

# minutes

## Policy Committee

MEETING HELD ON

MONDAY 9 MAY 2022

### **Acknowledgement of Traditional Custodians**

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

*This document is available in alternate formats upon request*

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**Note:**

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

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

# CITY OF JOONDALUP

## MINUTES OF THE POLICY COMMITTEE MEETING HELD IN CONFERENCE ROOM 1, JOONDALUP CIVIC CENTRE, BOAS AVENUE, JOONDALUP ON MONDAY 9 MAY 2022.

### ATTENDANCE

#### Committee Members

Cr Suzanne Thompson	<i>Presiding Member</i>	
Cr Adrian Hill		
Cr Daniel Kingston	<i>Deputy Presiding Member</i>	
Cr Russell Poliwka		<i>absent from 7.53pm to 7.55pm</i>
Cr John Raftis	<i>Attended Electronically</i>	

#### Officers:

Mr James Pearson	Chief Executive Officer
Mr Jamie Parry	Director Governance and Strategy
Mr Chris Leigh	Director Planning and Community Development
Mr Mat Humfrey	Director Corporate Services
Mrs Kylie Bergmann	Manager Governance
Mrs Wendy Cowley	Governance Officer

### DECLARATION OF OPENING

The Presiding Member declared the meeting open at 5.46pm.

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

Nil.

## **APOLOGIES AND LEAVE OF ABSENCE**

### **Apologies**

Mayor Hon. Albert Jacob, JP.  
Cr John Chester.

### **Leave of Absence Previously Approved**

Cr Tom McLean                      14 to 20 July 2022 inclusive.

## **CONFIRMATION OF MINUTES**

### **MINUTES OF THE POLICY COMMITTEE MEETING HELD ON 21 FEBRUARY 2022**

**MOVED** Cr Poliwka, **SECONDED** Cr Kingston that the Minutes of the Policy Committee Meeting held on 21 February 2022 be confirmed as a true and correct record.

The Motion was Put and

**CARRIED (5/0)**

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

## **ANNOUNCEMENTS BY THE PRESIDING MEMBER WITHOUT DISCUSSION**

Nil.

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

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

## **PETITIONS AND DEPUTATIONS**

Nil.

## REPORTS

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

<b>WARD</b>	All
<b>RESPONSIBLE DIRECTOR</b>	Mr Mat Humfrey Corporate Services
<b>FILE NUMBER</b>	14158, 101515
<b>ATTACHMENTS</b>	Attachment 1 Community Art Groups Attachment 2 Confidential - Venues Considered  <i>(Please Note: Attachment 2 is Confidential and will appear in the official Minute Book only).</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.

#### PURPOSE

For Council to enter into a commercial lease at Shop 47, Sorrento Quay for the provision of an art gallery in the City of Joondalup, to be available for hire by community groups and local artists to exhibit their work.

#### EXECUTIVE SUMMARY

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

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

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

*It is therefore recommended that Council:*

- 1 *NOTES the limited availability of existing City community facilities for community groups to receive subsidised venue hire;*
- 2 *AGREES to enter into a lease of Shop 47, Sorrento Quay for a period of two years with an option to extend for a further three years, expiring 2027 for the purposes of community art gallery;*
- 3 *AGREES to list for consideration as part of the 2022-23 annual budget an amount of \$96,200 to meet the costs associated for the leased area as detailed in Part 2 above.*

## BACKGROUND

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

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

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

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

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

## DETAILS

### Creative North

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

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

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

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

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

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

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

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

## **City programming**

### Exhibitions

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

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

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

### **Local community groups**

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

## Issues and options considered

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

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

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

#### Venues considered

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

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

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

**Legislation**                      *Local Government Act 1995.*

#### **Strategic Community Plan**

**Key theme**                              Community Wellbeing.

**Objective**                              Cultural Development. For the community to have access to world-class cultural and artistic events and facilities.

**Strategic initiative**

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

**Policy** *Visual Art Policy.*

**Risk management considerations**

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

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

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

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

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

**Financial / budget implications**

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

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

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

Future financial year impact

<b>Annual operating cost</b>	\$96,200 lease costs + outgoings + GST.
<b>Estimated annual income</b>	\$10,000 in gallery hire fees.
<b>Capital replacement</b>	Not applicable.
<b>10 Year Strategic Financial Plan impact</b>	The total impact on the 10-year Strategic Financial Plan is a cost of \$0.6 million.

All amounts quoted in this report are exclusive of GST.

**Regional significance**

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

## **Sustainability implications**

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

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

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

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

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

## **COMMENT**

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

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

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

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

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

## VOTING REQUIREMENTS

Simple Majority.

## OFFICER'S RECOMMENDATION

That Council:

- 1 NOTES the limited availability of existing City community facilities for community groups to receive subsidised venue hire;
- 2 AGREES to enter into a lease of Shop 47, Sorrento Quay for a period of two years with an option to extend for a further three years, expiring 2027 for the purposes of community art gallery;
- 3 AGREES to list for consideration as part of the 2022-23 annual budget an amount of \$96,200 to meet the costs associated for the leased area as detailed in Part 2 above.

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

**The Motion was Put and**

**CARRIED (5/0)**

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

*Appendix 1 refers*

*To access this attachment on electronic document, click here: [Attach1agnPOLICY220509.pdf](#)*

## ITEM 2 STATUS OF CITY OF JOONDALUP POLICIES

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<b>WARD</b>	All
<b>RESPONSIBLE DIRECTOR</b>	Mr Jamie Parry Governance and Strategy
<b>FILE NUMBERS</b>	101270, 101515
<b>ATTACHMENTS</b>	Attachment 1      Status of Policies
<b>AUTHORITY / DISCRETION</b>	Legislative - includes the adoption of local laws, planning schemes and policies.

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### PURPOSE

For the Policy Committee to note the report regarding the Status of City of Joondalup Policies.

### EXECUTIVE SUMMARY

At the Policy Committee held on 21 February 2022 it was requested that a report be presented listing all of policies and the dates they were last reviewed (as per the list already generated on the City's website) and highlighting Officer's views on whether:

- any policies are considered to be requiring review
- any policies are considered to be obsolete.

A status of policies schedule is provided as Attachment 1 which details:

- policy name and responsible Directorate
- last time each policy was reviewed/amended
- the scheduled review of each policy.

*It is therefore recommended that the Policy Committee NOTE the Status of Policies Schedule, as detailed in Attachment 1 to this Report.*

### BACKGROUND

At the Policy Committee held on 21 February 2022 it was requested that a report be presented listing of all policies and the dates they were last reviewed (as per the list already generated on the City's website) and highlighting Officer's views on whether:

- any policies are considered to be requiring review
- any policies are considered to be obsolete.

Policies at the City of Joondalup are reviewed in three ways as follows:

- Policy revocation – policy is deemed no longer required or has been subsequently superseded by another policy.
- Requiring minor amendments – changes to language, style, formatting, that do not impact on the application of the policy.

- Requiring major amendments – changes that significantly alter the City's position on an issue or change the strategic intent of the policy.

Policies are generally reviewed every five years, although there is no legislative timeframe recommended for review; however, they may be reviewed at an earlier date as a result of:

- legislative changes (Acts/Regulations/Local Laws) which have a bearing on a particular policy
- Council decisions which affect the continued validity or applicability of a policy
- important technological, industry or social changes  
or
- any other such circumstance that would justify an earlier review.

A schedule of policies is maintained for the purpose of planning policy reviews, provided as Attachment 1. A significant review was commenced approximately ten years ago to determine whether Council policies required revocation or minor/major review. As can be seen from the schedule the majority of policies have been reviewed by the Council within the five-year timeframe.

The planned review of policies, particularly for those that have not been reviewed in the past five years, is the higher priority list for the City to review and for a report to be submitted to the Policy Committee.

## DETAILS

Section 2.7 the *Local Government Act 1995* provides that one of the roles of Council is to determine the policies of the local government. Policies provide strategic direction and principles to guide the activities of and decision-making by Council and the administration.

One of the roles of the Policy Committee is to make recommendations to Council on the development and review of the City's policies and overall policy framework.

The following general process is followed with regard the review of City policies:

- Schedule of policies developed for five-year review (attached) unless it is determined that a policy requires an earlier review due to:
  - legislative changes (Acts/Regulations/Local Laws)
  - Council decisions which affect the continued validity or applicability of a policy
  - important technological, industry or social changes  
or
  - any other such circumstance that would justify an earlier review.
- Policies are reviewed for consistency (with regard to language, style and format); relevance (in terms of new plans and strategies that may supersede previously endorsed positions within existing policies); duplication (identified sections of policies that duplicate other policies, plans, strategies, local laws, and/or state legislation); and operational content (identified sections of policies deemed as being too operational and therefore more appropriate to be incorporated into a City protocol or operational plan).

- Based on the factors listed above, policy reports are prepared by the Administration and presented to the Policy Committee for consideration. The Policy Committee will make recommendations to Council as to whether the policy should be adopted, amended, revoked or kept in its current format.

Significant changes to policies are usually submitted for consideration of the Policy Committee/Council in order to ensure that the Administration is not perceived to be influencing the legislated role of the Council.

