

# Ordinary Council Meeting

11 August 2021

## Agenda

Notice is hereby given of the Ordinary Meeting of Council to be held in the Council Chambers, City of Kwinana Administration Centre commencing at 5:30pm.

Wayne Jack  
Chief Executive Officer

Members of the public who attend Council meetings should not act immediately on anything they hear at the meetings, without first seeking clarification of Council's position. Persons are advised to wait for written advice from the Council prior to taking action on any matter that they may have before Council.

Agendas and Minutes are available on the City's website [www.kwinana.wa.gov.au](http://www.kwinana.wa.gov.au)

## TABLE OF CONTENTS

1	Opening and announcement of visitors .....	4
2	Acknowledgement of country .....	4
3	Dedication.....	4
4	Attendance, apologies, Leave(s) of absence (previously approved).....	4
5	Public Question Time.....	4
6	Receiving of petitions, presentations and deputations:.....	5
6.1	Petitions: .....	5
6.2	Presentations: .....	5
6.3	Deputations: .....	5
7	Confirmation of minutes .....	6
7.1	Ordinary Meeting of Council held on 28 July 2021: .....	6
8	Declarations of Interest (financial, proximity, impartiality – both real and perceived) by Members and City Officers .....	6
9	Requests for leave of absence .....	6
10	Items brought forward for the convenience of those in the public gallery .....	7
11	Any business left over from previous meeting .....	7
12	Recommendations of committees .....	7
13	Enbloc reports.....	7
14	Reports - Community.....	8
15	Reports – Economic.....	8
16	Reports – Natural Environment.....	8
17	Reports – Built Infrastructure.....	9
17.1	Development Application: Proposed Variation of Building Envelope and Carport Addition to Single House – Lot 318 (137) Beauchamp Loop, Wellard9	
17.2	Proposed Metropolitan Region Scheme Amendment – Part Lots 9001, 9020 and 9035 Lyon Road Wandii .....	20
17.3	Tender 686KWN21 – Honeywood Sporting Clubrooms – Construction .....	30
18	Reports – Civic Leadership .....	33
18.1	Budget Variations.....	33
18.2	Council Policy Review.....	35
18.3	Compliance and Enforcement Policy.....	43
19	Notices of motions for consideration at the following meeting if given during the meeting .....	46
20	Late and urgent Business.....	46
21	Reports of Elected Members .....	46
22	Answers to questions which were taken on notice .....	46
23	Mayoral Announcements.....	46
24	Confidential items .....	46

<b>25</b>	<b>Close of meeting .....</b>	<b>46</b>
-----------	-------------------------------	-----------

## **1 Opening and announcement of visitors**

*Presiding Member to declare the meeting open and welcome all in attendance.*

## **2 Acknowledgement of country**

*Presiding Member to read the Acknowledgement of country*

*"It gives me great pleasure to welcome you all here and before commencing the proceedings, I would like to acknowledge that we come together tonight on the traditional land of the Noongar people and we pay our respects to their Elders past and present."*

## **3 Dedication**

*Councillor Wendy Cooper to read the dedication*

*"May we, the Elected Members of the City of Kwinana, have the wisdom to consider all matters before us with due consideration, integrity and respect for the Council Chamber.*

*May the decisions made be in good faith and always in the best interest of the greater Kwinana community that we serve."*

## **4 Attendance, apologies, Leave(s) of absence (previously approved)**

**Apologies**

**Leave(s) of Absence (previously approved):**

Councillor Merv Kearney from 1 July 2021 to 18 August 2021 inclusive.

## **5 Public Question Time**

In accordance with the *Local Government Act 1995* and the *Local Government (Administration) Regulations 1996*, any person may during Public Question Time ask any question.

In accordance with Regulation 6 of the *Local Government (Administration) Regulations 1996*, the minimum time allowed for Public Question Time is 15 minutes.

A member of the public who raises a question during Question Time is to state his or her name and address.

Members of the public must provide their questions in writing prior to the commencement of the meeting. A public question time form must contain all questions to be asked and include contact details and the form must be completed in a legible form.

Please note that in accordance with Section 3.4(5) of the *City of Kwinana Standing Orders Local Law 2019* a maximum of two questions are permitted initially. An additional question will be allowed by the Presiding Member if time permits following the conclusion of all questions by members of the public.



## 6 Receiving of petitions, presentations and deputations:

### 6.1 Petitions:

A petition must -

- (a) be addressed to the Mayor;
- (b) be made by electors of the district;
- (c) state the request on each page of the petition;
- (d) contain at least five names, addresses and signatures of electors making the request;
- (e) contain a summary of the reasons for the request;
- (f) state the name of the person to whom, and an address at which, notice to the petitioners can be given; and
- (g) be respectful and temperate in its language and not contain language disrespectful to Council.

The only motion which shall be considered by the Council on the presentation of any petition are -

- a) that the petition be received;
- b) that the petition be rejected; or
- c) that the petition be received and a report prepared for Council.

### 6.2 Presentations:

In accordance with Clause 3.6 of the *Standing Orders Local Law 2019* a presentation is the acceptance of a gift, grant or an award by the Council on behalf of the local government or the community.

Prior approval must be sought by the Presiding Member prior to a presentation being made at a Council meeting.

Any person or group wishing to make a presentation to the Council shall advise the CEO in writing before 12 noon on the day of the meeting. Where the CEO receives a request in terms of the preceding clause the CEO shall refer it to the presiding member of the Council committee who shall determine whether the presentation should be received.

A presentation to Council is not to exceed a period of fifteen minutes, without the agreement of Council.

### 6.3 Deputations:

In accordance with Clause 3.7 of the *Standing Orders Local Law 2019*, any person or group of the public may, during the Deputations segment of the Agenda with the consent of the person presiding, speak on any matter before the Council or Committee provided that:

- (a) the person has requested the right to do so in writing addressed to the Chief Executive Officer by noon on the day of the meeting.
- (b) setting out the agenda item to which the deputation relates;
- (c) whether the deputation is supporting or opposing the officer's or committee's recommendation; and

### 6.3 DEPUTATIONS

- (d) include sufficient detail to enable a general understanding of the purpose of the deputation.

A deputation to Council is not to exceed a period of fifteen minutes, without the agreement of Council.

## 7 Confirmation of minutes

### 7.1 Ordinary Meeting of Council held on 28 July 2021:

#### COUNCIL DECISION

###

MOVED CR

SECONDED CR

That the Minutes of the Ordinary Meeting of Council held on 28 July 2021 be confirmed as a true and correct record of the meeting.

## 8 Declarations of Interest (financial, proximity, impartiality – both real and perceived) by Members and City Officers

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

A member who has an interest in any matter to be discussed at a council or committee meeting that will be attended by the member must disclose the nature of the interest —

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

Section 5.66 of the *Local Government Act 1995* states:

If a member has disclosed an interest in a written notice given to the CEO before a meeting then —

- (a) before the meeting the CEO is to cause the notice to be given to the person who is to preside at the meeting; and
- (b) at the meeting the person presiding is to bring the notice and its contents to the attention of the persons present immediately before the matters to which the disclosure relates are discussed.

## 9 Requests for leave of absence

#### COUNCIL DECISION

###

MOVED CR

SECONDED CR

That Councillor ..... be granted a leave of absence from ..... to ..... inclusive.

## **10 Items brought forward for the convenience of those in the public gallery**

## **11 Any business left over from previous meeting**

## **12 Recommendations of committees**

When the recommendations of a Committee are placed before the Council, the adoption of recommendations of the Committee is to be moved by -

- (a) the Presiding Member of the Committee if the Presiding Member is a Council member and is in attendance; or
- (b) a Council member who is a member of the Committee, if the Presiding Member of the Committee is not a Council member, or is absent; or
- (c) otherwise, by a Council member who is not a member of the Committee.

## **13 Enbloc reports**

Nil

## **14 Reports - Community**

Nil

## **15 Reports – Economic**

Nil

## **16 Reports – Natural Environment**

Nil



## 17 Reports – Built Infrastructure

### 17.1 Development Application: Proposed Variation of Building Envelope and Carport Addition to Single House – Lot 318 (137) Beauchamp Loop, Wellard

#### SUMMARY:

The City of Kwinana has received a development application for a proposed variation of the existing building envelope and to construct an attached carport to the single house at Lot 318 (137) Beauchamp Loop in Wellard (the subject lot). The location of the subject lot and the proposed plans are provided as at Attachments A to C. The subject lot is zoned Residential R10 under the City of Kwinana Local Planning Scheme No. 2 (LPS 2) and is subject to the Wellard Village – Homestead Lots Local Development Plan (the LDP). The subject lot currently contains an existing single house with an outbuilding (shed) at the rear.

The application proposes to vary the existing building envelope by extending the envelope by 36.9m<sup>2</sup> to the south eastern boundary. To compensate for this change, a 49.7m<sup>2</sup> area of the building envelope at the front of the house is being removed. The application is referred to Council for determination as delegation has not been provided for variations of building envelopes within the Residential zone.

The purpose of amending the envelope, is so a carport can be installed at the side of the house for the storage of a caravan. It has been observed that the caravan is currently parked in this location. At present, the building envelope allows the owners to construct the carport in front of the existing single house. This arrangement would require the removal of the existing trees and could adversely impact the amenity of the streetscape. The applicant believes that relocating part of the envelope and building the carport in the proposed location would create the best design outcome possible.

The application was advertised for a period of 14 days to the affected neighbour at Lot 317 (141) Beauchamp Loop, Wellard (the adjacent lot) for comment. One (1) submission was received raising concerns regarding the height of the carport, as well as the proposed colours and materials of the development.

Development on the lot boundary requires careful consideration of the existing LDP, including a tree preservation area and building envelope arrangement. As the subject lot has a lower natural ground level than the adjacent lot, it is considered that the impact of the development will be relatively minor. Additionally, the proposed location of the development and variation of the building envelope means that there is no proposal for the removal of existing vegetation within this preservation area. The variation of the envelope, will have the added benefit of retaining the trees at the front of the house where they have the most benefit to the streetscape, and would therefore minimise the impact to the streetscape.

The proposal is considered to meet all relevant planning matters and is recommended for approval subject to conditions.

