate protection from UV light exposure.

In addition, four comments were received with concerns regarding safety (such as falling branches) and four comments were received where respondents believed artificial shade should be used in the short term prior to natural shade being established.

A number of comments were also received supporting natural shade options over playgrounds. Five comments were received supporting the policy and four comments from respondents believe that natural shade should be used in all cases.

### Built Shade Structure Program

The introduction of a built shade structure installation program has been approved for listing in the draft *Capital Works Program* to accommodate the short listed shade structure installations commencing in 2020-21 (CJ052-03/15 refers). The short list includes Burns Beach Park, Delamere Park and Tom Simpson Park, Southern playground. Mawson Park was not included in the short list for artificial shade sails because it does not meet all the criteria for selection (the draft *City Playground Shade Policy*: Section 4.2(d) The relocation of new playgrounds under existing natural shade is not possible). Recommendations will be made for Mawson Park in a separate report to Council.

### Natural Shade Management

Natural shade from a mature tree canopy reduces exposure to ultra-violet rays and provides additional benefits not provided by artificial shade structures such as:

- reduces ambient air temperature via transpiration through leaves
- makes communities more liveable for people and their activities
- contributes to general health and well being
- oxygenate and clean the air
- provide canopy and habitat for wildlife
- helps prevent soil erosion
- reduces evaporation and wind speed.

The Natural Shade Audit of playground areas undertaken in 2014 not only addressed the existing tree canopy providing natural shade on playgrounds but also identified the species and assessed the health and vigour of the trees for maintenance and succession replacement planting. Tree species that have a propensity to drop limbs are not approved for planting by the City. In addition, all new playground installations include an independent arborist assessment of trees in close proximity to the playground.

### **Issues and options considered**

Council can either:

- adopt the draft *City Playground Shade Policy*, as shown in Attachment 1
- adopt the draft *City Playground Shade Policy*, with modifications
- or
- not proceed with a policy.

Option 1 is the preferred option, based on the alignment of policy criteria to existing asset management principles, practices and previous positions of Council on this matter.

### **Legislation / Strategic Community Plan / policy implications**

**Legislation** Not applicable.

#### **Strategic Community Plan**

**Key theme** Quality Urban Environment.

**Objective** Quality open spaces.

**Strategic initiative** Employ quality and enduring infrastructure designs that encourage high utilisation and increased outdoor activity.

**Policy** Not applicable.

The development of the *City Playground Shade Policy* is underpinned by the *Climate Change Strategy 2014 - 2019, Project 3.4 - Urban Planting Program*, adopted by Council at its meeting held on 20 May 2014 (CJ067-05/14 refers). This program determines the scope of tree planting within the City of Joondalup for the draft *Five Year Capital Works Program* with funding budgeted accordingly.

### **Risk management considerations**

The provision of shade will reduce ultraviolet (UV) radiation exposure and the risk of sunburn and skin cancer to patrons using the park. Natural shade provided by a tree canopy reduces the risk of UV exposure and provides additional benefits for the environment and health and well being of the community.

The Natural Shade Audit of playground areas undertaken in 2014 resulted in an action plan being developed to manage, monitor and maintain shade trees on parks. Judicial pruning of dead plant material from existing trees reduces the risk of potential injury or property damage.

### **Financial / budget implications**

There is no budget allocation in the current draft *Five Year Capital Works Program* for the installation of built shade structures on parks within the City of Joondalup.

The introduction of a shade structure program to complete the short listed park playgrounds would require a minimum funding allocation of \$120,000 per annum extended over two years. The current draft *Five Year Capital Works Program* is fully allocated therefore it is proposed that commencement of a shade structure program be listed for 2020-21.

Current financial year impact

There is no impact in the current 2015-16 financial year for the installation of built shade structures.

Future financial year impact

**Annual operating cost** Removal of shade sails occurs during winter months and the annual cost for an average size installation is \$1,500.

**Capital replacement** Built shade structures end of life is predicted to be 20 years with sails replaced at 7-10 years dependent on location. At the time of renewal of the built shade structure, an assessment is to be completed. If the assessment deems that the natural shade is sufficient, the artificial shade is to be removed from the site.

**20 Year Strategic Financial Plan impact** Built shade structures end of life is predicted to be 20 years with sails replaced at 7-10 years dependent on location. At the time of renewal of the built shade structure, an assessment is to be completed. If the assessment deems that the natural shade is sufficient, the artificial shade is to be removed from the site.

**Impact year** 2020-21 and 2021-22.

**Regional significance**

Not applicable.

**Sustainability implications**Environmental

A balance is required between avoiding an increase in the risk of skin cancer by excessive sun exposure and achieving enough sun exposure to maintain adequate vitamin D levels for healthy bone development. Outdoor activity is encouraged and the provision of shaded play spaces combined with other sun protection practices contributes to a healthier environment for children. Furthermore, the provision of trees is a climate change mitigation strategy as outlined in the City's *Climate Change Strategy 2014-2019*.

Social

The inclusion of built shade structures in addition to the available natural shade will enhance the amenity of public open space by increasing accessibility of outdoor play equipment for a longer period during daylight hours.

Economic

Capital and ongoing maintenance costs for built shade structures are high and have the potential to be a large financial impact for the City.

## Consultation

Community consultation was undertaken for a period of 21 days from 10 June to 1 July 2015. The full results of the community consultation are included as an attachment to this Report (Attachment 2 refers).

All City of Joondalup residents, ratepayers and stakeholders were encouraged to comment on the draft policy via an online form on the City's website. Specifically, the following stakeholders were directly informed of the consultation period:

- All Resident and Ratepayer Associations (12 in total).
- Local Members of Parliament (15 in total).
- The Lead Petitioner.
- Members of the City's Community Engagement Network who have expressed an interest in Parks and Public Open Spaces infrastructure (151 in total).

The community consultation was also advertised through the Joondalup Weekender on 18 June 2015.

## COMMENT

The results of the community consultation demonstrate some support for artificial shade solutions for the City's playgrounds. However, in comparison to the original petition received and the number of stakeholders directly targeted during the consultation period, the overall response rate is considered quite low.

Capital and ongoing maintenance costs for built shade structures are high and have the potential to be a large financial impact to the City (223 playgrounds within the City of Joondalup). A rationalised approach to the distribution of built shade to park playgrounds is imperative.

The draft *City Playground Shade Policy* in its current form addresses the need for robust selection criteria to prioritise parks and deliver the most viable outcomes for the City and its residents.

The City remains committed to the provision of natural shade on a broad scale and adoption of the current draft *City Playground Shade Policy* will facilitate the measured delivery of a built shade structure installation program to enhance the existing tree planting program.

Following Council determination on the draft *City Playground Shade Policy*, a further report will be presented to Council on the request for shade sails for Mawson Park, Hillarys and the lead petitioner will be advised.

## VOTING REQUIREMENTS

Simple Majority.

*The Governance Coordinator left the room at 6.55pm.*

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

- 1 ADOPTS the *City Playground Shade Policy*, as shown in Attachment 1 of this Report;**
- 2 NOTES a further report will be presented to Council on the request for shade sails for Mawson Park, Hillarys.**

**AMENDMENT MOVED Cr Norman** that part 1 of the motion be amended to read as follows:

*“1 ADOPTS the City Playground Shade Policy, as shown in Attachment 1 of this Report, subject to clause 4.2 (c) of the policy being deleted with parts 4.2 (d) and (e) being renumbered accordingly.”*

**There being no SECONDER, the Amendment**

**LAPSED**

**The Motion as Moved by Cr Chester, and Seconded by Cr Hollywood was Put and  
CARRIED (6/1)**

**In favour of the Motion:** Cr Gobbert, Mayor Pickard, Crs Chester, Hollywood, Ritchie and Taylor.  
**Against the Motion:** Cr Norman.

*Appendix 1 refers*

*To access this attachment on electronic document, click here: [Attach1agnPOLICY100815.pdf](#)*

## **ITEM 2                    DRAFT        HOME        BUSINESS        POLICY        -** **CONSIDERATION FOLLOWING ADVERTISING**

<b>WARD</b>	All
<b>RESPONSIBLE DIRECTOR</b>	Ms Dale Page Planning and Community Development
<b>FILE NUMBER</b>	13048, 101515
<b>ATTACHMENT</b>	Attachment 1 <i>Current Home Business Policy</i> Attachment 2 <i>Advertised draft Home Business Policy</i> Attachment 3    SAT decision on Home Business condition  Attachment 4    SAT decision on costs Attachment 5 <i>Modified draft Home Business Policy</i>
<b>AUTHORITY / DISCRETION</b>	Legislative - includes the adoption of local laws, planning schemes and policies.

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### **PURPOSE**

For Council to consider the draft modified *Home Business Local Planning Policy* following advertising and decide whether to adopt the policy as final.

### **EXECUTIVE SUMMARY**

The City's current *Home Business Local Planning Policy* (Attachment 1 refers), which was last updated in November 2005, provides guidance on the requirements for Home Business applications for each category defined within the City's *District Planning Scheme No. 2* (DPS2). The policy in addition to DPS2 identifies elements which are taken into consideration during the assessment process to ensure that the amenity of residential neighbourhoods is maintained.

