

minutes

Policy Committee

MEETING HELD ON **TUESDAY 27 APRIL 2010**

TABLE OF CONTENTS

Item No	Title	Page No
	Declaration of Opening	3
	Apologies/Leave of absence	3
	Confirmation of Minutes	3
	Announcements by the Presiding Person without discussion	3
	Declarations of Interest	4
	Identification of matters for which the meeting may sit behind closed doors	4
	Petitions and deputations	4
	Reports	4
Item 1	Policy - Elected Members – Allowances	4
Item 2	Review Of Policy - Representation for Elected Members and Employees	7
Item 3	Review of Council Policy 1.2: Public Participation	10
Item 4	Proposal to Ban Burning on Private Properties — Update	16
.	Motions of which previous notice has been given	22
	Requests for Reports for future consideration	22
	Closure	22

CITY OF JOONDALUP**MINUTES OF THE POLICY COMMITTEE MEETING HELD IN CONFERENCE ROOM 2, JOONDALUP CIVIC CENTRE, BOAS AVENUE, JOONDALUP ON TUESDAY, 27 APRIL 2010****ATTENDANCE*****Committee Members***

Cr Kerry Hollywood
Cr John Chester
Mayor Troy Pickard
Cr Trona Young
Cr Liam Gobbert

Presiding Person
Deputy Presiding Person

*Absent from 1811 hrs to 1813 hrs
and from 1831 hrs to 1833 hrs*

Cr Fiona Diaz

Observers

Cr Brian Corr
Cr Mike Norman

Officers:

Mr Garry Hunt
Mr Jamie Parry
Mr Mike Tidy
Mr Martyn Glover
Mrs Lesley Taylor

Chief Executive Officer
Director, Governance and Strategy
Director, Corporate Services
Director, Infrastructure Services
Administrative Secretary

from 1804 hrs

DECLARATION OF OPENING

The Presiding Person declared the meeting open at 1800 hrs.

APOLOGIES/LEAVE OF ABSENCE

Apology: Cr Hamilton Prime

CONFIRMATION OF MINUTES**MINUTES OF THE POLICY COMMITTEE HELD ON 23 FEBRUARY 2010**

MOVED Cr Diaz, SECONDED Cr Gobbert that the minutes of the meeting of the Policy Committee held on 23 February 2010 be confirmed as a true and correct record.

Cr Chester questioned the accuracy of the Sustainability statement made in relation to the resolution regarding Item 2 – Review of Council Policy 1.2 – Public Participation – (Page 15 refers) of the Policy committee meeting of 23 February 2010, however, as the Item was contained within the agenda for the meeting of 27 April 2010 (Item 3 refers), it was agreed this statement be reviewed during consideration of the Item.

The Motion was Put and**CARRIED (6/0)**

In favour of the Motion: Crs Hollywood, Chester, Diaz, Gobbert, Cr Young and Mayor Pickard

Director, Corporate Services entered the Room at 1804 hrs.

ANNOUNCEMENTS BY THE PRESIDING PERSON WITHOUT DISCUSSION

Nil.

DECLARATIONS OF INTEREST

Disclosure of Financial Interests

Nil.

Disclosure of interest affecting impartiality

Elected Members (in accordance with Regulation 11 of the Local Government [Rules of Conduct] Regulations 2007) and employees (in accordance with the Code of Conduct) are required to declare any interest that may affect their impartiality in considering a matter. This declaration does not restrict any right to participate in or be present during the decision-making process. The Elected Member/employee is also encouraged to disclose the nature of the interest.

Name/Position	Mr Garry Hunt, Chief Executive Officer
Item No/Subject	Item 2 – Review of Policy – Representation for Elected Members and Employees
Nature of interest	Interest that may affect impartiality
Extent of Interest	The policy may impact on the Chief Executive Officer

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

Nil.

PETITIONS AND DEPUTATIONS

Nil.

REPORTS

ITEM 1 POLICY - ELECTED MEMBERS – ALLOWANCES

WARD: All

**RESPONSIBLE
DIRECTOR:** Mr Jamie Parry
Governance and Strategy

FILE NUMBER: 26176

ATTACHMENTS: Attachment 1 Policy - Elected Members - Allowances

PURPOSE/EXECUTIVE SUMMARY

The Local Government Officers' Award has previously been used to calculate travel expenses for Elected Members.

Following a review of all Federal Local Government Awards, the Local Government Officers' Award was replaced with the Local Government Award 2010. As the Local Government Award 2010 does not contain a table of mileage rates, it is recommended that Policy – Elected Members – Expenses be amended to reflect a new reference point to calculate travel expenses for Elected Members.

BACKGROUND

Policy – Elected Members – Allowances outlines the support and allowances available to Elected Members.

Clause 7.3(c) of the Policy states that *“Travel expenses claimed under this policy are to be calculated in accordance with the rate per kilometre prescribed for the class of vehicle as detailed in the Local Government Officers' Award where the member's vehicle is used.”*

DETAILS

Issues and options considered:

Following a review of all Federal Local Government Awards, the Local Government Officers' Award was replaced with the Local Government Award 2010. As the Local Government Award 2010 does not contain a table of mileage rates, Policy – Elected Members – Expenses requires to be amended to reflect a new reference point to calculate travel expenses for Elected Members.

It is recommended that Clause 7.3(c) of the Policy be amended to reflect that the mileage rates within the Public Sector Award are now used to calculate travel expenses. The proposed amendment is shown on Attachment 1 to this Report.

The mileage rates within the Public Sector Award, now being used for reimbursement of travel costs for Elected Members, are as follows:

Engine displacement (cubic centimeters)	Over 2600 cc	Over 1600 cc to 2600 cc	1600 cc and under
Metropolitan area (cents per kilometer)	89.5	64.5	53.2

Legislation/Strategic Plan/Policy Implications

Legislation Not applicable.

Strategic Plan

Key Focus Area: Leadership and Governance

Objective: To lead and manage the City effectively.

Policy Policy – Elected Members – Allowances.

Risk Management considerations:

Not applicable.

Financial/Budget Implications:

Not applicable.

Regional Significance:

Not applicable.

Sustainability implications:

Not applicable.

Consultation:

Not applicable.

COMMENT

The Public Sector Award does not apply to local government, however the Department of Local Government has recommended that the mileage rate table included in the Public Sector Award is an appropriate reference point for the calculation of travel expenses for Elected Members.

VOTING REQUIREMENTS

Simple majority

Cr Gobbert left the Room at 1811 hrs and returned at 1813 hrs.

MOVED Cr Young, SECONDED Cr Chester that the Policy Committee RECOMMENDS that Council AMENDS Clause 7.3(c) of Policy – Elected Members – Allowances as outlined on Attachment 1 to this Report.

The Motion was Put and

CARRIED (6/0)

In favour of the Motion: Crs Hollywood, Chester, Diaz, Gobbert, Cr Young and Mayor Pickard

Appendix 1 refers

To access this attachment on electronic document, click here: [Attach1policy100427.pdf](#)

Disclosure of interest affecting impartiality

Name/Position	Mr Garry Hunt, Chief Executive Officer
Item No/Subject	Item 2 – Review of Policy – Representation for Elected Members and Employees
Nature of interest	Interest that may affect impartiality
Extent of Interest	The policy may impact on the Chief Executive Officer

ITEM 2 REVIEW OF POLICY - REPRESENTATION FOR ELECTED MEMBERS AND EMPLOYEES

WARD: All

RESPONSIBLE DIRECTOR: Mr Jamie Parry
Governance and Strategy

FILE NUMBER: 13562

ATTACHMENTS: Attachment 1 Draft Policy 8-7 Representation for Elected Members, the CEO and Employees
Attachment 2 Current Policy 8-7 Representation for Elected Members and Employees

PURPOSE/EXECUTIVE SUMMARY

To present the Policy Committee with an amended version of the City's Policy 8-7 *Legal Representation for Elected Members and Employees* for its consideration.

The purpose of the amendments is to distinguish the manner in which Elected Members, the Chief Executive Officer (CEO) and Employees are able to seek payment for legal representation costs under the policy.

BACKGROUND

Following an incident whereby a City Employee and the CEO were subject to a vexatious legal claim brought against them, it was considered necessary to review the policy for legal representation to ensure that Employees are sufficiently protected in the future should a similar incident occur.

DETAILS

The Draft Policy (provided at Attachment 1) seeks to create an *entitlement* for Employees to receive payments for legal representation costs arising from matters in relation to their day-to-day functions.

In the current policy, Elected Members, the CEO and Employees are subject to the same procedure for obtaining payment approval, that is, all applications for payments must be approved by Council and are subject to three major payment criteria:

- *The Legal Representation Costs must relate to a matter that arises from the performance, by the Elected Member or Employee, of his or her functions;*
- *The Legal Representation Costs must be in respect of Legal Proceedings that have been, or may be, commenced; and*

- *In performing his or her functions, to which the Legal Representation relates, the Elected Member or Employee must have acted in good faith and must not have acted unlawfully or in a way that constitutes improper conduct.*

It is not suggested that the payment criteria listed above be amended, however, the Draft Policy does recommend the following changes:

- All Employees (excluding the CEO) are exempt from obtaining Council approval to receive payments for legal representation costs.

This is based on the rationale that the CEO is responsible for the management of the day-to-day operations of the City under the Local Government Act 1995 and should therefore be responsible for approving Employee payment applications within a reasonable limit.

Applications for payment of legal representation costs by Employees must contain the same information as Elected Member and CEO applications, the only difference being that an Employee application does not have to be presented to Council unless it is required by the CEO.

- The CEO must obtain approval from Council in the same manner as Elected Members.

