

minutes

MEETING HELD ON **TUESDAY 15 APRIL 2014**

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CITY OF JOONDALUP

**COUNCIL MEETING HELD IN THE COUNCIL CHAMBER, JOONDALUP CIVIC CENTRE,
BOAS AVENUE, JOONDALUP ON TUESDAY 15 APRIL 2014.**

DECLARATION OF OPENING

The Mayor declared the meeting open at 7.02pm.

ANNOUNCEMENT OF VISITORS**Mayor:**

TROY PICKARD

Absent from 8.22pm to 8.24pm

Councillors:

CR KERRY HOLLYWOOD	North Ward
CR TOM McLEAN, JP	North Ward
CR PHILIPPA TAYLOR	North-Central Ward
CR SAM THOMAS	North-Central Ward
CR LIAM GOBBERT	Central Ward – <i>Deputy Mayor</i>
CR GEOFF AMPHLETT, JP	Central Ward
CR CHRISTINE HAMILTON-PRIME	South-West Ward
CR MIKE NORMAN	South-West Ward
CR JOHN CHESTER	South-East Ward
CR BRIAN CORR	South-East Ward
CR RUSS FISHWICK, JP	South Ward
CR TERESA RITCHIE, JP	South Ward

Officers:

MR GARRY HUNT	Chief Executive Officer
MR MIKE TIDY	Director Corporate Services
MR JAMIE PARRY	Director Governance and Strategy
MS DALE PAGE	Director Planning and Community Development
MR NICO CLAASSEN	Director Infrastructure Services
MR BRAD SILLENCE	Manager Governance
MR DANIEL DAVINI	Media Advisor
MR JOHN BYRNE	Governance Coordinator
MRS LESLEY TAYLOR	Governance Officer
MRS DAWN ANDERSON	Governance Officer

There were two members of the public and one member of the press in attendance.

DECLARATIONS OF INTEREST

Disclosures of Financial / Proximity Interest

A declaration under this section requires that the nature of the interest must be disclosed. Consequently a member who has made a declaration must not preside, participate in, or be present during any discussion or decision-making procedure relating to the matter the subject of the declaration. An employee is required to disclose their financial interest and if required to do so by the Council must disclose the extent of the interest. Employees are required to disclose their financial interests where they are required to present verbal or written reports to the Council. Employees are able to continue to provide advice to the Council in the decision making process if they have disclosed their interest.

Name/Position	Mayor Troy Pickard.
Item No./Subject	CJ062-04/14 - Study Tour: 3-7 May 2014.
Nature of interest	Financial Interest.
Extent of Interest	Mayor Pickard is a participant on the Study Tour.

Name/Position	Mr Garry Hunt, Chief Executive Officer.
Item No./Subject	CJ062-04/14 - Study Tour: 3-7 May 2014.
Nature of interest	Financial Interest.
Extent of Interest	Mr Hunt is a participant on the Study Tour.

Disclosures 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	Cr Brian Corr.
Item No./Subject	C14-04/14 - Cr Corr: Public Apolgy – Breach of Rules of Conduct.
Nature of interest	Interest that may affect impartiality.
Extent of Interest	Cr Corr is the subject of the report.

Name/Position	Cr Brian Corr.
Item No./Subject	CJ058-04/14 - Home Business Policy – Review.
Nature of interest	Interest that may affect impartiality.
Extent of Interest	Cr Corr is the secretary of the Joondalup Business Association.

Name/Position	Cr Teresa Ritchie.
Item No./Subject	CJ058-04/14 - Home Business Policy – Review.
Nature of interest	Interest that may affect impartiality.
Extent of Interest	Residents of the City of Joondalup are known to Cr Ritchie who run home businesses and others are proposing to start home businesses.

Name/Position	Cr Liam Gobbert.
Item No./Subject	CJ060-04/14 – Joondalup Performing Arts and Cultural Facility – Progress Report.
Nature of interest	Interest that may affect impartiality.
Extent of Interest	Employees of the architectural design competition respondents are known to Cr Gobbert.

Name/Position	Cr Liam Gobbert.
Item No./Subject	CJ061-04/14 – Joondalup Performing Arts and Cultural Facility – Architectural Design Competition.
Nature of interest	Interest that may affect impartiality.
Extent of Interest	Employees of the architectural design competition respondents are known to Cr Gobbert.

PUBLIC QUESTION TIME

The following questions were submitted prior to the Council meeting on 15 April 2014:

Mr D Blackburn, Kingsley:

Re: CJ236-12/13 – Draft Amendment to District Planning Scheme No. 2 – Local Housing Strategy Implementation – Public Advertising.

(Preamble deleted)

Q1 In order to enable residents to be informed about the potential height and scale of development that would be facilitated by the implementation of the Local Housing Strategy, will advertising of Scheme Amendment No. 73 be delayed until the "Height and Scale of Buildings in Residential Areas" Policy has been finalised and made available to the public?

A1 Advertising of Scheme Amendment No. 73 will commence as soon as practical following the Western Australian Planning Commission giving its consent for advertising of the scheme amendment to commence. As Scheme Amendment No. 73 does not contain any specific height provisions, the existing height policies will continue to apply until amended or replaced by new policies. Therefore, there are no implications in regard to the height of residential development as a result of Scheme Amendment No. 73.

Q2 If the intention is not to wait until the Planning Policy "Height and Scale of Buildings in Residential Areas" is finalised, how will residents be informed about the potential height and scale of development that would be facilitated by the implementation of the Local Housing Strategy?

A2 As stated in A1 above, Scheme Amendment No. 73 does not contain any specific height provisions and the existing height policies will continue to apply until amended or replaced by new policies. Any new or amended policies are required to be advertised for public comment prior to being considered for final adoption, allowing residents comments to inform any changes to the existing height provisions in residential areas.

PUBLIC STATEMENT TIME

Nil.

APOLOGIES AND LEAVE OF ABSENCE**Leave of Absence previously approved**

Cr Geoff Amphlett, JP	27 March to 29 April 2014 inclusive;
Cr Kerry Hollywood	16 April to 4 May 2014 inclusive;
Cr Liam Gobbert	16 April to 17 May 2014 inclusive;
Cr Russ Fishwick, JP	29 April to 2 May 2014 inclusive;
Cr John Chester	1 May to 12 May 2014 inclusive.
Cr Mike Norman	4 May to 9 May 2014 inclusive;
Cr Brian Corr	20 May to 24 May 2014 inclusive;
Cr Russ Fishwick, JP	4 August to 23 September 2014 inclusive.

C11-04/14 REQUESTS FOR LEAVE OF ABSENCE – CR CHRISTINE HAMILTON-PRIME AND CR PHILIPPA TAYLOR - [103782]

Cr Christine Hamilton-Prime requested Leave of Absence from Council duties covering the following periods:

- 1 3 to 6 May 2014 inclusive.
- 2 1 to 20 June 2014 inclusive.

Cr Philippa Taylor requested Leave of Absence from Council duties covering the period 20 August to 12 September 2014 inclusive.

MOVED Cr Amphlett, SECONDED Cr Hamilton-Prime that Council APPROVES the Requests for Leave of Absence from Council Duties covering the following dates:

- 1 **Cr Christine Hamilton Prime 3 to 6 May 2014 inclusive;
 1 to 20 June 2014 inclusive;**

- 2 **Cr Philippa Taylor 20 August – 12 September 2014 inclusive.**

The Motion was Put and

CARRIED (13/0)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman, Ritchie, Taylor and Thomas.

CONFIRMATION OF MINUTES

C12-04/14

MINUTES OF COUNCIL MEETING HELD 18 MARCH 2014

MOVED Cr McLean, SECONDED Cr Amphlett that the Minutes of the Council Meeting held on 18 March 2014 be CONFIRMED as a true and correct record.

The Motion was Put and

CARRIED (13/0)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman, Ritchie, Taylor and Thomas.

ANNOUNCEMENTS BY THE PRESIDING MEMBER WITHOUT DISCUSSION

2014 ANZAC Day Dawn Service

Mayor Pickard advised that the 2014 Anzac Day Dawn Service will be held on Friday 25 April 2014, starting at 6.00am at the Central Park War Memorial.

Mayor Pickard stated that the service, jointly hosted by the City of Joondalup and the Wanneroo-Joondalup RSL sub branch, honours the brave service men and women who have served their country in battle, as well as those currently serving overseas.

Mayor Pickard commented that attendance at the Anzac Day Dawn Service had grown significantly in recent years, and in 2014 it is expected that last year's turnout of more than 4,000 people will be topped once again.

Mayor Pickard advised free tea, coffee and Anzac biscuits will be served at the conclusion of the ceremony, courtesy of the City, and attendees are asked to arrive at Central Park by no later than 5.45am.

Joondalup: Knowledge City

Mayor Pickard stated the City of Joondalup recently hosted its first Business Forum for 2014 which was themed Joondalup: Knowledge City, with local politicians, stakeholders and business leaders among a capacity audience of 150 in attendance at Joondalup Resort's state-of-the-art Lakeview Ballroom.

Mayor Pickard advised keynote speakers Michael Lynn from Deloitte and Dr Martin West from Deloitte Access Economics shared their insights into global growth sectors and highlighted the exciting opportunities that lie ahead for the City of Joondalup and Western Australia.

Mayor Pickard commented that both Mr Lynn and Dr West discussed findings from Deloitte's public research paper *Positioning for prosperity? Catching the next wave*, which is the third in a series of papers entitled 'Building the Lucky Country'.

Mayor Pickard felt it was interesting to reflect on Deloitte's important work to date and consider what it meant for the City of Joondalup and the north west metropolitan region.

Mayor Pickard commented that it is pleasing that through its Draft Economic Strategy the City is on the same page as Deloitte and a focus on strategic knowledge-based jobs will create a solid foundation for the City's future economic growth.

2014 Joondalup Festival

Mayor Pickard commented that despite wild weather on the opening day, almost 30,000 people ventured north for the 2014 Joondalup Festival and again delivered on its brief of providing an outstanding range of free fun activities and family-friendly entertainment.

Mayor Pickard believed the festival remained the highlight of the City's calendar of cultural events and will be back even bigger and better in 2015.

Mayor Pickard acknowledged the support of festival sponsors – Premier Partner the Commonwealth Bank, Key Partners Lakeside Joondalup Shopping City and The Good Guys Joondalup, Media Partners Community Newspaper Group, Nova 93.7 and Channel 9, and Partners Lotterywest, Healthway promoting the Make Smoking History message, and West Coast Institute.

Mayor Pickard stated that without the contributions of festival sponsors this hugely popular annual event could not happen.

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

Nil.

PETITIONS

Nil.

C13-04/14 SUSPENSION AND NON APPLICATION OF MEETING PROCEDURES LOCAL LAW 2013 – [01369, 08122]

MOVED Mayor Pickard, **SECONDED** Cr Hamilton-Prime that Council, in accordance with clause 14.1 of the City of Joondalup *Meeting Procedures Local Law 2013*, suspends the operation of clause 4.3 – Order of Business of the *City of Joondalup Meeting Procedures Local Law 2013*, to enable the consideration of Late Report Item 2 titled “Cr Corr: Public Apology – Breach of Rules of Conduct” prior to consideration of CJ046-04/14.

The Motion was Put and

CARRIED (13/0)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman, Ritchie, Taylor and Thomas.

Disclosure of interest affecting impartiality

Name/Position	Cr Brian Corr.
Item No./Subject	C14-04/14 - Cr Corr: Public Apology – Breach of Rules of Conduct.
Nature of interest	Interest that may affect impartiality.
Extent of Interest	Cr Corr is the subject of the report.

C14-04/14 CR CORR: PUBLIC APOLOGY – BREACH OF RULES OF CONDUCT

WARD	All
RESPONSIBLE DIRECTOR	Mr Garry Hunt Chief Executive Officer
FILE NUMBER	102914, 101515
ATTACHMENTS	Attachment 1 State Administrative Tribunal Order – Matter Number DR 242 2013 <i>(Please Note: This attachment is confidential and will appear in the official Minute Book only)</i>
AUTHORITY / DISCRETION	Information - includes items provided to Council for information purposes only that do not require a decision of Council (that is for 'noting').

PURPOSE

The State Administrative Tribunal (SAT) has ordered Cr Corr to publicly apologise for his failure to identify and disclose an interest that could or could reasonably be perceived to adversely affect his impartiality when determining a matter before the Council.

EXECUTIVE SUMMARY

On Friday 11 April 2014, the SAT, upon review of a determination by the Local Government Standards Panel that Cr Corr had committed a breach of regulation 11 (2) of the *Local Government (Rules of Conduct) Regulations 2007* (Conduct Rules), ordered Cr Corr to publicly apologise for his failure to identify and disclose an interest that could or could reasonably be perceived to adversely affect his impartiality when determining a matter before Council.

SAT ordered that Cr Corr publicly apologise at Council's ordinary meeting to be held on 15 April 2014.

BACKGROUND

In December 2012 a complaint was made under section 5.107 of the *Local Government Act 1995* (the Act) that Cr Corr had committed a breach of regulation 11 (2) of the Conduct Rules by failing to disclose an interest he had in a matter considered by Council at its ordinary meeting held on 20 November 2012 (CJ231-11/12 refers). The interest that Cr Corr failed to disclose was that he was a member of the Executive Committee of Joondalup Business Association (JBA).

On 20 February 2013, the Local Government Standards Panel determined that Cr Corr had committed a breach of regulation 11 (2) of the Conduct Rules.

The facts considered relevant by the Tribunal in making its determination included the following:

- At its ordinary meeting held on 20 November 2012 (CJ231-11/12 refers), Council considered whether to continue to support the Small Business Centre (SBC) with funding of \$60,000.
- JBA was a member of the SBC.
- SBC operated from premises leased from JBA.
- Cr Corr was a member of the JBA and a member of the Executive Committee.
- The officer recommendation to Council was that the City contributes \$60,000 to SBC on the basis that future funding would be conditional on SBC relocating to the Edith Cowan Business Innovation Centre unless it could demonstrate significant disadvantages in doing so.
- Cr Corr participated in Council's consideration of this matter but did not disclose that he was a member of the JBA and of its Executive Committee.

On 20 May 2013, the Standards Panel considered what should be an appropriate sanction for the breach and determined, on the basis of a previous breach of the Conduct Rules by Cr Corr and the seriousness of a breach of regulation 11(2), that the sanction of a public censure was required.

On 19 July 2013 the City was advised by the State Solicitor's Office (SSO) that Cr Corr had sought a review of the Panel's determination (and sanction) by the State Administrative Tribunal.

DETAILS

On Monday 14 April 2014, the SSO advised the City that the SAT had affirmed the Standards Panel's determination of May 2013 and had also substituted the Panel's sanction of a notice of public censure, with an order that Cr Corr publicly apologise at Council's ordinary meeting to be held on 15 April 2014.

SAT ordered Cr Corr to publicly apologise in the following terms:

"The State Administrative Tribunal has found that it is more likely than not that on 20 November 2012, during an Ordinary Council Meeting of the City of Joondalup, I had an interest that could, or could reasonable be perceived to adversely affect my partiality when determining a matter before the Council [being item CJ231-11/12 on 'Small Business Centre North West Metro – Funding Support 2012/13 and Update on Relocation Report'], but failed to disclose that interest in either of the ways required by regulation 11(2) of the Local Government (Rules of Conduct) Regulations 2007 and thereby breached regulation 11(2) of

the Regulations. The Tribunal accepted that I did not have actual knowledge of that interest at the time, but found that there was material in the agenda papers (comprising 947 pages) relating to the item which identified that interest. I accept the Tribunal's finding and apologise for my failure to identify and disclose that interest."

SAT also ordered that:

- Cr Corr make the apology at the ordinary Council meeting of the City of Joondalup to be held on Tuesday 15 April 2014.
- Cr Corr refrains from otherwise commenting during the ordinary Council meeting on the matters that are the subject of the public apology.

Legislation / Strategic Community Plan / Policy

Legislation Part 5, Division 9 of the *Local Government Act 1995*.
Local Government (Rules of Conduct) Regulations 2007.

Policy Not applicable.

Risk management considerations

Not applicable.

Financial / budget implications

Not applicable.

Consultation

Not Applicable.

COMMENT

The Chief Executive Officer of a local government is required under the Act to arrange for publication of any censure ordered by a standards panel and is to refer to the State Administrative Tribunal any failure to comply with any other order made under section 5.110 (6) of the Act.

VOTING REQUIREMENTS

Simple Majority.

As directed by the State Administrative Tribunal, Cr Corr read out the following statement of apology:

“The State Administrative Tribunal has found that it is more likely than not that on 20 November 2012, during an Ordinary Council Meeting of the City of Joondalup, I had an interest that could, or could reasonable be perceived to adversely affect my partiality when determining a matter before the Council [being item CJ231-11/12 on ‘Small Business Centre North West Metro – Funding Support 2012/13 and Update on Relocation Report’], but failed to disclose that interest in either of the ways required by regulation 11(2) of the Local Government (Rules of Conduct) Regulations 2007 and thereby breached regulation 11(2) of the Regulations. The Tribunal accepted that I did not have actual knowledge of that interest at the time, but found that there was material in the agenda papers (comprising 947 pages) relating to the item which identified that interest. I accept the Tribunal’s finding and apologise for my failure to identify and disclose that interest.”

MOVED Cr Amphlett, SECONDED Cr Hamilton-Prime that Council RECEIVES Report C14-04/14 relating to the State Administrative Tribunal’s Order of 11 April 2014 – Matter Number DR 242 2013.

The Motion was Put and

CARRIED (13/0)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman, Ritchie, Taylor and Thomas.

C15-04/14

**RESUMPTION AND APPLICATION OF MEETING PROCEDURES
LOCAL LAW 2013 – [01369, 08122]**

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

The Motion was Put and

CARRIED (13/0)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman, Ritchie, Taylor and Thomas.

REPORTS**CJ046-04/14 DEVELOPMENT, CODE VARIATION AND SUBDIVISION APPLICATIONS – FEBRUARY 2014**

WARD	All
RESPONSIBLE DIRECTOR	Ms Dale Page Planning and Community Development
FILE NUMBER	07032
ALT FILE NUMBER	101515
ATTACHMENTS	Attachment 1 Monthly Development Applications Determined – February 2014 Attachment 2 Monthly Subdivision Applications Processed – February 2014 Attachment 3 Monthly Building R-Code Applications Decision – February 2014
AUTHORITY / DISCRETION	Information - includes items provided to Council for information purposes only that do not require a decision of Council (that is for 'noting').

PURPOSE

For Council to note the number and nature of applications considered under delegated authority.

EXECUTIVE SUMMARY

Clause 8.6 of *District Planning Scheme No. 2* (DPS2) allows Council to delegate all or some of its development control powers to a committee or an employee of the City.

The purpose of delegation of certain powers by Council, in addition to other town planning matters, is to facilitate timely processing of development applications, *Residential Design Codes* (R-Code) applications and subdivision applications. The framework for the delegation of those powers is set out in resolutions adopted by Council and is reviewed on a two yearly basis, or as required. All decisions made by staff, acting under delegated authority as permitted under the delegation notice, are reported to Council on a monthly basis.

This report identifies the following applications determined by the administration with delegated authority powers during February 2014 (Attachments 1, 2 and 3 refer):

- 1 Planning applications (applications for planning approval (development applications) and R-Code applications).
- 2 Subdivision applications.
- 3 Building R-Code applications.

BACKGROUND

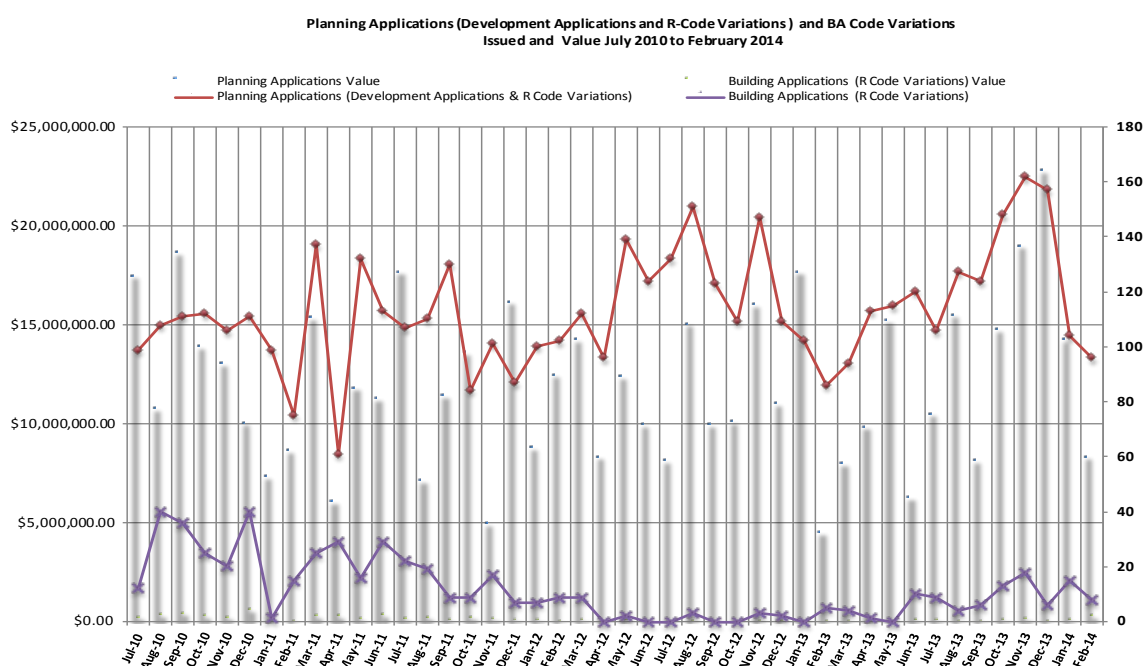
DPS2 requires that delegations be reviewed every two years, unless a greater or lesser period is specified by Council. At its meeting held on 25 June 2013 (CJ094-06/13 refers), Council considered and adopted the most recent Town Planning Delegations via its review of the Register of Delegation of Authority manual.

DETAILS

The number of applications determined under delegated authority during February 2014, is shown in the table below:

Applications determined under delegated authority – February 2014		
Type of Application	Number	Value (\$)
Planning applications (development applications and R-Codes applications)	96	\$ 8,343,182
Building applications (R-Codes applications)	8	\$320,726
TOTAL	104	\$ 8,663,908

The total number and value of planning and building R-Code applications determined between July 2010 and February 2014 is illustrated in the graph below:



The number of development applications received during February was 130. (This figure does not include any applications that may become the subject of an R-Code application as part of the building permit approval process).

The number of development applications current at the end of February was 234. Of these, 57 were pending additional information from applicants, and 45 were being advertised for public comment.

In addition to the above, 256 building permits were issued during the month of February with an estimated construction value of \$25,766,966.

The number of subdivision and strata subdivision referrals processed under delegated authority during February 2014 is shown in the table below:

Subdivision referrals processed under delegated authority for February 2014		
Type of referral	Number	Potential additional new lots
Subdivision applications	3	3
Strata subdivision applications	0	0

Issues and options considered

Not applicable.

Legislation / Strategic Community Plan / policy implications

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

Strategic Community Plan

Key theme Quality Urban Environment.

Objective Quality built outcomes.

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

Policy Not applicable. All decisions made under delegated authority have due regard to any of the City's policies that apply to the particular development.

Clause 8.6 of DPS2 permits development control functions to be delegated to persons or committees. All subdivision applications were assessed in accordance with relevant legislation and policies, and a recommendation made on the applications to the Western Australian Planning Commission.

Risk management considerations

The delegation process includes detailed practices on reporting, checking and cross checking, supported by peer review in an effort to ensure decisions taken are lawful, proper and consistent.

Financial/budget implications

A total of 104 applications were determined for the month of February with a total amount of \$40,570 received as application fees.

All figures quoted in this report are exclusive of GST.

Regional significance

Not applicable.

Sustainability implications

Not applicable.

Consultation

Consultation may be required by the provisions of the R-Codes, any relevant policy and/or DPS2.

Of the 96 development applications determined during February 2014 consultation was undertaken for 41 of those applications. R-Codes applications for assessment against the applicable Design Principles (previously known as Performance Criteria), which are made as part of building applications, are required to include comments from adjoining landowners. Where these comments are not provided, the application will remain the subject of an R-Codes application, but be dealt with by Planning Approvals. The three subdivision applications processed during February 2014 were not advertised for public comment.

COMMENT

Large local governments utilise levels of delegated authority as a basic business requirement in relation to town planning functions. The process allows for timeliness and consistency in decision-making for rudimentary development control matters. The process also allows the elected members to focus on strategic business direction for the Council, rather than day-to-day operational and statutory responsibilities.

All proposals determined under delegated authority are assessed, checked, reported on and cross checked in accordance with relevant standards and codes.

VOTING REQUIREMENTS

Simple Majority.

MOVED Cr Amphlett, SECONDED Cr McLean that Council NOTES the determinations and recommendations made under delegated authority in relation to the:

- 1 Applications for planning approval and R-Codes applications described in Attachment 1 to Report CJ046-04/14 during February 2014;**
- 2 Subdivision applications described in Attachment 2 to Report CJ046-04/14 during February 2014;**
- 3 Building Residential Design Code applications described in Attachment 3 to Report CJ046-04/14 during February 2014.**

The Motion was Put and CARRIED (13/0) by Exception Resolution after consideration of CJ057-04/14, page 79 refers.

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman, Ritchie, Taylor and Thomas.

Appendix 1 refers

To access this attachment on electronic document, click here: [Attach1brf80414.pdf](#)

CJ047-04/14 INITIATION OF SCHEME AMENDMENT NO. 74 – LOT 9021 (3) LOCHNAGAR WAY, KINROSS

WARD	North	
RESPONSIBLE DIRECTOR	Ms Dale Page Planning and Community Development	
FILE NUMBER	103935	
ALT FILE NUMBER	101515	
ATTACHMENT	Attachment 1	Location plan
	Attachment 2	Scheme amendment maps
	Attachment 3	Scheme amendment process flowchart
	Attachment 4	Consultation map
AUTHORITY / DISCRETION	Legislative - includes the adoption of local laws, planning schemes and policies.	

