

minutes

Policy Committee

MEETING HELD ON

MONDAY 1 AUGUST 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

TABLE OF CONTENTS

ITEM NO.	TITLE	PAGE NO.
	DECLARATION OF OPENING	3
	DECLARATIONS OF FINANCIAL INTEREST / PROXIMITY INTEREST / INTEREST THAT MAY AFFECT IMPARTIALITY	4
	APOLOGIES AND LEAVE OF ABSENCE	4
	CONFIRMATION OF MINUTES	4
	ANNOUNCEMENTS BY THE PRESIDING MEMBER WITHOUT DISCUSSION	4
	IDENTIFICATION OF MATTERS FOR WHICH THE MEETING MAY BE CLOSED TO THE PUBLIC	4
	PETITIONS AND DEPUTATIONS	4
	REPORTS	5
1	REVIEW TERMS OF REFERENCE – POLICY COMMITTEE	5
2	CHANGE OF MEETING TIMES – POLICY COMMITTEE	9
3	REVISED RISK MANAGEMENT POLICY	12
4	LEGAL REPRESENTATION FOR COUNCIL MEMBERS AND EMPLOYEES POLICY	15
5	REVIEW OF HIGH RISK BOOKINGS POLICY	19
6	REVIEW OF ALCOHOL MANAGEMENT POLICY	24
7	PROPOSED VENUE HIRE FEES AND CHARGES POLICY	34
8	CORPORATE CREDIT CARD POLICY	48
9	PROPOSED AMENDMENTS TO THE DEVELOPMENT PROPOSALS BEFORE THE STATE ADMINISTRATIVE TRIBUNAL POLICY	54
10	PARKING SCHEMES POLICY	58
11	ELECTED MEMBERS' ENTITLEMENTS POLICY – CONTINUING PROFESSIONAL DEVELOPMENT	66
12	AUSTRALIAN BUSINESS EXCELLENCE FRAMEWORK POLICY - REVIEW	71
13	REVISED CIVIC CENTRE POLICY	75
14	ELECTED MEMBER ACCESS TO INFORMATION POLICY	82

ITEM NO.	TITLE	PAGE NO.
15	MODEL LITIGANT FOR CIVIL LITIGATION POLICY	89
	URGENT BUSINESS	97
	MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	97
	REQUESTS FOR REPORTS FOR FUTURE CONSIDERATION	97
	CLOSURE	99

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 1 AUGUST 2022.

ATTENDANCE

Committee Members

Cr Suzanne Thompson	<i>Presiding Member</i>	
Mayor Hon. Albert Jacob, JP		<i>absent from 6.46pm to 6.50pm</i>
Cr Adrian Hill		
Cr Daniel Kingston	<i>Deputy Presiding Member</i>	<i>absent from 7.12pm to 7.13pm</i>
Cr Russell Poliwka		<i>absent from 7.02pm to 7.04pm</i>
Cr John Raftis		
Cr John Chester		<i>absent from 7.32pm to 7.34pm</i>

Observers:

Cr Tom McLean, JP	<i>to 7.28pm</i>
-------------------	------------------

Officers:

Mr James Pearson	Chief Executive Officer	
Mr Jamie Parry	Director Governance and Strategy	
Mr Chris Leigh	Director Planning and Community Development	<i>absent from 7.11pm to 7.13pm</i>
Mr Mat Humfrey	Director Corporate Services	
Mrs Kylie Bergmann	Manager Governance	
Mr Mike Smith	Manager Leisure and Cultural Services	<i>to 7.13pm</i>
Mr Peter McGuckin	Acting Manager Audit, Risk and Executive Services	<i>to 7.24pm</i>
Mrs Wendy Cowley	Governance Officer	

DECLARATION OF OPENING

The Presiding Member declared the meeting open at 5.51pm.

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

Nil.

APOLOGIES AND LEAVE OF ABSENCE

Leave of Absence Previously Approved

Cr John Raftis
Cr John Logan

17 to 31 August 2022 inclusive.
29 August to 2 September 2022 inclusive.

CONFIRMATION OF MINUTES

MINUTES OF THE POLICY COMMITTEE HELD ON 9 MAY 2022

MOVED Cr Chester, **SECONDED** Cr Kingston that the Minutes of the Policy Committee Meeting held on 9 May 2022 be confirmed as a true and correct record.

The Motion was Put and

CARRIED (7/0)

In favour of the Motion: Cr Thompson, Mayor Jacob, Crs Chester, 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.

BACKGROUND

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

- 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.

On 9 May 2022, a report was presented to the Policy Committee, where the Committee resolved:

"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."

DETAILS

The current Terms of Reference for the Policy Committee have been revised, with a view to consolidating the arts and culture reference points and maintaining a high-level strategic level in line with the intent of the *Local Government Act 1995*. The revised Terms of Reference for the Policy Committee are detailed below:

- 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 oversee the strategic direction of the City's Art Award events, Visual Art Collection and Visual and Performing Arts 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.

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 Leadership.

Outcome Capable and effective – you have an informed and capable Council back by a highly-skilled workforce.

Policy Not applicable.

Risk management considerations

The establishment of committees assists Council in performing some of its legislative responsibilities and functions. If Council does not establish committees this may hinder the overall decision-making process and place an onerous burden on Council.

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.

MOVED Cr Thompson, SECONDED Cr Poliwka that Council ADOPTS BY AN ABSOLUTE MAJORITY the revised Terms of Reference for the Policy Committee, as detailed below:

- 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 oversee the strategic direction of the City's Art Award events, Visual Art Collection and Visual and Performing Arts Programs.**

The Motion was Put and

CARRIED (7/0)

In favour of the Motion: Cr Thompson, Mayor Jacob, Crs Chester, Hill, Kingston, Poliwka and Raftis.

Issues and options considered

The Committee can choose to either:

- reschedule the Committee start times, as listed in the above table, to 6.00pm
- keep the Committee start times at 5:45pm
or
- suggest an alternative start time.

Officers can support the change in start time to 6.00pm for the Policy Committee meetings.

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 Leadership.

Outcome Capable and effective – you have an informed and capable Council backed by a highly-skilled workforce.

Policy Not applicable.

Risk management considerations

Should forward planning of Committee meetings not be identified, then there is a risk for meetings to be held on an ad-hoc basis, lacking coordination with other key meetings and corporate planning processes.

Financial / budget implications

Not applicable.

Regional significance

Not applicable.

Sustainability implications

Not applicable.

Consultation

Not applicable.

COMMENT

The current committee meeting dates/times, as adopted by the Policy Committee, can be amended however, consideration should be given to the calendar of meetings for all other Council/Committee meetings.

VOTING REQUIREMENTS

Simple Majority.

MOVED Cr Thompson, SECONDED Cr Raftis that the Policy Committee AMENDS the start time for the Policy Committee meeting scheduled for Monday 31 October 2022 to commence at 6.00pm.

The Motion was Put and

CARRIED (7/0)

In favour of the Motion: Cr Thompson, Mayor Jacob, Crs Chester, Hill, Kingston, Poliwka and Raftis.

ITEM 3 REVISED RISK MANAGEMENT POLICY

WARD	All
RESPONSIBLE DIRECTOR	Mr James Pearson Office of the CEO
FILE NUMBERS	49586, 101515, 109499
ATTACHMENT	Attachment 1 Revised <i>Risk Management Policy</i>
AUTHORITY / DISCRETION	Legislative - includes the adoption of local laws, planning schemes and policies.

PURPOSE

For Council to adopt a revised *Risk Management Policy*.

EXECUTIVE SUMMARY

The *Risk Management Policy* (the Policy) outlines the City's commitment and approach for managing risks that may impact on the achievement of its objectives. The Policy was initially created in 2013 and was last reviewed by Council at its meeting held on 20 October 2020 (Item CJ158-10/20 refers), where a range of changes were made to reflect the updated Australian Standard AS ISO 31000:2018 *Risk Management – Guidelines* and improvements to the City's risk management practices.

In line with the need for periodic reviews of policies, some minor changes to the Policy are suggested to improve its operation.

It is therefore recommended that Council ADOPTS the revised Risk Management Policy, as detailed in Attachment 1 to this Report.

BACKGROUND

The City's risk management arrangements continue to be reviewed and improved to provide an integrated and consistent approach across the City for the identification, assessment and treatment of risks.

The Policy outlines the City's commitment and approach to managing risks. Risks are to be recorded, analysed and reported, based on the context of the individual risk and the risk portfolio it belongs to. The Policy was first adopted by Council at its meeting held on 24 September 2013 (Item CJ190-09/13 refers).

DETAILS

In the main the policy is retained in its current form, with minor changes being recommended. The amendments to the policy will assist with improving the City's risk maturity level, as well as providing evidence of the appropriateness and effectiveness of the City's systems, in regard to risk management, internal control and legislative compliance.

The changes include:

- expanding the wording for whom the City delivers its services to, from residents and visitors, to community including residents, ratepayers, businesses and visitors
- expanding the risk management approach to include risk, controls and responsibilities are recorded and updated as required by risk responsible officers.

Issues and options considered

Council can either:

- adopt the revised *Risk Management Policy* as presented
- adopt the revised *Risk Management Policy* with further amendments
or
- not adopt the revised *Risk Management Policy*.

Legislation / Strategic Community Plan / Policy implications

Legislation *Local Government (Audit) Regulations 1996.*

Strategic Community Plan

Key theme Leadership.

Outcome Accountable and financially sustainable – You are provided with a range of City services which are delivered in a financially responsible manner.

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

Policy *Risk Management Policy.*
Fraud, Corruption and Misconduct Control Policy.

Risk management considerations

The changes provide better guidance to integrate risk management into activities and functions performed by the City.

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

Not applicable.

COMMENT

In line with the need for periodic reviews of policies, the suggested minor changes to the policy is anticipated to improve its operation and reflect current legislative intent.

VOTING REQUIREMENTS

Simple Majority.

MOVED Cr Thompson, **SECONDED** Mayor Jacob that Council **ADOPTS** the revised *Risk Management Policy* as detailed in Attachment 1 to this Report.

The Motion was Put and

CARRIED (6/1)

In favour of the Motion: Cr Thompson, Mayor Jacob, Crs Chester, Hill, Kingston and Poliwka.

Against the Motion: Cr Raftis.

Appendix 1 refers

To access this attachment on electronic document, click here: [Attach1POL220801.pdf](#)

- 2008 – increasing the maximum payment for legal representation costs from \$5,000 to \$6,000 and increasing the maximum payment that could be approved by the Chief Executive Officer from \$2,000 to \$6,000
- 2014 – aligning the policy to the then Department of Local Government and Communities model policy, and the City’s new standardised policy template.

DETAILS

The current Policy has been reviewed against the most recent local government operational guidelines (Legal Representation for Council Members and Employees) from the Department of Local Government, Sport and Cultural Industries. This guideline, and the incorporated model policy, are provided to assist councils when making decisions or developing a policy. Further information is available by visiting the Department of Local Government, Sport and Cultural Industries website below:

<https://www.dlgsc.wa.gov.au/department/publications/publication/legal-representation-for-council-members-and-employees>

Amendments to the Policy have been made to refer to Council Members rather than Elected Members, to align to the operational guidelines.

Amendments have also been made to correct grammatical errors or out-of-date references, such as the definition of approved lawyer referring to the *Legal Practice Act 2003*, which was repealed in 2009, and including the WALGA panel of legal service providers in place of the City’s panel that no longer exists. The references to Director Corporate Services has been changed to Director Governance and Strategy to align to the Director’s responsibility for the Chief Executive Officer’s contract and performance reviews.

Previous amendments included increasing the limit for legal representation costs per application in 2001, from \$3,000 to \$5,000, and in 2008, from \$5,000 to \$6,000. Since the completion of the Inquiry into the City of Joondalup in 2005, few applications have been brought before the Council for approval with an estimated expenditure of \$31,500 between the years of 2008-2013. As there has been no applications since 2013, it is recommended to maintain the current limit of \$6,000.

Issues and options considered

Council can either:

- adopt the revised *Legal Representation for Council Members and Employees Policy* as presented
- adopt the revised *Legal Representation for Council Members and Employees Policy* with further amendments
- or
- not adopt the revised *Legal Representation for Council Members and Employees Policy*.

Legislation / Strategic Community Plan / Policy implications

Legislation *Local Government Act 1995.*

Strategic Community Plan

Key theme Leadership.

Outcome Accountable and financially sustainable – You are provided with a range of City services which are delivered in a financially responsible manner.

Strategic initiative Demonstrate accountability through robust reporting that is relevant and easily accessible by the community.

Policy *Legal Representation for Elected Members and Employees Policy.*

Risk management considerations

There are no major risks identified in amending the Policy due to its close alignment with the current local government operational guidelines (Legal Representation for Council Members and Employees) from the Department of Local Government, Sport and Cultural Industries.

Financial / budget implications

As there have been no applications for legal representation costs since 2013, and it is recommended to maintain the current limit of \$6,000, the expense to the City is considered to be only minor.

Regional significance

Not applicable.

Sustainability implications

Not applicable.

Consultation

Not applicable.

COMMENT

In line with the need for periodic reviews of policies, the suggested minor changes to the policy is anticipated to improve its operation and reflect current legislative intent.

VOTING REQUIREMENTS

Simple Majority.

OFFICER'S RECOMMENDATION

That Council ADOPTS the revised *Legal Representation for Council Members and Employees Policy* as detailed in Attachment 1 to this Report.

MOVED Cr Kingston, **SECONDED** Cr Poliwka that Council **ADOPTS** the revised *Legal Representation for Council Members and Employees Policy* as detailed in Attachment 1 to this Report subject to an amendment to Part 2(a) of the Policy as follows:

“2 Definitions:

“approved lawyer” means:

- a. an Australian lawyer as defined under the Legal Profession Uniform Law Applications Act 2022; and / or**
- b. from a law firm on the WALGA panel of legal service providers, unless Council considers that this is not appropriate – for example, where there is and may be a conflict of interest or insufficient expertise; and**
- c. who is approved in writing by the Council or the CEO acting under delegated authority.”**

The Motion was Put and

CARRIED (7/0)

In favour of the Motion: Cr Thompson, Mayor Jacob, Crs Chester, Hill, Kingston, Poliwka and Raftis.

Appendix 2 refers

To access this attachment on electronic document, click here: [Attach2POL220801.pdf](#)

ITEM 5 REVIEW OF HIGH RISK BOOKINGS POLICY

WARD	All
RESPONSIBLE DIRECTOR	Mr Mat Humfrey Corporate Services
FILE NUMBERS	26370, 101515
ATTACHMENT	Attachment 1 High Risk Bookings in Community Venues
AUTHORITY / DISCRETION	Legislative – includes the adoption of local laws, planning schemes and policies.

PURPOSE

For Council to consider the proposed amendments to the *High Risk Bookings in Community Facilities* Policy.

EXECUTIVE SUMMARY

At its meeting held on 17 August 2015 (CJ148-08/15 refers), Council adopted the current *High Risk Bookings in Community Facilities*.

The City has 33 community facilities that can be hired on a 'casual' basis for private functions and activities. Each separate booking is subject to an application process and a set of booking terms and conditions which the hirer must agree to before a booking can be confirmed. The majority of bookings that occur in the City's community venues take place without any incidents. Prior to the implementation of the current policy, there were incidents with property damage and anti-social behaviour issues during some casual bookings.

The current policy has been very effective in managing the incidence of property damage and anti-social behaviour issues whilst also reducing administrative time spent on recovering costs. The policy has been reviewed in line with the City's *Policy Manual* and required minor amendment to remove references to the City's leisure centres and updating terminology in the policy in line with what is currently used.

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

BACKGROUND

A casual booking relates to any one-off approved scheduled activity booked to take place within a City of Joondalup community hireable venue. The *High Risk Bookings in Community Facilities* policy relates only to private bookings, where the booking is made by an individual person.

Between January 2011 and April 2012, the City had 80 casual bookings that could be categorised as high risk bookings (approximately 8% of all casual bookings).

Of these 80 bookings, the City experienced issues with 12 which includes:

- ten were for 18th or 21st birthday parties
- one was a 16th birthday party
- one was a 40th birthday party.

The issues ranged from relatively minor concerns (such as the facility not being adequately cleaned) through to more significant issues such as vandalism / damage, violence and general anti-social behaviour at the venue. Two of the bookings required police attendance.

When incidences such as these occur, a significant amount of administrative time is spent rectifying the issues, responding to complaints from other user groups and residents, and liaising with the hirer to resolve the bond and/or recover costs. From May 2012, the City conducted a general review of high risk casual bookings which covered the following areas:

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

This review led to the introduction of the *High Risk Bookings in Community Facilities Policy*. The policy has been reviewed in line with the City's Policy manual.

DETAILS

Under the current policy, a high risk casual booking is one which:

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

Between January 2018 and December 2021 there were 4,887 casual bookings which took place within the City's venues of which approximately 4% were classed as high risk bookings. Of these bookings, there were two high risk bookings where the bond had to be retained for various issues including cleaning and repair of damage incurred to City assets. The amount required to rectify the damage was retained from the bond and the remaining amount was refunded back to the hirers.

Since its introduction, the current policy has been effective in reducing the incidence of vandalism / damage, violence and general anti-social behaviour. There has been one incident between January 2018 to December 2021, where damage was incurred to City assets during a casual booking and the cost of the repairs has been recovered through a payment plan with the hirer.

This booking was an 18th birthday party however the booking was falsely represented in the booking application. There was no information provided within the booking application to indicate it was a 18th birthday party and as a result, it did not incur the additional measures put in place for high risk bookings.

Local government comparison

Bonds for high risk bookings were reviewed across other local governments:

Local Government	High Risk Bond Amount	When is the High Risk Bond Applied
City of Joondalup	\$2,500	<ul style="list-style-type: none"> 16th – 21st birthday parties. Buck's night / hen's night. Any other function where the City has a reasonable concern that there is a risk of property damage, vandalism and/or anti-social behaviour.
City of South Perth	\$2,000	<ul style="list-style-type: none"> Any booking with more than 100 people. Any event with alcohol.
City of Stirling	\$5,000	<ul style="list-style-type: none"> 18th and 21st birthday parties. Any booking with more than 100 people.
City of Wanneroo	\$2,700	<ul style="list-style-type: none"> 15th–21st birthday parties.

The City's *High Risk Bookings in Community Facilities* policy allows high risk bookings to take place whereas some other local governments have placed restrictions on their venues such as no 13th to 30th birthday parties, no bucks / hens nights and no alcohol on any park or reserve. This allows the City's community hireable venues to be utilised by residents for these events with a bond. Some local governments also consider any event with alcohol to be high risk regardless of the number of people attending.