With regard to the request made at the Policy Committee held on 21 February 2022 the provision of a list of all policies and the dates they were last reviewed (as per the list already generated on the City's website), and the proposed date for review, is considered to be met.

In relation to identifying (as part of this report) any policies that are considered to be obsolete this has not been undertaken as part of this report as a review of individual policies requires significant consultation with individual Business Unit Policy owners and consideration with regard factors relevant to its review (as referred to above). One of the factors relevant to any review is whether the policy remains relevant, and if not, why not.

Further, should it be considered a policy no longer remains relevant the Council may make this determination at any time in accordance with the legislated role of the Council.

### **Issues and options considered**

The Policy Committee can either:

- note the Status of Policies Schedule, as detailed in Attachment 1 to this Report  
or
- provide direction to the Administration with regard the priority of policy reviews, recognising that this may have an impact on resourcing and community engagement (if required).

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

**Legislation**                      *Local Government Act 1995.*  
*City of Joondalup Policies.*

#### **Strategic Community Plan**

**Key theme**                      Governance and Leadership.

**Objective**                      Effective Representation.

**Strategic initiative**        Ensure the elected body has a comprehensive understanding of its roles and responsibilities.

**Policy**                              Not applicable.

### **Risk management considerations**

To fulfil the Council's governance requirements, the City's Policy Manual enables the documentation, maintenance and review of its current policies. Regular reviews of the City's policies are required to ensure their continued relevance and applicability.

Regular review of policies means that relevant risks related to each policy is undertaken on a regular basis, and as such the current risk related to reputation and governance is low.

**Financial / budget implications**

There are currently no financial implications associated with the review of the City's policies.

**Regional significance**

Not applicable.

**Sustainability implications**

Not applicable.

**Consultation**

Not applicable.

**COMMENT**

In line with the need for periodic reviews of policies to ensure good governance principles are maintained, it is proposed that the Policy Committee note the Status of Policies Schedule and the proposed timeframes for policy reviews.

**VOTING REQUIREMENTS**

Simple Majority.

**MOVED Cr Hill, SECONDED Cr Poliwka that the Policy Committee NOTES the Status of Policies Schedule, as detailed in Attachment 1 to this Report.**

**The Motion was Put and**

**CARRIED (5/0)**

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

*Appendix 2 refers*

To access this attachment on electronic document, click here: [Attach2agnPOLICY220509.pdf](#)

### **ITEM 3                      REVIEW OF TERMS OF REFERENCE - POLICY COMMITTEE**

<b>WARD</b>	All
<b>RESPONSIBLE DIRECTOR</b>	Mr Jamie Parry Governance and Strategy
<b>FILE NUMBER</b>	103963, 101515
<b>ATTACHMENTS</b>	Nil
<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 review the role and purpose of the Policy Committee and endorse the revised Terms of Reference.

#### **EXECUTIVE SUMMARY**

At the Policy Committee meeting held on 21 February 2022, Cr Thompson requested a report to review the current Policy Committee's role, with a view to consider adding the review of local laws as part of the Committee's remit.

*It is therefore recommended that Council ADOPTS the revised Terms of Reference for the Policy Committee, as detailed as follows:*

- 1        Make recommendations to Council on the development and review of the City's policies and overall policy framework;*
- 2        Make recommendations to Council on the development and review of the City's local laws;*
- 3        Develop and maintain a visual art collection of significance and repute that reflects the cultural aspirations of the City of Joondalup and its expressed goals and policies;*
- 4        Collect works of visual art of demonstrable excellence by artists of significance, consistent with the perceived developments in West Australian contemporary art;*
- 5        Collect and commission selectively works of art which enhance the existing collection and which foster an understanding, enjoyment and appreciation of the visual arts among the broader community and members of the general public;*
- 6        Review the criteria established to determine award winners;*
- 7        Oversee the strategic direction of the City's Art Award events, Visual Art Collection and Visual Art Programs.*

## BACKGROUND

The current Terms of Reference for the Policy Committee were endorsed by the Council on 1 November 2021, and are as follows:

### ***“Terms of Reference***

*The role of the Policy Committee is to:*

- 1 Make recommendations to Council on the development and review of the City’s policies and overall policy framework;*
- 2 Develop and maintain a visual art collection of significance and repute that reflects the cultural aspirations of the City of Joondalup and its expressed goals and policies;*
- 3 Collect works of visual art of demonstrable excellence by artists of significance, consistent with the perceived developments in West Australian contemporary art;*
- 4 Collect and commission selectively works of art which enhance the existing collection and which foster an understanding, enjoyment and appreciation of the visual arts among the broader community and members of the general public;*
- 5 Review the criteria established to determine award winners;*
- 6 Oversee the strategic direction of the City’s Art Award events, Visual Art Collection and Visual Art Programs.”*

This Committee has no delegated authority to implement its recommendations without resolution of Council and any changes to the Terms of Reference will require a resolution of Council.

## DETAILS

In accordance with section 3.5 of the *Local Government Act 1995* (the Act), a local government may make local laws that are necessary or convenient for it to perform any of its functions under the Act. The procedure for making local laws is outlined in section 3.12 of the Act. In addition, a local government is required to review its local laws every eight years (section 3.16 refers).

Should the Policy Committee wish to assist Council in fulfilling its legislative responsibilities in relation to local laws, an amendment to the Committee’s Terms of Reference could be made to accommodate this. It is suggested that the additional point could be added to the Committee’s Terms of Reference:

*Make recommendations to Council on the development and review of the City’s local laws.*

### **Issues and options considered**

Council can either:

- endorse the revised Terms of Reference as presented
- amend the Terms of Reference
- or
- make no changes to the Terms of Reference.

**Legislation / Strategic Community Plan / Policy implications**

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

**Strategic Community Plan**

**Key theme**                      Governance and Leadership.

**Objective**                      Corporate capacity.

**Strategic initiative**        Continuously strive to improve performance and service delivery across all corporate functions.

**Policy**                          Not applicable.

**Risk management considerations**

Should the Policy Committee include local laws as part of its Terms of Reference, consideration will need to be given to the time taken in progressing matters through to the Council, as there are very specific timeframes set out in the Act for the commencement, making of and review of local laws.

**Financial / budget implications**

Not applicable.

**Regional significance**

Not applicable.

**Sustainability implications**

Not applicable.

**Consultation**

Not applicable.

**COMMENT**

Should the Committee endorse a change in its Terms of Reference, this will need to progress through to the Council for approval given that the Policy Committee has no delegated authority to make decisions in this regard.

**VOTING REQUIREMENTS**

Absolute Majority.

**OFFICER'S RECOMMENDATION**

That Council ADOPTS the revised Terms of Reference for the Policy Committee, as detailed as follows:

- 1 Make recommendations to Council on the development and review of the City's policies and overall policy framework;
- 2 Make recommendations to Council on the development and review of the City's local laws;
- 3 Develop and maintain a visual art collection of significance and repute that reflects the cultural aspirations of the City of Joondalup and its expressed goals and policies;
- 4 Collect works of visual art of demonstrable excellence by artists of significance, consistent with the perceived developments in West Australian contemporary art;
- 5 Collect and commission selectively works of art which enhance the existing collection and which foster an understanding, enjoyment and appreciation of the visual arts among the broader community and members of the general public;
- 6 Review the criteria established to determine award winners;
- 7 Oversee the strategic direction of the City's Art Award events, Visual Art Collection and Visual Art Programs.

**MOVED Cr Kingston, SECONDED Cr Poliwka that Item 3 – Review of Terms of Reference – Policy Committee, BE REFERRED BACK to the Chief Executive Officer to review the Terms of Reference related to arts and culture whilst retaining the Terms of Reference related to the development and review of the City's Policies and proposed development and review of the City's local laws.**

**The Motion was Put and**

**CARRIED (5/0)**

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



At an information session for Elected Members held in February 2022 it was discussed whether the *Elected Members' Entitlements Policy* should be amended to either:

- allow for mobile phones/ICT equipment to be purchased by Elected Members at fair market value, following its replacement term (as informed by the Policy)
- not allow for mobile phones/ICT equipment to be purchased, following its replacement or
- utilise the ICT Allowance for the purchase of all ICT equipment and removing purchase provisions for the Policy.

Elected Members requested a report be submitted to the Policy Committee amending the *Elected Members' Entitlements Policy* to allow for mobile phones/ICT equipment to be purchased by Elected Members at fair market value, following its replacement term (as informed by the Policy).

## DETAILS

### ***Elected Members' Entitlements Policy***

Under the *Elected Members' Entitlements Policy* (clause 4.2), Elected Members are entitled to be issued with new computer equipment following each local government election they are elected (such as every 4 years). A recent amendment to the Policy provides that mobile phones will be issued new every two years. The Policy provides that any equipment less than three years old must be returned to the City (clause 4.4).

The Policy also provides that equipment can be retained by a retiring Elected Member however, the value of any equipment retained cannot be more than the limits set under regulation 34AC of the *Local Government (Administration) Regulations 1996*, being *"the amount of \$100 for each year served as a council member to a maximum of \$1,000."*

In the past, it appears that Elected Members were permitted to purchase equipment under the *Disposal of Minor Surplus Assets Policy* however, this policy does not permit the purchase of equipment by Elected Members as the objective of this policy is to dispose of minor surplus assets to local community groups or education providers only.