This is based on the rationale that the CEO is appointed by Council and is ultimately accountable to it.

- When multiple applications for a particular matter are submitted, an estimate must be obtained from the selected legal representative regarding the costs required to complete the legal action.

This was considered necessary to prevent an unreasonable number of applications being submitted to Council or the CEO in relation to the same matter. It also provides an estimate as to how many applications may be anticipated from an individual applicant.

Issues and options considered:

- Option 1: Recommend that Council adopts the Draft Policy provided at Attachment 1.
- Option 2: Consider the Draft Policy provided at Attachment 1 and recommend that Council requests additional amendments.
- Option 3: Recommend that Council does not adopt the Draft Policy provided at Attachment 1 and instead chooses to retain the Policy in its current form.

Link to Strategic Plan:

- Objective 1.3: To lead and manage the City effectively.
Strategy 1.3.1: The City develops and implements comprehensive and clear policies which are reviewed regularly.

Legislation – Statutory Provisions:

Not applicable.

Risk Management considerations:

Not applicable.

Financial/Budget Implications:

Policy 8-7 *Legal Representation for Elected Members and Employees* relates to City payments of legal representation costs for Elected Members, the CEO and Employees.

Policy implications:

This report suggests amendments to the City Policy 8-7 *Legal Representation for Elected Members and Employees*.

Regional Significance:

Not applicable.

Sustainability implications:

Not applicable.

Consultation:

Not applicable.

COMMENT

Not applicable.

VOTING REQUIREMENTS

Simple Majority.

MOVED Cr Chester, SECONDED Cr Young that the Policy Committee RECOMMENDS that Council ADOPTS the Draft Policy 8-7 Legal Representation for Elected Members, the Chief Executive Officer and Employees in the format provided at Attachment 1 to this Report.

The Motion was

NOT PURSUED

MOVED Mayor Pickard, SECONDED Cr Diaz that the Policy Committee RECOMMENDS that Council DOES NOT amend Draft Policy 8-7 Legal Representation for Elected Members and Employees as shown on Attachment 1 to this Report.

The Motion was Put and

CARRIED (6/0)

In favour of the Motion: Crs Hollywood, Chester, Diaz, Gobbert, Cr Young and Mayor Pickard

Appendix 2 refers

To access this attachment on electronic document, click here: [Attach2policy100427.pdf](#)

ITEM 3 REVIEW OF COUNCIL POLICY 1.2: PUBLIC PARTICIPATION

WARD: All

RESPONSIBLE DIRECTOR: Mr Jamie Parry
Governance and Strategy

FILE NUMBER: 75521

ATTACHMENTS: Attachment 1 Option 1 - Draft Community Consultation and Engagement Policy
Attachment 2 Option 3 - Public Participation Policy 1.2

PURPOSE/ EXECUTIVE SUMMARY

To present information pertaining to a review of Policy 1-2 - Public Participation.

BACKGROUND

At the meeting of Council held on 15 December 2008, a request was received for a report to the Policy Committee on a review of the Public Participation Policy 1.2. The review included consideration of the Public Participation Strategy which was written to support the Policy in 2005 and later amended in 2006. The Strategy supported implementation of the Policy by providing guidance on:

- The identification of issues requiring public participation;
- The inclusion in the annual budget process of funding for public participation activities;
- Increasing staff awareness and skills in public participation techniques;
- How all sectors and groups within the community can have the opportunity to participate in the City's activities; and
- A community education program relating to public participation in the City's affairs.

A report was presented to the Policy Committee at its meeting of 9 September 2009 that took into account the practical experience acquired from designing and carrying out consultation processes, the current literature on community engagement and consultation and a desktop review of policy documents of other local governments that had been redrafted or written in the last 12 months.

On receiving the report, the Policy Committee requested a further report concerning a future Community Consultation and Engagement Policy. This report was presented to the Policy Committee at its meeting held on 23 February 2010, whereby it was resolved that the *Policy Committee RECOMMENDS that Council:*

1. *DELETES Council Policy 1.2 – Public Participation;*
2. *ADOPTS Council Policy - Community Consultation and Engagement forming Attachment 1 to this Report, subject to the inclusion of the following additional statement:*

“Sustainability

This Policy ensures that decisions by the Council are made with full knowledge, which may potentially support sustainable outcomes.

The Policy provides a clear statement of the Council's intention to make itself aware of community opinion in order to inform decision-making. The Policy seeks to ensure that all groups in the community have the opportunity to engage with the Council on matters that affect them, and will contribute to an improved quality of the decisions reached, and greater acceptance of the final Council decisions by members of the community."

The minutes of the Policy Committee meeting of 23 February 2010 were presented to the Council meeting of 16 March 2010 whereby it was resolved inter alia that the Council REFERS Council Policy 1.2 – Public Participation and proposed Council Policy - Community Consultation and Engagement back to the Administration to enable further engagement with the Elected Members.

DETAILS

It is proposed that the City's Public Participation Policy 1.2 and its supporting Strategy are replaced with a Community Consultation and Engagement Policy. The proposed Policy is divided into two parts. The first part identifies what the City will do when engaging with the community on matters associated with local governance and the second part identifies how the community will be actively encouraged to take up opportunities to participate. In this way, the proposed Policy incorporates aspects of the Public Participation Strategy that have been shown to be effective in practice and are most strongly supported by contemporary literature. The Strategy, which has previously been an internal document, will no longer be required given that the major elements have been incorporated into the proposed Community Consultation and Engagement Policy.

The following table concerns the first part of the proposed Policy and identifies statements that have been included in the document and the benefits of doing so.

Statement	Benefits
The purpose and scope of each consultation exercise is clear and unambiguous.	<ul style="list-style-type: none"> Identifies issue/Sets agenda. Identifies "out of scope" matters up front. Provides for the articulation of a representative sample. Explains how information will be sought from the public and what it will be used for. Sets a standard for the information to be provided to the public.
Timeframes of any consultation undertaken, including the opening and closing dates, are stated.	
Non negotiable aspects of a consultation are stated.	
The target audience for a consultation exercise is stated.	
The extent to which the outcome of a consultation will influence a Council decision is identified.	
The consultation methods to be employed for each consultation exercise are stated.	
Accurate, adequate and unbiased information is provided for the public to give informed opinions.	
Adequate time and resources are provided for consultation processes to take place.	<ul style="list-style-type: none"> Identifies level of resources needed for consultation – indicative of commitment.

Analysis of the feedback from a consultation process will be published on the City's website.	<ul style="list-style-type: none"> Public education/information. Could be linked to an opportunity for the public to evaluate the extent to which they were 'engaged.'
Where applicable, statutory legislative requirements for community consultation are satisfied.	<ul style="list-style-type: none"> Indicates base level requirements for consultation.
Circumstances where wide consultation is not possible: <ul style="list-style-type: none"> Emergencies – matters concerning public safety etc. Legal constraints. 	<ul style="list-style-type: none"> Identifies practical limitations of consultative processes.

The second part of the proposed Policy focuses on the continuing need for community education for participation and refers to the provision of opportunities for 'active citizenship' in the City of Joondalup.

Retention of community education as a component of a new Community Consultation and Engagement Policy reflects review findings that community interest and involvement in policies, plans and service delivery continues to be challenging. There is the risk that low rates of participation may serve to invalidate the outcomes of a consultative process from a community perspective and increase public distrust and disaffection. Effective community education on opportunities to become 'active citizens' will serve as a vehicle for building trust with the community at the same time as empowering them to get involved.

Practical implementation of both parts of the proposed Policy will be guided by operational protocols on:

- how representativeness is to be sought on specific issues;
- participant identification;
- what methods of community engagement could be used by the City;
- when (time of year/suitable dates and times) and where community engagement could take place; and lastly,
- how 'active citizenship' will be promoted through community education.

How representativeness will be sought

The proposed Policy identifies that a target audience will be identified for any consultation process and that this '*may involve random selection of participants.*' A protocol will outline how this may be done dependent on whether the consultation is to be exploratory and therefore 'open-ended' or whether it is to identify levels of community support for options that have already been identified.

Exploratory consultations are those in which the community is invited to contribute in ways that allow for the capture of their attitudes, values and beliefs on matters such as the development or review of a strategy, policy, plan or service. To encourage participation that encompasses the broader community, random selection of a representative sample of City residents are invited to become involved. Selection may be at the level of a geographic area or across the whole of the City. Opportunities to participate may also be advertised widely and through a range of communication channels. Exploratory consultations are those in which any individual or group with an interest in the matter may participate.

Consultation on identified options occurs when Council has already given 'in principle' support for a course of action as set out in a plan, policy, strategy or service but wishes to determine levels of community support before going further. In these circumstances, representation is a critical factor because the information sought must be aggregated to

provide a result, usually in the form of a percentage response, to identify preferred options. As previously, selection may be at the level of a geographic area or across the whole of the City but the sample selected must be representative of the population for the discrete geographic area or the whole of the City.

Participant Identification

This is dependent on whether a consultation is exploratory or concerns predetermined options. During exploratory consultations where matters are in the developmental stage, participants may remain anonymous (other than having provided basic demographic information). During consultations to identify levels of community support for a particular option, being able to identify participants is important for the purposes of validation.

It should be noted that it is the City's usual practice to request the names and addresses of those responding to surveys during formal consultation efforts, in order for the response to be valid. However, there may be circumstances where anonymity to a subject matter may be appropriate to elicit a suitable community response. In those circumstances the consultation will be tightly controlled to ensure legitimacy of responses.

Methods of Engagement

In general, exploratory matters may be addressed using on or off-line community forums, focus groups and even surveys (using only open-ended questions) as they provide opportunities for people to learn about the topic and to express their values, attitudes and beliefs on the matter.