Issues and options considered

The *High Risk Bookings in Community Facilities* policy has been reviewed and amendments proposed as indicated in the attached draft document (Attachment 1 refers). The amendments proposed are minor and are listed below:

Section	Change	Explanation
All	Changing references from facilities to hireable venues.	Venues is a broader term that encompasses all of the City's hireable community venues, including parks, beaches and buildings.
All	Removal of Leisure Centres.	Removing references to Leisure Centres as it has its own bonds within the <i>Schedule of Fees and Charges</i> and procedures for managing bookings.
Part 5.1.a	Removal of the word 'signed'.	Booking applications are now completed online with the hirer accepting the terms and conditions rather than signing a physical document.

Council can either choose to:

- 1 adopt changes to the High Risk Bookings in Community Facilities Policy as included in Attachment 1
or
- 2 retain the policy as is its current format.

It is recommended that option one is implemented as the current policy is effective and only minor amendments are required.

Legislation / Strategic Community Plan / policy implications

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

Strategic Community Plan

Key Theme Community.

Outcomes Healthy and safe – You feel healthy and safe in your local community.

Strategic initiative Adopt consistent principles in the management and provision of urban community infrastructure.

Policy *High Risk Bookings in Community Facilities.*

The recommendation of adopting a revised policy is to make minor amendments and update terminology in the policy.

Risk management considerations

The amendments proposed to the existing policy will have the effect of better clarifying when the policy will be applied. If the amendments are not adopted, there is a risk that the policy will be incorrectly applied, resulting in confusion for customers and potential for increased damage to City property.

Financial / budget implications

The amendments suggested to the revised policy would have no further financial / budget implications in comparison to the current policy.

Current financial year impact

Not applicable.

Future financial year impact

Not applicable.

Regional significance

Not applicable.

Sustainability implications

Not applicable.

Consultation

Not applicable.

COMMENT

The *High Risk Bookings in Community Facilities* policy has been very effective at managing potential risk in bookings at City venues. The infrequency of these incidents proves the policy's effectiveness along with the City's current bookings processes, booking forms and terms and conditions of hire in reducing such incidents.

While other local governments are more restrictive, the City's policy is effective and allows greater access to facilities whilst still managing risk. The proposed amendments serve to better clarify the intent of the policy as a guide to high risk bookings in community venues.

VOTING REQUIREMENTS

Simple Majority.

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

The Motion was Put and

CARRIED (7/0)

In favour of the Motion: Cr Thompson, Mayor Jacob, Crs Chester, Hill, Kingston, Poliwka and Raftis.

Appendix 3 refers

To access this attachment on electronic document, click here: [Attach3POL220801.pdf](#)

ITEM 6 REVIEW OF ALCOHOL MANAGEMENT POLICY

WARD	All
RESPONSIBLE DIRECTOR	Mr Mat Humfrey Corporate Services
FILE NUMBERS	13010, 101515
ATTACHMENTS	Attachment 1 <i>Alcohol Management Policy</i> Attachment 2 <i>Alcohol Management Plan 2011-14</i>
AUTHORITY / DISCRETION	Legislative - includes the adoption of local laws, planning schemes and policies.

PURPOSE

For Council to consider the proposal to revoke the *Alcohol Management Policy*.

EXECUTIVE SUMMARY

The City's *Alcohol Management Plan 2011-14* and associated *Alcohol Management Policy* were introduced in 2011 with the purpose of addressing alcohol related issues in the City.

The policy broadly outlines the City's role in the availability and consumption of alcohol in the community. These statements are designed to guide the City's position on alcohol management, however are no longer supported by specific actions and objectives that were previously contained within the *Alcohol Management Plan 2011-14*.

The policy also sets specific conditions on when the sale and / or consumption of alcohol will and will not be supported on City owned or managed property. A number of these conditions are able to be managed via State legislation in the *Liquor Control Act 1988* and the City's *Local Government and Public Property Local Law 2014*. The rest are currently managed via the City's Venue Hire Terms and Conditions and internal booking assessment procedures.

The *Alcohol Management Policy* also prohibits the sale and consumption of alcohol at Tom Simpson Park, Mullaloo. This restriction was included to remain consistent with a previous decision made in 2008 by the then Chief Executive Officer following ongoing antisocial behaviour at the park involving alcohol.

Evaluations of alcohol-free zones have shown little or no evidence that public drinking bans reduce congregations of drinkers or reduce alcohol-related crime or harm. Additionally, the prohibition of alcohol at Tom Simpson Park is inconsistent with the management of alcohol sales and consumption at other City venues and the City's strategic initiative to adopt consistent principles in the management and provision of urban community infrastructure.

Under the *Public Health Act 2016*, the City is required to develop a Public Health Plan. Due to the potential impact of alcohol on the health of individuals and the wider Joondalup community, the development of the plan will provide opportunities for the City to consider its role in alcohol management, including the introduction of policies or managing strategies.

It is therefore recommended that Council:

- 1 *AGREES to revoke the Alcohol Management Policy;*
- 2 *NOTES that the City will have opportunities to consider its role in alcohol management, including the development of policies relating to alcohol, during the development of the Public Health Plan.*

BACKGROUND

Alcohol Management Policy and Plan

In 2010, the City was nominated by the Western Australian Local Government Association (WALGA) to participate in a pilot project to develop an alcohol policy and management plan. As a result, the City's *Alcohol Management Plan 2011-14* was introduced in 2011 and was developed with the purpose of addressing alcohol related issues in the City.

The plan set out a series of strategies intended to address priority needs associated with alcohol, and focussed on the following four key areas:

- Liquor licence applications.
- City owned and managed property.
- Responding to the community.
- Urban design and town planning.

The plan was intended to be read in conjunction with the City's *Alcohol Management Policy*, which was also introduced in September 2011 (CJ159-09/11 refers). The policy outlines the City's role in alcohol management and sets specific conditions on when the sale and / or consumption of alcohol will and will not be supported on City owned or managed property.

A review of the plan was due to occur following its conclusion in 2014, however this did not occur and the plan was not renewed beyond its expiry in 2014. Instead, the City's *Community Safety and Crime Prevention Plan 2014-18* incorporated elements of alcohol management into a broader approach to community safety.

The *Alcohol Management Policy* remains active, however has not undergone a review since its introduction. There is no statutory requirement for the City to have an Alcohol Management Plan.

Current legislation

Restrictions on alcohol consumption and sale in public places are covered under State legislation in the *Liquor Control Act 1988*:

"s 119. Limitations as to liquor on unlicensed premises, etc.

- (1) *A person who consumes liquor in any place or on any premises, including any park or reserve, without the consent of the occupier, or of the person or authority having control, of that place or those premises commits an offence.*

Penalty: \$2,000."

The police are responsible for the enforcement of the Act.

Furthermore, the City's *Local Government and Public Property Local Law 2014* determines restrictions on the consumption of alcohol on City-managed property:

“3.3 Permit required for possession and consumption of liquor:

- (1) *A person must not, on local government property, consume any liquor or have in her or his possession or under her or his control any liquor, unless –*
- (a) that is permitted under the Liquor Control Act 1988; and*
 - (b) a permit has been obtained for that purpose.*

3.4 Responsibilities of permit holder:

A holder of a permit must, in respect of local government property to which the permit relates –

- (a) take reasonable steps to maintain law and order by all in attendance at any function for which the local government property has been hired.*
- (g) prevent the consumption of any liquor on the local government property unless the permit allows it and a licence has been obtained under the Liquor Control Act 1988 for that purpose.*

4.5 Intoxicated persons not to enter local government property:

A person must not enter or remain on local government property while under the influence of liquor or a prohibited drug.”

The Department of Local Government, Sport and Cultural Industries (DLGSC) are responsible for assessing and issuing liquor licence applications, however, should the licence be requested for a City owned or managed property, then the City is required to indicate it's support or lack of for the proposed licence.

Tom Simpson Park

The *Alcohol Management Policy* prohibits the sale and consumption of alcohol at Tom Simpson Park, Mullaloo. This restriction was included to remain consistent with a previous decision made in 2008 by the then Chief Executive Officer.

Between 2005 and 2007, the City received a number of complaints of antisocial behaviour at Tom Simpson Park, including hooning, illegal parking, violence, littering and drunken behaviour.

At the Briefing Session held on 15 May 2007, Council received a Notice of Motion requesting a report be prepared regarding the designation of Tom Simpson Park as an alcohol-free zone. A significant incident at the park occurred on 26 January 2008 before the report could be presented. The incident involved a brawl between multiple park users under the influence of alcohol which escalated to bottles being thrown at Police in attendance.

Following the incident, the City adopted a zero-tolerance approach to alcohol consumption at Tom Simpson Park, consistent with the City's *Local Government and Public Property Local Law 2014* and the *Liquor Control Act 1998*.

This approach was communicated to local residents and the wider community with mixed results. A number of local residents who had previously consumed alcohol at the park in a responsible manner opposed the City's revised approach, while others supported the City's efforts to reduce antisocial behaviour.

CCTV was installed at the park in December 2009 and remains operational today. In the last three years, the City has only received one request from Police for CCTV footage in the Tom Simpson Park area, which related to the Mullaloo Beach Hotel. Similarly, no requests for attendance from the City have been received for antisocial behaviour at the park during this period.

The refurbishment and expansion of the playground at the northern end of the park in 2018 has further reinforced the status of the park as a regional, family-friendly destination.

DETAILS

Role of the City

The *Alcohol Management Policy* broadly outlines the City's role in the availability and consumption of alcohol in the community. This role includes encouraging safe alcohol consumption, supporting relevant agencies in alcohol management and education, and assistance in complying with relevant locals laws and state legislation.

It also clarifies that the City will not take on responsibilities undertaken by other Government departments, such as liquor licencing or enforcement of the *Liquor Control Act 1988*. Additionally, it is clarified that Development Applications for liquor outlets are managed through the City's planning approvals processes in line with relevant legislation.

These broad level statements are designed to guide the City's position on alcohol management, however are no longer supported by specific actions and objectives that were previously contained within an *Alcohol Management Plan 2011-14*.

The rest of the plan provides specific direction on the consumption and sale of alcohol on City owned and managed property, in particular for hireable venues.

Approval conditions

Section 2.2.1 of the *Alcohol Management Policy* refers to the conditions applicable to the consumption and sale of alcohol on City owned and managed property:

“2.2.1. Approval Conditions:

With regard to approving the consumption and/or sale of alcohol on City-owned or City-managed parks and in City buildings, the following conditions apply:

- a. *The Chief Executive Officer must be satisfied that any application or request to consume or sell alcohol will not cause undue disruption to the community.*
- b. *If applicable, appropriate Liquor Licence(s) must be in place.*
- c. *Liquor Licence applications will be broadly supported in accordance with the following time restrictions:*
 - *Thursdays to 11.00pm.*
 - *Fridays and Saturdays to 12 midnight.*
 - *Sundays to 10.00pm.”*

As per the City's *Local Government and Public Property Local Law 2014*, a permit is required for the consumption of alcohol on City property, and liquor licences must be obtained by the permit holder where applicable under the *Liquor Control Act 1988*.

The Department of Local Government, Sport and Cultural Industries (DLGSC) are responsible for assessing and issuing liquor licence applications, however, should the licence be requested for a City owned or managed property, then the City is required to indicate its support or lack of for the proposed licence.

The City's indoor hireable facilities are currently available for hire until 12 midnight, with outdoor venues including parks and beaches available to hire until 10.00pm. While this time extends beyond the 10.00pm limit on Sundays and the 11.00pm limit on Thursdays as specified in the policy, booking times are required to include all set up and pack down time. As a result, the sale of alcohol is generally ceased before midnight for bookings that extend to the facility closing time.

It should be noted that a liquor licence is only required where alcohol is being sold. A liquor licence is not required to consume alcohol, such as a birthday party with alcohol supplied to guests free of charge by the host.

For venues under a lease or licence, specific conditions relating to alcohol consumption and sale are included in the lease / licence agreement.

Supported events and activities

Under the *Alcohol Management Policy*, the list of supported activities where alcohol may be consumed effectively covers all activities, with the exception of those occurring at Tom Simpson Park, which is referenced separately within the policy:

“2.2.2. Supported Events/Activities:

The circumstances in which the Chief Executive Officer should consider an event as being unlikely to cause undue disruption to the community include:

- a. The duration of a wedding ceremony in a City park (not to exceed 2 hours).*
- b. Private events or functions held within community facilities and/or parks.*
- c. A fundraising event held either on a City park or within a community building, where alcohol is being sold and a Liquor Licence has been successfully obtained from the Department of Racing, Gaming and Liquor.*
- d. Corporate functions or events held on a City park or within a community building, where appropriate risk assessments have been conducted.*
- e. City-run community events held on a City park, where BYO alcohol is permitted.”*

Considering these supported activities, as per the City's *Local Government and Public Property Local Law 2014* the City may issue a permit to consume alcohol on City property. This is currently managed in two parts as follows:

- 1 An approved booking for the venue must be in place.
- 2 An application to consume alcohol is submitted to the City.

The application to consume alcohol must provide detail on the function type, number of people attending, the length of time alcohol will be consumed, and any precautionary measures in place to reduce the risk of alcohol-related harm. Precautionary measures generally include the option of low-strength alcohol being served, non-alcoholic beverages and water available to guests, and clear boundaries indicated for where on the property alcohol will be consumed.

As no two requests are the same, it can be challenging for the City to apply blanket rules on when alcohol consumption will be approved. By requiring a booking to be in place and requesting the hirer to submit an application to consume alcohol, the City is able to assess the application in context with other bookings, hirer history, venue suitability and potential community impact.

Furthermore, the City's *High Risk Bookings in Community Facilities Policy* places additional restrictions on a number of function types where the risk of antisocial behaviour is higher. This includes birthday parties in the 16 to 21 age range, bucks parties, hens parties, or functions where the sale or provision to more than 50 guests will occur. For these functions, the City applies a bond and the hirer is required to engage licenced security staff.

Public event applications where alcohol will be sold or consumed are subject to further assessments, including a tiered approach to event approvals based on the nature of the event and potential impact to the community. Public events are required to provide evidence of appropriate insurance, security, risk assessments, and other qualifications where relevant, including those under the *Liquor Control Act 1988*.

Lastly, the City's Venue Hire Terms and Conditions set out clear rules and expectations for hirers, including that approval and / or a liquor licence is required to consume or sell alcohol.

This approach to liquor consumption, in combination with the application of the City's *High Risk Bookings in Community Facilities Policy* has effectively minimised antisocial behaviour at City-managed venues. The broad definition of a supported activity under the *Alcohol Management Policy* does not add further benefit to the current decision-making process for assessing requests to sell or consume alcohol, with the exception of requests for Tom Simpson Park.

Unsupported events and activities

Under the *Alcohol Management Policy*, unsupported activities where alcohol will not be considered for sale or consumption is as follows:

“2.2.3. *Unsupported Events/Activities:*

The City does not support the consumption or sale of alcohol in the following circumstances:

- a. *At all times within Tom Simpson Park, Mullaloo (excluding the Mullaloo Surf Life Saving Club facility).”*

The incidence of antisocial behaviour at Tom Simpson Park 14 years ago was used as justification for the introduction of a zero-tolerance approach to alcohol. However in 2006, the NSW Department of Local Government undertook an *Alcohol Free Zone Evaluation and Survey of Councils Report*. The preliminary findings suggested that on its own, Alcohol Free Zones do not reduce incidences of inappropriate street drinking; as signage is mostly ignored by offenders and Local Governments are unable to effectively enforce the ban.

The findings of the report recommended that Alcohol Free Zones instead be used in conjunction with other community safety strategies, such as alcohol education programs, otherwise, establishing the zones may in fact simply displace the problem to another area.

Similarly, a 2014 report by the National Drug Law Enforcement Research Fund (an initiative of the National Drug Strategy) noted that evaluations of public drinking laws have shown that they often result in negative impacts to marginalised groups and lead to displacement. These evaluations have also shown little or no evidence that public drinking bans reduce congregations of drinkers or reduce alcohol-related crime or harm.

The only liquor control initiatives in Western Australia deemed to be successful to date have been those that control the supply of alcohol and not the act of consumption. These approaches are only applied in circumstances of chronic alcohol abuse to address widespread social issues in isolated aboriginal communities. This would not apply in the case of Tom Simpson Park.

As all public parks are effectively alcohol-free zones under the *Liquor Control Act 1988*, should the City continue to designate a singular park as “alcohol free” will not provide any additional enforcement avenues in the event of antisocial behaviour. The responsibility for enforcing public drinking offences remains a police matter under the *Liquor Control Act 1988*, while the City may enforce its own local laws in the event a person consuming alcohol does not have a permit to do so.

The current restriction on alcohol at Tom Simpson Park is in conflict with the City’s strategic initiative to adopt consistent principles in the management and provision of urban community infrastructure. This creates confusion for the community, in particular those seeking to hire a venue with the intent to sell or consume alcohol.

Should the prohibition on the sale and consumption of alcohol at Tom Simpson Park be removed, then the same process for requests for alcohol consumption or sale will apply as at any other venue and would consider the availability of alcohol at the nearby Mullaloo Beach Hotel.

Local Government Comparison

The Cities of Belmont, Cockburn and Wanneroo do not have policies related to alcohol management. Liquor licence applications are determined by internal protocols and procedures in conjunction with the *Liquor Control Act 1988*. Conditions and responsibilities relating to alcohol consumption and sale at hireable venues are detailed within each City’s terms and conditions of hire and are consistent with the *Liquor Control Act 1988*.

The City of Stirling adopted its *Alcohol Policy* in 1998 that seeks to reduce alcohol-related issues through:

- management of liquor licencing
- establishment of requirements for venue management policies relating to responsible service of alcohol
- encouraging individuals to take responsibility for their alcohol consumption.

The City of Stirling policy focusses predominately on liquor licencing and details extensively how liquor licence applications will be assessed and what conditions will be placed on approved applications.

The City’s policies have a less prescriptive operational focus, instead reflecting the strategic position of Council and / or fulfilling statutory requirements. Operational content is commonly incorporated into City protocols or operational plans.

Public Health Plan

Under the *Public Health Act 2016*, the City is required to develop a Public Health Plan that:

- identifies the public health needs of the local government district
- includes an examination of data relating to health status and health determinants
- establishes objectives and policy priorities for the promotion and protection of public health
- describes the development and delivery of public health services
- includes a report on the local government’s performance of its functions under the Act.

The release of Stage 5 of the *Public Health Act 2016* has been delayed, the contents of which will impact what is required to be included in the Public Health Plan. The City will be required to have a plan in place two years after the release of Stage 5.

Due to the potential impact of alcohol on the health of individuals and the wider Joondalup community, the development of the plan will provide opportunities for the City to consider its role in alcohol management, including the introduction of policies or managing strategies.

Issues and options considered

Option 1 Revoke the *Alcohol Management Policy*.

This option removes the operational elements of the policy that are currently captured in existing legislation, other policies, and procedures. It also removes the City's broader position statement on alcohol management.