At its meeting held on 15 April 2014 (CJ058-04/14 refers) Council resolved to advertise an amended *Home Business Local Planning Policy* (Attachment 2 refers) for public comment. The amended policy includes additional and improved provisions pertaining to operating hours, car parking; signage; location; and approval periods. General textual and formatting improvements were also included in the amended policy.

The draft amended policy was advertised for 21 days closing on 5 June 2014. One late submission was received.

Following two recent decisions of the State Administrative Tribunal (SAT), which highlighted that it is not appropriate for a policy to purport to remove discretion that is available through the planning scheme, a review of the draft policy has been undertaken. As a result, the draft amended policy had been modified to only require time limited approvals where an applicant is not able to demonstrate that the home business will be able to operate without detriment to adjoining or nearby landowners. This will ensure the policy better complies with the discretion provided under DPS2 and proper planning principles. The modifications to the policy will enable the further growth of this sector while maintaining the amenity and character of existing residential neighbourhoods.

*It is therefore recommended that Council, in accordance with clause 8.11 of the City of Joondalup District Planning Scheme No. 2, ADOPTS the draft amended Home Business Local Planning Policy with modifications, as detailed in Attachment 5 to this Report.*

## **BACKGROUND**

The current *Home Business Policy* applies to the whole of the City of Joondalup and ensures that residential areas remain primarily a place to live while recognising that working from home is an expanding area of employment. The policy was last updated by Council at its meeting held on 1 November 2005 (CJ238-11/05 refers).

At the start of 2013 the City undertook a review of the current *Home Business Policy*. An amended policy was presented to the Policy Committee at its meeting held on 11 March 2013 and also at its meeting held on 2 September 2013, and on both occasions the matter was deferred to allow the City to further review the current policy and the proposed amendments. Additional information along with a further amended policy was presented to the Policy Committee meeting held on 17 March 2014. At the Council meeting held on 15 April 2014 (CJ058-04/14), it was resolved as follows:

*“That Council:*

- 1 *ADOPTS the draft Home Business Policy as detailed in Attachment 1 to this Report for the purpose of public advertising, pursuant to clause 8.11 of the City of Joondalup District Planning Scheme No. 2, subject to clause 5.3.1(b) being amended by replacing the words “Customers and employees should be discouraged from parking on the verge.” With “No verge parking for the business is permissible.”*
- 2 *ADVERTISES the proposed amendments to the Home Business Policy for public comment for a period of 21 days, pursuant to clause 8.11 of the City of Joondalup District Planning Scheme No. 2”*

In December 2014, SAT made a determination on a matter brought before it regarding a condition of approval imposed by the City on a recently approved Home Business Category 3 (real estate office) (Bruhn and City of Joondalup [2014] WASAT 174). The condition was applied in accordance with clause 5.6 of the draft amended policy, and required that a renewal of the home business be sought after a period of 12 months to allow the continuation of the business. Clause 5.6 stated as follows:

*“Any approval issued for a home business category 3 and renewal of a home business category 3 is valid for a period of 12 months or less, as determined by the City. Prior to the expiry of the approval, an application must be submitted and approved by the City to enable the continuation of the activity.”*

SAT considered that clause 5.6 of the advertised draft policy was inconsistent with both proper planning principles and the discretion granted by DPS2 to the City to apply conditions to home business approvals. This was because the advertised wording of Clause 5.6 was, in SAT’s opinion, a clear directive that attempted to limit the discretion of the City. SAT concluded that clause 5.6 was an attempt to amend DPS2 without undertaking the proper scheme amendment process required by the *Planning and Development Act 2005* and was therefore ultra vires. The matter was found in favour of the appellant and the condition deleted from the approval. The full SAT decision on the matter is included as Attachment 3.

Following the decision of SAT, the applicant sought an order for costs against the City. In June 2015 SAT made a determination on the matter (Bruhn and City of Joondalup [2014] WASAT 174) and awarded costs to the applicant. SAT considered that the City had acted unreasonably because the City had intended to prohibit the full exercise of direction set out by DPS2 by proposing clause 5.6 of the draft amended policy. The full SAT decision on the costs application is included as Attachment 4.

## DETAILS

The draft amended *Home Business Policy* (Attachment 2 refers) proposed the following changes to the current policy:

- Text and format changes in line with the current policy manual review.
- Removal of commentary and irrelevant wording from policy.
- Reorganisation of the criteria applying to home businesses for ease of reading.
- Removal of references to other legislation.
- Inclusion of the definitions of “amenity” and each category of home business in line with *District Planning Scheme No.2* (DPS2).
- Placement of signage to be limited to the front facade of the dwelling only.
- Modifications to the design and number of bays required in line with the *Residential Design Codes of Western Australia* as gazetted on 2 August 2013.
- Requirement for the maximum necessary amount of car parking associated with the home business to be provided on-site with all bays to be made available and maintained for parking of customers and employees during the operating hours of the home business, with verge parking discouraged.
- A requirement that any approval issued for a home business be valid for a period of 12 months or less.
- Inclusion of a provision allowing a ‘home business – category 2’ that has been operating for 12 months without any complaints being registered with the City, to be approved for a longer period of time.
- Provisions relating to the location of ‘home business category 3’ land uses.
- Generally limiting operating hours from 8.00am to 5.00pm to 8.00am to 6.00pm Monday-Friday although allowing flexibility to increase or restrict further operating hours on a case by case basis.

Following the completion of the public advertising period the City has reviewed the policy in light of the submission received as well as the decisions of the SAT. As a result of the review it is recommended that clause 5.6 of the policy be modified to specify under what circumstances a limited approval period should be applied.

The modified *Home Business Local Planning Policy* recommended for approval is provided as Attachment 5.

## Issues and options considered

Further consideration of the matter has been undertaken in light of the two recent SAT decisions. The decisions highlighted that it is not appropriate for a policy to purport to remove discretion that is available through the planning scheme.

It is therefore proposed to modify the policy to specify under what circumstances a limited approval period should be applied.

Council can either:

- adopt the draft policy as advertised (refer Attachment 2)
- adopt the draft policy with the proposed modifications (refer Attachment 5)
- adopt the draft policy, with further modification  
or
- not proceed with the draft amended policy.

### **Legislation / Strategic Community Plan / policy implications**

#### **Legislation**

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

Clause 8.11 of the DPS2 enables Council to prepare, amend and add to local planning policies that relate to any planning and development matter within the Scheme area.

If Council decides to finally adopt a policy, notification of the final adoption shall be published once in a newspaper circulating with the Scheme Area.

If Council considers that a provision of a policy affect the interests of the Western Australian Planning Commission, a copy of the policy shall be forwarded to the Western Australian Planning Commission.

#### **Strategic Community Plan**

##### **Key theme**

Quality Urban Environment.

##### **Objective**

Quality built outcomes.

##### **Strategic initiative**

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

##### **Policy**

*Home Business Policy.*

#### **Risk management considerations**

Given the decision of the SAT, should the City continue to impose time limited approvals on an arbitrary basis, it is likely that such conditions of approval may be appealed to the SAT and result in costs being awarded to applicants. There would be a significant financial cost to the City in defending these appeals, estimated at \$20,000 per application, and paying these costs, estimated at \$15,000.

#### **Financial / budget implications**

The costs associated with advertising the draft amended policy in the local newspaper and notice to publicise the final adoption of the policy will be approximately \$810 and can be met from within existing budgets.

#### **Regional significance**

Not applicable.

**Sustainability implications**

Not applicable.

**Consultation**

The draft amended policy was advertised for public comment for a period of 21 days, closing on 5 June 2014, as follows:

- A notice was published in the *Joondalup Times* for two consecutive weeks (15 and 22 May 2014).
- A notice and documents were placed on the City's website.

One submission was received, being a late submission lodged after the closing date.

**COMMENT**

The submission received by the City raised concern with the proposed amendment to the approval period provisions for home businesses, with particular regard to the restrictions placed on those that fall within "Home Business - Category 3."

The submission provided stated that this restriction was in contradiction to the City's *Local Planning Strategy* which includes the action to review the *Home Occupation Policy* to remove existing impediments to potential home business 'incubators' and generally, to encourage more home businesses. The submission outlines that not affording longer approval periods to Category 3 is unexplained and implies that the City would discourage new home businesses from establishing in a manner that is contrary to the City's stated objective. The submission further outlines the approval restrictions as being unduly restrictive and unreasonable, in particular by expecting applicants to lodge a new application after only nine months of operation.

The two recent decisions of the SAT (Attachments 3 and 4 refer) support this submission and make it clear that clause 5.6 of the draft amended policy is inconsistent with both proper planning principles and the discretion granted by DPS2 to the City to apply conditions to home business approvals.