As it currently stands, there is no provision under the *Elected Members' Entitlements Policy* that allows for the purchase of mobile phones/ICT equipment at fair market value, other than on retirement. It is acknowledged that there may have been some inconsistencies in how the policy was applied in the past.

The Administration's current practice is that ICT equipment returned to the City (when it is replaced) is recycled and allocated to staff where required therefore saving the City funds on new equipment.

### ***Salaries and Allowance Tribunal – ICT Allowance***

The Salaries and Allowance Tribunal has established an annual allowance in lieu of expenses for ICT being to a maximum of \$3,500 per annum. This Allowance is included within the *Elected Members' Entitlements Policy*.

SAT provides that *"the intent of the allowance to reflect the extent and nature of the expenses incurred and not to result in a windfall gain for council members"*; and *"to consider the particular practices of local governments in the use of information and communication technology (for example laptop computers, iPads)."*

There is no one consistent approach within the local government sector as to how the ICT allowance is to be used.

Therefore, there is the opportunity for Elected Members to consider whether the ICT Allowance should be used for the purchase of some/all ICT equipment and mobile telephones, thereby requiring provision of purchase of equipment in the Policy redundant.

Through an agreed approval process, any expenses beyond the allowance provisions could be reimbursed to Elected Members through provision of actual costs incurred.

### ***Cities of Stirling and Wanneroo***

The City of Stirling provides that at the end of each two and four year period (for designated ICT equipment), Elected Members will have the option to either return or purchase the devices provided by the City.

<https://www.stirling.wa.gov.au/your-city/documents-and-publications/your-city/about-council/governance-and-transparency/policies/elected-member-entitlements-policy>

The City of Wanneroo policy provides that the items provided are to be returned by the Elected Member to the City within 14 days of ceasing to be an elected member or whenever requested to do so by the CEO (or as otherwise negotiated to purchase). The CEO is authorised to approve the sale of equipment to retiring Councillors at a value to be determined by the CEO.

The policy provides that the ICT Allowance is utilised by City of Wanneroo Elected Members for the purchase of mobile telephones.

### **Council Members Fees, Allowances, Reimbursements & Benefits Policy - City of Wanneroo**

With regard to purchase of equipment following its replacement term, the City of Wanneroo has a procedure for disposal of such minor assets to Elected Members.

### **Issues and options considered**

The following options are available to Elected Members:

- 1 retain the *Elected Members' Entitlements Policy* as is. As such Elected Members would not be entitled to purchase mobile phones/ICT equipment other than on retirement.
- 2 amend the *Elected Members' Entitlements Policy* to allow Elected Members to purchase mobile phones/ICT equipment at fair market value, following its replacement term (as informed by the Policy).
- or
- 3 amend the *Elected Members' Entitlements Policy* to provide that Elected Members purchase mobile phones/ICT equipment within their annual ICT Allowance.

Elected Members, at an information session held in February 2022, favoured Option 2.

As such the following amendments to the *Elected Members' Entitlements Policy* are proposed:

#### **Elected Members' Entitlements Policy**

- Definitions

Include a definition of fair value as per the Australian Accounting Standards Board 13, meaning the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date (AASB 13).

- Clause 4.2 - Equipment

Amend Clause 4.2 by the addition of the following paragraph:

*At the end of each two and four year period (for mobile phones and computer equipment respectively), Elected Members will have the option to either return or purchase the devices provided by the City, at fair value. The CEO is authorised to approve the purchase of devices at a value to be determined by the CEO.*

It is considered that the inclusion of the option to return or purchase equipment at fair value provides clarity with regard the circumstances for return or purchase of equipment.

- Clause 4.4 – Return of Equipment Issued

Amend Clause 4.4(a) (i) to read as follows:

*An Elected Member must return the following equipment to the City within 14 days of ceasing to be an Elected Member:*

- i Any mobile phone or computer equipment issued by the City (unless otherwise negotiated to purchase, at fair value). The CEO is authorised to approve the purchase of devices at a value to be determined by the CEO.*

It is considered that the removal of the three year age of equipment; specifying equipment is ICT related; and inclusion of the option to purchase equipment at fair value provides clarity with regard the circumstances for return or purchase of equipment on retirement.

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

**Legislation**                      *Local Government Act 1995.*

#### **Strategic Community Plan**

**Key theme**                        Financial Sustainability.

**Objective**                        Effective Management.

**Strategic initiative**          Manage liabilities and assets through a planned, long-term approach.

**Policy**                              *Elected Members' Entitlements Policy.*  
*Disposal of Minor Surplus Assets Policy.*

#### **Risk management considerations**

A risk to the organisation may be the community perception that Elected Members are permitted to replace and purchase well-functioning equipment at a discounted rate. It is considered that this risk may be reduced through public disclosure.

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

The financial implications of each option are nominal.

#### **Regional significance**

Not applicable.

**Sustainability implications**

Not applicable.

**Consultation**

Not applicable.

**COMMENT**

At an information session for Elected Members held in February 2022 it was requested that a report be presented amending the *Elected Members' Entitlements Policy* to allow for mobile phones/ICT equipment to be purchased by Elected Members at fair market value, following its replacement term (as informed by the Policy).

The proposed amendments to the Policy are considered to provide clarity with regard return or purchase of ICT equipment.

**VOTING REQUIREMENTS**

Simple Majority.

**MOVED Cr Thompson, SECONDED Cr Hill that Council ADOPTS the revised *Elected Members' Entitlements Policy* as detailed in Attachment 2 to this Report.**

**The Motion was Put and**

**CARRIED (5/0)**

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

*Appendix 3 refers*

*To access this attachment on electronic document, click here: [Attach3agnPOLICY220509.pdf](#)*

## ITEM 5                      PROPOSED AMENDMENTS TO THE PLANNING CONSULTATION LOCAL PLANNING POLICY

<b>WARD</b>	All
<b>RESPONSIBLE DIRECTOR</b>	Mr Chris Leigh Planning and Community Development
<b>FILE NUMBER</b>	108216, 101515
<b>ATTACHMENTS</b>	Attachment 1     Current <i>Planning Consultation Local Planning Policy</i> Attachment 2     Draft revised <i>Planning Consultation Local Planning Policy</i> – tracked changes Attachment 3     Draft revised <i>Planning Consultation Local Planning Policy</i> – clean version
<b>AUTHORITY / DISCRETION</b>	Legislative - includes the adoption of local laws, planning schemes and policies.

### PURPOSE

For Council to consider amendments to the *Planning Consultation Local Planning Policy* to align with changes to the *Planning and Development (Local Planning Schemes) Regulations 2015*, for the purposes of public advertising.

### EXECUTIVE SUMMARY

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

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

The proposed amendments are considered necessary to align with the LPS Regulations and ensure appropriate community consultation is undertaken for planning proposals.

*It is therefore recommended that Council supports the draft revised Planning Consultation Local Planning Policy for the purposes of public consultation for a period of 21 days.*

### BACKGROUND

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

These amendments include the following:

- A new designation of complex development applications.
- A 28 day consultation period for complex development applications.
- A defined minimum consultation catchment (200 metre radius) for complex development applications.
- A 14 day consultation period for non-complex development applications.
- A 42 day consultation period for structure plans (previously 28 days).
- Provisions to exclude the Christmas and Easter holiday periods from the calculation of the required number of advertising days.
- Mandating a standard size and wording on advertising signs for development applications.
- The removal of any reference to displaying a notice at the local government office.
- A notice in the local newspaper is no longer mandatory however may be done if the local government considers it appropriate in the circumstances.
- A clause that specifically allows the local government to require the applicant to pay the advertising costs associated with a development application.

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

## DETAILS

### Amendments to align with the LPS Regulations

To align with the LPS Regulations the following amendments are proposed to the *Planning Consultation Local Planning Policy*:

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

### *Complex applications and non-complex applications*

The LPS Regulations have introduced the concept of complex and non-complex development applications. These designations are only used for the purpose of determining the consultation procedures under the LPS Regulations.

A complex application in the LPS Regulations is defined as:

- (a) an application for approval of development that is a use of land if the use is not specifically referred to in the zoning table of the scheme in respect of the zone in which the development is located (such as an 'Unlisted Use')  
or

- (b) an application of a kind identified elsewhere in the scheme, or in a local planning policy, as a complex application for development approval.

The LPS Regulations require that complex applications must be advertised for a period of 28 days by way of:

- a notice on the local government website
- the giving of notice to owners and occupiers within 200 metres of the proposed development
- the giving of notice to any other owners and occupiers who, in the opinion of the local government, are likely to be affected by the proposal
- erecting a sign or signs in the format required by the Western Australian Planning Commission (WAPC).

Applications that are not designated as complex may be advertised for a period of 14 days by way of any or all of the following:

- A notice on the local government website.
- The giving of notice to any other owners and occupiers who, in the opinion of the local government, are likely to be affected by the proposal.
- Erecting a sign or signs in the format required by the WAPC.