PURPOSE

For Council to consider initiating an amendment to *District Planning Scheme No. 2 (DPS2)* to rezone Lot 9021 (3) Lochnagar Way, Kinross, from 'Residential' and 'Public Use' to 'Urban Development', for the purpose of public advertising.

EXECUTIVE SUMMARY

Lot 9021 (3) Lochnagar Way, Kinross, is partly zoned 'Residential' and partly designated 'Local Reserve – Public Use (Primary School)' under DPS2. The 4.0267 hectare lot is undeveloped except for the southern portion, which includes part of the MacNaughton Park sports oval. The site, which is owned by Peet Limited, was originally identified as the location for the East Kinross Primary School, however, the Department of Education has indicated that it no longer has any need for the site.

The owner now wishes to develop the site for residential purposes. In order to facilitate this process, the owner has lodged an application which seeks to zone the site 'Urban Development'. The ultimate objective is to prepare the property for residential subdivision and development.

The proposed 'Urban Development' zone is the initial step in a process that will allow the site to be developed in accordance with a structure plan. The structure plan will be prepared as part of a separate process that will follow on from this scheme amendment. The proposed use of the site for residential purposes is considered to be compatible with the surrounding residential land uses.

An important component of the subsequent structure plan will be the treatment of the portion of the MacNaughton Park sports oval that falls within Lot 9021, which takes up more than 10% of the subject site. The applicant has acknowledged the need to retain the current function of the sports oval. However, only 10% of the gross subdivisible area is required to be given up as public open space. It is therefore recommended that the applicant be advised of the City's expectation for the structure plan for the site to incorporate the portion of the MacNaughton Park oval into public open space.

Should the proposed scheme amendment be supported, it will be formally advertised for public comment prior to further consideration by Council. It is therefore recommended that Council consents to initiating the advertising of the scheme amendment for a period of 42 days.

BACKGROUND

Suburb/Location	Lot 9021 (3) Lochnagar Way, Kinross.
Applicant	Development Planning Strategies (town planning consultants).
Owner	Peet Limited.
Zoning	DPS Residential and Local Reserve – Public Use (Primary School). MRS Urban.
Site area	4.0267 hectares.
Structure plan	Not applicable.

Lot 9021 is located in the north-eastern quadrant of Kinross and approximately 250m from the common boundary between the Cities of Joondalup and Wanneroo. The site is bounded on three of its four sides by Grangemouth Turn (west), Lochnagar Way (north) and MacNaughton Crescent (east). MacNaughton Park adjoins the site along its southern boundary (Attachment 1 refers).

The site is located within a well-established residential area with Residential Design Code densities ranging from R20 to R25. To the south of the site, beyond MacNaughton Park, is the Kinross Central Shopping Centre.

The subject site was intended to be developed as one of two primary schools in Kinross, however has remained undeveloped. The Department of Education has advised that it no longer requires the site due to insufficient demand. The site is currently sparsely covered with vegetation and contains informal pathways, suggesting that the site is being used by local residents or visitors as a thoroughfare.

During 1999, an application to subdivide the north west portion of the site into seven residential lots, varying in size from 500m² to 644m² (CJ312-09/99 refers), was lodged with the Western Australian Planning Commission (WAPC). Conditional subdivision approval was issued by the WAPC, and this portion of the site was subsequently zoned 'Residential' under DPS2 when it came into effect in 2000. However, the subdivision approval was never acted upon.

DETAILS

Scheme Amendment No. 74 seeks to zone Lot 9021 (3) Lochnagar Way, Kinross, 'Urban Development'. This would be achieved by reclassifying the 'Public Use (Primary School)' local reserve and rezoning the portion of the lot currently zoned 'Residential' (see Attachment 2). The determination of the future zonings and density codes for the site will form part of the structure planning process. The structure planning process will also be used

to resolve the future status and ownership of the portion of the MacNaughton Park sports oval that falls within the site.

In support of the proposal, the applicant states the following:

- The subject site was originally identified by the Department of Education for a Primary School, however, the Department of Education has confirmed that the site is no longer required for this purpose.
- Future structure planning and development of the site will take into account the needs of the City and the local community with regard to the abutting open space, and the retention of its current function.

Correspondence from the Department of Education to the City states the following:

- This site was set aside in the structure planning for the Kinross locality in the early 1990's. It was expected that as the areas grew, a new primary school would be needed to be developed on this site. However, the actual pattern of growth in the areas has allowed all students to be accommodated at the Kinross Primary School.
- Development in the area is now very mature and the Department has determined that it will not be necessary to develop a school on the East Kinross site. The only significant area of growth is in Burns Beach and a future primary school site has been set aside in Bramston Vista to serve this area. The Department therefore confirms that the East Kinross site will not be required for a public primary school.

Issues and options considered

The issues to be considered by Council are:

- the suitability of the proposed scheme amendment
- the impact of the proposed scheme amendment on surrounding development.

The options available to Council in considering the scheme amendment proposal are to:

- proceed with the proposed scheme amendment and adopt it for the purposes of public advertising
- modify and proceed with the proposed scheme amendment and adopt it for the purposes of public advertising
or
- not proceed with the proposed scheme amendment.

Legislation / Strategic Community Plan / policy implications

Legislation *Planning and Development Act 2005.*
Town Planning Regulations 1967.

Strategic Community Plan

Key theme Quality Urban Environment.

Objectives Quality open spaces.
Quality built outcomes.

Strategic initiatives Apply a strategic approach to the planning and development of public open spaces.

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

Policy Not applicable.

Planning and Development Act 2005 and Town Planning Regulations 1967

Part 5 of the *Planning and Development Act 2005* along with the *Town Planning Regulations 1967* enables a local government to amend a local planning scheme and sets out the process to be followed.

Should Council resolve to proceed with the proposed amendment for the purposes of public advertising, the proposed amendment is required to be referred to the Environmental Protection Authority (EPA) to decide whether or not a formal review is necessary. Should the EPA decide that an environmental review is not required, and notify the City accordingly, then it will be necessary to proceed to advertise the proposed scheme amendment for 42 days.

Upon closure of the advertising period, Council is required to consider all submissions received and to either adopt the amendment, with or without modifications, or refuse to adopt the amendment. The decision is then forwarded to the Western Australian Planning Commission (WAPC), which makes a recommendation to the Minister for Planning. The Minister can either grant final approval to the amendment, with or without modifications, or refuse the amendment.

It is important to note that the scheme amendment process is separate from the structure plan approval process. If the scheme amendment is ultimately approved by the Minister for Planning following the statutory advertising period, the applicant would be required to submit a structure plan proposal for the site which would be subject to a further comment period.

Clause 3.12.2 of DPS2 requires that no subdivision of development should occur in the 'Urban Development' zone until a structure plan has been prepared and adopted in accordance with Part 9 of DPS2.

The proposal presently before Council is to consider the scheme amendment only.

The process flow chart for amendments to DPS2 is included as Attachment 3.

Risk management considerations

Nothing of specific relevance to this proposal has been identified other than the need to adequately address the issue of the sports oval if it is to be retained in its current form. In this regard, the landowner has already acknowledged the need to address this issue.

Financial/budget implications

The applicant has paid \$5,313.06 plus GST for the assessment of the scheme amendment. The fee includes the cost for the City to prepare the scheme amendment documents, but does not include costs for advertising signs, as the applicant will be required to cover these additional costs associated with the scheme amendment process.

Regional significance

Not applicable.

Sustainability implications

Development of the site for residential purposes will provide new residents with access to existing facilities such as shopping centres, open spaces and public transport, all within walking distance, as well as to make better use of existing infrastructure within an established suburb.

Any environmental implications will be examined during the structure planning process.

Consultation

Should Council initiate the scheme amendment, it is required to be advertised for public comment for 42 days. It is proposed that advertising will be by way of:

- letters to land owners surrounding the subject site as depicted in Attachment 4
- a notice placed in the Joondalup Community newspaper and *The West Australian* newspaper
- signs on the subject site
- a notice on the City's website.

COMMENT

Suitability of the proposed scheme amendment

Given that the Department of Education no longer requires the site for its intended use, an amendment of the scheme to 'Urban Development' is considered appropriate. The proposed scheme amendment to 'Urban Development' is preferable to zoning the site 'Residential' as it requires the preparation and adoption of a structure plan prior to subdivision and development occurring. The structure planning process provides a mechanism for the City to remain actively involved in setting the future development parameters for the site in a coordinated and integrated manner.

Under DPS2, the site has a density code of R20. The density coding of land within the 'Urban Development' zone is defined by the structure plan. Therefore, the proposed scheme amendment will include the removal of the density code currently applicable to the site.

Structure plan

Future subdivision and development of the site must conform to the requirements of a structure plan which, in turn, should be consistent with the Council's broader strategies relating to housing infill and densification. As the site is undeveloped, it presents an ideal opportunity for good design outcomes to be achieved in a manner that fully integrates the site into the surrounding urban area.

The applicant has indicated that the site is to be subdivided into residential lots, which will require that consideration be given to residential densities, open space provision, access and various other design elements.

Impact on the adjoining MacNaughton Park and sporting oval

The site presents a unique situation in that part of the City's active sporting oval on MacNaughton Park straddles the boundary of the subject lot. Should the primary school have been developed, shared use of the oval would have occurred between the school and the City. The integrity of the MacNaughton Park sports oval in its current form rests on a future structure plan setting aside a suitable portion of the site for this purpose. How this is to be achieved will form part of the structure planning process.

The City is keen to retain the full extent of the oval, and the preference is to seek management of the portion of land that contains the oval through a public open space designation. The State Government's Liveable Neighbourhoods State Planning Policy requires residential development to give up a minimum of 10% of the gross subdivisible area as public open space. However, the portion of the sports oval that falls within Lot 9021, takes up more than 10% of the subject site.

Assuming the rezoning is successful, the subsequent structure plan will need to appropriately address this issue to the City's satisfaction. It is recommended that the applicant be advised of the City's expectation for the structure plan for the site to incorporate the portion of the MacNaughton Park oval into public open space.

Community consultation

In addition to the consultation required for the scheme amendment, community consultation is also required as part of the structure planning process. This process will provide surrounding landowners with a further opportunity to comment on the proposed development of the site. Due to the anticipated level of community interest, it is recommended that the applicant submit a community involvement and consultation plan to supplement the formal consultation process.

It is recommended that Council initiates the proposed amendment to DPS2 for the purpose of public advertising for a period of 42 days.

VOTING REQUIREMENTS

Simple Majority.

MOVED Cr McLean, SECONDED Cr Hollywood that Council:

1 Pursuant to Part 5 of the *Planning and Development Act 2005* and regulations 13 and 25 of the *Town Planning Regulations 1967*, PROCEEDS with Amendment No. 74 to the *City of Joondalup District Planning Scheme No. 2* to:

1.1 remove the 'Public Use' reservation and 'Residential' zoning from Lot 9021 (3) Lochnagar Way, Kinross, and zone the site 'Urban Development';

1.2 change the density code of Lot 9021 (3) Lochnagar Way, Kinross from R20 to uncoded,

as depicted in Attachment 2 to Report CJ047-04/14, and ADOPTS Amendment No. 74 for the purposes of public advertising for a period of 42 days;

- 2 In the event that Amendment No. 74 is approved, **REQUIRES** a structure plan to be prepared and presented to the City in accordance with Part 9 of the *City of Joondalup District Planning Scheme No. 2*, as a prerequisite to Council's consideration of an application for Planning Approval or support for an application to subdivide Lot 9021 (3) Lochnagar Way, Kinross, pursuant to clause 9.1.1 of the *City of Joondalup District Planning Scheme No. 2*;
- 3 **ADVISES** the applicant that the City expects that, through the structure planning process, the extent of the MacNaughton Park oval that extends onto Lot 9021 (3) Lochnagar Way, Kinross, will be incorporated into public open space;
- 4 **ADVISES** the applicant that the City would anticipate a high level of community interest in the subdivision and development of the site, and therefore requests a community involvement and consultation plan be submitted to the City prior to the preparation of the structure plan, undertaken at the applicant's cost, to supplement the formal consultation process required under *City of Joondalup District Planning Scheme No. 2*.

AMENDMENT MOVED Cr McLean, **SECONDED** Cr Hollywood that Part 3 of the Motion be amended to read as follows:

- "3 ADVISES the applicant that the City requires that, through the structure planning and subsequent subdivision processes, the extent of the MacNaughton Park oval that extends onto Lot 9021 (3) Lochnagar Way, Kinross, will be incorporated into public open space and ceded at no cost."**

The Amendment was Put and

CARRIED (13/0)

In favour of the Amendment: Mayor Pickard, Crs Amphlett, Chester, Corr, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman, Ritchie, Taylor and Thomas.

The Original Motion as amended, being:

That Council:

- 1 Pursuant to Part 5 of the *Planning and Development Act 2005* and regulations 13 and 25 of the *Town Planning Regulations 1967*, **PROCEEDS** with Amendment No. 74 to the *City of Joondalup District Planning Scheme No. 2* to:
 - 1.1 remove the 'Public Use' reservation and 'Residential' zoning from Lot 9021 (3) Lochnagar Way, Kinross, and zone the site 'Urban Development';
 - 1.2 change the density code of Lot 9021 (3) Lochnagar Way, Kinross from R20 to uncoded,
- as depicted in Attachment 2 to Report CJ047-04/14, and **ADOPTS** Amendment No. 74 for the purposes of public advertising for a period of 42 days;

- 2 In the event that Amendment No 74 is approved, **REQUIRES** a structure plan to be prepared and presented to the City in accordance with Part 9 of the *City of Joondalup District Planning Scheme No. 2*, as a prerequisite to Council's consideration of an application for Planning Approval or support for an application to subdivide Lot 9021 (3) Lochnagar Way, Kinross, pursuant to clause 9.1.1 of the *City of Joondalup District Planning Scheme No. 2*;
- 3 **ADVISES** the applicant that the City requires that, through the structure planning and subsequent subdivision processes, the extent of the MacNaughton Park oval that extends onto Lot 9021 (3) Lochnagar Way, Kinross, will be incorporated into public open space and ceded at no cost;
- 4 **ADVISES** the applicant that the City would anticipate a high level of community interest in the subdivision and development of the site, and therefore requests a community involvement and consultation plan be submitted to the City prior to the preparation of the structure plan, undertaken at the applicant's cost, to supplement the formal consultation process required under *District Planning Scheme No. 2*.

was Put and

CARRIED (13/0)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman, Ritchie, Taylor and Thomas.

Appendix 2 refers

To access this attachment on electronic document, click here: [Attach2brf80414.pdf](#)

CJ048-04/14 INVESTIGATION INTO THE MAKING OF AN UNKEMPT LAND LOCAL LAW

WARD	All	
RESPONSIBLE DIRECTOR	Mr Jamie Parry Governance and Strategy	
FILE NUMBER	23513, 101515	
ATTACHMENT	Attachment 1	Process flowchart for issuing notices and entering private property
	Attachment 2	Schedule 3.1 of the <i>Local Government Act 1995</i>
	Attachment 3	Schedule 3.2 of the <i>Local Government Act 1995</i>
AUTHORITY / DISCRETION	Advocacy - Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.	

PURPOSE

For Council to note the outcome of the investigations into the making of an unkempt land local law.

EXECUTIVE SUMMARY

At its meeting held on 19 November 2013 (CJ205-11/13 refers) Council resolved in part as follows:

“That Council REQUESTS the Chief Executive Officer to prepare a report for Council’s consideration to create an Unkempt Land Local Law to be used as a mechanism to address problems encountered with storage of disused vehicles and materials in front yards of properties which unduly impact on the streetscape and the amenity of neighbouring land owners.”

An assessment and review was undertaken of the regulatory framework available to the City to address issues relating to the storage of disused materials on private property. Components of this assessment included what mechanisms currently exist in legislation and the extent of a local government’s local law-making power relating to private property.

The assessment highlighted that local laws affecting private property are restricted to those matters listed in Schedules 3.1 and 3.2 of the *Local Government Act 1995* (the Act) and the power for a local government to enter private land must follow the statutory process detailed through sections 3.25 to 3.35 of the Act. While a local law can be made relating to unkempt private property, it does not provide the City with any additional power or mechanisms to expedite the process of removing disused material from private land, as the power to enter private land must follow the process detailed in the Act. Any local law which is inconsistent with the Act is likely to be invalid. If a local law was created, infringement notices could not be issued as the notice is served under the Act not a local law, and any penalty through the

courts for non-compliance, need to replicate and be similar to the penalties specified in section 9.14 of the Act (being a fine of \$5,000 and if the offence is of a continuing nature, a further \$500 in respect of each day during which the offence has continued).

In this regard a local law created for such purposes cannot go beyond the provisions stated in the Act and adequate regulatory mechanisms exist through the Act and outside of a local law, to pursue unkempt land issues on private property. However the City could advocate amendments to the *Local Government Act 1995* to enable local governments to address such matters in a more timely manner, however such changes are unlikely to be supported by Parliament.

It is therefore recommended that Council:

- 1 *NOTES the preparation of an unkempt land local law is not warranted as provisions are contained within the Local Government Act 1995 to address such matters;*
- 2 *REQUESTS the Chief Executive Officer to write to the Hon. Tony Simpson, Minister for Local Government and the Western Australian Local Government Association to advocate amendments to the Local Government Act 1995 to simplify the statutory processes for local governments to follow when entering private property for the purposes of remedying, mitigating or progressing a matter listed in Schedules 3.1 and 3.2 of the Local Government Act 1995.*

BACKGROUND

At its meeting held on 19 November 2013 (CJ205-11/13 refers) Council resolved in part as follows:

“That Council REQUESTS the Chief Executive Officer to prepare a report for Council’s consideration to create an Unkempt Land Local Law to be used as a mechanism to address problems encountered with storage of disused vehicles and materials in front yards of properties which unduly impact on the streetscape and the amenity of neighbouring land owners.”

Council’s resolution was in response to a long-term issue at a property in Mullaloo where the owner is storing disused machinery, vehicles and materials in the property’s front yard, which is impacting on the streetscape and amenity of neighbouring properties. Despite repeated requests, notices and orders issued by the City (including a previous decision of Council to assist the landowner) the amenity issue for this property is taking some time to resolve. Investigations by City officers reveal that while removal of items sometimes occurs on the City’s request, they are subsequently replaced by other disused materials.

The serving of notice provisions under the Act are very specific, including the need to detail those items that are required to be removed in the notice. When new disused materials are placed on private property, a new notice must therefore be issued that lists the new disused materials required to be removed. This can cause lengthy delays where additional disused material is placed on private property, however cannot be avoided.

DETAILS

Following Council's decision, a review was undertaken of the regulatory framework available to the City to address issues that arise from the storage of disused materials on private property. The review included an assessment of the provisions within the *Local Government Act 1995*, the City's *District Planning Scheme No. 2 (DPS2)* and the ability and appropriateness of local governments to make local laws around such matters.

Legal advice was also obtained in considering the most appropriate mechanism(s) to address the issue of unkempt land.

Local Government Act 1995

Local governments have the statutory power to make local laws under section 3.5 of the Act. The purpose of a local law is to prescribe matters that are required to be prescribed, or are necessary or convenient to be prescribed, to enable the local government to perform any of its functions under the Act.

However there is no express provision in the Act dealing with local law-making powers affecting private land or authorising entry onto private land. Local laws must be consistent with the Act and any other written law otherwise they would be inoperative to the extent of their inconsistency.

Notwithstanding, the Act does provide an ability for local governments to serve a notice on owners and occupiers of private land in certain circumstances, and to enter private land if the notice is not complied with. In accordance with sections 3.25 and 3.27 of the Act, a local government has the ability to serve a notice to an owner or occupier of private property to remedy or mitigate certain issues on their private land and those matters are limited to those prescribed in Schedule 3.1 and Schedule 3.2 of the Act (Attachments 2 and 3 refer respectively). However a private property owner or occupier has the ability to apply to the State Administrative Tribunal (SAT) for a review of the decision to give the notice (see section 3.25(5) of the Act). These entry provisions do not derogate the power of entry in other legislation, such as the *Bush Fires Act 1954*, the *Health Act 1911* or the *Planning and Development Act 2005*.

Clause 5A of Schedule 3.1 of the Act specifically relates to unkempt land and provides that a notice can be served on an owner or occupier of private land to ensure overgrown vegetation, rubbish, or disused material, as specified, is removed from the land that the local government considers to be untidy. Disused material is defined to include motor vehicles, old motor vehicle bodies and old machinery. This provision is currently being used for the offending property in Mullaloo.

Where a notice has been served on an owner or occupier of private land and the person fails to comply with the requirements of the notice, the general procedure for entering the property must follow the legislative provisions as detailed in section 3.31 to 3.33 of the Act (a flowchart illustrating this is provided in Attachment 1). In summary, entry to private property by local government employees or agents (outside of an emergency) is only authorised if:

- the consent of the owner or occupier has been obtained
- a notice of entry has been given under section 3.32 of the Act
or
- entry is authorised by the warrant of a justice (under section 3.33 of the Act).

A person who fails to comply with a section 3.25 notice commits an offence, the penalty of which is \$5,000 and if the offence is of a continuing nature, a further \$500 in respect of each day during which the offence has continued. However, penalties of this nature and costs associated with the City undertaking work as prescribed in the notice can only be imposed and recovered through the courts, subject to a successful prosecution.

External legal advice has confirmed that the existing provisions of the Act provide the most appropriate statutory mechanism to enable local governments to address issues emanating from unkempt private land.

Views of the Joint Standing Committee on Delegated Legislation on local laws affecting private land

The Joint Standing Committee on Delegated Legislation (JSCDL) is a Western Australian Parliamentary Committee that reviews subsidiary legislation, including local laws made by local governments. The principal purpose of the JSCDL is to maintain parliamentary scrutiny of the local law-making power of local governments to ensure local laws are not made that go beyond the mandate permitted by Parliament. Where a local law offends the committee's terms of reference (for instance inconsistent with prevailing law or outside an agencies law-making powers) it will recommend to Parliament, through tabled reports and findings, that the offending law be disallowed.

Of particular relevance to the unkempt land issue, the JSCDL prepared a report for Parliament in relation to the powers of entry and powers to make local laws that affect private land under the *Local Government Act 1995* (7th Report dated May 2003). This particular report was prepared as the JSCDL had increasing concerns about local laws being made by local governments which sought to:

- 1 regulate the activities of owners and occupiers of private land conducted on that land
- 2 authorise local government employees to enter land,

in circumstances that went beyond the matters listed in Schedules 3.1 and 3.2 of the Act.

The JSCDL's view with regard to a local government's powers over private land is that Schedules 3.1 and 3.2 provide an exhaustive list of the circumstances in which a local government may interfere with the quiet enjoyment of that land by the owner or occupier. The JSCDL also considers that local laws:

- seeking to regulate an owner or occupiers conduct on private land, and authorising entry onto private land in situations that fall outside of Schedule 3.1 and 3.2
- including entry provisions that are inconsistent with the entry procedures specified in the Act,

are not authorised or contemplated by the Act.

The result of the findings above (and advice contained in other reports referencing the same matter) is that where a local government relies on the Act to make a local law regulating activities on private land, or authorising a local government employee to enter private land, the local government is restricted to the matters specified in Schedules 3.1 and 3.2 of the Act and must comply with the procedures for entering private land set out in Part 3, Division 3, Subdivision 3 of the Act. As the provisions in the Act that must be followed, an unkempt land local law serves no additional purpose or expedited benefit to resolve such issues relating to unkempt land.

Of note, where notice and entry does not follow the correct procedures, the local government could be exposed to possible legal action for trespass and the prospect of having to pay compensation to the affected owners or occupiers.

Unkempt land under the *District Planning Scheme No. 2 (DPS2)*

Clause 8.3 of the City's *District Planning Scheme No. 2 (DPS2)* states the following provision relating to unkempt land:

"8.3 UNKEMPT LAND

- 8.3.1 *On any land within the Scheme Area any undergrowth, refuse, rubbish or disused material which in the opinion of the Council is likely to affect adversely the value of adjoining property or the health, comfort or convenience of the inhabitants thereof, the Council may cause a notice to be served on the owner or occupier of such land requiring that the land is cleared of trees, scrub, undergrowth, refuse or rubbish, or such refuse, rubbish or disused material is removed from such land within a specified period.*
- 8.3.2 *Every owner or occupier of land upon whom a notice is served shall comply with such notice within the time period therein specified.*
- 8.3.3 *Where the owner or occupier does not clear the land or remove the refuse, rubbish or disused material as required by the notice given by the Council, the Council may without payment or any compensation in respect thereof, clear or remove it and dispose of it at the expense of and recover in a court of competent jurisdiction the amount of the expense from the owner or occupier to whom the notice is given.*
- 8.3.4 *Failure to comply with a notice under this clause shall be a breach of the provisions of the Scheme."*

While clause 8.3 is a possible avenue for the City to use in pursuing unkempt land matters on private property, a problematic evidentiary issue exists in that unkempt land *"in the opinion of the Council is likely to affect adversely the value of adjoining property or the health, comfort or convenience of the inhabitants thereof."* Obtaining such evidence would be burdensome and costly for the City before a notice is served, especially in relation to adversely affected property values. Such evidence would generally require property valuations, which are affected by many external market variables and conditions. Affect on a person's health, comfort and convenience would also be subjective and difficult to prove.

Advice from City officers has also indicated that courts in the past have taken an unfavourable view of local governments using scheme provisions to address matters of unkempt land, considering the minor scale of the issue and the extensive penalties that apply in respect of non-compliance with the scheme under the *Planning and Development Act 2005* (being a fine of \$200,000 or \$25,000 for an offence of a continuing nature). The courts also take the view that unkempt land issues of this nature are not broader development or land use planning considerations that a scheme should address and that other statutory mechanisms are in place to address these matters such as the *Local Government Act 1995*, the *Health Act 1911* or the *Litter Act 1979*.

In view of this the City has not used the scheme clause to address issues of unkempt land on private property, as the procedures in the Act provide a simpler and less burdensome mechanism of pursuit and more likely to be defended in court. As part of the development of a new local planning scheme for the City, this clause is intended to be removed.

