

# Agenda **Special Meeting of Council**

NOTICE IS HEREBY GIVEN THAT A SPECIAL MEETING OF THE COUNCIL OF THE CITY OF JOONDALUP WILL BE HELD IN THE COUNCIL CHAMBER, JOONDALUP CIVIC CENTRE, BOAS AVENUE, JOONDALUP

ON

**TUESDAY, 13 JANUARY 2009**

COMMENCING AT

**7.00 pm**

PUBLIC QUESTION TIME

Members of the public are requested to lodge questions in writing by **close of business on Monday, 12 January 2009**

Answers to those questions received within that timeframe will, where practicable, be provided in hard copy form at the Special Council Meeting.

Please Note: Section 7(4)(b) of the Local Government (Administration) Regulations 1996 states that a Council at a special meeting is not required to answer a question that does not relate to the purpose of the meeting. It is requested that only questions that relate to items on the agenda be asked.

QUESTIONS TO

[council.questions@joondalup.wa.gov.au](mailto:council.questions@joondalup.wa.gov.au)  
PO Box 21 Joondalup WA 6919

PURPOSE OF MEETING

**To discuss the matter relating to Penistone Oval – Shared Use Agreement**

**GARRY HUNT**

Chief Executive Officer

[www.joondalup.wa.gov.au](http://www.joondalup.wa.gov.au)

9 January 2009

## PROCEDURES FOR PUBLIC QUESTION TIME

The following procedures for the conduct of Public Question Time were adopted at the Council meeting held on 18 December 2007:

### Questions asked verbally

- 1 Members of the public are invited to ask questions at Council Meetings.
- 2 Questions asked at an ordinary Council meeting can relate to matters that affect the operations of the City of Joondalup. Questions asked at a Special Meeting of the Council must relate to the purpose for which the meeting has been called.
- 3 A register will be provided for those persons wanting to ask questions to enter their name. Persons will be requested to come forward in the order in which they are registered, and to give their name and address.
- 4 Public question time will be limited to two minutes per member of the public, with a limit of two questions per member of the public.
- 5 Statements are not to precede the asking of a question during public question time. Statements should be made during public statement time.
- 6 Members of the public are encouraged to keep their questions brief to enable everyone who desires to ask a question to have the opportunity to do so.
- 7 Public question time will be limited to the legislative minimum of fifteen minutes and may be extended in intervals of up to ten minutes by resolution of the Council, but the total time allocated for public questions to be asked and responses to be given is not to exceed thirty five (35) minutes in total. Public question time is declared closed following the expiration of the allocated time period, or earlier than such time where there are no further questions.
- 8 Questions are to be directed to the Presiding Member and should be asked politely in good faith and are not to be framed in such a way as to reflect adversely or be defamatory on a particular Elected Member or City employee. The Presiding Member shall decide to:
  - Accept or reject any question and his/her decision is final;
  - Nominate a member of the Council and/or City employee to respond to the question;
  - Take a question on notice. In this case a written response will be provided as soon as possible, and included in the agenda of the next Council meeting.
- 9 Where an elected member is of the opinion that a member of the public is:
  - asking a question at a Council meeting, that is not relevant to the operations of the City of Joondalup;
  - making a statement during public question time;they may bring it to the attention of the meeting.

- 10 Questions and any response will be summarised and included in the minutes of the Council meeting.
- 11 It is not intended that question time should be used as a means to obtain information that would not be made available if it was sought from the City's records under Section 5.94 of the Local Government Act 1995 or the Freedom of Information (FOI) Act 1992. Where the response to a question(s) would require a substantial commitment of the City's resources, the Chief Executive Officer (CEO) will determine that it is an unreasonable impost upon the City and refuse to provide it. The CEO will advise the member of the public that the information may be sought in accordance with the FOI Act 1992.