As the distinction between complex and non-complex development applications is a new concept introduced into the LPS Regulations, the City's *Local Planning Scheme No. 3* (LPS3) and existing local planning policies do not designate any development applications as complex.

The changes to the LPS Regulations also mean that unless a development application is designated as a complex application, consultation can only be undertaken for 14 days. This means that applications for multiple dwellings, five or more grouped dwellings and telecommunications infrastructure can now only be advertised for a period of 14 days, irrespective of the current policy requirement that stipulates 21 days. Only those development applications designated as complex applications can be advertised for 28 days.

To ensure an appropriate level of community consultation for these applications, and other larger scale developments, it is proposed to designate the development applications that meet the criteria below as complex applications. It is noted that the extent of consultation undertaken for these applications will increase from the current policy requirements.

Complex application type	Examples
Multiple dwellings (new and major additions), excluding multiple dwellings in the Joondalup Activity Centre Plan and Whitfords Activity Centre Plan areas.	Multiple dwellings in Housing Opportunity Areas
Grouped dwellings (five or more) excluding grouped dwellings in the Joondalup Activity Centre and Whitfords Activity Centre areas.	Grouped dwellings (five or more in housing opportunity areas) Aged and dependent persons dwellings (five or more)
Child care premises (new or expansion in capacity) in or adjoining the 'Residential' zone	Recent child care premises in Kallaroo, Kingsley and Woodvale

Complex application type	Examples
Development applications where the cost of development is \$10 million or greater, excluding development applications: <ul style="list-style-type: none"> <li>• Subject to the Joondalup Activity Centre Plan or Whitfords Activity Centre Plan</li> <li>• For site works and/or infrastructure.</li> </ul>	Major residential, mixed use, or commercial development (irrespective of land use).  Coles Currambine (Sunlander Drive, Currambine)
Commercial and mixed-use development (new and major additions) where the cost of development is between \$2 million and \$10 million and where discretion is required against the applicable development standards, excluding development applications: <ul style="list-style-type: none"> <li>• Subject to the Joondalup Activity Centre Plan or Whitfords Activity Centre Plan</li> <li>• For site works and/or infrastructure</li> </ul>	<ul style="list-style-type: none"> <li>• Private community purpose buildings</li> <li>• Additions to private schools</li> <li>• New service stations</li> <li>• New child care premises</li> <li>• Mixed use developments (34 Marri Road, Duncraig and 46 Angove Drive, Hillarys)</li> <li>• New or additions to local shopping centres (Iluka commercial centre).</li> </ul>
Telecommunications infrastructure  <i>Note: it is recommended that the notification letter to stakeholder be a 400m radius given the potential visual impact from the height of typical telecommunication towers.</i>	Telecommunication towers

It is proposed to exclude residential and commercial development subject to the *Joondalup Activity Centre Plan* and *Whitfords Activity Centre Plan* from being complex as these are locations where greater density and scale of development is anticipated, and there is a planning framework specific for those areas.

The *Planning Consultation Local Planning Policy* continues to provide the appropriate guidance for advertising applications for development approval that are not complex, however the advertising period is 14 days as per the LPS Regulations.

#### Consultation on development applications that do not require approval under the local planning scheme

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

Examples include:

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

For these types of applications, the assessment process and local government's role differs to a 'typical' development application as follows:

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

Consultation requirements for development exempt from approval under the local planning scheme is different to development that does require approval under the local planning scheme:

- where development approval is required under the local planning scheme, consultation requirements are set out in the LPS Regulations and local planning policies
- where a development is exempt from approval under the local planning scheme, but still requires a determination under the MRS, consultation requirements are far less prescriptive to the point where there are no mandatory consultation requirements.

Given that the City's role in these applications is that of a referral agency, it is not considered appropriate that community consultation on these proposals be the responsibility of the City, and the responsible authority should undertake any consultation as part of their assessment and decision-making process. For clarity, it is proposed to amend the *Planning Consultation Local Planning Policy* to outline that where the City is not the responsible authority or decision-maker:

- the City will not undertake consultation
- in providing a recommendation to the responsible authority, the City will provide advice on whether community consultation is appropriate, and if so, will outline the recommended consultation methods and relevant stakeholders having regard to the requirements of the City's *Planning Consultation Local Planning Policy*.

#### *Minor Development Local Planning Policy*

The draft *Minor Development Local Planning Policy* provides criteria and development objectives for minor residential development (such as cubby houses and satellite dishes) that is not dealt with under the deemed-to-comply or design principles of the *Residential Design Codes*. To address consultation requirements for minor residential development that requires an assessment against the objectives of the *Minor Development Local Planning Policy*, it is necessary to reference local planning policies in Table 1 and 2 of the *Planning Consultation Local Planning Policy*.

## Issues and options considered

Council has the option to either:

- advertise the draft revised *Planning Consultation Local Planning Policy*, without modifications
- advertise the draft revised *Planning Consultation Local Planning Policy*, with modifications
- or
- not support the advertising of the draft revised *Planning Consultation Local Planning Policy*.

## Legislation / Strategic Community Plan / Policy implications

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

### Strategic Community Plan

**Key theme**                        Governance and Leadership.

**Objective**                        Active democracy.

**Strategic initiative**        Optimise opportunities for the community to access and participate in decision-making processes.

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

### Risk management considerations

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

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

### Financial / budget implications

The costs associated with any public advertising and notice of any final adoption of the draft revised *Planning Consultation Local Planning Policy* will be approximately \$1,000.

### Regional significance

Not applicable.

### Sustainability implications

Not applicable.

## Consultation

The deemed provisions as set out in the LPS Regulations require a new policy or major amendment to a policy to be advertised for public comment for a period of not less than 21 days. The *Planning Consultation Local Planning Policy* also requires a new policy to be advertised for 21 days.

The policy is proposed to be advertised for 21 days as follows:

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

If, in the opinion of the City, the policy is inconsistent with any State planning policy, then notice of the proposed policy is to be given to the Western Australian Planning Commission. The proposed policy is not considered to be inconsistent with any State planning policy.

## COMMENT

The proposed amendments to the *Planning Consultation Local Planning Policy* aims to align the policy with the LPS Regulations and provide further clarity as to how planning applications are to be advertised for public comment. It is recommended that Council advertise the draft revised *Planning Consultation Local Planning Policy* for public comment for a period of 21 days.

## VOTING REQUIREMENTS

Simple Majority.

**MOVED Cr Kingston, SECONDED Cr Raftis that Council, in accordance with Clauses 3 and 4 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, PREPARES and ADVERTISES the draft revised *Planning Consultation Local Planning Policy*, as shown in Attachment 2 to this Report, for a period of 21 days.**

**The Motion was Put and**

**CARRIED (5/0)**

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

*Appendix 4 refers*

To access this attachment on electronic document, click here: [Attach4agnPOLICY220509.pdf](#)

## ITEM 6 PROPOSED AMENDMENTS TO THE HOME-BASED BUSINESS LOCAL PLANNING POLICY

<b>WARD</b>	All
<b>RESPONSIBLE DIRECTOR</b>	Mr Chris Leigh Planning and Community Development
<b>FILE NUMBER</b>	13048, 101515
<b>ATTACHMENTS</b>	Attachment 1 Current <i>Home-based Business Local Planning Policy</i> Attachment 2 Draft revised <i>Home Business Local Planning Policy</i> – tracked changes Attachment 3 Draft revised <i>Home Business Local Planning Policy</i> – clean version
<b>AUTHORITY / DISCRETION</b>	Legislative - includes the adoption of local laws, planning schemes and policies.

### PURPOSE

For Council to consider amendments to the *Home-based Business Local Planning Policy* to align with changes to the *Planning and Development (Local Planning Schemes) Regulations 2015*.

### EXECUTIVE SUMMARY

On 15 February 2021, amendments to the *Planning and Development (Local Planning Schemes) Regulations 2015* (LPS Regulations) came into effect as part of the State Government's reform of the planning system. The amendments exempt a number of land uses from requiring development (planning) approval. As a result, development approval is no longer required for the land use 'Home Occupation'.

The City's *Home-based Business Local Planning Policy* provides criteria and standards for the operation of a 'Home Business' and 'Home Occupation'. Given the land use 'Home Occupation' is now exempt from requiring development approval, the policy provisions related to that land use are no longer relevant and are unable to be implemented. As a result, it is proposed that the policy be updated to remove reference to a 'Home Occupation' in order to align with the LPS Regulations.

The proposed amendments are considered to be minor in nature and, consistent with the City's Planning Consultation Local Planning Policy, the policy is not required to be advertised. It is therefore recommended that Council proceed with the revised *Home Business Local Planning Policy*.

### BACKGROUND

There are three categories of home-based businesses in the LPS Regulations which are reflected in the City's planning scheme, *Local Planning Scheme No. 3* (LPS3), being 'Home Office', 'Home Occupation' and 'Home Business'. 'Home Office' is a use that has been exempt from requiring development approval to operate for some time.