In circumstances where community input is limited to deciding amongst the available options, on or off-line surveys using closed questions are the most appropriate method for determining levels of community support.

When and where for consultation?

At the last meeting of the Policy Committee it was felt that consultations ought not to be conducted over the Summer period (being after the final ordinary meeting of Council in December to the first ordinary meeting of Council February of the following year). Two exceptions should be noted:

- On some occasions consultation during the Summer may be entirely appropriate and justifiable and approval for any consultation to be held is to be determined by Council;
- Compliance with statutory requirements concerning advertising for planning or approvals matters may make it necessary to advertise consultations during the Summer period. Approval for any consultation is to be determined by the CEO.

Off or online?

Exploratory types of consultation using workshops, community forums or reference groups have traditionally been held at City venues and usually during the evening to cater for work commitments. Whilst events of this nature cannot be said to be representative of the interests of the community as a whole, they do provide opportunities for identifying issues, concerns and potential solutions on a broad range of matters

With the advent of social media, people can now become aware of and actively contribute to consultative processes via the internet. To date the City has used online surveys on a number of occasions and is currently researching capacity for exploratory types of online consultation such as moderated online forums or blogs.

Promotion of Active Citizenship

As noted in the previous report, community education for active citizenship would primarily be targeted toward 'new citizens' in the City and include:

- The obligations of citizenship
- The role of the City in local governance
- Why community participation in local governance is important
- The differences between consultation (option preference) and engagement (exploration of the issues)
- Typical opportunities to participate
- How opportunities to participate will be communicated and managed – on and offline
- How the community will be able to evaluate the City's performance in managing a participative process

Issues and options considered:

The Policy Committee may:

Option One: Approve the draft Community Consultation and Engagement Policy for referral to Council for consideration as a replacement for Council Policy 1.2 Public Participation. The draft policy (as amended by the Policy Committee at its February 2010 meeting) is shown as Attachment 1 to this report.

Option Two: Amend the draft Community Consultation and Engagement Policy prior to referral to Council

Option Three: Retain Council Policy 1.2 Public Participation (and the present version of the Public Participation Strategy) with an amendment to reflect the fact that a Public Participation Strategy has been in place since 2005. The amended Policy is shown as Attachment 2 to this report.

Option One is recommended as it contains clear statements on what the City will do when seeking to engage with the community and incorporates the most salient aspects of the current Public Participation Strategy.

Legislation/Strategic Plan/Policy Implications

Legislation Section 1.3 (2) (b) and (c) of the Local Government Act (1995). Refers to greater community participation in the decisions and affairs of local governments; greater accountability of local governments to their communities

Strategic Plan

Key Focus Area: Leadership and Governance
Objective: To engage proactively with the community

Policy 1.2 Public Participation

Risk Management considerations:

There is a risk associated with Council making decisions on the conduct of community consultation and engagement processes without a clear idea of developments in best practice on the national and international level.

Financial/Budget Implications:

There are financial implications associated with community consultation and engagement and these are considered during the annual budget process.

Regional Significance:

Not applicable

Sustainability implications:

Sustainable development is dependent on the practices associated with 'good governance' such as openness and transparency and the active involvement of citizens in decision-making. The literature on sustainable development indicates that by involving citizens in decisions likely to have an impact on them, then providing opportunities for information (learning) and deliberation, the outcome of a participative process is more likely to be accepted and also sustainable in the long term.

The City is faced with making decisions that will affect most citizens in one way or another, whether it be financially, environmentally or socially, at the level of a single street or across all 22 suburbs which make up the City of Joondalup. To ensure that those decisions are made with a '*clear understanding of the wishes of its community*' (Strategic Plan 2008 – 2011) and therefore sustainable, greater efforts are necessary to increase levels of community consultation and engagement through targeting and direct invitations to those most affected by a matter and at the same time, providing community education on 'active citizenship' in the interests of acting for 'the public good.'

Consultation:

Not applicable.

COMMENT

Community consultation and engagement processes are evolving exponentially as tools of governance on the national and international stage. In the process of carrying out the review of the Public Participation Policy 1.2 and Public Participation Strategy it was found that many local governments had revised their policies and practices within the last 12 months.

The proposed draft Community Consultation and Engagement Policy has been informed by professional and academic literature, the practice of other local governments and the practical experience gained from implementing the current Policy and Strategy.

It should be noted that with all significant consultation efforts the Council will be informed of the community engagement strategy proposed to be undertaken, including:

- Purpose of the consultation.
- Who will be consulted?
- How will the consultation be undertaken?
- Communication methods to be used.
- Documentation required for the consultation.

VOTING REQUIREMENTS

Simple Majority

OFFICER’S RECOMMENDATION: That the Policy Committee RECOMMENDS that Council:

- 1 DELETES Council Policy 1.2 – Public Participate forming Attachment 2 to this Report;
- 2 ADOPTS Council Policy - Community Consultation and Engagement forming Attachment 1 to this Report.

MOVED Mayor Pickard, SECONDED Cr Chester that debate on the Item pertaining to Council Policy – Community Consultation be adjourned until the Policy Committee meeting to be held on 24 August 2010.

The Motion was Put and

CARRIED (6/0)

In favour of the Motion: Crs Hollywood, Chester, Diaz, Gobbert, Cr Young and Mayor Pickard

Appendix 3 refers

To access this attachment on electronic document, click here: [Attach3policy100427.pdf](#)

ITEM 4 PROPOSAL TO BAN BURNING ON PRIVATE PROPERTIES — UPDATE

WARD: All

RESPONSIBLE DIRECTOR: Mr Jamie Parry
Governance and Strategy

FILE NUMBER: 29061

ATTACHMENTS: Attachment 1 Burning Apparatus/Processes

PURPOSE / EXECUTIVE SUMMARY

This report provides the Policy Committee with an update on the status of the proposal to ban burning on private properties.

BACKGROUND

At the Policy Committee meeting on 16 September 2008, a report was requested to be presented to the next meeting of the Policy Committee in relation to backyard fires. A report was presented to the Committee on 15 December 2008 from which the Policy Committee elected to recommend Council adopt Option 2, namely, “agree to publish a notice in the Government Gazette and in a local newspaper stating that “backyard burning and the use of incinerators are prohibited within the City of Joondalup at all times” and amend the City’s current Policy 6-5 — Burning on Private Property to state that the City will not issue permits.” This recommendation went to Council where it is stated that “Mayor Pickard advised that the report in relation to backyard burning had been withdrawn and [would] be resubmitted at a later stage.” A report was then sent to the Briefing Session of 10 February 2009, following

which, the matter was referred back to the Policy Committee.

A second report went to the Policy Committee on 4 March 2009. In this report, the City presented its position *that “instituting a blanket ban for burning on private property may be of some merit to residents from both a safety and public health perspective. However, the ban should be for the purposes of restricting potential fire hazards and smoke created from burning green waste and rubbish only.”* A motion was carried to recommend *“a paper on the “Burning Ban on Private Properties” be advertised for public comment and a report be submitted back to the Policy Committee for consideration.”* This was endorsed by Council at its meeting on 17 March 2009.

In addition, it should also be noted that an 18-signature petition to *“permanently ban the practice of burning of garden refuse or other waste in residential backyards”* was tabled at the Council Meeting on 15 December 2009.

DETAILS

The City has several instruments enabling it to regulate burning on private property to a certain degree. These include:

1. Bush Fires Act 1954 — which provides the City, inter alia, with the following powers:
 - ability to make local laws that require owners and occupiers of land to have sufficient firebreaks in place;
 - ability to appoint Bush Fire Control Officers for the purposes of ensuring that effective firebreaks are in place during the bush fire season;
 - ability to issue permits that allow bush to be burnt during restricted burning times;
 - ability to prohibit the burning of garden refuse or rubbish in an incinerator or on the ground on private premises by publishing a notice in the *Government Gazette*; and
 - ability to issue permits for lighting fires on private premises for cooking or camping.
2. Health Act 1911 — which provides the City with the following powers:
 - ability to make local laws for the purposes of preventing nuisances.
3. Bushfire Prevention and Control Local Law 1998 — which allows:
 - authorised City Officers to require occupiers of land within the City to establish and maintain firebreaks following the commencement of the firebreak period.
4. Policy 6-5 — Burning on Private Property — which states:
 - Residential Garden Refuse and other Rubbish:
 - Garden refuse and rubbish intended for burning shall be placed on the ground in a heap no more than one metre across and to a height of no more than 1 metre. Only one heap may be burnt at any one time.
 - Between 1 October and 31 May annually, provided that the day of burning is not designated as an extreme or very high fire danger rating, garden refuse may be burned between 6.00pm and 11.00pm only.

- Cleared Land Development Sites:
 - The burning of cleared vegetation on subdivisional land development sites shall be prohibited at all times.

The majority of the regulatory powers above only apply during prohibited and restricted burning times, which are as follows:

- Prohibited burning times are from 1 December to 31 March
- Restricted burning times are from 1 October to 30 November and from 1 April to 31 May.

This means that the months of June, July, August and September are currently not subject to burning restrictions under the *Bush Fires Act 1954* or the City's *Bushfire Prevention and Control Local Law 1998* and are therefore mostly unregulated by the City. The *Health Act 1911* enables smoke from burning to be dealt with under nuisance provisions; however, this only applies to the burning of rubbish and does not include garden refuse. Issues also surround prosecuting nuisance offences, which may reduce the effectiveness of such an approach. For an effective blanket ban to be achieved, the months currently not subject to regulation will need to be incorporated into the restricted burning period.