### **Questions in Writing**

- 1 Members of the public may submit questions to the City in writing.
- 2 Questions submitted to an ordinary Council meeting can relate to matters that affect the operations of the City of Joondalup. Questions submitted to a Special Meeting of the Council must relate to the purpose for which the meeting has been called.
- 3 The City will accept a maximum of 5 written questions per member of the public. To ensure equality and consistency, each part of a multi-part question will be treated as a question in its own right.
- 4 Questions lodged by 9.00 am on the day immediately prior to the scheduled Council meeting will be responded to, where possible, at the Council meeting. These questions, and their responses, will be distributed to Elected Members and made available to the public in written form at the meeting.
- 5 The Presiding Member shall decide to accept or reject any written question and his/her decision is final. Where there is any concern about a question being offensive, defamatory or the like, the Mayor will make a determination in relation to the question. Questions determined as offensive, defamatory or the like will not be published. Where the Presiding Member rules questions to be out of order, an announcement to this effect will be made at the meeting, including the reason(s) for the decision.
- 6 The Presiding Member may rule questions out of order where they are substantially the same as questions previously submitted and responded to.
- 7 Written questions unable to be responded to at the Council meeting will be taken on notice. In this case, a written response will be provided as soon as possible and included on the agenda of the next Council meeting.
- 8 A person who submits written questions may also ask questions at a Council meeting and questions asked verbally may be different to those submitted in writing.
- 9 Questions and any response will be summarised and included in the minutes of the Council meeting.

- 10 It is not intended that question time should be used as a means to obtain information that would not be made available if it was sought from the City's records under Section 5.94 of the Local Government Act 1995 or the Freedom of Information (FOI) Act 1992. Where the response to a question(s) would require a substantial commitment of the City's resources, the Chief Executive Officer (CEO) will determine that it is an unreasonable impost upon the City and refuse to provide it. The CEO will advise the member of the public that the information may be sought in accordance with the FOI Act 1992.

#### **DISCLAIMER**

Responses to questions not submitted in writing are provided in good faith and as such, should not be relied upon as being either complete or comprehensive.

### **PROCEDURES FOR PUBLIC STATEMENT TIME**

The following procedures for the conduct of Public Statement Time were adopted at the Council meeting held on 18 December 2007:

- 1 Members of the public are invited to make statements, either verbally or in writing, at Council meetings.
- 2 Statements made at an ordinary Council meeting must relate to matters that affect the operations of the City of Joondalup. Statements made at a Special Meeting of the Council must relate to the purpose for which the meeting has been called.
- 3 A register will be provided for those persons wanting to make a statement to enter their name. Persons will be requested to come forward in the order in which they are registered, and to give their name and address.
- 4 Public statement time will be limited to two minutes per member of the public.
- 5 Members of the public are encouraged to keep their statements brief to enable everyone who desires to make a statement to have the opportunity to do so.
- 6 Public statement time will be limited to a maximum of 15 minutes. Public statement time is declared closed following the 15 minute allocated time period, or earlier than such time where there are no further statements.
- 7 Statements are to be directed to the Presiding Member and are to be made politely in good faith and are not to be framed in such a way as to reflect adversely or be defamatory on a particular Elected Member or City employee.
- 8 Where an Elected Member is of the opinion that a member of the public is making a statement at a Council meeting, that is not relevant to the operations of the City of Joondalup, they may bring it to the attention of the Presiding Member who will make a ruling.
- 9 A member of the public attending a Council meeting may present a written statement rather than making the Statement verbally if he or she so wishes.
- 10 Statements will be summarised and included in the minutes of the Council meeting.

## **CODE OF CONDUCT**

The Code recognises these ethical values and professional behaviours that support the principles of:

Respect for persons - this principle requires that we treat other people as individuals with rights that should be honoured and defended, and should empower them to claim their rights if they are unable to do so for themselves. It is our respect for the rights of others that qualifies us as members of a community, not simply as individuals with rights, but also with duties and responsibilities to other persons.

Justice - this principle requires that we treat people fairly, without discrimination, and with rules that apply equally to all. Justice ensures that opportunities and social benefits are shared equally among individuals, and with equitable outcomes for disadvantaged groups.