**17.1 DEVELOPMENT APPLICATION: PROPOSED VARIATION OF BUILDING ENVELOPE AND CARPORT ADDITION TO SINGLE HOUSE – LOT 318 (137) BEAUCHAMP LOOP, WELLARD**

**OFFICER RECOMMENDATION:**

That Council approve a Variation of the Building Envelope and Addition to the Single House (Carport) at Lot 318 (137) Beauchamp Loop, Wellard (as at Attachment B and Attachment C), in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015* subject to the following conditions and advice:

**Conditions:**

1. Prior to the lodgement of a building permit, a Revegetation Plan shall be provided to the City of Kwinana for approval. The plan shall include native vegetation covering a total area of 36.9m<sup>2</sup> situated within the tree preservation area, in accordance with the *Wellard Village – Homestead Lots Local Development Plan*, to the satisfaction of the City of Kwinana.
2. The landowner shall undertake revegetation in accordance with the Revegetation Plan to the satisfaction of the City of Kwinana. The landowner shall commence revegetation within six (6) months of the approval of the plan and complete revegetation planting within twelve (12) months of the approval of the plan. This vegetation shall be maintained in perpetuity.
3. Stormwater drainage from roofed and paved areas to be contained and disposed of on site, to the satisfaction of the City of Kwinana.

**Advice Notes:**

1. In relation to the Revegetation Plan, the applicant is advised to contact the City of Kwinana's Environment Department for details regarding the location and type of vegetation.
2. Native vegetation shall not be removed from outside the building envelope except any native vegetation determined by the City of Kwinana to be diseased or dangerous, required to be removed for the purposes of a firebreak construction or the construction of an approved accessway, provided the removal of such vegetation is permitted under the *Environmental Protection Act 1986* and *Environmental Protection (Clearing of Native Vegetation) Regulations 2004*.
3. If the development the subject of this approval is not substantially commenced within a period of 2 years, or another period specified in the approval after the date of the determination, the approval will lapse and be of no further effect.
4. The Minister for Planning has issued a formal notice extending the deadline for substantial commencement by an additional two (2) years for all applications approved during the current State of Emergency. In effect, this means that the timeframe for substantial commencement is now four (4) years from the date of this determination.
5. Where an approval has so lapsed, no development must be carried out without the further approval of the local government having first been sought and obtained.
6. If an applicant or owner is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the Planning and Development Act 2005 Part 14. An application must be made within 28 days of the determination.

**17.1 DEVELOPMENT APPLICATION: PROPOSED VARIATION OF BUILDING ENVELOPE AND CARPORT ADDITION TO SINGLE HOUSE – LOT 318 (137) BEAUCHAMP LOOP, WELLARD**

7. The applicant is advised that this conditional development approval is not a building permit giving authority to commence construction. Prior to any building work commencing on site a Building Permit must be issued and penalties apply for failing to adhere to this requirement.
8. The applicant should ensure the proposed development complies with all other relevant legislation, including but not limited to, the Environmental Protection Act 1986 and Regulations, Health (Miscellaneous Provisions) Act 1911 and Regulations, and the National Construction Code.
9. Pursuant to clause 26 of the Metropolitan Region Scheme, this approval is deemed to be an approval under clause 24(1) of the Metropolitan Region Scheme.

**DISCUSSION:**

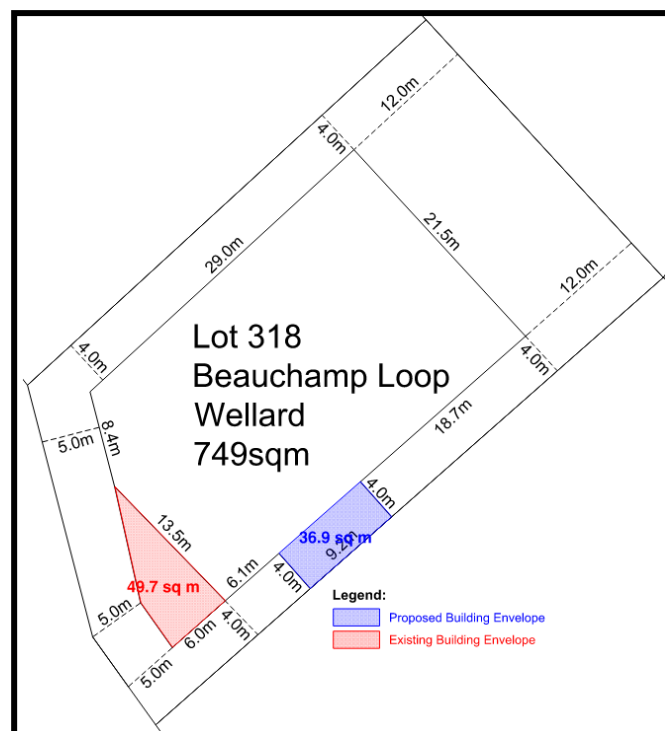
**Land status**

Local Planning Scheme No. 2: Residential R10  
Metropolitan Region Scheme: Urban

**Proposal**

An application for development approval has been received for the variation of an existing building envelope and an addition to the existing single house (an attached carport), at the subject lot. The building envelope is proposed to be varied to facilitate the proposed carport, where access to the carport will be via the existing crossover. The proposed carport is for the storage of a caravan and therefore the carport will not be used on a daily basis.

Imagery has been provided below to represent the proposed variation of the building envelope.



**Figure 1**

### 17.1 DEVELOPMENT APPLICATION: PROPOSED VARIATION OF BUILDING ENVELOPE AND CARPORT ADDITION TO SINGLE HOUSE – LOT 318 (137) BEAUCHAMP LOOP, WELLARD

#### **Background**

The subject lot is situated within Wellard and has an area of 1,553m<sup>2</sup>. The subject lot is zoned Residential R10 under LPS 2, and is subject to a LDP and the Wellard Village Local Structure Plan (LSP). The subject lot currently contains an existing single house and a shed at the rear of the house.

The current building envelope for the subject lot was created at the Building Permit stage for the single house. This Building Permit was issued on 30 April 2012.

#### **Planning assessment**

##### Amended building envelope:

The development proposes to alter the existing building envelope on the subject lot by reducing the lot boundary setback to nil which is a variation to the LDP. Due regard for the relevant design principles of *State Planning Policy 7.3: Residential Design Codes Volume 1* (R-Codes) is required to determine if there are any significant adverse impacts that may result from the alteration of the envelope. An assessment against the LDP, LPS 2 and the relevant design principles have been provided below.

<b>LDP Assessment for Side Setback</b>			
<b>No.</b>	<b>Provision</b>	<b>Assessment</b>	<b>Complies?</b>
1(b)	Side setback of 4 metres.	A nil (0 metre) setback is proposed. Development therefore does not comply.	Y <input type="checkbox"/> N <input checked="" type="checkbox"/> N/a <input type="checkbox"/>

- The proposed nil setback to the southern boundary is not considered to be significant in length (9.215m) at only 16.01% of the south eastern boundary length. The carport is low in impact, with a lightweight roof; a height that will be approximately 800mm above the boundary fence; and is open sided to three sides. Additionally, the development will be well screened via existing vegetation on the adjacent lot. The development will therefore create minimal bulk and scale to the south eastern boundary.
- It should be noted that the land that abuts the proposed carport on the adjacent lot is used for a garage, clothes drying area and a small portion of outdoor living area. Adequate access to direct sun and ventilation is not restricted to the neighbour as the carport is open sided; is only 800mm (approximately) higher than the boundary fence; and is additionally screened via existing vegetation on the adjacent lot. Any overshadowing created by the proposed carport would be of a minor nature due to the natural ground level of the adjacent lot being higher than the subject lot, as well as the existing vegetation on the adjacent lot being higher than the proposed carport.
- Adequate access to direct sun and ventilation is not restricted to the subject lot as the carport is open sided and is located to the southern side of the property – therefore not adversely impacting habitable rooms of the house or the outdoor living area of the subject lot.
- No visual privacy or overlooking issues will be created via the proposal, as the carport is not considered to be an area of the subject lot to be used frequently – as the primary use of the carport is for the storage of a caravan. Additionally, the boundary fence will screen the development and any people occupying the space to a height of approximately 2.3m above the finished floor level of the carport.



### 17.1 DEVELOPMENT APPLICATION: PROPOSED VARIATION OF BUILDING ENVELOPE AND CARPORT ADDITION TO SINGLE HOUSE – LOT 318 (137) BEAUCHAMP LOOP, WELLARD

- The carport does not impact visual privacy concerns for the single house, nor does the carport impact the outdoor living area. The development is not considered as a space that will be used frequently and therefore the subject principle is not applicable with the proposed development.
- The proposed carport will be screened from view due to an existing internal fence. Furthermore, the carport is proposed to be located behind the front of the house which reduces the perceived bulk and scale of the carport as viewed from the street. Currently, the carport is permitted to be located in front of the existing house, however this would negatively impact the established streetscape by the removal of mature vegetation and an increase in bulk and scale to the street. The proposed location of the carport is considered the best design outcome for the streetscape.

Schedule IV of LPS 2 sets out special provisions for areas identified as being Development Control Areas. The subject lot is situated within the Development Area 2 – Wellard Village (DA2). An assessment against the relevant provisions of Schedule IV has been provided below.

Schedule IV of LPS 2 – Area 2, Wellard Village			
No.	Provision	Assessment	Complies?
8 (b)	<p>i) <u>Building Envelopes:</u>  <i>All development shall be constructed within the confines of the building envelope.</i></p> <p><i>Building envelopes shall be towards the front of lots, a regular shape and range in size between 600m<sup>2</sup> to 750m<sup>2</sup>.</i></p> <p><i>Building envelopes set back 5m from the street boundary and 4m from the side boundaries.</i></p>	<p>Development wholly within building envelope (if variation of the envelope is approved).</p> <p>Proposed new building envelope is 749m<sup>2</sup>. Envelope is proposed to be of an irregular shape.</p> <p>Envelope does not reduce setback to the street boundary. Envelope has a 0m side setback.</p>	<p>Y <input type="checkbox"/> N <input checked="" type="checkbox"/></p> <p>N/a <input type="checkbox"/></p>

The proposal to vary the building envelope requirements to have a nil side setback is not considered to result in a significant amenity impact on the neighbour.

#### Tree preservation area:

The tree preservation area as dictated on the LDP is required to be considered when assessing a building envelope variation. Therefore, an assessment against the LDP and LPS 2 requirements in relation to the tree preservation area have been provided below.