Issues and Options Considered:

In previous reports, the City has proposed various options of how to implement a blanket ban on burning on private property. These options have been reproduced below (see Attachment 1 for the different types of burning apparatus/processes mentioned in this section).

1. Following a resolution of Council, publish a notice in the *Government Gazette* and in a local newspaper stating that “*burning on private property and the use of incinerators are prohibited within the City of Joondalup at all times without a permit*” and amend the City's *Policy 6-5 — Burning on Private Property* to reflect this.

Effect: This option would restrict people from burning any materials using the following apparatus/processes:

- 44-gallon drum (possibly)
- brazier
- chiminea (possibly)
- fire pit
- hangi
- household incinerator
- Webber-type BBQ (possibly)
- wood-fired BBQ (possibly)
- directly on the ground

Burning using these apparatus/processes would be banned at any time during the year without obtaining a permit from the City. The City could then develop criteria for determining the circumstances in which a permit would be issued and amend the City's *Policy 6-5 — Burning on Private Property* to reflect this.

2. Following a resolution of Council, publish a notice in the *Government Gazette* and in a local newspaper stating that “*burning on private property and the use of incinerators are prohibited within the City of Joondalup at all times*” and amend the City's current *Policy 6-5 — Burning on Private Property* to state that the City will not issue permits.

Effect: This option would restrict people from burning any materials using the following apparatus/processes:

- 44-gallon drum (possibly)
- brazier
- chiminea (possibly)
- fire pit
- hangi
- household incinerator
- Webber-type BBQ (possibly)
- wood-fired BBQ (possibly)
- directly on the ground

Burning using these apparatus/processes would be banned at any time during the year. The City's *Policy 6-5 — Burning on Private Property* would then make it clear to residents that burning on private property and the use of incinerators are banned, and permits are not be available.

3. Following a resolution of Council, publish a notice in the *Government Gazette* and in a local newspaper stating that “*burning on private property and the use of incinerators are prohibited within the City of Joondalup at all times, excluding enclosed devices used for the purposes of cooking or heating*” and amend the City's current *Policy 6-5 — Burning on Private Property* to state that the City will not issue permits.

Effect: This option would effectively restrict people from burning any materials in:

- 44-gallon drum (possibly)
- brazier
- fire pit
- hangi
- household incinerator
- (open) wood-fired BBQ (possibly)
- directly on the ground

By excluding “*enclosed devices used for the purposes of cooking or heating*”, the City will ensure that chimineas, hangis, potbelly stoves, Webber-type BBQs, wood-fired BBQs (if enclosed), and wood-fired pizza ovens, are not captured by a blanket ban. The City's *Policy 6-5 — Burning on Private Property* would then make it clear to residents that burning on private property using any other type of apparatus/process is banned at all times, and permits are not available.

4. Introduce a local law under the general powers provisions of the *Local Government Act 1995*, to ban specific materials from being burnt and to ban specific processes for burning on private property, as determined by Elected Members.

Effect: This option would enable Council to specify the materials and burning processes to be banned, however, legal advice would need to be obtained to ensure that no inconsistencies exist between provisions in the local law and other legislation. In addition, it should be noted that the process for introducing a local law is often long and expensive and is best avoided if other effective options are also available.

5. Amend the City's *Health Local Laws 1999* to prohibit the burning of rubbish on the ground or in an incinerator.

Effect: This option has been pursued by the City of Rockingham; however, it has not proved particularly effective as the prohibition only captures a limited number of materials and does not extend to green waste. Moreover, the new *Health Bill* has omitted the nuisance provisions and as such, the City's *Health Local Law 1999* will require a major review in the next 12 to 18 months and may not be able to capture offences relating to smoke emissions.

6. Maintain current situation.

Effect: This option would enable City Officers to issue permits for residents to burn garden refuse, rubbish or bush on the ground or in an incinerator during prohibited or restricted burning periods in accordance with the City's *Policy 6-5 — Burning on Private Property* and the *Bush Fires Act 1954*.

Legislation/Strategic Plan/Policy Implications:

Legislation:

- *Local Government Act 1995* (WA)
- *Bush Fires Act 1954* (WA)
- *Health Act 1911* (WA)
- *Bush Fire Prevention and Control Local Law 1998* (City of Joondalup)
- *Health Local Law 1999* (City of Joondalup)

Strategic Plan: Not applicable

Policy: Following a public consultation, should options 1, 2, 3 or 4 be adopted, the City's *Policy 6-5 — Burning on Private Property* will require amending to reflect the elements of the option pursued.

Risk Management Considerations:

As noted in previous reports, there is a risk that instituting a complete fire ban may seem unreasonable to residents who are undertaking all necessary precautions to ensure that fires on private property are contained. Limiting reasonable acts within a controlled environment on private land may appear to some residents as an unwarranted overregulation on behalf of the City.

In addition, instigating a blanket ban on burning on private properties may have far-reaching implications for many residents, particularly those who possess relatively commonplace cooking and heating apparatus (e.g.: chiminea, wood-fired pizza oven, etc.).

Financial/Budget Implications:

Not applicable

Regional Significance:

Not applicable

Sustainability Implications:

Not applicable

Consultation:

The risks associated with instigating a blanket ban on burning on private properties has been identified in the 'Risk Management Considerations' above. Therefore, it is the City's intention to develop a discussion paper to be released for public comment with the results submitted to the Policy Committee at their next meeting on 24 August 2010. This is in accordance with the Council decision from its meeting on 17 March 2009, namely that Council:

“AGREES that a paper on the “Burning Ban on Private Properties” be advertised for public comment for a period of thirty (30) days and a report be submitted to the Policy Committee for consideration.”

The purpose of this consultation will be to determine the level of community/stakeholder support for the City to instigate a ban on burning on private properties. Additionally, if a ban were to be adopted, which burning apparatus/processes do the community believe should be banned.

It is intended that the discussion paper, once developed, will be sent directly to relevant stakeholders for comment, specifically:

- Fire and Emergency Services Authority of Western Australia (FESA)
- Wanneroo/Joondalup State Emergency Service Unit (SES)
- Wanneroo Volunteer Fire Support Brigade
- Local Emergency Management Committee
- Department of Environment and Conservation, Air Quality Branch
- Asthma Foundation of Western Australia
- City of Wanneroo
- Petitioners noted in the petition tabled at the Council Meeting on 15 December 2009

The discussion paper will also be made available electronically to all members of the community via the City's website and in hard-copy form upon request. It is intended that the consultation will be advertised through the *Joondalup Times* and the *Joondalup Weekender* and also on the homepage of the City's website.

This discussion paper will be circulated to Elected Members for comment, prior to being released for public consultation.

COMMENT

It is anticipated the results of the consultation will assist the Policy Committee in making its recommendation to Council.

VOTING REQUIREMENTS

Simple majority

Cr Gobbert left the Room at 1831 hrs and returned at 1833 hrs.

OFFICER'S RECOMMENDATION: That the Policy Committee NOTES the status report dated 27 April 2010, in relation to the proposal to Ban Burning on Private Properties.

MOVED Mayor Pickard, SECONDED Cr Hollywood that the Policy Committee RECOMMENDS that Council:

1 publishes a notice in the local newspaper stating that:

“burning of residential garden refuse and rubbish on private property and the use of incinerators are prohibited within the City of Joondalup at all times, excluding devices used for the purposes of cooking or heating.”;

2 AMENDS Policy 6-5 – Burning on Private Property to reflect Part 1 above and that the City will not issue permits.

The Motion was Put and

CARRIED (6/0)

In favour of the Motion: Crs Hollywood, Chester, Diaz, Gobbert, Cr Young and Mayor Pickard

Appendix 4 refers

To access this attachment on electronic document, click here: [Attach4policy100427.pdf](#)

MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

REQUESTS FOR REPORTS FOR FUTURE CONSIDERATION

Street Lighting

Cr Young requested information in relation to the replacement and cost of street lighting shades and the process to be undertaken by residents in liaising with Western Power.

The Chief Executive Officer advised that details would be placed on the Desk of the CEO.

CLOSURE

There being no further business, the Presiding Person declared the Meeting closed at 1855 hrs, the following Committee Members being present at that time:

Cr Kerry Hollywood
Cr John Chester
Mayor Troy Pickard
Cr Trona Young
Cr Liam Gobbert
Cr Fiona Diaz

ELECTED MEMBERS - ALLOWANCES

STATUS:	City Policy - <i>A policy that is developed for administrative and operational imperatives and has an internal focus.</i> <i>Developed by the Policy Committee and/or the administration and adopted by Council.</i>
RESPONSIBLE DIRECTORATE:	Office of the CEO
OBJECTIVE:	The objective of this document is to provide a clear outline of the support and allowances available to the City's Elected Members.