Beneficence - this principle requires that we should do good, and not harm, to others. It also requires that the strong have a duty of care to the weak, dependent and vulnerable. Beneficence expresses the requirement that we should do for others what we would like to do for ourselves.

\* *Any queries on the agenda, please contact Council Support Services on 9400 4369.*

## CITY OF JOONDALUP

Notice is hereby given that a Special Meeting of the Council will be held in the Council Chamber, Joondalup Civic Centre, Boas Avenue, Joondalup on **TUESDAY, 13 JANUARY 2009** commencing at **7.00 pm**.

GARRY HUNT  
Chief Executive Officer  
9 January 2009

Joondalup  
Western Australia

### AGENDA

**1 DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS**

**2 PUBLIC QUESTION TIME**

(Please Note: Section 7(4)(b) of the Local Government (Administration) Regulations 1996 states that a Council at a special meeting is not required to answer a question that does not relate to the purpose of the meeting. It is requested that only questions that relate to items on the agenda be asked.)

**3 PUBLIC STATEMENT TIME**

Statements made at a Special Meeting of the Council must relate to the purpose for which the meeting has been called.

**4 APOLOGIES AND LEAVE OF ABSENCE**

**5 DECLARATIONS OF INTEREST**

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

**7 REPORTS**

**JSC1-01/09 NOTICE OF MOTION – MAYOR TROY PICKARD – PENISTONE OVAL – SHARED USE AGREEMENT - [02184] [29610]**

**JSC2-01/09 CONSULTATION RESULTS: PENISTONE OVAL SHARED USE AGREEMENT - 02184]**

*Please Note: If the Notice of Motion to revoke the decision of 16 December 2008 is not carried by An Absolute Majority, then Report JSC2-01/09 cannot be considered.*

**CLOSURE**

JSC1-01/09

**NOTICE OF MOTION – MAYOR TROY PICKARD – PENISTONE OVAL – SHARED USE AGREEMENT - [02184] [29610]**

In accordance with clauses 26 and 57 of the City of Joondalup Standing Orders Local Law 2005, Mayor Troy Pickard has given notice of his intention to move the following motion at the Special Meeting of Council to be held on 13 January 2009:

***“That Council, BY AN ABSOLUTE MAJORITY, REVOKES its decision of 16 December 2008 relating to Penistone Oval Shared Use Agreement (C85-12/08 refers), the decision being as follows:***

***‘That Council DEFERS the matter relating to Penistone Oval Shared Use Agreement to the ordinary meeting of Council to be held on 17 February 2009 in order to allow further consideration of the petition presented to the Council at its ordinary meeting held on 16 December 2008.’”***

**Reason for Revocation Motion**

- 1 That the City of Joondalup has conducted a comprehensive and timely community consultative process on this matter. It is unprecedented that consideration of such consultation be delayed as a result of additional community comment submitted outside the agreed consultation time periods and approach.
- 2 That there is a need for the Council to make an urgent decision on this matter for the benefit of the Greenwood community as any delay in the decision making process will hinder the construction of the primary school.

**Officer’s Comment**

The Council at its meeting held on 16 December 2008 was presented with a report relating to the matter of Shared Use of Penistone Oval, Greenwood. The Council at that meeting agreed to defer the matter until its meeting scheduled for 17 February 2009. The Local Government Act 1995, and the City of Joondalup Standing Orders Local Law 2005 details the procedures to be followed when considering a revocation motion.

**Call for One-Third Support**

The Local Government Act 1995, under regulations prescribed to deal with Section 5.25(e), lays down the following procedure for dealing with revoking or changing decisions made at Council or Committee meetings:

*If a decision has been made at a Council meeting, then any motion to revoke or change the decision must be supported by at least one-third of the number of offices (whether vacant or not) of members of the Council.*

*If supported by one-third of the members, then any decision to revoke a resolution of the Council is required to be passed by an Absolute Majority.*

Prior to giving consideration to the Notice of Motion, Elected Members are required to demonstrate support by one-third of their members, and such support is to be recorded in the Minutes of this meeting.