LDP Assessment			
No.	Provision	Assessment	Complies?
1(b)	Side setback of 4 metres.	<p>Setback provision is for the tree preservation area.</p> <p>A nil setback is proposed. Development therefore does not comply. It should be noted that the land in question is already cleared and concreted.</p>	<p>Y <input type="checkbox"/> N <input checked="" type="checkbox"/></p> <p>N/a <input type="checkbox"/></p>

**17.1 DEVELOPMENT APPLICATION: PROPOSED VARIATION OF BUILDING ENVELOPE AND CARPORT ADDITION TO SINGLE HOUSE – LOT 318 (137) BEAUCHAMP LOOP, WELLARD**

10(a)	Vegetation shall not be removed from the Tree Preservation Area without the written approval of Council, except where necessary to maintain an appropriate APZ, or if vegetation is considered not worthy of retention as determined by the City.	No vegetation is proposed to be removed for the development, instead preserving the existing trees in front of the house by the proposed location – as previously discussed.	Y <input checked="" type="checkbox"/> N <input type="checkbox"/> N/a <input type="checkbox"/>
-------	---	--	--

Schedule IV of LPS 2 – Area 2, Wellard Village			
No.	Provision 8b	Assessment	Complies?
	<p>iii) <u>Tree Preservation Area:</u> <i>No development (including driveways, sheds and outbuildings) is to be undertaken within the Tree Preservation Area.</i></p> <p><i>No native or substantial vegetation may be removed from the Tree Preservation area without approval of Council except in the following circumstances:</i></p> <ul style="list-style-type: none"> <li><i>Vegetation considered at the discretion of by the Council to be dead, diseased or dangerous;</i></li> <li><i>for the purposes of a firebreak.</i></li> </ul> <p><i>Council may require the landowner to undertake a tree planting programme within Tree Preservation Area(s) nominated by Council as being deficient in vegetation cover.</i></p>	<p>Development within tree preservation area – does not comply.</p> <p>Though the area outside of the building envelope has been designated as a tree preservation area, no vegetation is located within the proposed development area. As distinguished via aerial imagery, no clearing has been conducted to make way for this proposal nor for the slabs that are already in place.</p> <p>Parking of the caravan already occurs in the subject location. It should be noted that the existing concrete in the present location is non-compliant with LPS 2. However, no vegetation has been removed for this development (as represented in Figures 2 and 3) and no complaints have been made regarding any potential impact on the amenity.</p> <p>No adverse environmental impacts have been identified if the relevant conditions and advice notes are imposed.</p>	<p>Y <input type="checkbox"/> N <input checked="" type="checkbox"/> N/a <input type="checkbox"/></p>

**17.1 DEVELOPMENT APPLICATION: PROPOSED VARIATION OF BUILDING ENVELOPE AND CARPORT ADDITION TO SINGLE HOUSE – LOT 318 (137) BEAUCHAMP LOOP, WELLARD**



**Figure 2**

**Figure 3**

Figure 2 is an aerial image of the subject lot from Tuesday 14 May 2013 – when the present house was under construction. Figure 3 is an aerial image of the subject lot from Monday 17 February 2020 – where no concrete paving or parking has occurred. The above imagery clearly shows that there was no native vegetation removed for the development of the concrete paving or for the proposed carport.

As assessed above, the proposed development does not comply with the requirements of the LDP or LPS 2. However, it is considered that no adverse environmental impacts will be created via the proposal as the proposed location of the development allows for the preservation of existing mature vegetation in the front setback by constructing the carport in an area that is cleared of vegetation. Additionally, should the relevant conditions and advice notes be imposed in regards to the revegetation of a compensating area, the proposal would positively impact the environmental qualities of the area. It is therefore considered acceptable for the development to be constructed within the proposed location as the development provides for a better design outcome with reference to tree preservation.

**Variations to Schedule IV of LPS 2:**

As previously discussed, Schedule IV of LPS 2 sets out special provisions for areas identified as being Development Control Areas. An assessment against the relevant provisions of Schedule IV has been provided below.

**17.1 DEVELOPMENT APPLICATION: PROPOSED VARIATION OF BUILDING ENVELOPE AND CARPORT ADDITION TO SINGLE HOUSE – LOT 318 (137) BEAUCHAMP LOOP, WELLARD**

<b>Schedule IV of LPS 2 – Area 2, Wellard Village</b>			
<b>No.</b>	<b>Provision</b>	<b>Assessment</b>	<b>Complies?</b>
8a	Objective of the LDP for the specific Residential lots is to provide a transition between the 'Homestead Ridge' Special Residential zone and the Residential zone.	<p>Tree preservation areas are included on the LDP to assist with the transition of the residential to special residential lots.</p> <p>The alteration of the building envelope means that a portion of this area cannot be planted with trees in future. As there are large sections of the tree preservation area that haven't been planted out, to compensate for this loss of potential planting, a condition of approval is included. The condition requires that a comparable area being lost is planted within the remaining tree preservation area.</p>	<p>Y <input type="checkbox"/> N <input checked="" type="checkbox"/></p> <p>N/a <input type="checkbox"/></p>

**Matters to be considered:**

When assessing development applications, relevant matters stipulated within Clause 67 Matters to be Considered of the Deemed Provisions in the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) are required to be assessed.

- Local Structure Plan**

Clause 67 (h) of the Deemed Provisions requires the Local Government to have due regard for any structure plan that relates to the development (i.e. the Wellard Village Local Structure Plan).

The LSP's intent for the subject lot is for the lot to act as a transition between the Residential zone to the west, and the Special Residential zone to the east. The LSP identifies the transition by having the subject lot to have a larger block size than the standard Residential zone to the west, and for the inclusion of a tree preservation area.

The construction of the carport on the boundary to the side of the house, rather than at the rear, means that while there will be a loss of the tree preservation area in this location, the intended transition area remains protected at the rear.

Imposing the relevant conditions for revegetation will allow for a compensating area of native vegetation to be planted within the tree preservation area, and therefore creating the transition that the LSP intends for. Additionally, the proposed variation of the building envelope allows for the preservation of the existing vegetation within the front setback area. As this vegetation will be located outside of the envelope, the vegetation cannot be removed without Council approval or specific exemptions as stated within Schedule IV of LPS 2 – thus, further enhancing the intent of the LSP.



### 17.1 DEVELOPMENT APPLICATION: PROPOSED VARIATION OF BUILDING ENVELOPE AND CARPORT ADDITION TO SINGLE HOUSE – LOT 318 (137) BEAUCHAMP LOOP, WELLARD

- Compatibility of development with its setting

Notwithstanding the proposal to locate the carport in a tree preservation area, the applicant is achieving a better design outcome by not having the carport situated in front of the existing house (which they are currently permitted to do so). The proposed location of the carport will allow for a more desirable and attractive streetscape, whilst also allowing for the preservation of existing mature trees within the front setback area. Achieving a strong and aesthetically pleasing streetscape, whilst having the plantation of native vegetation (should the relevant conditions and advice notes be imposed) allows the development to be compatible with its setting.

As previously stated, the bulk and scale of the development will be minimal towards the street (as the development will be screened via an internal fence). Additionally, the bulk and scale will be relatively minor to the adjacent lot as the subject lot is lower in natural ground than the adjacent – considering the boundary fence which will screen a significant portion of the carport.

The proposal is therefore deemed to be compatible with its setting.

#### Schedule of submissions:

The application was advertised to the adjacent lot (via mail out) for a period of 14 days. One (1) submission was received after the conclusion of the advertising period. The issues raised within the submission are summarised in the table below.

Issue raised	Officer comments
<b>Development height:</b> A concern was raised in relation to the height of the development. The adjacent land owner has stated that should the development be approved; the height of the carport should be reduced to where it will not be visible from their property.	The proposed development extends above the boundary fence line by approximately 800mm – as represented in the elevation plan. Additionally, the development will be well screened via existing vegetation on the adjacent lot.  Having consideration to the fact that the carport will be open sided with a relatively low roof pitch; the carport is considered to have a relatively minor bulk and scale that faces the adjacent lot and is therefore considered acceptable.
<b>Colours and materials:</b> The adjacent land owner has stated that should the development be approved; the colour(s) and material(s) of the proposed carport should be complimentary to the existing single house on the subject lot.	The proposed carport is to be constructed of Colorbond roof cladding (Ironstone in colour) as shown on the elevation plan. The proposed cladding is the same material and colour as the existing single house and is therefore considered acceptable.

#### Conclusion

The Owners of the subject lot have attempted to balance their needs with the potential impacts on the streetscape, and the preservation of existing vegetation. Specifically, the proposed variation of the building envelope allows for the existing vegetation within the front setback to be preserved.

**17.1 DEVELOPMENT APPLICATION: PROPOSED VARIATION OF BUILDING ENVELOPE AND CARPORT ADDITION TO SINGLE HOUSE – LOT 318 (137) BEAUCHAMP LOOP, WELLARD**

The application has been assessed in accordance with the provisions of LPS 2, the LSP, the LDP and relevant policies. As discussed within this Report, the assessment shows that limited adverse impacts will result from the development and the development is recommended for approval subject to conditions.

**LEGAL/POLICY IMPLICATIONS:**

For the purpose of Councilors considering a financial or impartiality interest only, the applicant is Grand Patios and the land owners are Robert Henry Stevenson and Sandra Mary Stevenson.

The following strategic and policy-based documents were considered in assessing the application;

Legislation

*Planning and Development Act 2005;*

*Planning and Development (Local Planning Schemes) Regulations 2015*

Schemes

Metropolitan Region Scheme;

City of Kwinana Local Planning Scheme No. 2

Policies/Other

State Planning Policy 7.3 – Residential Design Codes (Volume 1)

Local Planning Policy – Residential Development

Wellard Village Local Structure Plan

Wellard Village – Homestead Lots Local Development Plan

**FINANCIAL/BUDGET IMPLICATIONS:**

There are no financial implications as a result of this report. The relevant application fee has been paid upon lodgement.

**ASSET MANAGEMENT IMPLICATIONS:**

There are no asset management implications as a result of this report.

**ENVIRONMENTAL/PUBLIC HEALTH IMPLICATIONS:****Environmental Implications:**

The existing native vegetation within the front setback is located within the existing building envelope, and is therefore permitted to be removed via the owners should they wish. The variation of the current building envelope will consist of the said vegetation to be located outside of the newly proposed envelope and will allow for the preservation of these trees.

Furthermore, should the relevant conditions and advice notes be imposed, the revegetation will positively impact the environmental factors.

**17.1 DEVELOPMENT APPLICATION: PROPOSED VARIATION OF BUILDING ENVELOPE AND CARPORT ADDITION TO SINGLE HOUSE – LOT 318 (137) BEAUCHAMP LOOP, WELLARD**

**Public Health Implications:**

The proposal and recommendation of this report has the potential to:

- help improve the following determinants of health and factors –
  - Built Environment – Environmental Quality; Neighbourhood Amenity
  - Socio-economic Factors – Employment and Income (Construction)

**STRATEGIC/SOCIAL IMPLICATIONS:**

This proposal will support the achievement of the following outcomes and objectives detailed in the Strategic Community Plan.