TABLE OF CONTENTS

	Page
INTRODUCTION	
PART 1 – PROVISION OF SUPPORT	3
1.1 Objective	3
1.2 Mayor	3
1.3 Deputy Mayor and Councillors	4
PART 2 – ISSUE AND RETURN OF COUNCIL EQUIPMENT	4
2.1 Objective	4
2.2 Equipment	4
2.3 Documentation	5
2.4 Other Items	5
2.5 Vehicle Licence Number Plate	6
2.6 Return of Equipment Issued	6
PART 3 – PAYMENT OF FEES AND ALLOWANCES	6
3.1 Objective	6
3.2 Annual Meeting Attendance Fees	6
3.3 Annual Local Government Allowance - Mayor and Deputy Mayor	7
3.4 Telecommunications Allowance	7
3.5 Information Technology Allowance	7
3.6 Conditions of Payment	8

PART 4 – ATTENDANCE AT CONFERENCES AND TRAINING WITHIN AUSTRALIA	8
4.1 Objective	8
4.2 Statement	8
4.3 Annual Conference and Training Expense Allocation	8
4.4 Definition	9
4.5 Approval	9
4.6 Conferences and Training that may be Attended	9
4.7 Payment of Conferences and Training Costs	10
4.8 Elected Members/Delegates Accompanying Persons	14
4.9 Guidelines for Conference and Training Attendance	14
PART 5 – ATTENDANCE AT OVERSEAS CONFERENCES	15
PART 6 – REPORT	16
PART 7 – REIMBURSEMENT OF EXPENSES	16
7.1 Objective	16
7.2 Child Care	16
7.3 Travel	17
7.4 Other Specified Expenses	17
7.5 Time Limit on Claims and Approval Process	18

INTRODUCTION

The document has been prepared to conform with the provisions relevant to Elected Member entitlements under the Local Government Act 1995, Local Government Amendment Act 2004 and Regulations made under these Acts.

Where this policy refers to an annual period, the period shall be from October to October in the following year.

PART 1 – PROVISION OF SUPPORT

1.1 Objective

To provide elected members with appropriate facilities, equipment, material and information to support them in performing their duties of office.

1.2 Mayor

- (1) The Mayor shall, in carrying out the duties and responsibilities of that office, be entitled to receive the benefit of the following facilities without the reduction of the fees and allowances approved by Council under Section 5.98, 5.98A, 5.99 and 5.99A of the Local Government Act 1995:

- (a) The provision of a luxury sedan type motor vehicle with unrestricted use for all official and social duties connected to the office of Mayor and for personal private use. This vehicle will be changed over in accordance with the City's general management of its light vehicles fleet.
- (b) Where the office of Mayor is provided with a vehicle as detailed in (a) above, the costs associated with the Mayor's private use of the vehicle are to be reimbursed by the Mayor.

The calculation of the reimbursement for the private use is by way of a log book in accordance with the requirements of the Australian Taxation Office.

- (c) Membership of the Qantas Club;
- (d) The cost of the Mayor and Partner of attending any breakfast, dinner or similar function where invited as the Mayor and representative of the City provided such function does not fall into the category of a conference and training event as defined in clause 4.4 of this policy or is not for election purposes;
- (e) Suitable contemporary office accommodation within the Civic Centre;
- (f) Secretarial services including word processing, photocopying and postage;

- (g) Administrative assistance associated with any Council functions, meetings, publications and the like;
- (h) Access to the Elected Members Lounge and Office refreshments;
- (2) All equipment and facilities subject of this policy are provided to the Mayor on the absolute understanding that they will not be used for any election purposes.

1.3 Deputy Mayor and Councillors

- (1) The Deputy Mayor and Councillors shall, in carrying out the duties and responsibilities of their office, be entitled to receive the benefit of the following facilities without the reduction of the fees and allowances under Section 5.98, 5.98A, 5.99 and 5.99A of the Act:
 - (a) Access to the Elected Member Lounge and refreshments;
 - (b) Access to suitably equipped shared office accommodation, reading room, ward meeting and conference rooms within the Civic Centre with photocopying, printing, facsimile and telephone facilities;
 - (c) Some secretarial support as resources allow including limited word processing, photocopying, and postage;
 - (d) The cost of the Deputy Mayor or Councillor, plus his or her partner, attending any breakfast, dinner or similar function where invited as the Deputy Mayor or Councillor and representative of the City or Ward, provided such function does not fall into the category of a conference and training event as defined in clause 4.4 of this policy or is for election purposes.
- (2) All equipment and facilities subject of this document are provided to the Deputy Mayor and Councillors on the absolute understanding that they will not be used for any election purposes.

PART 2 – ISSUE AND RETURN OF COUNCIL EQUIPMENT

2.1 Objective

To enable elected members to be accessible to the community, their colleagues and the City's staff.

2.2 Equipment

The following equipment, documents, stationery and other items will be issued to Elected Members:

- (1) laptop computer and all in one printer (The Elected Member to determine whether new or second-hand).
- (2) Router and hub for internet use.
- (3) Elected Member lounge key
- (4) Security Card/Building Access Card and ID Card

- (5) Satchel or briefcase (optional)
- (6) 1 City of Joondalup vehicle licence number plate, selection of numbers 2 to 20 (optional) (See 2.5 below)

This equipment should either be new or in very good condition.

2.3 Documentation

The following documentation will be issued to Elected Members:

- (1) Committee members' booklet
- (2) Community Directory
- (3) Local Government Act 1995 and Regulations
- (4) Local Laws Manual
- (5) Policy Manual
- (6) Code of Conduct
- (7) Western Australian Local Government Association - Elected Member Manual
- (8) Internal Telephone directory
- (9) Planning Scheme text and report
- (10) Budget
- (11) Service Agreement – Elected Members & Information Services Business Unit
- (12) Short Guides produced by the City

2.4 Other Items

The following items will be issued to Elected Members:

- (1) Two name badges for the members, and one name badge for their partners.
- (2) Business cards
- (3) Appropriate stationery
- (4) Street directory
- (5) Elected Member Uniform issue (non -compulsory)
(1 Jacket, 2 Trousers/Skirts and 3 Shirts/Blouses)
- (6) Driz-a-bone Jacket or similar (optional)

Each elected member is entitled to be reimbursed to a maximum amount of \$1,070 (**July 2009**) following every ordinary election at which they were elected, or where an elected member is elected as a result of an extraordinary election, for the purchase of relevant office furniture/equipment to assist them to perform their role as an elected member and to be used for Council related purposes.

The amount allocated for reimbursement will be inflated annually as from 1 July 2008 based on the CPI rate of Australia, and rounded to the nearest \$10.

2.5 Vehicle Licence Number Plate

- (1) Elected Members may have a City of Joondalup vehicle licence number plate fitted to their vehicle for their term of office at the City's cost.
- (2) Vehicle Licence plate numbers 1 and 2 (and variations on this (eg 01; 001; 001)) are reserved for use by the Mayor and deputy Mayor.
- (3) An Elected Member is eligible to transfer the vehicle licence number plate to another vehicle once every two years at the City's cost.
- (4) If the vehicle licence number plate is to be transferred more than once every two years, then the second and subsequent transfer shall be at the cost of the Elected Member. The exception is where there is a change in the office of Deputy Mayor. Where this occurs this is not to be treated as a transfer for those affected members as per above.
- (5) Retiring Elected Members shall return the Council issued vehicle licence number to the City within fourteen (14) days of ceasing to be an Elected Member. Any costs associated with this transfer of the Elected Member's vehicle licence number plate shall be met by the City.
- (6) Where an Elected Member is issued with a vehicle licence number plate as detailed within this policy, that vehicle fitted with the licence number plate shall not have electoral advertising placed on or in the vehicle.

2.6 Return of Equipment Issued

- (1) An Elected Member is entitled to retain, at no charge, equipment, documents and other items issued by Council *with the exception of the following, which cannot be retained:*
 - (a) Any equipment that is less than three years old
 - (b) Equipment leased by Council;
 - (c) Security Card/Building Access Card and ID Card;
 - (d) Elected Member Lounge Key; and
 - (e) City of Joondalup Vehicle Licence Number Plate

PART 3 – PAYMENT OF FEES AND ALLOWANCES

3.1 Objective

To detail the amount of fees and allowances to be paid to Elected Members and the conditions under which those fees and allowances shall be paid

3.2 Annual Meeting Attendance Fees

Council will pay the maximum amount within the prescribed legislated limit that may be claimed annually for meeting attendance fees for the Mayor and Councillors.

Payments will be made monthly in arrears.

3.3 Annual Local Government Allowances - Mayor and Deputy Mayor

Council will pay the maximum Annual Local Government Allowance within the prescribed legislated limit that may be paid to the Mayor and Deputy Mayor.

Payments will be made monthly in arrears.

3.4 Telecommunications Allowance

- (1) Council will pay all Elected Members an annual telecommunication allowance to the maximum amount within the prescribed legislated limit.
- (2) The annual telecommunication allowance is for costs relating to telephone usage (including plans/contracts, payments and purchase of fax machines, mobile phones and extra telephone lines) and call costs and consumables associated with that use.
- (3) Any claims by Elected Members for expenses incurred over the maximum annual telecommunication allowance detailed in (1) above are to be submitted on the form provided. (Additional claims above the maximum limit must be supported by receipted invoices for the maximum limit and the additional amounts claimed). Where a member reaches the limit, all claims for reimbursement shall be referred to the Council for approval.
- (4) In recognition of possible capital costs associated with telecommunications expenses, payment will be made as follows:
 - One third in advance on election, then;
 - monthly in arrears from the commencement of the fifth month of the term of office to the completion of the term.
- (5) Where Elected Members are re-elected to a second or further term of office, they will receive one third of the telecommunications allowance in advance at the commencement of the next term of office, in recognition of the potential need to upgrade associated telecommunications equipment.

3.5 Information Technology Allowance:

- (1) Council will pay all elected members an annual information technology allowance to the maximum amount within the prescribed legislated limit.
- (2) This allowance is in addition to the council provided laptop and printer and is in recognition of costs associated with Internet connection, electronic diaries and the like.

- (3) Any claims by elected members for expenses incurred over the maximum annual telecommunication allowance detailed in (1) above are to be submitted on the form provided. (Additional claims above the maximum limit must be supported by receipted invoices for the maximum limit and the additional amounts claimed). Where a member reaches the limit, all claims for reimbursement shall be referred to the Council for approval.
- (4) Payment will be made as follows:
 - 50% in advance on election, then;
 - 25% at completion of third quarter;
 - 25% on completion of each subsequent quarter during the period of office.
- (5) Where elected members are re-elected to a second or further term of office, they will receive one half of the information technology allowance in advance at the commencement of the next term of office, in recognition of the potential need to upgrade information technology equipment.