Other considerations under DPS2

Of relevance, DPS2 includes a definition of 'salvage yard' as being "any land or buildings used for the storage of goods, equipment, plant or materials related to a particular trade". 'Salvage yards' under the scheme are a "D" discretionary land use in the 'Service Industrial' zone and are not permitted in any other zones under DPS2. However the difficulty in using this scheme provision for unkempt land issues is that a 'salvage yard' is defined as land used for the storage of materials *related to a particular trade* (emphasis added). If the materials stored cannot be aligned or associated with a particular trade (relevant to most unkempt land issues), the land use could not be considered a 'salvage yard' for the purposes of DPS2 and therefore could not be pursued for a non-conforming use.

Should Council wish to pursue such matters under the planning scheme a new land use would be required to be include in DPS2. This could be achieved via the Scheme review process or a separate Scheme Amendment. The State Government's Model Scheme Text (MST) includes a land use "storage" which is defined as meaning "*premises used for the storage of goods, equipment, plant or materials*". Including a land use 'storage' or 'storage yard' which the definition set out in the MST could possibly allow the City to then prosecute any residential property being used to store goods, equipment, plant or materials, provided the City could establish this was not simply storage that was incidental to a dwelling on the site. Distinguishing between what storage is considered to be incidental to a dwelling and what is actually a 'storage yard' will be the difficulty from an evidentiary point of view.

City of Joondalup Private Property Local Law 1998

The City's current *Private Property Local Law* contains provisions relating to the wrecking and storage of vehicles, however it does not address matters relating to unkempt land. Clause 37 of the *City of Joondalup Private Property Local Law 1998* states the following:

"A person must not on any residential lot:

- (a) store any vehicle, part or body of a vehicle or machinery, in a state of disrepair;*
 - (b) allow to remain on any land, a vehicle, part or body of a vehicle or machinery, in a state of disrepair;*
 - (c) wreck, dismantle or break up any vehicle, part or body of a vehicle or machinery; unless:*
 - (i) inside a building; or*
 - (ii) within an area enclosed by a fence or wall of not less than 2 metres in height and of such a nature as to screen all vehicles, parts or bodies of vehicles or machinery from the street and from adjoining properties;*
- or*
- (d) wreck, dismantle or break up a vehicle so as to cause a nuisance."*

Although in existence, City officers do not rely on the provisions of the local law to address matters related to unkempt private property (that is vehicle wrecking) and utilise the mechanisms and legislative provisions within the Act as detailed above. This is because the local law is likely to be invalid as it contains provisions that are inconsistent with the Act, namely the notice provisions and the procedures for entry to private property.

It should be noted however that the City's current local law was adopted before the JSCDL handed down its report. It was also created soon after the *Local Government Act 1995* came into effect and before its provisions were fully understood, tested and implemented in practice.

Local laws of other local governments

A search of the Local Laws Register maintained by the Department of Local Government and Communities has revealed there are no unkempt land local laws that remain in existence, with the last one being repealed in 2004 (City of Melville).

A number of local governments have a private property local law that contain provisions similar to the *City of Joondalup Private Property Local Law 1998* in respect of vehicle wrecking. Some local governments (such as the City of Bunbury 2003 local law and the Town of Cambridge 2001 local law) have provisions within their local laws relating to unkempt land and the *City of Kwinana Urban Nuisance and Environment Local Law 2003* also contains similar provisions relating to unsightly land and disused materials.

However considering the views of the JSCDL in its seventh report, the serving of a notice for private land issues and the power for local governments to enter private land, must follow the procedures in the Act, and the above mentioned local laws endeavour to go above those provisions. The abovementioned local laws also provide an infringement notice penalty for non-compliance with a notice served under the local law to remove the disused material (\$200 for the City of Bunbury and the Town of Cambridge, and \$250 for the City of Kwinana for vehicle wrecking only).

In respect of infringement notices, Section 9.16(1) and (2) of the Act states the following:

9.16. Notice, giving of to alleged offender

- (1) *An authorised person who has reason to believe that a person has committed a prescribed offence against a regulation or local law made under this Act may, within 28 days after the alleged offence is believed to have been committed, give an infringement notice to the alleged offender.*
- (2) *A local government can only prescribe an offence for the purposes of subsection (1) if a prosecution for the offence could be commenced by the local government or any of its employees and the local government is satisfied that -*
 - (a) *commission of the offence would be a relatively minor matter; and*
 - (b) *only straightforward issues of law and fact would be involved in determining whether the offence was committed, and the facts in issue would be readily ascertainable.*

The infringement penalties of the local laws mentioned above are void as a notice to remove disused materials from private property is served under the Act not a local law (therefore being inconsistent with section 9.16(1) of the Act). Section 3.25 of the Act, in respect of serving notices on owners or occupiers of land, does not allow for an infringement penalty.

In view of this, the above local laws are inconsistent with the Act relating to serving of notices and entry into property and these local laws are more than likely void and unenforceable due to their inconsistency.

Issues and options considered

The Council can:

- rely on the provisions of the *Local Government Act 1995* to serve notices on private property owners or occupiers relating to unkempt land issues
- request a new unkempt land local law be created
- request that the *City of Joondalup Private Property Local Law 1998* be amended to include provisions relating to unkempt land
or
- initiate an amendment to the scheme by including a new land use for storage.

In view of the above information, it is considered that the establishment of a local law is not needed to address problems encountered with the storage of disused vehicles and materials on private property, as the provisions of the Act satisfactorily provide this mechanism. Any local law cannot go against the procedures and processes set out in the Act in respect to notices and entry onto private property, and therefore a local law provides no statutory advantage on entering private property to mitigate an issue in a more timely manner.

As part of its wider review of the City's local law framework, it is proposed that the current *City of Joondalup Private Property Local Law 1998* be repealed in its entirety, with the exception of the relevant fencing provisions being included into a new Fencing Local Law. All other matters in the current local law are not required as they are covered by prevailing legislation.

Legislation / Strategic Community Plan / policy implications

Legislation

Local Government Act 1995.
Planning and Development Act 2005.
City of Joondalup District Planning Scheme No. 2.

Strategic Community Plan

Key theme

Quality Urban Environment.

Objective

Quality built outcomes.

Strategic initiative

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

Policy

Not applicable.

Risk management considerations

Should the City not consider the views of the JSCDL, the local law may be considered void and inoperable to the extent of any inconsistency.

Financial/budget implications

Should the establishment of a specific local law relating to unkempt land be pursued costs will be incurred that are associated with the statutory advertising processes and publishing in the *Government Gazette*.

Regional significance

Not applicable.

Sustainability implications

Not applicable.

Consultation

Consultation has occurred with a number of relevant Business Units throughout the organisation and legal advice was obtained in considering the most appropriate mechanism(s) to address the issue of unkempt land.

COMMENT

During the period January 2013 to January 2014, the City received 97 complaints regarding untidy land. Of these 97 complaints, 69 were resolved in the required timeframe of 60 days with 95 complaints resolved in an average time of 46 days. This mitigated the need to formally issue a section 3.25 notice. However, two section 3.25 notices were issued during this period; one for an ongoing issue at a property in Mullaloo, and the other case which is pending compliance by the property owner.

In this regard, the City's co-operative processes are adequate in addressing unkempt land issues as amicably as possible with property owners. However, where cooperation cannot be obtained with property owners, the provisions of the Act can be used to achieve the desired outcome, albeit in a longer timeframe. Significant penalties can result should an owner or occupier not comply with a notice served under the Act, and have been applied in extreme circumstances.

In its seventh report, the JSCDL acknowledged that in modern society, there will be an inevitable tension between the rights of private property owners to the quiet enjoyment of their land and the need to restrict or prohibit certain activities on that land in the public interest. Many laws place a variety of restrictions and prohibitions on property owners that are designed to maintain the health, safety and wellbeing of citizens as well as the amenity of the area in which the law has effect. A power to enter private land often accompanies such laws to enable effective enforcement. However there is a common law right of an owner or occupier to the quiet enjoyment of private land.

In this regard, the Act respects and preserves this common law right by confining the power of local governments to enter private land in specific and expressed circumstances and in accordance with the procedures set out in the Act. However it may be viewed that these procedures are overly lengthy and burdensome to enable local governments to remedy or mitigate certain issues in a timely manner. The City could therefore advocate to the Minister for Local Government and WALGA seeking amendments to the Act to enable timely resolution to such matters listed in Schedules 3.1 and 3.2 of the Act.

External legal advice has confirmed that the existing provisions of the Act provide the most appropriate statutory mechanism to enable local governments to address issues emanating from unkempt private land. It is acknowledged that the process required to be followed under the Act is time consuming; however it has been developed on the premise of protecting a person's common law right to the quiet enjoyment of their land. In this regard any advocacy to amend the Act is in the view of the City's officers unlikely to be supported.

Any local law relating to unkempt land could not go beyond that which is already provided for in the Act, would not strengthen existing legislative mechanisms, or provide a more convenient method of addressing problems associated with unkempt land.

The scheme could be amended by adding a new land use for storage, which if adopted, could provide another avenue to pursue unkempt land issues when it relates to the storage of materials on private land. As detailed above however, sufficient mechanisms already exist under the Act to address unkempt land issues without the need for a scheme amendment, although such amendment could provide another mechanism for pursuit in extreme cases. Penalties through the courts under the *Planning and Development Act 2005* are more severe than under the *Local Government Act 1995* however it still would not provide a mechanism for the City to enter the land to remove the materials as this still would need to be undertaken through the provisions in the Act.

VOTING REQUIREMENTS

Simple Majority.

MOVED Cr Amphlett, SECONDED Cr McLean that Council:

- 1 NOTES the preparation of an unkempt land local law is not warranted as provisions are contained within the *Local Government Act 1995* to address such matters;**
- 2 REQUESTS the Chief Executive Officer to write to the Hon. Tony Simpson, Minister for Local Government and the Western Australian Local Government Association to advocate amendments to the *Local Government Act 1995* to simplify the statutory processes for local governments to follow when entering private property for the purposes of remedying, mitigating or progressing a matter listed in Schedules 3.1 and 3.2 of the *Local Government Act 1995*.**

The Motion was Put and CARRIED (13/0) by Exception Resolution after consideration of CJ057-04/14, page 79 refers.

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman, Ritchie, Taylor and Thomas.

Appendix 3 refers

To access this attachment on electronic document, click here: [Attach3brf80414.pdf](#)

CJ049-04/14 LOCAL GOVERNMENT AND PUBLIC PROPERTY LOCAL LAW 2014 – REQUEST TO ADVERTISE

WARD	All	
RESPONSIBLE DIRECTOR	Mr Jamie Parry Governance and Strategy	
FILE NUMBER	22513, 101515	
ATTACHMENTS	Attachment 1	Local law comparison matrix.
	Attachment 2	Draft <i>Local Government and Public Property Local Law 2014</i> (unofficial version – with footnotes).
	Attachment 3	Draft <i>Local Government and Public Property Local Law 2014</i> (official version).
AUTHORITY / DISCRETION	Legislative - includes the adoption of local laws, planning schemes and policies.	

PURPOSE

For Council to make the *City of Joondalup Local Government and Public Property Local Law 2014* for the purposes of public advertising and to seek the Governor's approval to extend the City's western boundary 200 metres seaward for the purposes of enforcing the local law.

EXECUTIVE SUMMARY

The *City of Joondalup Local Government and Public Property Local Law 1999* was adopted by the Joint Commissioners at its meeting held on 7 December 1999 (CJ419-12/99 refers) and has been in operation since 1 February 2000. The purpose of the local law was to provide for the regulation, control and management of activities and facilities on local government and public property within the district.

Similarly the *City of Joondalup Trading in Public Places Local Law 1999* was adopted by the Joint Commissioners at its meeting held on 13 July 1999 (CJ243-07/99 refers) and has been in operation since 10 September 1999. The purpose of this local law is to provide for the regulation, control and management of the outdoor dining areas, street markets, trading, and street entertainment within the City of Joondalup.

A local government is required to review its local laws within a period of eight years from the day the local law commenced or was last reviewed by Council. Both local laws have been amended a number of times, with the last amendments occurring in 2008 and 2009 respectively.

A review of all local laws was conducted during 2013 as part of the City's statutory requirement to undertake a review of all local laws within eight years of being adopted. The review determined that the current local law should be repealed and a new local law created.

Since the formal eight year review a new local law has been developed which encompasses the former *City of Joondalup Local Government and Public Property Local Law 1999*, the *City of Joondalup Trading in Public Places Local Law 1999*. These local laws and certain provisions within the *Signs Local Law 1999* (relating to signs on thoroughfares) will be repealed should the new local law be adopted as final.

As per the existing *Local Government and Public Property Local Law 1999* it will be necessary to seek the Governor's approval to extend the City's western boundary 200 metres seawards for the purposes of enforcing certain provisions in the local law that relate to beaches, surf lifesaving activities, boats and personal watercraft.

It is therefore recommended that Council:

- 1 *MAKES the City of Joondalup Local Government and Public Property Local Law 2014, as detailed in Attachment 3 to Report CJ049-04/14, for the purposes of public advertising;*
- 2 *in accordance with section 3.6 of the Local Government Act 1995, SEEKS the Governor's approval to extend the City's western boundary 200 metres seaward from the low water mark, for the purposes of the proper administration of the local law detailed in Part 1 above.*

BACKGROUND

At its meeting held on 7 December 1999 (CJ419-12/99 refers), the Joint Commissioners adopted the *City of Joondalup Local Government and Public Property Local Law 1999*. The purpose of the local law was to provide for the regulation, control and management of activities and facilities on local government and public property within the district and details provisions around the following matters:

- General use of local government property.
- Specific use of local government property, including:
 - golf courses
 - swimming pools
 - reserves, beaches and bathing.
- Activities in thoroughfares.
- Shopping trolleys.

The current local law was published in the *Government Gazette* on 18 January 2000 and has been in operation since 1 February 2000 (14 days after its publication in the *Government Gazette*).

A local government is required to review its local laws within a period of eight years from the day the local law commenced or was last reviewed by Council. The *City of Joondalup Local Government and Public Property Local Law 1999* has been amended a number of times, most recently in December 2009.

The eight year statutory review of the City's local laws was finalised in early 2013. The review identified that, with the exception of the then recently adopted *Pest Plant Local Law 2012*, and the former *Parking Local Law 1998* and the former *Standing Orders Local Law 2005*, all of the City's local laws required significant amendment, re-writing or repeal (CJ026-03/13 refers). The *Parking Local Law 1998* and the *Standing Orders Local Law 2005* were subsequently reviewed and repealed outside of the eight year statutory review process, with the adoption of the *Parking Local Law 2013* and *Meeting Procedures Local Law 2013*.

To progress the outcomes of the review, an internal working group was formed and has been developing a new Local Government and Public Property Local Law for Council's consideration.

DETAILS

The proposed *City of Joondalup Local Government and Public Property Local Law 2014* is a consolidation of the following current local laws:

- *Local Government and Public Property Local Law 1999.*
- *Trading in Public Places Local Law 1999.*
- *Signs Local Law 1999 (Part 4).*

While the proposed new local law comprises most aspects of the current *Local Government and Public Property Local Law 1999* and the *Trading in Public Places Local Law 1999*, only aspects of the *Signs Local Law 1999 (Part 4)* relating to portable signs in thoroughfares have been included in the new local law.

The proposed local law provides for the regulation and control of activities of local government and public property and is structured into various Parts as follows:

Part 1 - Preliminary – details the purpose and effect of the local law, its application and commencement, repeal provisions and a list of the definitions used throughout the local law.

Part 2 - Determinations in respect of local government property – outlines the types of determinations that can be made by the City in respect of uses or restrictions on local government property; the process for making a determination; activities that can be pursued or prohibited on specified local government property; and the transitional provisions between the old local law to the new.

Part 3 - Activities on local government property – details when a permit for certain activities on local government property is required and responsibilities of a permit holder.

Part 4 - Behaviour on all local government property – outlines the type of behaviour that is not acceptable on local government property, including but not limited to smoking, being intoxicated, using prohibited drugs, damaging property and the wearing of inadequate clothing to prevent indecent exposure. This part also details the ability for an authorised person to refuse entry to local government property where he or she believes behaviour is contrary to this part and the local government may erect signs specifying conditions of use.

Part 5 - Matters relating to particular local government property – encompasses issues such as entry, behaviour in or at, and rules relating to, swimming pool areas, beaches, fenced or closed property, toilet blocks and change rooms.

Part 6 - Fees for entry on to local government property – specifies that fees can be charged for a function and unauthorised entry is not permitted.

Part 7 - Jetties and bridges – outlines provisions around the mooring of boats at jetties, authorisations, restrictions on launching of boats and limitation on fishing.

Part 8 - Activities in public places – encompasses general prohibitions and permit requirements around certain activities in public places (including thoroughfares) such as consumption of alcohol, damage to, obstruction, removal or placement of items within a thoroughfare, as well as provisions relating to vehicle crossings, permissible verge treatments and owner / occupier obligations to maintain, assignment and display of property numbers, fencing of public places, authority for the local government to erect signs on public property and prohibits driving on a closed thoroughfare.

Part 9 - Advertising signs on thoroughfares – defines signs, outlines general prohibitions relating to the placement of signs in thoroughfares, the use of temporary portable direction signs, permits for charitable organisations, election signs and the authority to impound unauthorised advertising signs.

Part 10 - Obstructing animals, vehicles or shopping trolleys – stipulates offences for leaving animal or vehicle in a public place, prohibitions on animals in certain public places, the authority to remove animals or vehicles and requirements relating to the ownership and management of shopping trolleys.

Part 11 - Trading in public places and local government property – defines trading and the need to obtain a permit for trading, responsibilities of permit holders, exemptions from requirement to obtain a permit, provisions relating to street markets, street entertainers and outdoor eating areas.

Part 12 - Permits – details how to apply for a permit under the local law, conditions that may be imposed on a permit, and other general requirements relating to the ownership, renewal and transfer of permits.

Part 13 - Objections and appeals – details the objection and appeal rights of aggrieved persons under the local law.

Part 14 - Miscellaneous – outlines authorised person to be obeyed, disposal of lost property and liability for damage to local government property or a public place.

Part 15 - Enforcement – details effects of the service of a notice for an offence, and the subsequent penalties relating to offences.

Schedule 1 – Prescribed offences – this schedule details the modified penalties under the local law in which an infringement can be issued. The majority of modified penalties have increased, with a large proportion of those only marginally increasing. The proposed penalties are comparative to penalties in similar local laws of other local governments, as well as the WALGA model local laws. It is also noted that penalties have largely remained unchanged since the making of the local law in 1999. In addition, the modified penalties for leaving shopping trolleys in a public place have been significantly revised down, in response to the City's previous undertakings to the Joint Standing Committee on Delegated Legislation (JSCDL) on this matter.

Schedule 2 – Determinations – details the various determinations relating to local government property that come into effect when the local law becomes operational.

The proposed local law has been drafted taking into account contemporary drafting standards, various reports and rulings of the JSCDL and operational and enforcement needs as identified by various Business Units of the City.

An unofficial copy of the proposed local law that includes footnotes to aid understanding of various legislative provisions is provided at Attachment 2. The official version of the local law that will be used for gazettal, is included as Attachment 3.

Comparison between the proposed new local law and the provisions of the existing local laws to be repealed are summarised in the comparison matrix (Attachment 1 refers). This attachment indicates whether a similar clause is provided in one of the existing local laws, whether there is a new clause in the new local law and those clauses that are not provided for and an appropriate explanation.

The procedure for making local laws is detailed in the *Local Government Act 1995* (the Act) and is a specific legislative process that must be adhered to in order for the local law to be accepted by the Joint Standing Committee on Delegated Legislation (JSCDL) and by Parliament.

Section 3.12(2) of the Act states that the first action in the process of making a local law is for the Mayor to give notice to the meeting of the purpose and effect of the proposed local law. Regulation 3 of the *Local Government (Functions and General) Regulations 1996* states that this is achieved by ensuring that:

- (a) the purpose and effect of the proposed local law is included in the agenda for that meeting
- (b) the minutes of the meeting of the Council include the purpose and effect of the proposed local law.

In view of this, the **purpose** of the *City of Joondalup Local Government and Public Property Local Law 2014* is to provide for the regulation, control and management of activities and facilities on local government and public property within the district.

The **effect** of the *City of Joondalup Local Government and Public Property Local Law 2014* is to establish the requirements with which any persons using or being on local government and public property within the district, must comply.

One of the significant requirements of the local law relates to the application of the local law in clause 1.4, requiring the Governor's approval to include the application of the local law for a distance of 200m seawards from the low water mark along the western boundary of the City of Joondalup. The extension of the City's boundary seaward enables the provisions relating to beaches and activities of surf life saving clubs to be appropriately enforced.

The existing *Local Government and Public Property Local Law 1999* currently contains information of a Governor's Order giving effect to the extension of the City's boundary seaward as published in the *Government Gazette* on 18 May 2001. However advice from the Department of Local Government and Communities has indicated the current Order is specific to the current local law, and therefore a new Order will be required to be made by the Governor in relation to the proposed new local law.

The local law has been prepared for advertising with the inclusion of the proposed Governor's Order, thereby indicating the intent of the City to obtain the Governor's approval. Approval will be sought concurrently during the public consultation period of the making of the local law. The date of the Governor's approval can then be inserted at the 'adoption' stage of the law-making process, without changing the intent of the local law.

Issues and options considered

Council can either:

- make the *City of Joondalup Local Government and Public Property Local Law 2014* as presented for the purposes of public advertising
- make the *City of Joondalup Local Government and Public Property Local Law 2014* as proposed with any necessary amendments
or
- not recommend the making of the *City of Joondalup Local Government and Public Property Local Law 2014* and retain the existing local laws.

Option 1 is the preferred option considering the outcomes of the City's eight year statutory review.

Legislation / Strategic Community Plan / policy implications

Legislation	<i>Local Government Act 1995.</i> <i>Local Government (Functions and General) Regulations 1996.</i>
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Strategic Community Plan

Key theme	Governance and Leadership.
Objective	Corporate capacity.
Strategic initiative	Not applicable.
Policy	Not applicable.

Subdivision 2, Division 2 of Part 3 of the Act applies to the creation, amending and repealing of local laws. It is anticipated that the local law making process will take approximately four months.

Risk management considerations

Should the City not follow the local law creation process as detailed in the Act, the local law may be disallowed by the JSCDL. The local law must also be cognisant of previous findings of the JSCDL, specifically with regard to provisions that the JSCDL has stated are outside the local law making power of local governments.

Financial/budget implications

The cost associated with the local law making process is approximately \$2,500, being public advertising costs and costs for publishing the local law in the *Government Gazette*. Funds are available in the 2013-14 Budget for statutory advertising.

Should the local law be adopted and come into effect, there may be some signs on local government property that will require updating to reflect the new local law and its provisions. These updates will occur as the affected signs are identified and be funded through the annual signs maintenance budget.

Regional significance

Not applicable.

Sustainability implications

Not applicable.

Consultation

The proposed local law has been developed following a thorough review of an internal working group, comprising officers from affected Business Units across the organisation. Consideration has also been given to the WALGA Model Local Laws and local laws of other local governments. Previous findings of the JSCDL have also been taken into account, including undertakings that have been given by the City to the JSCDL, in respect of existing local law provisions that require amendment.

Due to the proposed local law's scope and effect, certain local law provisions have been referred to the Mullaloo Surf Lifesaving Club, the Sorrento Surf Lifesaving Club and the Whitfords Volunteer Sea Rescue for forward comment. No comment was received, other than from the Sorrento Surf Lifesaving Club, which did not oppose the provisions in the proposed local law.

Notwithstanding the forward consultation towards these specific groups, the development of local laws requires statutory advertising and consultation with all members of the public, including:

- giving statewide public notice advertising the proposed local law and inviting submissions to be made within no less than six weeks from the date of advertising, including:
 - advertising in a newspaper circulating throughout the state
 - displaying public notices at the City of Joondalup Administration Centre, public libraries and customer services centres
 - advertising on the City's website
- providing a copy of the notice and a copy of the proposed local law to the Minister responsible for the Act under which the proposed local law is being made.

COMMENT

The proposed *City of Joondalup Local Government and Public Property Local Law 2014* is a consolidation of various existing local laws, and takes into account the WALGA Model Local Laws and previous findings of the JSCDL. It has been developed following extensive review and consultation with officers from across the organisation.

As a result of this consolidation, various existing local laws will need to be repealed, including the current *Local Government and Public Property Local Law 1999*, *Trading in Public Places Local Law 1999* and certain provisions within the *Signs Local Law 1999*.

MOVED Cr Chester, SECONDED Cr Norman that Council:

- 1** **MAKES** the *City of Joondalup Local Government and Public Property Local Law 2014*, as detailed in Attachment 3 to Report CJ049-04/14, for the purposes of public advertising;
- 2** In accordance with section 3.6 of the *Local Government Act 1995*, **SEEKS** the Governor's approval to extend the City's western boundary 200 metres seaward from the low water mark, for the purposes of the proper administration of the local law detailed in Part 1 above.

The Motion was Put and

CARRIED (13/0)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman, Ritchie, Taylor and Thomas.

Appendix 4 refers

To access this attachment on electronic document, click here: [Attach4brf80414.pdf](#)

CJ050-04/14 REPORTING OF ELECTED MEMBER ATTENDANCE AT CIVIC EVENTS, FUNCTIONS AND BUDGET WORKSHOPS

WARD	All
RESPONSIBLE DIRECTOR	Mr Jamie Parry Governance and Strategy
FILE NUMBER	104030
ALT FILE NUMBER	101515
ATTACHMENT	Nil.
AUTHORITY / DISCRETION	Executive - The substantial direction setting and oversight role of Council, such as adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.

PURPOSE

For Council to consider reporting Elected Member attendance at civic events and functions, as well as budget workshops, in the City's Annual Report.

EXECUTIVE SUMMARY

Western Australian local governments are to prepare an annual report each financial year and the report is to contain certain matters as listed in section 5.53(2) of the *Local Government Act 1995*. The annual report, once adopted by Council, is presented to the community at the Annual General Meeting of Electors, where the public are invited to ask questions in respect of the content and activities detailed in the annual report.