## **JSC2-01/09            CONSULTATION RESULTS: PENISTONE OVAL SHARED USE AGREEMENT - [02184]**

**WARD:**                    South-East

**RESPONSIBLE  
DIRECTOR:**            Mr Ian Cowie  
                                 Governance and Strategy

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### **PURPOSE/EXECUTIVE SUMMARY**

To provide Council with the results of the community consultation recently undertaken in relation to a potential shared use agreement at Penistone Reserve between the City of Joondalup and Greenwood Primary School.

The results of the consultation indicate that a majority of the respondents agree to a shared-use arrangement at the Penistone site, with 54.8% saying yes to an agreement and 45.2% saying no.

It is recommended that Council agrees to enter into a shared use agreement with the Department of Education and Training at the Penistone Reserve site.

### **BACKGROUND**

At the Meeting held on 16 December 2008, (C85-12/08 refers), Council resolved as follows:

*“That Council DEFERS the matter relating to Penistone Oval Shared Use Agreement to the ordinary meeting of Council to be held on 17 February 2009 in order to allow further consideration of the petition presented to the Council at its ordinary meeting held on 16 December 2008.”*

A petition was presented to the Council meeting on 16 December 2008 containing 485-signatures requesting the City of Joondalup to act on the objections of the petitioners to a request from the Department of Education and Training to share Penistone Reserve for the new Greenwood Primary school proposed to be constructed at 12 Merivale Way, Greenwood. An analysis of this petition is provided as Attachment 1 for the consideration of Council.

At the Meeting of 25 November 2008, Council resolved the following (CJ256-11/08 refers):

*That Council in regard to the proposed shared use of Penistone Reserve:*

- 1        UNDERTAKES public consultation with both the local and school communities to seek their opinion regarding the shared use of Penistone Reserve with Greenwood Primary School with a report back to Council for a decision;*
- 2        ADVISES the Department of Education and Training, and the Department of Planning and Infrastructure of its determination.*
- 3        REQUESTS from the Department of Education and Training a long term proposed use for the vacant portion of the site of the development approval currently being considered by the Western Australian Planning Commission.*

The public consultation referred to in the first resolution has since been undertaken and this report outlines the results of this process.

## DETAILS

### Public Consultation Process

Immediately following Council's decision on the 25 November 2008, the following documents were drafted for distribution throughout the public consultation process:

- Letters to targeted residents; all sporting clubs who use the reserve; resident and ratepayer groups; and East Greenwood Primary School (for distribution to teachers and parents), inviting them to participate in the public consultation process (approximately 2000).
- FAQs providing questions and answers in relation to shared-use agreements.
- A map indicating the area in which the shared use agreement would apply.
- Hardcopy surveys for participants to fill out and submit to the City with their vote and comments.
- An online survey on the City's website for electronic submissions to be made.

The consultation commenced on 1 December and closed on 15 December.

### Consultation Results

The City received 468 submissions. Of these, 14 were omitted as they represented a second or third submission from the same individual. From the 14 omitted, 12 were no votes and 2 were yes votes.

The results of the 454 accepted submissions were as follows:

**54.8% said yes** to a shared use agreement

**45.2% said no** to a shared use agreement

As outlined in the table below, the greatest response came from residents in the Greenwood and Warwick areas.

<b>STAKEHOLDER GROUP</b>	<b>% SUBMISSIONS</b>
Residents	68.2%
School (teachers and parents)	15.6%
Sporting Groups	4.9%
Resident and Ratepayer Groups	0.6%
Unknown/Outside of targeted residential area	8.3%

The majority of residents (54.8%) voted yes, as shown in the table below. The school stakeholder group submitted a strong yes vote, while sporting groups submitted a convincing majority of no votes. Participants in the consultation process who did not identify themselves with a particular stakeholder group produced an overwhelming no vote. These results are expressed in the table below.