As the Policy has not been updated since 2011, there is a risk in retaining the current policy when the position statement on alcohol management may not accurately represent the views of the City in the current socioeconomic climate. Opportunities to consider the City's position on alcohol management will occur in the development of the City's Public Health Plan, which may recommend the introduction of further policies or management strategies that better reflect the City going forward.

This option is recommended.

Option 2 Retain the *Alcohol Management Policy* in its current form. This option will require the City to continue to apply inconsistencies in venue management, in conflict with the City's strategic initiatives. Current evidence does not support the application of alcohol restrictions such as those in the policy.

This option is not preferred.

Option 3 Amend the *Alcohol Management Policy* as directed by Council.

Legislation / Strategic Community Plan / policy implications

Legislation *Liquor Control Act 1988.*
 Local Government and Public Property Local Law 2014.

Strategic Community Plan

Key Theme Community.

Outcomes Healthy and safe – You feel healthy and safe in your local community.

Strategic initiative Adopt consistent principles in the management and provision of urban community infrastructure.

Policy *Alcohol Management Policy.*
 High Risk Bookings in Community Facilities Policy.

As detailed above, the City has recommended a revocation of the *Alcohol Management Policy* for the Policy Committee's consideration.

Risk management considerations

Removing the policy is unlikely to cause any additional risks to the City, as the sale and consumption of alcohol on City-managed land is currently controlled via the City's *Local Government and Public Property Local Law 2014*, *Liquor Control Act 1988*, the City's Venue Hire Terms and Conditions, and internal operational procedures. Removing the restriction on alcohol at Tom Simpson Park is consistent with other similar venues within the City.

Financial / budget implications

Not applicable.

Regional significance

The revocation of the *Alcohol Management Policy* does not change the current implications for regional users and hirers of City-owned or management venues. Responsible alcohol consumption is instead currently managed through other channels that duplicate the policy as outlined in this Report.

The exception is Tom Simpson Park, which is classified as Regional Open Space under the City's current Parks and Public Open Spaces Classification Framework and as a result, attracts users from the wider Joondalup region. The ability to consume alcohol at this venue will provide consistency with other similar venues, such as Sorrento Beach Foreshore.

Sustainability implications

Social

Responsible alcohol management aims to meet the City's social obligations for mitigating potential incidences of antisocial behaviour and other such actions.

Consultation

Feedback was sought from the City's internal business units, with no negative impacts identified should the policy be revoked.

COMMENT

City policies are designed to reflect the current strategic positions of Council, however the current *Alcohol Management Policy* predominantly focusses on the operational aspects of alcohol sale and consumption in the City at City owned and managed venues. Some of these operational aspects are in conflict with the City's strategic initiative to adopt consistent principles in the management and provision of urban community infrastructure.

Revoking the policy is unlikely to cause any additional risks to the City, as the sale and consumption of alcohol on City property is currently controlled via the City's *Local Government and Public Property Local Law 2014*, *Liquor Control Act 1988*, the City's Venue Hire Terms and Conditions, and internal operational procedures.

While the events leading to the introduction of the restriction on alcohol consumption at Tom Simpson Park are acknowledged, recent years have seen little to no antisocial activity at that location. While this could be attributed to the alcohol restrictions in the policy, research indicates that these restrictions are generally ineffective.

Should alcohol related antisocial behaviour begin to resurface at the park, or at any other City venue, then there are provisions under the City's *Local Government and Public Property Local Law 2014* and the *Liquor Control Act 1988* that will enable action to be taken to limit alcohol consumption. Removing the restriction on alcohol at Tom Simpson Park will provide consistency with other venues within the City.

The City should continue to liaise with local Police and other community organisations in the management of alcohol related harm within the Joondalup community. Opportunities for the City to consider its role in alcohol management, including the introduction of further policies or managing strategies, may occur during the development of the City's Public Health Plan.

VOTING REQUIREMENTS

Simple Majority.

OFFICER'S RECOMMENDATION

That Council:

- 1 AGREES to REVOKE the *Alcohol Management Policy*;
- 2 NOTES that the City will have opportunities to consider its role in alcohol management, including the development of policies relating to alcohol, during the development of the Public Health Plan.

MOVED Mayor Jacob, SECONDED Cr Poliwka that Council:

- 1 AGREES to REPEAL the *Alcohol Management Policy*;**
- 2 NOTES that the City will have opportunities to consider its role in alcohol management, including the development of policies relating to alcohol, during the development of the Public Health Plan.**

The Motion was Put and

CARRIED (7/0)

In favour of the Motion: Cr Thompson, Mayor Jacob, Crs Chester, Hill, Kingston, Poliwka and Raftis.

Appendix 4 refers

To access this attachment on electronic document, click here: [Attach4POL220801.pdf](#)

ITEM 7 **PROPOSED VENUE HIRE FEES AND CHARGES POLICY**

WARD	All
RESPONSIBLE DIRECTOR	Mr Mat Humfrey Corporate Services
FILE NUMBERS	101271, 101515
ATTACHMENTS	Attachment 1 Current <i>Facility Hire Subsidy Policy</i> Attachment 2 Proposed <i>Venue Hire Fees and Charges Policy</i> Attachment 3 Modelled Changes to Schedule of Fees and Charges
AUTHORITY / DISCRETION	Legislative - includes the adoption of local laws, planning schemes and policies.

PURPOSE

For Council to consider the proposed *Venue Hire Fees and Charges Policy*.

EXECUTIVE SUMMARY

At its meeting held on 20 November 2012 (CJ234-11/12 refers), Council adopted a *Property Management Framework (PMF)* with a supporting *Facility Hire Subsidy Policy (FHSP)*, as shown in Attachment 1 to this Report. The intent of both documents is to provide direction on the management and utilisation of City managed property under a variety of circumstances, including exclusive use and hire arrangements.

The FHSP deals with hire arrangements by determining fee subsidy levels and the circumstances in which they will apply. This is achieved by allocating community groups into certain categories of subsidy entitlement when hiring City venues (being community facilities, parks, beaches, courts and the like). These levels of subsidy are perceived as a 'right', and only when the groups exceeds their allocation of hours for subsidised use, or are unable to pay the associated fees, is a further request made to either extend their subsidy or waive the applicable fees.

The primary intent of the FHSP is to mitigate the prevalence of 'blanket bookings' by regular users, which in effect, restricts access to City venues by others. Since the introduction of the policy in 2012, it is clear this intent has not been realised due to the continued experience of hirers being unable to access City venues based on bookings received.

To resolve the issue, the City commenced a review of the FHSP and sought input from Elected Members via an externally facilitated workshop in February 2019. Consistent and agreed feedback received through this workshop included the following:

- The need to maximise 'real' utilisation of City venues (this is mitigating blanket bookings).
- The requirement for any new policy to be easier to interpret and apply.
- The social value of groups to be 'proven' and not 'perceived' within a policy context.
- The importance of considering a hirer's financial capacity to pay.
- Ensuring all hirers have some exposure to operational costs.

Based on the workshop outcomes and discussions at subsequent information sessions, a draft *Venue Hire Fees and Charges Policy* (Attachment 2 refers) has been prepared, which proposes a significant departure from the City's current approach to administering fees and charges associated with community venue hire. In summary, the new policy recommends a simplified way of:

- classifying venue users, that is, reducing classifications to three categories (category A, B and C) rather than having multiple types of activity and location-based groupings
- charging for venue hire (using an hourly hire rate that is underpinned by a cost contribution model, rather than a pre-determined allocation of free / subsidised hours based on membership numbers and the perceived social value of individual groups).

The major impacts of this approach would be as follows:

- The removal of all current subsidy and waiver allocations (including 100% subsidies to junior and senior groups).
- Groups being charged on the basis of operational venue costs, with discounts applied in a standardised manner to all non-commercial (community) users.
- Increased hire fees for some groups that currently attract significant subsidies and free use compared to others.
- Removal of the reimbursement of junior hire fees for members of the Arena Community Sport and Recreation Association's (ACSRA) use of Joondalup Arena facilities.

The intended outcomes of the draft policy are to:

- reduce the level of inequity that exists between groups by assuming all non-commercial users provide similar levels of social value to the community
- apply an affordable charge as a mechanism for encouraging regular hirers to book venues based on actual need / usage in order to increase venue availability to others
- ensure increased fees are minimised and distributed across groups, rather than having a large increase apply to a small sub-set of groups
- lessen the demand on the City to construct new and extend existing buildings by maximising existing facility utilisation.

BACKGROUND

At its meeting held on 20 November 2012 (CJ234-11/12 refers), Council adopted the *Facility Hire Subsidy Policy* (FHSP) alongside the *Property Management Framework* (PMF). At that time, there was an identified need to review and implement a revised policy that dealt with the degree of subsidisation afforded to community groups that were accessing City venues.

The PMF and FHSP were introduced because the City was dealing with a large percentage of hirers over-booking City venues and those bookings subsequently not aligning with actual usage. This created a false demand for venues therefore generating a greater demand for new or significantly redeveloped venues.

The PMF provides guidance on managing all property under the City's ownership, care and control to ensure the City meets its statutory obligations and promotes equitable and sustainable practices for the use and occupation of property. To support the broader objectives of the PMF, Council also adopted a FSHP at the same meeting.

The objectives of the policy are to:

- provide guidance on determining the extent of subsidy to be offered to groups hiring City-managed facilities
- ensure facility hire subsidies are applied in a consistent, transparent and equitable manner.

The general criteria that must be met by groups in order to attract a pre-determined subsidy under the policy includes:

- groups must be not-for-profit (includes educational institutions)
- 50% of active members must reside within the City of Joondalup
- the 'primary' base of operation for a group must be located within the City of Joondalup*.

* This additional criteria was included by Council as part of a policy review in 2014 (CJ243-12/14 refers).

The FHSP then details categories of groups based on the type of activity they undertake and the size of their membership, to determine the extent of hire subsidy that is applied. These groups may attract a full or partial subsidy up to a certain number of hours per week by way of right, due to their pre-determined category. When the maximum allocation of hours is exceeded, or a group does not meet the policy's general criteria, the City will consider requests for further subsidisation up to a value of \$5,000, with requests above this value being referred to Council.

The policy also extends to a small number of clubs that hire non-City of Joondalup venues, namely junior clubs that are members of the Arena Community Sports and Recreation Association (ACSRA – Joondalup Netball Association and affiliate clubs, Joondalup Little Athletics, Joondalup Brother Rugby Union), and use HBF Arena Joondalup venues. To facilitate this subsidy the City provides these clubs a financial reimbursement of 50% of ground hire fees paid to Venues West.

In 2018, the City began a review of the FHSP and on 18 February 2019 undertook a facilitated workshop with Elected Members seeking their input. This was followed by three sessions held on 2 July 2019, 4 February 2020, and 6 April 2021. At each of these information sessions, updates were provided and discussions occurred.

At the 3 May 2022 information session, Council requested clarification on a number of minor details before progressing to Policy Committee. This report submits the proposed policy for consideration.

DETAILS

Following adoption of the revised FHSP in 2012, the City saw a correction in the bookings and a better alignment with actual use. Over recent years, however, this has deteriorated to the stage where the matter needs to be revisited.

Current challenges

Since its adoption and subsequent amendment in 2014, the FHSP has presented several challenges for the City and community, most notably the following:

- The current policy provides a full (100%) subsidy of hire fees to a significant number of groups. As these groups have no financial motivation to ensure accurate bookings, venues are often 'blanket booked' which reduces their availability to others and places pressure on the City to invest in additional infrastructure that may not be required.
- The 'primary base of operation' criterion has created issues for larger not-for-profit organisations that are not based within the City of Joondalup, but still provide a direct service and benefit to the local community within City venues.
- To determine a hirer's eligibility for subsidy, groups are required to undertake a self-assessment, which is often unable to be substantiated by the City or consistently applied (for example confirming 50% active membership of residents).
- The administrative process required to annually assess requests for additional subsidies or fee waivers often delays their application, which can adversely impact on billing processes and creates uncertainty for groups.
- The term 'not-for-profit', as it is reflected in the current policy, creates confusion for applicants given that it is open to interpretation with unintended consequences (for example applying to low-income commercial operators).
- The inconsistencies that are created by allowing reimbursements to be made to junior ACSRA members, when not all user groups of Joondalup Arena (outside ACSRA) are entitled to the reimbursement and many other non-City venues accessed by community members are fully funded by the hirer.

Review process

To consider these challenges and to inform the policy review process, Elected Members participated in an externally facilitated workshop in February 2019. The discussion centred around the policy objectives, Council's role in the decision-making process and the potential criteria that should be applied. Through this workshop, the Elected Members agreed upon the following set of principles that would guide the development of a new policy:

- The need to maximise 'real' utilisation of City venues (that is mitigating blanket bookings).
- The requirement for any new policy to be easier to interpret and apply with applications for fee waivers be determined by the City.
- The social value of groups to be 'proven' and not 'perceived' within a policy context.
- The importance of considering a hirer's financial capacity to pay.
- Ensuring all hirers have some exposure to operational costs.

A draft policy prepared in accordance with the above agreed principles was presented to a Strategy Session held on 2 July 2019, where discussion occurred, and Elected Members provided the following feedback:

- Confirming that all hirers should be charged a fee for use based on a cost contribution methodology and that the City's fee structure should be simple and easy to understand.
- A third category be included somewhere between commercial and non-commercial which reflects those organisations who hold not-for-profit status but are established to operate under a commercial model.

The draft policy proposes to instead of focussing on the level of subsidy afforded to groups, look at the way the City sets the fees and charges for all hirers of City managed venues.

The revised policy is drafted honouring the agreed principles from the Elected Member Workshop and subsequent feedback from the two Strategy Sessions.

Cost Contribution Methodology

The City has undertaken a cost contribution methodology assessment to identify the hourly cost of operation for each of the venue types the City hires.

For community facilities, parks, open spaces, beaches and tennis courts the cost contribution fee has been based on total annual operating costs divided by total bookable hours. Annual operating costs include the following:

- Community facilities:
 - Utilities (power, water, gas, water rates).
 - Maintenance (reactive, scheduled, cleaning).
 - Emergency Services Levy.
 - Depreciation.
 - Refuse collection.
 - Insurance.
- Parks, open spaces, beaches:
 - Utilities (power, water, water rates).
 - Maintenance (mowing, fertilising, reactive and scheduled).
 - Refuse collection.
- Tennis courts:
 - Maintenance (court resurfacing, net / fence repair and replacement).
 - Electricity for lights (after 6.00pm).

The proposed community facilities cost contribution fee also includes the administrative costs associated with the Community Facility Booking Office who are responsible for managing the booking and usage for all City managed community venues.

The proposed sports floodlighting fees have been set in accordance with the hourly electricity costs associated with their operation.

The proposed annual storage license fees have been based on the capital construction costs of storerooms per square metre spread over a facility's expected lifetime (100 years).

It should be noted that other than for the storage fees, initial and ongoing capital costs associated with constructing, refurbishing and redeveloping venues has not been included in the cost contribution methodology. It is considered that it is the City's role to provide these venues, however those that use them should have exposure to the operating costs.

Group Categories

The City is proposing to introduce a three category system to provide clear categorisation of hirers, eliminating uncertainty and inconsistent application of the fees and charges. It is proposed that instead of providing descriptive titles to these categories that may confuse or distract their interpretation, they be referred to as categories A, B and C.

The three proposed categories are listed as follows:

- "Category A user" means an organisation, group or individual hiring a venue as part of a business, for commercial purposes and / or for financial benefit.
- "Category B user" means a charity, an incorporated association or a community group with annual revenue of at least \$3 million, a government department / agency, or an educational provider hiring a venue for non-commercial purposes.
- "Category C user" means a charity, an incorporated association or a community group with annual revenue of less than \$3 million, or an individual hiring a venue for non-commercial purposes.

In regard to Category B, it has been identified that some groups who are legally registered as not-for-profit groups while functioning under the principles of not-for-profit (in that no funds are distributed to members) have significant and diverse revenue streams, resulting in them operating under a commercial model. This often includes paying staff and directors and entering into commercial tenancy agreements to house administrations and deliver services. Often these groups utilise City managed venues to deliver services benefiting from the City's current policy to receive significant subsidies.

Rather than continue to provide significantly discounted hire fees for these large financially sustainable not-for-profit groups, it is proposed to fit them into Category B. The City is proposing to utilise a \$3 million revenue cap as the eligibility figure for this category as this aligns with the Australian Charities and Not-for-profits Commission which categorises financial reporting and management obligations based on total annual revenue.

Category C assumes that all non-commercial users provide equal contributions to the community and removes any subjective quantification of their social value compared to others (as agreed at the Elected Member Workshop). This is further reflected in the proposed new policy statement, which indicates:

"The City also acknowledges that its venues are primarily hired by non-commercial users and that many of these users play an important role in combating social exclusion and enhancing the economic, social and environmental wellbeing of the community. In recognition of this, the City will offer discounted fees and charges for City-managed venues to non-commercial users".

This is also consistent with the Organisation for Economic Co-operation and Development definition of 'social capital', which is described as *"networks together with shared norms, values and understandings that facilitate co-operation within or among groups"*.

Proposed changes to Schedule of Fees and Charges

As noted above, the City has prepared a cost contribution model to identify the hourly operating costs for all its hireable venues. It is proposed that at the time of implementing the reviewed policy, the fees will be set based on an average of the previous three years of operating costs. Fees will undertake a full cost contribution review every three years with increases in line with CPI in between the three yearly review.

As it has been proposed to have three categories of users, each fee category (such as small facility hire) is proposed to have three variants, one for each of the three categories.

It is proposed that these categories be used to set the cost contribution methodology, with each of the three categories being charged a percentage of the base line cost contribution fee.

The City is proposing the following rates:

- Category A - 500% of cost contribution fee.
- Category B - 100% of cost contribution fee.
- Category C - 50% of cost contribution fee.

It is also proposed to provide some simplification of the City's current Schedule of Fees and Charges. This includes the following:

- Consolidating the number of categories of bookable rooms within community facilities from five (meeting room, activity room, small hall, large hall and function room) to three (small hall, large hall and function room).
- Consolidating the current regular and casual hire rates for all venue types into hourly rates.
- Removing seasonal team hire rates (five hours per team per week per season) and replacing with a simplified hourly rate.
- Removing regular tennis court hire rates (per court, per booking per annum) and replacing with a simplified hourly rate.

Modelled changes to the Fees and Charges are attached (Attachment 3 refers).

Fee waivers

Through the current FHSP, groups not eligible to receive a subsidy may apply for a fee waiver. Similarly, those groups that do receive a subsidy may seek an additional subsidy to either provide a higher level of subsidy (from 50% subsidy to 100%) or additional hours (where already receiving a 100% subsidy). As the proposed policy does not provide for subsidies in the old format, there is no need to provide for consideration of additional subsidies, only requests for the waiving of fees. To ensure consistent and effective decision-making regarding requests for fee waivers, it is proposed that the consideration of fee waiver requests be changed to provide more clarity and structure. It is proposed that where a group can demonstrate financial hardship then the City give consideration for a fee waiver.