In considering the determination made by the SAT, it is recognised that most home business approvals can be appropriately managed through conditions of approval to ensure residential amenity is maintained. Conditions typically applied to the approval include limiting the number of employees and visitors, imposing parking restrictions, restricting visitor numbers and limiting the operating hours. The SAT advise that a local planning policy must be an aide in guiding the City in exercising its discretion under the local planning scheme. Given this, it is considered that where an applicant is not able to demonstrate that the home business will be able to operate without detriment to adjoining or nearby landowners, it may be appropriate to apply a time limited approval.

The draft policy has therefore been modified to only require time limited approvals in these cases. This will ensure the policy better complies with the discretion provided under DPS2 and proper planning principles. The modifications to the policy will enable the further growth of this sector while maintaining the amenity and character of existing residential neighbourhoods.

Advertising of the draft amended *Home Business Local Planning Policy* has not raised any issues that would warrant not proceeding with the proposal. It is therefore recommended that Council adopt the draft *Home Business Local Planning Policy* as modified.

## VOTING REQUIREMENTS

Simple Majority.

*The Director Infrastructure Services left the room at 7.02pm and returned at 7.04pm.*

*The Recreation Services Coordinator left the room at 7.08pm.*

*The Director Planning and Community Development indicated the words ‘ajoin of’ in clause 5.6 are required to be removed from the policy and will be presented as such going forward to Council.*

**MOVED Mayor Pickard, SECONDED Cr Norman that Council, in accordance with clause 8.11 of the *City of Joondalup District Planning Scheme No. 2*, ADOPTS as final the amended *Home Business Local Planning Policy* with modifications, as detailed in Attachment 5 to this Report.**

**The Motion was Put and**

**CARRIED (7/0)**

**In favour of the Motion:** Cr Gobbert, Mayor Pickard, Crs Chester, Hollywood, Norman, Ritchie and Taylor.

*Appendix 2 refers*

*To access this attachment on electronic document, click here: [Attach2agnPOLICY100815.pdf](#)*

### **ITEM 3                    USE    OF    SEA    CONTAINERS    POLICY    - CONSIDERATION FOLLOWING ADVERTISING**

<b>WARD</b>	All
<b>RESPONSIBLE DIRECTOR</b>	Ms Dale Page Planning and Community Development
<b>FILE NUMBER</b>	18058, 101515
<b>ATTACHMENT</b>	Attachment 1    Draft <i>Use of Sea Containers Policy</i> as advertised Attachment 2    Draft <i>Use of Sea Containers Policy</i> with modifications
<b>AUTHORITY / DISCRETION</b>	Legislative - includes the adoption of local laws, planning schemes and policies.

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#### **PURPOSE**

For Council to consider the draft *Use of Sea Containers Policy* following public advertising.

#### **EXECUTIVE SUMMARY**

Currently the City does not have any specific guidelines or policies on the use of sea containers within the City of Joondalup. Due to their bulk and often dilapidated appearance, the use of sea containers can have a negative visual impact on the surrounding area, particularly when used in residential areas. In addition, inappropriately located sea containers may have an impact on vehicle sightlines.

The draft *Use of Sea Containers Policy* (Attachment 1 refers) was advertised in February/March 2015 for a period of 21 days, with one submission in support of the policy being received.

Following two recent decisions of the State Administrative Tribunal (SAT), which highlighted that it is not appropriate for a policy to purport to remove discretion that is available through the planning scheme, a review of the draft policy has been undertaken. On the basis of the Tribunal's decisions, it is recommended that, rather than just a blanket ban approach to the permanent use of sea containers in the 'Residential' and similar zones, provisions be included in the policy that also cover potential situations where sea containers would have no impact on the amenity of the surrounding area. This is proposed to be achieved by modifying the draft policy to state that sea containers are not supported in the 'Residential' and similar zones unless they are not visible from the street, and are clad with materials and of a colour that matches, or is complementary to, the materials and colour of the existing buildings on the property.

It is recommended that Council adopt the draft *Sea Containers Policy* as modified (Attachment 2 refers).

## BACKGROUND

A report was considered by Council at its meeting held on 9 December 2014 (CJ245-12/14 refers) in relation to the use of sea containers on verges and on private properties for the purposes of storage of construction and other materials. Council resolved to advertise a draft policy (Attachment 1 refers) for a period of 21 days.

In December 2014, the SAT made a determination on a matter brought before it regarding a condition of approval imposed by the City on a recently approved Home Business Category 3 (real estate office) (Bruhn and City of Joondalup [2014] WASAT 174). The condition was applied in accordance with clause 5.6 of the draft *Home Business Policy*, and required that a renewal of the home business be sought after a period of 12 months to allow the continuation of the business. Clause 5.6 stated as follows:

*“Any approval issued for a home business category 3 and renewal of a home business category 3 is valid for a period of 12 months or less, as determined by the City. Prior to the expiry of the approval, an application must be submitted and approved by the City to enable the continuation of the activity.”*

SAT considered that clause 5.6 of the draft *Home Business Policy* was inconsistent with both proper planning principles and the discretion granted by DPS2 to the City to apply conditions. This was because the wording of clause 5.6 was, in SAT’s opinion, a clear directive that attempted to limit the discretion of the City. SAT concluded that Clause 5.6 was an attempt to amend DPS2 without undertaking the proper scheme amendment process required by the *Planning and Development Act 2005* and was therefore ultra vires. The matter was found in favour of the appellant and the condition deleted from the approval.

Following the decision of SAT, the applicant sought an order for costs against the City. In June 2015 SAT made a determination on the matter (Bruhn and City of Joondalup [2014] WASAT 174) and awarded costs to the applicant. SAT considered that the City had acted unreasonably because the policy purported to prohibit the full exercise of discretion set out by DPS2 when in fact it could not.

These decisions have implication for the wording of all of the City’s local planning policies. Specifically, SAT has made it clear that it is not appropriate for a local planning policy to purport to remove discretion that is available through the planning scheme. This includes attempting to apply a blanket ban to the permanent use of sea containers in certain areas through the draft *Use of Sea Containers Policy*. SAT did state that a local planning policy can and should provide guidance for the application of the City’s discretion. On this basis the draft *Use of Sea Containers Policy* has been reviewed to include potential situations where sea containers could be considered appropriate, where they would have no impact on the amenity of the surrounding area.

## DETAILS

The draft policy currently provides the following parameters related to the use of sea containers for storage purposes:

- Prohibits the use of sea containers within the ‘Residential’, ‘Special Residential’, ‘Mixed Use’, ‘Urban Development’, ‘Civic & Cultural’, and ‘Rural’ zones.

- Allows the permanent use of sea containers within ‘Commercial’, ‘Business’, ‘Service Industrial’, ‘Private Clubs/Recreation’, and ‘Centre’ zones subject to criteria being met.
- Allows the temporary use of sea containers in all zones for storage associated with building construction or subdivision and for the loading and unloading of goods.

### Issues and options considered

Further consideration of the matter has been undertaken in light of a recent SAT decision. While the decision was unrelated to sea containers, it highlighted that it is not appropriate for a policy to purport to remove discretion that is available through the planning scheme.

In this instance, a ‘blanket ban’ on the permanent use of sea containers in the ‘Residential’ and similar zones may be problematic. It is therefore proposed to amend the policy to provide standards that must be met for consideration of approval of a permanent sea container in the ‘Residential’ and similar zones. The provisions would require the sea container to be:

- (a) not visible from the street
- (b) clad with materials and of a colour that matches, or is complementary to, the materials and colour of the existing buildings on the property.

The draft policy has also been updated to improve the wording generally and clarify that the policy relates to the use of sea containers for storage and non-habitable uses. The policy is also proposed to apply to Local Reserves which, in particular, would ensure that any public primary school sites are subject to the policy.

Council can either:

- adopt the draft policy as advertised (refer Attachment 1)
- adopt the draft policy with the proposed modifications (refer Attachment 2)
- adopt the draft policy with further modifications  
or
- not proceed to adopt the draft policy.

### Legislation / Strategic Community Plan / policy implications

<b>Legislation</b>	<i>City of Joondalup District Planning Scheme No. 2.</i>
<b>Strategic Community Plan</b>	
<b>Key theme</b>	Quality Urban Environment.
<b>Objective</b>	Quality built outcomes.
<b>Strategic initiative</b>	Buildings and landscaping is suitable for the immediate environment and reflect community values.
<b>Policy</b>	Not applicable.

### **Risk management considerations**

Planning approval is required for structures where they are placed on a site or verge for more than 48 hours, or where the City has not agreed on a longer temporary period. In practice, the issuance of a Hoarding Licence or building permit exemption is considered to be agreement from the City for the temporary nature of a sea container and is used as the mechanism to control this type of activity. It is considered appropriate to use the DPS2 and its associated local planning policies to clarify how long a temporary sea container should be permitted from an amenity perspective.

Without a clear and documented position on what length of time constitutes an exemption under DPS2 for a temporary sea container, it is difficult to control this practice and permit it only when appropriate.