Plan	Outcome	Objective
Strategic Community Plan	A naturally beautiful environment that is enhanced and protected.	1.1 Retain and improve our streetscapes and open spaces, preserving the trees and greenery that makes Kwinana unique.
Strategic Community Plan	A naturally beautiful environment that is enhanced and protected.	1.2 Maintain and enhance our beautiful, natural environment through sustainable protection and conservation.

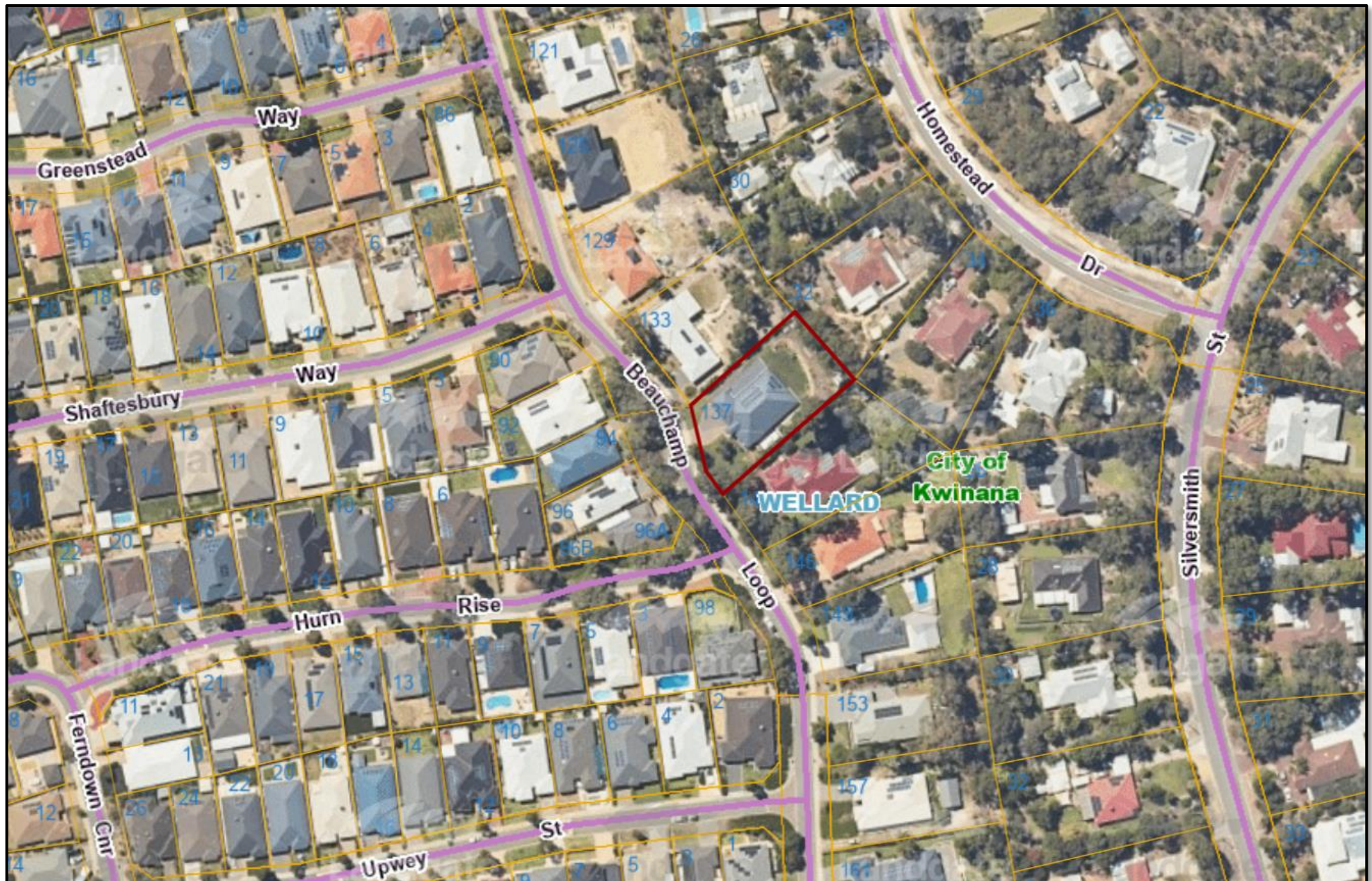
**COMMUNITY ENGAGEMENT:**

The variations were advertised in accordance with Part 4 of the R-Codes, for a period of 14 days to the adjacent land owners of Lot 317 (141) Beauchamp Loop, Wellard. One (1) submission was received.



# ATTACHMENT A

## Locality Plan





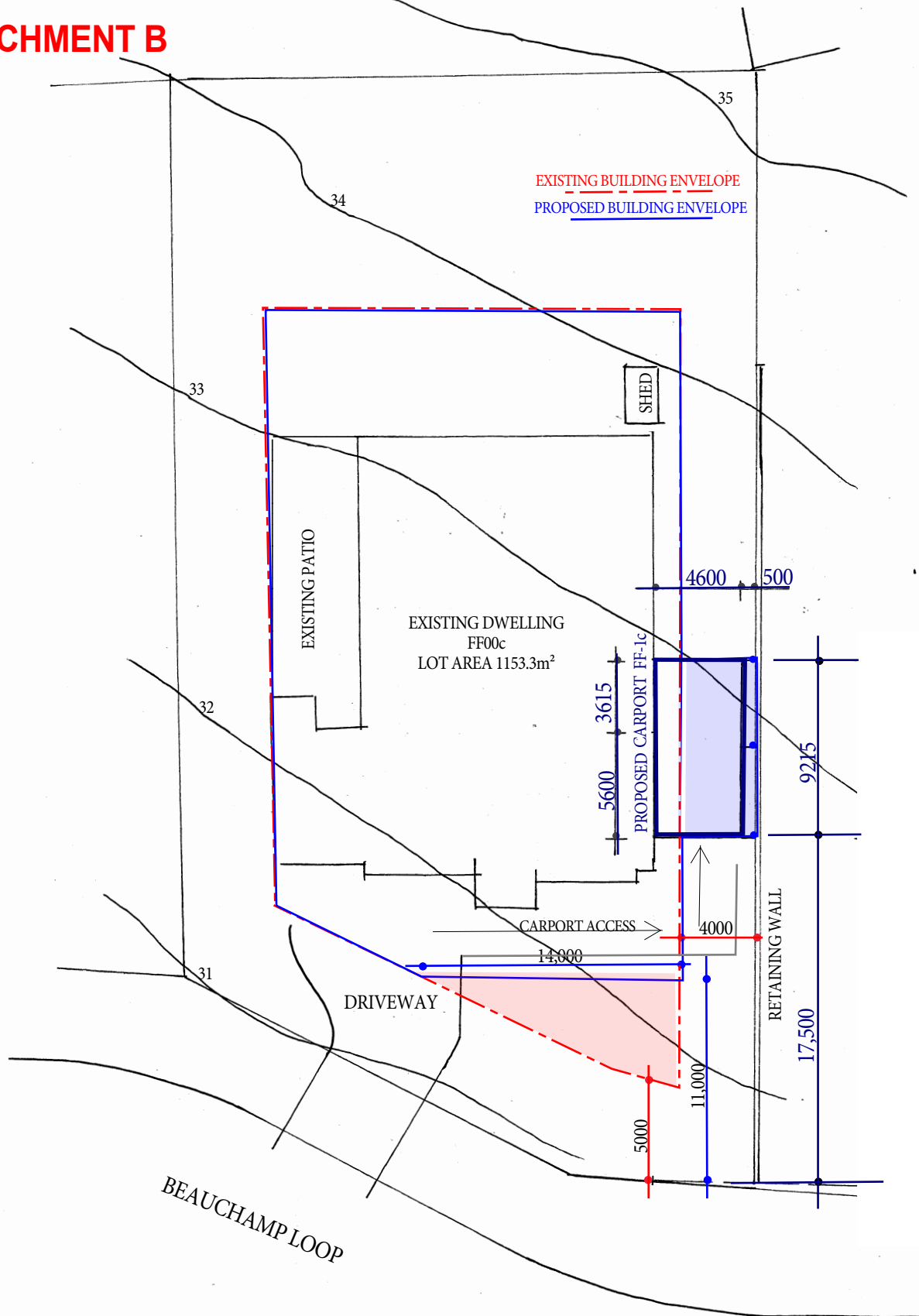
DATE	AMENDMENT	PROPOSED CARPORT & BUILDING ENVELOPE	FOR STEVENSON	
		SITE ADDRESS	No. 137 BEAUCHAMP LOOP, WELLARD WA 6170	
		DRAWING SITE PLAN	LOT No. 318	DP
		DATE	SCALE 1:300 A4	PROJECT No. 8260