Financial hardship

Incorporated associations and charities will also be able to seek a fee waiver for all or part of their applicable venue hire fees where they can demonstrate they are experiencing financial hardship. Any application for fee waiver for financial hardship will be required to be substantiated using financial records and must meet the definition within the policy, being "a temporary situation affecting a hirer where that hirer is willing, but unable to meet their payment obligations due to an unforeseen circumstance".

Any fee waiver will be for the valid booking or booking period only, not open ended. All waiver recipients will also be required to enter an agreement with the City of Joondalup which specifies certain requirements of the approval, including how the group will address its financial situation. Where a fee waiver is not supported in part or full, it will only be reconsidered if new information is presented that warrants reconsideration.

It is intended that fee waivers will be temporary arrangements to assist a group through a short-term period of financial hardship due to an unforeseen circumstance only. Where multiple or ongoing requests are received from the one group, this would not be considered as a temporary situation and therefore not considered for a fee waiver. The fee waiver process is not intended to reduce facility hire costs to make them more accessible for groups.

Given an agreed outcome at the Elected Member Workshop was for requests to be dealt with at the administrative level, it is also proposed that the current cap in place that limits the Chief Executive Officer to consider fee waivers not exceeding \$5,000 be removed, allowing the Chief Executive Officer to consider all applications for waiver of fees.

Arena Community Sport and Recreation Association

The Arena Community Sport and Recreation Association (ACSRA) was formed in 2004 to represent the sporting clubs operating at HBF Arena. The current *Facility Hire Subsidy Policy* allows member clubs of ACSRA to claim a reimbursement from the City of 50% of junior hire fees for use of facilities at HBF Arena. These clubs include Joondalup Brothers Rugby Club, Joondalup Netball Association (including seven individual clubs under the association), and Joondalup Little Athletics Centre.

As clubs using City facilities received a 100% subsidy of hire fees, this provision was designed to assist ACSRA clubs to meet the venue hire fees at HBF Arena where the City was unable to provide appropriate facilities.

The value of the reimbursements provided to ACSRA since 2012 is shown below. Joondalup Brothers Rugby League have not made a reimbursement claim since 2016.

Club	Reimbursement Amount
Joondalup Netball Association	\$155,581
Combined Netball Clubs	\$90,273
Joondalup Little Athletics Club	\$39,814
Joondalup Brothers Rugby Club	\$12,493
Total	\$304,820

Since the formation of ACSRA, the City has contributed approximately \$550,000 towards ACSRA clubroom facilities, in addition to providing approximately \$4,000,000 toward new netball courts, a netball administration office, and a second grassed playing field on the western oval.

The City also contributes 50% of the annual cost to maintain the rugby / athletics playing surface at HBF Arena, and an annual contribution to a renewal fund for the ACSRA clubrooms. The value of this contribution in 2021-22 was approximately \$85,000.

The revised policy proposes to remove the subsidy afforded to the members of ACSRA for junior use of the venues located at HBF Arena. This is in accordance with the City's position in relation to other sporting and community groups that occupy non-City managed venues and must meet hire fees for those venues. Under the proposed policy, junior clubs using City venues will no longer be provided with a 100% subsidy, diluting the original intent of the ACSRA fee reimbursement.

The 2021-22 hire fees for ACSRA clubs at HBF Arena and a comparison with the City's fees under the proposed policy are outlined in the table below:

Fee Category	Hire Fees Per Hour		
	HBF Arena – Before 50% Reimbursement	HBF Arena – After 50% Reimbursement	City of Joondalup Proposed
Active park	\$37.00	\$18.50	\$6.63
Netball court - (outdoor)	\$20.00	\$10.00	\$0.36 – \$1.54*
Floodlights per hour (training)	\$0 (included in hire fee)	\$0 (included in hire fee)	\$2.59

*The City does not have dedicated outdoor netball courts. The hire fee shown is the charge to hire the tennis courts at Falklands Park, Kinross that have netball goals installed. Due to the location of the netball posts in relation to the tennis courts, two tennis courts are required to be hired to utilise one netball court. The figures shown indicate hire fees prior to 6.00pm, and those after 6.00pm including floodlighting.

Kingsley Amateur Football Club

At its meeting held on 26 June 2018 (CJ107–06/18 refers), Council agreed to waive 75% of the subsidised fees applicable to the Kingsley Amateur Football Club for the hire of the Kingsley Memorial Clubrooms in perpetuity. This reduced hire fee was in recognition of the club's financial contribution to the redevelopment of the clubrooms in 2004.

The Kingsley Amateur Football Club have a booking for the Sports Hall at the Kingsley Memorial Clubroom during the 2022 season. As an adult sporting club, a 50% continuous subsidy is applied to the hire fees for the hall. The additional 75% waiver is applied on top of this, resulting in a hire fee of \$4.05 per hour in 2022.

Should the proposed policy be adopted, the Kingsley Amateur Football Club would no longer receive the 75% perpetual waiver. Instead, the club would be subject to the proposed Category C hire fee for use of the Sports Hall at \$5.41 per hour.

The club currently book the Sports Hall for 18 hours per week, or 468 hours for the duration of the winter sporting season (April to September inclusive). A summary of the impact of the proposed policy on the club is below:

	Current fees	Proposed fees	Variance
Cost per week	\$72.90	\$97.38	\$24.48
Cost per season	\$1,895.40	\$2,531.88	\$636.48

The club has indicated that it currently has 180 members. The increase in hire fees for the Sports Hall translates to an additional \$4.24 per member, per season, or \$0.16 per week.

Proposed changes summary

The proposed changes are summarised below:

Proposed Change	Alignment to Feedback Received
Simple hourly rates for all venue hire fees and removing seasonal and annual fees.	<ul style="list-style-type: none"> • New policy is easier to interpret and apply. • Maximising 'real' utilisation of City venues.
Hourly rates being based on a cost contribution model.	<ul style="list-style-type: none"> • Ensuring all hirers have some exposure to operational costs.
Introduction of new fees for sports floodlighting use and exclusive storage allocations.	<ul style="list-style-type: none"> • Maximising 'real' utilisation of City venues. • Ensuring all hirers have some exposure to operational costs.
Reduction in the number of subsidy categories from 11 to 3.	<ul style="list-style-type: none"> • Social value of groups is 'proven' and not 'perceived' within the policy.
Fee waivers detailed and supported for: <ul style="list-style-type: none"> • charity fundraisers • short-term financial hardship. 	<ul style="list-style-type: none"> • Importance of considering a hirer's financial capacity to pay. • Social value of groups is 'proven' and not 'perceived' within the policy.
Removal of reimbursement provision to junior members of ACSRA.	<ul style="list-style-type: none"> • New policy is easier to interpret and apply.

Issues and options considered

Council can either choose to:

- continue with existing policy that leads to inconsistencies when applying the levels of subsidy
- continue with existing policy objectives however make some changes to assist with the administering of the policy
or
- introduce a revised policy with the intent of making greater use of City venues at a subsidised fee that contributes towards part of the operating expenses of that facility.

Legislation / Strategic Community Plan / policy implications

Legislation Section 6.16 of the *Local Government Act 1995*.

Strategic Community Plan

Key Theme Place.

Outcomes Functional and accessible – You have access to quality community facilities that are functional and adaptable.

Strategic initiative Identify opportunities for new income streams that are financially sound and equitable.

Policy *Facility Hire Subsidy Policy.*
10 Year Strategic Financial Plan.

There is a risk of an adverse response from community groups whose previous subsidy value is proposed to change under the new policy. While it is acknowledged that some groups' venue hire costs will increase, the changes are proposed to ensure increases are minimised and shared equally among a large majority of groups, rather than a large increase to a small subset of hirers.

It should also be noted that the proposed new fees and charges would significantly lessen the community facility hire costs for individuals. This would primarily benefit local residents using City community venues to host social functions (such as birthday parties, weddings and the like).

Financial / budget implications

In 2020-21, the City generated \$1,809,490 total income for community venue hire. This included \$1,022,442 in subsidised hire income and \$787,048 in actual income. In that same period the City spent \$6,446,686 to maintain its community venues.

	Venue Operational Expenditure	Actual Income	Value of Subsidised Use
2016-17	\$6,876,135	\$739,485	\$ 945,498
2017-18	\$6,980,669	\$817,941	\$1,319,352
2018-19	\$6,999,718	\$698,018	\$1,402,603
2019-20*	\$5,999,616	\$544,555	\$1,067,169
2020-21*	\$6,446,686	\$787,048	\$1,022,442
Total	\$33,302,824	\$3,587,047	\$5,757,064

* Operational expenditure, actual income and value of subsidise afforded by the City were impacted due to the COVID-19 pandemic.

It should be noted that the venue operational expenditure figures do not include the capital costs to construct, redevelop or refurbish these venues and associated infrastructure. During the 2015-16 to 2019-20 period, the City spent approximately \$10 million to construct, redevelop and refurbish hireable community venues.

The proposed policy has not been designed to increase income levels the City receives through venue hire, but rather spread the exposure of cost contribution for ongoing venue costs to all venue hirers. While initial modelling does identify a small increase in income levels for the City as a result of the proposed policy, overall income levels are expected to drop within the first year of operations as venue hirers rationalise hours booked. The City expects the reduction in venue bookings to offset any increase in income, resulting in the proposed policy having a net zero impact on City venue hire income.

Regional significance

The policy will no longer require users to have their primary base of operations within the City. Therefore, offering all groups an equitable rate of hire irrespective of their base of operations. It could be considered that irrespective of an organisation's primary base of operation, that if they are providing services within a City of Joondalup venue then they are providing benefit to the Joondalup community.

Sustainability implications

The City has hundreds of community groups that provide wide and varied community services to the benefit of its residents. Allowing access to City venues through an affordable fee structure allows these groups to deliver these services which greatly assist the social fabric of the community.

Consultation

A facilitated workshop was held with Elected Members in February 2019, followed by consideration of the proposed *Venue Hire Fees and Charges Policy* at a Strategy Session held on 2 July 2019. The proposed *Venue Hire Fees and Charges Policy* was again considered at the Strategy Session held on 6 April 2021.

Implementation

It is proposed that the City will seek to bring the final policy report to the Policy Committee and Council in late 2022 for endorsement.

Following that, the City will propose to introduce the revised policy and fees and charges in 2024, rolled out as follows:

- Casual hirers from 1 January 2024.
- Annual hirers from 1 January 2024.
- Winter seasonal hirers from 1 April 2024.
- Summer seasonal hirers from 1 October 2024.

This deferred implementation period is proposed to allow the City to adequately inform those groups and individuals who will be affected by the change and provide at least 12 months for them to consider and prepare for the changes.

It also allows for greater financial stabilisation of groups and individuals following the widespread economic impact of COVID-19 throughout the 2019-20 and 2020-21 financial years.

It is not proposed to introduce the new fees and charges over a phased approach. Any phased implementation would not only significantly increase the complexity of implementing the new fees within the City's booking system, but also result in a significant loss of income during the implementation.

COMMENT

The draft policy reflects the agreed outcomes from the Elected Member Workshop.

The City is committed to ensuring fees and charges for venue hire are set in a fair and equitable way that reflect the actual cost of operating bookable venues. The City also acknowledges that its venues are primarily hired by non-commercial users and that many of these users play an important role in combating social exclusion and enhancing the economic, social and environmental wellbeing of the community.

In noting the community benefits these groups bring, all groups must have some financial exposure to the ongoing operating costs of the City's bookable venues (that is parks, buildings and the like). In recognition of this, the City will offer discounted fees and charges for non-commercial users. Further, it is anticipated that the introduction of a nominal fee will encourage groups to manage their bookings leading to a greater level of availability for a wider reach of groups.

VOTING REQUIREMENTS

Absolute Majority.

Mayor Jacob left the room at 6.46pm and returned at 6.50pm.

Cr Poliwka left the room at 7.02pm and returned at 7.04pm.

OFFICER'S RECOMMENDATION

That Council:

- 1 NOTES the outcomes of the review of the City of Joondalup *Facility Hire Subsidy Policy* and the modelled changes to the City's Schedule of Fees and Charges as detailed in Attachment 3 to this Report;
- 2 REVOKES the current *Facility Hire Subsidy Policy* detailed in Attachment 1 to this Report on 31 December 2023;
- 3 BY AN ABSOLUTE MAJORITY REVOKES Part 2 of its decision at its meeting held on 26 June 2018 (CJ107-06/18 refers) as follows:
 - "2 AGREES to waive 75% of the subsidised fees applicable to the Kingsley Amateur Football Club for the hire of the Kingsley Memorial Clubrooms only in perpetuity."
- 4 ADOPTS the new *Venue Hire Fees and Charges Policy* as detailed in Attachment 2 to this Report as of 1 January 2024;
- 5 AGREES to list for consideration as part of the 2023-24 budget a revised schedule of fees and charges for the hire of City venues;
- 6 REQUESTS the Chief Executive Officer undertake a detailed community engagement program prior to the implementation of the *Venue Hire Fees and Charges Policy* on 1 January 2024.

MOVED Cr Chester, SECONDED Cr Raftis that Council:

- 1 **NOTES** the outcomes of the review of the City of Joondalup *Facility Hire Subsidy Policy* and the modelled changes to the City's Schedule of Fees and Charges as detailed in Attachment 3 to this Report;
- 2 **REPEALS** the current *Facility Hire Subsidy Policy* detailed in Attachment 1 to this Report on 31 December 2023;
- 3 **BY AN ABSOLUTE MAJORITY REVOKES** Part 2 of its decision at its meeting held on 26 June 2018 (CJ107-06/18 refers) as follows:
 - "2 **AGREES** to waive 75% of the subsidised fees applicable to the Kingsley Amateur Football Club for the hire of the Kingsley Memorial Clubrooms only in perpetuity.";
- 4 **ADOPTS** the new *Venue Hire Fees and Charges Policy* as detailed in Attachment 2 to this Report as of 1 January 2024 subject to Category B as defined within the *Venues Hire Fees and Charges Policy* be deleted and replaced with the following:

"a charity, an incorporated association or a community group, government department / agency or educational provider with an annual gross revenue of less than \$10 million and more than \$3 million, occupying the premises for non-commercial purposes";
- 5 **AGREES** to list for consideration as part of the 2023-24 budget a revised schedule of fees and charges for the hire of City venues;
- 6 **REQUESTS** the Chief Executive Officer undertake a detailed community engagement program prior to the implementation of the *Venue Hire Fees and Charges Policy* on 1 January 2024.

The Motion was Put and

CARRIED (7/0)

In favour of the Motion: Cr Thompson, Mayor Jacob, Crs Chester, Hill, Kingston, Poliwka and Raftis.

Appendix 5 refers

To access this attachment on electronic document, click here: [Attach5POL220801.pdf](#)

ITEM 8 CORPORATE CREDIT CARD POLICY

WARD	All
RESPONSIBLE DIRECTOR	Mr Mat Humfrey Corporate Services
FILE NUMBER	101275
ATTACHMENTS	Attachment 1 Use of Corporate Credit Cards Protocol Attachment 2 Corporate Credit Card Policy
AUTHORITY / DISCRETION	Executive - The substantial direction setting and oversight role of Council, such as adopting plans and reports, accepting tenders, directing operations, setting and amending budgets

PURPOSE

For Council to consider the draft Corporate Credit Card Policy.

EXECUTIVE SUMMARY

At its meeting on 9 May 2022, the Policy Committee requested a report for the development of a policy on the management of all corporate credit cards, covering several aspects that are outlined in detail further in this report.

The City has an existing *Use of Corporate Credit Cards Protocol* which provides the detailed rules for the issue, use and management of corporate credit cards at the City, that has been in application for several years to administer and manage this process. Several elements included in the request for development of a policy for corporate credit cards have already been in place in the protocol for some time. The draft Corporate Credit Card Policy has been prepared to be an overarching set of principles within which the Protocol operates and under which the City can manage corporate credit cards.

BACKGROUND

The City procures a range of goods and services that are required for the efficient conduct of the City's various operations and activities. The City has a *Purchasing Policy* and a number of purchasing protocols that govern the manner in which procurement is undertaken. Most suppliers of such goods and services are engaged through purchase orders and, following delivery to the City, invoices are issued which the City subsequently pays.

In a number of instances, the standard procurement provisions are not suitable for efficient procurement of certain goods or services, including (but not limited to):

- air travel
- use of taxi or ride-sharing services
- booking accommodation
- acquiring goods or services from overseas suppliers
- engaging and paying for online advertising
- goods/services from suppliers/vendors who do not accept purchase orders, for example supermarkets for items that are required for council event catering

The City has four corporate credit cards issued to specified employees to facilitate such procurement, as detailed later in the report. The *Use of Corporate Credit Cards* Protocol governs the use and management of corporate cards and includes parameters for the issue of such cards and requirements for cardholders (Attachment 1 refers).

At its meeting held on 9 May 2022, the Policy Committee requested a report on the development of a policy on the management of all corporate credit cards. The draft *Use of Corporate Credit Cards* Policy is included as Attachment 2 to this Report.

DETAILS

The Policy Committee meeting of 9 May 2022 requested that a report be prepared for future consideration about the development of a policy on the management of all corporate credit cards which incorporates the following:

- 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 and 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.

According to the City's Frequently Asked Questions (FAQ) attached to the *City of Joondalup Policy Manual*, a policy is "...considered where there is either complexity or lack of clarity in legislation, industry standards, strategic objectives or community need or expectation".

There is not a great deal of legislative or industry direction regarding the use of corporate credit cards, other than overarching policy direction regarding risk management and fraud prevention pertaining to credit card security and use. The Department of Local Government, Sport and Cultural Industries (DLGSC) has published a Local Government Operational Guideline for the Use of Corporate Credit Cards that has been considered in the development of the draft Policy.

Several of the parameters requested for inclusion by the Policy Committee in a policy are already in application at the City through the *Use of Corporate Credit Cards* Protocol (Attachment 1 refers). This is considered in further detail in Table 1 below. The policy is drafted at the appropriate strategic level, setting out the relevant principles and framework within which the Protocol can operate more granularly and provide thereby appropriate direction to cardholders and the City administration.

Credit limit and issue of corporate credit cards

There are currently four corporate credit cards issued for the following purposes:

- CEO credit card, for expenses pertaining to City business, where normal procurement processes are not feasible.
- Purchasing credit card, to procure goods or services where a purchase order and invoice for payment are not feasible.
- Corporate travel credit card for corporate travel and accommodation, as well as any emergency non-travel expenditure where the purchasing credit card may not be available.
- Civic hospitality/catering, for expenses pertaining to catering at Council and Committee meetings and other Elected Member events.