Since 2007, the City has included in its annual reports, the attendance record of Elected Members at Council meetings, briefing sessions, strategy sessions, Council committees and Regional Council meetings. At its meeting held on 18 March 2014 (Item C10-03/14 refers) Council requested the Chief Executive Officer to prepare a report on incorporating into the City's annual report the attendance record of Elected Members at civic events, dinners, receptions and Budget workshops.

There is no legislative obligation for the attendance record of Elected Members at meetings or civic events to be included in the City's annual report, however such information is captured and can be included if Council so desires.

It is therefore recommended that Council MAKES a decision in regard to including in the City's Annual Report the attendance record of Elected Members at civic events, dinners, receptions and Budget workshops.

BACKGROUND

At its meeting held on 28 August 2007 (Item C58-08/07 refers) Council agreed to include the attendance record of Elected Members at Council meetings, briefing sessions, strategy sessions, all Council committees (including committees comprising solely of Elected Members and committees which include Elected Members and community members) and Regional Council meetings in the 2006-07 Annual Report. This practice has continued in all subsequent annual reports since that time.

At its meeting held on 18 March 2014 (Item C10-03/14 refers) Council requested the Chief Executive Officer to prepare a report (among other things) on incorporating into the City's annual report the attendance of Elected Members at civic events, dinners, receptions and Budget workshops.

DETAILS

Section 5.53(2) of the *Local Government Act 1995* requires a local government's annual report to contain the following information as the minimum requirement for all local governments:

- A report from the Mayor.
- A report from the Chief Executive Officer.
- An overview of the City's *Strategic Community Plan* (Joondalup 2022), including major initiatives that are proposed to commence or to continue in the next financial year.
- The financial report for the financial year.
- Information in relation to payments made to certain employees at the City.
- The auditor's report for the financial year.
- Matters on which a report must be made under section 29(2) of the *Disability Services Act 1993*.
- Details and relevant information of the entries made in the City's register of complaints.
- Details of any significant modifications to the City's *Strategic Community Plan* or *Corporate Business Plan*.

In view of the above, there is no statutory obligation for the City to include the information requested to be presented in the City's annual report, and therefore it is for Council to determine as to whether such information should be appropriately included.

Issues and options considered

Council can either:

- agree to incorporate the attendance record of Elected Members at civic events, dinners, receptions and Budget workshops
or
- retain the attendance record of Elected Members to meetings only.

Legislation / Strategic Community Plan / policy implications

Legislation	Section 5.53 of the <i>Local Government Act 1995</i> .
Strategic Community Plan	
Key theme	Governance and Leadership.
Objective	Effective representation.
Strategic initiative	Ensure the elected body has a comprehensive understanding of its roles and responsibilities.
Policy	Not applicable.

Sections 2.8 and 2.10 of the *Local Government Act 1995* require Elected Members to participate in the local government's decision-making processes at Council and Committee meetings. There is no legislative requirement for Elected Members to attend civic events and functions, or any other meeting that do not form part of a local governments decision-making processes.

Risk management considerations

Not applicable.

Financial / budget implications

Not applicable.

Regional significance

Not applicable.

Sustainability implications

Not applicable.

Consultation

Not applicable.

COMMENT

There is a statutory obligation for Elected Members to participate in the decision-making processes of a local government, being Council meetings and Committee meetings. In view of this, the reporting of attendance at these meetings in the City's annual report is considered appropriate and supports good governance and accountability to the City's community.

It may be expected that the attendance at civic events, dinners, receptions and non-decision making meetings (such as Budget workshops) would assist Elected Members in performing their statutory role such as representing electors of the district and in their overall decision-making responsibilities. During 2012-13 there were 23 civic events, dinners or receptions and four budget workshops. In 2013-14, there have been 21 civic events, dinners or

receptions held so far (with six more to be held before 30 June 2014). Two budget workshops have also been held to date in preparation for the adoption of the 2014-15 budget. While the attendance of Elected Members at these events is maintained, Elected Members may not be able to attend initially, but subsequently do so without the City's knowledge thereby putting into question the accuracy of the City's records should it be formally reported.

The reporting of Elected Member attendance at civic events, dinners, functions and other events (such as Budget workshops) is not legislatively required and therefore the recording of such information in the City's annual report is for Council to decide.

Should Council decide to include the reporting of Elected Member attendance at civic events, dinners, functions and Budget workshops, it is suggested that this be put in place for the 2014-15 Annual Report onwards, to enable the Chief Executive Officer to establish recording procedures to ensure accurate data is collected.

VOTING REQUIREMENTS

Simple Majority.

OFFICER'S RECOMMENDATION

That Council MAKES a decision in regard to including in the City's annual report the attendance record of Elected Members at civic events, dinners, receptions and Budget workshops.

MOVED Mayor Pickard, SECONDED Cr Amphlett that Council AGREES to include in the 2014-15 Annual Report onwards, the attendance record of Elected Members at civic events, dinners, receptions, Budget workshops and membership of external boards and committees where Elected Member representation occurs.

The Motion was Put and

LOST (6/7)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Gobbert, Hollywood, Norman and Thomas.

Against the Motion: Crs Chester, Corr, Fishwick, Hamilton-Prime, McLean, Ritchie and Taylor.

MOVED Cr Chester, SECONDED Cr Corr that Council AGREES to include in the 2014-15 Annual Report onwards, the membership of Elected Members on external boards and committees where Elected Member representation occurs.

AMENDMENT MOVED Cr Corr, SECONDED Cr Hamilton-Prime that the words "*and attendance at Budget Workshops*" be added to the end of the Motion.

The Amendment was Put and

CARRIED (13/0)

In favour of the Amendment: Mayor Pickard, Crs Amphlett, Chester, Corr, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman, Ritchie, Taylor and Thomas.

The Original Motion as amended, being:

That Council AGREES to include in the 2014-15 Annual Report onwards, the membership of Elected Members on external boards and committees where Elected Member representation occurs and attendance at Budget Workshops.

was Put and

CARRIED (13/0)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman, Ritchie, Taylor and Thomas.

CJ051-04/14 EXECUTION OF DOCUMENTS

WARD	All
RESPONSIBLE DIRECTOR	Mr Jamie Parry Governance and Strategy
FILE NUMBER	15876, 101515
ATTACHMENT	Attachment 1 Documents executed by affixing the Common Seal for 11 March 2014.
AUTHORITY / DISCRETION	Information – includes items provided to Council for information purposes only that do not require a decision of Council (that is for ‘noting’).

PURPOSE

For Council to note the documents executed by means of affixing the Common Seal for 11 March 2014 (Attachment 1 refers).

EXECUTIVE SUMMARY

The City enters into various agreements by affixing its Common Seal. The *Local Government Act 1995* states that the City is a body corporate with perpetual succession and a Common Seal. Those documents that are to be executed by affixing the Common Seal or signed by the Mayor and the Chief Executive Officer are reported to Council for information on a regular basis.

It is therefore recommended that Council NOTES the Schedule of Documents covering the 11 March 2014, executed by means of affixing the Common Seal, as detailed in Attachment 1 to Report CJ051-04/14.

BACKGROUND

On 11 March 2014, three documents were executed by affixing the Common Seal. A summary is provided below:

Type	Number
Amendment to DPS No. 2.	2
Section 70A Notification.	1

Issues and options considered

Not applicable.

Legislation / Strategic Community Plan / policy implications

Legislation *Local Government Act 1995.*

Strategic Community Plan

Key theme Governance and Leadership.

Objective Corporate capacity.

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

Policy Not applicable.

Risk management considerations

Not applicable.

Financial/budget implications

Not applicable.

Regional significance

Not applicable.

Sustainability implications

Not applicable.

Consultation

Not applicable.

COMMENT

The documents that have been executed by affixing the Common Seal of the City of Joondalup are submitted to Council for information (Attachment 1 refers).

VOTING REQUIREMENTS

Simple Majority.

MOVED Cr Amphlett, SECONDED Cr McLean that Council NOTES the Schedule of Documents covering 11 March 2014, executed by means of affixing the Common Seal, as detailed in Attachment 1 to Report CJ051-04/14.

The Motion was Put and CARRIED (13/0) by Exception Resolution after consideration of CJ057-04/14, page 79 refers.

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman, Ritchie, Taylor and Thomas.

Appendix 5 refers

To access this attachment on electronic document, click here: [Attach5brf80414.pdf](#)

CJ052-04/14 MINUTES OF EXTERNAL COMMITTEES

WARD	All
RESPONSIBLE DIRECTOR	Mr Jamie Parry Governance and Strategy
FILE NUMBER	00033, 03149
ALT FILE NUMBER	101515
ATTACHMENT	Attachment 1 Minutes of the ordinary meeting of the Mindarie Regional Council held on 20 February 2014 Attachment 2 Minutes of the meeting of the West Australian Local Government Association North Metropolitan Zone held on 27 February 2014
	<i>(Please Note: These minutes are only available electronically)</i>
AUTHORITY / DISCRETION	Information - includes items provided to Council for information purposes only that do not require a decision of Council (that is for 'noting').

PURPOSE

For Council to note the minutes of various external bodies on which the City has current representation.

EXECUTIVE SUMMARY

The following minutes are provided:

- Minutes of the ordinary meeting of the Mindarie Regional Council (MRC) held on 20 February 2014.
- Minutes of the meeting of the West Australian Local Government Association (WALGA) North Metropolitan Zone held on 27 February 2014.

DETAILS

The following information details those matters that were discussed at these external meetings and may be of interest to the City of Joondalup.

Mindarie Regional Council meeting – 20 February 2014.

A meeting of the Mindarie Regional Council (MRC) was held on 20 February 2014.

Cr Russ Fishwick (Chair) and Cr Kerry Hollywood are Council's representatives on the Mindarie Regional Council.

For the information of Council, the following matters of interest to the City of Joondalup were resolved at the Mindarie Regional Council meeting:

9.3 Mid Year Budget Review - 2013/2014

It was resolved by the MRC as follows:

"That Council:

- 1 *Approve by Absolute Majority the revised forecast surplus position estimated to be \$4,694,151 at 30 June 2014, which includes the following:*
 - *A net decrease in members' user charges of approximately \$2,817,513;*
 - *A net decrease in non-members' user charges of approximately \$590,370;*
 - *A net increase in total other charges of \$349,293;*
 - *A net increase in expenditures of \$61,265;*
 - *A net increase in capital expenditures of \$1,328,803.*

- 2 *Approve by Absolute Majority the new capital expenditures of \$1,330,553, which includes:*
 - *An increase of \$553 in respect of computer equipment; and*
 - *An increase of \$1,330,000 in respect of the next phase of clay lining.*

- 3 *Approve by Absolute Majority the application of the forecast surplus of \$4,694,51 at 30 June 2014 as follows:*
 - *\$920,382 be applied to the Participants' Surplus reserve;*
 - *\$1,000,000 be applied to the Capital Expenditure Reserve;*
 - *The balance of the anticipated surplus (estimated to be \$2,773,769) be applied to the Decommissioning reserve."*

14 MATTERS FOR WHICH THE MEETING MAY BE CLOSED TO THE PUBLIC**14.1 Confidential Report - Chief Executive Officer's Contract Extension – Recommendations from the CEO Performance Review Committee**

It was resolved by the MRC as follows:

"That Council:

- 1 *Extend the Chief Executive Officer, Brian Callander's contract term for a further 5 years from January 2015 to January 2020;*

- 2 *Approve the request from the CEO to access his pro rata long service leave after 7 years to enable him to take extended leave in 2014; and*
- 3 *Authorise the contract of the CEO to be amended to include the changes detailed in 1 and 2 above."*

14.2 Confidential Report - Resource Recovery Facility – Request from BioVision to Increase Plant Maintenance Costs

It was resolved by the MRC as follows:

"That the Council:

- 1 *Authorise the Chief Executive Officer to respond to the BioVision correspondence dated 22 January 2014 in accordance with the advice of its solicitors, Herbert Smith Freehills;*
- 2 *Endorse the use of the Strategic Working Group as the forum for keeping the member councils informed of the progress of the BioVision claim; and*
- 3 *Receive further reports to Council on the claim as it progresses."*

Western Australian Local Government North Metropolitan Zone meeting – 27 February 2014.

A meeting of the Western Australian Local Government (WALGA) North Metropolitan Zone was held on 27 February 2014.

The Council's representatives on the WALGA North Metropolitan Zone are Crs Geoff Amphlett (Chair), Russ Fishwick, Cr Sam Thomas and Cr Philippa Taylor.

There were no matters requiring action or decision by the City of Joondalup resolved at the WALGA North Metropolitan Zone meeting.

Legislation/Strategic Community Plan/policy implications

Legislation Not applicable.

Strategic Community Plan

Key theme Governance and Leadership.

Objective Strong leadership.

Strategic initiative Seek out City representation on key external and strategic bodies.

Policy Not applicable.

Risk management considerations

Not applicable.

Financial/budget implications

Not applicable.

Regional significance

Not applicable.

Sustainability implications

Not applicable.

Consultation

Not applicable.

VOTING REQUIREMENTS

Simple Majority.

MOVED Cr Amphlett, **SECONDED** Cr McLean that Council **NOTES** the minutes of the:

- 1 Mindarie Regional Council meeting held on 20 February 2014 forming Attachment 1 to Report CJ052-04/14;**
- 2 WALGA North Metropolitan Zone meeting held on 27 February 2014 forming Attachment 2 to Report CJ052-04/14.**

The Motion was Put and CARRIED (13/0) by Exception Resolution after consideration of CJ057-04/14, page 79 refers.

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman, Ritchie, Taylor and Thomas.

To access this attachment on electronic document, click here: [external minutes140408.pdf](#)

CJ053-04/14 LIST OF PAYMENTS MADE DURING THE MONTH OF FEBRUARY 2014

WARD	All	
RESPONSIBLE DIRECTOR	Mr Mike Tidy Corporate Services	
FILE NUMBER	09882	
ALT FILE NUMBER	101515	
ATTACHMENT	Attachment 1	Chief Executive Officer's Delegated Municipal Payment List for the month of February 2014
	Attachment 2	Chief Executive Officer's Delegated Trust Payment List for the month of February 2014
	Attachment 3	Municipal and Trust Fund Vouchers for the month of February 2014
AUTHORITY / DISCRETION	Information – includes items provided to Council for Information purposes only that do not require a decision of Council (that is for noting).	

PURPOSE

For Council to note the list of accounts paid under the Chief Executive Officer's delegated authority during the month of February 2014.

EXECUTIVE SUMMARY

This report presents the list of payments made under delegated authority during the month of February 2014 totalling \$12,346,968.18.

It is therefore recommended that Council NOTES the Chief Executive Officer's list of accounts for February 2014 paid under delegated authority in accordance with regulation 13(1) of the Local Government (Financial Management) Regulations 1996 in Attachments 1, 2 and 3 to Report CJ053-04/14, totalling \$12,346,968.18.

BACKGROUND

Council has delegated to the Chief Executive Officer the exercise of its power to make payments from the City's Municipal and Trust funds. In accordance with Regulation 13 of the *Local Government (Financial Management) Regulations 1996* a list of accounts paid by the Chief Executive Officer is to be provided to Council, where such delegation is made.

DETAILS

The table below summarises the payments drawn on the funds during the month of February 2014. Lists detailing the payments made are appended as Attachments 1 and 2. The vouchers for the month are appended as Attachment 3.

FUNDS	DETAILS	AMOUNT
Municipal Account	Municipal Cheques & EFT Payments - 97648 - 97864 & EF037521 – EF038044 Net of cancelled payments Vouchers 1242A – 1244A & 1246A – 1249A	\$8,182,633.41 \$4,134,004.77
Trust Account	Trust Cheques 206168 - 206222 Net of cancelled payments	\$30,330.00
Total		\$12,346,968.18

Issues and options considered

There are two options in relation to the list of payments.

Option 1

That Council declines to note the list of payments paid under delegated authority. The list is required to be reported to Council in accordance with Regulation 13(1) of the *Local Government (Financial Management) Regulations 1996*, and the payments listed have already been paid under the delegated authority. This option is not recommended.

Option 2

That Council notes the list of payments paid under delegated authority. This option is recommended.

Legislation / Strategic Community Plan / policy implications

Legislation

The Council has delegated to the Chief Executive Officer the exercise of its authority to make payments from the Municipal and Trust Funds, therefore in accordance with Regulation 13(1) of the *Local Government (Financial Management) Regulations 1996*, a list of accounts paid by the Chief Executive Officer is prepared each month showing each account paid since the last list was prepared.

Strategic Community Plan

Key theme

Financial Sustainability.

Objective

Effective management.

Strategic Initiative

Not applicable.

Policy

Not applicable.

Risk management considerations

In accordance with section 6.8 of the *Local Government Act 1995*, a local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure is authorised in advance by an absolute majority of Council.

Financial/budget implications

All expenditure from the Municipal Fund was included in the Annual Budget as adopted or revised by Council.

Regional significance

Not applicable.

Sustainability implications

Expenditure has been incurred in accordance with budget parameters, which have been structured on financial viability and sustainability principles.

Consultation

Not applicable.

COMMENT

All Municipal Fund expenditure included in the list of payments is incurred in accordance with the 2013-14 Annual Budget as adopted by Council at its meeting held on 25 June 2013 (CJ117-06/13 refers) and subsequently revised or has been authorised in advance by the Mayor or by resolution of Council as applicable

VOTING REQUIREMENTS

Simple Majority.

MOVED Cr Amphlett, **SECONDED** Cr McLean that Council **NOTES** the Chief Executive Officer's list of accounts for February 2014 paid under Delegated Authority in accordance with Regulation 13(1) of the *Local Government (Financial Management) Regulations 1996* forming Attachments 1, 2 and 3 to Report CJ053-04/14, totalling \$12,346,968.18.

The Motion was Put and CARRIED (13/0) by Exception Resolution after consideration of CJ057-04/14, page 79 refers.

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman, Ritchie, Taylor and Thomas.

Appendix 6 refers

To access this attachment on electronic document, click here: [Attach6brf80414.pdf](#)

CJ054-04/14 FINANCIAL ACTIVITY STATEMENT FOR THE PERIOD ENDED 28 FEBRUARY 2014

WARD	All
RESPONSIBLE DIRECTOR	Mr Mike Tidy Corporate Services
FILE NUMBER	07882
ALT FILE NUMBER	101515
ATTACHMENT	Attachment 1 Financial Activity Statement for the period ended 28 February 2014
AUTHORITY / DISCRETION	Information - includes items provided to Council for information purposes only that do not require a decision of Council (that is for 'noting').

PURPOSE

For Council to note the Financial Activity Statement for the period ended 28 February 2014.

EXECUTIVE SUMMARY

Council adopted the Mid Year Budget Review for the 2013-14 Financial Year at its meeting held on 17 February 2014 (CJ032-02/14 refers). The figures in this report are compared to the Revised Budget figures.

The February 2014 Financial Activity Statement Report shows an overall favourable variance from operations and capital, after adjusting for non-cash items, of \$4,684,620 for the period when compared to the 2013-14 Revised Budget.

The variance can be summarised as follows:

The operating surplus is \$815,588 higher than budget, made up of higher operating revenue of \$73,436 and lower operating expenditure of \$742,152.

Operating revenue is below budget on Grants and Subsidies \$232,499 and Rates \$72,990. This is offset by higher revenues on Fees and Charges \$116,785, Interest Earnings \$23,646, Other Revenue \$20,845, Contributions, Reimbursements and Donations \$154,825, Profit on Asset Disposal \$61,151 and Specified Area Rates \$1,672.

Operating expenditure is below budget mainly on Employee Costs \$537,120, Materials and Contracts \$111,950, Utilities \$66,847 and Loss on Assets Disposal \$57,939. This is partially offset by higher expenditure on Depreciation \$32,897.

The Capital Deficit is \$3,640,501 below budget primarily due to lower than budgeted expenditure on Capital Projects \$366,436, Capital Works \$3,916,834 and Equity Investments \$332 as well as higher revenue from Capital Grants and Subsidies \$33,297. This is partially offset by lower revenue from Capital Contributions \$25,750 and higher expenditure on Motor Vehicle Replacements \$76,856 and Tamala Park Development Costs \$573,793.

Further details of the material variances are contained in Appendix 3 of the Attachment to this report.

It is therefore recommended that Council NOTES the Financial Activity Statement for the period ended 28 February 2014 forming Attachment 1 to Report CJ054-04/14.

BACKGROUND

The *Local Government (Financial Management) Regulations 1996* requires a monthly Financial Activity Statement. At its meeting held on 11 October 2005 (CJ211-10/05 refers), Council approved to accept the monthly Financial Activity Statement according to nature and type classification.

DETAILS

Issues and options considered

The Financial Activity Statement for the period ended 28 February 2014 is appended as Attachment 1.

Legislation / Strategic Community Plan / policy implications

Legislation

Section 6.4 of the *Local Government Act 1995* requires a local government to prepare an annual financial report for the preceding year and such other financial reports as are prescribed.

Regulation 34(1) of the *Local Government (Financial Management) Regulations 1996* as amended requires the local government to prepare each month a statement of financial activity reporting on the source and application of funds as set out in the annual budget.

Strategic Community Plan

Key theme	Financial Sustainability
Objective	Effective management.
Strategic initiative	Not applicable.
Policy	Not applicable.

Risk management considerations

In accordance with Section 6.8 of the *Local Government Act 1995*, a local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure is authorised in advance by an absolute majority of Council.

Financial / budget implications

Not applicable.

Regional significance

Not applicable.

Sustainability implications

Expenditure has been incurred in accordance with revised budget parameters, which have been structured on financial viability and sustainability principles.

Consultation

In accordance with Section 6.2 of the *Local Government Act 1995*, the revised budget was prepared having regard to the Strategic Financial Plan, prepared under Section 5.56 of the *Local Government Act 1995*, which was made available for public comment.

COMMENT

All expenditures included in the Financial Activity Statement are incurred in accordance with the provisions of the 2013-14 Revised Budget or have been authorised in advance by Council where applicable.

VOTING REQUIREMENTS

Simple Majority.

MOVED Cr Amphlett, **SECONDED** Cr McLean that Council **NOTES** the Financial Activity Statement for the period ended 28 February 2014 forming Attachment 1 to Report CJ054-04/14.

The Motion was Put and CARRIED (13/0) by Exception Resolution after consideration of CJ057-04/14, page 79 refers.

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman, Ritchie, Taylor and Thomas.

Appendix 7 refers

To access this attachment on electronic document, click here: [Attach7brf80414.pdf](#)

CJ055-04/14 PAY BY PHONE PARKING PAYMENT

WARD	All
RESPONSIBLE DIRECTOR	Mr Mike Tidy Corporate Services
FILE NUMBER	07190
ALT FILE NUMBER	101515
ATTACHMENT	Nil.
AUTHORITY / DISCRETION	Information - includes items provided to Council for information purposes only that do not require a decision of Council (that is for 'noting').

This Report has been removed by the Chief Executive Officer under section 5.95(3)(b) of the *Local Government Act 1995*. Public access to this Report is not available.

Pages 63 to 67 of these minutes have been edited to remove the Report.

MOVED Mayor Pickard, SECONDED Cr McLean that Council:

- 1 NOTES Report CJ055-04/14 on Pay by Phone Parking Payment;**
- 2 REQUESTS the Chief Executive Officer to prepare a report on the feasibility of the City of Joondalup developing its own software for a pay by phone parking payment system.**

The Motion was Put and

CARRIED (13/0)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman, Ritchie, Taylor and Thomas.

This Report has been removed by the Chief Executive Officer under section 5.95(3)(b) of the *Local Government Act 1995*. Public access to this Report is not available.

Pages 63 to 67 of these minutes have been edited to remove the Report.

This Report has been removed by the Chief Executive Officer under section 5.95(3)(b) of the *Local Government Act 1995*. Public access to this Report is not available.

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Pages 63 to 67 of these minutes have been edited to remove the Report.

CJ056-04/14 TENDER 002/14 - SUPPLY AND DELIVERY OF PRE-MIX CONCRETE

WARD	All
RESPONSIBLE DIRECTOR	Mr Mike Tidy Corporate Services
FILE NUMBER	103776
ALT FILE NUMBER	101515
ATTACHMENT	Attachment 1 Schedule of Items Attachment 2 Summary of Tender Submissions
AUTHORITY / DISCRETION	Executive - The substantial direction setting and oversight role of Council, such as adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.

PURPOSE

For Council to accept the tender submitted by Boral Resources (WA) Ltd for the supply and delivery of pre-mix concrete.

EXECUTIVE SUMMARY

Tenders were advertised on 25 January 2014 through statewide public notice for the supply and delivery of pre-mix concrete for a period of three years. Tenders closed on 11 February 2014. One submission was received from Boral Resources (WA) Ltd.

The submission from Boral Resources (WA) Ltd represents value to the City. The company demonstrated a thorough understanding of the City's requirements. It is currently providing pre-mix concrete for the Cities of Fremantle, Wanneroo and Joondalup. It has the experience and capacity to provide the goods and services for the City.

It is therefore recommended that Council ACCEPTS the tender submitted by Boral Resources (WA) Ltd for the supply and delivery of pre-mix concrete as specified in Tender 002/14 for a period of three years at the submitted schedule of rates, with annual price variations subject to the percentage change in the Perth CPI (All Groups) Index.

BACKGROUND

The City has a requirement for the supply and delivery of pre-mix concrete within the City as required for various maintenance works.

The City currently has a panel contract for pre-mix concrete with Boral Resources (WA) Ltd and Holcim (Australia) Pty Ltd, which expires on 27 April 2014.

Boral Resources (WA) and Holcim (Australia) have provided a quality service throughout the term of the contract.

Tender assessment is based on the best value for money concept. Best value is determined after considering whole of life costs, fitness for purpose, respondents' experience and performance history, productive use of City resources and other environmental or local economic factors.

DETAILS

The Tender for the supply and delivery of pre-mix concrete was advertised through statewide public notice on 25 January 2014. The tender period was for two weeks and tenders closed on 11 February 2014.

Tender Submissions

One submission was received from Boral Resources (WA) Ltd.

The schedule of items listed in the tender is provided in Attachment 1.

A summary of the tender submission including the location of the tenderer is provided in Attachment 2.