**GRAND PATIOS**



## ATTACHMENT B



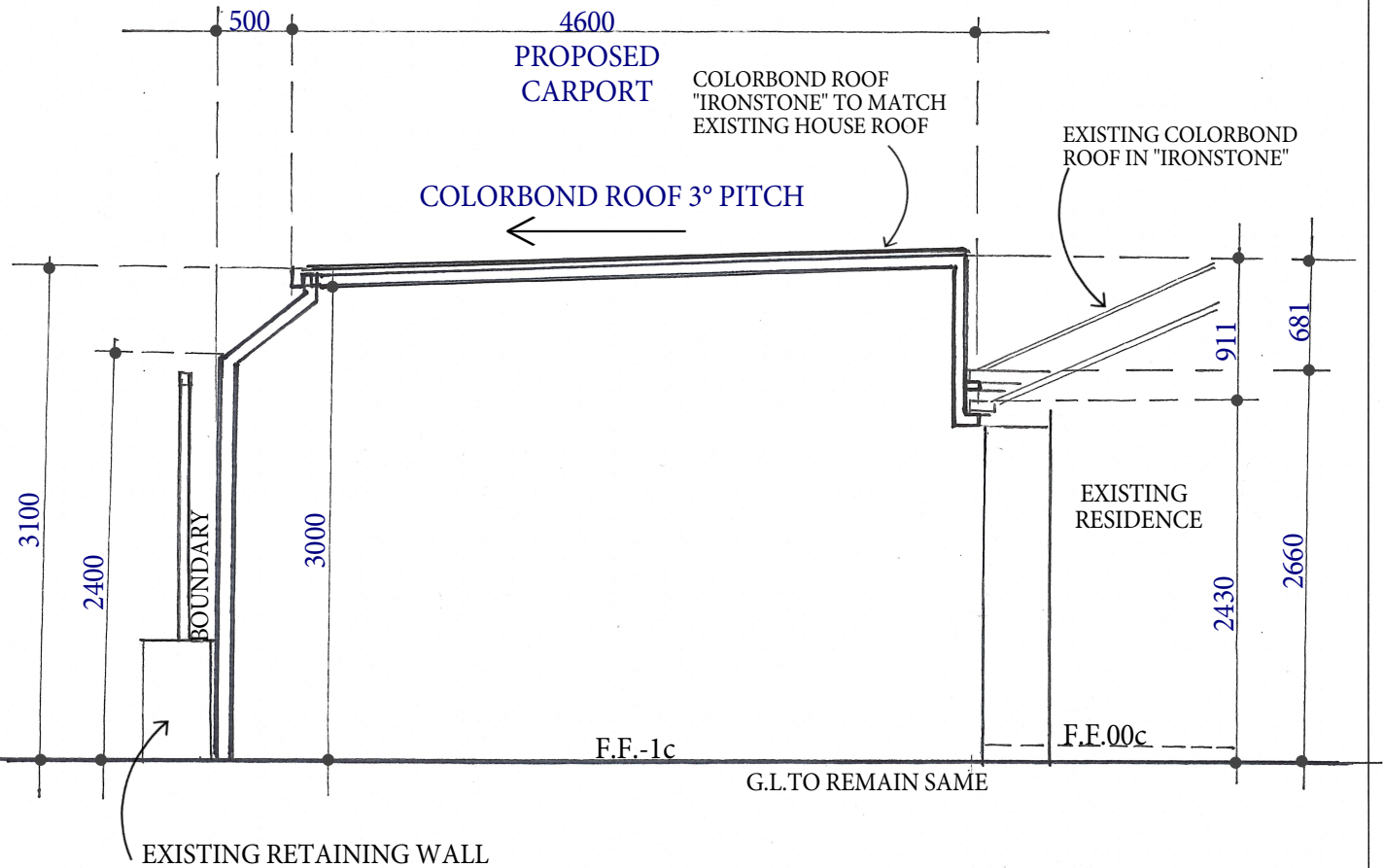
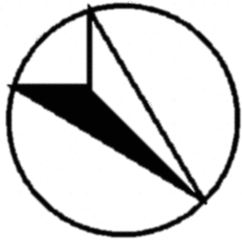
**ATTACHMENT C**

**GRAND PATIOS**

CREATE THE OUTDOOR  
AREA OF YOUR DREAMS

**GRAND PATIOS**  
1/97 Dixon Rd,  
Rockingham

<b>JOB NO:</b> 8260	<b>CLIENT:</b> STEVENSON
<b>ELEVATIONS</b> #1	<b>ADDRESS:</b> 137 BEAUCHAMP LOOP, WELLARD WA 6170
<b>SCALE:</b> 1:50	<b>PERMIT AUTHORITY:</b> CITY OF KWINANA





# ATTACHMENT D

## Site Photos

### 1. Front Elevation



### 2. Side Boundary (Location of Carport)



## **17.2 Proposed Metropolitan Region Scheme Amendment – Part Lots 9001, 9020 and 9035 Lyon Road Wandí**

### **SUMMARY:**

The Department of Planning, Lands and Heritage (DPLH) is seeking comments from the City of Kwinana (the City) concerning a proposed amendment to the Metropolitan Regional Scheme (MRS) to rezone part lots 9001, 9020 and 9035 Lyon Road, Wandí from the Rural-Water Protection zone to the Urban zone in the MRS.

The amendment area is situated adjacent to the developing Honeywood and Whistling Grove residential estates, see Amending Figure Proposal 1 in Attachment A. The Honeywood Primary school and playing fields are in close proximity to the south. The Aubin Grove rail station is approximately 3.9km to the north and Kwinana rail station is approximately 4.6km to the south.

The majority of the amendment site is primarily cleared of vegetation with the exception of an area of Banksia Woodland Threatened Ecological community (TEC) in the northern portion of the site. The Department of Agriculture, Water and the Environment (DAWE) has granted approval to develop the site (subject to conditions) under the Environmental Protection Biodiversity Conservation Act 1999 (EPBC Act). The site does not contain or abut any Bush Forever or wetland areas.

The Amendment Report (Attachment A) states that the purpose of the proposed amendment is to facilitate future residential development following a local scheme amendment, local structure planning and subdivision approval. The justification provided is that the rezoning will facilitate a COVID-19 economic recovery project.

However, the subject land is not identified for future urbanisation in the South Metropolitan Peel Sub-regional Planning Framework and is within a Priority 2 (P2) area of the proclaimed Jandakot Underground Water Pollution Control Area (UWPCA). The City is not convinced that any benefits to COVID-19 economic recovery, that might derive from the amendment to develop the land for residential use, would outweigh the benefit of protecting regional ground water supplies from incompatible land uses.

Accordingly, officers recommend the proposed not be supported.

Once DPLH has received comments from key agencies, the Western Australia Planning Commission (WAPC) will review the submissions and a recommendation will be made to the Minister for Planning (the Minister) on whether to accept, reject or modify the proposed amendment. The Minister will then consider the proposed amendment and a decision made.

**17.2 PROPOSED METROPOLITAN REGION SCHEME AMENDMENT – PART LOTS 9001, 9020 AND 9035 LYON ROAD WANDI**

**OFFICER RECOMMENDATION:**

**That Council takes the following action in relation to the proposed Metropolitan Region Scheme (MRS) amendment to rezone part Lots 9001, 9020 and 9035 Lyon Road, Wandí from Rural – Water Protection zone to Urban zone.**

- 1. Advise the Western Australian Planning Commission that it does not support the proposed MRS amendment detailed in the Amendment Report (see Attachment A) for the following reasons:**
  - a) The subject land is not identified for future urbanisation in the South Metropolitan Peel Sub-regional Planning Framework;**
  - b) The land falls within a Priority 2 (P2) area of the proclaimed Jandakot Underground Water Pollution Control Area (UWPCA) under the State Planning Policy 2.3 - Jandakot Groundwater Protection and Water Quality Protection Note No. 25; and**
  - c) The City is not convinced that any benefits to COVID-19 economic recovery that might derive from the amendment to develop the land for residential uses, would outweigh the benefit of protecting regional ground water supplies from incompatible land uses.**
- 2. Forward this Ordinary Council Meeting Report and Council's recommendation to the Western Australia Planning Commission.**
- 3. Request the Western Australia Planning Commission to consider this land and that of other P2 areas that interface between urban areas and the Jandakot Water Mound as part of any future review of the South Metropolitan Peel Sub-Regional Framework.**

**DISCUSSION:**

**Description of the proposed amendment**

The proposed MRS amendment proposes to rezone three part lots and road reserves bounded by Lyon Road, Windjana Rise, Morwell Entrance and existing Urban zoned land to the west. The site is just outside of the the Wandí North Local Structure Plan (LSP) area comprising the Honeywood and Whistling Grove residential estates. The Honeywood Primary School and playing fields are in close proximity to the south. The Aubin Grove rail station is approximately 3.9 km to the north and the Kwinana rail station is approximately 4.6 km to the south. The total area subject to the proposed amendment is approximately 5.07ha.

Part Lots 9001, 9020 and 9035 Lyon Road Wandí are currently zoned Rural-Water Protection zone under the MRS. The purpose of the proposed amendment is to rezone this land to Urban under the MRS.

The majority of the amendment area is utilised for intensive market gardening operations and is primarily cleared of vegetation apart from an area of TEC in the northern part of the site.

The amendment area is zoned Rural Water Resource and Special Rural under the City of Kwinana Local Planning Scheme No. 2 (LPS 2).



**17.2 PROPOSED METROPOLITAN REGION SCHEME AMENDMENT – PART LOTS 9001, 9020 AND 9035 LYON ROAD WANDI**

The applicant has included an indicative concept plan (Attachment B) to demonstrate the development sought after rezoning the site to Urban. It indicates residential subdivision with densities ranging between R30 and R60 providing for a yield of approximately 112 dwellings comprising single residential lots and grouped dwellings. The proponent advises that the lot sizes and specific lot typologies are commensurate with the existing adjoining development.

**Proponent justification**

The proponent justifies the proposed amendment as follows:

- The proposed amendment area is unique as it completes or ‘round off’ the urban development of the Wandí locality;
- The proposed amendment would remove a non-conforming market garden use (including the storage and use of pesticides and fertilisers) and existing water extraction licence;
- The proposal would not set a precedent for other similar proposals in the Wandí locality given its unique size, location (west of Lyon Road), primarily cleared nature and finalisation of the existing Whistling Grove and Wandí urban estates;
- Relevant State Government Agencies have not raised matters which prevent the initiation and/or advertising of the amendment or which can’t be resolved in subsequent planning stages;
- The proposed amendment would positively contribute to the provision of employment, investment and in supporting the State Government’s COVID-19 recovery. In terms of the COVID-19 response the proponent details the following;
  - Satterley Property Group has been active in advocating for COVID-19 relief and stimulus measures to assist the property development and housing sectors as major contributors to the WA economy.
  - Concept planning for the MRS Amendment indicates the subject land has the potential to deliver up to 112 dwellings, which would generate in the order of 295 direct and 112 indirect jobs in the land development and housing construction sectors, and represent in excess of \$39million investment in the WA economy.
  - Whilst there is no specific criteria for rezonings, the proposed amendment would meet the criteria to be considered a ‘significant development’ in accordance with the new COVID-19 response provisions under part 17 of the Act (i.e. estimated cost of \$30million or more and incorporating 100 or more residential dwellings).
  - There are limited lots remaining to be constructed and sold within the existing urban development boundary and, as such, the early delivery of lots within the proposed Amendment area could maintain the momentum of sales within these estates.

**Alignment with the Local Planning Strategy**

The proposed MRS Amendment is contrary to the following provisions within the draft Local Planning Strategy adopted by Council 24 March 2021.

## 17.2 PROPOSED METROPOLITAN REGION SCHEME AMENDMENT – PART LOTS 9001, 9020 AND 9035 LYON ROAD WANDI

### Strategic Directions:

- To identify, permanently protect and enhance Kwinana's natural environment which is critical to the maintenance of ecological processes and biodiversity
- Promote planning measures that encourage climate change adaptation and mitigation to ensure our communities are both resilient and liveable.

### Strategic Actions:

Strategic Action 11: Introduce provisions into the City of Kwinana's *Local Planning Scheme* to prevent intensification of urban development in rural areas and local natural areas, particularly within the *Jandakot Groundwater Protection Area*.