The City has an overall corporate credit card credit limit of \$50,000 approved by the City's bank, Westpac. The four corporate credit cards currently issued comprise a total card credit limit of \$47,000, as follows:

Issued Cards	Credit Limit
CEO Credit Card	\$10,000
Purchasing Credit Card	\$20,000
Corporate Travel Credit Card	\$12,000
Civic Hospitality Credit Card	\$ 5,000
Total Credit Cards Limit	\$47,000

The draft policy provides that the overall credit card limit assigned to the City by Westpac may only be increased by decision of Council. Within this overall limit, the CEO may approve changes to card limits for credit cards other than the CEO credit card in response to operational requirements, with increases to card limits to be reported to Council in the month following this. The card limit for the CEO credit card may only be varied by decision of Council.

The unallocated credit limit of \$3,000 is currently retained to be applied to any one of the above cards (other than the CEO credit card) should the CEO determine this is required to support operations. Where operational requirements might require one or more additional corporate cards to be issued, the policy provides that the CEO may approve additional cards subject to the existing overall credit limit not being breached. Should the latter be likely to occur where additional cards are being contemplated, the policy provides that the requirement for the increase in the overall credit limit must first be approved by Council prior to an application being progressed to the City's bank for this purpose.

Table 1

Elements Requested for Draft Policy	Treatment
Is applicable to all corporate credit cards in the City's name.	Provided for in Policy.
Sets out internal controls and guidelines regarding usage of city credit cards.	Policy outlines principles by which credit cards are to be issued and managed. Detailed controls and instructions are provided within the Protocol.
Sets out the organisation positions who are assigned a credit card and the specified credit limit.	Policy identifies the purposes for which a corporate credit card may be issued and refers to the Protocol for the positions to which cards are assigned and the individual credit limits prescribed. Policy also stipulates that combined card limits may not exceed the City's overall credit card limit assigned by the City's bank/credit issuer.
Requires the council to approve any credit limit changes and the issue of any additional credit cards.	<p>Policy stipulates that the limit on the CEO credit card is set by Council and limits on other cards may be set by the CEO as outlined in the Protocol. Additional credit cards may be approved by CEO as long as the overall credit limit assigned by the bank is not breached.</p> <p>Card limit increases or additional credit cards approved by the CEO are to be reported to Council as prescribed in the Policy.</p>
Specifies the appropriate records required to be kept to substantiate transactions.	Policy provides that supporting records be maintained as prescribed in the Protocol.
Specifies that any private usage is not permitted and the outcomes should such private usage be undertaken.	Included in the Policy as well as in the Protocol.
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 and Risk Committee for review.	<p>Policy refers to the use and acquittal of credit cards to follow the detailed provisions outlined in the Protocol. The Protocol provides that statements be reviewed and approved by the cardholder's supervisor. Having the CEO sign all statements is not considered best practice in large organisations and is not recommended.</p> <p>The Protocol further provides that the CEO's credit card statement is reviewed and signed off by the Director Corporate Services. A quarterly report on expenditure incurred on the CEO's credit card is submitted to the Audit and Risk Committee.</p> <p>In addition, corporate credit use is audited by both internal audit and the City's external auditor, the Office of the Auditor-General.</p>

Elements Requested for Draft Policy	Treatment
The relevant business unit responsible for issuing/cancelling, managing and reconciling the credit card facilities.	Responsibility for effective management of corporate cards sits with the City as a whole, which is reflected in both the Policy and Protocol. Detailed provisions about actual processes, including roles that are involved in acquittal, reconciliation, data capture, are more appropriately included in process documentation.
Sets out card holder responsibilities.	Provided for in the Policy with reference to detailed provisions contained in the Protocol.
Includes other aspects as deemed necessary to ensure the completeness of the policy.	Included as considered commensurate.

Legislation / Strategic Community Plan / Policy implications

Legislation *Local Government Act 1995.*
Local Government (Financial Management) Regulations 1996.

Strategic Community Plan

Key Theme Leadership.

Outcome Accountable and financially sustainable – You are provided with a range of City services which are delivered in a financially responsible manner.

Policy Not applicable.

Risk management considerations

Not applicable.

Financial / budget implications

No material financial implications are expected.

Regional significance

Not applicable.

Sustainability implications

Not applicable.

Consultation

No specific consultation was undertaken in respect of the development of the draft Corporate Credit Card Policy.

COMMENT

The draft Corporate Credit Card Policy sets out the high-level framework and principles to guide the management of corporate credit cards at the City.

VOTING REQUIREMENTS

Simple Majority.

The Director Planning and Community Development left the room at 7.11pm and returned at 7.13pm.

The Manager Leisure and Cultural Services left the room at 7.11pm.

Cr Kingston left the room at 7.12pm and returned at 7.13pm.

OFFICER'S RECOMMENDATION

That Council ADOPTS the Corporate Credit Card Policy as set out in Attachment 2 to this Report.

MOVED Cr Thompson, SECONDED Cr Raftis that Item 8 - Corporate Credit Card Policy, be REFERRED BACK to the Chief Executive Officer to amend the Policy requiring all credit card statements be reported to the Audit and Risk Committee as a confidential attachment.

The Motion was Put and

CARRIED (6/1)

In favour of the Motion: Cr Thompson, Mayor Jacob, Crs Chester, Kingston, Poliwka and Raftis.

Against the Motion: Cr Hill.

Appendix 6 refers

To access this attachment on electronic document, click here: [Attach6POL220801.pdf](#)

ITEM 9 PROPOSED AMENDMENTS TO THE DEVELOPMENT PROPOSALS BEFORE THE STATE ADMINISTRATIVE TRIBUNAL POLICY

WARD	All
RESPONSIBLE DIRECTOR	Mr Chris Leigh Planning and Community Development
FILE NUMBERS	101281, 101515
ATTACHMENTS	Attachment 1 Current <i>Development Proposals Before the State Administrative Tribunal Policy</i> Attachment 2 Draft Revised <i>Development Proposals Before the State Administrative Tribunal Local Planning Policy – Tracked Changes</i> Attachment 3 Draft Revised <i>Development Proposals Before the State Administrative Tribunal Local Planning Policy – Clean Version</i>
AUTHORITY / DISCRETION	Legislative - includes the adoption of local laws, planning schemes and policies.

PURPOSE

For Council to consider amendments to the *Development Proposals before the State Administrative Tribunal Policy* for the purposes of public advertising.

EXECUTIVE SUMMARY

The *Development Proposals before the State Administrative Tribunal Policy* broadly outlines the manner in which planning decisions before the State Administrative Tribunal are to be dealt with.

A review of the policy has been undertaken to ensure it aligns with relevant legislation and processes. Amendments to the policy are proposed to provide further detail on the City's current practice, which aim to ensure these matters are dealt with in an open and accountable manner. Minor amendments are also proposed to align with the City's current policy template and to refer to *Local Planning Scheme No. 3* and the *Planning and Development (Local Planning Schemes) Regulations 2015*.

It is therefore recommended that Council supports the draft revised Development Proposals before the State Administrative Tribunal Policy for the purposes of public consultation for a period of 21 days.

BACKGROUND

The *State Administrative Tribunal – Mediation and Revised Development Proposals Policy* was adopted by Council at its meeting held on 11 October 2005 (CJ206-10/05 refers). The policy was renamed and updated in 2012 to remove procedural elements and better reflect its intent.

At its meeting held on 20 November 2012 (CJ254-11/12 refers), Council adopted the modified *Development Proposals before the State Administrative Tribunal Policy*.

DETAILS

The policy is proposed to be updated to align with the City's current policy template and to refer to *Local Planning Scheme No. 3* and the *Planning and Development (Local Planning Schemes) Regulations 2015*. The policy has also been expanded to include any planning decision subject to review, not just applications for development approval.

The draft amendments to expand on the processes to be followed for planning decisions subject to review by the State Administrative Tribunal aim at ensuring these matters are dealt with in an open and accountable manner. These processes include the following:

- Informing Elected Members and any submitters to a development proposal when an application is subject to review by the State Administrative Tribunal.
- Engaging external parties where a decision made by Council varies significantly from the Administration's recommendation.
- Seeking sufficient time from the State Administrative Tribunal to undertake further community consultation when an amended proposal has been presented.
- Establishing a position for instances where a community member makes a submission to the State Administrative Tribunal or applies to intervene in a review, the City will not oppose community members participating in the process.

Clarification has also been provided where the City or Council is not the decision maker (for example an application determined by a Development Assessment Panel or Western Australian Planning Commission). In these instances, where the City can participate in the State Administrative Tribunal process, regard will be given to the policy to the extent possible.

The processes incorporated into the draft revised policy are consistent with similar policies of other local governments. It is noted that some local government policies include further information, including detail on when costs may be sought, mediation and appeals against State Administrative Tribunal decisions. A set position on these matters is not considered practical to include in a policy as they would need to be considered on a case by case basis and in some instances would be subject to seeking legal advice on the best course of action.

Issues and options considered

Council has the option to either:

- advertise the draft revised *Development Proposals before the State Administrative Tribunal Policy*, without modifications
- advertise the draft revised *Development Proposals before the State Administrative Tribunal Policy*, with modifications
- or
- not support the advertising of the draft revised *Development Proposals before the State Administrative Tribunal Policy*.

Legislation / Strategic Community Plan / Policy implications

Legislation

Planning and Development Act 2005.
State Administrative Tribunal Act 2004.
Planning and Development (Local Planning Schemes) Regulations 2015.
Local Planning Scheme No. 3.

Strategic Community Plan

Key theme	Leadership.
Outcome	Engaged and informed – You are able to actively engage with the City and have input into decision-making
Policy	<i>Development Proposals before the State Administrative Tribunal Policy.</i> <i>Planning Consultation Local Planning Policy.</i>

Risk management considerations

The amendments to the policy provide transparency by outlining the manner in which planning matters before the State Administrative Tribunal are to be managed by the City. Should the policy not be updated, the City would still undertake these processes, but there could be a perceived lack of transparency.

Financial / budget implications

The costs associated with any public advertising and notice of any final adoption of the draft revised *Development Proposals before the State Administrative Tribunal 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 policy to be advertised for 21 days, unless the amendment is considered minor.

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 proposed amendments to the *Development Proposals before the State Administrative Tribunal Local Planning Policy* aims to provide transparency in how the City approaches matters before the State Administrative Tribunal. It is recommended that Council advertise the draft revised *Development Proposals before the State Administrative Tribunal Local Planning Policy* for public comment for a period of 21 days.

VOTING REQUIREMENTS

Simple Majority.

The Acting Manager Audit, Risk and Executive Services left the room at 7.24pm.

MOVED Cr Thompson, **SECONDED** Mayor Jacob 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 *Development Proposals before the State Administrative Tribunal Local Planning Policy*, as shown in Attachment 2 to this Report, for a period of 21 days.

The Motion was Put and

CARRIED (7/0)

In favour of the Motion: Cr Thompson, Mayor Jacob, Crs Chester, Hill, Kingston, Poliwka and Raftis.

Appendix 7 refers

To access this attachment on electronic document, click here: [Attach7POL220801.pdf](#)

ITEM 10 **PARKING SCHEMES POLICY**

WARD	All
RESPONSIBLE DIRECTOR	Mr Chris Leigh Planning and Community Development
FILE NUMBERS	05787, 101515
ATTACHMENTS	Attachment 1 <i>Parking Schemes Policy</i>
AUTHORITY / DISCRETION	Information - includes items provided to Council for information purposes only that do not require a decision of Council (that is for 'noting').

PURPOSE

For Council to consider a report on the development of a policy for coastal parking areas which would articulate the Council's position in relation to the parking management in coastal areas.

EXECUTIVE SUMMARY

There has been speculation that the City may consider the adoption of paid parking along its coast. The City of Joondalup has not formally considered a regime that would require members of the public to pay for parking to access the City's beaches.

At its meeting held on 17 May 2022 (CJ071-05/22 refers), Council requested that the Chief Executive Officer:

“prepare a report on the development of a policy for paid parking in coastal areas, to be presented to the Policy Committee at its meeting to be held on 1 August 2022.”

The report responds to the Council resolution and outlines options available that would allow a policy position to be established that articulates Council's position in relation to parking management in coastal areas. By Council providing direction and guidance on matters to be considered, the City will then be able to prepare the document to establish this position as either a standalone policy or integrate the policy position in the existing *Parking Schemes Policy* for Council to then consider.

Clearly articulating the City's position will assist in clarifying with residents and others the City's position in relation to this issue. It will also provide guidance to the City on the development of future business cases and facilities along the City's coastline.

In relation to policy preparation for parking management, historically the City had individual policies that dealt with various geographic locations, however these were combined into the current *Parking Schemes Policy* following a review and rationalisation in 2012.

A review of the Parking Schemes Policy was undertaken in 2018 and is again currently being reviewed. It is intended to present a review of the policy to the Policy Committee at its first meeting of 2023 (anticipated to be February 2023).

It is appropriate that parking considerations for coastal areas be integrated into the *Parking Schemes Policy* consistent with previous Council decisions to consolidate such matters into a single policy. It is also considered appropriate that Council provide direction on the intent of parking for coastal areas to inform its inclusion as part of the *Parking Schemes Policy* review.

It is therefore recommended that Council:

- 1 *REQUESTS that consideration of parking in coastal locations is included in the review of the City's Parking Schemes Policy;*
- 2 *REQUESTS as part of the review of the City's Parking Schemes Policy, the consideration of parking in coastal locations shall include:*
 - 2.1 *the City's current position, being that there is no paid public parking in coastal locations*
 - 2.2 *strategies for managing demand for parking that are available for the City, including but not limited to:*
 - 2.2.1 *time restricted parking in areas of high demand;*
 - 2.2.2 *permit parking where for residential areas close to the coast;*
 - 2.2.3 *temporary or seasonal parking controls where required;*
 - 2.3 *detail that outlines uses that would be considered commercial or exclusive parking arrangements and how such arrangements will be managed in coastal locations;*
 - 2.4 *detail that outlines uses that would be considered activity specific parking, such as boat trailer parking, and whether special arrangements should exist for these facilities.*

BACKGROUND

Request for report

The catalyst of this report is a petition submitted in response to the business case for the Ocean Reef Marina land transaction. The Ocean Reef Marina is an extensive development currently being undertaken by DevelopmentWA. The proposed land transactions required the City to write a Business Plan, as outlined in section 3.59 of the *Local Government Act*. The Business Plan requires an assessment of the impact on the City's financial position the proposed land transaction will have. The City needed to anticipate potential revenue streams across a range of areas that could occur as a result of the Ocean Reef Marina development, that was held to be a direct result of the proposed land transaction. The business plan was not a policy document and had no implications for parking outside of the Ocean Reef Marina development area.

A decision was made to include a nominal amount of revenue for parking within the City's Business Case to be presented to Council. This revenue was included in two of the three scenarios presented but was excluded from the third. Given the large commercial development associated with the Ocean Reef Marina and the significant boating facilities that have been included in the development, it was considered possible that fees may be charged for some of these activities. For example, there would likely be parking provided for boat pen holders, however as the boat pens are a commercial undertaking, it was considered that a fee may be applied to the parking that would be associated with the provision of boat pens.

The presence of the revenue stream in the business case should not be taken as a positive decision of Council to change long standing arrangements for areas that are not covered by the Business Case. Indeed, the presence of a revenue stream in a forecast, should not be taken as any policy decision of the Council, as it is merely an indication of what is possible.

The City provided an update to Council via the Status of Petitions report at the March 2022 Ordinary Council Meeting (CJ034-03/22 refers). Following consideration of this item Council resolved at point 3 of this item that Council:

“NOTES that in relation to the petition requesting the City not to install paid public parking at Ocean Reef Marina, and any coastal location within the City of Joondalup, that the item be REFERRED BACK to the Chief Executive Officer to report by no later than May 2022”.

A further report was then prepared and presented to the May 2022 Ordinary Council Meeting (CJ071-05/22 refers). That report outlined issues which may be considered in the development of a policy that would provide direction to the City on the application of parking arrangements in coastal zones. In response to the report Council resolved:

“That Council REQUESTS the Chief Executive Officer prepare a report on the development of a policy for paid parking in coastal areas, to be presented to the Policy Committee at its meeting to be held on 1 August 2022.”

This report responds to the above Council resolution from the meeting held on 17 May 2022.

Parking Schemes

Parking schemes are designated areas throughout the City where some form of parking management is in place.

The introduction of a parking scheme occurs where:

- parking demands are causing a hazard to residents and/or other road users
- parking is damaging City infrastructure or infrastructure owned by other government agencies
- parking is having a significant detrimental effect on local amenity.

Parking schemes are developed to meet the needs of each scheme area aim to provide the best parking management outcome and can consist of one, or a combination of the following:

- Time-restricted parking.
- Limited parking prohibitions.
- Area-wide prohibitions.
- Paid parking.

Parking schemes are introduced by resolution of Council or delegated authority following a community engagement process.

Current Parking Schemes Policy

The *Resident/Visitor Parking Permits for Joondalup City Centre Policy* was originally adopted in 2008 as the *Resident/Visitor Parking Permit Policy*. Its aim was to facilitate the parking requirements of residents who resided in areas affected by parking restrictions. Implementation of the policy was then deferred in late 2008 following a decision of Council to undertake further consultation with affected communities. An amended version of the policy was subsequently adopted in 2009 as the *Resident/Visitor Parking Permits for Joondalup City Centre Policy*.

In late 2009, Council then adopted the *Parking Schemes for Suburban Areas Outside of the Joondalup City Centre Policy*. The intention behind this policy was to present a consistent approach to the development of parking schemes and the distribution of parking permits for areas outside of the Joondalup City Centre.

A joint review of these policies was conducted in 2011, revealing significant duplication between the two. In 2012, it was recommended that Council revoke both the *Resident/Visitor Parking Permits for Joondalup City Centre Policy* and the *Parking Schemes for Suburban Areas Outside of the Joondalup City Centre Policy* and adopt the *Parking Schemes Policy*.

The *Parking Schemes Policy* includes information detailing the instances where a parking scheme may be introduced, the possible components of a parking scheme and clarifies that parking permit areas may be established in locations with a designated parking scheme as a way of avoiding adverse impacts on local residents. At its meeting held on 20 February 2018 (CJ027-02/18 refers), Council reviewed the policy which recommended only minor amendments for consistency.

The *Parking Schemes Policy* is currently being reviewed with an intent to provide more detail to guide decision-making around the establishment of parking schemes in particular locations – such as the Joondalup CBD. Guidance around coastal locations could also be included in the *Parking Schemes Policy* and could form part of the policy review currently underway.

DETAILS

At present, Council determines fees for parking in all areas as a part of the annual budget process. There is currently no policy or strategy regarding the imposition of parking fees outside of the Joondalup CBD in the City of Joondalup. The City is not aware of any previous consideration being given to the imposition of parking fees outside of the Joondalup CBD.