As part of the Action Plan for Planning Reform, the State Government has implemented several initiatives to improve the planning system. On 15 February 2021, amendments to the LPS Regulations came into effect which included modifications to assist in cutting red tape and supporting small businesses. A number of land uses have now been listed as exempt from the need for development approval, including the land use 'Home Occupation'. There are no requirements or conditions attached to the exemption for a Home Occupation.

The *Home-based Business Local Planning Policy* sets out specific criteria and standards for the operation of a 'Home Business' and 'Home Occupation', however the deemed provisions of the LPS Regulations override any equivalent provisions contained in a local planning scheme or a local planning policy. The other category of home business ('Home Office') has been exempt from the need to obtain development approval for some time.

The policy was most recently updated in March 2020 (CJ033-03/20 refers) to include reference to the *Planning Consultation Local Planning Policy*.

## DETAILS

The land use 'Home Occupation' is now exempt from the need to obtain development approval, with the effect that the provisions included in the City's current *Home-based Business Local Planning Policy* relating to a 'Home Occupation' cannot be enforced and are therefore redundant. It is considered appropriate that the *Home-based Business Local Planning Policy* be updated to reflect that exemption. The proposed amendments include the following:

- Renaming the policy from '*Home-based Business Local Planning Policy*' to '*Home Business Local Planning Policy*'.
- Removing the reference to 'Home Occupation' within sections 5.2 and 5.3 and renumbering as appropriate.
- Modifying the words 'Home-based business' to 'Home Business'.
- Updating the reference from the *Signs Local Planning Policy* to *Advertisements Local Planning Policy* (as this policy has been renamed).

It is noted that the operation of a 'Home Occupation' must still comply with the definition contained within *Local Planning Scheme No. 3 (LPS3)* being:

*"a dwelling or land around a dwelling used by an occupier of the dwelling to carry out an occupation if the carrying out of the occupations that:*

- (a) *does not involve employing a person who is not a member of the occupier's household;*
- (b) *will not cause injury to or adversely affect the amenity of the neighbourhood; and*
- (c) *does not occupy an area greater than 20 m<sup>2</sup>; and*
- (d) *does not involve the display on the premises of a sign with an area exceeding 0.2 m<sup>2</sup>; and*
- (e) *does not involve the retail sale, display or hire of any goods unless the sale, display or hire is done only by means of the Internet; and*
- (f) *does not*
  - (i) *require a greater number of parking spaces than normally required for a single dwelling; or*
  - (ii) *result in an increase in traffic volume in the neighbourhood;*
- (g) *does not involve the presence, use or calling of a vehicle of more than 4.5 tonnes tare weight; and*

- (h) *does not include provisions for the fuelling, repair or maintenance of motor vehicles; and*
- (i) *does not involve the use of an essential service that is greater than the use normally required in the zone in which the dwelling is located."*

The exemption of a 'Home Occupation' from requiring development approval under the LPS Regulations does not set aside the requirement to have all other necessary approvals and permits in place as required by other legislation.

### **Issues and options considered**

Council has the option to:

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

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

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

### **Strategic Community Plan**

**Key theme**                      Quality Urban Environment.

**Objective**                      Quality built outcomes.

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

**Policy**                              *Home-based Business Local Planning Policy.*

### **Risk management considerations**

The provisions relating to Home Occupations within the *Home-based Business Local Planning Policy* are no longer relevant given Home Occupations no longer require development approval under the LPS Regulations. The provisions are effectively redundant and removal of requirements pertaining to Home Occupations will avoid any confusion as to the requirements for operating the use.

### **Financial / budget implications**

There will be no cost associated with the publishing of a notice on the website of any final adoption of the amended policy.

### **Regional significance**

Not applicable.

### **Sustainability implications**

Not applicable.

## Consultation

The consultation requirements for a new or amended planning policy are stipulated in the LPS Regulations and the City's *Planning Consultation Local Planning Policy*.

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

The *Planning Consultation Local Planning Policy* states minor amendments include correction of typographical or formatting errors, updates to legislation references and similar but does not include an amendment to development provisions or standards. In this instance, the proposed amendments are considered minor given the amendments are required as a result of updated legislation. The proposed amendments to the policy are therefore not required to be advertised.

## COMMENT

The proposed amendments to the *Home-based Business Local Planning Policy* are considered minor and will reflect the exemption from the need to obtain development approval for a 'Home Occupation' that is now provided by the LPS Regulations. The proposed amendments to the policy will also ensure there is no confusion as to the requirements associated with operating a 'Home Occupation'. It is therefore recommended that Council proceed with the policy as amended.

## VOTING REQUIREMENTS

Simple Majority.

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

- 1 in accordance with Clauses 4 and 5 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, PROCEEDS with the revised *Home Business Local Planning Policy* as included in Attachment 3 to this Report;**
- 2 NOTES that the revised *Home Business Local Planning Policy* will come into effect when a public notice is published on the City's website.**

**The Motion was Put and**

**CARRIED (5/0)**

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

*Appendix 5 refers*

To access this attachment on electronic document, click here: [Attach5agnPOLICY220509.pdf](#)

## ITEM 7                    DRAFT MINOR RESIDENTIAL DEVELOPMENT LOCAL PLANNING POLICY

<b>WARD</b>	All
<b>RESPONSIBLE DIRECTOR</b>	Mr Chris Leigh Planning and Community Development
<b>FILE NUMBER</b>	110179, 101515
<b>ATTACHMENTS</b>	Attachment 1    Draft <i>Minor Residential Development Local Planning 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 *Minor Residential Development Local Planning Policy* for the purposes of public advertising.

### EXECUTIVE SUMMARY

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

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

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

The draft *Minor Residential Development Local Planning Policy* provides appropriate objectives for assessing minor residential development within the City that does not meet the exemptions outlined in the LPS Regulations and addresses the gap created by amendments to the LPS Regulations introduced in February 2021.

*It is therefore recommended that Council supports the draft Minor Residential Development Local Planning Policy for the purposes of public consultation for a period of 21 days.*

## BACKGROUND

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

- Cubby houses.
- Water tanks.
- Flagpoles.
- Solar panels.

The City currently has number of individual policies that also address minor development, being the following:

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

The changes to the LPS Regulations to include exemptions for some types of minor development provides the opportunity to review the City's existing policies related to minor development with a view to consolidating those policies.

## DETAILS

The LPS Regulations have introduced a standard approach for local government in relation to water tanks, flagpoles, solar panels and cubby houses in that no development application is required where the conditions of exemption are met, regardless of the specific zone in which the development is to occur.

The issue arises in the event that the conditions of exemption are not met, a development application is required, however in some instances, there is no other criteria to assess the application against. Where there are no specific assessment criteria, a development application would be assessed against the objectives of the relevant zone. The objectives for each zone within LPS3 are high level statements, and do not address the impacts that specific developments may raise.

While it is not essential that specific criteria or guidance be included in a policy in order to assess a development application for minor residential development, such criteria does ensure that there is a consistent approach to assessment, as well as providing information for an applicant on how an application will be assessed and what is considered appropriate.

Given the changes to the LPS Regulations and the City's existing policies related to minor development, it is considered appropriate to develop a new policy to address minor development. The purpose of developing a new minor development policy is to:

- include criteria to assess applications for minor residential development where the development does not meet the exemption conditions in the LPS Regulations and
- consolidate several existing policies that address minor development into one policy, including the existing cubby house, satellite dishes/aerial, and sea container policies.

### Draft Minor Residential Development Local Planning Policy

The draft *Minor Residential Development Local Planning Policy* has been prepared (Attachment 1 refers) to provide development objectives for the minor residential development that is included in the LPS Regulations (detailed in the table below) and to incorporate appropriate provisions from the City's existing policies that cover minor residential development.

It is intended that the policy will only address minor development associated with residential land uses. It does not cover minor development associated with any other types of land uses such as commercial or industrial. This type of development is dealt with in the individual zone polities, such as the *Commercial, Mixed Use and Service Commercial Zone Local Planning Policy*. In addition, the draft policy only applies to the types of minor residential development specifically listed in the policy, it does not apply to all minor residential development. Other forms of minor residential development, not listed in the draft policy are still covered under clause 5.4.4 of the R-Codes, which provides development standards, design principles and objectives associated with external fixtures to dwellings.

The development objectives of the draft policy focus on the potential amenity impacts of the proposed minor development on adjoining properties and streetscape. Consideration is also given to the need or desirability to consult adjoining owners on a proposed minor development.

### Exemptions under the LPS Regulations

The following table outlines the development and conditions of exemption that are listed in the LPS Regulations, along with how the City will address any development that does not comply with the exemption conditions.