Evaluation Panel

The evaluation panel was composed of four members being:

- one with tender and contract preparation skills
- three with the appropriate technical expertise and involvement in supervising the contract.

The panel carried out the assessment of submissions in accordance with the City's evaluation process in a fair and equitable manner.

Compliance Assessment

The offer received was fully compliant and was considered for further evaluation.

Qualitative Assessment

Qualitative Criteria		Weighting
1	Capacity	50%
2	Demonstrated experience in providing similar services	30%
3	Demonstrated understanding of the required tasks	15%
4	Social and economic effects on the local community	5%

Boral Resources (WA) Ltd scored 67.5% in the qualitative assessment. The company demonstrated a thorough understanding of the City's requirements. It is currently providing pre-mix concrete for the Cities of Fremantle, Wanneroo and Joondalup. Boral Resources (WA) has the experience and capacity to provide the goods and services for the City.

Price Assessment

Following the qualitative assessment, the panel carried out a comparison of the submitted rates offered by the tenderer and current contract rates to assess value for money to the City.

To provide an estimated expenditure over a 12 month period, the most commonly used items were identified and their typical usage based on historical data have been used in the calculation.

The following table provide a summary of the estimated expenditure of the tenderer over the contract term. Any future mix of requirements will be based on demand and subject to change in accordance with operational needs of the City.

The rates are fixed for the first year of the contract, but are subject to a price variation in years two and three of the contract to a maximum of the percentage change in the Perth CPI (All Groups) Index for the preceding year. For estimation purposes, a 3.5% CPI increase in years two and three was applied to the tendered rates.

Tenderer	Year 1	Year 2	Year 3	Total
Boral Resources (WA) Ltd	\$104,174	\$107,820	\$111,593	\$323,587

The estimated expenditure based on the current contracted rates is \$101,054 for year 1. The cost of the proposed new contract represents a 3.1% increase. This is considered a good value Offer, as the current rates did not increase over the life of the existing contract. The annual CPI increase to December quarter 2013 is 2.9%.

During 2012-13, the City incurred \$109,244 expenditure on pre-mix concrete. The City is expected to incur in the order of \$323,587 over the three year Contract period.

Evaluation Summary

The following table summarises the result of the qualitative and price evaluation as assessed by the evaluation panel:

Tenderer	Estimated Year 1 Contract Price	Estimated Total Contract Price	Weighted Percentage Score
Boral Resources (WA) Ltd	\$104,174	\$323,587	67.5%

Based on the evaluation result the panel concluded that the tender from Boral Resources (WA) Ltd is competitive with market conditions and is therefore recommended.

Boral Resources (WA) is one of the two suppliers on the City's current panel contract for pre-mix concrete and to date supplied 35% of the total amount. Based on current usage and with no projected change in future requirements, the use of one supplier is sufficient to meet the City's operational needs. The company is well resourced and has the capacity to provide the goods and services to the City.

Issues and options considered

The City has a requirement for the supply and delivery of pre-mix concrete within the City as required for various maintenance works. The City does not have the internal resources to provide the required goods and services and requires the appropriate external contractor(s) to undertake the works.

The City currently has a panel of two contractors to ensure delivery of pre-mix concrete at the times required. The tender was advertised to engage a similar panel of contractors. The City received one offer. Two options were considered by the evaluation panel, to accept the received offer or to decline all offers and go back to the market.

Boral Resources (WA) Ltd is a large organisation and was determined by the evaluation panel to have sufficient capacity to meet the City's requirements. The prices received were assessed against the current contract rates of Boral Resources (WA) Ltd and were considered reasonable. As such the option to go back to the market is not considered to be warranted.

Legislation / Strategic Community Plan / policy implications

Legislation	A state wide public tender was advertised, opened and evaluated in accordance with Clause 11(1) of Part 4 of the <i>Local Government (Functions & General) Regulations 1996</i> , where tenders are required to be publicly invited if the consideration under a contract is, or is estimated to be, more, or worth more, than \$100,000.
Strategic Community Plan	
Key theme	Quality Urban Environment.
Objective	Quality built outcomes.
Strategic initiative	Buildings and landscaping is suitable for the immediate environment and reflect community values.
Policy	Not applicable.

Risk management considerations

Should the contract not proceed, the risk to the City will be high as pre-mix concrete is needed for the maintenance of footpaths and other concrete works within the City. Failure to maintain concrete footpaths presents safety and public liability issues for the City.

Financial/budget implications

Account no.	Various maintenance and capital accounts.
Budget Item	Pre-mix concrete.
Budget amount	\$ 120,000
Amount spent to date	\$ 88,968
Proposed cost	\$ 17,362
Balance	\$ 13,670

All amounts quoted in this report are exclusive of GST.

Regional significance

Not applicable.

Sustainability implications

The proposed project will enhance the amenity of public space, the safety of the public environment and the value of City assets.

Consultation

Not applicable.

COMMENT

The evaluation panel carried out the evaluation of the submission in accordance with the City's evaluation process and concluded that the offer submitted by Boral Resources (WA) Ltd represents value to the City.

VOTING REQUIREMENTS

Simple Majority.

MOVED Cr Amphlett, SECONDED Cr McLean that Council ACCEPTS the Tender submitted by Boral Resources (WA) Ltd for the supply and delivery of pre-mix concrete as specified in Tender 002/14 for a period of three years at the submitted schedule of rates, with annual price variations subject to the percentage change in the Perth CPI (All Groups) Index.

The Motion was Put and CARRIED (13/0) by Exception Resolution after consideration of CJ057-04/14, page 79 refers.

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman, Ritchie, Taylor and Thomas.

Appendix 8 refers

To access this attachment on electronic document, click here: [Attach8brf80414.pdf](#)

**CJ057-04/14 PETITION REQUESTING THE INSTALLATION OF A
ROUNDBOUT AT THE INTERSECTION OF
HEPBURN AVENUE AND LILBURNE ROAD,
DUNCRAIG**

WARD	South
RESPONSIBLE DIRECTOR	Mr Nico Claassen Infrastructure Services
FILE NUMBER	02883
ALT FILE NUMBER	14276, 13276, 05386
ATTACHMENT	Attachment 1 Locality Plan Attachment 2 Existing Intersection Layout
AUTHORITY / DISCRETION	Executive - The substantial direction setting and oversight role of Council, such as adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.

PURPOSE

For Council to consider a petition requesting the installation of a roundabout at the intersection of Hepburn Avenue and Lilburne Road, Duncraig.

EXECUTIVE SUMMARY

At its meeting held on 24 September 2013 (C61-0913 refers), Council received a 595 signature petition on behalf of residents of the City of Joondalup requesting the installation of a roundabout at the intersection of Hepburn Avenue and Lilburne Road, Duncraig.

The technical assessment undertaken for the intersection of Hepburn Avenue and Lilburne Road confirmed that the intersection is operating at a satisfactory level and that the delay times are generally within acceptable limits for an intersection of this type.

It is therefore recommended that Council:

- 1 NOTES the results of the technical assessment for the intersection of Hepburn Avenue and Lilburne Road, Duncraig;*
- 2 RETAINS the existing T-Junction treatment at the intersection of Hepburn Avenue and Lilburne Road, Duncraig;*
- 3 ADVISES the lead petitioner of Council's decision.*

BACKGROUND

At its meeting held on 24 September 2013 (C61-09/13 refers), Council received a 595 signature petition from residents of the City of Joondalup requesting “*to install a Roundabout at Hepburn Avenue & Lilburne Road to Facilitate Safer Traffic Flow.*”

DETAILS

To ascertain the extent of the traffic issue raised in the petition, a technical assessment was undertaken in February and March 2014. The assessment involved seven day traffic count surveys for both Hepburn Avenue and Lilburne Road. Turning movement counts and vehicle queue assessments were also undertaken during morning and afternoon peak periods to determine the extent of traffic delays. A further site assessment to confirm the suitability for a roundabout to be installed at this location was undertaken.

Intersection Technical Assessment

The Hepburn Avenue and Lilburne Road intersection is a T-Junction which operates under Give Way control and has been designed in accordance with Main Roads WA (MRWA) requirements. The intersection is located 500 metres east of the signalised intersection of Hepburn Avenue and Gibson Avenue and 300 metres west of Hepburn Avenue and Walter Padbury Boulevard intersection.

Hepburn Avenue is classified as a District Distributor Road under MRWA’s Metropolitan Functional Road Hierarchy and is designed to carry traffic volumes greater than 8,000 vehicles per day (vpd). The road provides direct access to Marmion Avenue in the west, the Mitchell Freeway and Wanneroo Road to the east. The four lane road consists of a central median to separate traffic flows and provides vehicles a two stage crossing at intersections.

Lilburne Road is 2 kilometres in length and provides direct access to residential properties that front the road plus indirect access to surrounding urban areas. Lilburne Road is classified as a Local Distributor Road under MRWA’s Metropolitan Functional Road Hierarchy and is designed to carry a maximum desirable traffic volume of 6,000 vpd. The road connects Hepburn Avenue in the north to Warwick Road in the south.

Traffic Vehicle Volumes

The most recent seven day traffic count survey undertaken for Hepburn Avenue east of Gibson Avenue in February 2014 confirmed that 33,840 vpd utilise this section of road. In comparison with the February 2006 traffic count of 29,460 vpd recorded at the same location, traffic volumes have increased over this period representing less than 2% traffic volume growth per year.

The most recent seven day traffic count survey undertaken in February 2014 confirmed that traffic volumes on Lilburne Road south of Hepburn Avenue are 5,570 vpd. The comparison of the traffic counts recorded in March 2013 of 5,960 vpd at the same location confirmed that traffic volumes have remained relatively steady within this period.

On the basis of the 2014 traffic count survey, both Hepburn Avenue and Lilburne Road are operating within acceptable limits in accordance with the functional road hierarchy.

Vehicle Speeds

Hepburn Avenue speed zone is 70 km/h in the vicinity of Lilburne Road. The traffic count survey undertaken for Hepburn Avenue east of Lilburne Road in February 2014 revealed that the 85th percentile speed is 74 km/h. On the basis of the results of the traffic count survey, the operating speed on Hepburn Avenue is below the technical intervention level.

Crash Analysis

To ensure there were no significant issues with the design layout of the intersection, a crash analysis was undertaken of the most recent five year crash history to December 2012. The results of the analysis revealed that there were 20 reported crashes at this location. To further gauge the significance of the five year crash history, a comparison with other major intersections on Hepburn Avenue was undertaken. The crash analysis confirmed that the intersection is ranked number 54 of all intersections within the City of Joondalup, based on crash cost assessment.

Examples of crash ranking and five year crash numbers for Hepburn Avenue intersections:

Intersection	Intersection Ranking	Crash Nos (five year)	Intersection Control
Kingsley Drive & Hepburn Avenue	11	64	Signalised
Gibson Avenue & Hepburn Avenue	12	62	Signalised
Glengarry Drive & Hepburn Avenue	13	58	Roundabout
Cockman Road & Hepburn Avenue	27	43	Give Way
Karuah Way & Hepburn Avenue	42	27	Give Way
Alleneswood Road & Hepburn Avenue	46	22	Give Way
Lilburne Road & Hepburn Avenue	54	20	Give Way
Barridale Drive & Hepburn Avenue	56	20	Give Way
Moolanda Boulevard & Hepburn Avenue	60	18	Give Way
Walter Padbury Boulevard & Hepburn Avenue	68	16	Give Way

Site Assessment

An assessment of the intersection was undertaken to confirm the suitability for a roundabout to be installed at this location. The assessment confirmed that a dual lane roundabout designed to arterial road standards would be difficult to construct due to the limited area available and location of utility services.

Overhead power is a significant constraint for the site and would involve the removal of the power pole on the south west corner and subsequent installation of underground power in lieu of overhead wires. In addition to utility services, the existing ground level of the residential property at the south-west corner is significantly lower than the adjacent carriageway levels. Substantial retaining and barrier treatments would be required to address the level difference in the case of a roundabout treatment. Similarly, due to the constrained site and ground level differences on the northern side of the intersection, significant earth works, retaining and barrier treatments would also be required.

Issues and options considered

The results of the traffic assessment confirmed that it is unlikely that traffic signals would be supported by MRWA at this location. On this basis, there are two options that need to be considered by Council. These options are as follows:

Option One No change to the intersection layout

The advantages of Option One are as follows:

- The existing road reserve and intersection layout has been designed for a T-Junction treatment as part of the original structure planning for the area. As an outcome of the subdivision process, appropriate road reserve widths and verge area clearances to surrounding properties have been provided.
- The site assessment confirmed that the intersection is operating a satisfactory level of service for an intersection of this type.
- Significant funding not required for intersection works.

The disadvantage of Option One is:

- the existing T-Junction configuration provides a reduced level of service for drivers to access/egress Lilburne Road when compared to a roundabout treatment.

Option Two Modify the intersection to a dual lane roundabout

The advantage of Option Two is:

- a roundabout treatment in lieu of the existing T-Junction Give Way layout would provide improved level of service for drivers to access/egress Lilburne Road.

The disadvantages of Option Two include:

- Significant municipal funding would be required to modify the existing intersection to a roundabout treatment.
- Funding priorities need to be considered for other major intersections that require improvements and that are ranked higher based of crash costs. The traffic assessment confirmed that the roundabout option would not be eligible for Blackspot funding due to the low number of reported crashes.
- The site has significant constraints in terms of available area for a dual lane roundabout and location of utility services.
- Amenity concerns for the south west corner property due to the close proximity of the roundabout and ground level differences between the property and future carriageway levels.

Legislation / Strategic Community Plan / policy implications

Legislation	<i>Road Traffic Code 2000.</i>
Strategic Community Plan	Not applicable.
Key theme	Quality Urban Environment.
Objective	Integrated spaces.
Strategic initiative	Understand issues arising from the interaction between current transport modes.
Policy	Not applicable.

Risk management considerations

The City receives many requests to provide traffic management measures on local roads. The requests are prioritised based on a number of factors including traffic speed, traffic volumes, crash history, road environment and overall cost benefit.

Financial / budget implications

On the basis that Option One was adopted then project funding would not be required.

Funding requirements for Option Two, if adopted would need to be determined as part of the design process. It is anticipated that project funding for the total cost of a dual lane roundabout would range between \$900,000 and \$1.2 million.

Regional significance

Not applicable.

Sustainability implications

Not applicable.

Consultation

No consultation has been undertaken with residents in relation to the petition received on 24 September 2013.

COMMENT

An assessment of the site to determine the suitability for a roundabout treatment confirmed that the intersection has significant site constraints that would impact on the design. Site constraints include Western Power assets that would need to be substantially modified to accommodate the roundabout at an estimated cost of between \$200,000 and \$300,000. Other constraints relate to site level differences in particular to the south west corner and the northern side of the intersection. Due to the level difference, extensive retaining and barrier treatments would be required.

Detailed site observations and turning movement counts undertaken during morning and afternoon peak periods on 10 and 13 March 2014 confirmed that the intersection was operating at an appropriate level of service for an intersection of this type. No major delays or significant vehicle queue were observed during the observation period. However, similar to other major intersections, it is assumed that significant traffic delays can occur at times during peak periods.

The seven day traffic count surveys undertaken in March 2014 have confirmed that the traffic volumes on Hepburn Avenue and Lilburne Road are within acceptable limits for the function of these roads. Traffic volumes have remained relatively steady on Lilburne Road when compared to 2013 traffic counts. The traffic volumes on Hepburn Avenue have increased over time and reflect less than 2% increase per year based on 2006 traffic counts. This traffic volume growth rate is considered to be within acceptable limits based on other major roads in the wider Perth metropolitan area.

A review of the intersection's five year crash history confirmed that the intersection is ranked number 54 with other major City intersections when comparing crash costs. The review also confirmed that crash numbers are significantly less than other Hepburn Avenue intersections including Cockman Road T-Junction, Glengarry Drive roundabout, Kingsley Drive and Gibson Avenue traffic signals. Intersection modifications and subsequent project funding are required at a number of these intersections to improve the road safety situation. In the case of the Lilburne Road, the results of the technical assessment confirmed that a roundabout treatment at this location would require significant project funding and therefore would be difficult to justify given its low crash ranking and current operation.

VOTING REQUIREMENTS

Simple Majority.

MOVED Cr Corr, SECONDED Cr Chester that Council:

- 1 NOTES the results of the traffic technical assessment for the intersection of Hepburn Avenue and Lilburne Road, Duncraig;**
- 2 RETAINS the existing T-Junction treatment at the intersection of Hepburn Avenue and Lilburne Road, Duncraig;**
- 3 ADVISES the petition organiser of Councils decision.**

The Motion was Put and

CARRIED (11/2)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman, Taylor and Thomas.

Against the Motion: Crs Fishwick and Ritchie.

Appendix 10 refers

To access this attachment on electronic document, click here: [Attach10brf80410.pdf](#)

C16-04/14

**COUNCIL DECISION – ADOPTION BY EXCEPTION RESOLUTION -
[02154, 08122]**

MOVED Cr Amphlett, **SECONDED** Cr McLean that pursuant to the *Meeting Procedures Local Law 2013* – Clause 4.8 – Adoption by exception resolution, Council **ADOPTS** the following items:

CJ046-04/14, CJ048-04/14, CJ051-04/14, CJ052-04/14, CJ053-04/14, CJ054-04/14 and CJ056-04/14.

The Motion was Put and

CARRIED (13/0)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman, Ritchie, Taylor and Thomas.

POLICY COMMITTEE – 17 MARCH 2014**Disclosures of interest affecting impartiality**

Name/Position	Cr Brian Corr.
Item No./Subject	CJ058-04/14 - Home Business Policy – Review.
Nature of interest	Interest that may affect impartiality.
Extent of Interest	Cr Corr is the secretary of the Joondalup Business Association.

Name/Position	Cr Teresa Ritchie.
Item No./Subject	CJ058-04/14 - Home Business Policy – Review.
Nature of interest	Interest that may affect impartiality.
Extent of Interest	Residents of the City of Joondalup are known to Cr Ritchie who run home businesses and others are proposing to start home businesses.

CJ058-04/14 HOME BUSINESS POLICY - REVIEW

WARD	All
RESPONSIBLE DIRECTOR	Ms Dale Page Planning and Community Development
FILE NUMBER	13048, 101515
ATTACHMENTS	Attachment 1 <i>Draft Home Business Policy</i> Attachment 2 Comparison of Local Government Home Business Policies
AUTHORITY / DISCRETION	Legislative - includes the adoption of local laws, planning schemes and policies.

PURPOSE

For Council to consider advertising proposed amendments to the *Home Business Policy* for public comment.

EXECUTIVE SUMMARY

A review of the *Home Business Policy* was undertaken in early 2013. The review indicated that improvements to the policy could be made with regard to textual and formatting changes and identified the possibility of extending the home business operating hours currently permitted to allow for greater flexibility.

The Policy Committee has previously considered the outcomes of the policy review at its meetings held on 11 March 2013 and 2 September 2013, where it was resolved on both occasions to defer the item to allow for a further review of various items within the policy.

Those items have been reviewed and further amendments to the *Home Business Policy* are now proposed. These include additional provisions pertaining to customer and employee parking, hours of operation and the location of 'home business – category 3' land uses.

The car parking requirements have been clarified to ensure the maximum number of customers and employees permitted in association with the home business are provided on-site. As verge parking is controlled by the City's *Parking Local Law 2013*, it is not proposed to prohibit this through planning approvals. Rather, home business operators are required to make and maintain all on-site customer and employee car parking bays available for customers and employees during their approved operating hours and discourage verge parking during this time.

The general operating hours set out in the policy are proposed to be from 9.00am until 6.00pm on week days and 9.00am until 5.00pm on Saturdays, with the ability to further increase or restrict these through conditions of development approval, depending on the potential impact a proposal may have on the amenity of the surrounding area.

The location of 'home business category 3' land uses is proposed to be determined on a case by case basis, with a requirement included in the policy stating that applications for such land uses must demonstrate that the proposal will not have an undue impact on surrounding uses.

The *Home Business Policy* covers the whole of the City of Joondalup and it is considered that the draft amended policy will provide clearer guidelines for those wishing to operate a business from their place of residence while at the same time further protecting the amenity of residential areas. It is recommended that the draft amended policy be advertised for a period of 21 days.

BACKGROUND

The *Home Business Policy* applies to the whole of the City of Joondalup and ensures that residential areas remain primarily a place to live while recognising that working from home is an expanding area of employment.

The policy was last updated by Council at its meeting held on 1 November 2005 (CJ238-11/05 refers) and has generally been working well since that time. The policy provides guidance on the requirements for home business applications for each category as defined within the City's *District Planning Scheme No. 2* (DPS2). In addition the policy identifies elements which are taken into consideration during the assessment process to ensure that the amenity of residential neighbourhoods is maintained.

The City has undertaken a review of the existing Policy Manual. As part of this review, it was noted that the existing *Home Business Policy* was required to be amended in line with recent policy updates in respect to formatting and textual changes. As a result, the Policy Committee, at its meeting held on 11 March 2013, considered a review of the existing *Home Business Policy*. That review indicated that improvements to the policy could be made through textual and formatting changes and recommended incorporating the change in operating area for 'home business category 1,' from 20m² to 30m², as proposed as a part of the Omnibus Scheme Amendment No. 65, and extending the hours of operation permitted for home businesses from until 5.00pm weekdays as is currently permitted, until 6.00pm to allow for greater flexibility.

The item was deferred to allow the City to review the following:

- 1 Maximum and type of employees permitted under the home business categories.
- 2 Maximum number of vehicles permitted for employees and customers under the home business categories.
- 3 Reduction of hours of operation for category 2 and 3 home businesses.
- 4 Placement of signage for home businesses.
- 5 Occupancy area for category 1 home businesses.

The above items were reviewed in conjunction with the state government's *Model Scheme Text*, the City of Joondalup draft *Local Planning Strategy* and with due regard to other Local Government local planning policies and schemes. The amended policy was then presented to the Policy Committee meeting held on 2 September 2013 and included the following:

- Modification to the design and the number of car bays required for home businesses in line with changes to the *Residential Design Codes of Western Australia* gazetted on 2 August 2013.
- A limit on the placement of signage for a home business, being to the front facade of the dwelling only.
- Removal of the need for 'Home Business – Category 2' to apply for annual renewals where no complaints or changes to the business are made within that period.

The item was again deferred, this time to allow the City to review the following:

- 1 Number of applications which have been refused due to proposed operating hours
- 2 Reasons for the removal of safeguards for Category 3 businesses
- 3 Restriction of operating hours on a case by case basis or category basis
- 4 Necessity or appropriateness of car parking provisions
- 5 Impact of the policy on the growth of small businesses within the City of Joondalup.

The above items have been investigated, with some further modifications to the policy proposed.

DETAILS

The amendments to the *Home Business Policy* that have previously been presented to the Policy Committee are as follows:

- Text and format changes in line with the current policy manual review.
- Removal of commentary and irrelevant wording from policy.
- Reorganisation of the criteria applying to home businesses for ease of reading.
- Removal of references to other legislation.
- Inclusion of the definitions of 'amenity' and each category of home business in line with *District Planning Scheme No.2 (DPS2)*.
- Increase in the operating hours from 8.00am to 5.00pm to 8.00am to 6.00pm on weekdays.
- Placement of signage to be limited to the front facade of the dwelling only.
- Modifications to the design and number of bays required in line with the *Residential Design Codes of Western Australia* as gazetted on 2 August 2013.
- Inclusion of a provision allowing a 'home business – category 2' that has been operating for 12 months without any complaints being registered with the City, to be approved for a longer period of time.

These amendments are highlighted in red (additions) and strikethrough (deletions) within Attachment 1.

Further amendments to the Home Business policy are proposed as a result of a review of the issues raised at the Policy Committee meeting held on 2 September 2013 as follows:

- Provisions relating to the location of 'home business category 3' land uses.
- Requirement for the maximum necessary amount of car parking associated with the home business to be provided on-site with all bays to be made available and maintained for parking of customers and employees during the operating hours of the home business, with verge parking discouraged.
- Generally limiting operating hours from 8.00am to 5.00pm to 8.00am to 6.00pm Monday-Friday although allowing flexibility to increase or restrict further operating hours on a case by case basis.

These proposed amendments are highlighted in yellow within Attachment 1.

A set of tables, one for each home business category, is included as Attachment 2 and compares the items previously raised by the Policy Committee between various local governments as well as the *Model Scheme Text*.

Issues and options considered

Council has the option to:

- advertise the amended policy for public comment
- advertise the amended policy for public comment with further amendments or
- not support the advertising of the amended policy for public comment.

Legislation / Strategic Community Plan / policy implications

Legislation

City of Joondalup District Planning Scheme No. 2.

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

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

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

Strategic Community Plan

Key theme

Quality Urban Environment.

Objective

Quality built outcomes.

Strategic initiative

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

Policy

Home Business Policy.

Risk management considerations

Should the policy remain unchanged it is considered that there will be minimal risk given that the majority of amendments sought relate to improving wording and formatting of the policy.

Financial/budget implications

The costs associated with advertising the amended policy in the local newspaper and notice of any final adoption of the amended policy, will be approximately \$810.

Regional significance

Not applicable.

Sustainability implications

Not applicable.

Consultation

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

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

COMMENT

Each of the items the Policy Committee requested the City to review at its meeting held on 2 September 2013 are discussed below.

The number of applications refused for home businesses due to proposed operating hours

The City's records identify that from 1999 to the present, a total of 34 home business applications have been refused. Of those, five applications were refused where the proposal included extended trading hours, with three of those specifically making reference to the operating hours and the potential adverse impact on the amenity of the residential locality.

Home business applications are required to be considered on a case by case basis. Applications that propose operating hours outside of those prescribed by the current policy should still be considered on their merits against the objectives of the policy and relevant scheme zone. If a proposal meets these objectives and it is demonstrated that it will not significantly impact on the amenity of the surrounding area, the City should approve the proposal. It is not considered that extending the operating hours prescribed in the policy until 6.00pm on week days will have a significant impact on the amenity of residential areas, particularly considering all applications are considered on case by case basis.