The consideration of the imposition of parking fees outside of the Joondalup CBD was initiated by a petition relating to the Ocean Reef Marina Business Case, which was adopted by Council in May 2021 (CJ060-05/21 refers). In the business case, there is a potential revenue stream identified in two of the three scenarios for parking fees. The business case also noted that if a fee was charged for parking within the Ocean Reef Marina, then the City should consider working with the Department of Transport to see if they would consider a similar arrangement for Hillarys Boat Harbour. No other area was mentioned within the business case.

The petition was received by Council at its meeting held on 12 October 2021 (C107-10/21 refers) and requested that Council:

- opposes the application of any paid public parking at Ocean Reef Marina
- opposes any further application of paid public parking at any other coastal location controlled by the City of Joondalup
- ceases any representations to the State Government for the application of paid public parking at Ocean Reef Marina, Hillarys Boat Harbour, or any other coastal location.

Some media coverage on the issue appears to show a perception by some that the City is considering paid parking along the coast, despite there being no evidence of such considerations.

In view of the above, and in order to ensure the City's position is conveyed clearly, it was recommended that a report be prepared on the development of a policy that outlines the City's position. It should be noted that at this stage, the City is not considering paid public parking along its coastline. The policy would ensure this is clearly stated for the avoidance of any doubt.

It is the City's view that rather than developing a standalone policy for parking in coastal areas, it would be in the interests of good governance to include the matter in the existing *Parking Schemes Policy*, which is a policy which evolved from the integration of separate, standalone parking management policies. The *Parking Schemes Policy* is currently being reviewed with a view to it being presented to the first Policy Committee meeting of 2023 (notionally February 2023).

If it is determined that a policy position should be established, it would be beneficial if the Policy Committee, and Council, provides guidance on the matters to be considered as part of establishing this position. In the City's view these include:

- the City's current position, being that there is no paid public parking in coastal locations
- strategies for managing demand for parking that are available for the City, including but not limited to:
 - time restricted parking in areas of high demand
 - permit parking where for residential areas close to the coast
 - temporary or seasonal parking controls where required
- detail that outlines uses that would be considered commercial or exclusive parking arrangements and how such arrangements will be managed in coastal locations
- detail that outlines uses that would be considered activity specific parking, such as boat trailer parking, and whether special arrangements should exist for these facilities.

Based on this feedback, the City can undertake further investigation and reporting for the Committee's and then Council's consideration.

Issues and options considered

The Policy Committee can either:

- recommend to the Council that a policy position on parking in coastal locations be established
or
- recommend to the Council that a policy position on parking in coastal locations not be established.

If it is decided that a policy position should be established, the Policy Committee can either:

- recommend to the Council that the policy position is established via a standalone policy
or
- recommend to the Council that the policy position is established in the existing Parking Schemes Policy.

Further, if it is decided by the Council that a policy position should be established, the Policy Committee can either:

- provide guidance on the matters to be considered as part of establishing a policy position
or
- not provide guidance on the matters to be considered as part of establishing a policy position.

Legislation / Strategic Community Plan / Policy implications

Legislation *Local Government Act 1995.*
 Parking Local Law 1998.

Strategic Community Plan

Key theme Leadership.

Outcome Accountable and financially sustainable – You are provided with a range of City services which are delivered in a financially responsible manner.

Policy *Parking Schemes Policy.*

Risk management considerations

There is an existing misunderstanding amongst some members of the community in relation to the City's position on parking in coastal areas.

In the absence of clarifying or establishing a position there is a risk that this misunderstanding will continue and potentially harm the City's reputation and diminish trust of the City within the community.

Financial / budget implications

Not applicable.

Regional significance

Not applicable.

Sustainability implications

Not applicable.

Consultation

Not applicable.

COMMENT

The issue of paid parking along the Perth coastline has long been a controversial issue. More recently it has become evident that there is some misunderstanding or confusion regarding the City's position in the way it intends to manage parking along its coast.

To that end, it is considered there would be some benefit in formally establishing a position, via a policy, to guide the City's management of parking in coastal areas.

It is considered that the City's existing *Parking Schemes Policy* is an appropriate, existing document in which to establish this position, particularly as the policy is currently under review.

It would also be beneficial for the Policy Committee to provide some guidance on the matters to be considered as part of establishing a policy position and the City has suggested what these should be as part of its recommendation.

VOTING REQUIREMENTS

Simply Majority.

Cr McLean left the room at 7.28pm.

Cr Chester left the room at 7.32pm and returned at 7.34pm.

OFFICER'S RECOMMENDATION

That Council:

- 1 REQUESTS that consideration of parking in coastal locations is included in the review of the City's *Parking Schemes Policy*;
- 2 REQUESTS as part of the review of the City's *Parking Schemes Policy*, the consideration of parking in coastal locations shall include:
 - 2.1 the City's current position, being that there is no paid public parking in coastal locations;
 - 2.2 strategies for managing demand for parking that are available for the City, including but not limited to:
 - 2.2.1 time restricted parking in areas of high demand;
 - 2.2.2 permit parking where for residential areas close to the coast;
 - 2.2.3 temporary or seasonal parking controls where required;
 - 2.3 detail that outlines uses that would be considered commercial or exclusive parking arrangements and how such arrangements will be managed in coastal locations;
 - 2.4 detail that outlines uses that would be considered activity specific parking, such as boat trailer parking, and whether special arrangements should exist for these facilities.

MOVED Cr Thompson, SECONDED Cr Raftis that Council:

- 1 **REQUESTS that consideration of parking in coastal locations is included in the review of the City's *Parking Schemes Policy*;**
- 2 **REQUESTS as part of the review of the City's *Parking Schemes Policy*, the consideration of parking in coastal locations shall include:**
 - 2.1 **strategies for managing demand for parking that are available for the City, including but not limited to:**
 - 2.1.1 **time restricted parking in areas of high demand;**
 - 2.1.2 **permit parking where for residential areas close to the coast;**
 - 2.2.3 **temporary or seasonal parking controls where required;**
 - 2.2 **detail that outlines uses that would be considered commercial or exclusive parking arrangements and how such arrangements will be managed in coastal locations;**
 - 2.3 **detail that outlines uses that would be considered activity specific parking, such as boat trailer parking, and whether special arrangements should exist for these facilities.**

AMENDMENT MOVED Mayor Jacob, SECONDED Cr Poliwka that Part 2.1 to 2.3 being renumbered Part 2.2 to 2.4 and a new Part 2.1 be added to the motion as follows:

“2.1 the City’s current position, being that there is no paid public parking in coastal locations;”

The Amendment Motion was Put and

CARRIED (4/3)

In favour of the Amendment: Mayor Jacob, Crs Chester, Hill and Poliwka.

Against the Amendment: Crs Thompson, Kingston and Raftis.

The Motion as amended, being:

MOVED Cr Thompson, SECONDED Cr Raftis that Council:

- 1 REQUESTS that consideration of parking in coastal locations is included in the review of the City’s *Parking Schemes Policy*;**
- 2 REQUESTS as part of the review of the City’s *Parking Schemes Policy*, the consideration of parking in coastal locations shall include:**
 - 2.1 the City’s current position, being that there is no paid public parking in coastal locations;**
 - 2.2 strategies for managing demand for parking that are available for the City, including but not limited to:**
 - 2.2.1 time restricted parking in areas of high demand;**
 - 2.2.2 permit parking where for residential areas close to the coast;**
 - 2.2.3 temporary or seasonal parking controls where required;**
 - 2.3 detail that outlines uses that would be considered commercial or exclusive parking arrangements and how such arrangements will be managed in coastal locations;**
 - 2.4 detail that outlines uses that would be considered activity specific parking, such as boat trailer parking, and whether special arrangements should exist for these facilities.**

The Motion was Put and

CARRIED (4/3)

In favour of the Motion: Mayor Jacob, Crs Chester, Hill and Poliwka.

Against the Motion: Crs Thompson, Kingston and Raftis.

Appendix 8 refers

To access this attachment on electronic document, click here: [Attach8POL220801.pdf](#)

ITEM 11 **ELECTED MEMBERS' ENTITLEMENTS POLICY – CONTINUING PROFESSIONAL DEVELOPMENT**

WARD	All
RESPONSIBLE DIRECTOR	Mr Jamie Parry Governance and Strategy
FILE NUMBERS	101269, 101515
ATTACHMENTS	Attachment 1 <i>Elected Members' Entitlements Policy (current)</i> Attachment 2 WALGA Template Policy on Council Member Continuing Professional Development
AUTHORITY / DISCRETION	Legislative - includes the adoption of local laws, planning schemes and policies.

PURPOSE

For Council to review the *Elected Members' Entitlements Policy* with regards to continuing professional development, and to identify any amendments that may be required.

EXECUTIVE SUMMARY

As part of the *Local Government Legislation Amendment Act 2019* introduced in September 2019, section 5.128 was inserted into the *Local Government Act 1995* (the Act), requiring local governments to prepare a policy in relation to the continuing professional development of elected members and that the policy must be reviewed after each local government election.

The last local government elections took place in October 2021. The purpose of this report is to review the *Elected Members' Entitlements Policy* with regards to continuing professional development, and to satisfy the requirements of section 5.128 of the Act.

It is therefore recommended:

That Council:

- 1 *NOTES a review of the Elected Members' Entitlements Policy has been undertaken in accordance with section 5.128(5)(a) of the Local Government Act 1995, with regards to continuing professional development;*
- 2 *NOTES the current policy provisions detailed in the Elected Members' Entitlements Policy, with regards to continuing professional development, satisfies the intent of section 5.128 of the Local Government Act 1995.*

BACKGROUND

The current *Elected Members' Entitlements Policy* (the policy) was last significantly reviewed in September 2013 (CJ185-09/13 refers), with a number of minor amendments subsequently made in March 2015 (CJ050-03/15 refers), April 2017 (CJ051-04/17 refers) and May 2022 (CJ077-05/22 refers). The policy details, amongst other things, payments and entitlements for elected members, including:

- the equipment issued to elected members
- the payment of statutory fees and allowances as determined by the Salaries and Allowances Tribunal
- provisions around the attendance at conferences and training events and associated requirements
- reimbursement of expense provisions and other entitlements.

On 16 September 2019 and as part of the *Local Government Legislation Amendment Act 2019* a new section 5.128 was inserted into the Act as follows:

"5.128. Policy for continuing professional development

(1) *A local government must prepare and adopt* a policy in relation to the continuing professional development of council members.*

** Absolute majority required.*

(2) *A local government may amend* the policy.*

** Absolute majority required.*

(3) *When preparing the policy or an amendment to the policy, the local government must comply with any prescribed requirements relating to the form or content of a policy under this section.*

(4) *The CEO must publish an up-to-date version of the policy on the local government's official website.*

(5) *A local government —*

(a) must review the policy after each ordinary election; and

(b) may review the policy at any other time."

There is no legislative prescription as to the form that this policy is to take, and it was considered the conference, training and event provisions detailed in the *Elected Members' Entitlements Policy* (parts 6 and 7) satisfied the intent of section 5.128 of the Act.

A report was presented to Council on 18 May 2021 (CJ072-05/21 refers), and minor amendments were made to the policy, to reflect feedback received at Strategy Sessions held on 2 February 2021 and 4 May 2021. These changes are reflected in the current *Elected Members' Entitlements Policy* (Attachment 1 refers).

DETAILS

Conference and Training events

To enable elected members to develop and maintain their skills and knowledge relevant to their role as representatives of the City, the City's policy provides that elected members are able to attend conferences and training events within Australia and overseas (subject to Council approval) and the associated arrangements around bookings; registration; and the reimbursement of associated expenses (see Part 6).

Conferences and training under the policy is generally limited to the following:

- West Australian Local Government Association and Australian Local Government Association conferences.
- Special 'one off' conferences called for or sponsored by the West Australian Local Government Association and / or Australian Local Government Association on important issues.
- Annual conferences of the major professions in local government and other institutions of relevance to local government activities.
- Australian Sister Cities Conferences.
- West Australian Local Government Association Elected Member Training and Development.
- Training relating to the role of elected members.
- Other local government-specific training courses, workshops and forums, relating to such things as understanding the roles / responsibilities of elected members, meeting procedures and the like.

As part of the City's annual budget, allocation is made for elected members to attend conference and training events in line with the amounts set within the policy (currently \$16,400 for the Mayor and \$7,500 for Councillors) which is adjusted annually by CPI (All Groups Perth). The costs for the mandatory training that is required to be completed by an elected member following their election, is not charged to the elected member's respective allocation, and is directly paid for by the City.

Issues and options considered

The following options are available to Elected Members:

- 1 Retain the current *Elected Members' Entitlements Policy* as is, with regards to continuing professional development.
- 2 Make amendments to the *Elected Members' Entitlements Policy*, with regards to continuing professional development.
- 3 Remove those references to training and development and conference attendance from the *Elected Members' Entitlements Policy* and create a separate policy on continuing professional development.

Should option 3 be pursued, a WALGA Template Policy on Council Member Continuing Professional Development is provided at Attachment 2 to this Report.

Option 1 is the preferred option as it is considered that the legislative requirement is adequately covered in the *Elected Members' Entitlements Policy*.

Legislation / Strategic Community Plan / Policy implications

Legislation *Local Government Act 1995.*
Local Government (Administration) Regulations 1996.
Salaries and Allowances Determination on Local Government Chief Executive Officers and Elected Members.

Strategic Community Plan

Key theme Leadership.

Outcome Capable and effective – You have an informed and capable Council backed by a highly-skilled workforce.

Policy *Elected Members' Entitlements Policy.*

Risk management considerations

That the *Elected Members' Entitlements Policy* does not adequately meet the intent of section 5.128 of the *Local Government Act 1995*.

The *Elected Members' Entitlements Policy* has been reviewed and it is considered that the conference, training and event provisions detailed in the Policy (parts six and seven) satisfy the intent of section 5.128 of the Act.

Financial / budget implications

Sufficient budget provisions are made in the City's annual budget to cover the elected member allowances, expenses and entitlements that are detailed under the policy.

Regional significance

Not applicable.

Sustainability implications

Not applicable.

Consultation

An opportunity is provided to Elected Members through the Policy Committee to be held on 1 August 2022.

WALGA have provided a template 'Council Member Continuing Professional Development Policy' to assist Local Governments in adopting a policy as required by section 5.128 of the *Local Government Act 1995*, which is provided at Attachment 2 to this Report.

COMMENT

The *Elected Members' Entitlements Policy* provides a framework to support an elected member's training and development needs as well as clarity around the entitlements, allowances and fees as stipulated in the *Local Government Act 1995* and the *Local Government (Administration) Regulations 1996*.

Feedback is sought from Elected Members as to whether the current policy provisions adequately meet the intent of section 5.128 of the Act, in relation to training and development.

VOTING REQUIREMENTS

Simple Majority.

MOVED Mayor Jacob, SECONDED Cr Raftis that Council:

- 1 NOTES a review of the *Elected Members' Entitlements Policy* has been undertaken in accordance with section 5.128(5)(a) of the *Local Government Act 1995*, with regards to continuing professional development;**
- 2 NOTES the current policy provisions detailed in the *Elected Members' Entitlements Policy*, with regards to continuing professional development, satisfies the intent of section 5.128 of the *Local Government Act 1995*.**

The Motion was Put and

CARRIED (7/0)

In favour of the Motion: Cr Thompson, Mayor Jacob, Crs Chester, Hill, Kingston, Poliwka and Raftis.

Appendix 9 refers

To access this attachment on electronic document, click here: [Attach9POL220801.pdf](#)

ITEM 12 AUSTRALIAN BUSINESS EXCELLENCE FRAMEWORK POLICY - REVIEW

WARD	All
RESPONSIBLE DIRECTOR	Mr Jamie Parry Governance and Strategy
FILE NUMBERS	89549, 101258, 101515
ATTACHMENTS	Attachment 1 Revised <i>Australian Business Excellence Framework Policy</i> Attachment 2 Current <i>Australian Business Excellence Framework Policy</i>
AUTHORITY / DISCRETION	Legislative – includes the adoption of local laws, planning schemes and policies.

PURPOSE

For Council to adopt the revised *Australian Business Excellence Framework Policy*.

EXECUTIVE SUMMARY

The City's *Australian Business Excellence Framework Policy* was adopted by Council in 2006 (CJ032-03/06 refers) and was last updated in 2017 (CJ105-06/17 refers).

The Policy is due for review in 2022 to ensure the Policy remains relevant and applicable, and to evaluate if changes are required resulting from a review of the Framework by Business Excellence Australia in 2021.

The review has confirmed the *Australian Business Excellence Framework Policy's* continued relevance for the City and the Policy has been updated to include minor amendments. The revised *Australian Business Excellence Framework Policy* is shown as Attachment 1 to this Report.

It is therefore recommended that Council ADOPTS the revised Australian Business Excellence Framework Policy as shown in Attachment 1 to this Report.

BACKGROUND

Council adopted the *Australian Business Excellence Framework (ABEF)* as its leadership and management framework in November 2005 to provide a best practice mechanism to assess the City's management systems and to identify and implement improvements (CJ251-11/05 refers). In 2006, Council adopted the *Australian Business Excellence Framework Policy* (CJ032-03/06 refers).

The Framework was first developed in 1987 and was one of the first global excellence frameworks. It was initially developed in response to calls by the Commonwealth Government and industry for Australian enterprises to be more efficient and competitive.

The Framework is now managed by Business Excellence Australia (BEA), a not-for-profit organisation comprising agencies and individuals committed to improving organisational performance. BEA also provides assistance to a wide variety of organisations implementing the Framework, including organisations from the following sectors:

- Financial.
- Manufacturing and Aerospace.
- Resource.
- Professional Services.
- Construction.
- Technology.
- Federal, State and Local Governments.
- Not-for-Profit Organisations.

Since initial development in 1987, the Framework has been regularly updated to reflect evolving, leading-edge thinking and state-of-the-art practice in business excellence. The most recent review was undertaken in 2021 by Business Excellence Australia (BEA) which resulted in a 'refresh' of the Framework with no major changes being made to its overall structure, major elements or intent.

The ABEF is an integrated leadership and management system that describes the elements essential to sustainable organisational performance. It is a framework which can be used to assess and improve any aspect of an organisation. The Framework comprises the following:

- **Principles**, considered to be the governing laws which underpin the Framework and are necessary to create an environment for sustainable performance.
- **Categories** against which an organisation can review, question and analyse its leadership and management system. These include:
 - Leadership.
 - Strategy and Planning.
 - Information and Knowledge.
 - People.
 - Customer and Other Stakeholders.
 - Process Management, Improvement and Innovation.
 - Results and Sustainable Performance.
- **Items** which break down the categories into tangible components that can be systematically reviewed and improved in order to achieve organisational excellence.
- **A learning cycle** which requires an organisation to demonstrate its Approach, Deployment, Results and Improvement for each item.
- **An assessment matrix** against which an organisation's performance is assessed.