Given the decision of the SAT, should the policy purport to apply a complete ban to sea containers in particular areas, it is likely that a refusal to approve a sea container on the basis of the policy's complete ban may be appealed to the SAT and result in costs being awarded to applicants. There would be a significant financial cost to the City in defending these appeals, estimated at \$20,000 per application, and paying these costs, estimated at \$15,000.

### **Financial / budget implications**

The costs associated with public advertising and notice of any final adoption will be approximately \$1,000.

### **Regional significance**

Not applicable.

### **Sustainability implications**

Not applicable.

### **Consultation**

Public advertising of the draft policy was undertaken for 21 days as follows:

- a notice published in the local newspaper for two weeks
- a notice and documents placed on the City's website.

One submission of support was received, however the submission also raised the issue of the use and state of residential verges in general.

### **COMMENT**

The recent decisions by SAT highlights that it is not appropriate for a policy to purport to remove discretion that is available through the planning scheme. As a result the draft policy has been reviewed and it is recommended that the draft policy be modified to state that the use of sea containers in the 'Residential', 'Special Residential', 'Mixed Use', 'Urban Development', 'Civic & Cultural' and 'Rural' zones is not permitted unless specific criteria are met related to the appearance and visibility of the sea container.

It is also considered appropriate to ensure that the provisions of the policy would also apply when considering the use of sea containers on Local Reserves, which would include public primary school sites.

It is considered appropriate that parameters around the use of sea containers for storage purposes be prescribed through a local planning policy. This will provide consistency on the approach to the use of sea containers, as well as minimise their impact on the surrounding area. It is therefore recommended that Council adopt the draft *Use of Sea Containers Policy* as modified.

## VOTING REQUIREMENTS

Simple Majority.

*The Recreation Services Coordinator entered the room at 7.13pm.*

**MOVED Cr Chester, SECONDED Cr Norman that Council, in accordance with clause 8.11 of the *City of Joondalup District Planning Scheme No. 2*, ADOPTS as final the *Use of Sea Containers Policy* with modifications, as detailed in Attachment 2 to this Report.**

**The Motion was Put and**

**CARRIED (7/0)**

**In favour of the Motion:** Cr Gobbert, Mayor Pickard, Crs Chester, Hollywood, Norman, Ritchie and Taylor.

*Appendix 3 refers*

*To access this attachment on electronic document, click here: [Attach3agnPOLICY100815.pdf](#)*

## ITEM 4 LOCAL HOUSING STRATEGY IMPLEMENTATION

<b>WARD</b>	All
<b>RESPONSIBLE DIRECTOR</b>	Ms Dale Page Planning and Community Development
<b>FILE NUMBER</b>	104919, 101515
<b>ATTACHMENT</b>	Attachment 1 Decision making flow chart Attachment 2 Draft <i>Height of Non-Residential Buildings Local Planning Policy</i> Attachment 3 Draft <i>Residential Development Local Planning Policy</i> Attachment 4 Key proposals of the draft <i>Residential Development Local Planning Policy</i> and desired outcomes Attachment 5 Indicative height drawings Attachment 6 Indicative streetscape drawings
<b>AUTHORITY / DISCRETION</b>	Legislative - includes the adoption of local laws, planning schemes and policies.

### PURPOSE

For Council to consider the draft *Residential Development Local Planning Policy* and the draft *Height of Non-Residential Buildings Local Planning Policy* for the purposes of consultation. These policies will implement the outstanding recommendations of the City's *Local Housing Strategy*.

### EXECUTIVE SUMMARY

On 12 November 2013, the Western Australian Planning Commission resolved to support the City's *Local Housing Strategy* (LHS) for the purposes of guiding future amendments to the *City of Joondalup District Planning Scheme No. 2* (DPS2).

The LHS contains 10 recommendations. Eight of these will be implemented via *Scheme Amendment No. 73*, which was adopted by Council at its meeting held on 31 March 2015 (CJ032-03/15 refers), and forwarded to the Western Australian Planning Commission for consideration and determination by the Minister for Planning.

The recommendations which have not been captured in *Scheme Amendment No. 73* will be implemented through the draft *Residential Development Local Planning Policy* and the draft *Height of Non-Residential Buildings Local Planning Policy*.

This report presents the draft policies for consideration and also outlines a number of issues relating to implementation of the LHS, which have been considered and will be addressed as part of the implementation of the policies.

## BACKGROUND

At its meeting held on 16 April 2013 (CJ044-04/13 refers), Council resolved to adopt the revised draft LHS, and the document was subsequently forwarded to the Western Australian Planning Commission (WAPC) via the Department of Planning for endorsement. On 12 November 2013, the WAPC resolved to support the LHS for the purposes of guiding future amendments to DPS2.

The LHS contains ten recommendations. As part of Council's April 2013 resolution, a separate scheme amendment was requested to be prepared as an implementation mechanism for most of the recommendations of the LHS.

*Scheme Amendment No. 73* was endorsed by Council for the purposes of public consultation at its meeting held on 10 December 2013 (CJ236-12/13 refers). The WAPC granted its consent to advertise the scheme amendment on 17 October 2014. The City subsequently advertised the scheme amendment for 42 days commencing on 29 October 2014 and concluding on 10 December 2014. *Scheme Amendment No. 73* was presented to Council, post consultation, at its meeting held on 31 March 2015 (CJ032-03/15 refers) where it was resolved to adopt the scheme amendment and forward it to the Western Australian Planning Commission for the Minister of Planning's consideration of final approval.

The outstanding recommendations, which have not been captured in *Scheme Amendment 73*, are to be implemented via two local planning policies. The two draft new policies were presented for discussion with Elected Members at the Strategy Session in July 2015.

The draft *Residential Development Local Planning Policy* is at Attachment 2 and the draft *Height of Non-Residential Buildings Local Planning* is at Attachment 3.

Both these policies will replace the following existing local planning policies, which are proposed to be revoked:

- *Height and Scale of Buildings in Residential Areas Policy.*
- *Height of Buildings within the Coastal Area Policy.*

## DETAILS

The purpose of the two proposed policies is to implement Recommendations 3 and 6 of the LHS. The LHS recommendations and the manner in which they are to be addressed and implemented are provided below:

### **Recommendation 3**

*As part of the District Planning Scheme review process, develop design provisions to ensure development at the higher density of the dual density code will enhance/maintain streetscapes and incorporate environmentally responsible design.*

Dwellings within Housing Opportunity Areas will be given new dual density codes in DPS2 as a result of *Scheme Amendment No. 73* (for example, R20/40). The increased density is not an as-of-right density. Instead, developers wishing to take advantage of the increased density will be required to develop in accordance with development criteria for dual coded areas, which will be embedded in both DPS2 and the draft *Residential Development Local Planning Policy*.

The provisions proposed for inclusion in DPS2 as part of *Scheme Amendment No. 73* promote good design at the subdivision stage, including regulating lot shapes, requiring vehicular access from a laneway (where applicable) and restricting multiple dwellings to larger lots. As subdivision applications are determined by the WAPC, provisions relating to subdivision must be incorporated into DPS2 in order for them to be implemented effectively.

The City previously developed and advertised the former draft *Dual Density Policy*. This policy proposed the additional development criteria for dual coded areas. Advice from the Department of Planning on the former draft policy indicated that a number of the provisions contained within that draft policy were not consistent with the State Government's *Residential Design Codes* (R-Codes). The Department advised that these provisions could only be included in a local planning policy if this policy was first endorsed by the WAPC. In addition, an amendment to the *Planning and Development Act 2005* in 2011 makes it clear that requirements covered by the *Building Act 2011*, such as universal access and green building standards, cannot be superseded by a planning scheme or local planning policies and that a local government must have regard to the regulations made under the *Building Act 2011* when implementing its scheme.

As a result, the draft *Dual Density Policy* has been reviewed and renamed the *Residential Development Local Planning Policy*.

The draft policy has also been changed to include standards for all residential development in the City of Joondalup, not just that in Housing Opportunity Areas. The reason for this is that the R-Codes simply do not go far enough to control design qualities of structures like garages, carports, ancillary dwellings (granny flats) and the like. The City therefore experiences difficulties on occasion with inferior design quality of certain structures, which meet the Deemed to Comply standards or Design Principles of the R-Codes and therefore cannot reasonably be refused by the City.

The draft policy has been developed to be, in effect, a new set of R-Codes for the City.

The existing R-Codes work in the following manner:

- The R-Codes are broken up into a number of different design elements (for example, site area, street setbacks, street walls and fences, open space, building height, parking, landscaping).
- For each design element, there are two sets of criteria against which a proposal can be assessed, namely the Deemed-to-Comply standards and the Design Principles.
- If a proposal meets the specific Deemed-to-Comply standards in the first instance, it is automatically considered to meet the objective for that design element and should be approved.
- If a development does not meet the Deemed-to-Comply standards, this does not mean it should be refused. Instead, the assessor is required to exercise some discretion or judgement as to whether the development meets the broader Design Principles. If so, the development is considered to meet the objective for that design element and may be approved.