It is proposed that the policy be amended to clarify the requirement for each application to be assessed on its merits. The policy has been modified to state that operating hours of all home business applications are to be *generally* limited to hours of operation between 8.00am to 6.00pm Monday-Friday.

Further clarification is provided within the policy that the hours and days of operation may, through conditions of development approval, be increased where no issues are identified, or reduced where necessary to protect the amenity of the surrounding area. The latter will effectively render the hours of operation less flexible and more stringent for those applications where it is not easily demonstrated that neighbourhood amenity will be maintained.

While the amended policy is flexible in increasing or restricting operating hours on a case by case basis, providing general hours of operation offers applicants and nearby residents certainty in the likely restrictions that may apply. It was also considered whether applications could be restricted on a category basis, particularly in regard to those that fall within a category 3, however, it was found that the majority of category 3 applications approved were for office type uses. Placing further operating hours restrictions on these types of land uses would be unlikely to achieve any significant beneficial outcome and it is considered more appropriate to assess applications on a case by case basis.

The reasons for removal of Category 3 safeguards

In order to simplify the policy for ease of reading, modifications were made to the Category 3 requirements contained within the policy. It was considered appropriate to remove those items that were unenforceable, covered elsewhere within the policy or covered under separate legislation as follows:

Location of Home Business Category 3

The existing policy states that where a 'Home Business – Category 3' is proposed to be located in either a 'Residential' zone or 'Special Residential' zone, the preferred location is where it abuts or is directly opposite one of the commercial centres listed within the *City of Joondalup Centres Strategy*. The wording of this provision was not considered to provide adequate certainty for applicants or the community in circumstances where a 'home business category 3' was proposed to be located away from a commercial centre. In order to maintain the safeguards relating to the location of 'home business category 3' land uses, it is proposed to required all 'home business category 3' land uses to be located adjoining or directly opposite a commercial centre, unless the applicant can demonstrate that the proposal will not have an undue impact on the amenity of the surrounding area as a result of noise, traffic, parking, pollution, people and advertising.

A landscaping plan including landscaping buffers

A landscaping plan is not considered necessary for a 'home business category 3' as it is considered that landscaping is generally not an adequate means of alleviating amenity concerns. It is considered that a proposal should be able to demonstrate compliance with the requirements of both DPS2 and the *Home Business Policy*, without relying on landscaping, as this would likely indicate that the proposed business is not of a scale that is appropriate in a residential area.

A diagram of proposed signage to be included as part of the Management Plan

The current policy requires a diagram of signage to be in a management plan for the proposed home business. Signage for category 2 and 3 home business is limited to 0.2m² in line with the provisions contained within DPS2. The policy is proposed to be amended to remove the need for a diagram of proposed signage to be provided and instead limit the placement of such signage to the front facade of the dwelling only, so as to be inconspicuous and ensure that the residential character and amenity of the area is retained. As these proposed signage provisions are highly prescriptive, and the planning application itself would need to include the details and location of any proposed signage, it was not necessary to include a requirement for a diagram of signage to be included in the home business management plan.

Compliance with all other relevant State and Commonwealth legislation and regulations

Policies and schemes are unable to amend or enforce the provisions of legislation that is beyond the scope of planning requirements. While the City endeavours to refer applications to internal and external authorities for comment where applicable, it is not the City's responsibility to identify all relevant legislation in the assessment of such applications. Therefore, it is considered appropriate to delete this provision from the policy.

The necessity or appropriateness of car parking provisions

DPS2 sets broad standards around parking for each home business category as follows:

'home business – category 1'

“will not result in the requirement for a greater number of parking facilities than normally reserved for a single dwelling, and will not result in any increase in the amount of vehicular traffic in the vicinity; does not entail the presence, parking and garaging of a vehicle of more than 1.5 tonnes tare weight”

'home business – category 2'

“will not result in the requirement for a greater number of parking facilities than normally reserved for a single dwelling, and will not result in a substantial increase in the amount of vehicular traffic in the vicinity; and does not entail the presence, parking and garaging of a vehicle of more than 3.5 tonnes tare weight”

'home business – category 3'

“will not result in the requirement for a greater number of parking facilities than those provided on the site so as to cause an unacceptable inconvenience for adjoining residents and road users; will not result in a substantial increase in the amount of vehicular traffic in the vicinity; and does not entail the presence, parking and garaging of a vehicle of more than 3.5 tonnes tare weight”

The City's current policy provides further parameters around car parking by specifically requiring car bays for the residents of the dwelling, plus one bay per customer and one bay per non resident employee (if any). This requirement has been modified in the amended policy to reflect that the on-site car parking bays for residents must be provided in accordance with the *Residential Design Codes of Western Australia* (R-Codes). It is noted that the R-Codes no longer require two bays per dwelling for those dwellings located within 800metres of a train station on a high frequency rail route or within 250metres of a high frequency bus route. In these instances, only one car bay per dwelling is required.

The car parking requirements have been clarified to ensure the maximum number of customers and employees permitted in association with the home business are provided on-site. As verge parking is controlled by the City's *Parking Local Law 2013*, it is not proposed to prohibit this through planning approvals. Rather, home business operators are required to make and maintain all on-site customer and employee car parking bays available for customers and employees during their approved operating hours and discourage verge parking during this time. The provisions will ensure adequate parking is provided for home businesses to ensure that amenity impacts on adjoining residential properties are minimised.

The impact of the policy on the growth of small businesses within the City of Joondalup

Figures taken from the 2012 Australian Bureau of Statistics Census indicate that 2.5% of the City's population undertake or are employed within a home based business. This figure is similar to that found within the City of Wanneroo where no Home Business policy is in place. It therefore appears that the City's *Home Business Policy* is not necessarily restricting the number of home businesses operating. In addition, there is no data to suggest that the policy is restricting the growth of small businesses within the City.

Initial figures also indicate that the number of home business within the City of Joondalup (and City of Wanneroo) is substantially lower than the state average, demonstrating that the City has fewer home based businesses in operation than other regions within the state.

Conclusion

In response to the Policy Committee's request from the meeting held on 2 September 2013, the following additional amendments have been made to the draft amended *Home Business Policy*:

- Provisions requiring applicants of 'home business category 3' land uses to demonstrate that their proposal will not have an undue impact on amenity of the surrounding area.
- Requirement for the maximum necessary amount of car parking associated with the home business to be provided on-site with all bays to be made available and maintained for parking of customers and employees during the operating hours of the home business, with verge parking discouraged.
- Generally limiting operating hours from 8.00am to 5.00pm to 8.00am to 6.00pm Monday-Friday with the ability to increase or restrict the operating hours on a case by case basis following assessment of each application.

The City's *Local Planning Strategy* identifies the need to "encourage home businesses and to remove existing impediments to potential home business incubators." The draft *Economic Development Strategy* also recognises the need to provide support to home business operators to enable the future growth of businesses beyond the home environment. Modifications to the policy will enable the further growth of this sector while maintaining the amenity and character of existing residential neighbourhoods.

It is recommended that the draft amended *Home Business Policy* be advertised for a period of 21 days for public comment.

VOTING REQUIREMENTS

Simple Majority.

COMMITTEE RECOMMENDATION

The Committee recommendation to the Council for this report (as detailed below) was resolved by the Policy Committee at its meeting held on 17 March 2014.

The original recommendation as presented by City officers to the Committee is as follows:

That Council:

- 1 *ADOPTS the draft Home Business Policy as detailed in Attachment 1 to this Report, for the purpose of public advertising, pursuant to clause 8.11 of the City of Joondalup District Planning Scheme No. 2;*
- 2 *ADVERTISES the proposed amendments to the Home Business Policy for public comment for a period of 21 days, pursuant to clause 8.11 of the City of Joondalup District Planning Scheme No. 2.*

The Committee's subsequent recommendation to the Council is as follows (changes identified).

That Council:

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

MOVED Cr Gobbert, SECONDED Cr Amphlett that Council:

- 1 **ADOPTS** the draft *Home Business Policy* as detailed in Attachment 1 to Report CJ058-04/14 for the purposes of public advertising, pursuant to clause 8.11 of the *City of Joondalup District Planning Scheme No. 2*, subject to clause 5.3.1(b) being amended by replacing the words “Customers and employees should be discouraged from parking on the verge.” with “No verge parking for the business is permissible.”;
- 2 **ADVERTISES** the proposed amendments to the *Home Business Policy* for public comment for a period of 21 days, pursuant to clause 8.11 of the *City of Joondalup District Planning Scheme No. 2*.

The Motion was Put and**CARRIED (13/0)**

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman, Ritchie, Taylor and Thomas.

Appendix 11 refers

To access this attachment on electronic document, click here: [Attach11brf80414.pdf](#)

CAPITAL WORKS COMMITTEE – 1 APRIL 2014**CJ059-04/14 EAST-WEST ARTERIAL ROADS PROGRAM**

WARD	All
RESPONSIBLE DIRECTOR	Mr Nico Claassen Infrastructure Services
FILE NUMBER	102496, 101515, 53597
ATTACHMENT	Attachment 1 Whitfords Avenue streetscape enhancement Attachment 2 Entry points and significant intersections Attachment 3 Proposed projects 2015-16 Attachment 4 Proposed landscape treatment levels
AUTHORITY / DISCRETION	Executive - The substantial direction setting and oversight role of Council, such as adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.

PURPOSE

For Council to endorse the design strategy and proposed implementation methodology for the east-west arterial roads.

EXECUTIVE SUMMARY

The *Iconic East-West Arterial Roads Program* was initiated in 2008 as a rolling program within the *Five Year Capital Works Program*. At its meeting held on 18 March 2008 (CJ034-03/08 refers), Council agreed in part to landscape upgrades on seven major east-west arterial roads.

The first iconic east-west arterial road project undertaken as a pilot project was on the Burns Beach Road median. This project was completed in 2013 at a total cost of \$2,575,254 (\$119.65 per square metre). The cost of this median treatment was considered to be not sustainable for replication on the remaining east-west arterial roads. A review was subsequently undertaken with the view to rationalise design options and reduce costs.

At its meeting held on 16 April 2013 (CJ060-04/13 refers), Council approved the rationalised design for Shenton Avenue which delivered a reduction in cost to \$1,850,763 (\$75.84 per square metre).

In order to maintain costs at this level, cost control measures have been identified and include:

- a standardised methodology of analysis and design strategy
- a reference table outlining different landscape treatment levels and their associated costs.

A range of implementation options within the current draft budget allocations have been considered, with the recommended option considered to deliver best value for money and to attain a high impact outcome.

It is therefore recommended that Council:

- 1 *NOTES the methodology of analysis and design strategy proposed for all arterial roads;*
- 2 *APPROVES Option 3 for implementation to provide landscape treatments to selected sections on more than one arterial road simultaneously;*
- 3 *REQUESTS the Chief Executive Officer to provide further clarity around the costings and phasing of Option 3 for the east-west arterial road program.*

BACKGROUND

The City of Joondalup developed the *Landscape Master Plan* (LMP) in response to predicted environmental changes that may impact on the City's ability to provide and maintain a level of service expected by the community and in response to the Water Corporation's call for major reductions in irrigation water use across the Perth metropolitan area.

The key outcomes of the LMP were to provide an aesthetically pleasing landscape treatment while addressing biodiversity linkages and water consumption issues. The projects forming the *Iconic East-West Arterial Roads Program* are a key focus area of the LMP adopted by Council at its meeting held on 16 December 2008 (CJ259-12/08 refers).

At its meeting held on 18 March 2008 (CJ034-03/08 refers), Council agreed to the selection of seven iconic projects being the east-west major road arteries as follows:

- Burns Beach Road.
- Shenton Avenue.
- Hodges Drive.
- Ocean Reef Road.
- Whitfords Avenue.
- Hepburn Avenue.
- Warwick Road.

The *Iconic East-West Arterial Roads Program* was initiated in 2008 as a rolling program within the City's *Five Year Capital Works Program*.

The original concept design (based on Shenton Avenue) incorporated water sensitive urban design and provided a unique image for the City in high visibility and high usage roads. The vision of the design was to reflect the adjacent plant communities and the associated soil types graduating from the coastal heath land, through bushland, to the wetlands of the lakes area. The concrete banding framing the planting beds varies in colour to reflect the changing soil type. Local provenance plants, harvested from nearby bushland parks reference the changing plant communities. While the emphasis is on local provenance plant species unique to the City of Joondalup, selected hybrid species would also be considered.

At its meeting held on 2 September 2008 (CJ176-09/08 refers), Council endorsed the design concept and agreed to implement the first project of the *Iconic East-West Arterial Roads Program* as a pilot project, on the Burns Beach Road median. A small section of Hodges Drive (Mitchell Freeway to Joondalup Drive) was included in the construction program. This section of Hodges Drive is a high visibility entrance to the Joondalup City Centre from the freeway.

The pilot project, Burns Beach Road Landscaping SSE2016, was completed in 2013 at a total cost of \$2.58 million (\$119.65 per square metre). The cost of this median treatment was considered to be not sustainable for replication on the remaining east-west arterial roads.

Shenton Avenue Landscaping SSE2038 was the following project in the *Iconic East-West Arterial Roads Program* and a review was undertaken to rationalise design options and reduce cost. A report to Council in April 2013 (CJ060-04/13 refers), demonstrated reduction in cost to \$1.85 million (\$75.84 per square metre).

At its meeting held on 16 April 2013 (CJ060-04/13 refers), Council approved the rationalised design and requested that a report be presented to a future Capital Works Committee meeting reviewing the *Iconic East-West Arterial Roads Program* with the objective to significantly reduce project costs. The Shenton Avenue project is currently under construction and is progressing to plan.

The landscape upgrade, as part of the Hodges Drive dualling project RDC2011 (Marmion Avenue to Ocean Reef Road), has applied a further reduced landscape design option to meet budget constraints. This landscape component is costed at \$269,461 (\$50.31 per square metre).

DETAILS

Pilot project

Landscaping enhancement to the Burns Beach Road median from Delgado Road to Joondalup Drive and the Hodges Drive median between the Mitchell Freeway and Joondalup Drive formed the pilot project for the *Iconic East-West Arterial Roads Program*.

The development of the pilot project included meeting unique design specifications and required extensive research and the establishment of a reliable provenance plant supply. The City employed external consultants to undertake the design, documentation and contract administration of the pilot project and to develop and manage the growing program.

The pilot project costs of \$119.65 per square metre, reflects the entire development and construction costs including provision for unique site conditions to Stages 4 and 5 of Burns Beach Road. Many costs attributed to the initial development are a 'one off item' and are not required on future arterial road landscaping projects.

Future East-West Arterial Road Upgrades

Proposed project cost control measures

The remaining east-west arterial roads identified for landscaping enhancement are significantly longer than Burns Beach Road and all have varying standards of existing landscape treatments throughout their length.

An analysis of all east-west arterial roads is proposed to identify constraints and opportunities and the application of appropriate landscape treatments to effectively cost and program future landscape works.

Topographical analysis

To identify:

- potential entry points into the City
- significant intersections
- activity precincts – commercial, leisure
- sections of median with high existing amenity value grading through to significantly degraded sections
- sections of median with existing kerbing
- sections of median with no existing kerbing
- potential water source for plant establishment.

Table 1 Proposed landscape treatment levels and cost comparisons

LEVEL	LOCATION	LANDSCAPE TREATMENTS	COST / M ²
Level 1	Entry points.	Apply the original design landscape treatment and include Priority Two and Three Entry Statement signage. (Provenance planting in concrete banded garden beds).	\$160
Level 2	Significant intersections.	Apply the original design landscape treatment. (Provenance planting in concrete banded garden beds).	\$103
Level 3	Median with existing kerbing.	Provide formal / informal provenance planting of shrubs and trees with concrete banding to back of kerb only.	\$75
Level 4	Median with existing kerbing.	Provide planting of trees with concrete banding to back of kerb only.	\$52
Level 5	Median with no existing kerbing.	Provide informal provenance planting of shrubs and trees.	\$54
Level 6	Median with no existing kerbing.	Provide planting of trees.	\$35
Level 7	Median with no access to water.	Provide dry tube stock planting can be undertaken with an infill planting program scheduled for the following three consecutive winters.	\$41
Level 8	Median with no access to water.	Provide maintenance refurbishment to areas with existing dry grass.	\$5

Attachment 4 provides pictorial representations of the above.

Where sections of median have a high existing amenity value it is proposed to provide no landscape enhancement.

All landscape treatments will include mulching, where applicable. Further investigation into the sourcing and application of mulch is required. The pathogen free mulch currently being installed on these projects is cost prohibitive.

Design strategy

The following three elements are proposed as the main focus for all arterial roads:

- Entry points into the City.
- Activity precincts.
- Significant intersections.

The medians within activity precincts may require enhanced landscape treatments which may be a combination of levels.

Issues and options considered

Issues

Whitfords Avenue is the next east-west arterial road project programmed for design in 2014. A conceptual design has been prepared for reference, demonstrating the application of some of the proposed landscape upgrade treatments and associated costs. The priority two and priority three entry statements (an affiliated program and the subject of a separate report) have been included in the design and costing for Whitfords Avenue.

Landscape Treatment Options

All options are based on the current draft *Five Year Capital Works Program* budget allocations for the *East-West Arterial Roads Upgrades Program* commencing in 2015-16.

Option One

Provide the complete landscape treatment to one arterial road at a time based on the Whitfords Avenue Concept as forming Attachment 1 to this report. Whitfords Avenue is a 7.5 kilometre long road and the estimated cost for landscape treatment for its entire length is \$3.1 million (\$68.00 per square metre) and would be phased over a five year period. Further reductions can be achieved on this project by changing the scope and substituting levels of landscape treatment accordingly.

Option Two

Provide landscape treatments to selected sections of one arterial road at a time, based on the Whitfords Avenue Concept as forming Attachment 2 to this report. The project cost estimate is \$1.47 million and would be phased over a three year period, comprising of three Level 1 landscape treatments at entry points and 14 Level 2 landscape treatments to significant intersections.

Option Three

Provide landscape treatments to selected sections annually of more than one arterial road simultaneously. The installation for 2015-16 will comprise 12 level 1 landscape treatments at entry points on Ocean Reef Road, Whitfords Avenue, Hepburn Avenue and Warwick Road as forming Attachment 3 to this report. The total expenditure for 2015-16 would be \$678,078.

Legislation / Strategic Community Plan / policy implications

Legislation	Not applicable.
Strategic Community Plan	Not applicable.
Key theme	Quality Urban Environment
Objective	Quality built outcomes.
Strategic initiative	Buildings and landscaping is suitable for the immediate environment and reflect community values.
Policy	Not applicable.

Risk management considerations

The risk to the City for the implementation of the *Arterial Roads Landscape Upgrades Program* is the sustainability of continuous funding and ongoing maintenance cost implications for the new projects.

Financial / budget implications

All proposed costs are consistent with the amounts in the draft *Five Year Capital Works Program* currently in progress.

SSE2011 East-West Arterial Roads Upgrade Program.

2015-16	\$680,000
2016-17	\$750,000
2017-18	\$750,000
2018-19	\$750,000

Current financial year impact

There is no impact on the *2013-14 Capital Works Program*.

Future financial year impact

Annual operating cost \$7.00 per square metre.

The annual maintenance cost is an average of \$5.50 per square metre for labour only. An additional cost of \$1.50 per square metre for material costs (variable).

20 Year Strategic Financial Plan impact The net cash impact over the current adopted *20 Year Strategic Financial Plan* commencing 2015-16 is \$14.93 million for the *Five Year Capital Works Program*.

Regional significance

Not applicable.

Sustainability implications

Environmental

The landscaping of the iconic east-west arterial road medians utilising provenance plant stock and applying the LMP and water sensitive urban design principles will support the protection of natural assets and retention of local biodiversity. The long-term maintenance requirements will be minimised, for example, reduction of mowing requirements and watering of provenance plant species. Increasing the vegetated surface area will also contribute to reduced greenhouse gas emissions and reduced surface temperatures.

Social

The social sustainability of the program is geared towards life-enhancing conditions for all sectors of the community through improved aesthetics in the public environment. The *East-West Arterial Roads Upgrade Program* provides a unique identify for the City of Joondalup through landscape enhancement.

Economic

Economic sustainability is provided for through minimisation of the on-going maintenance requirements.

The program will increase the general value of the City's assets and make the City a more desirable place in which to invest and live.

Consultation

Not applicable.

COMMENT

A rational approach to the *East-West Arterial Upgrade Program* is required in order for the City to be able to deliver a sustainable program. The installation of landscape treatments on any one east-west arterial road at a time will require staging and a lengthy construction period may ensue.

VOTING REQUIREMENTS

Simple Majority.

COMMITTEE RECOMMENDATION

The Committee recommendation to Council for this report (as detailed below) was resolved by the Capital Works Committee at its meeting held on 1 April 2014.

The original recommendation as presented by City officers to the Committee is as follows:

That Council:

- 1 *NOTES the methodology of analysis and design strategy proposed for all arterial roads;*
- 2 *APPROVES Option 3 for implementation to provide landscape treatments to selected sections on more than one arterial road simultaneously;*
- 3 *NOTES that for the first year (2015-16) Option 3 comprises of 12 level 1 landscape treatments at entry points as forming Attachment 3 to this report.*

The Committee's subsequent recommendation to Council is as follows (changes identified):

That Council:

- 1 *NOTES the methodology of analysis and design strategy proposed for all arterial roads;*
- 2 *APPROVES Option 3 for implementation to provide landscape treatments to selected sections on more than one arterial road simultaneously;*
- 3 *REQUESTS the Chief Executive Officer to provide further clarity around the costings and phasing of Option 3 for the east-west arterial road program.*

MOVED Cr Hollywood, SECONDED Cr Hamilton-Prime that Council:

- 1 **NOTES the methodology of analysis and design strategy proposed for all arterial roads;**
- 2 **APPROVES Option 3 for implementation to provide landscape treatments to selected sections on more than one arterial road simultaneously;**
- 3 **REQUESTS the Chief Executive Officer to provide further clarity around the costings and phasing of Option 3 for the east-west arterial road program.**

The Motion was Put and

CARRIED (13/0)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman, Ritchie, Taylor and Thomas.

Appendix 12 refers

To access this attachment on electronic document, click here: [Attach12brf80414.pdf](#)

JOONDALUP PERFORMING ARTS AND CULTURAL FACILITY STEERING COMMITTEE – 9 APRIL 2014

Disclosure of interest affecting impartiality

Name/Position	Cr Liam Gobbert.
Item No./Subject	CJ060-04/14 – Joondalup Performing Arts and Cultural Facility – Progress Report.
Nature of interest	Interest that may affect impartiality.
Extent of Interest	Employees of the architectural design competition respondents are known to Cr Gobbert.

CJ060-04/14 JOONDALUP PERFORMING ARTS AND CULTURAL FACILITY – PROGRESS REPORT

WARD	North
RESPONSIBLE DIRECTOR	Mr Garry Hunt Office of the CEO
FILE NUMBER	75577, 101515
ATTACHMENTS	Attachment 1 Joondalup Performing Arts and Cultural Facility Briefing Paper Attachment 2 Project Program
AUTHORITY / DISCRETION	Executive - The substantial direction setting and oversight role of Council, such as adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.

PURPOSE

For Council to be updated on the progress of the project, specifically the process undertaken for the Joondalup Performing Arts and Cultural Facility (JPACF) - Architectural Design Competition (the Competition) and the People's Choice Award voting, and provide its support for progressing the project. Also provided is a summary of the findings from a report titled *Examining Perth's Performing Arts Infrastructure* (Committee for Perth, 2013) and an update on funding options for external contributions to the capital costs for the JPACF.

EXECUTIVE SUMMARY

At its meeting held on 19 March 2013 (CJ04-03/13 refers), the Council in part authorised the initiation of an architectural design competition for the development of a conceptual design for the JPACF. The City commenced the two-stage competition through a request for Expressions of Interest (EOI) process in April 2013 (Stage One).

During Stage One of the competition, the City received 21 submissions from local and international architects, who expressed interest in competing in Stage Two. The City subsequently identified four suitably qualified and experienced architects to continue through to Stage Two of the competition.

During Stage Two of the competition the four architects were required to develop their conceptual designs in response to an architectural design brief provided by the City. An honorarium of \$10,000 was awarded to each of the four architects to contribute to the costs of preparing their submissions. The submissions were assessed by the Stage Two Evaluation Panel and the outcome of the evaluation process is presented in the report titled 'Joondalup Performing Arts and Cultural Facility: Architectural Design Competition'.

As endorsed by Council at its meeting held on 16 July 2013 (C46-07/13 refers), the City also undertook a public voting process for the People's Choice Award for the four submitted concept designs. The process and results of the People's Choice Award are provided in this Report.

In June 2013 the City reviewed a report titled *Examining Perth's Performing Arts Infrastructure* (Committee for Perth, 2013¹). The report indicates a shortage of performing arts venues in Perth and a growing demand for facilities. This supports key findings of the City's JPACF Market Analysis and Feasibility Study undertaken in 2012 which also indicates a strong level of demand for performing arts venues, particularly from within the north-west metropolitan catchment area.

In accordance with Council's authorisation to pursue funding options (CJ040-03/13 refers) the City has explored several opportunities for external contributions to the capital costs of the JPACF. These included meetings and correspondence with state and federal government representatives and philanthropists exploring potential opportunities for external funding for the JPACF.

To further assist with raising the profile of the JPACF project it is suggested that Mr Jan Norberger MLA, Member for Joondalup, be invited to attend JPACF Steering Committee meetings as an observer.

The City is considering opportunities for establishing a Design Reference Group to assist the City with the detailed development of the conceptual design for the facility. The Design Reference Group would consist of community and specialist members with experience in the design, management, and general operations of performing arts and cultural facilities. The Design Reference Group would work with the project team, the project architectural advisor and the winning architect of the Competition to provide the City with design advice for the facility.