<b>Development</b>	<b>Conditions</b>	<b>City's position</b>
The installation of a water tank	<ul style="list-style-type: none"> <li>(a) The water tank is not installed in the street setback area of a building.</li> <li>(b) The volume of the water tank is no more than 5000 litres</li> <li>(c) The height of the water tank is no more than – <ul style="list-style-type: none"> <li>(i) For a tank fixed to a building – the height of the eaves of the building; or</li> <li>(ii) For a tank that is not fixed to a building and is more than 1 m from each boundary or the lot – 2.4 metres; or</li> <li>(iii) For a tank that is not fixed to a building and is 1 metre or less from a boundary of the lot – 1.8 metre.</li> </ul> </li> <li>(d) The works are not located in a heritage-protected place.</li> </ul>	Water tanks that do not comply with the exemption conditions will require a DA that will be assessed under the design principles of clause 5.4.4 of the R-Codes.
The erection or installation of a cubbyhouse	<ul style="list-style-type: none"> <li>(a) The cubbyhouse is not erected or installed in the street setback area of a building.</li> <li>(b) The floor of the cubbyhouse is no more than 1 metre above the natural ground level.</li> <li>(c) The wall height of the cubbyhouse is no more than 2.4 metres above the natural ground level.</li> </ul>	Cubby houses that do not comply with the exemption conditions will require a DA that will be assessed under the development objectives of the <i>Minor Residential Development Local Planning Policy</i> .

Development	Conditions	City's position
	(d) The building height of the cubbyhouse is no more than 3 metres above the natural ground level. (e) The area of the floor of the cubbyhouse is no more than 10m <sup>2</sup> (f) The cubbyhouse is not erected or installed within 1 metres of more than one boundary of the lot.	
The erection or installation of a flagpole	(a) The height of the flagpole is no more than 6 metres above the natural ground level. (b) The flagpole is no more than 200mm in diameter. (c) The flagpole is not used for advertising. (d) There is no more than one flagpole on the lot. (e) The works are not located in a heritage-protected place.	Flag poles that do not comply with the exemption conditions will require a DA that will be assessed under the development objectives of the <i>Minor Residential Development Local Planning Policy</i> which refers to the design principles of clause 5.4.4 of the R-Codes
The installation of solar panels on the roof of a building.	(a) The solar panels are parallel to the angle of the roof. (b) The works are not located in a heritage-protected place.	Solar panels that do not comply with the exemption conditions will require a DA that will be assessed under the design principles of clause 5.4.4 of the R-Codes.

Cubby houses and flag poles are proposed to be included in the draft policy, however, water tanks and solar panels are not included in the draft policy as they are specifically listed as external fixtures under clause 5.4.4 of the R-Codes and therefore already subject to specific provisions.

### Cubby Houses Policy

Council adopted the *Cubby Houses Policy* in February 2009 (CJ007-02/09 refers). The policy was developed in the absence of any provisions within the local planning scheme or R-Codes at the time, and in response to a number of complaints that were received, in particular with regard to privacy. The policy has worked well in establishing the City's expectations when building or erecting such a structure.

It is noted that the City's existing *Cubby House Policy* already includes conditions that allow a compliant cubby house to be exempt from the need for development approval.

The amendments to the LPS Regulations have included cubby houses in the list of exemptions, subject to meeting the conditions outlined in the table above. These conditions differ slightly to those within the *Cubby Houses Policy* as outlined below:

Cubby House Policy criteria	LPS Regulations Conditions
The structure does not have a floor level elevated more than 0.5 metres above natural ground level.	The floor of the cubbyhouse is no more than 1 metre above the natural ground level.
The structure is not located within the primary street setback area.	The cubbyhouse is not erected or installed in the street setback area of a building.

<b>Cubby House Policy criteria</b>	<b>LPS Regulations Conditions</b>
The structure will not be used for habitable purposes.	N/A
There will be a limit of one cubby house per survey strata or green title lot	N/A
The structure will not exceed 2.1 metres in height above the natural ground level, with the exception of architectural features or a flagpole, which shall not exceed 2.5 metres above natural ground level.	The wall height of the cubby house is no more than 2.4 metres above the natural ground level.  The building height of the cubby house is no more than 3 metres above the natural ground level.
The structure will not exceed 6 square metres in total floor area.	The area of the floor of the cubbyhouse is no more than 10m <sup>2</sup> .
The structure will not be attached to a boundary fence or other buildings.  The structure will not abut more than one side or rear boundary.  The structure will not abut more than one side or rear boundary.	The cubbyhouse is not erected or installed within 1 metres of more than one boundary of the lot.
The structure will contain all stormwater run-off on-site.	N/A

The exemption conditions of the LPS Regulations regarding the development of a cubby house override the provisions of the *Cubby Houses Policy*, thereby making City's exemption conditions redundant. However, it is noted that the exemption conditions are similar to those of the *Cubby Houses Policy* in that they both allow small cubby houses near to one boundary only and not within the street setback area. The permitted height and floor level above natural ground level are slightly greater in the LPS Regulations, however, this is not considered to have a significant impact.

It is proposed to include development objectives in the draft *Minor Residential LPP* against which to assess proposals for cubby houses that do not comply with the exemption conditions of the LPS Regulations.

The following provisions from the current *Cubby Houses Policy* are proposed to be included in the policy:

- The degree to which the proposal impacts the amenity of adjoining properties and/or streetscape.
- The need to protect the privacy of adjoining properties by preventing views into adjoining active habitable spaces and outdoor living areas.

An additional development objective is proposed to be included that allows cubby houses to abut two boundaries (where all other development conditions are met), which allows the cubby house to be built in the corner of a property.

The proposed development objectives focus on protecting the privacy of adjoining properties and the potential amenity impacts on adjoining properties and the streetscape from a cubby house.

It is recommended that the above development objectives be incorporated into the draft *Minor Residential Development Local Planning Policy* and the *Cubby Houses Policy* be revoked.

### Use of Sea Containers Policy

The *Use of Sea Containers Policy* was adopted by Council in 2015 (CJ146-08/15 refers) in response to the City having no specific guidelines or policies on their use. It was considered that the use of sea containers can have a negative visual impact on the surrounding area, particularly when used in residential areas.

The use of sea containers (permanent and temporary) in non-residential areas is no longer relevant for inclusion in the policy as the provisions have been incorporated into the individual zone policies that were developed when LPS3 was introduced (such as *Commercial, Mixed Use and Service Commercial Zone Development Local Planning Policy* and *Non-Residential Development in the Residential Zone Local Planning Policy*).

Therefore, only the use of sea containers associated with residential development is considered for inclusion in the draft *Minor Residential Development LPP*.

The *Use of Sea Containers Policy* allows the permanent use of sea containers associated with residential development where the sea container is:

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

The *Use of Sea Containers Policy* also allows for the temporary approval of sea containers in any zone, provided:

- it is only used in conjunction with building construction or subdivision work that has been approved for the site, up to a maximum of 12 months  
or
- it is only used for the loading or unloading of goods that is occurring on the subject site and only up to a maximum of 7 days  
and
- is positioned so as not to obscure vehicle sightlines  
and
- a formal request is received, and a letter is issued from the City approving the temporary nature and its period of use in accordance with the provisions of the scheme.

The *Use of Sea Containers Policy* has been working well since its adoption, however, there have only been seven applications for permanent sea containers, of which only two were in the 'Residential' zone.

It is recommended that the above development provisions be incorporated into the *Minor Residential Development Local Planning Policy* and the *Use of Sea Containers Policy* be revoked.

### Satellite Dishes, Aerials and Radio Equipment Policy

The *Satellite Dishes, Aerials and Radio Equipment Policy* was developed in 2006 in response to the lack of parameters around the maximum height and location of equipment within the 'Residential' zone. There was concern that without a policy, communication equipment could be installed which would potentially detrimentally impact on the visual amenity of adjoining owners and the locality.

In 2012 the provisions of the policy were revisited to ensure that the provisions allowed for the installation of dishes associated with providers such as Foxtel without needing a formal development approval.

As digital technology has evolved, the need for satellite dishes and antennas has significantly reduced. However, some technology providers are offering fixed wireless internet through roof mounted dishes. It is important to ensure provisions are retained to allow these providers to operate without the need for development approval and without detriment to adjoining properties.

The *Satellite Dishes, Aerials and Radio Equipment Policy* allows for the following:

- A satellite dish to be located on the roof with a diameter of not greater than 0.9 metres.
- A combined satellite dish and support to be located at existing ground level and is 2.4 metres or less in any dimension (the dish is to be located so as not to be visible from any street or adjoining property).
- A radio antenna that is not greater than 2 metres in height if mounted on the roof and does not project more than 2 metres above the roof ridge if located at ground level and is not located between the street and the house.
- A domestic television antenna that is not greater than 4 metres in any dimension.
- A maximum of one satellite dish and one form of radio equipment per property exclusive of a domestic antenna.

The *Satellite Dishes, Aerials and Radio Equipment Policy* has been working well since its adoption, however, there have only been eleven applications for satellite dishes and antenna in this time.

It is proposed to include reference to internet dishes with a maximum diameter of 400mm in the antenna/aerial section of the draft *Minor Residential Development Local Planning Policy* as this type of antenna equipment did not exist when the *Satellite Dishes, Aerials and Radio Equipment Policy* was originally drafted. This will provide clarity regarding the exemption conditions for this type of equipment.

It is recommended that the existing provisions of the *Satellite Dishes, Aerials and Radio Equipment Policy* be incorporated into the *Minor Residential Development Local Planning Policy* and the *Satellite Dishes, Aerials and Radio Equipment Policy* be revoked.

### **Issues and options considered**

Council has the option to either:

- advertise the draft *Minor Residential Development Local Planning Policy* without modifications
- advertise the draft *Minor Residential Development Local Planning Policy* with modifications
- or
- not support the advertising of the draft *Minor Residential Development Local Planning Policy*.