<b>STAKEHOLDER GROUP</b>	<b>% YES VOTES</b>	<b>% NO VOTES</b>
Residents	57.4%	42.6%
School (teachers and parents)	72.6%	27.4%
Sporting Groups	39.1%	60.9%
Resident and Ratepayer Groups	100%	0%
Unknown/Unspecified	10.3%	89.7%

From the 454 results received and accepted by the City, 29 were submitted anonymously. Of these 29 submissions, 13 were no votes and 16 were yes votes. Should Council choose not to accept anonymous submissions, the affect on the overall results of the consultation will be so insignificant that the yes and no vote percentages will remain the same.

### Post Consultation Submissions

Since the close of the consultation period, 34 additional surveys have been received by the City with 21 in favour of a shared use agreement and 13 against. If added to the results stated above, the final results would become 488 submissions:

**55.3% said yes** to a shared use agreement

**44.7% said no** to a shared use agreement

### Reasons for voting no

The table below lists the major reasons why people chose to vote no (where such reasons were identified):

<b>REASON</b>	<b>% NO SUBMISSIONS</b>
Safety and security of children from predators	61%
There is enough room on the current school site for an oval	19%
Increased wear and tear of the oval which will require greater maintenance	19%
Against DET selling unused land for residential housing	17%
Schools should have their own ovals – based on principle	16%
People walking dogs will conflict with children on oval	15%
The public will be restricted from using the park during the day	15%
It will conflict with and impact upon sporting clubs currently using the location	10%
It will see a reduction in public open space	8%
Teachers will not be able to provide adequate supervision for children using the park during school hours	5%
School children should be provided with more open space to encourage physical activity and reduce the risk of childhood obesity	5%

The greatest reason cited for voting no was the perception that children will be exposed to predators if they are required to use Penistone Reserve for participating in physical activity. Another strong sentiment cited was the potential for increased wear and tear of the park which will reduce the quality of the area and impact negatively on sporting clubs that currently utilise the location.

Residents also voiced concerns about the impact a shared use agreement would have on dog walkers during the day which are exercised off-lead in the area. Many believe that reducing this capacity would reduce the amenity of Penistone Reserve.

A misconception that came through quite strongly in the consultation process was the belief that the school could fence the area to restrict public access. This right would not form part of any shared use agreement pursued by the City. Access would still be provided around the perimeter of the site for the public to use as a thoroughfare during school hours.

Many participants in the consultation process also voiced strong opposition to the thought that the Department of Education and Training (DET) may sell any unused land on the school site for the development of residential housing. This opposition was based both on principle and the future inability for the school to be expanded should this land no longer be available.

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

Based on the results of the consultation, the following options are provided for Council to consider:

Option 1:     *Agree to the development of a shared-use agreement with the DET at Penistone Reserve*

This option is supported based on the results of the consultation process given that the majority of participants voted yes to a shared-use agreement. It is also supported on the basis that there are no technical or operational problems with shared use from a City perspective (in terms of degradation of the playing surface and the like).

Agreeing to pursue a shared-use agreement would also ensure that construction of the new school will not be delayed any further, as the DET will not be required to submit amended plans to the Western Australian Planning Commission for approval.

Option 2:     *Do not agree to the development of a shared-use agreement with the DET at Penistone Reserve*

Pursuing this option would alleviate the concerns of those who oppose the proposed arrangement, (being 45.2% of those who responded during the consultation process).

Disagreeing to a shared-use arrangement will also delay the new school's construction.

Option 3:     *Defer consideration of the matter to another Council Meeting*

This option is not recommended as it will further delay the DET's plans to commence construction of the new school.

### **Link to Strategic Plan:**

Objective 1.2:        To engage proactively with the community.

### **Legislation – Statutory Provisions:**

Not Applicable.

**Risk Management considerations:**

There is a risk that pursuing option 1 may foster ongoing opposition from those within the community opposed to a shared use agreement.

However, the alternative scenario (pursuing option 2), also poses a risk of ongoing opposition from both residents and school stakeholders.

**Financial/Budget Implications:**

Pursuing a shared use agreement will have financial benefits for the City as it will receive payments for the use of the oval. There will also be costs associated with the increased use of the oval.

**Policy Implications:**

Not Applicable.