3.6 Conditions of Payment

- (1) All allowances and fees shall be paid automatically unless an elected member has advised the CEO in writing that he/she does not want to claim any or part of those fees and allowances.
- (2) If an Elected Member advises that he/she does not want all or part of the fees and allowances to which he/she is entitled, any subsequent request for full or additional payment will not be back paid but accrue from the date of such request.
- (3) The taxation liability arising from these payments is the individual responsibility of each Elected Member.

PART 4 – ATTENDANCE AT CONFERENCES AND TRAINING WITHIN AUSTRALIA

4.1 Objective

To enable Elected Members to develop and maintain skills and knowledge relevant to their role as a representative of the City of Joondalup.

4.2 Statement

Elected Members are encouraged to attend appropriate conferences and training to enable them to be more informed and better able to fulfill their duties of office. In order to support this, the following is provided.

4.3 Annual Conference and Training Expense Allocation

- (1) The following annual conference and training expense allocation shall be made available to Elected Members:

- (a) The Mayor shall be entitled to an annual expense allocation of \$12,200 (**July 2009**), inflated annually from the date the \$10,000 was first set at the CPI rate for Australia on 1 July each year and rounded to the nearest \$100; and
 - (b) All Councillors shall be entitled to an annual expense allocation of \$6,000 (**July 2009**), inflated annually from the date the \$5,000 was first set at the CPI rate for Australia on 1 July each year and rounded to the nearest \$100.
- (2) In addition to the annual expense allocation detailed in clause (1)(a) above, the Mayor shall be entitled to attend the following conferences:
- Annual Western Australian Local Government Association;
 - Annual National Australian Local Government Association;
 - Annual National Congress of the Local Government Managers Australia.

4.4 Definition

In this part, “Conferences and Training” means conferences, seminars, congresses, forums, workshops, courses, meetings, deputations, information and training sessions and events related to the industry of local government and held within Australia.

4.5 Approval

- (1) Subject to Part 5 for overseas travel, Elected Members may attend conferences and training following:
- (a) approval by the Council through a resolution passed at a Council Meeting; or
 - (b) by informing the CEO in advance of attendance.

4.6 Conferences and Training that may be attended

The conferences and training to which this policy applies shall generally be limited to:

- (1) West Australian Local Government Association (WALGA) and Australian Local Government Association (ALGA) conferences;
- (2) Special “one off” conferences called or sponsored by or for the WALGA and/or ALGA on important issues;
- (3) Annual Conferences of the major Professions in Local Government;
- (4) Australian Sister Cities Conferences;
- (5) Municipal Training Service’s Councillor Induction Program;

- (6) WALGA Elected Member Training and Development;
- (7) Training relating to the role of elected members; and
- (8) other local government specific training courses, workshops and forums, relating to such things as understanding roles/responsibilities of Elected Members, meeting procedures, etc.

4.7 Payment of Conference and Training Costs

- (1) Payment from Conference and Training Allocation

The City will pay Conference or Training costs where the Elected Member has been authorised to attend and there is sufficient funds remaining within the Elected Member's Annual Conference and Training Expense Allocation. Should insufficient funds be available, the Elected Member may meet the difference between the actual cost and the allowance themselves or receive funds from another Elected Member's allowance (see 4.9(7)).

- (2) Booking Arrangements

Registration, travel and accommodation for Elected Members will be arranged through the Office of the Chief Executive Officer with the appropriate City discount for travel and accommodation being provided. In general, all costs including airfares, registration fees and accommodation will be paid direct by the City. The main exception relates to the payment of daily allowances in lieu of accommodation as considered in paragraph 4.7(8).

- (3) Registration

The City will pay all normal registration costs for Elected Members/delegates that are charged by organisers, including those costs relating to official luncheons, dinners and tours/inspections that are relevant to the interests of the Council.

- (4) Accommodation

- (a) The City will pay reasonable accommodation costs for Elected Members including the night before and/or after the conference and training event where this is necessary because of travel and/or the conference and training event timetables which make it impossible to arrive at or return home in normal working hours.
- (b) Where available, accommodation shall normally be booked at the venue.

(5) Conference and Training Travel

- (a) Where travel is involved, the travel is to be undertaken with all due expedition, by the shortest most practical route, to and from the Conference and Training venue. All reasonable travel costs for Elected Members/ delegates to and from the venue/accommodation will be met by the City.
- (b) Where air travel is involved, approval to attend should ideally be sought two months prior to departure to facilitate booking.
- (c) All air travel within Australia shall be by Business Class, except where an Elected Member chooses to travel at a cheaper rate. If Business Class is not available, Economy Class is to be used.
- (d) If accommodation is at the Conference or Training venue or in close proximity, taxis should be used for reasonable travel requirements. Where necessary, a hire car may be arranged for the conduct of Council business. Costs of taxi fares, vehicle hire and parking which are reasonable, required and incurred in attending Conferences and Training, will be reimbursed by the City.
- (e) Where in particular circumstances Elected Members desire to travel interstate or intrastate by private motor vehicle, they will be reimbursed for vehicle costs in accordance with the local government kilometre allowance up to an equivalent amount that would have been expended had arrangements been made to travel by air.

(6) Reimbursement of Expenses

- (a) An Elected Member attending a Conference and Training event is entitled to be reimbursed for 'normally accepted' living costs while travelling.
- (b) Such living costs would include, but are not limited to:
 - taxi fares to and from the airport;
 - taxi fares to and from the venue if the accommodation used is a substantial distance from the venue;
 - meals for the Elected Member;
 - refreshments for the Elected Member; and
 - vehicle hire, petrol and parking.
- (c) Elected Members will generally not be reimbursed for the cost of meals or refreshments for other people. The main exception is where it is indicated that the meal or refreshment provided to another person is in response to a meal or refreshments previously received.

- (d) Expenses will generally be reimbursed from the time an Elected Member leaves home to attend an event to the time the Elected Member returns home.

Should an Elected Member extend a visit by leaving prior to the time necessary to arrive for the event or return after the time at which the Elected Member could have returned following the event, reimbursements will be paid:

- for the days of the event; and
- for the cost of travel from the airport directly to the accommodation to be used for the event and also, vice versa, from the accommodation to the airport.

- (e) Where a visit is extended, as discussed in paragraph (d), an Elected Member may stay for the period of the extension in different accommodation to that used for the attendance at the Conference and Training event. In such situations, the reimbursement of taxi fares will be to the estimated cost of travel between the event's accommodation and the airport and vice versa. The Elected Member will be required to pay any greater amount.

- (f) Where an Elected Member does not require paid accommodation for a Conference and Training event because the Elected Member is able to source accommodation from another party (the hosts), the Elected Member is entitled to be reimbursed for meal and refreshment costs provided to the hosts up to the amount that would have been incurred had paid accommodation been used.

- (g) Where an Elected Member attends two Conference and Training events and there is a gap of no more than three days between the conclusion of the first event and the start of the second event, the Elected Member shall be entitled to reasonable accommodation expenses and the reimbursement of 'normally accepted' living costs during that 'gap' period. If the gap is greater than three days, only three days reimbursement can be claimed.

- (7) Cash Advances associated with payment through the reimbursement of expenses

- (a) A cash advance of \$110 per day (**July 2009**) for interstate travel and \$170 per day (**July 2009**) for overseas travel shall be made available for food, drink and incidental expenses that are of a reasonable nature. The cash advances per day above will be inflated annually as from 1 July 2008 based on the CPI rate of Australia, and rounded to the nearest \$10.
- (b) The administrative arrangements for managing this will be the most appropriate to the circumstances in the view of the Chief Executive Officer.

- (c) The Cash Advance shall be paid to cover all reasonable incidental expenses associated with the conference attendance such as:
 - (i) hotel/motel charges other than accommodation, ie. laundry;
 - (ii) reasonable telephone or facsimile use;
 - (iii) breakfasts, lunches, dinners and other meals not included in the conference registration fee;
 - (iv) any optional activity in a conference program.
- (e) Documentary evidence in the form of original invoices and receipts must be provided for the acquittal of all advances. All advances must be acquitted within one week of the Elected Member returning to Perth. Amounts not acquitted shall be refunded to the City.

(8) Public Service Commission Allowance

Instead of being reimbursed for actual expenses, an Elected Member may receive a fixed allowance as reimbursement for attending a Conference and Training event. This allowance will be the amount identified in the Public Service Award as is specified in legislation.

The allowance will be paid in the following circumstances from the Elected Member's Conference and Training Expense Allocation.

The following is drawn from the Public Service Award.

- (a) When a trip necessitates an overnight stay and the Elected Member is fully responsible for his or her own accommodation, meals and incidental expenses:
 - (i) where hotel or motel accommodation is utilised, reimbursement shall be in accordance with the rates prescribed in Column A, Items (4) to (8) of Schedule I – Travelling, Transfer and Relieving Allowance of the Award; and
 - (ii) where other than hotel or motel accommodation is utilised, reimbursement shall be in accordance with the rates prescribed in Column A, Items (9), (10) or (11) of Schedule I – Travelling, Transfer and Relieving Allowance of the Award.
- (b) When a trip necessitates an overnight stay and accommodation only is provided at no charge to the Elected Member, reimbursement shall be made in accordance with the rates prescribed in Column A, Items 1, 2 or 3 and Items 12, 13 or 14 of Schedule I – Travelling, Transfer and Relieving Allowances of the Award subject to the Elected Member's certification that each meal claimed was actually purchased.