It is therefore recommended that Council:

- 1 *NOTES the conceptual design by Ashton Raggatt McDougall Pty Ltd T/A ARM Architecture as the Peoples' Choice;*
- 2 *SUPPORTS progressing the Joondalup Performing Arts and Cultural Facility Project in accordance with the project program as detailed in Attachment 2 to Report CJ060-04/14, including the undertaking of a social impact assessment of the Joondalup Performing Arts and Cultural Facility;*

¹ (2013) Examining Perth's Performing Arts Infrastructure, The Committee for Perth, Perth

- 3 *CONSIDERS the request to appoint Mr Jan Norberger MLA, Member for Joondalup, as an observer to the Joondalup Performing Arts and Cultural Facility Steering Committee;*
- 4 *NOTES the Chief Executive Officer will establish a Design Working Group and appoint members to the group to assist the City with the development of the conceptual design for the Joondalup Performing Arts and Cultural Facility.*
- 5 *NOTES that the schedule forming Attachment 2 to Report CJ061-04/14 is the project program for the Expression of Interest stage of the project.*

BACKGROUND

At its meeting held on 20 February 2013 the JPACF Steering Committee recommended that Council notes the JPACF Market Analysis and Feasibility Study and supports the progression of the JPACF project.

It was identified that one of the key stages of the JPACF project was the progression of a concept design for the facility based on the "Art Box" model as outlined in the JPACF Market Analysis and Feasibility Study. The development of a concept design will enable a more accurate financial analysis to be undertaken, will contribute significantly to the required social impact assessment and allow the City to instigate negotiations with the relevant private and government funding sources.

At its meeting held on 19 March 2013 (CJ040-03/13 refers) it was agreed that Council:

- "1 *APPROVES the "Art Box" as the preferred model for the basis of an architectural design competition for the development of a refined conceptual design for the Joondalup Performing Arts and Cultural Facility;*
- 2 *AUTHORISES the Chief Executive Officer to initiate an architectural design competition for the development of a refined conceptual design for the Joondalup Performing Arts and Cultural Facility;*
- 3 *AUTHORISES the Chief Executive Officer to appoint a selection panel for the purpose of assessing respondents' submissions to a request for Expressions of Interest for the architectural design competition;*
- 4 *NOTES the proposal of \$10,000 being the amount of an honorarium to be paid to a maximum of four selected respondents' submissions; and*
- 5 *AUTHORISES the Chief Executive Officer to pursue funding options for external contributions to the capital costs of the Joondalup Performing Arts and Cultural Facility."*

The City commenced a two stage architectural design competition through an Expression of Interest process in April 2013.

The progress of the competition was considered by Council at its meeting held on 16 July 2013 (C46-07/13 refers) and it was resolved that Council:

- “1 *NOTES the Joondalup Performing Arts and Cultural Facility - Architectural Design Competition - Status Report;*
- 2 *ENDORSES the public voting process for the People’s Choice Award for the four submitted conceptual designs.”*

DETAILS

Architectural Design Competition

The competition commenced with a request for Expressions of Interest (Stage One) in April 2013. The City received 21 submissions from local and international architects and subsequently identified the following four suitably qualified and experienced architects to continue through to Stage Two of the Competition (in alphabetical order):

- Ashton Raggatt McDougall Pty Ltd T/A ARM Architecture.
- Cook Robotham Architectural Bureau Ltd / Iredale Pedersen Hook Pty Ltd (CRAB/IPH).
- Cox Howlett & Bailey Woodland.
- Kerry Hill Architects Pty Ltd.

During Stage Two of the competition the four architects were asked to develop their conceptual designs in response to an architectural design brief provided by the City on 31 May 2013. The conceptual designs were received by the City on 10 July 2013.

In accordance with the evaluation process, the submissions were assessed by the Stage Two Evaluation Panel which consisted of the following people:

- Councillor Kerry Hollywood – Presiding Member of the JPACF Steering Committee.
- Mr Garry Hunt – Chief Executive Officer, City of Joondalup.
- Professor Simon Anderson – Dean, Architecture, Landscape and Visual Arts, University of Western Australia.
- Mr Thomas de Mallet Burgess – Coordinator Cultural Services, City of Joondalup.

The City also engaged an architectural advisor (Mr Rod Mollett) to assist with the evaluation process by providing the Stage Two Evaluation Panel with technical interpretation and other architectural advice as required. However, Mr Mollett was not a voting member of the Evaluation Panel.

The Evaluation Panel met on two occasions (25 July and 21 August 2013) to consider the submissions received during Stage Two of the competition. The outcome of the competition evaluation process is presented in the report titled ‘Joondalup Performing Arts and Cultural Facility: Architectural Design Competition’.

People’s Choice Award

The People’s Choice Award voting process was run concurrently with the Stage Two evaluation period in accordance with the process described in the report titled ‘Joondalup Performing Arts and Cultural Facility – Architectural Design Competition – Status Report’ (C46-07/13 refers).

The four conceptual designs were displayed electronically on the City's website and visual displays were arranged in the City's libraries, the Craigie Leisure Centre and the City of Joondalup administration building. The display for each of the four designs consisted of six individual artist impressions and a written concept description provided by each of the competitors. Detailed functional elements and the capital and operational costs of the proposed designs were not released to the community during the voting process.

The City received a total of 468 votes (51 in person and 417 online).

The results of the People's Choice Award voting process are as follows:

	ARM Architecture	CRAB/IPH	Kerry Hill Architects	Cox Howlett & Bailey Woodland
Total votes received	156	125	94	93
Percentage of votes	33.3%	26.7%	20.1%	19.9%

The primary objectives of the Peoples' Choice Award were to create an additional form of recognition for the work of the architects involved in the competition and to generate greater awareness of the JPACF project by ratepayers, residents and the general public. The winner of the People's Choice voting process will be recognised by Council as the most popular conceptual design as voted by the general public, however no monetary prize is offered.

In the interests of probity and to prevent prejudice, the results of the People's Choice Award voting process were not provided to the competition Stage Two Evaluation Panel during the evaluation process.

Examining Perth's Performing Arts Infrastructure²

The above report was commissioned by the Committee for Perth to assist the Western Australian Government in planning for Perth's future performing arts needs. The report also assists the Committee for Perth and other associated organisations in advocating for improved cultural infrastructure in Perth. The report examines the existing and likely future demand for performing arts infrastructure in Perth and identifies the likely performing arts infrastructure needed to make Perth a liveable and vibrant city into the future.

The key findings of the report are as follows:

- Perth has a slight undersupply of contemporary music venues.
- Perth appears to be relatively well served with dance and drama theatres, although stakeholder feedback indicates that theatre venues are hard to find, and there is a need for more (affordable) theatres with between 800 to 1,000 seat capacities.
- Performing arts infrastructure in the Perth region is primarily concentrated in inner and middle suburbs of Perth, with the only distinct cluster being in Northbridge.
- Cities that have invested in their performance venue infrastructure have developed reputations for being lively, culturally vibrant cities with a wide range of performance experiences on offer.

² (2013) Examining Perth's Performing Arts Infrastructure, The Committee for Perth, Perth.

- Perth's arts and cultural sector is thriving. Attendance at performing arts events is increasing and there is significant evidence that the people of Perth not only have a growing appetite for arts and culture but that there remains untapped potential for audience growth.
- Perth's population is expected to increase by between 24% and 34% (from 2011 to 2021) which will increase very significantly the demand for performing arts in the region and place enormous pressure on existing arts and cultural infrastructure over the next decade.
- It is reasonable, in the longer term, to expect that Perth will need to cater for growth in population and associated arts and culture demand of between 80% and 100% by 2056 – meaning that the region will need to effectively double its infrastructure capacity in just 40 years.
- Evidence suggests that performing arts attendance has already increased in the past three years with three of the state's top performing arts companies reporting solid growth.
- The strong growth reported by the Black Swan State Theatre Company in 2011 coincided with the opening of the new State Theatre Centre, which significantly increased performance seating capacity.
- Continued growth of performing arts companies in the medium to longer term could be constrained by lack of seating capacity within existing venues.

These findings support the results of the City's Market Analysis and Feasibility Study undertaken in 2012 which indicated that there is a lack of suitable facilities in the primary catchment area, defined in the study as the Cities of Joondalup and Wanneroo.

From the consultation undertaken in the Market Analysis and Feasibility Study almost all stakeholders approached (producers, existing facilities, cultural groups) supported the idea of building a purpose-built performing arts centre within the primary catchment area, with a primary performance space of around 800 seats.

Results of the Market Analysis and Feasibility Study also indicated that local residents are either travelling outside of the primary catchment area for their cultural pursuits or the activity is not occurring at all due to lack of facilities.

Funding Opportunities

The City recognises that it is not in a position to fund the construction of the facility in its entirety and that fund sourcing from the public or private sector will be required for part of the capital costs. In accordance with Council's authorisation to pursue funding options (CJ040-03/13 refers) the City has explored several opportunities for external contributions to the capital costs of the JPACF.

In June 2013 Mayor Troy Pickard and Chief Executive Officer Mr Garry Hunt met in Canberra with Australian Government representatives and provided a detailed briefing document (Attachment 1 refers) on the JPACF project. The discussions explored potential opportunities for the City and the Australian Government to collaborate in bringing the project to fruition. Feedback received from the meetings reaffirmed the notion that the Australian Government is not in a position to provide capital funding for the project and indicated that the City should concentrate on the Western Australian State Government and philanthropic avenues of funding.

Advice received by the City from philanthropic avenues indicates that ensuring the success of a project such as the JPACF requires the involvement of a local philanthropic champion who is prepared to lead by example with a substantial financial contribution. Advice also indicates that the JPACF project would benefit from support from broader advocates such as The Committee for Perth.

Awareness of the project at Western Australian State Government level is being maintained through correspondence with the Minister for Planning; Culture and the Arts the Hon. John Day MLA and representatives of the Department of Culture and the Arts and the Perth Theatre Trust.

The City is continuing to explore funding opportunities however further analysis of the ongoing operating contribution and the financing costs associated with the City's contribution to construct the facility is required as the project proceeds. This analysis is dependent on the design options being considered by the JPACF Steering Committee and Council and further research to be undertaken into management options for the facility.

In order to assist with raising the profile of the JPACF project and to provide a link between the wider community and the political environment it is considered appropriate for Mr Jan Norberger MLA, Member for Joondalup, to be appointed as an observer to the JPACF Steering Committee.

Design Reference Group

To assist the City with the detailed development of the conceptual design for the JPACF it is considered appropriate to establish a Design Reference Group. The Design Reference Group should consist of community and specialist members with experience in the design, management, and general operations of performing arts and cultural facilities. The Design Reference Group would work with the project team and the project architectural advisor to provide the City with advice on the architectural and functional design elements, core components and design features of the conceptual design for the JPACF.

The City has previously identified performing arts and cultural facility specialists who may be interested in taking part in a Design Reference Group and has been approached by several members of the community with relevant experience in performing arts and cultural facility management and operations, who have indicated their interest in taking part in such a group.

It is proposed that the City seeks advice from the project architectural advisor in regards to the compilation and terms of reference of the Design Working Group.

Issues and options considered

Not applicable.

Legislation / Strategic Community Plan / policy implications

Legislation The City is governed by the requirements of the *Local Government Act 1995* in relation to dealings involving commercial undertakings and land development.

Strategic Community Plan

Key theme Community Wellbeing.

Objective Cultural development.

Strategic initiative Establish a significant cultural facility with the capacity to attract a world-class visual and performing arts events.

Policy Not applicable.

Risk management considerations

A comprehensive risk management assessment report outlining the risks apparent to the project will be prepared and updated as the project progresses.

Financial / budget implications

Current financial year impact

Account no.	1-210-C1002.
Budget Item	Joondalup Performing Arts and Cultural Facility.
Budget amount	\$859,528.
Amount spent to date	\$ 89,289.
Balance	\$770,239.

The budget allocated for 2013-14 is for the engagement of consultants and other costs to assist with site assessment, feasibility plans, design concepts, social impact assessment and financial modelling.

Future financial year impact

The development of a performing arts and cultural facility will require a significant financial contribution towards the capital cost and a significant ongoing subsidy for the facility's operations. Future financial year impacts will be the subject of further investigations into the design and management structure of the facility.

The figure quoted below is taken from the current *20 Year Strategic Financial Plan 2011 - 2031*. The capital cost of \$51 million was determined prior to the development of conceptual designs based on the preferred 'Art Box' design model as endorsed by Council.

A review of the *20 Year Strategic Financial Plan 2011 - 2031* is currently in progress. The review will incorporate the latest costings based on the refined conceptual design for the facility. The estimated costings as reflected in the submissions for the Stage Two evaluation process indicate that the capital cost will be significantly more than the \$51 million reflected in the *20 Year Strategic Financial Plan 2011 - 2031*.

20 Year Strategic Financial Plan impact	\$51 million.
Impact year	2016-17.

All amounts quoted in this report are exclusive of GST.

Regional significance

The construction of the Joondalup Performing Arts and Cultural Facility will enhance the Joondalup City Centre as the major commercial, educational, recreational and arts and culture centre for the northern corridor of the Perth metropolitan area.

Sustainability implications

It is anticipated that detailed environmental sustainability implications will be considered during concept design development and during the preparation of a detailed design for the facility.

The engagement of the general community and bodies representing the arts community in the design and development stage of the project will cultivate a sense of ownership over the facility. This sense of ownership will provide the impetus for the ongoing sustainability of the facility by ensuring maximum use by a wide variety of individuals and groups.

Consultation

During the competition, ratepayers, residents and the broader community were given the opportunity to view the four conceptual design submissions and vote on their favourite design as outlined above.

Further community consultation is expected to be undertaken in accordance with the City's consultation guidelines at a later stage of the project.

COMMENT

The JPACF project has received substantial levels of exposure and has gained much momentum since the last meeting of the JPACF Steering Committee. Through the competition, the associated People's Choice Award voting process and promotion of the project through state and federal government and philanthropic avenues, the JPACF project is now well acknowledged.

The high number of voters and comments received during the People's Choice Award voting process indicated high levels of support and interest from the community. The process was also an opportunity to acknowledge the work of the architects involved in the competition, all of which have spent a great deal of time and energy in the preparation of their designs. The close spread of the voting results is an indication of the high quality of the four conceptual designs.

It is proposed that the project continues in accordance with the project program (Attachment 2 refers), including:

- the undertaking of a social impact assessment to inform the business case for the JPACF
- further investigations of potential capital funding sources
- negotiations with key stakeholders
- the establishment of a Design Reference Group.

VOTING REQUIREMENTS

Simple Majority.

COMMITTEE RECOMMENDATION

The Committee recommendation to the Council for this report (as detailed below) was resolved by the Joondalup Performing Arts and Cultural Facility Steering Committee at its meeting held on 9 April 2014.

The original recommendation as presented by City officers to the Committee is as follows:

That Council:

- 1 *NOTES the conceptual design by Ashton Raggatt McDougall Pty Ltd T/A ARM Architecture as the Peoples' Choice;*
- 2 *SUPPORTS progressing the Joondalup Performing Arts and Cultural Facility Project in accordance with the project program as detailed in Attachment 2 to this Report, including the undertaking of a social impact assessment of the Joondalup Performing Arts and Cultural Facility;*
- 3 *CONSIDERS the request to appoint Mr Jan Norberger MLA, Member for Joondalup, as an observer to the Joondalup Performing Arts and Cultural Facility Steering Committee;*
- 4 *NOTES the Chief Executive Officer will establish a Design Working Group and appoint members to the group to assist the City with the development of the conceptual design for the Joondalup Performing Arts and Cultural Facility.*

The Committee's subsequent recommendation to the Council is as follows (changes identified):

That Council:

- 1 *NOTES the conceptual design by Ashton Raggatt McDougall Pty Ltd T/A ARM Architecture as the Peoples' Choice;*
- 2 *SUPPORTS progressing the Joondalup Performing Arts and Cultural Facility Project in accordance with the project program as detailed in Attachment 2 to this Report, including the undertaking of a social impact assessment of the Joondalup Performing Arts and Cultural Facility;*
- 3 *CONSIDERS the request to appoint Mr Jan Norberger MLA, Member for Joondalup, as an observer to the Joondalup Performing Arts and Cultural Facility Steering Committee;*
- 4 *NOTES the Chief Executive Officer will establish a Design Working Group and appoint members to the group to assist the City with the development of the conceptual design for the Joondalup Performing Arts and Cultural Facility;*
- 5 *NOTES that the schedule forming Attachment 2 to this Report is the project program for the Expression of Interest stage of the project.*

MOVED Cr Hollywood, SECONDED Cr Gobbert that Council:

- 1 NOTES the conceptual design by Ashton Raggatt McDougall Pty Ltd T/A ARM Architecture as the Peoples' Choice;**
- 2 SUPPORTS progressing the Joondalup Performing Arts and Cultural Facility Project in accordance with the project program as detailed in Attachment 2 to Report CJ060-04/14, including the undertaking of a social impact assessment of the Joondalup Performing Arts and Cultural Facility;**
- 3 CONSIDERS the request to appoint Mr Jan Norberger MLA, Member for Joondalup, as an observer to the Joondalup Performing Arts and Cultural Facility Steering Committee;**
- 4 NOTES the Chief Executive Officer will establish a Design Working Group and appoint members to the group to assist the City with the development of the conceptual design for the Joondalup Performing Arts and Cultural Facility;**
- 5 NOTES that the schedule forming Attachment 2 to Report CJ060-04/14 is the project program for the Expression of Interest stage of the project.**

AMENDMENT MOVED Mayor Pickard, SECONDED Cr McLean that Part 3 of the Motion be amended to read as follows:

“3 BY AN ABSOLUTE MAJORITY APPOINTS Mr Jan Norberger MLA, Member for Joondalup, as a member to the Joondalup Performing Arts and Cultural Facility Steering Committee;”.

The Amendment was Put and

CARRIED (12/1)

In favour of the Amendment: Mayor Pickard, Crs Amphlett, Chester, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman, Ritchie, Taylor and Thomas.

Against the Amendment: Cr Corr.

The Original Motion as amended, being:

That Council:

- 1 NOTES the conceptual design by Ashton Raggatt McDougall Pty Ltd T/A ARM Architecture as the Peoples' Choice;**
- 2 SUPPORTS progressing the Joondalup Performing Arts and Cultural Facility Project in accordance with the project program as detailed in Attachment 2 to Report CJ060-04/14, including the undertaking of a social impact assessment of the Joondalup Performing Arts and Cultural Facility;**
- 3 BY AN ABSOLUTE MAJORITY APPOINTS Mr Jan Norberger MLA, Member for Joondalup, as a member to the Joondalup Performing Arts and Cultural Facility Steering Committee;**
- 4 NOTES the Chief Executive Officer will establish a Design Working Group and appoint members to the group to assist the City with the development of the conceptual design for the Joondalup Performing Arts and Cultural Facility;**
- 5 NOTES that the schedule forming Attachment 2 to Report CJ060-04/14 is the project program for the Expression of Interest stage of the project.**

was Put and

CARRIED (11/2)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman, Taylor and Thomas.

Against the Motion: Crs Corr and Ritchie.

Appendix 13 refers

To access this attachment on electronic document, click here: [Attach13agn150414.pdf](#)

Disclosure of interest affecting impartiality

Name/Position	Cr Liam Gobbert.
Item No./Subject	CJ061-04/14 – Joondalup Performing Arts and Cultural Facility Architectural Design Competition.
Nature of interest	Interest that may affect impartiality.
Extent of Interest	Employees of the architectural design competition respondents are known to Cr Gobbert.

CJ061-04/14 JOONDALUP PERFORMING ARTS AND CULTURAL FACILITY - ARCHITECTURAL DESIGN COMPETITION

WARD	North	
RESPONSIBLE DIRECTOR	Mr Garry Hunt Office of the CEO	
FILE NUMBER	75577, 101515	
ATTACHMENT	Attachment 1	Stage One Expression of Interest document
	Attachment 2	Stage Two Architectural Design Brief
	Attachment 3	Project Program
AUTHORITY / DISCRETION	Executive - The substantial direction setting and oversight role of Council, such as adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.	

PURPOSE

For Council to endorse the outcomes of the evaluation process undertaken on submissions received for the Joondalup Performing Arts and Cultural Facility (JPACF) Architectural Design Competition.

EXECUTIVE SUMMARY

At its meeting held on 19 March 2013 (CJ040-03/13 refers), Council authorised the initiation of an architectural design competition for the development of a conceptual design for the JPACF.

The competition was held over two stages with Stage One commencing in April 2013 with a request for Expressions of Interest (Attachment 1 refers) from suitably qualified and experienced architects interested in preparing a detailed conceptual design for the JPACF (Stage Two).

The City received 21 submissions for Stage One of the competition. These submissions were evaluated against compliance criteria and four finalists were chosen to develop a conceptual design during Stage Two of the competition.

The four finalists developed conceptual designs in accordance with the Stage Two architectural design brief (Attachment 2 refers). The four submissions were subsequently evaluated by the Stage Two Evaluation Panel in accordance with the evaluation criteria. The outcome of the evaluation process was:

Respondent	Qualitative Ranking
ARM Architecture	1
Kerry Hill Architects Pty Ltd	2
Cook Robotham Architectural Bureau Ltd / Iredale Pedersen Hook Pty Ltd	3
Cox Howlett & Bailey Woodland	4

It is therefore recommended that Council:

- 1 *ENDORSES Ashton Raggatt McDougall Pty Ltd T/A ARM Architecture as the winner of the Joondalup Performing Arts and Cultural Facility Architectural Design Competition;*
- 2 *AUTHORISES the Chief Executive Officer to enter into negotiations with Ashton Raggatt McDougall Pty Ltd T/A ARM Architecture to determine the architectural fees and project program to get to a modified conceptual design as required to enable the project to progress;*
- 3 *REQUESTS the Chief Executive Officer to prepare a further report to Council on the project program and timelines once the negotiations with Ashton Raggatt McDougall Pty Ltd T/A ARM Architecture in relation to the modified designs have been agreed to;*
- 4 *REQUESTS the Chief Executive Officer to provide a further report to Council on a new project program timetable in view of Part 2 above.*

BACKGROUND

At its meeting held on 20 February 2013 the JPACF Steering Committee recommended that Council note the JPACF Market Analysis and Feasibility Study and support the progression of the JPACF project.

At its meeting held on 19 March 2013 (CJ04-03/13 refers), the Council considered the report titled 'Joondalup Performing Arts and Cultural Facility – Project Progression' and it was agreed that Council:

- “1 *APPROVES the “Art Box” as the preferred model for the basis of an architectural design competition for the development of a refined conceptual design for the Joondalup Performing Arts and Cultural Facility;*
- 2 *AUTHORISES the Chief Executive Officer to initiate an architectural design competition for the development of a refined conceptual design for the Joondalup Performing Arts and Cultural Facility;*

- 3 *AUTHORISES the Chief Executive Officer to appoint a selection panel for the purpose of assessing respondents' submissions to a request for Expressions of Interest for the architectural design competition;*
- 4 *NOTES the proposal of \$10,000 being the amount of an honorarium to be paid to a maximum of four selected respondents' submissions; and*
- 5 *AUTHORISES the Chief Executive Officer to pursue funding options for external contributions to the capital costs of the Joondalup Performing Arts and Cultural Facility."*

In accordance with the above decision and the process described in the report, the City commenced a two stage architectural design competition through an Expression of Interest process in April 2013 (Stage One).

A status report detailing Stage One of the architectural design competition was presented to Council at its meeting held on 16 July 2013 (C46-07/13 refers).

DETAILS

The two-stage architectural conceptual design competition process was undertaken based on the process presented to Council at its meetings held 19 March and 16 July 2013 (CJ04-03/13 and C46-07/13 refer). The process was developed through research into architectural design competitions undertaken in Australia and worldwide, with regard to the Australian Institute of Architects – Guidelines for Architectural Design Competitions.

Mr Rod Mollett was engaged as the external architectural advisor to assist the City throughout the architectural design competition. Mr Mollett has previously served as the President of the Western Australian Institute of Architects and has experience with similar architectural competitions. He is also an independent member of the City's Design Reference Panel.

Stage One

The City advertised for Expressions of Interest from suitably qualified and experienced architects in *The West Australian* on Friday 26 April 2013 (Attachment 1 refers).

The closing date for lodgement of a response to Stage One was Friday 10 May 2013 and the City received submissions from the following local and international architects:

	Company	Location
1	Woods Bagot Pty Ltd	Perth
2	Kerry Hill Architects Pty Ltd	East Perth
3	Santelli Architects Pty Ltd	South Perth
4	HOB EMTB Architects (WA) Pty Limited	Perth
5	Taylor Robinson / NH Architecture Pty Ltd	West Leederville/ Melbourne
6	Kelly Rattigan Architects Pty Ltd T/As Formworks Architects	North Fremantle
7	Nomad Ink Studio	Perth

	Company	Location
8	RAD Architecture Pty Ltd	Kensington
9	Cox Howlett & Bailey Woodland	Perth
10	T & Z Pty Ltd	West Perth
11	Fratelle Group Pty Ltd	Northbridge
12	Hassell	Perth
13	Ashton Raggatt McDougall Pty Ltd T/As ARM Architecture	Perth
14	Fracis-Jones Morehen Thor Pty Ltd / The Architecture Group Pty Ltd T/As Tag Architects	Sydney/Perth
15	Christou Design Group Pty Ltd	Claremont
16	Donaldson and Warn Architects / John Wardle Architects	Perth/Melbourne
17	BVN Donovan Hill / Coda Studio Pty Ltd	Sydney/Fremantle
18	Bollig Designn Group Pty Ltd ATF The BDG Trust	West Perth
19	Hames Sharley	Subiaco
20	Peter Hunt Pty Ltd T/As Peter Hunt Architect/Jackson Architecture	West Perth/ Melbourne
21	Cook Robotham Architectural Bureau Ltd/Iredale Pedersen Hook Pty Ltd	London/Perth

The 21 submissions were assessed by the Stage One Compliance Panel in accordance with the EOI document using the following qualitative criteria and weightings:

	Qualitative Criteria	Weighting
A	Practice Structure	25%
B	Relevant Experience	25%
C	Design Philosophy and Approach	25%
D	Timeline	25%

The Stage One Compliance Panel consisted of the following four members:

Name	Title	Voting / Non-voting Member
Danielle Elliott	Coordinator Contract Administration and Purchasing Services (Chairperson)	Voting
Blignault Olivier	Manager City Projects	Voting
Genevieve Hunter	Executive Officer City Projects	Voting
Rod Mollett	External Architectural Advisor	Voting

In accordance with the evaluation process, the Stage One Compliance Panel subsequently identified the following four suitably experienced and qualified architects to continue through to Stage 2 of the competition (the finalists):

Respondent	Qualitative Ranking
Ashton Raggatt McDougall Pty Ltd T/As ARM Architecture	1
Kerry Hill Architects Pty Ltd	2
Cox Howlett & Bailey Woodland	3
Cook Robotham Architectural Bureau Ltd / Iredale Pedersen Hook Pty Ltd	4

Stage Two

The Stage Two Architectural Design Brief was based on the Art Box (as described in the Market Analysis and Feasibility Study) and was cognisant of the Project Philosophy and Parameters endorsed by Council at its meeting held on 22 June 2010 (CJ103-06/10 refers). The core facilities to be provided in the conceptual design included the following:

- An 850 seat lyric theatre with orchestra pit, proscenium and fly tower suitable for staging drama, dance and musical events.
- A 200 seat flexible black box theatre to accommodate a variety of performance types.
- Four rehearsal rooms, four practice rooms and other theatre support spaces.
- A single foyer serving both theatres designed to service as a reception and exhibition space.
- A dedicated art gallery and curatorial storage.
- A drawing and painting studio and craft studio.
- Food and beverage spaces.
- Conference and function facilities.
- Management offices.
- Undercroft parking for approximately 400 vehicles with the consideration of additional car parking opportunities adjunct to the facility.