Strategic Action 63: Manage and protect water resources in urban environments in accordance with the planning framework set out in the State Government's *Better Urban Water Management Guidelines*.

## **BACKGROUND**

The proposed MRS amendment has a complex and lengthy history which is set out as a timeline below:

### **27 September 2018 – Initial request for proposed rezoning**

An initial request for the proposed rezoning of part lots 9001, 9020 and Lot 9035 Lyon Road Wandí is lodged with DPLH who forwarded the request and accompanying report to relevant State agencies and the City for preliminary comment. Objections were received from Department of Water and Environmental Regulation (DWER), on the grounds that the subject land had not been identified for Urban in a strategic plan and risk to groundwater.

### **December 2018 – Meeting between DPLH, DWER and City of Kwinana**

Following a meeting held at DPLH offices on 19 November 2018 between officers at the City, DPLH and DWER, the City provided formal comment to advise that it did not support the proposed amendment on the following basis:

- The subject land is not identified for future urbanisation in the South Metropolitan Peel Sub-regional Planning Framework; and
- The land falls within the Priority 2 (P2) area of the proclaimed Jandakot Underground Water Pollution Control Area (UWPCA) under the State Planning Policy 2.3 – Jandakot Groundwater Protection (SPP 2.3) and Water Quality Protection Note No. 25: Land use compatibility tables for public drinking water source areas.

### **29 May 2019 – WAPC advises Satterley to resubmit amendment**

Satterley briefed the WAPC on the proposed amendment at the WAPC meeting of 29 May 2019 and following the meeting was advised to resubmit the amendment request. A new and updated request for the amendment was submitted in July 2019.

**17.2 PROPOSED METROPOLITAN REGION SCHEME AMENDMENT – PART LOTS 9001, 9020 AND 9035 LYON ROAD WANDI**

A request for updated comments was sent by WAPC the same month and the City reiterated its previous comments.

**October 2019 – WAPC resolved not to support the proposed Amendment**

The WAPC resolved not to support the Amendment at its meeting on 30 October 2019. The WAPC stated that proposal was not identified for urbanisation in the South Metropolitan Peel Sub-regional Planning Framework and was inconsistent with the provisions of State Planning Policy 2.3 – Jandakot Groundwater Protection. While the WAPC considered the proposal on its merits and acknowledged that the proposed amendment was a relatively small extension to the Urban zone which effectively ‘rounds off’ the site, it was recognised that there are other similar sites in the locality which could also be considered a logical ‘rounding-off’.

**December 2019 – Satterley contacts Minister for Planning**

Following the October 2019 decision, and in light of WAPC initiated rezoning of the Rural-Water Protection zone to Urban including 1123 ha of land in the Piara Urban Precinct (MRS Amendment 1367/57), Satterley Property Group wrote to the Minister in December 2019 requesting the Minister either issue a direction under Section 17 of the *Planning and Development Act 2005* (in which the Minister may give written directions to the WAPC with response to the exercise or performance of its function either generally or in relation to a particular matter and the WAPC is to give effect to any such direction), or otherwise request the WAPC to reconsider its position and support the proposed amendment.

**October 2020 – Minister advises Satterley resubmit the MRS amendment**

The Minister advised Satterley that the most appropriate course of action would be to resubmit the MRS Amendment request for consideration again by the WAPC, with reference to the potential benefits to investment and employment in supporting the State Government’s COVID-19 recovery. Hon Rita Staffioti MLA Minister for Planning wrote:

*“in this regard, given the impact of COVID-19 and the implications for the WA economy I have enquired about the abilities for the WAPC to reconsider the amendment. I’m advised they can’t reconsider and their preference is for the Satterley Property Group to resubmit an MRS amendment request for consideration.*

*At this stage I do not believe it is appropriate to direct the WAPC to rezone the subject land to an Urban zone (or Urban Deferred zone) under section 17 of the Planning and Development Act 2005 as I believe the WAPC will see the importance of expediting all efforts to achieve an economic recovery to COVID-19.”*

**November 2020 – Amendment resubmitted**

The proposed amendment was re-submitted in November 2020. The amendment report to support the request was resubmitted unchanged from the 2018 submission however further explanation was provided to support the argument that the proposed amendment supports the State Government’s COVID -19 recovery.

**January 2021 – DPLH request preliminary comment**

In January 2021 the City, when contacted for preliminary comment, again advised that it does not support the proposed MRS amendment or concurrent amendment to LPS No. 2 for the following reasons:

**17.2 PROPOSED METROPOLITAN REGION SCHEME AMENDMENT – PART LOTS 9001, 9020 AND 9035 LYON ROAD WANDI**

- The area of the subject of the proposed amendment is identified in the South Metropolitan Peel Sub-regional Framework (WAPC, 2018) as 'Rural Residential' and the City understands that the intention of the Framework is to retain land uses that will maintain or improve the quality and quantity of water within the Jandakot Public Drinking Water Source Area.
- The City acknowledges that the proposed amendment would allow for the 'rounding off' of the Wandi residential area so that Lyon Road would function as a defined boundary between urban and rural land uses. However, the City is not convinced that any local benefits that might derive from the amendment to develop the land for residential uses, would outweigh the benefit of protecting regional ground water supplies from incompatible land uses.

**June 2021 – DPLH request for comment**

Following the January 2021 request for preliminary comment, the City has again been contacted for comment as the WAPC has initiated the MRS amendment for part lots 9001, 9020 and 9035 Lyon Road. The comment period is open until 20 August 2021 after which time the WAPC will consider all submissions before making a recommendation to the Minister for Planning who will make a final decision.

**ISSUES RAISED BY THE POTENTIAL AMENDMENT**

The City does not support the proposed amendment on the following grounds. These are discussed further in the sections below:

- i. The subject land is not identified for future urbanisation in the South Metropolitan Peel Sub-regional Planning Framework;
- ii. The land falls within a Priority 2 (P2) area of the proclaimed Jandakot Underground Water Pollution Control Area (UWPCA) under the State Planning Policy 2.3 - Jandakot Groundwater Protection and Water Quality Protection Note No.25; and
- iii. The City is not convinced that any local benefits that might derive from the amendment to develop the land for residential uses, would outweigh the benefit of protecting regional ground water supplies from incompatible land uses.

**South Metropolitan Peel Sub-Regional Framework**

Section 6.3 of State Planning Policy 2.3 Jandakot Groundwater Protection specifically states that:

*'in order to protect the quality of the public drinking water source, there is a presumption against new urban or industrial land uses in the Water Catchment reservation and the Rural – Water Protection zone of the Metropolitan Region Scheme.'*

*Amendments to the Metropolitan Region Scheme will only be supported where the land has been identified for development in the manner proposed through a strategic planning document approved or prepared by the Western Australian Planning Commission, such as a sub-regional planning framework or sub-regional structure plan.'*

**17.2 PROPOSED METROPOLITAN REGION SCHEME AMENDMENT – PART LOTS 9001, 9020 AND 9035 LYON ROAD WANDI**

The subject site is not identified for future urbanisation in the South Metropolitan Peel Sub-Regional Planning Framework and is indeed zoned as Rural-Residential. The City understands that the intention of the Framework is to retain land uses that will maintain or improve the quality and quantity of water within the Jandakot Public Drinking Water Source Area. The site is not identified for intensification in any other strategic planning documents. As such an amendment for the subject site to be rezoned as urban would be contrary to this policy.

It is understood that the DPLH will commence a review of the South Metropolitan Sub-Regional Framework towards the end of 2021. Should the land be deemed suitable for urban purposes it should be considered holistically as part of this review. Without this work being undertaken this request is considered premature.

**Groundwater Protection**

The subject site lies within the mapped Jandakot Groundwater Protection area and is therefore subject to State Planning Policy No. 2.3 Jandakot Groundwater Protection Policy (SPP 2.3). The objective of SPP 2.3 is to ensure that all development and changes to land use within the policy area are compatible with maximising the long-term protection and management of groundwater, in particular for public drinking water supply.

Land use planning within the Jandakot Groundwater Protection area is guided by priority areas and the principles of risk avoidance, risk management and risk minimisation. The priority areas include Priority 1 (P1) areas – prevent risks, Priority 2 (P2) areas – minimise risk and Priority 3 (P3) areas – manage risks. The policy reflects a presumption against development or land uses that are inconsistent with the priority areas. The subject site currently lies within a P2 area, consistent with the existing Rural zoning of the land, however the proponent anticipates that this will be changed to P3 should this amendment go ahead. Whether this has been confirmed by DWER is not clear.

It is the proponent's opinion that with certain controls in place the proposal may be compatible with a P3 classification however it appears that a decision by DWER to reclassify the land as P3 can only be considered following a rezoning of the MRS. DWER have previously objected to the rezoning of this site on the grounds that it did not consider the proposed amendment to be consistent with the provisions of SPP 2.3, not being proposed for urban in a strategic plan and also because the proposed change posed a risk to groundwater.

SPP 2.7: Public Drinking Water Source Policy (SPP 2.7) provides more detail on the Priority areas established to guide land use planning and manage the public drinking water source areas (PDWSAs). Priority 2 (P2) source protection areas are defined to manage the risk of pollution of the water source and are declared over land where low-risk development already exists. Protection of public water supply sources is a high priority in these areas.

As a P2 area (Rural Protection zone) the policy states that where it can be adequately demonstrated that the risk of contamination to the groundwater resource is not increased, an average lot size of two hectares may be acceptable provided that the proposed lots are not capable of further subdivision. The proponent proposes 112 lots on the proposed amendment site and therefore lot sizes would be far less than 2ha.



**17.2 PROPOSED METROPOLITAN REGION SCHEME AMENDMENT – PART LOTS 9001, 9020 AND 9035 LYON ROAD WANDI**

Water quality protection note no. 25 (April 2016) sets out guidelines on appropriate land uses and activities within PDWSAs. The note finds that urban development is an incompatible land use in a P2 area. The existing market garden land use is also incompatible with the P2 designation however replacing one non-conforming use with another is not a robust justification for this amendment.

**Local Benefits/ COVID19 response**

Following the WAPC decision in October 2019 not to support the proposed MRS amendment Satterley contacted the Minister and was advised to resubmit the amendment with reference to the potential benefits to investment and employment in supporting the State Government's COVID-19 recovery. The Minister's response is included above.

The Amendment Report (Attachment A) states that the proposed amendment supports the State Government's COVID-19 recovery by positively contributing to the provision of employment and investment. The City questions just how valuable this MRS amendment would be to the overall State Government COVID-19 recovery. Any development on this site would require subdivision approval and is likely several years away. The indicative concept plan for the land subject to this proposed amendment shows a yield of approximately 112 dwellings which given the amount of residential development currently underway in the metropolitan area is a very small-scale development and the employment / investment opportunity for such would be limited.