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

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

## Strategic Community Plan

<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>	<i>Cubby House Policy.</i> <i>Use of Sea Containers Policy.</i> <i>Satellite Dishes, Aerials and Radio Equipment Policy.</i>

## Risk management considerations

If the policy is not progressed there will be no objectives to guide applications for development approval for development that does not comply with the exemptions under the LPS Regulations.

If the policy is not progressed there will be no specific criteria or objectives against which to assess applications for development approval for development that does not comply with the conditions of exemption under the LPS Regulations.

## Financial / budget implications

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

## Regional significance

Not applicable.

## Sustainability implications

Not applicable.

## Consultation

The deemed provisions of the LPS Regulations require a new policy or major amendment to a policy to be advertised for public comment for a period of not less than 21 days. The *Planning Consultation Local Planning Policy* also requires a new policy to be advertised for 21 days.

The policy is proposed to be advertised for 21 days as follows:

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

If, in the opinion of the City, the policy is inconsistent with any State planning policy, then notice of the proposed policy is to be given to the Western Australian Planning Commission. The proposed policy is not considered to be inconsistent with any State planning policy.

## COMMENT

The draft *Minor Residential Development Local Planning Policy* is considered to provide appropriate objectives for assessing minor residential development within the City that does not meet the exemptions outlined in the LPS Regulations. The draft policy also incorporates appropriate provisions from the City's existing policies that cover minor residential development. The development objectives are primarily focussed on protecting the amenity and streetscape of the area.

*It is therefore recommended that Council supports the draft Minor Residential Development Local Planning Policy for the purposes of public consultation for a period of 21 days.*

## VOTING REQUIREMENTS

Simple Majority.

**MOVED** Cr Thompson, **SECONDED** Cr Poliwka that Council, in accordance with Clauses 3 and 4 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, **PREPARES** and **ADVERTISES** the draft *Minor Residential Development Local Planning Policy*, as shown in Attachment 1 to this Report, for a period of 21 days.

**The Motion was Put and**

**CARRIED (5/0)**

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

*Appendix 6 refers*

*To access this attachment on electronic document, click here: [Attach6agnPOLICY220509.pdf](#)*

## ITEM 8                      REVISED CIVIC CENTRE POLICY

<b>WARD</b>	All
<b>RESPONSIBLE DIRECTOR</b>	Mr Jamie Parry Governance and Strategy
<b>FILE NUMBERS</b>	101270, 101515
<b>ATTACHMENTS</b>	Attachment 1      Revised <i>Civic Centre Policy</i>
<b>AUTHORITY / DISCRETION</b>	Legislative - includes the adoption of local laws, planning schemes and policies.

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### PURPOSE

For the Policy Committee to provide direction with regard the objective and content of the Council's *Civic Centre Policy*.

### EXECUTIVE SUMMARY

The *Civic Centre Policy* (the Policy) provides guidance around the use of the City's Council Chamber and civic centre meeting rooms, as well as a number of activities relating to meetings. The Policy was initially created in 1999 and was last reviewed by Council at its meeting held on 20 March 2012 (CJ032-03/12 refers) where a range of changes were made to the City's overall policy framework.

At the Policy Committee meeting held on 2 August 2021 the item was presented (with revisions) and referred back to the Chief Executive Officer for further review; and at the Policy Committee meeting held on 21 February 2022 the item was again referred back to the Chief Executive Officer to provide further clarity in regard to use of other rooms and facilities within the Civic Centre.

Following the February meeting the Presiding Member of the Policy Committee invited comment from members with regard the content of the Policy. Two members responded with a range of views.

Given the limited feedback received and the range of views provided the specific direction of the Policy Committee is requested to assist with the review of the Policy.

*It is therefore recommended that the Policy Committee PROVIDE DIRECTION with regard to the objectives and scope/details of the Civic Centre Policy, as detailed in Attachment 1 to this Report.*

### BACKGROUND

A revised *Civic Centre Policy* was presented to the Policy Committee on 2 August 2021, where some minor changes were suggested to improve its operation and to reflect current legislative intent. At that meeting, the Committee resolved:

*“That Item 2 – Revised Civic Centre Policy BE REFERRED BACK to the Chief Executive Officer to:*

- 1 *Retain the current provisions in clause 2.1;*
- 2 *Provide further clarity in regard to the use of other rooms and facilities within the Civic Centre, such as ward rooms and the Councillors’ Lounge.”*

With regard to Part 2 above, clause 2.2 – Use of Councillors’ Lounge and other rooms – was inserted into the Policy.

The revised Policy was presented to the Policy Committee held on 22 February 2022 where it was resolved:

*“That Item 1 - Revised Civic Centre Policy BE REFERRED BACK to the Chief Executive Officer to provide further clarity in regard to use of other rooms and facilities within the Civic Centre.”*

A wide range of ideas were presented to the Committee at its February meeting. Following the meeting an invitation was made to members of the Committee (by the Presiding Member) to help inform the review of the Policy.

Two members responded with a range of views. Given the limited feedback received and the range of views provided the specific direction of the Policy Committee is requested to assist with the review of the Policy.

## **DETAILS**

The Policy (attached and as presented to the February 2022 meeting of the Committee) is retained in the form presented to the February meeting, with some minor changes to the wording where “Civic Centre Meeting Rooms” is now referred to conference rooms. There is also the proposed inclusion of clause 2.2 – Use of Councillors’ Lounge, to provide clarity in regard to the use of other rooms and facilities within the Civic Centre, such as ward rooms and the Councillors’ Lounge.

The inclusion of clause 2.2 specifies when the Councillors’ Lounge may be used, and who can grant approval outside of the listed uses. It also specifies when the Ward offices may be used and how they can be booked; as well as the reading room which is available for elected member use at any time and does not need to be booked.

## **Member Comments**

Following the February meeting an invitation was made to members of the Committee to help inform the review of the Policy. Comments from the meeting and from two members subsequent to it include the following:

### ***February Committee Comments***

- The change from Council to City Business needs to be considered further, as City Business may be understood to be Administrative and discrete from Council, or Council may be seen as a subset, in which case the policy broadens the intent of the use of the Civic Centre from the previous wording.
- The wording for Part 2.1 describing ‘political parties or relevant opposition’ may be too narrow and not, for example, capture independents.

- It was questioned whether there is an access and inclusion issue with removing the wording in 2.3c.
- It was questioned whether the casual use of the Ward Rooms needs to be included.
- It was questioned whether the examples provided in 2.2a defining City Business are clear enough or too open-ended.
- It was questioned whether the Policy should include what happens if the Council disagrees with how the Mayor exercises his/her discretion.
- It was questioned whether allocating meeting rooms is an operational role.
- It was questioned whether Councillors should have to ask for permission from the Mayor to use the Lounge.
- It was questioned whether the purpose and intent of the filming/videoing of Council Meetings was required within the Policy.
- It was requested that some clarity be placed on the definition of Committee rooms.

### **Committee Member One**

- Incorporate some definitions into the policy, for example, 'City Business'; 'Council Business'; 'political engagement'.
- Preference for Civic Centre Facilities to be described in detail, including all the areas that this Policy pertains to; including provision of a map.
- In the Statement, some rooms are listed, some excluded. Preference is for all rooms in the Civic Centre to be listed, including reading rooms and perhaps even Councillor Change Rooms. Have a preference for the Conference Rooms to be referred to as Civic Centre Conference Rooms, to clearly delineate them.
- Consider that the Policy should cover off the Administration's procedure for gaining use of the Civic Centre as it is considered it is not made explicit. If this does not belong in policy, but rather protocol documents, then such a Protocol should be drafted and considered at the same time as the Civic Centre Policy document, though the preference is that this be included in the Policy.

### **Committee Member Two**

- The Civic Centre Policy is far too detailed. If there is a need to address political engagement in detail then it should be within a separate stand-alone policy, as political engagement can take place anywhere, and not just in the Civic Centre.
- It is not considered that the recording of meetings should be within the Policy. Given that the City is moving to video recording of Council Meetings a stand-alone policy to cover recording of meetings is perhaps warranted.
- A revised Policy Statement might read as follows:  
*"This Policy covers use of the City of Joondalup Civic Centre facilities (being the Council Chamber, Conference Rooms, Ward Rooms and Councillors' Lounge) by Elected Members and City Officers. This Policy does not cover the Mayoral Office, which is for the exclusive use of the Mayor."*
- Revised Policy Details might contain the following:
  - *"Civic Centre facilities may be used by City Officers and Elected Members for official City or Council business only.*
  - *City Officers and Elected Members must make bookings for Civic Centre facilities through the Office of the Mayor.*
  - *City Officers and Elected Members must not invite guests into the Civic Centre unless a prior booking has been made through the Office of the Mayor.*
  - *Where an Elected Member requests a booking to use the Councillor's Lounge to host guests, the number of guests shall be up to four (4) only.*

- *The Councillors Lounge is strictly closed to guests of Elected Members at 2230hrs.*
- *When City Officers (other than the CEO) plan to meet with representatives of State or Federal Political Parties in the Civic Centre they must obtain prior approval from the CEO.*
- *When the CEO plans to meet with representatives of State or Federal Political Parties in the Civic Centre, the CEO should provide advance notice to the Mayor.*
- *When Elected Members (other than the Mayor) plan to meet with representatives of State or Federal Political Parties in the Civic Centre they must obtain prior approval from the Mayor.*
- *When the Mayor plans to meet with representatives of State or Federal Political Parties in the Civic Centre, the Mayor should provide advance notice to the CEO.*
- *Should any external parties (including community and not-for-profit groups) wish to utilise Civic Centre facilities they must be directed to submit a request through the Office of the Mayor.”*

### **Officer Comment**

Section 2.7 the *Local Government Act 1995* provides that one of the roles of Council is to determine the policies of the local government. Policies provide strategic direction and principles to guide the activities of and decision-making by Council and the administration.