An example of this is provided below:

5.2.4 Street Walls and fences	Deemed-to-Comply standards	Design principles
Front fences within the primary setback area that are visually permeable above 1.2m of natural ground level, measured from the primary street side of the fence.	<p>Front fences are low or restricted in height to permit surveillance and enhance streetscape, with appropriate consideration to the need:</p> <ul style="list-style-type: none"> <li>• For attenuation of traffic impacts where the street is designated as a primary or district distributor or integrator arterial; and</li> <li>• For necessary privacy or noise screening for outdoor living areas where the street is designated as a primary or district distributor or integrator arterial.</li> </ul>	

The new *Residential Development Local Planning Policy* is in effect a new set of R-Codes for the City of Joondalup. It is set out in a similar manner to the R-Codes, but also includes the following:

- (a) Additional and replacement Deemed-to-Comply standards for all residential development (Column 1 in attached table).
- (b) New Deemed-to-Comply standards for development in Housing Opportunity Areas - over and above those in a) above (Column 2 in attached table).
- (c) New Local Housing Objectives (Column 3 in attached table).

The existing Design Principles of the R-Codes are contained in Column 4 of the attached table. The Design Principles of the R-Codes are not able to be altered.

The additional and replacement Deemed-to-Comply standards for all residential development in Column 1 are intended to provide the City with the ability to better control the quality of development so as to protect and enhance existing streetscapes and to minimise negative impact on neighbours. Some of the standards have also been developed to reflect and capture as a new Deemed-to-Comply standard, the extent of discretion that is commonly exercised by officers in assessing proposals against the Design Principles. For example, currently minor incursions, such as porches and balconies, are only permitted to reduce the front setback by one metre where any other portion of the dwelling may reduce the front setback by 50 per cent. It is proposed to permit minor incursions to reduce the primary street setback by 50 per cent which is in keeping with the setback requirements permitted for any other portion of the dwelling.

The new Deemed-to-Comply standards in Column 2 for developments in Housing Opportunity Areas are standards that augment the R-Codes by providing design and development requirements for aspects of residential development that do not meet the Deemed-to-Comply requirements or are not provided for under the R-Codes.

The Local Housing Objectives (LHO) in Column 3 effectively bridge the gap between the very specific Deemed-to-Comply standards of the R-Codes and the very broad Design Principles, by providing guidance on the exercise of discretion. For example, where residential development does not meet the open space requirements prescribed under the Deemed-to-Comply criteria of the R-Codes the LHO provide several requirements which the development must meet. It is considered that these requirements, including the provision of an adequate outdoor living area and one active habitable space which has access to northern light, provide a better outcome for the residents of the property than requiring a certain percentage of open space which may form part of a side setback area which has limited uses and limited benefits for the residents.

The table at Attachment 4 outlines some of the key proposals contained in the tables that form part of the draft *Residential Development Local Planning Policy*, and the key outcomes sought to be achieved by these.

In future, when the Deemed-to-Comply standards are not met in the first instance, the proposal can be assessed against the LHOs, where these are listed. Where there are no LHOs or where the proposed development does not meet the LHOs, only then will the development be assessed against the Design Principles.

Attachment 1 to this Report contains a decision making flow chart, which highlights the above.

### **Recommendation 6**

*Scheme provisions should be considered and/or Council's height policies should be reviewed to allow additional height on:*

- i) *large parcels of land being developed for aged persons' accommodation such as retirement villages*
- ii) *large parcels of land with a density code of R60 and higher.*

### **Residential Development**

Currently the height of all development (residential and non-residential) in the 'Residential' zone is subject to the requirements of the existing *Height and Scale of Buildings within Residential Areas Policy*. This policy requires that for development to be deemed to comply it must fit within a building height envelope which prescribes a maximum height of 3.5 metres at the property boundaries, increasing to a maximum height of 8.5 metres, five metres in from the lot boundaries. This policy is outdated and imposes restrictions on development which are not consistent with other local governments. The requirements of the policy do not allow for the consideration of more modern building designs that may not feature a pitched roof or development on narrow lots. Furthermore, it is considered that the objectives of the policy provide little guidance on the determination of applications when the height limitations are not met. It is therefore proposed that this policy be revoked and that height provisions be dealt with via R-Code provisions in the new draft *Residential Development Local Planning Policy*.

The draft *Residential Development Local Planning Policy* proposes the following:

- Unless otherwise specified, the maximum height of all residential development is to be six metres to the top of an external wall, or two storeys.
- Multiple dwellings in areas coded R30 or greater are proposed to be limited to the heights prescribed under the current requirements within the R-codes. The permitted height will depend on the density of the site with properties coded R30 – R40 limited to nine metres or two storeys, R50 – R60 limited to 12 metres or three storeys, and R80 limited to 15 metres or four storeys.
- As per Recommendation 6, the maximum height of multiple dwellings for aged and dependent persons (where permitted), on land of 5,000m<sup>2</sup> or more, and coded R40 or lower, is to be 12 metres or three storeys.
- As per Recommendation 6, the maximum height of multiple dwellings for the purposes of aged and dependent persons, on land 5,000m<sup>2</sup> or more, and coded R60 to R80, is to be 15 metres or four storeys.

Indicative height drawings are at Attachment 5.

### Non-Residential Development

Currently, there are only height restrictions for non-residential development within the 'Residential' zone or if they are prescribed under a structure plan. All other non-residential development does not have any height limitations imposed under DPS2 and are only limited in height by their ability to provide adequate car parking on site. It is considered that the control of non-residential development is critical to provide guidance to developers on what is considered to be appropriate and provide consistency with the building heights of existing and adjacent buildings in the locality.

Building height for non-residential development within 300 metres of the coast is currently controlled through the *Height of Buildings within the Coastal area (Non-Residential Zones) Policy*. This policy sets out that on land within 300 metres of the horizontal setback datum of a coast, buildings shall not exceed 10 metres in height.

This policy was originally adopted by Council in 2006 following advice from the then Minister for Planning and Infrastructure that the City's lack of commercial height controls within the coastal strip be addressed.

As a result of the recommendation, Council at its meeting held on 13 December 2005 resolved to adopt, for the purposes of advertising, *Scheme Amendment No. 32* that sought to introduce into DPS2 a 10 metre building height limit within the coastal area.

Due to the extended timeframe for an amendment to DPS2 to be finalised, and given that a policy could be finalised in a shorter timeframe, Council also adopted, for the purpose of advertising, an 'interim' local planning policy with similar wording to the scheme amendment.

Following advertising, the policy was adopted by Council at its meeting on 21 February 2006, and has remained in place since that time. *Scheme Amendment No. 32* was adopted by Council at its meeting held on 4 April 2006 but in May 2007, the then Minister for Planning and Infrastructure advised of concerns regarding the 'blanket' approach to height control along the City's coastal area, and refused to grant final approval to the scheme amendment for the following reasons:

- 1 *The proposed 10.0 metre height limit has not been appropriately justified in the context of the limited sites to which it would apply.*
- 2 *The proposed height limit would give the Council no discretion to determine a development application on its merits where a greater building height was proposed as has already shown itself to be an issue in the determination of the development application at Sacred Heart College.*

The current *Height of Buildings within the Coastal area (Non-Residential Zones) Policy* was based on the previous *State Planning Policy 2.6 State Coastal Planning Policy* (SPP 2.6). This state planning policy has since been updated to remove the maximum building height requirements and to allow local governments to determine the appropriate height of buildings in coastal areas.

In reviewing this issue, research has been done to determine exactly how many sites could potentially be developed with non-residential buildings within 300 metres of the coast. The sites which fall into this category are as follows:

Site	Comments
Burns Beach - small café site adjoining foreshore reserve	Vacant site. Height requirement not specified in existing structure plan.
Iluka - 'Centre' zone (portion of site)	Vacant site. Height requirement specified in existing structure plan (three storey maximum).
Mullaloo - tavern site	Existing four storey building.
Kallaroo - Northshore Country Club (portion of site)	Existing two storey building. Only a very small portion of site affected.
Hillarys - Mixed use sites Site 1 - Angove Drive cnr West Coast Drive Site 2 – Hepburn Avenue cnr West Coast Drive	Height requirement specified in structure plan. Site 1 – two storey maximum Site 2 – three storey maximum if landmark building
Sorrento - Sacred Heart College (portion of site)	Existing auditorium, and approval for gymnasium, within coastal area.
Sorrento Beach Resort	Existing two storey building.
Sorrento local centre	Existing buildings up to two storeys. Structure plan application for up to six storeys.

It is considered that a policy is still needed to guide the possible future development of most of these sites. The exceptions are sites, which are controlled separately by structure plan provisions.

The draft *Height of Non-Residential Buildings Local Planning Policy* is proposed to include provisions regarding all non-residential development within the City of Joondalup and separate provisions for height of non-residential buildings in the coastal area.