**Regional Significance:**

Not Applicable.

**Sustainability Implications:**

From a sustainability perspective, pursuing a shared use arrangement reduces water usage on ovals within the community, which is a principle the City has adopted as a part of its Landscape Master Plan.

**Consultation:**

The results of the consultation are outlined in the details section of the report.

**COMMENT**

It is the City's perspective that a shared use agreement would be a beneficial arrangement for the City to pursue, given that the majority of the responses from the community support shared use and it is a technically feasible option which will also reduce the need to water ovals.

**ATTACHMENTS**

Attachment 1          Analysis of Penistone Reserve petition

**VOTING REQUIREMENTS**

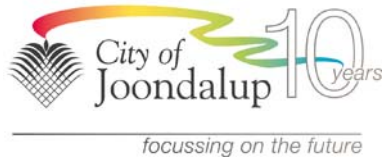
Simple Majority.

**RECOMMENDATION**

**That Council AGREES to pursue a shared use agreement with the Department Of Education And Training and requests the Chief Executive Officer to notify the Western Australian Planning Commission of its intention to enter into such an arrangement.**

*Appendix 1 refers*

*To access this attachment on electronic document, click here: [Attach1agn130109.pdf](#)*



## DECLARATION OF FINANCIAL INTEREST/INTEREST THAT MAY AFFECT IMPARTIALITY

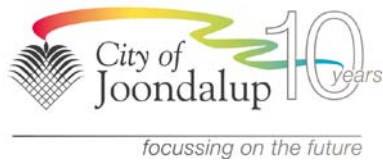
**To: CHIEF EXECUTIVE OFFICER  
CITY OF JOONDALUP**

<b>Name/ Position</b>	
<b>Meeting Date</b>	
<b>Item No/ Subject</b>	
<b>Nature of Interest</b>	Financial Interest * Interest that may affect impartiality* <span style="float: right;"><i>* Delete where not applicable</i></span>
<b>Extent of Interest</b>	
<b>Signature</b>	
<b>Date</b>	

Section 5.65(1) of the Local Government Act 1995 states that:

*“A member who has an interest in any matter to be discussed at a Council or Committee meeting that will be attended by that member must disclose the nature of the interest:*

- (a) in a written notice given to the CEO before the meeting; or*
- (b) at the meeting immediately before the matter is discussed.*



**QUESTION TO BE ASKED AT  
BRIEFING SESSION/COUNCIL MEETING**

**NAME** .....

**ADDRESS** .....

**QUESTIONS**

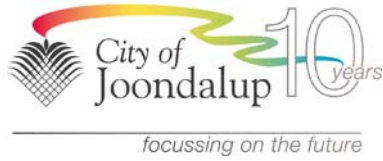
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Please submit this form at the meeting or:

- **post** to The Chief Executive Officer, City of Joondalup, P O Box 21, Joondalup WA 6919
- **email** to [council.questions@joondalup.wa.gov.au](mailto:council.questions@joondalup.wa.gov.au)

**Please note that:**

- Questions asked at a **Briefing Session** must relate to matters contained on the draft agenda.
- Questions asked at a **Council meeting** can relate to matters that affect the operations of the City of Joondalup.
- Questions asked at a **Special Meeting of the Council** must relate to the purpose for which the meeting has been called