On balance, the City does not consider that the economic benefits of the proposed amendment to develop the land for residential uses would outweigh the benefit of protecting regional ground water supplies.

**CONCLUSION**

It is important to note that the WAPC previously resolved not to support the proposed amendment back in 2019 because it was inconsistent with the provisions of State Planning Policy 2.3 – Jandakot Groundwater Protection and was not identified for urbanisation in the South Metropolitan Peel Sub-Regional Planning framework. These issues remain.

It is recommended that the City objects to the proposed amendment on the following grounds:

- The subject land is not identified for future urbanisation in the South Metropolitan Peel Sub-Regional Planning Framework;
- Further to the above, the land falls within a Priority 2 (P2) area of the proclaimed Jandakot Underground Water Pollution Control Area (UWPCA) under the State Planning Policy 2.3 - Jandakot Groundwater Protection and Water Quality Protection Note No.25; and
- The City is not convinced that any local benefits that might derive from the amendment to develop the land for residential uses, would outweigh the benefit of protecting regional ground water supplies.

## 17.2 PROPOSED METROPOLITAN REGION SCHEME AMENDMENT – PART LOTS 9001, 9020 AND 9035 LYON ROAD WANDI

### LEGAL/POLICY IMPLICATIONS:

For the purpose of Councilors considering a financial or impartiality interest only, the proponent is Rowe Group on behalf of Satterley Property Group. The land owners are Satterley Property Group and the Galati family.

State the relevant legislation applicable to this item:

*Metropolitan Region Scheme*

*City of Kwinana Local Planning Scheme 2*

*South Metropolitan Peel Sub-Regional Planning Framework (2018)*

State Planning Policy 2.0 Environmental and Natural Resources Policy (2003)

State Planning Policy 2.3 Jandakot Groundwater Protection Policy (2017)

State Planning Policy 2.7 Public Drinking Water Source Policy

State Planning Policy 3.0 Urban Growth and Settlement

State Planning Policy 3.7 Planning in Bushfire Prone Areas (December 2015)

### FINANCIAL/BUDGET IMPLICATIONS:

There are no financial or budget implications as a result of this report.

### ASSET MANAGEMENT IMPLICATIONS:

There are no asset management implications as a result of this report.

### ENVIRONMENTAL/PUBLIC HEALTH IMPLICATIONS:

#### Environmental implications:

The proposed amendment poses a risk to groundwater quality and the protection of a drinking water source.

#### Public Health Implications:

There are no implications on any determinants of health as a result of this report.

### STRATEGIC/SOCIAL IMPLICATIONS:

This proposal will support the achievement of the following outcome and objective detailed in the Strategic Community Plan and Corporate Business Plan.

Plan	Outcome	Objective
Strategic Community Plan	A naturally beautiful environment that is enhanced and protected	1.2 Maintain and enhance our beautiful, natural environment through sustainable protection and conservation.

**17.2 PROPOSED METROPOLITAN REGION SCHEME AMENDMENT – PART LOTS 9001, 9020 AND 9035 LYON ROAD WANDI**

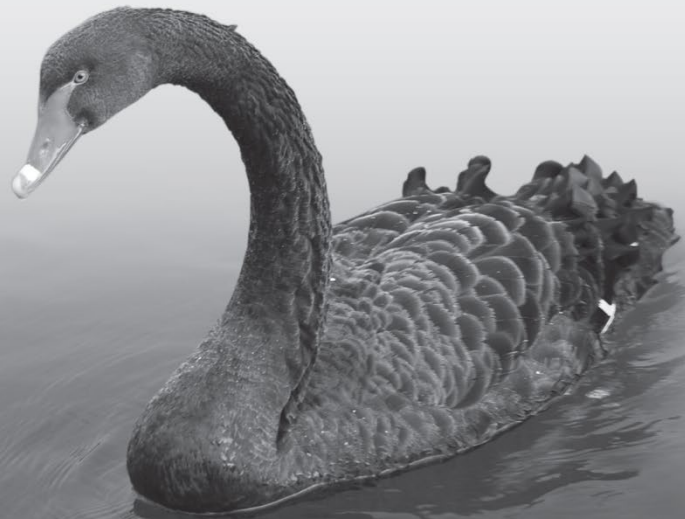
**COMMUNITY ENGAGEMENT:**

There are no community engagement implications as a result of this report.



June 2021

# **Metropolitan Region Scheme Amendment 1381/57 (Minor Amendment)**



**Part Lots 9001, 9020 and 9035  
Lyon Road, Wandi**

Amendment Report

City of Kwinana





---

**Metropolitan Region Scheme  
Amendment 1381/57  
(minor amendment)**

**Part Lots 9001, 9020 and 9035  
Lyon Road, Wandi**

---

**Amendment Report**

**City of Kwinana**



June 2021

The Western Australian Planning Commission acknowledges the traditional owners and custodians of this land. We pay our respect to Elders past and present, their descendants who are with us today, and those who will follow in their footsteps.

**Disclaimer**

This document has been published by the Western Australian Planning Commission. Any representation, statement, opinion or advice expressed or implied in this publication is made in good faith and on the basis that the government, its employees and agents are not liable for any damage or loss whatsoever which may occur as a result of action taken or not taken, as the case may be, in respect of any representation, statement, opinion or advice referred to herein. Professional advice should be obtained before applying the information contained in this document to particular circumstances.

© State of Western Australia

Published by the  
Western Australian Planning Commission  
Gordon Stephenson House  
140 William Street  
Perth WA 6000

Locked Bag 2506  
Perth WA 6001

MRS Amendment 1381/57      Amendment Report  
File 833-2-26-27 Pt 1

Published June 2021

Internet: [www.dplh.wa.gov.au](http://www.dplh.wa.gov.au)  
Email: [info@dplh.wa.gov.au](mailto:info@dplh.wa.gov.au)  
Phone: (08) 6551 8002  
Fax: (08) 6551 9001  
National Relay Service: 13 36 77

This document is available in alternative formats on application to the Department of Planning, Lands and Heritage Communications Branch.

# Contents

The Metropolitan Region Scheme .....	v
Abbreviations .....	ix

## Amendment Report

1 Purpose.....	1
2 Background.....	1
3 Scope and content of the amendment.....	1
4 Discussion.....	2
5 Aboriginal heritage .....	4
6 Coordination of local and region planning scheme amendments .....	5
7 Substantiality.....	5
8 Sustainability .....	5
9 Environmental Protection Authority advice .....	6
10 The amendment process.....	6
11 Submissions on the amendment .....	6
12 Modifications to the amendment.....	7
13 Final outcome.....	7
Amendment Figure – Proposal 1 .....	11

Appendix A	Notice of environmental assessment
Appendix B	List of detail plans supporting the amendment
Appendix C	Your property and the planning system - region schemes
Appendix D	Preparing a submission
Appendix E	Submission form for this amendment (form 57)



# **The Metropolitan Region Scheme**

## **What it is and how it is amended - minor**

### **Planning Perth's future**

Perth is currently home to more than 2 million people and this is anticipated to grow to 3.5 million by 2050.

To meet this growth, land must be identified for future housing, employment opportunities, transport, conservation and recreation.

The Metropolitan Region Scheme (MRS) provides for this by defining what land can be used for. It is also the means by which landowners can be compensated for land acquired for public purposes.

### **The role of the WAPC?**

The Western Australian Planning Commission (WAPC) has statewide responsibility for planning how land in metropolitan and regional areas can be used and developed. The WAPC comprises a Chair and 16 members, representing industry, government and the community.

The WAPC is a statutory authority and operates in accordance with the *Planning and Development Act 2005*. It is supported by the Department of Planning, Lands and Heritage, which provides professional and technical expertise, administrative services and corporate resources.

### **What is the Metropolitan Region Scheme?**

The MRS is a large town planning scheme which defines how land can be used in the Perth metropolitan area, dividing it into broad zones and reservations. The metropolitan area stretches from south of Rockingham to north of Yanchep and east of Mundaring.

The MRS uses a set of maps and a scheme text to set the planning rules and identify the various zones and reservations.

This plan has been in operation since 1963 and provides the legal basis for planning in the Perth metropolitan area.

The MRS is amended frequently as the region grows and changes.

### **What is an amendment?**

An amendment to the MRS changes the zoning or reservation of land to allow for a different land use.

When a rezoning or a new reservation is considered, it is classified as either a major or a minor amendment and is advertised to seek comment from landowners, the broader community and all levels of government. Under the Act, the process for proposed major and minor amendments is different.

This process allows for extensive community consultation and discussion in Parliament, prior to a final decision being made.

### **How is the Metropolitan Region Scheme amended?**

The WAPC is responsible for maintaining the MRS, including reviewing and initiating changes where necessary.

The amendment process is regulated by the *Planning and Development Act 2005*. The Act requires an amendment to be consistent with both the *Swan River Trust Act 1988* and the *Heritage of Western Australia Act 1990* and does not allow for an amendment to occur within the defined area of which a redevelopment scheme applies.

The amendment proposed in this report is being made under the provisions of section 57 (often referred to as a minor amendment).

The minor amendment process includes (also see the diagram on page viii):

- Request submitted and considered by the WAPC.
- WAPC determines to either progress or reject application, classifying it as either a major or minor amendment.



- If progressed, the application is referred to the Environmental Protection Authority (EPA) to set the level of environmental assessment. If the EPA requires an environmental review, this is carried out before the amendment is advertised.
- Proposed amendment is advertised for public comment. Advertisements are placed in local and statewide newspapers and the information is made available on [www.dplh.wa.gov.au/mrs-amendments](http://www.dplh.wa.gov.au/mrs-amendments). Landowners directly affected by a proposed amendment are contacted in writing. Where there is an environmental review, this is also made available for comment.
- WAPC receives public submissions over a period of 60 days.
- WAPC reviews the proposed amendment in light of both the submissions and planning advice provided by the Department of Planning, Lands and Heritage.
- WAPC provides recommendation to the Minister for Planning whether to accept, reject or modify the proposed amendment.
- Minister considers proposed amendment.
- If approved, with or without modification, the amendment becomes legally effective in the MRS with the publishing of a notice in the Government Gazette. If declined, the amendment is discarded.
- Within three months of an MRS amendment being finalised, all affected local governments must initiate an amendment to its local planning scheme to match the new zonings.

## **Zones and reservations**

Zones and reservations in the MRS are broad categories to define how land can be used and developed. The following descriptions are a guide only.