The *Height of Non-Residential Buildings Local Planning Policy* proposes the following:

- Non-residential development within the 'Residential' and 'Special Residential' zone will be limited to the same height as residential development as prescribed under the R-Codes (six metres to the top of an external wall or two storeys).  
In line with Recommendation 6 of the LHS, the height of a Nursing Home or Retirement Village on a lot of 5,000m<sup>2</sup> or more and coded R50 or higher will be

- limited to that stated for R80 development (12 metres to the top of an external wall or four storeys).
- Non-residential development in the 'Private Clubs and Recreation' and 'Local Reserve' are not to exceed six metres to top of external wall (roof above), seven metres to top of external wall (concealed roof) and nine metres to top of pitched roof.
  - Non-residential development in the 'Mixed-Use', 'Business' and 'Commercial' zones will be limited to the maximum height set out in Table 4 of the R-Codes for the applicable coding of that lot. This will maintain consistency in height in these zones between residential and non-residential development.
  - Non-residential buildings in the 'Service Industrial', 'Civic and Cultural' and 'Rural' zones are not to exceed nine metres to top of external wall (roof above), 10 metres to top of external wall (concealed roof) and 12 metres to top of pitched roof.
  - In addition to the above requirement, where a lot is zoned 'Mixed-Use', 'Business' and 'Commercial', 'Service Industrial', 'Civic and Cultural' or 'Rural' and abuts a 'Residential' zoned lot, the maximum building height is limited to six metres within six metres of this common boundary. This requirement is proposed to limit this development to a height comparable to two storeys to manage the impact of these developments on adjoining residential properties.
  - With respect to non-residential development in the coastal areas, it is proposed that new development be restricted to the same height as residential development as prescribed under the R-Codes (six metres to the top of an external wall or two storeys), unless:
    - new development is considered to be minor or incidental development
    - new development does not increase the height of existing buildings
    - greater height has been approved as part of a structure plan or local development plan, taking into account:
      - (a) existing built form, topography and landscape character of the surrounding area
      - (b) building siting and design
      - (c) bulk and scale of buildings and the potential to unreasonably overshadow adjoining properties or the foreshore
      - (d) visual permeability of the foreshore and ocean from nearby residential areas, roads and public spaces.

### **Implementation issues**

Through the development of LHS, a number of issues have been identified which will need to be addressed prior to the implementation of the HOAs. These issues include:

#### Standards for verge upgrades

The draft *Residential Development Local Planning Policy* requires that developers will need to provide one visitor parking bay per two dwellings in the road reserve. If the parking bay(s) cannot be accommodated in the road reserve the developers, where practicable, will be required to provide visitor parking on their private properties. Provision of parking and a street tree in the road reserve will be a condition of development and/or subdivision approval.

Indicative streetscape diagrams have been provided as part of Attachment 6.

These works will need to be undertaken by each individual developer, and therefore detailed development standards will need to be developed by the City. As a result of these works in the road reserve, existing footpaths or portions thereof may be required to be relocated and, as such, standards for footpath replacement by the developer will also need to be developed.

The option of requiring financial contributions from land owners/developers to fund the streetscape upgrades has been considered however a number of issues with this approach are identified. Firstly, as there is no requirement for lots within the HOAs to redevelop at the higher coding, it is likely that the City would not receive the full amount of funds required for the full extent of works. This would result in the City providing the remainder of the funds for the works.

In addition, the collection of development contributions would result in a number of additional administration resources revolved around the collection of the contributions. These costs may become greater than the cost of the contributions themselves.

Further to this, the requirement for development contributions has the potential to stifle the amount of redevelopment within the housing opportunity areas.

As per conditions of subdivision/development approval, the works undertaken by developers in the road reserve will need to meet the City's requirements. This will require the City to inspect all completed works, which may have an impact on staffing resources for the City, depending on the rate of uptake of development opportunity in HOAs.

Developers and landowners will also be made aware that the parking bays in the road reserve are under the care and control of the City and therefore, over time, the City may choose to impose parking controls to ensure these bays are used by residents/visitors and not by commuters in HOAs which are located close to train stations.

#### Naming of the laneways within Sorrento, street addresses and process for upgrading of laneways

The naming of the laneways within Sorrento will be required to be in accordance with the requirements of the Geographical Naming Committee Guidelines.

With respect to the issue of whether new dwellings with frontage on the laneway should have a laneway street address or the address of the existing primary street will also need to be resolved. Comments from the Department of Fire and Emergency Services are currently being sought regarding their preference, after which consultation with affected landowners will take place as part of advertising of draft *Residential Development Local Planning Policy*.

Investigations are also currently underway as to the most appropriate method to deal with future laneway upgrades.

These issues are proposed to be addressed prior to the LHS being implemented.

#### **Issues and options considered**

The issue to be considered by Council is the suitability of the draft *Residential Development Local Planning Policy* and the proposed *Height of Non-Residential Buildings Local Planning Policy*.

The options available to Council are to:

- proceed with the draft *Residential Development Local Planning Policy* and the draft *Height of Non-Residential Buildings Local Planning Policy* and adopt them for the purposes of public advertising
- proceed with the draft *Residential Development Local Planning Policy* and the draft *Height of Non-Residential Buildings Local Planning Policy*, subject to modifications, and adopt them for the purposes of public advertising  
or
- not proceed with the draft *Residential Development Local Planning Policy* and/or the draft *Height of Non-Residential Buildings Local Planning Policy*.

### **Legislation / Strategic Community Plan / policy implications**

#### **Legislation**

City of Joondalup *District Planning Scheme No. 2*.

#### **Strategic Community Plan**

#### **Key theme**

Quality Urban Environment.

#### **Objective**

Quality built outcomes.

#### **Strategic initiative**

Housing infill and densification is encouraged and enabled through strategic, planning approach in appropriate locations.

The community is able to effectively age-in-place through a diverse mix of facilities and appropriate urban landscapes.

#### **Policy**

*State Planning Policy 3.1: Residential Design Codes of Western Australia (R-Codes)*.

#### *City of Joondalup District Planning Scheme No. 2*

Clause 8.11 of DPS2 enables Council to prepare, amend and add to local planning policies that relate to any planning and development matter within the scheme area.

If Council decides to adopt a draft or amended policy, the draft policy is to be advertised for not less than 21 days and published a notice in a local newspaper circulating within the scheme area once a week for two consecutive weeks.

Following advertising, Council is required to review the draft policy in light of any submissions received and resolve to finally adopt the draft policy with or without modifications or not to proceed with the draft policy.

#### *State Planning Policy 3.1: Residential Design Codes of Western Australia (R-Codes)*

The R-Codes stipulate development standards for residential development which includes aged and dependent persons' dwellings.

Clause 7.3.1 of the R-Codes permits local planning polices to amended or replace certain Deemed-to-Comply criteria of the R-Codes as well as augment the R-Codes by providing local housing objectives to guide judgements about the merits of proposal for any aspects of residential development.

Under clause 7.3.2 of the R-Codes permits local governments, with the approval of the WAPC, to amend any Deemed-to-Comply provisions within the R-Codes through local planning policy provisions.

### **Risk management considerations**

Without the provisions contained within the draft *Residential Development Local Planning Policy* and the draft *Height of Non-Residential Buildings Local Planning Policy*, the City will be unable to effectively implement Recommendations 3 and 6 of the LHS. Furthermore, without appropriate controls in place, development could occur in an ad hoc manner which has the potential to have negative impact on the City's streetscapes and on residential amenity.

There is also a risk that the uptake of development opportunities in HOAs is greater than that currently envisaged by the City. This will have an impact on City staff resources as Urban Planners are required to assess applications received and engineering expertise will be required to check that footpath replacement and verge parking has been constructed in accordance with City guidelines. The likely uptake is difficult to predict and therefore the impact the implementation of the LHS will have on City resource is somewhat of an unknown at this stage.

There is a risk that developers will not construct the verge parking and undertake the footpath replacement to the satisfaction of the City, but this would mean they would either not receive subdivision clearance from the City or would be in contravention of conditions of their development approval.

### **Financial / budget implications**

The implementation of the *Residential Development Local Planning Policy* will have an impact on staffing resources for the City, though this impact is difficult to quantify at this early stage due to uncertainty about the likely uptake of development opportunity.

### **Regional significance**

Not applicable.

### **Sustainability implications**

The increase in the range of residential densities in the City of Joondalup will provide a greater choice of house and land sizes which can cater for a greater range of household types from single persons to large families. This provision of varied lot and dwelling sizes can also offer an increase in affordable housing choices. This will also improve social sustainability as it can assist residents to stay in their community, while changing housing choice to meet their needs throughout their life. The proposed *Residential Development Local Planning Policy* and the proposed *Height of Non-Residential Buildings Local Planning Policy* will help facilitate this proposed infill while minimising the impact on the existing streetscape.

Further to this, the increased density of the HOAs within appropriate walkable catchments will assist in reducing dependency on the private vehicle and encourage alternative modes of transport such as walking and cycling. This has potential health (social) and energy consumption (environmental) benefits.

## Consultation

Clause 8.11 of DPS2 requires a new policy or amendment to a policy to be advertised for public comment for a period of 21 days. The proposed policies would be advertised as follows:

- a notice will be published once a week for two consecutive weeks in the local newspaper
- a notice placed on the e-screen at the City's administration building
- a notice and documents will be placed on the City's website.