**STATEMENT TO BE MADE AT  
BRIEFING SESSION/COUNCIL MEETING**

**NAME** .....

**ADDRESS** .....

**STATEMENT**

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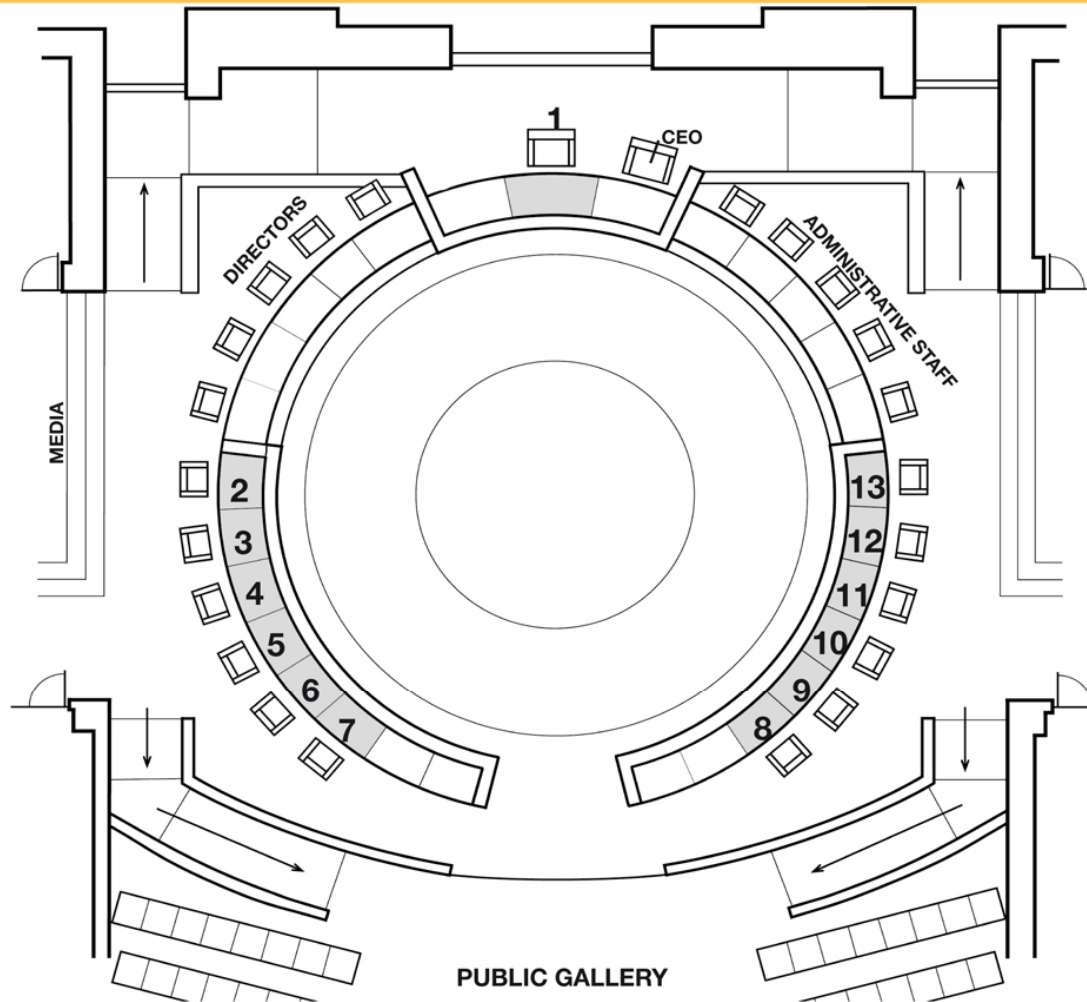
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# COUNCIL CHAMBER – SEATING DIAGRAM

City of Joondalup



## Mayor

1 His Worship the Mayor, Troy Pickard (Term expires 10/09)

### North Ward

- 2 Cr Kerry Hollywood (Term expires 10/09)
- 3 Cr Tom McLean (Term expires 10/11)

### North-Central Ward

- 4 Cr Albert Jacob (Term expires 10/09)
- 5 Cr Trona Young (Term expires 10/11)

### Central Ward

- 6 Cr Marie Macdonald (Term expires 10/09)
- 7 Cr Geoff Amphlett (Term expires 10/11)

### South-West Ward

- 8 Cr Michele John (Term expires 10/09)
- 9 Cr Mike Norman (Term expires 10/11)

### South-East Ward

- 10 Cr Sue Hart (Term expires 10/09)
- 11 Cr Brian Corr (Term expires 10/11)

### South Ward

- 12 Cr Russ Fishwick (Term expires 10/09)
- 13 Cr Fiona Diaz (Term expires 10/11)