Since 2006, the City has successfully applied the Framework to the following:

- Assess organisational performance through a guided assessment.
- Provide training to City employees to enable them to undertake a self-assessment and gap analysis.
- Review the organisational structure.
- Promote excellence in leadership and management practices.
- Drive a systematic approach to continuous improvement through revision and improvement of processes and service reviews.
- Improve delivery of services to the community.
- Inform strategic planning processes.

- Apply for the ABEF Strategy and Planning Category Award.
- Apply for an ABEF Organisational Award for all Categories.
- Gain ISO 9001 Quality Management certification as part of continuous improvement activities.
- Implement AS/MZS ISO 31000:2009 – Risk Management as part of continuous improvement activities.

The City was recognised in the 2012 ABEF Business Excellence Awards for its best practice processes and systems in the Category of Strategy and Planning.

The City also received a Bronze Award in the Organisational Australian Excellence Awards in 2017 following an evaluation by independent assessors against all Categories of the *Australian Business Excellence Framework*.

DETAILS

The 2021 review of the *Australian Business Excellence Framework* by Business Excellence Australia (BEA) has not resulted in major changes to the overall intent or application of the Framework. The major elements, including the Principles, Categories and Items remain largely the same. Minor wording updates have been made to clarify direction and provide greater alignment with current organisational thinking and trends.

The revised *Australian Business Excellence Framework Policy*, shown as Attachment 1 to this Report, is in line with the revised 2021 *Australian Business Excellence Framework*.

Issues and options considered

Council has the option to:

- adopt the revised *Australian Business Excellence Framework Policy* as presented in Attachment 1 to this Report
- adopt the revised *Australian Business Excellence Framework Policy* as shown as Attachment 1 to this Report with further amendments
or
- not adopt the revised *Australian Business Excellence Framework Policy*.

Legislation / Strategic Community Plan / Policy implications

Legislation Not applicable.

Strategic Community Plan

Key Theme Leadership.

Outcome Capable and effective – You have an informed and capable Council backed by a highly-skilled workforce.

Policy *Australian Business Excellence Framework Policy*.

Risk management considerations

The *Australian Business Excellence Framework Policy* provides the City with a proven methodology for assessing the organisation against the Principles, Categories and Items to assess strengths and prioritise opportunities for improvement. Review and improvement of organisational functions ensures continued scrutiny of the City's operations against the Framework and assists in working towards sustainable performance.

The Framework also requires organisations to assess risks in its business activities and to identify how risks can be minimised within City operations.

Financial / budget implications

Not applicable.

Regional significance

Not applicable.

Sustainability implications

The *Australian Business Excellence Framework* requires organisations to assess its performances in the areas of society, community and environmental responsibility, as well as legal and ethical behaviour and long term sustainability.

Consultation

Not applicable.

COMMENT

The City provides a broad range of services to its stakeholders and the community in line with its vision in *Joondalup 2032*, and is committed to ensuring services are of a consistently high standard. Alignment with the Framework provides a leadership focus and practical methodology for continuous improvement across all management aspects of the organisation with the aim of achieving excellence in service delivery and sustainable performance.

Use of the Framework has contributed towards significant improvements as a result of assessments of its core functions, and continued application will facilitate greater operational efficiencies and improved community and stakeholder relations.

VOTING REQUIREMENTS

Simple Majority.

MOVED Mayor Jacob, SECONDED Cr Chester that Council ADOPTS the revised *Australian Business Excellence Framework Policy* as shown in Attachment 1 to this Report.

The Motion was Put and

CARRIED (7/0)

In favour of the Motion: Cr Thompson, Mayor Jacob, Crs Chester, Hill, Kingston, Poliwka and Raftis.

Appendix 10 refers

To access this attachment on electronic document, click here: [Attach10POL220801.pdf](#)

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 point two 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 by 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 was requested at its meeting held on 9 May 2022 to assist with the review of the Policy.

At the 9 May 2022 meeting of the Policy Committee, it was resolved *that Item 8 – Revised Civic Centre Policy BE DEFERRED to a meeting of the Policy Committee to be scheduled for July 2022.*

Further comment was sought from members of the Committee, provided in Attachment 2 to this Report.

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 – February and May 2022

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 following the meeting included the following:

February 2022 Committee/Committee Member 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.”*

May 2022 Committee Member Comments

Following the May meeting an invitation was made to members of the Committee to help inform the review of the Policy. Comments from five members following the meeting were received by the Presiding Member and are included in Attachment 2 to the report.

Legislative Provisions Related to Policy

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
 - 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.

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) as follows:

- City of Stirling – Civic Facilities Policy [here](#).
- City of Melville - Use of Elected Member Meeting Rooms and Facilities Policy [here](#).
- City of Gosnells – Civic centre Elected Member Lounge [here](#).
- 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 [here](#).
- City of Cockburn - Administration Building Access Policy [here](#).

Issues and options considered

The Policy Committee can either:

- 1 recommend to the Council that it adopt the revised *Civic Centre Policy* as presented
- 2 recommend to the Council that it adopt the revised *Civic Centre Policy* with further amendments
- 3 recommend to the Council that it revoke the Policy and giving 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
 or
- 4 recommend that the Policy be referred back to the Chief Executive Officer to present the Policy to a Strategy Session to consider a revised *Civic Centre Policy* that meets the Council's objectives.

Following receipt of comments from members of the Policy Committee after the May 2022 meeting it is evident members consider a Policy on the Civic Centre is required. As such, it is considered that Option 4 is the preferred option.

Legislation / Strategic Community Plan / Policy implications

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

Strategic Community Plan

Key Theme Leadership.

Outcome Capable and effective – You have an informed and capable Council backed by a highly-skilled workforce.

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, 22 February 2022, and 9 May 2022 including an invitation to Committee members to provide comment on the revised Policy.

COMMENT

In alignment with the need for periodic reviews of policies, it is proposed that the *Civic Centre Policy* be referred back to the Chief Executive Officer to present to a Strategy Session to consider a revised *Civic Centre Policy* that meets the Council's objectives.

VOTING REQUIREMENTS

Simple Majority.

MOVED Cr Thompson, SECONDED Mayor Jacob that the *Civic Centre Policy* BE REFERRED BACK to the Chief Executive Officer to be considered at a Strategy Session.

The Motion was Put and

CARRIED (7/0)

In favour of the Motion: Cr Thompson, Mayor Jacob, Crs Chester, Hill, Kingston, Poliwka and Raftis.

Appendix 11 refers

To access this attachment on electronic document, click here: [Attach11POL220801.pdf](#)

ITEM 14 **ELECTED MEMBER ACCESS TO INFORMATION POLICY**

WARD	All
RESPONSIBLE DIRECTOR	Mr Jamie Parry Governance and Strategy
FILE NUMBER	101515
ATTACHMENT	Attachment 1 Paragraphs 215-219 of the Inquiry into the City of Joondalup Report 2005
AUTHORITY / DISCRETION	Legislative – includes the adoption of local laws, planning schemes and policies.

PURPOSE

For the Policy Committee to give consideration to the proposal to develop an Elected Members access to information policy.

EXECUTIVE SUMMARY

At the Policy Committee held on 9 May 2022, Cr Kingston requested a report be presented to the Policy Committee by October 2022 on development of a policy for *Elected Members Access to Information*, for requests to access information made under section 5.92 of the *Local Government Act 1995*.

Given that the Council has previously made a determination in relation to this particular matter at its meeting held on 18 May 2021 (Item CJ063-05/21 refers), it is recommended that the Committee note the previous resolution of Council.

It is therefore recommended that the Policy Committee note the resolution of the Council at its meeting held on 18 May 2021 (Item CJ063-05/21 refers) whereby the development of an Elected Member Access to Information Policy was not supported.

BACKGROUND

At the Policy Committee held on 9 May 2022 Cr Kingston requested a report be presented to the Policy Committee by October 2022 on developing a policy for *Elected Members Access to Information*, for requests to access information made under Section 5.92 of the *Local Government Act 1995*.

At the meeting it was advised that a decision related to this matter had previously been considered by the Council, and that the future report would provide details regarding this previous decision for the Policy Committee.

The previous decision of Council was at its meeting held on 18 May 2021 (Item CJ063-05/21 refers). Further details regarding the Council determination are provided in the following section.

DETAILS

At the May 2022 Policy Committee meeting, Cr Kingston requested a report be presented to the Committee by October 2022 on developing a policy for *Elected Members Access to Information* for requests to access information made under section 5.92 of the *Local Government Act 1995*.

Cr Kingston provided in writing, following the Policy Committee meeting, advice with regard to the intent of requesting the report:

“The intent of the requested policy for an ‘Elected Members Access to Information’ be created consistent with the interpretation of Section 5.92 made in the Inquiry Panel as recorded in the Report of the Inquiry into the City of Joondalup made under Division 2 Part 8 Local Government Act 1995.

That the policy, explicitly include the following propositions from the Report of the Inquiry into the City of Joondalup:

- a) *“... that members of the Council are entitled to all information they seek, unless there are exceptional circumstances” at Paragraph 217;*
- b) *‘... Section 5.92 does not cast an onus on an elected member to prove to the satisfaction of the Administration that the information is relevant to their statutory function’ at Paragraph 218;*
- c) *“It is a fundamental right of councillors to seek legal and other advice provided to the City on topics they are required to make decisions on” at Paragraph 217 quoting the Report of the Inquiry into the City of South Perth;*
- d) *That Section 5.41(b) “... imposes a duty on the CEO to advise the Council and to ‘ensure that advice and information is available to the Council so that informed decisions can be made’...” At Paragraph 215;*
- e) *“... it is not a relevant consideration, in the discharge of the CEO’s statutory duty to provide information to elected members that the information may be forwarded to others who may not be entitled to it...” at Paragraph 219.*

That the policy, contain a process for requests for information, in accordance with Recommendation 13 and 29 of the 14 May 2004 Final Report of the Governance Review Panel as part of the Inquiry into the City of Joondalup, and, Recommendation 22 of the Report of the Inquiry into the City of Joondalup:

Recommendation 13: Council to establish a policy that states that elected members have full access to all aspects of legal advice obtained by the staff on behalf of the local government.

Recommendation 29: With regard to the provision of information to elected members, the Council should:

- a) *develop a protocol outlining elected member access to information;*
- b) *establish a standard form for elected members to request information;*
- c) *establish a record of requests for information and response to requests;*
- d) *make the record of requests available to all elected members.*

Recommendation 22: A policy should be established by the Council of the City of Joondalup which facilitates full access to legal advice by elected members.

That the policy, contain a process for requests for information, which includes the following:

- a) *That Elected Members must generally be able to access any **record** held by the City of Joondalup;*
- b) *That where information is not provided to Elected Members, a reason must be given and the item referred to the Audit and Risk Committee within 14 days;*
- c) *Where no reason or information has been provided, the item is to be addressed by the Audit and Risk Committee within 21 days after the information was first sought by the Elected Member;*
- d) *All information, including **records** and documents, held by the City may be relevant to performance of an Elected Member of the City of Joondalup and will generally be provided upon request unless subject to legislated privacy and confidentiality provisions such as tender documents and recruitment processes;*
- e) *Matters so referred to the Audit and Risk Committee will be included in an annex to the City's Annual Report;*
- f) *Records are as defined by the State Records Act 2000."*

A copy of the relevant paragraphs (215 – 219) of the Inquiry into the City of Joondalup Report (2005) are provided as Attachment 1 to this Report, to provide further context to the above excerpts extracted from the Report.

It is important to note that the relevant paragraphs of the Inquiry into the City of Joondalup Report relate specifically to legal advice access by Elected Members.

With regard the manner in which policy recommendations of the Inquiry Report were considered by the Commissioners and subsequent Councils, the Commissioners, at the Council meeting held on 11 October 2005 (Item CJ205-10/05) revoked the current Policy Manual and adopted a revised Policy Manual. The policies contained within this manual have been reviewed and revised by subsequent Councils since that time.

Council Decision – May 2021

At the Council meeting held on 18 May 2021 (Item CJ063-05/21 refers), Council considered the following motion from its Annual General Meeting of Electors:

MOVED Mr Daniel Kingston, SECONDED Ms Beth Hewitt that the Electors of the City of Joondalup REQUEST that Council instructs the City to create a new Council Policy: "Elected Members Access to Information" and present it back to the Council for approval by May 2021. The intent of the Policy is to ensure that:

- 1 *the City of Joondalup elected members must generally be able to access any record held by the City of Joondalup;*
- 2 *all information, including records and documents, held by the City of Joondalup may be relevant to performance of an Elected Member of the City of Joondalup and will generally be provided upon request unless subject to legislated privacy and confidentiality provisions such as tender documents and recruitment processes;*

- 3 records are as defined by the State Records Act;
- 4 where information is not provided to elected members, a reason must be given and the item referred to the Governance Committee within 14 days;
- 5 where no reason or information has been provided, the item is to be addressed by the Governance Committee within 21 days after the information was first sought by the Elected Member;
- 6 matters so referred to the Governance Committee will be included in an annex to the City's Annual Report."

Officer comment in relation to this item was as follows:

"Section 5.92 of the Local Government Act 1995 (the Act) states elected members can have access to information held by the City that is relevant to the performance of their functions under the Act or any other written law. Without limiting this access, it includes, but not limited to, access to all written contracts entered into by the City and all documents relating to written contracts proposed to be entered into by the City.

It should also be noted that one of the roles of the Chief Executive Officer under the Act is to ensure that advice and information is made available to Council (not specifically to individual elected members) so that informed decisions can be made.

Notwithstanding the generality of the above, the Act does not give the automatic and absolute right for elected members to access all of the City's retained information. Where the information sought is not relevant to any matter which the Council is currently deliberating, and requires significant resources of the City to research, investigate or obtain (regardless if the information is confidential or not), the Chief Executive Officer may decline the request, however unlikely in most instances.

The Elected Members' Communications Policy currently provides for Elected Member access to information (clause 3.7). In summary access to corporate information by elected members is managed in accordance with the Act and the Freedom of Information Act 1992. Where elected members wish to view records outside those records detailed in the Act, they must demonstrate to the Chief Executive Officer the relevance of the information in the performance of their role. Where approval is granted the Chief Executive Officer will determine the manner in which access is permitted.

Should an Elected Member still require certain information in the rare circumstances where the Chief Executive Officer declines to provide such information, mechanisms through the Council meeting process, such as notices of motion, are open to elected members to pursue. The Freedom of Information Act 1992 also provides an access right to certain information held by the City, and this is also open to elected members.

In 2017 the State Government announced a review of the Local Government Act 1995 (the Act) and as part of the process the then Minister for Local Government released a series of discussion papers around the provisions in the Act with a view to make local governments more agile, smart and inclusive. In September 2018 the then Minister for Local Government announced the phase 2 consultation process and one of the discussion papers released, sought feedback on the information access rights for elected members.

In summary, the discussion paper suggested it may be appropriate to include a mechanism within the Act to allow access to information decisions by the Chief Executive Officer, to be reviewed by Council itself. This suggestion was not supported in the City's Phase 2 Consultation Submission, which was adopted by Council at its meeting held on 19 March 2019 (Item CJ023-03/19 refers).

In regard to parts 4 through 6 of the elector's motion, the City does not have an established Governance Committee and Council's existing committee structure does not include a role that caters for the intent of the elector's motion. The establishment of any new committee and its terms of reference is a matter for Council to give consideration to; or whether it wishes to review the terms of reference of an existing committee (such as the Audit and Risk Committee or Policy Committee) should it be considered by Council the elector's motion has merit.

If the establishment of a new committee (or the adjustment of an existing committee's terms of reference) is considered to have merit by Council and in line with the process suggestion put forward in the elector's motion, administrative support would be required and additional time commitments placed on elected members, in terms of attending special meetings of a committee to consider information access matters.

The value of reporting on matters within the City's Annual Report as suggested in the elector's motion is questioned, certainly if the Council determines that a Governance Committee be established (or the terms of reference of an existing committee revised) as the minutes of all committees of Council are publicly available on the City's website.

In view of the City's Governance Framework, positive and productive relationships between the City's administration and elected members must be forged and maintained. It is therefore recommended that elected members and the City's administration continue to work together cooperatively and constructively in terms of information needs in support of an elected member's role, without the need to further formalise information access requirements."

In giving consideration to the elector motion the Council resolved inter alia as follows:

"That Council:

- 9 in relation to Motion No. 8 carried at the Annual General Meeting of Electors:*
 - 9.1 NOTES the Local Government Act 1995 and the City's Elected Members' Communications Policy provides for information access requirements relevant for the performance of an elected member's role;*
 - 9.2 NOTES the Chief Executive Officer and the City's administration provide elected members with information that is relevant to the performance of the elected member's role under the Local Government Act 1995 or other written laws;*
 - 9.3 DOES NOT SUPPORT the development of an Elected Member Access to Information Policy in view of parts 1 and 2 above, or the establishment of a Governance Committee to consider information access matters of elected members."*

Given that the Council has previously made a determination in relation to this matter at its meeting held on 18 May 2021 (Item CJ063-05/21 refers) the Committee is requested to note the previous Council determination.

Given the Council has resolved not to progress an *Elected Member Access to Information Policy* matters raised by Cr Kingston pertaining to the City of Joondalup Inquiry Report have not been addressed. Should the Council determine that such a Policy would be of benefit and examined it would be appropriate to review those matters raised in the Inquiry Report.

Issues and options considered

The Committee may:

- 1 Note the resolution of the Council at its meeting held on 18 May 2021 and that this matter has been given previous consideration by the Council.
- 2 Recommend to the Council that it revoke its decision of 18 May 2021 and progress development of a Policy.

Legislation / Strategic Community Plan / Policy implications

Legislation Section 5.92 of the *Local Government Act 1992*.

Strategic Community Plan

Key theme Leadership.

Outcome Capable and effective – you have an informed and capable Council backed by a highly-skilled workforce.

Policy Not applicable.

Risk management considerations

Not applicable.

Financial / budget implications

Not applicable.

Regional significance

Not applicable.

Sustainability implications

Not applicable.

Consultation

Not applicable.

COMMENT

Whilst the recommendations of the 2005 Report of the Inquiry into the City of Joondalup are important, policy positions of the Council regarding the recommendations have been reviewed by subsequent Councils since that time as they apply to the governance of the City of Joondalup.

Given that the Council has previously made a determination in relation to this matter at its meeting held on 18 May 2021 (Item CJ063-05/21 refers) it is recommended that the Committee note the previous decision.

Should the Committee consider that a new Council Policy *Elected Members Access to Information* be progressed the Council will need to first revoke its decision of May 2021.

VOTING REQUIREMENTS

Simple Majority.

OFFICER'S RECOMMENDATION

That the Policy Committee NOTES the resolution of Council at its meeting held on 18 May 2021 (Item CJ063-05/21 refers), whereby the development of an Elected Member Access to Information Policy was not supported.