One of the roles of the Policy Committee is to make recommendations to Council on the development and review of the City's policies and overall policy framework.

In order to assist in the development and review of a policy document the following is required to establish the Committee/Council's objective on a policy or to provide further guidance in respect to a policy requirement:

- Policy Committee/Council to identify the requirement for the Council to form and document an objective or agenda position through a policy document, which may include:
  - a legislative requirement
  - new or changing industry standards
  - to meet the City's strategic objectives
  - community need or expectation
  - or
  - as a result of a Council resolution.
- Council/Policy Committee to agree on the objectives; scope and intent of the policy document aligned to the agreed requirements (as above).
- Council/Policy Committee to provide clear direction and clarity to the Administration that will assist in the drafting of any new policy document or the review of an existing policy; including whether the Policy is still relevant/required.
- The Administration develop a draft policy document and any such supplementary documents as are necessary to ensure effective implementation of policies based upon the clear direction of the Council/Policy Committee that will lead to clarity and consistency in decision making; improved efficiency and effectiveness; and/or improved community outcomes.

In order to review the *Civic Centre Policy* the following is required:

- The Policy Committee agree whether the *Civic Centre Policy* be retained or otherwise.
- The Policy Committee provide clarity and advice to the Administration of the intended:
  - objective of the Policy
  - statement of the Policy, or what the Policy will incorporate
  - the required details to be contained within the Policy.
- The Policy Committee give consideration with regard conducting a workshop on the Civic Centre Policy requirements, or referring the Policy to a Strategy Session to discuss the Policy and its proposed content prior to the Administration commencing any drafting of a reviewed policy document.

To assist the Policy Committee a number of civic centre policy documents have been sourced (this is not to say that a local government may not have civic arrangements contained within a protocol):

- City of Stirling – [Civic Facilities Policy](#)
- City of Melville - [Use of Elected Member Meeting Rooms and Facilities Policy](#)
- City of Gosnells – [Civic centre Elected Member Lounge](#)
- City of Perth – no comparable policy document
- City of Wanneroo – no comparable policy document
- City of Swan – no comparable policy document
- City of Albany - [Civic Receptions, Ceremonies and use of Council and Civic Rooms](#)
- City of Cockburn - [Administration Building Access Policy](#).

### Issues and options considered

The Policy Committee can either:

- recommend to the Council that it adopt the revised *Civic Centre Policy* as presented
- recommend to the Council that it adopt the revised *Civic Centre Policy* with further amendments
- recommend to the Council that it revoke the Policy and give consideration to development of new Policies related to:
  - use of the Council chamber and civic centre rooms
  - recording of meetings
  - and/or
  - political engagement by Elected Members.
- recommend to the Council that it not adopt the revised *Civic Centre Policy*  
or
- provide clarification to the Administration on the requirements of the Policy to assist the Administration in the drafting of a revised *Civic Centre Policy* that meets the Council's objectives.

### Legislation / Strategic Community Plan / Policy implications

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

### Strategic Community Plan

**Key theme**                        Governance and Leadership.

**Objective**                        Effective Representation.

**Strategic initiative** Ensure the elected body has a comprehensive understanding of its roles and responsibilities.

**Policy** Not applicable.

**Risk management considerations**

Reputational – Low, a clear policy is proposed to avoid the perception of any political alignment.

**Financial / budget implications**

There are no financial implications associated with the adoption of the revised Policy.

**Regional significance**

Not applicable.

**Sustainability implications**

Not applicable.

**Consultation**

Consultation was undertaken with Elected Members at the Policy Committee meetings held on 2 August 2021 and 22 February 2022, including an invitation to Committee members to provide comment on the revised Policy.

**COMMENT**

In line with the need for periodic reviews of policies, the suggested changes are anticipated to improve its operations and reflect current legislative intent.

**VOTING REQUIREMENTS**

Simple Majority.

**OFFICER'S RECOMMENDATION**

That the Policy Committee PROVIDE DIRECTION with regard to the objectives and scope/details of the Civic Centre Policy, as detailed in Attachment 1 to this Report.

*Cr Poliwka left the room at 7.53pm and returned at 7.55pm.*

**MOVED Cr Thompson, SECONDED Cr Kingston that Item 8 – Revised Civic Centre Policy BE DEFERRED to a meeting of the Policy Committee to be scheduled for July 2022.**

**The Motion was Put and**

**CARRIED (5/0)**

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

*Appendix 7 refers*

*To access this attachment on electronic document, click here: [Attach7agnPOLICY220509.pdf](#)*

## URGENT BUSINESS

Nil.

## MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

## REQUESTS FOR REPORTS FOR FUTURE CONSIDERATION

- 1 Cr Hill requested a report to amend the Visual Arts Policy to include Performing Arts.
- 2 Cr Raftis requested a report for the development of a policy on the management of all corporate credit cards which:
  - Is applicable to all corporate credit cards in the City's name.
  - Sets out internal controls and guidelines regarding usage of city credit cards.
  - Sets out the organisation positions who are assigned a credit card and the specified credit limit.
  - Requires the council to approve any credit limit changes and the issue of any additional credit cards.
  - Specifies the appropriate records required to be kept to substantiate transactions.
  - Specifies that any private usage is not permitted and the outcomes should such private usage be undertaken.
  - The authorisation and reconciliation process to be followed each month, including the CEO to sign off on all statements and those records to be submitted to the Audit & Risk Committee for review.
  - The relevant business unit responsible for issuing/cancelling, managing and reconciling the credit card facilities.
  - Sets out card holder responsibilities.
  - Includes other aspects as deemed necessary to ensure the completeness of the policy.
- 3 Cr Raftis requested a report for the development of a Model Litigant Policy for presentation to the 1 August 2022 Policy Committee meeting.
  - 3.1 Using the NSW Model Litigant Policy (March 2016) as a reference, the obligation to act as a model litigant requires more than merely acting honestly and in accordance with the law and court rules. It also goes beyond the requirement for lawyers to act in accordance with their legal ethical obligations. Essentially it requires that the Council act with complete propriety, fairly and in accordance with the highest standards. The obligation requires that the Council act honestly and fairly in handling claims and litigation by:
    - Dealing with claims promptly and not causing unnecessary delay in the handling of claims and litigation;

- Paying legitimate claims without litigation, including partial settlements of claims or interim payments, where it is clear that liability is at least as much as the amount to be paid;
- Acting consistently in the handling of claims and litigation;
- Endeavouring to avoid litigation, wherever possible;
- Where it is not possible to avoid litigation, keeping the costs of litigation to a minimum, including by:
  - Not requiring the other party to prove a matter which the Council knows to be true; and
  - Not contesting liability if the Council knows that the dispute is really about quantum;
- Not taking advantage of a claimant who lacks the resources to litigate a legitimate claim;
- When settling civil claims the Council should consider the use of confidentiality clauses in relation to settlements on a case by case basis;
- Only undertaking and pursuing appeals where the Council believes that it has reasonable prospects for success or the appeal is otherwise justified in the public interest. The commencement of an appeal may be justified in the public interest where it is necessary to avoid prejudice to the interest of the Council pending the receipt of proper consideration of legal advice, provided that a decision whether to continue the appeal is made as soon as practicable;
- Apologising where the Council is aware that it or its lawyers have acted wrongfully or improperly.

The obligation does not require that the Council be prevented from acting firmly and properly to protect its interests. It does not prevent all legitimate steps being taken in pursuing litigation, or from testing or defending claims made.

- 3.2 That the Policy require the presentation to Council of a Confidential Report at each Council meeting regarding the conduct of any civil litigation undertaken or responded to and the applicable legal costs incurred in relation to each litigation.
- 4 Cr Kingston requested a report to be presented to the Policy Committee by October 2022 on options for developing a 'Developer Contact Policy' for Elected Members and Employees.
- 5 Cr Kingston requested a report to be presented to the Policy Committee by October 2022 on developing a policy for 'Elected Members Access to Information' for requests to access to information made under *Section 5.92* of the *Local Government Act 1995*.
- 6 Cr Poliwka requested a report on what the City's policy currently is with regard to the sale of land and to include options to consider 25% of land sales to be placed into reducing rates for ratepayers.

## **CLOSURE**

There being no further business, the Presiding Member declared the meeting closed at 8.30pm the following Committee Members being present at that time:

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