- (c) To calculate reimbursement under (a) and (b) for a part of a day, the following formula shall apply:

- (i) If departure from Joondalup is:

before 8:00am	– 100% of the daily rate.
8:00am or later but prior to 1:00pm	– 90% of the daily rate.
1:00pm or later but prior to 6:00pm	– 75% of the daily rate.
6:00pm or later	– 50% of the daily rate.

- (ii) If arrival back at Joondalup is:

8:00am or later but prior to 1:00pm	– 10% of the daily rate.
1:00pm or later but prior to 6:00pm	– 25% of the daily rate.
6:00pm or later but prior to 11:00pm	– 50% of the daily rate.
11:00pm or later	– 100% of the daily rate.

Should the allowance not cover the actual costs of attendance, an Elected Member is entitled to be reimbursed the difference between the actual cost and the allowance amount as long as the reimbursement sought accords with 4.7(6) and all of the allowance monies have been used for items that can be reimbursed.

4.8 Elected Member/Delegate Accompanying Person

- (1) Where an Elected Member is accompanied at a Conference and Training event, all costs for or incurred by the accompanying person including but not limited to travel, breakfast, meals, registration and/or participation in any event programs, are to be borne by the Elected Member/accompanying person and not by the City. The exception to the above being the cost of attending any official event dinner where partners would normally attend.
- (2) An accompanying person's registration, or accompanying person's program fee, is to be paid to the conference organiser, at time of registration. The City will administer the registration and payment process for the accompanying person if the relevant forms and payment are made to the City in advance for the accompanying person.
- (3) Where the City meets an account containing any expenditure or cost incurred on behalf of an accompanying person attending, such expenditure must be repaid to the Council by the Elected Member/accompanying person within seven (7) days of being invoiced for such expenditure following the conclusion of the Conference and Training event.

4.9 Guidelines for Conference and Training Attendance

- (1) Subject to the provisions of clause 4.3 "Annual Conference and Training Expense Allocation" the guidelines detailed in this clause shall apply.

- (2) Generally, no more than two Elected Members may attend a particular Conference or Training event outside Western Australia at the same time. The CEO or Council may however approve attendance by more than two members if a particular purpose or need arises.
- (3) All unspent funds shall be carried forward at the completion of each annual period.
- (4) Following each Ordinary Council election, elected members will forfeit any unspent funds, and commence their annual expense allowance as detailed in Clause 4.3.
- (5) Elected Members will only be registered for conference and training events itemised in this policy, if the Elected Member has sufficient funds in their annual conference and training expense allocation to meet the costs. Where there are insufficient funds to meet the cost of the Conference and Training event in the Elected Member's conference and training expense allocation, Council approval must be obtained before attendance if the additional costs are going to be claimed.
- (6) The cost of training that is specifically arranged for attendance by all Elected Members, (eg team-building) shall be paid from a separate allocation for the purpose and not considered as part of, and debited to, the individual Elected Member's allocation referred to in this policy.
- (7)
 - (a) An Elected Member may agree to meet Conference and Training costs for another Elected Member and forfeit the relevant amount from his/her own annual conference and training expense allocation, to enable another Elected Member to attend a Conference and Training event, where that member has insufficient funds remaining in their allocation.
 - (b) In such cases, the Elected Member agreeing to meet those costs shall provide the CEO with a written statement to that effect, signed by both Elected Members and authorising the CEO to initiate necessary arrangements and debit the authorising member's allocation.

PART 5 – ATTENDANCE AT OVERSEAS CONFERENCES

- (1) An Elected Member may, with Council approval, attend an overseas conference. The Council approval must include a specific Council resolution indicating that the conference attendance will be of benefit to the City and the Elected Member and detailing any conditions that may apply.

- (2) An Elected Member may attend an overseas conference if the Elected Member has sufficient funds in their annual conference and training expense allocation to meet the costs. Where there are insufficient funds to meet the cost of the registered overseas Conference or Training in the Elected Member's conference and training expense allocation, Council approval must be obtained before costs are incurred in keeping with 4.9(5) above or the Elected Member agrees to meet the additional costs personally.
- (3) All air travel overseas shall be by Business Class, except where an Elected Member chooses to travel at a cheaper rate. If Business Class is not available, Economy Class is to be used.
- (4) Cash advances are payable for overseas conferences (see Section 4.7(7)).

PART 6 - REPORT

Upon attendance at any interstate or overseas Conference or Training event as detailed within this policy, where registration and other associated costs are met by the City of Joondalup, the attending Elected Member is required to prepare a report on their attendance and benefits, to be circulated to all members of the Council.

PART 7 – REIMBURSEMENT OF EXPENSES

7.1 Objective

To provide for the reimbursement of expenses necessarily incurred by Elected Members while performing their duties so that no Elected Member should be unreasonably disadvantaged financially due to meeting the requirements of their office.

7.2 Child Care

- (1) In accordance with Regulation 31, child care costs will be paid for an Elected Member's attendance at a Council meeting or a meeting of a committee of which he or she is a member and the expense is to be claimed on the form provided.
- (2) Where an Elected Member attends any other meeting, reception, citizenship or other Council function, or Council related activity and incurs child care costs, such costs may be claimed provided they are substantiated with details of the date, activity attended, the actual costs incurred and original receipts being provided and attached to the claim form.
- (3) Child care costs are applicable for children, either of natural birth or guardianship determined by legal process.

- (4) Child care costs will not be paid for where the care is provided by a member of the immediate family or relative living in the same premises as the Elected Member.
- (5) Child care costs shall be debited to a separate account in the budget and not be debited to or form part of an Elected Member's Annual Expense Reimbursement Limit as referred to in clause 7.3 of this policy.

7.3 Travel

- (1) The payment of travel costs is covered under Local Government (Administration) Regulations 1996.
- (2) Travel costs incurred and paid by Elected Members will be reimbursed for:
 - (a) Travel and parking expenses incurred by a member using a private vehicle to, from and attending:-
 - (i) meetings of the Council or a Committee of the Council and civic or Council related functions;
 - (ii) as a delegate of the Council to statutory and other boards and committees, community organisations, conferences, local government association or industry groups or committees of them;
 - (iii) a specific request or instruction of the Council and/or including inspection, ratepayer/electors requests or other Council duty;
 - (iv) attending social functions where the member is representing the Mayor or is attending by resolution of Council or where the function is an otherwise authorised activity;
 - (b) The amount payable in respect of travelling expenses shall be paid from the time the Returning Officer has declared a person elected as a Council member.
 - (c) Travel expenses claimed under this policy are to be calculated in accordance with the rate per kilometre prescribed for the class of vehicle as detailed in the **Local Government Officers' Award Public Sector Award** where the member's vehicle is used.
 - (d) A claim for reimbursement of expenses form indicating the date, particulars of travel, nature of business, distance travelled, vehicle displacement and total travelled in kilometres, is to be completed by members to ensure that the transport expense can be verified.
- (3) Where an Elected Member deems it is more appropriate to attend a Council related commitment without a car, a taxi may be used and the costs incurred claimed.

- (4) Should an Elected Member travel in a vehicle which is not his or her own, the reimbursement will be calculated in accordance with (2) above.

7.4 Other Specified Expenses

- (1) Outside of child care and travel costs an Annual Reimbursement Limit of \$530 (**July 2009**) shall be available to Elected Members for reimbursement of costs incurred as a result of performing their duties as an Elected Member.

The amount allocated for reimbursement of other specified expenses will be inflated annually as from 1 July 2008, based on the CPI rate of Australia, and rounded to the nearest \$10.

Costs incurred and paid by Elected Members will be reimbursed by the City up to the reimbursement limit in each annual expense period. When a member reaches the limit, all claims for reimbursement shall be referred to the Council for approval. All expenses claimed must have been incurred and substantiated with provision of original invoices/receipts attached to the claim form, prior to being reimbursed on a monthly basis.

- (2) Original invoices and receipts are required for audit purposes and to enable GST to be claimed. Where a GST refund is received it will be credited to the Elected Members Expense Reimbursement record.

7.5 Time Limit on Claims and Approval Process

Members electing to receive reimbursement of expenses in accordance with the provisions of this policy should submit the appropriate claim form to the CEO, together with supporting documentation, within two calendar months after the month in which the expenses were incurred, and by 15 July of the next financial year, in order to facilitate the finalisation of the annual financial statements.

Amendments:	CJ422-12/01, CJ121-06/02, C212-09/03, CJ206-10/05, CJ007-02/07, CJ207-10/07, CJ052-04/08, CJ007-02/09
Related Documentation:	Delegated Authority Manual Local Government Act 1995
Issued:	October 2009

LEGAL REPRESENTATION FOR ELECTED MEMBERS, **the CEO** AND EMPLOYEES

STATUS: **City Policy** - A policy that is developed for administrative and operational imperatives and has an internal focus.

Developed by the Policy Committee and/or the administration and adopted by Council.

**RESPONSIBLE
DIRECTORATE:** Office of the CEO

OBJECTIVE: Under the *Local Government Act 1995*, the City's 'good government' powers allow it, in appropriate circumstances, to pay for the Legal Representation Costs of an individual Elected Member, **the CEO** or Employee.

This Policy sets out guidelines to assist the Council and City in determining when it is appropriate to pay Legal Representation Costs.

This Policy does not cover legal representation provided to, or on behalf of, the City.