Further, the building design and elevation should have significant architectural merit marking the southern gateway to the Joondalup City Centre. The finalists were also given the opportunity to consider the incorporation of the Jinan Garden into the overall design of the facility.

The Stage Two Architectural Design Brief was prepared in consultation with the City's external architectural advisor and provided to the finalists on 31 May 2013 (Attachment 3 refers). All the finalists submitted conceptual designs by the closing date of 10 July 2013.

The four conceptual designs were assessed in accordance with the Stage Two Architectural Design Brief using the following qualitative criteria and weightings:

	Qualitative Criteria	Weighting
A	Design Solution	30%
B	Urban Design	20%
C	Functionality	20%
D	Cost	20%
E	Traffic Management/Parking	10%

The Stage Two Evaluation Panel consisted of the following four members:

Name	Title	Voting / Non-voting Member
Garry Hunt	Chief Executive Officer (Chairperson)	Voting
Cr Kerry Hollywood	Presiding Member, Joondalup Performing Arts and Cultural Facility Steering Committee	Voting
Thomas de Mallet Burgess	Coordinator Cultural Services	Voting
Prof. Simon Anderson	Dean, School of Architecture, Landscape and Visual Arts, UWA	Voting
Rod Mollett	External Architectural Advisor	Non - Voting

To assist the Stage Two Evaluation Panel, the four finalists presented their conceptual designs to the panel prior to the formal qualitative ranking process. In addition, the external architectural advisor provided the evaluation panel with further comparative advice on the conceptual designs.

Qualitative Assessment Results

The following is a summary of the assessments undertaken by the Evaluation Panel:

ARM Architecture was ranked first in the qualitative assessment. The submission provided an exciting design which captures the imagination of the user and patron and reflects the aspirations of the City. The design interfaces well with the streetscape and fits in with both Central Park and the Jinan Garden which is incorporated into the overall design. The concept is very functional with scope for mobile use and the internal spatial relationships are well considered. There are 342 car parking bays (predominately at-grade) provided and the design provides good vehicular access to the facility. The estimated cost is approximately \$90.7 million and the design demonstrates a good balance of material use against efficiency.

The submission from Kerry Hill Architects Pty Ltd was ranked second. The Kerry Hill design is well defined. The building presents similarly to other comparable Perth buildings with a good sized foyer and visually appealing main theatre. The inclusion of an outdoor auditorium is original. The design interacts well with the street frontages however interaction with Central Park is less defined and does not consider the Jinan Garden. The concept provides 283 car parking bays (with an option for an additional level) and has good access to both the set down area and car park. The estimated cost is approximately \$89 million excluding an additional level of car parking.

The joint submission from Cook Robotham Architectural Bureau Ltd / Iredale Pedersen Hook Pty Ltd was ranked third. The design was not considered reflective of the locality and little consideration of the City's aspirations was apparent. The concept is visually interesting however little attempt is made to address Central Park, the Jinan Garden or Grand Boulevard. Some of the design features and amenities are considered inadequate. A total of 310 car parking bays are provided however issues such as traffic flow are inadequately considered. The estimated cost is approximately \$78.5 million.

Cox Howlett & Bailey Woodland was ranked fourth. The concept has an abstract form with good visual appeal. However the design lacks detail and definition. There is limited interaction with the streetscape and the building is considered large and perhaps out of scale with the rest of the City. There is no exploration of the potential interaction with the Jinan Garden however the black box theatre and bars/restaurant overlooks Central Park. There are general concerns regarding maintenance of the building given the design and some important areas are ill defined. The concept delivers 200 car parking bays however it is unclear from the drawings how traffic management is addressed. The estimated cost of the design is approximately \$99.8 million.

Issues and options considered

The acknowledgement of the winning design for the JPACF Architectural Design Competition will identify a preferred conceptual design for the facility. Notwithstanding the selection of a winning design by Council through the competition process, the City is under no obligation to use the winning design in any future development of the JPACF.

Any decision by the City to construct the JPACF using the winning design is at the absolute discretion of the City. Should the City decide to not use the winning design, the City shall be under no contractual or other legal obligation to the competition winner arising out of the competition.

If the City decides to proceed with the development of the JPACF based on the winning design, the City will enter into negotiations with the competition winner for the commissioning of the architectural services required for the completion of the JPACF at a later stage.

The identification of a conceptual design for the facility will enable the City to progress the project in accordance with community and Council expectations. A robust business case based on the Market Analysis and Feasibility Study, a completed social impact assessment, and a conceptual design, will allow the City to negotiate with the relevant private and government funding sources.

In developing the business case for the JPACF the City may engage with the winning architect in order to undertake further development of the conceptual design.

Legislation / Strategic Community Plan / policy implications

Legislation	The City is governed by the requirements of the <i>Local Government Act 1995</i> in relation to dealings involving commercial undertakings and land development.
Strategic Community Plan	
Key theme	Community Wellbeing.
Objective	Cultural development.
Strategic initiative	Establish a significant cultural facility with the capacity to attract world class visual and performing arts events.
Policy	Not applicable.

Risk management considerations

A risk management assessment report outlining the risks apparent to the project will be prepared and updated as the project progresses.

Financial / budget implications

Current financial year impact

Account no.	1-210-C1002.
Budget Item	Joondalup Performing Arts and Cultural Facility.
Budget amount	\$ 859,528.
Amount spent to date	\$ 89,289.
Balance	\$ 770,239.

The budget allocated for 2013-2014 is for the engagement of consultants and other costs to assist with site assessment, feasibility plans, design concepts, social impact assessment and financial modelling.

Future financial year impact

The development of a performing arts and cultural facility will require a significant financial contribution towards the capital cost and a significant ongoing subsidy for the facility's operations. Future financial year impacts will be the subject of further investigations into the design and management structure of the facility.

The figure quoted below is taken from the current *20 Year Strategic Financial Plan 2011 - 2031*. The capital cost of \$51 million was determined prior to the development of conceptual designs based on the preferred 'Art Box' design model as endorsed by Council.

A review of the *20 Year Strategic Financial Plan 2011 - 2031* is currently in progress. The review will incorporate the latest costings based on the refined conceptual design for the facility. The estimated costings as reflected in the submissions for the Stage Two evaluation process indicate that the capital cost will be significantly more than the \$51 million reflected in the *20 Year Strategic Financial Plan 2011 - 2031*.

20 Year Strategic Financial Plan impact	\$51 million
Impact year	2016-17

All amounts quoted in this report are exclusive of GST.

Regional significance

The construction of the Joondalup Performing Arts and Cultural Facility will enhance the Joondalup City Centre as the major commercial, educational, recreational and arts and culture centre for the northern corridor of the Perth metropolitan area.

Sustainability implications

It is anticipated that detailed environmental sustainability implications will be considered during the preparation of a detailed design for the facility.

The engagement of the general community and bodies representing the arts community in the design and development stage of the project will cultivate a sense of ownership over the facility. This sense of ownership will provide the impetus for the ongoing sustainability of the facility by ensuring maximum use by a wide variety of individuals and groups.

Consultation

Not applicable.

COMMENT

The evaluation panel carried out the evaluation of the submissions in accordance with the City's evaluation process and concluded that the conceptual design submitted by Ashton Raggatt McDougall Pty Ltd T/As ARM Architecture is the recommended winning design of the JPACF Architectural Conceptual Design Competition.

Through the endorsement of Ashton Raggatt McDougall Pty Ltd T/As ARM Architecture as the winner of the JPACF Architectural Conceptual Design Competition, the JPACF project reaches a major milestone towards the development of a business case for the facility. A conceptual design will provide the basis for the City to undertake a social impact assessment while allowing for more detailed financial analysis of capital and ongoing management costs of the JPACF.

VOTING REQUIREMENTS

Simple Majority.

COMMITTEE RECOMMENDATION

The Committee recommendation to Council for this report (as detailed below) was resolved by the Joondalup Performing Arts and Cultural Facility Steering Committee at its meeting held on 9 April 2014.

The original recommendation as presented by City officers to the Committee is as follows:

That Council:

- 1 *ENDORSES Ashton Raggatt McDougall Pty Ltd T/A ARM Architecture as the winner of the Joondalup Performing Arts and Cultural Facility Architectural Design Competition;*
- 2 *AUTHORISES the Chief Executive Officer to enter into negotiations with Ashton Raggatt McDougall Pty Ltd T/A ARM Architecture to refine its preliminary conceptual design as required to enable the project to be progressed in accordance with the project program as outlined in Attachment 3 to this Report.*

The Committee's subsequent recommendation to the Council is as follows (changes identified):

That Council:

- 1 *ENDORSES Ashton Raggatt McDougall Pty Ltd T/A ARM Architecture as the winner of the Joondalup Performing Arts and Cultural Facility Architectural Design Competition;*
- 2 *AUTHORISES the Chief Executive Officer to enter into negotiations with Ashton Raggatt McDougall Pty Ltd T/A ARM Architecture to determine the architectural fees and project program to get to a modified conceptual design as required to enable the project to progress;*
- 3 *REQUESTS the Chief Executive Officer to prepare a further report to Council on the project program and timelines once the negotiations with Ashton Raggatt McDougall Pty Ltd T/A ARM Architecture in relation to the modified designs have been agreed to;*
- 4 *REQUESTS the Chief Executive Officer to provide a further report to Council on a new project program timetable in view of Part 2 above.*

MOVED Cr Hollywood, SECONDED Cr Gobbert that Council:

- 1 **ENDORSES Ashton Raggatt McDougall Pty Ltd T/A ARM Architecture as the winner of the Joondalup Performing Arts and Cultural Facility Architectural Design Competition;**
- 2 **AUTHORISES the Chief Executive Officer to enter into negotiations with Ashton Raggatt McDougall Pty Ltd T/A ARM Architecture to determine the architectural fees and project program to get to a modified conceptual design as required to enable the project to progress;**
- 3 **REQUESTS the Chief Executive Officer to prepare a further report to Council on the project program and timelines once the negotiations with Ashton Raggatt McDougall Pty Ltd T/A ARM Architecture in relation to the modified designs have been agreed to;**
- 4 **REQUESTS the Chief Executive Officer to provide a further report to Council on a new project program timetable in view of Part 2 above.**

AMENDMENT MOVED Cr Gobbert, SECONDED Cr Taylor that Parts 3 and 4 be renumbered to read Parts 4 and 5 and a new Part 3 be added to the Motion as follows:

- "3 INVESTIGATES, as part of the modified concept design as outlined in Part 2 above, alternative solutions for the provision of car parking for the facility;"*

The Amendment was Put and

LOST (5/8)

In favour of the Amendment: Mayor Pickard, Crs Amphlett, Gobbert, Taylor and Thomas.

Against the Amendment: Crs Chester, Corr, Fishwick, Hamilton-Prime, Hollywood, McLean, Norman and Ritchie.

**The Motion as Moved by Cr Hollywood, and Seconded by Cr Gobbert was Put and
CARRIED (12/1)**

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman, Ritchie, Taylor and Thomas.

Against the Motion: Cr Corr.

Appendix 14 refers

To access this attachment on electronic document, click here: [Attach14agn150414.pdf](#)

REPORT OF THE CHIEF EXECUTIVE OFFICER**Disclosures of Financial Interest**

Name/Position	Mayor Troy Pickard.
Item No./Subject	CJ062-04/14 - Study Tour: 3-7 May 2014.
Nature of interest	Financial Interest.
Extent of Interest	Mayor Pickard is a participant on the Study Tour.

Name/Position	Mr Garry Hunt, Chief Executive Officer.
Item No./Subject	CJ062-04/14 - Study Tour: 3-7 May 2014.
Nature of interest	Financial Interest.
Extent of Interest	Mr Hunt is a participant on the Study Tour.

Mayor Pickard left the Chamber at 8.22pm.

The Deputy Mayor, Cr Gobbert assumed the Chair.

CJ062-04/14 STUDY TOUR: 3-7 MAY 2014

WARD	All
RESPONSIBLE DIRECTOR	Mr Garry Hunt Chief Executive Officer
FILE NUMBER	00427, 16625, 101515
ATTACHMENT	Nil.
AUTHORITY / DISCRETION	Executive - The substantial direction setting and oversight role of Council, such as adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.

PURPOSE

For Council to endorse the proposed study tour of four Victorian local governments by the Mayor and Chief Executive Officer (CEO) following the conclusion of the Local Government Managers Association (LGMA) National Congress.

EXECUTIVE SUMMARY

The Mayor and CEO propose to undertake a short study tour and visit the Cities of Hobsons Bay, Wyndham, Whittlesea and Hume during the period 3-7 May 2014, following the LGMA National Congress which will take place on 30 April – 2 May 2014 in Melbourne, Victoria.

DETAILS

The opportunity has presented itself for the Mayor and the CEO to visit the Cities of Hobsons Bay, Wyndham, Whittlesea and Hume during the period 3-7 May 2014, following the LGMA National Congress which will take place on 30 April – 2 May 2014 in Melbourne, Victoria.

The City of Joondalup is one of two local governments responsible for governing one of the fastest growing regions in Australia – the North West Corridor of the Perth metropolitan area. With a current population of just over 300,000, it is expected that the North West metropolitan region will be home for up to 500,000 residents by 2031.

In progressing its plan to deliver significant infrastructure, economic development and cultural initiatives that will be needed to cater for the anticipated population growth that is expected in the region in the next two decades, the City has identified synergies between itself and the Cities of Hobsons Bay, Wyndham, Whittlesea and Hume which were recently identified by leading demographer Bernard Salt as being located in the fastest growing regions in Victoria.

The areas to be explored will include the following:

- Social and Economic Development.
- Tourism.
- Infrastructure.
- Commercial Development.
- Growth of Health and Education Precincts in the region.

Additional information about each City to be visited is detailed below.

Hobsons Bay City Council

On the northern shores of Port Phillip Bay, Hobsons Bay is part of the industrial heartland of Melbourne's west. It has over 20 kms of beaches and foreshore areas, and significant coastal wetlands, five creek systems, remnant native grasslands, and important flora and fauna habitats. About 30% of the City's residents were born overseas, and speak a language other than English at home.

Hobsons Bay is the focus of Victoria's chemical and petroleum industries and contains some of the State's largest industrial enterprises. It is also home to the maritime centre of Williamstown.

The main industries include motor vehicle and part manufacturing, basic chemical manufacturing, petroleum refining, other transport equipment manufacturing. Projected population growth is as follows:

Area	2011	2016	2021	2026	2031
64 sq km	88,335	91,107	94,275	97,336	100,132

Whittlesea City Council

The southern parts of the City of Whittlesea are well established urban areas, while the north remains rural in character. The city incorporates important facilities such as the RMIT campus at Bundoora, the Epping Hospital and Epping Plaza Shopping Centre. Residents of the City come from a diverse range of cultural backgrounds, with a very high percentage of residents born in other countries, particularly Macedonia, Italy, and Greece. Demographically, over half of the residents are from non-English speaking backgrounds. Projected population growth is as follows:

Area	2011	2016	2021	2026	2031
490 sq km	163,539	199,381	233,890	263,016	287,568

Wyndham City Council

Wyndham is located on the south-western fringe of Melbourne, with Werribee as its commercial heart. The city features the Western Treatment Plant, and the Laverton and Point Cook air bases, as well as a major horticultural area for Melbourne. The main industries include various types of chemical manufacturing. Wyndham is a designated growth area of Melbourne, currently ranked as the third fastest growing local government area in Victoria. Projected population growth is as follows:

Area	2011	2016	2021	2026	2031
542 sq km	168,552	219,745	261,935	302,471	340,724

Hume City Council

Hume City is a growing, urban fringe municipality about 20 kms from Melbourne's central business district. The southern parts of the city are well-established urban areas, while the north remains rural in character. Almost 29% of its residents were born overseas. It has a young community with 31% of persons aged under 18. Hume is at the Hume Highway, Calder Highway and Metropolitan Ring Road crossroads. It includes the busy Melbourne Airport. The main industries include motor vehicle and part manufacturing, air and space transport, other services to transport, electronic equipment manufacturing. Projected population growth is as follows:

Area	2011	2016	2021	2026	2031
504 sq km	175,606	197,269	217,926	240,029	263,998

Issues and options considered

Council has the option to:

- approve the request
or
- decline the request.

Legislation / Strategic Community Plan / policy implications

Legislation Not applicable.
Strategic Community Plan

Key theme Governance and Leadership.

Objective Strong leadership.

Strategic initiative Not applicable.

Policy Not applicable.

Risk management considerations

Not applicable.

Financial / budget implications

The cost for additional accommodation and transport for the period 3-7 May 2014 following the LGMA National Congress for both attendees will be approximately \$2,150 and will be funded within current budget allocations.

All amounts quoted in this report are exclusive of GST.

Regional significance

Not applicable.

Sustainability implications

Not applicable.

Consultation

Not applicable.

COMMENT

With both the Mayor and CEO attending the LGMA National Congress in Melbourne, there is an opportunity to visit local governments in Victoria with a similar demographic to the City of Joondalup to learn more about the challenges faced in the region and the strategies used to address challenges of service provision.

VOTING REQUIREMENTS

Simple Majority.

MOVED Cr Corr, SECONDED Cr Norman that Council APPROVES the request from the Mayor and the Chief Executive Officer to undertake a study tour of the Cities of Hobsons Bay, Wyndham, Whittlesea and Hume during the period 3-7 May 2014.

The Motion was Put and

CARRIED (12/0)

In favour of the Motion: Crs Gobbert, Amphlett, Chester, Corr, Fishwick, Hamilton-Prime, Hollywood, McLean, Norman, Ritchie, Taylor and Thomas.

Mayor Pickard entered the Chamber at 8.24pm and resumed the Chair.

C17-04/14 APPOINTMENT OF A DEPUTY MEMBER TO MINDARIE REGIONAL COUNCIL – 16 APRIL TO 4 MAY 2014

WARD	All
RESPONSIBLE DIRECTOR	Mr Jamie Parry Governance and Strategy
FILE NUMBER	03149, 101515
ATTACHMENTS	Nil.
AUTHORITY / DISCRETION	Executive - The substantial direction setting and oversight role of Council, such as adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.

PURPOSE

For Council to give consideration to appointing an Elected Member to deputise for Cr Kerry Hollywood at any meetings of the Mindarie Regional Council to be held between 16 April and 4 May 2014.

EXECUTIVE SUMMARY

The Mindarie Regional Council (MRC) was established for the management of waste and comprises the following local governments:

- City of Joondalup
- City of Perth
- City of Stirling
- City of Wanneroo
- Town of Vincent
- Town of Victoria Park
- Town of Cambridge.

Each local government is represented on the MRC, with the City of Joondalup being represented by Cr Russ Fishwick, who is the Chairman, and Cr Kerry Hollywood. The MRC meets bi-monthly, with its next meeting scheduled to be held on Thursday, 24 April 2014, at the City of Wanneroo.

Cr Kerry Hollywood will be on approved leave of absence for the period 16 April to 4 May 2014, which includes the next scheduled meeting. Previous legal advice requires that where the City requires to be represented in the absence of a nominated member to the MRC it must do so by specific resolution for a specified period.

It is therefore recommended that Council:

- 1 *In the absence of Cr Kerry Hollywood and in accordance with the provisions of section 52 of the Interpretation Act 1984, APPOINTS an Elected Member as a deputy member to act on behalf of Cr Kerry Hollywood and represent the City at any meetings of the Mindarie Regional Council to be held between 16 April and 4 May 2014;*
- 2 *ADVISES the Mindarie Regional Council of its decision.*

BACKGROUND

The Mindarie Regional Council (MRC) was established for the management of waste and comprises the following local governments:

- City of Joondalup
- City of Perth
- City of Stirling
- City of Wanneroo
- Town of Vincent
- Town of Victoria Park
- Town of Cambridge.

Each local government is represented on the MRC, with the City of Joondalup being represented by Cr Russ Fishwick, who is the Chairman, and Cr Kerry Hollywood. The MRC meets bi-monthly, with its next meeting scheduled to be held on Thursday, 24 April 2014, at the City of Wanneroo.

DETAILS

Cr Kerry Hollywood will be on approved leave of absence for the period 16 April to 4 May 2014, which includes the next scheduled meeting. Previous legal advice requires that where the City requires to be represented in the absence of a nominated member to the MRC it must do so by specific resolution for a specified period.

This advice indicated that there is no power for member Councils to appoint permanent deputies to the MRC. Consequently, if the City's appointed member to the MRC is unable to attend the meeting, a nominated deputy cannot just attend in his or her place. Instead, the City needs to appoint a person to act in place of the member on each occasion when the member cannot attend.

Issues and options considered

The options available to the Council are to:

- agree to appoint another Elected Member to act in the place of Cr Hollywood during her absence
- or
- not agree to appoint another member.

Legislation / Strategic Community Plan / policy implications

Legislation

The legislation, which is constraining the appointment of deputies, is the *Interpretation Act 1984*.

Section 52(1) and (2) of the *Interpretation Act 1984* states:

- (1) Where a written law confers a power or imposes a duty upon a person to make an appointment to an office or position, including an acting appointment, the person having such a power or duty shall also have the power:
 - b) Where a person so appointed to an office or position is suspended or unable, or expected to become unable, for any other cause to perform the functions of such office or position, to appoint a person to act temporarily in place of the person so appointed during the period of suspension or other inability but a person shall not be appointed to so act temporarily unless he is eligible and qualified to be appointed to the office or position; and
 - c) To specify the period for which any person appointed in exercise of such a power or duty shall hold his appointment.
- (2) For the purposes of subsection (1)(b), "cause" includes:
 - a) Illness
 - b) Temporary absence from the State
 - c) Conflict of interest.

The key provisions, which create problems for the appointment of deputies, are the word 'unable' in subsection 1(b) and the requirement to specify the period of appointment in subsection 1(c).

Strategic Community Plan

Key theme

Governance and Leadership.

Objective

Strong leadership.

Strategic initiative

Seek out City representation on key external and strategic bodies.

Policy

Not applicable.

Risk management considerations

The risk to the City of Joondalup is that if another member is not appointed to represent the City in the absence of Cr Hollywood, then the City will not be fully represented and therefore not have its allocated voting rights on matters before the MRC.

Financial / budget implications

Not applicable.

Regional significance

The Mindarie Regional Council is the primary Waste Management Authority for a number of metropolitan local government authorities. The City's representation at MRC meetings is of critical importance to the regional management of waste.

Sustainability implications

Not applicable.

Consultation

Not applicable.

COMMENT

It is considered to be of regional and strategic importance that the Council exercises its ability to be represented at each and every meeting of the MRC. It is recommended that a deputy member be appointed to represent the City at any meetings of the Mindarie Regional Council to be held during the period of Cr Hollywood's leave of absence from 16 April to 4 May 2014 inclusive.

VOTING REQUIREMENTS

Simple Majority.

OFFICER'S RECOMMENDATION

That Council:

- 1 In the absence of Cr Kerry Hollywood and in accordance with the provisions of section 52 of the *Interpretation Act 1984*, APPOINTS an Elected Member as a deputy member to act on behalf of Cr Kerry Hollywood and represent the City at any meetings of the Mindarie Regional Council to be held between 16 April and 4 May 2014;
- 2 ADVISES the Mindarie Regional Council of its decision.

Cr Norman nominated himself to fill the position.

Cr Hamilton-Prime nominated herself to fill the position.

By a show of hands of the Elected Members present, Cr Hamilton-Prime was selected to fill the position.

MOVED Cr Fishwick, SECONDED Cr Hamilton-Prime that Council:

- 1 In the absence of Cr Kerry Hollywood and in accordance with the provisions of section 52 of the *Interpretation Act 1984*, APPOINTS Cr Christine Hamilton-Prime as a deputy member to act on behalf of Cr Kerry Hollywood and represent the City at any meetings of the Mindarie Regional Council to be held between 16 April and 4 May 2014;**
- 2 ADVISES the Mindarie Regional Council of its decision.**

The Motion was Put and

CARRIED (12/1)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Ritchie, Taylor and Thomas.

Against the Motion: Cr Norman.

URGENT BUSINESS

Nil.

MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

ANNOUNCEMENTS OF NOTICES OF MOTION FOR THE NEXT MEETING

Nil.

CLOSURE

There being no further business, the Mayor declared the Meeting closed at 8.31pm the following Elected Members being present at that time:

MAYOR TROY PICKARD
CR KERRY HOLLYWOOD
CR TOM MCLEAN, JP
CR PHILIPPA TAYLOR
CR SAM THOMAS
CR LIAM GOBBERT
CR GEOFF AMPHLETT, JP
CR CHRISTINE HAMILTON-PRIME
CR MIKE NORMAN
CR JOHN CHESTER
CR BRIAN CORR
CR RUSS FISHWICK, JP
CR TERESA RITCHIE, JP