## COMMENT

The proposed provisions of the draft *Residential Development Local Planning Policy* outline the City's expectations/approach to development (including height of all residential development) and development that is to be delivered at a higher density under the LHS. This will provide clear guidance to anyone contemplating development within the City. It is also intended that the policies will serve as an effective guide to decision-making and will provide clarity and comfort for owners and residents as to what form of development they could expect to occur in the vicinity of their property.

The proposed provisions of the *Height of Non-Residential Buildings Local Planning Policy* look to set height restrictions for non-residential develop throughout the City, including within the coastal area.

As both the above policies will effectively replace the existing policies on *Height and Scale of Buildings within Residential Areas* and the *Height of Buildings within the Coastal area (Non-Residential Zones)*, it is proposed to revoke both existing policies.

## VOTING REQUIREMENTS

Simple Majority.

*Cr Chester left the room at 7.25pm and returned at 7.27pm.*

**MOVED Cr Norman , SECONDED Mayor Pickard that Council:**

- 1** in accordance with clause 8.11 of the *City of Joondalup District Planning Scheme No. 2*, **ADOPTS** the draft *Height of Non-Residential Buildings Local Planning Policy* as detailed in Attachment 2 to this Report, for the purpose of public advertising;
- 2** in accordance with clause 8.11 of the *City of Joondalup District Planning Scheme No. 2*, **ADOPTS** the draft *Residential Development Local Planning Policy* as detailed in Attachment 3 to this Report, for the purpose of public advertising;
- 3** in accordance with Clause 8.11 of the *City of Joondalup District Planning Scheme No. 2*, **ADVERTISES** the draft *Height of Non-Residential Buildings Local Planning Policy* and draft *Residential Development Local Planning Policy* for public comment for a period of 21 days;
- 4** in accordance with clause 8.11 of the *City of Joondalup District Planning Scheme No. 2*, **NOTES** that the *Height and Scale of Buildings within Residential Areas* and the *Height of Buildings within the Coastal area (Non-Residential Zones)* will be revoked in the event that the draft *Height of Non-Residential Buildings Local Planning Policy* and draft *Residential Development Local Planning Policy* are implemented.

**AMENDMENT MOVED Mayor Pickard, SECONDED Cr Ritchie that an additional part 5 be added to the motion to read as follows:**

**“5 REQUESTS that a report be submitted to Council following 12 months of the policies implementation.”**

**The Amendment was Put and**

**CARRIED (7/0)**

**In favour of the Amendment:** Cr Gobbert, Mayor Pickard, Crs Chester, Hollywood, Norman, Ritchie and Taylor.

**The Original Motion as amended, being:**

**That Council:**

- 1** in accordance with clause 8.11 of the *City of Joondalup District Planning Scheme No. 2*, **ADOPTS** the draft *Height of Non-Residential Buildings Local Planning Policy* as detailed in Attachment 2 to this Report, for the purpose of public advertising;
- 2** in accordance with clause 8.11 of the *City of Joondalup District Planning Scheme No. 2*, **ADOPTS** the draft *Residential Development Local Planning Policy* as detailed in Attachment 3 to this Report, for the purpose of public advertising;
- 3** in accordance with Clause 8.11 of the *City of Joondalup District Planning Scheme No. 2*, **ADVERTISES** the draft *Height of Non-Residential Buildings Local Planning Policy* and draft *Residential Development Local Planning Policy* for public comment for a period of 21 days;

- 4 in accordance with clause 8.11 of the *City of Joondalup District Planning Scheme No. 2*, NOTES that the *Height and Scale of Buildings within Residential Areas* and the *Height of Buildings within the Coastal area (Non-Residential Zones)* will be revoked in the event that the draft *Height of Non-Residential Buildings Local Planning Policy* and draft *Residential Development Local Planning Policy* are implemented;
- 5 REQUESTS that a report be submitted to Council following 12 months of the policies implementation.

Was Put and

CARRIED (7/0)

In favour of the Motion as amended: Cr Gobbert, Mayor Pickard, Crs Chester, Hollywood, Norman, Ritchie and Taylor.

*Appendix 4 refers*

To access this attachment on electronic document, click here: [Attach4agnPOLICY100815.pdf](#)

*The Manager Planning Services left the room at 7.31pm.*

## **ITEM 5                      PROPOSED NEW POLICY - HIGH RISK BOOKINGS IN COMMUNITY FACILITIES**

<b>WARD</b>	All
<b>RESPONSIBLE DIRECTOR</b>	Mr Mike Tidy Corporate Services
<b>FILE NUMBER</b>	13010, 101515
<b>ATTACHMENT</b>	Attachment 1 <i>High Risk Bookings in Community Facilities Policy</i>
<b>AUTHORITY / DISCRETION</b>	Executive - The substantial direction setting and oversight role of Council, such as adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.

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### **PURPOSE**

For Council to adopt a new policy for the management of high risk bookings in community facilities.

### **EXECUTIVE SUMMARY**

The City has 32 community facilities that can be hired on a 'casual' basis for private functions and activities. Each separate booking is subject to an application process and a set of booking terms and conditions which the hirer must agree to before a booking can be confirmed.

The vast majority of bookings that occur in the City's community facilities go ahead without incident, however, the City has previously experienced some property damage and anti-social behaviour issues with some casual bookings. These bookings typically involve consumption of alcohol and / or significant numbers (>50) of people (such as 18<sup>th</sup> and 21<sup>st</sup> birthday parties).

In May 2012, the City commenced a trial period during which no new bookings for 18<sup>th</sup> and 21<sup>st</sup> birthday parties were accepted. Since the commencement of the trial period, there have not been any incidents of property damage or anti-social behaviour associated with casual bookings in community facilities.

The City has considered some different options for the management of these casual bookings and consequently, a new policy for the management of high risk casual bookings (Attachment 1 refers) is proposed for Council's consideration.

*It is recommended that Council ADOPTS the High Risk Bookings in Community Facilities Policy as included in Attachment 1 to this Report.*

## BACKGROUND

Between January 2011 and April 2012 (prior to the temporary ban on 18<sup>th</sup> and 21<sup>st</sup> parties) the City had 80 bookings (approximately 8% of all casual bookings) which could be categorised as high risk due to the type of booking and the number of people involved. Most of the 80 bookings were either 18<sup>th</sup> or 21<sup>st</sup> birthday parties.

Of these 80 bookings, the City experienced issues with 12 of them. Ten of these were 18<sup>th</sup> or 21<sup>st</sup> birthday parties, one was a 16<sup>th</sup> birthday party and the other was a 40<sup>th</sup> birthday party. The issues ranged from relatively minor concerns (such as the facility not being adequately cleaned) through to more significant issues such as vandalism/damage, violence and general anti-social behaviour at the venue.

Two of these bookings required police attendance.

There is also anecdotal evidence to indicate that other anti-social behaviour was associated with some of these bookings, such as large groups of young people walking the streets and being disruptive to local residential areas.

Of the 12 bookings that resulted in issues for the City, four of them were at Beaumaris Community Centre. A local resident contacted the City and commented that several of her neighbours are concerned with the anti-social behaviour that accompanies some of the bookings.

When incidences such as this occur, City staff spend a significant amount of time rectifying the issues, responding to complaints from other user groups and residents, and liaising with the hirer to resolve the bond and/or recover costs.

In May 2012, the City commenced a trial period during which no new bookings for 18<sup>th</sup> and 21<sup>st</sup> birthday parties were accepted. Since the commencement of the trial period, there have not been any incidents of property damage or anti-social behaviour associated with casual bookings in community facilities. The trial is still in place.

During the trial period, the City also conducted a general review of high risk casual bookings, focussing on:

- review of approach taken by other local governments on high risk bookings
- reviewing the booking documentation and processes to determine if improvements could be made to mitigate risk
- monitoring all existing and new bookings to determine if hirers attempted to circumvent the ban on high risk bookings by submitting false booking applications
- monitoring of enquiries to gauge customer reaction to ban on high risk bookings.

## DETAILS

For the purposes of this report, a high risk casual booking is one which:

- is a birthday party for the age range 16 to 21, a buck's night/hen's night or any other function where the City has a reasonable concern that there is a risk of property damage, vandalism and/or anti-social behaviour
- involves provision or sale of alcohol
- involves more than 50 guests (as indicated on the booking form).

A review of high risk casual bookings focussed on the following:

- Review of approach taken by other local governments on high risk bookings.
- Reviewing the booking documentation and processes to determine if improvements could be made to mitigate risk.
- Monitoring all existing and new bookings to determine if hirers attempted to circumvent the ban on high risk bookings by submitting false booking applications.
- Monitoring of enquiries to gauge customer reaction to ban on high risk bookings.