STATEMENT:

1 Payment Criteria

There are three major criteria for determining whether the City should pay the Legal Representation Costs of an Elected Member, **the CEO** or an Employee. These are:

- (a) the Legal Representation Costs must relate to a matter that arises from the performance, by the Elected Member, **the CEO** or Employee, of his or her functions;
- (b) the Legal Representation Costs must be in respect of Legal Proceedings that have been, or may be, commenced; and
- (c) in performing his or her functions, to which the Legal Representation relates, the Elected Member, **the CEO** or Employee must have acted in good faith, and must not have acted unlawfully or in a way that constitutes improper conduct.

2 Examples of Legal Representation Costs that may be approved

- 2.1 If the criteria in section 1 are satisfied, **the CEO or Council** may approve the Payment of Legal Representation Costs:

- (a) where proceedings are brought **against** an Elected Member or Employee in connection with his or her functions – for example, an action for defamation or negligence arising out of a decision made or action taken by the Elected Member, **the CEO** or Employee; or
- (b) for involvement in a statutory or other inquiry that requires information to be given, or to which information is given, by an Elected Member, **the CEO** or Employee in connection with his or her functions.

2.2 This policy does not relate to situations where legal proceedings are commenced by an Elected Member, **the CEO** or Employee and there is a presumption that the City will not pay for legal representation costs in these circumstances. However this policy does not preclude such a request being submitted and considered by the Council for extenuating circumstances where the Elected Member, **the CEO** or Employee is the subject of threatening behaviour by another person.

2.3 The City will not approve the Payment of Legal Representation Costs to an Elected Member, **the CEO** or Employee for a defamation action, or a negligence action, instituted by the Elected Member, the CEO or Employee.

3 Application for payment by an Elected Member, the CEO or an Employee

3.1 An Elected Member or **the CEO** may seek assistance by making an application(s) for Payment of Legal Representation Costs to Council.

3.2 An Employee may seek assistance by making an application(s) for Payment of Legal Representation Costs to the CEO.

3.3 Any application **made under sections 3.1 or 3.2:**

- (a) is to be made in writing to the Council **if it relates to an Elected Member or the CEO, or to the CEO if it relates to an Employee;** and
- (b) is to give details of:
 - (i) the matter for which Legal Representation is sought;
 - (ii) how that matter relates to the functions of the relevant Elected Member, **the CEO** or Employee;
 - (iii) the lawyer (or law firm) who is to be asked to provide the Legal Representation;
 - (iv) the nature of Legal Representation to be sought (such as advice, representation in court, preparation of a document etc); and
 - (v) the estimated cost (if known) of the Legal Representation.

- (c) is to contain a declaration by the applicant that he or she has acted in good faith, and has not acted unlawfully or in a way that constitutes improper conduct in relation to the matter to which the application relates; and
 - (d) so far as possible, is to be made before seeking the Legal Representation to which the application relates.
- 3.4 The application is to be accompanied by a written statement by the applicant that he or she:
 - (a) has read, and understands, the terms of this Policy;
 - (b) acknowledges that any approval of Legal Representation Costs is conditional on the repayment provisions of section 8 and any other conditions to which the approval is subject; and
 - (c) undertakes to repay to the City any Legal Representation Costs in accordance with the provisions of section 8.
- 3.5 An application for an Elected Member or the CEO is also to be accompanied by a report prepared by or on behalf of the CEO or, where the CEO is the applicant, by the Director Corporate Services.

4 Employee entitlement to payment when performing day-to-day operations

- 4.1 All Employees are entitled to Payment for Legal Representation Costs by the City in circumstances where the action arose from the Employee performing their day-to-day functions.
- 4.2 The entitlement above is subject to confirmation of the circumstances outlined in section 1 of this Policy by the CEO and completion of the application process outlined in section 3 of this Policy.

5 Legal Representation Costs - limit

- 5.1 Unless otherwise determined by the Council, or by the CEO under clause 4.2, payment of Legal Representation Costs in respect of a particular application is not to exceed \$6,000.
- 5.2 An Elected Member, the CEO or an Employee under clause 4.2, may make a further application to the Council or the CEO in respect of the same matter, however, any additional applications must be accompanied by an estimate from the selected legal representative as to the costs required to complete the legal action.

6 Council and CEO powers

- 6.1 The Council or the CEO may:
 - (a) refuse;
 - (b) grant; or

- (c) grant subject to conditions, including a financial limit,

an application for payment of Legal Representation Costs brought before it/he/she.
- 6.2 A condition under clause 6.1 may include a financial limit and/or a requirement to enter into a formal agreement, including a security agreement, relating to the payment, and repayment, of Legal Representation Costs.
- 6.3 In assessing an application, the City may have regard to any insurance benefits that may be available to the applicant under the City's Councillors and Officers insurance policy (or its equivalent).
- 6.4 The Council or the CEO may, subject to clause 6.5, determine that an Elected Member, the CEO or Employee whose application for Legal Representation Costs has been approved has, in respect of the matter for which Legal Representation Costs were approved:
 - (a) not acted in good faith, or has acted unlawfully or in a way that constitutes improper conduct; or
 - (b) given false or misleading information in respect of the application.
- 6.5 A determination under clause 6.4 may be made by the Council or the CEO only on the basis of, and consistently with, the findings of a court, tribunal or inquiry.
- 6.6 The Council or the CEO may at any time revoke or vary an approval, or any conditions of approval, for the payment of Legal Representation Costs previously brought before it/he/she, if doing so is consistent with a finding under clause 6.5.
- 6.7 Where the Council or the CEO makes a determination under clause 6.4, it may also determine that all or part of the Legal Representation Costs paid by the City are to be repaid by the Elected Member, the CEO or Employee in accordance with section 8.

7 CEO Powers in cases of urgency

- 7.1 In cases of urgency, the CEO may exercise, on behalf of the Council, any of the powers of the Council under clauses 6.1 and 6.2, to a limit of \$6,000, where a delay in approving an application would be detrimental to the legal rights of an Elected Member.
- 7.2 Where the CEO is the applicant, the powers in clause 7.1 are to be exercised by the Director Corporate Services.
- 7.3 An application approved by the CEO under clause 7.1, or by the Director Corporate Services under clause 7.2, is to be submitted to the next meeting of the Council which may exercise any of its powers under this Policy, including its powers under clause 6.4.

8 Repayment of Legal Representation Costs

- 8.1 An Elected Member, **the CEO** or Employee whose Legal Representation Costs have been paid by the City is to repay the City:
- (a) all or part of those costs – in accordance with a determination by the Council under clause 6.7; or
 - (b) as much of those costs as are available to be paid by way of set-off – where the Elected Member, **the CEO** or Employee receives monies paid for costs, damages, or settlement, in respect of the matter for which the City paid the Legal Representation Costs.
- 8.2 The City may take action in a court of competent jurisdiction to recover any monies due it under this Policy.

Explanation of Key Terms

Approved Lawyer is to be:

- (a) a 'certificated practitioner' under the *Legal Practice Act 2003*; and
- (b) approved in writing by the Council.

CEO means a current or former Chief Executive Officer of the City.

Elected Member means a current or former Commissioner or Elected Member of the City.

Employee means a current or former Employee of the City.

Legal Proceedings may be civil, criminal or investigative (including an inquiry under any written law).

Legal Representation is the provision, to or on behalf of an Elected Member or Employee, by an Approved Lawyer of Legal Services that are in respect of:

- (a) a matter or matters arising from the performance of the functions of the Elected Member or Employee; and
- (b) Legal Proceedings involving the Elected Member, the CEO or Employee that have been, or may be, commenced.

Legal Representation Costs are the costs, including fees and disbursements, properly incurred in providing Legal Representation.

Legal Services includes advice, representation or documentation that is provided by an Approved Lawyer.

Payment by the City of Legal Representation Costs may be either by:

- (a) a direct payment to the Approved Lawyer (or the relevant law firm); or
- (b) a reimbursement to the Elected Member, the CEO or Employee.

Amendments: CJ213-06/99, CJ001-02/01, CJ136-06/04,
CJ206-10/05, CJ207-10/07, CJ199-09/08

Related Documentation:

Issued: October 2008

POLICY 6-5 — BURNING ON PRIVATE PROPERTY

STATUS:	City Policy — <i>A policy that is developed for administrative and operational imperatives and has an internal focus.</i> <i>Developed by the Policy Committee and/or the administration and adopted by Council.</i>
RESPONSIBLE DIRECTORATE:	Infrastructure and Operations
OBJECTIVE:	To preserve local amenity To provide for the prevention and control of fires and to preserve local amenity

STATEMENT:

~~In addition to the provisions in Section 25 of the Bush Fires Act 1954, and the Private Property Local Law, the following conditions apply to burning on private property.~~

In addition to, and in accordance with the provisions of the Bush Fires Act 1954, the following policy applies to the burning of refuse or rubbish on private property.

1. The burning of garden refuse or rubbish anywhere within the district of the City of Joondalup is prohibited at all times.
2. This prohibition does not apply to devices which are specifically designed and used for the purposes of cooking or heating.

~~Residential Garden Refuse and other Rubbish~~

~~Garden refuse and rubbish intended for burning shall be placed on the ground in a heap no more than one metre across and to a height of no more than one metre. Only one heap may be burnt at any one time.~~

~~Between 1 October and 31 May annually, provided that the day of burning is not designated as an extreme or very high fire danger rating, garden refuse may be burned between 6.00pm and 11.00pm only.~~

~~Cleared Land Development Sites~~

~~The burning of cleared vegetation on subdivisional land development sites shall be prohibited at all times.~~

Amendments:	CJ213-06/99, CJ253-11/03, CJ206-10/05, CJ207-10/07
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Related Documentation:	Private Property Local Law 1998
Issued:	October 2007