MOVED Cr Poliwka, SECONDED Cr Kingston that Council:

1 BY AN ABSOLUTE MAJORITY REVOKES Part 9.3 of its decision on 18 May 2021 (Item CJ063-05/21 refers) as follows:

“9.3 DOES NOT SUPPORT the development of an Elected Member Access to Information Policy in view of parts 1 and 2 above, or the establishment of a Governance Committee to consider information access matters of elected members.”

2 SUPPORT development of an ‘Elected Member Access to Information’ Policy.

The Motion was Put and

CARRIED (4/3)

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

Against the Motion: Mayor Jacob, Crs Chester and Hill.

Reason for departure from Officer's Recommendation

In accordance with Regulation 11 (da) of the *Local Government (Administration) Regulations 1996*, the reason the Committee made its decision which was significantly different to what the administration recommended is to enable Elected Members to be given all information to them to be good councillors.

Appendix 12 refers

To access this attachment on electronic document, click here: [Attach12POL220801.pdf](#)

ITEM 15 **MODEL LITIGANT FOR CIVIL LITIGATION POLICY**

WARD	All
RESPONSIBLE DIRECTOR	Mr Jamie Parry Governance and Strategy
FILE NUMBER	101515
ATTACHMENTS	Attachment 1 NSW Model Litigant Policy for Civil Litigation Attachment 2 Town of Cambridge Model Litigant for Civil Litigation Policy
AUTHORITY / DISCRETION	Legislative - includes the adoption of local laws, planning schemes and policies.

PURPOSE

For the Policy Committee to give consideration to recommending to the Council that it develop a *Model Litigant for Civil Litigation Policy*.

EXECUTIVE SUMMARY

At the Policy Committee held on 9 May 2022, Cr Raftis requested that the Chief Executive Officer prepare a report on the drafting of a *Model Litigant Policy* for the City.

The City of Joondalup (and legal practitioners representing the City) have various obligations to act fairly reflecting values related to the following:

- Protecting the reasonable expectations of those dealing with the City (that is public trust).
- Ensuring that the powers possessed by the City, whether conferred by statute or by contract, are exercised 'for the public good'.
- Requiring the City to act as 'moral exemplar' leading by example.

The report details how model litigant rules are applied, also giving consideration to current legal practitioner standards. Should the Council consider that the adoption of a *Model Litigant for Civil Litigation Policy* would enhance the City's ethical standards as a government body in civil litigation matters then consideration might be given to adoption of such a Policy.

It is therefore recommended that the Policy Committee CONSIDERS as to whether to recommend to Council that it develop a Model Litigant Policy.

BACKGROUND

At the Policy Committee held on 9 May 2022 Cr Raftis requested that the Chief Executive Officer prepare a report on the drafting of a *Model Litigant Policy* for the City. Cr Raftis requested that the report consider the following:

“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:*

- a) *Dealing with claims promptly and not causing unnecessary delay in the handling of claims and litigation;*
- b) *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;*
- c) *Acting consistently in the handling of claims and litigation;*
- d) *Endeavouring to avoid litigation, wherever possible;*
- e) *Where it is not possible to avoid litigation, keeping the costs of litigation to a minimum, including by:*
 - i) *Not requiring the other party to prove a matter which the Council knows to be true; and*
 - ii) *Not contesting liability if the Council knows that the dispute is really about quantum;*
- f) *Not taking advantage of a claimant who lacks the resources to litigate a legitimate claim;*
- g) *When settling civil claims the Council should consider the use of confidentiality clauses in relation to settlements on a case by case basis;*
- h) *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;*
- i) *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.

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.”*

DETAILS

At the 9 May 2022 Policy Committee meeting, Cr Raftis requested that the Chief Executive Officer prepare a report on the drafting of a *Model Litigant Policy* for the City.

Model Litigant Rules - Defined

Model litigant rules (obligations) are guidelines for how a government ought to behave before, during, and after litigation with another government body, a private company, or an individual. The model litigant rules provide best practice for government agencies in civil litigation matters.

The obligation of a model litigant is generally considered to encompass a range of specific duties, including dealing with claims promptly, minimising delay in proceedings, acting consistently in the handling of claims and litigation, using alternative dispute resolution options, minimising costs in proceedings and not taking technical points unless the agencies' interests would be compromised.

In civil litigation, there can sometimes be a significant imbalance of power (whether perceived or actual) between government agencies and other parties to the proceedings. Government agencies may have access to substantial resources, powers to investigate, greater power to compel people to provide information, and/or greater experience and expertise in dealing with complex and contentious legal matters.

Behind each of the duties is an overarching duty to act honestly, fairly, with complete propriety and in accordance with the highest professional standards.

The rules are designed to tread a middle ground. On the one hand, they recognise that a government body is often better resourced than small companies or individuals, and is supposed to lead by example, protecting the public interest as opposed to its own private interest.

However, these rules are not designed to prevent a government body from acting firmly and properly to protect their interests, taking all legitimate steps to pursue or defend claims, or even from pursuing litigation in order to clarify a significant point of law even if the other party wishes to settle the dispute. It must be recognised that government bodies pursuing or defending claims are doing so on behalf of the public, and the public's rights ought not to be undermined in the face of genuine litigation.

Adoption of Model Litigant Policies

In an effort to codify and confirm their commitment to their model litigant obligations, the Commonwealth Government and some state and territory governments have adopted written policies. The Commonwealth, Victoria, Queensland, New South Wales and the Australian Capital Territory all follow similar policies, while Western Australia, Tasmania and South Australia are subject to the principles of the common law (as such model litigant obligations are still likely to apply).

It is understood that the policy proposed to be adopted is an amended version of the New South Wales Model Litigant Policy and is also similar to that adopted by the Town of Cambridge (Attachments 1 and 2 refers). The City of Rockingham recently considered whether to develop a similar Policy (as a result of a Notice of Motion), however, at its March 2022 meeting Council declined to progress.

The written policies of the Commonwealth and other States provide that the obligations apply before courts, tribunals, inquiries, in arbitration and other alternative dispute resolution processes.

It is unclear whether the policy proposed is to apply to civil litigation only (as referred to in the reason for the proposal by Cr Raftis) or is to apply to all prosecutions undertaken by the City including those related to parking, dog or building offences, or propagating Council's position at the State Administrative Tribunal.

For the purposes of this report, it is presumed it applies to civil litigation only, as specifically referred to in the reasons for proposing a policy.

City's Involvement in Civil Litigation

The City's involvement in civil litigation generally involves the following:

- Civil actions by the City to recover rates (which are conducted by the City's external solicitors).
- Civil actions against the City (to which the City's insurer responds).

Proceedings to recover rates are only commenced when less formal efforts have been unsuccessful via a letter of demand not resulting in the debtor agreeing to pay off the debt over time. The City has a *Rates Hardship Policy* which is intended to ensure that the City offers fair, equitable, consistent, respectful and dignified support to ratepayers experiencing financial hardship.

When proceedings are commenced, the City engages external solicitors who endeavour to bring the matter to a swift conclusion without the need for a trial, but this is not always possible to achieve. It is rare for such proceedings to proceed to a formal trial.

When proceedings are commenced (or a claim is made) against the City (for example for personal injury, workers' compensation or property damage), the City's insurer (LGIS Insurance) will generally take over the conduct of the matter and will either manage the claim itself or engage solicitors from its panel to represent the City. If the City were to act contrary to LGIS' instructions, the City may lose cover under the relevant policy. It is therefore suggested that any policy would need to extend to action undertaken by the City's insurers as a matter of their own accord.

When external solicitors are engaged, they must act in accordance with legislative requirements and onerous professional standards which are enforced by the Legal Practice Board and ultimately, the Supreme Court of Western Australia. General Counsel has general oversight of court proceedings in which the City is involved and is subject to the same professional obligations set out below.

The Professional Obligations:

The primary legislation/rules governing these professional obligations are as follows:

- Legal Profession Uniform Law Application Act 2022.
- WA Barristers' Rules 2017.
- Supreme Court Act 1935.
- Supreme Court Rules.

The professional standards by which a legal practitioner's conduct will be judged include the following:

- Law Society of Western Australia's Ethical and Practical Guidelines [here](#).
- Western Australian Bar Association's Best Practice Paper - Confining the Issues in Dispute in Civil Litigation (Best Practice Paper) [here](#).
- Western Australian Bar Association's Best Practice Paper – Communication and Conferral (Best Practice Paper) [here](#).

The Law Society of Western Australia's Ethical and Practical Guidelines include the following:

- Practitioners are required to act with honesty and integrity, whether in litigious matters or commercial transactions. Practitioners must never misrepresent, mislead or deceive in any way: cl 1.
- The same ethical obligations apply in relation to mediation as apply in all other areas of practice. The paramount duty to the Court and to the administration of justice assumes great practical significance, since mediation is regarded as a primary means of achieving the objectives of case flow management: cl 10.2.
- The primary function of a practitioner in a mediation is to assist the client, not to engage in adversarial advocacy: cl 10.8.

The Western Australian Bar Association's Best Practice Paper *Confining the Issues in Dispute in Civil Litigation* includes the following:

- Lawyers owe ethical duties to their clients and general duties to the court to ensure that cases are conducted so as to avoid unnecessary expense and wastage of court time: cl 1.3.
- The ultimate narrowing of issues is a settlement. Lawyers should advise the acceptance of reasonable offers to settle: cl 3.1.
- Care should be taken when preparing pleadings to ensure that the disputed issues on the pleadings truly reflect the outstanding matters in issue in the proceedings: cl 3.4.
- Lawyers are required to engage in conferral by Order 59 Rule 9 of the SCR before making any interlocutory application: 4.7.

The Western Australian Bar Association's Best Practice Paper – *Communication and Conferral* includes the following:

- An adversarial system should not be unduly combative. Litigation is neither a game nor an opportunity for practitioners to demonstrate their knowledge of "The Art of War": cl 21.
- Practitioners should at all times communicate by reference to their role as professional advisers and officers of the court. This requires the exercise of professional judgment and the avoidance of communicating as a mere mouthpiece of the client. The practitioner's duty is to ensure that only matters necessary for the proper disposition of the claim are dealt with: cl 41.

A search of the eCourts Portal provides that there are a number of decisions involving the City of Joondalup, including the following:

- Supreme Court – 17 decisions.
- State Administrative Tribunal – 169 decisions.
- Magistrates court – Nil.
- District Court – Nil.

Codes of Conduct

If the Council considers it would be beneficial to adopt a *Model Litigant for Civil Litigation Policy*, it should be satisfied whether such a policy is warranted given legal professional standards and guidelines and that the City's obligations under its *Code of Conduct for Employees* which establishes the principles and standards of behaviour employees must observe when performing their duties, intended to promote accountable and ethical decision-making. The code must be read in conjunction with the *Local Government Act 1995*, the *Local Government (Administration) Regulations 1996* and other legislation that affect employees while performing their duties and the code does not override or affect those provisions or requirements.

The City's inhouse legal officer is obliged to act in accordance with the City's Code and to be aware of the extent of the model litigant obligations as ethical issues will frequently arise. Active consideration of the obligations will prevent breaches occurring.

The City's engagement of legal representation to act on its behalf would take into account the City's values, principles and standards observed when performing duties, not excluding their own professional ethical obligations and any laws related to performance of legal work.

Issues and options considered

The Committee may note the information contained within the report and choose to either:

- recommend to the Council to progress development of a *Model Litigant for Civil Litigation Policy*
- not progress development of a *Model Litigant for Civil Litigation Policy*
or
- recommend to the Council that it advocate to the Minister for Local Government and/or WA Local Government Association that a *Model Litigant for Civil Litigation Policy* be considered as part of the review of the *Local Government Act 1995* to enhance the ethical standards of local governments.

Given section 2.7 of the *Local Government Act 1995* provides that the role of Council is in part to determine the local government's policies, it is considered that the Policy Committee considers its preferred option.

Legislation / Strategic Community Plan / Policy implications

Legislation Section 5.92 of the *Local Government Act 1992*.

Strategic Community Plan

Key theme Leadership.

Outcome Capable and effective – You have an informed and capable Council backed by a highly-skilled workforce.

Policy *City of Joondalup Rates Hardship Policy.*
City of Joondalup Payment of Rates and Charges Policy.
City of Joondalup Code of Conduct for Employees.

Risk management considerations

There is no direct enforcement mechanism to ensure compliance with model litigant guidelines. Negative consequences of non-compliance include judicial and public criticism.

Financial / budget implications

Not applicable.

Regional significance

Not applicable.

Sustainability implications

Not applicable.

Consultation

Not applicable.

COMMENT

At the Commonwealth level, the Crown's model litigant rules are now grounded in the *Legal Services Directions*, enforced by the Attorney-General through a light-touch system of self-monitoring and reporting, and the common law through the court's procedural powers to impose costs and stay proceedings in which the government is a litigant, or in extreme cases where failure to meet the model litigant standards has resulted in a miscarriage of justice, overturn the outcome on appeal.

Western Australia has not adopted such rules and is subject to the principles of the common law (where model litigant obligations are still likely to apply).

The City of Joondalup (and legal practitioners representing the City) have various obligations to act fairly reflecting values related to the following:

- Protecting the reasonable expectations of those dealing with the City (that is public trust).
- Ensuring that the powers possessed by the City, whether conferred by statute or by contract, are exercised 'for the public good'.
- Requiring the City to act as 'moral exemplar' leading by example.

Should the Council consider that the adoption of a *Model Litigant for Civil Litigation Policy* would enhance the City's ethical standards as a government body in civil litigation matters, directed more to good governance and administration than mere conduct as a litigant in Court, then consideration might be given to adoption of such a Policy.

However, the Council should also consider whether the Policy is required given there is no known history of allegations that the City has been unethical during civil litigation.

VOTING REQUIREMENTS

Simple Majority.

OFFICER'S RECOMMENDATION

That the Policy Committee CONSIDERS as to whether to recommend to Council that it develop a *Model Litigant for Civil Litigation Policy*.

MOVED Cr Raftis, **SECONDED** Cr Poliwka that Council **SUPPORTS** the development of a *Model Litigant for Civil Litigation Policy*.

The Motion was Put and

CARRIED (7/0)

In favour of the Motion: Cr Thompson, Mayor Jacob, Crs Chester, Hill, Kingston, Poliwka and Raftis.

Appendix 13 refers

To access this attachment on electronic document, click here: [Attach13POL220801.pdf](#)

URGENT BUSINESS

Nil.

MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

REQUESTS FOR REPORTS FOR FUTURE CONSIDERATION

- 1 Cr Kingston requested a report for a policy for the Chief Executive Officer to create and maintain a Register of Resolutions Council.

The Policy would define the following:

- The requirement for the CEO to create and maintain an up-to-date accessible register of previous resolutions of the meetings of Council.
- Which meetings of council or committees would have resolutions maintained as entries in the register.
- The content of each entry is suggested to be the Date, Decision Maker, Reference, Item Title, and Resolution text.

Example:

Date	Meeting of Council/Committee	Reference	Item Title	Resolution Text
2022/07/19	Ordinary Council Meeting	C87-07/22	Minutes of Ordinary Council Meeting held on 28 June 2022 and Special Council Meeting held on 5 July 2022	MOVED Cr May, SECONDED Cr Logan that the Minutes of the following meetings of Council be CONFIRMED as a true and correct record: 1 Ordinary meeting of Council held on 28 June 2022; 2 Special meeting of Council held on 5 July 2022.
2018/11/12	Major Projects And Finance Committee	ITEM 4	Update On The 2018-19 Capital Works Program	MOVED Cr Poliwka, SECONDED Cr Fishwick that the Major Projects and Finance Committee NOTES the report on the Capital Works Project for 2018-19 as at 30 September 2018 forming Attachment 1 to this Report

- 2 Cr Kingston requested a report for a policy to create a Council Members Library for the easy and central access of local government records to assist Council Members performing their roles and functions under the act and facilitate informed decision making.

The Policy would define the following:

- The requirement for the CEO to create and maintain an up-to-date accessible library of records held by the Local Government or others.
- The methods of access for each record including whether the accessible record would be by electronic or physical copy.
- The records to be maintained relating to the performance and function of the Council having regard to suggested list.
- That all current and previous records for each suggested record be made available.
- That all electronic copies would be text searchable.

Suggested records to be contained in the library are as follows:

2.1 Council Agendas and Minutes

- Council Agendas and Minutes (City of Wanneroo from 1980 to June 1998).
- Council Agendas and Minutes (City of Joondalup from July 1998).
- Council Committee Agendas and Minutes (City of Wanneroo from 1980 to June 1998).
- Council Committee Agendas and Minutes (City of Joondalup from July 1998).

2.2 Council Resolutions

- Register of Council resolutions.
- Register of Council Committee resolutions.
- Register of Use of the Common Seal.

2.3 Registers of Local Laws, Policy and Procedures

- Register of Local Laws.
- Register of Policies.
- Register of Protocols and Procedures.

2.4 Records of delegations and appointed persons.

- Register of Delegations.
- Schedule of employment positions/roles which are Office Holders, Appointments, or any authorised persons under any written law or regulation.

2.5 Records regarding Integrated Planning and Reporting and Strategic Planning

- Resourcing plans.
- Strategic Plans (Strategic Community Plan etc.).
- Corporate Business Plan (5 Year).
- Issue Specific Plans.
- Any other plan required by written law or regulation (Recordkeeping Plan, Public Health Plan etc.).

- 2.6 Records regarding allocation of the finances and resources of the Local Government
- Current and Previous Annual Budget's.
 - Current and Previous Corporate Business Plan Quarterly Reports.
 - Organisational Chart.
 - Five Year Capital Works Program.
- 2.7 Contracts and agreements
- Register of contracts.
 - Schedule of Leases.
 - Service Agreements for Specified Area Rates (SARS).
 - Agreements with other Local Governments.
 - Agreements, Memorandums of Understanding etc.
 - All other agreements (Sister City Agreements, Economic Exchange Agreement with Jinan etc.)
- 2.8 Advice
- Register of Legal Advice (All previous and current legal advice held by the City from other sources).
 - Register of Consultant Reports.
 - Register of Valuation Advice and reports.
 - Register of DLGSC advice regarding the role and functions of the Council.
 - Register of DLGSC Guidance Notes, Circulars, etc.
 - Local Government Inquiry Reports.
 - Register of Departmental Advice (DLGSC, DWER, DBCA etc.).
- 2.9 Grants and Sponsorship
- Register of all grants previously made or administered.
 - Register of Affiliations and, Memberships.
 - Patrons and Sponsorships entered by the Local Government.
- 2.10 Advocacy
- Advocacy Framework.
 - Register of Current Advocacy Positions.
 - Strategic Position Statements.
 - Stakeholder Management Plan.

CLOSURE

There being no further business, the Presiding Member declared the meeting closed at 9.00pm the following Committee Members being present at that time:

CR SUZANNE THOMPSON
MAYOR HON. ALBERT JACOB, JP
CR ADRIAN HILL
CR DANIEL KINGSTON
CR RUSSELL POLIWKA
CR JOHN RAFTIS
CR JOHN CHESTER