The review of other local governments showed that there is not a consistent approach to high risk bookings. There are generally three different approaches:

- 1 No special arrangements, normal bond, hire fees and booking terms and conditions apply.
- 2 Charge a higher bond and/or requirement to complete additional specific booking forms.
- 3 Do not accept 18<sup>th</sup>, 21<sup>st</sup> or other potentially high risk bookings (such as buck's/hen's nights).

Some local governments have formalised procedures, others have internal processes to identify high risk bookings. For example, the City of Wanneroo has additional booking forms and a higher bond for functions that it deems to be high risk.

In some cases, the additional bond charged by the local government is so significant (up to \$5,000) that it basically acts as a deterrent, causing the applicant not to proceed with their booking.

Generally, the provision of alcohol at a private booking in a City facility does not require additional approval from the City, unless the alcohol is being sold and/or the booking takes place in a public place such as a park. However the City has specific booking processes and requirements in place to minimise the potential for issues with high risk bookings, such as:

- hirers must be over 18 years of age
- licensed security for 16<sup>th</sup> to 21<sup>st</sup> birthday parties, or other high risk functions, where alcohol will be consumed
- restrictions on late bookings at some facilities
- bond required for all bookings (\$750)
- booking notifications forwarded to City Watch and local Police
- regular engagement with customers with referral to the Police's Party Alert booklet and City Watch's Party Alert form
- minimum of two City Watch patrol visits per 'high risk' booking.

The current facility booking forms require the applicant to provide certain information about their function, such as:

- type of activity/function being undertaken
- number of participants expected
- times of booking
- details of provision or sale of alcohol (if any).

In addition, the City's Terms & Conditions of Hire, which must be read and signed by the applicant prior to the City confirming the booking, clearly point out the obligations of the hirer, such as:

- safety of participants
- cleaning and damage
- alcohol and gambling
- noise
- contacting Police and City watch.

The City's current booking processes, booking forms and terms and conditions of hire are quite rigorous and it would be fair to say that when major incidents occur, it is not caused by a lack of due process by the City, rather from unforeseeable circumstances. They are usually caused by the negligence of the hirer, either deliberately or inadvertently, such as providing false information to the City or by details of their function published on social media and attracting additional unwanted guests.

Since the temporary ban on high risk bookings, the City has received on average approximately one to two enquiries per week for these types of functions. The City has received two special requests for 18<sup>th</sup> birthday parties, both of which were presented to the Chief Executive Officer for consideration. One of these requests was approved as the City was satisfied that there was negligible risk to the City due to the circumstances of the booking. In this case, most of the guests had muscular dystrophy and the City's community centre in Connolly was requested as a venue due to its good wheelchair accessibility. However, after providing approval for the booking, the City was subsequently advised by the applicant that the booking was no longer required. The other request was not approved.

On two occasions, the City's processes have been effective in identifying false information on booking applications that subsequently led to the hirer cancelling their booking or the City not accepting it due to significant concerns about the nature of the function.

The City has received one written complaint about not being able to book a community facility for a 21<sup>st</sup> birthday party.

The temporary ban on high risk bookings has shown that by not accepting casual bookings which appeared to be high risk, the City had a reduction in property damage and/or anti-social behaviour.

In proposing a policy, it is suggested that the definition of a high risk booking should also distinguish between private casual bookings and those made by regular hire groups such as community groups. It is not uncommon for community groups, such as sporting clubs, to host functions in the venues they hire on a seasonal or annual basis. There have been occasions where these functions have resulted in anti-social behaviour and/or property damage. However, these incidences are comparatively few and easier to manage compared to a private casual booking because:

- the City already has an established relationship with its community groups and their representatives
- the community group has a vested interest in continuing to hire the venue and therefore is more likely to show positive intent to manage any incidences promptly and correctly
- the ramifications of liquor licence breaches are more significant for established groups such as sporting clubs

- the City can ultimately refuse the groups future bookings and/or liquor licence requests if incidences re-occur
- the City's Club Development program provides ongoing support, information and education to assist community groups with all aspects of club governance and appropriate conduct in the City's facilities.

### Issues and options considered

In reviewing the City's approach to high risk casual bookings, the following options were considered:

- 1 Revert to a normal approach – no ban in place, all bookings are subject to the current rigorous processes, booking forms and Terms and Condition of Hire.
- 2 Increased requirement for high risk bookings – additional requirements are placed on hirers, such as a higher bond (the City's current fees and charges schedule enables a bond of \$2,500 to be charged), requirement for licensed security staff and/or other conditions the City deems appropriate.
- 3 Permanent ban on high risk bookings – the City formalises a ban on high risk bookings, as defined earlier in this report.

While option two does put additional controls in place, both option one and two still leave the City exposed to the risk of incidences occurring at high risk casual bookings.

Option three is most effective in minimising the risk of issues resulting from high risk bookings, however could be seen as disadvantaging some applicants whose booking would not present any issues however it would not be approved by the City because it fits into the category of a high risk booking.

As a result of feedback received from Elected Members through an issues paper circulated regarding high risk bookings, it is recommended that option 2 is implemented.

### Legislation / Strategic Community Plan / policy implications

#### Legislation

The City's *Local Government and Public Property Local Law 2014* allows the City to have absolute discretion over whether it approves an application for use of local government or public property (Part 12). Clause 12.6 of the *Local Government Public Property Local Law 2014* would also support the development of a specific policy on particular types of bookings.

#### Strategic Community Plan

##### Key theme

Community Wellbeing.

##### Objective

Quality facilities.

##### Strategic initiative

- Support a long-term approach to significant facility upgrades and improvements;
- Understand the demographic context of local communities to support effective facility planning;
- Employ facility design principles that will provide for longevity, diversity and inclusiveness and where appropriate, support decentralising the delivery of City services.

**Policy** No policy exists, however a new policy is being proposed.

### **Risk management considerations**

Large private, social gatherings in City facilities involving alcohol provide the following potential risks to the City:

- Damage to the facility – while property damage can generally be repaired and the costs recovered, the facility may be unusable for a period of time, which can impact on other members of the public.
- Anti-social behaviour – the popularity of social media now means that a private function can be inadvertently or deliberately ‘shared’ with large numbers of people in a short space of time. As is often shown in the media in recent times, when this occurs there is significant potential for major anti-social behaviour issues which can have a negative impact on the surrounding community.

### **Financial / budget implications**

The financial implications of the previously mentioned 12 bookings are summarised below:

Income generated by bookings	\$3,682.14
Cost of damage/cleaning and the like	\$8,249.41

In most cases, the cost of damages is recovered via the bond, or by invoicing the hirer if the cost exceeds their bond. However, there is still a significant amount of staff time required to deal with all the issues that arise when an incident occurs at a booking in one of the City's community facilities.

In addition, other user groups can be affected if the facility is unusable for a period of time while issues are rectified.

#### Current financial year impact

Not applicable.

#### Future financial year impact

Not applicable.

All amounts quoted in this report are exclusive of GST.

### **Regional significance**

Not applicable.

### **Sustainability implications**

Not applicable.

### **Consultation**

Not applicable.

**COMMENT**

Private bookings in City community facilities involving large numbers of people and consumption of alcohol now present a greater risk to the City than in previous times. Changes in social culture and the high use of social media mean there is a higher potential for property damage, vandalism, violence and anti-social behaviour to occur at these types of functions.

The draft policy proposes that the City applies additional conditions for casual bookings which it defines as high risk to help minimise the potential for damage to the City's community facilities and inconvenience to the City and other users of the facilities.

**VOTING REQUIREMENTS**

Simple Majority.

**MOVED** Cr Hollywood, **SECONDED** Cr Chester that Council **ADOPTS** the *High Risk Bookings in Community Facilities Policy* as included in Attachment 1 to this Report.

**The Motion was Put and**

**CARRIED (6/1)**

**In favour of the Motion:** Crs Gobbert, Chester, Hollywood, Norman, Ritchie and Taylor.

**Against the Motion:** Mayor Pickard.

*Appendix 5 refers*

To access this attachment on electronic document, click here: [Attach5agnPOLICY100815.pdf](#)

**ITEM 6                      SPECIFIED AREA RATING POLICY – REVIEW**

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<b>WARD</b>	All
<b>RESPONSIBLE DIRECTOR</b>	Mr Mike Tidy Corporate Services
<b>FILE NUMBER</b>	101278, 101515
<b>ATTACHMENT</b>	Attachment 1 <i>Revised Specified Area Rating Policy</i>
<b>AUTHORITY / DISCRETION</b>	Executive - The substantial direction setting and oversight role of Council, such as adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.

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This matter was dealt with earlier in the meeting following Petitions and Deputations.

**URGENT BUSINESS**

Nil.

**MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil.

**REQUESTS FOR REPORTS FOR FUTURE CONSIDERATION**

Nil.

**CLOSURE**

There being no further business, the Presiding Member declared the meeting closed at 7.42pm; the following Committee Members being present at that time:

Cr Liam Gobbert  
Mayor Troy Pickard  
Cr John Chester  
Cr Kerry Hollywood  
Cr Mike Norman  
Cr Teresa Ritchie, JP  
Cr Philippa Taylor