## **Zones**

Urban: areas in which a range of activities are undertaken including residential, commercial, recreational and light industry.

Urban deferred: land identified for future urban uses following the extension of urban services, the progressive development of adjacent urban areas, and resolution of any environmental and planning requirements relating to development.

The WAPC must be satisfied that these issues have been addressed before rezoning to urban.

Central city area: strategic regional centres for major retail, commercial and office facilities as well as employment, civic, business and residential uses.

Industrial and special industrial: land on which manufacturing, processing, warehousing and related activities are undertaken.

Rural: land on which a range of agricultural, extractive and conservation uses is undertaken.

Private recreation: areas of significance to the region's recreation resource, which are (or are proposed to be) managed by the private sector.

Rural - water protection: rural land over public groundwater areas where land use is controlled to avoid contamination.

## **Reservations**

Land reserved for community purposes. It may be reserved to protect a resource or to provide areas for infrastructure.

Parks and recreation: land of regional significance for ecological, recreation or landscape purposes.

Railways: provides for public transit routes, freight rail lines and associated facilities such as marshalling yards, maintenance depots and park n' ride stations.

Port installations: regional maritime shipping facilities.

State forests: areas of woodland located on Crown land and managed under the *Conservation and Land Management Act 1984*.

Water catchments: water sources protected for high quality public water supply. These areas have strict controls on land use to avoid pollution of the water resource.

Civic and cultural: significant civic precincts and buildings.

Waterways: permanent inland and coastal waters including many rivers and reservoirs.

Public purposes: land for public facilities such as hospitals, high schools, universities, prisons, utilities for electricity, water and treatment of wastewater, commonwealth government and other special uses.

Primary regional roads: important regionally significant roads as part of the planned road network that are currently, or proposed to be declared, under the *Main Roads Act 1930*.

Other regional roads: roads of regional significance in the planned road network for which the planning responsibilities are shared by the WAPC and local governments.

### **What if my land is rezoned?**

Landowners may find that an amendment seeks to rezone their property, for example from rural to urban or urban deferred.

If the zoning is changed, landowners do not have to change their lifestyle or the way they use the land. However, depending on the new zone, there may be opportunities to change the land use, such as seek approval to subdivide or apply to develop it in some way that suits the new zoning.

The WAPC realises that many people choose their properties because they like them as they are and may not want to change from, for example, a rural-residential lifestyle to an urban area. Others are keen to change the land use.

For these reasons, amendments to the MRS are advertised so that all affected landowners and the broader community have time to examine the proposal and provide their comment.

### **What if my land is reserved?**

Land is reserved because it will eventually be needed for a public purpose such as parks and recreation or other regional roads.

If your land is proposed to be reserved in an advertised amendment, you can continue to use and enjoy your property. Generally, reserved land can remain in private ownership until it is needed for the purpose for which it is reserved.

To protect landowners, there are procedures for acquisition or compensation by the WAPC. These are outlined in *Your Property and the planning system – region schemes*, a leaflet reproduced at the back of this report and online at <https://www.dplh.wa.gov.au/your-property-and-region-schemes>.

### **How can my views be heard?**

You can lodge a submission during the advertised period:

- online at [www.dplh.wa.gov.au/mrs-amendments](http://www.dplh.wa.gov.au/mrs-amendments).
- in writing to Western Australian Planning Commission, Level 2, 140 William Street, Perth 6000 (a submission form is included at the back of this report).

### **Publications**

Amendments made to the MRS using the provisions of section 57 will in most cases have information published under the following titles:

#### Amendment report

This document is available from the start of the public submission period of the proposed amendment. It sets out the purpose and scope of the amendment, explains why the proposal is considered necessary, and informs people how they can comment.

### Environmental review report

The EPA considers the environmental impact of an amendment to the MRS before it is advertised. Should the EPA require formal assessment, an environmental review is undertaken, and that information is made available for comment at the same time as the *Amendment Report*.

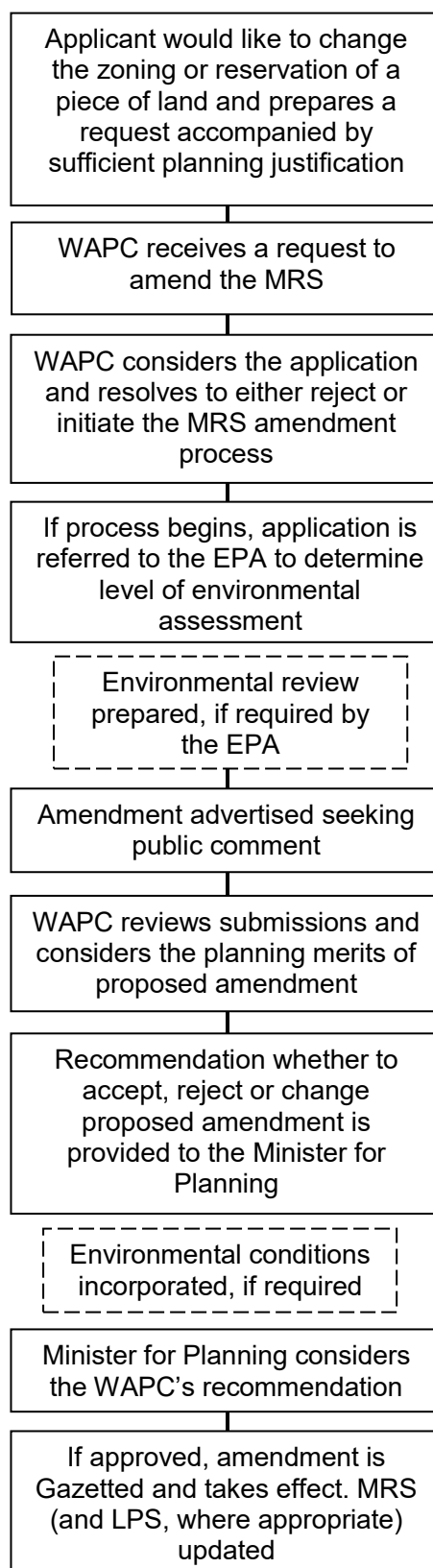
### Report on submissions

This publication documents the planning rationale, determination of submissions received, and the recommendations for final approval of the amendment made by the WAPC.

### Submissions

All written submissions received on the proposed amendment are reproduced as a public record.

A simple diagram of the amendment process.



## Abbreviations

<b>AHA</b>	Aboriginal Heritage Act
<b>CBD</b>	Central Business District
<b>DAWE</b>	Department of Agriculture, Water and the Environment
<b>DPLH</b>	Department of Planning, Lands and Heritage
<b>DWER</b>	Department of Water and Environmental Regulation
<b>EPBC Act</b>	Environment Protection Biodiversity Conservation Act 1999
<b>EPA</b>	Environmental Protection Authority
<b>LPS</b>	Local Planning Scheme
<b>MRS</b>	Metropolitan Region Scheme
<b>SPP</b>	State Planning Policy
<b>SWALSC</b>	South West Aboriginal Land and Sea Council
<b>TEC</b>	Threatened Ecological Community
<b>WAPC</b>	Western Australian Planning Commission





## **Amendment Report**



**Metropolitan Region Scheme Amendment 1381/57**  
**Part Lots 9001, 9020 and 9035 Lyon Road, Wandí**

**Amendment Report**

**1 Purpose**

The purpose of the amendment is to transfer approximately 5.07 ha from the Rural-Water Protection zone to the Urban zone in the Metropolitan Region Scheme (MRS), as shown on the Amendment Figure – Proposal 1.

The proposed amendment is to facilitate future residential development, following a local scheme amendment, local structure planning and subdivision approval.

**2 Background**

The amendment area is situated approximately 29 km south of the Perth CBD and is in close proximity to the Kwinana Freeway to the west. The amendment area is situated adjacent to the developing Honeywood and Whistling Grove residential estates. The Honeywood Primary School and playing fields are in close proximity to the south. The Aubin Grove rail station is approximately 3.9 km to the north and the Kwinana rail station is approximately 4.6 km to the south.

The majority of the amendment area is utilised for intensive market gardening operations under non-conforming use rights. The proponent advises that the existing market garden presents a significant risk to groundwater, primarily from the use and storage of chemicals such as pesticides and fertilisers and groundwater extraction. There are no existing Water Corporation extraction bores within or abutting the subject land.

The site is primarily cleared of vegetation apart from an area of Banksia Woodland Threatened Ecological Community (TEC) in the northern portion of the site. The Department of Agriculture, Water and the Environment (DAWE) has granted approval to develop the site (subject to conditions) under the *Environment Protection Biodiversity Conservation Act 1999* (EPBC Act). The site does not contain or abut any Bushforever or wetland areas.

The amendment area is zoned “Rural Water Resource” and “Special Rural” under the City of Kwinana Local Planning Scheme No. 2 (LPS 2).

**Indicative Concept Plan**

The amendment is supported by an indicative concept plan which indicates residential subdivision with densities likely ranging between R30 and R60 providing for a yield of approximately 112 dwellings, comprising single residential lots and grouped dwellings. The proponent advises that the lot sizes are commensurate of the existing adjoining development and specific lot typologies consistent with the abutting *Wandi North Local Structure Plan*.

**3 Scope and content of the amendment**

The amendment proposes to rezone three properties and road reserves bounded by Lyon Road, Windjana Rise, Morwell Entrance and existing Urban zoned land to the west. The total area subject of this amendment is approximately 5.07 ha.

## 4 Discussion

### **STRATEGIC CONTEXT**

#### **Perth and Peel@3.5 Million / South Metropolitan Peel Sub-regional Planning Framework**

The *Perth and Peel@3.5 Million* document provides a snapshot of the Perth and Peel regions in the future. It makes the case for change from a “business-as-usual” perspective to a more considered, connected, consolidated urban form. It links four draft Frameworks and encourages the consideration of new urban growth opportunities.

Future areas for urban development have been determined in conjunction with the State Government’s draft *Perth and Peel Green Growth Plan for 3.5 Million*, in order to avoid and protect areas which have significant regional environmental value.

The Sub-regional Frameworks are the first step in the ongoing process of refining and detailing planning proposals for an area. The Sub-regional Framework’s state that this refinement will continue through the MRS/PRS, local planning schemes, structure planning, subdivision and/or development.

Notwithstanding the site’s designation as “*Rural-Residential*” in the *South Metropolitan Peel Sub-regional Planning Framework*, the Western Australian Planning Commission (WAPC) supports the urbanisation of the site as it is a relatively unique urban infill site which completes the urbanisation of the locality, removes an existing non-conforming market garden use (including the storage and use of pesticides and fertilisers) and water extraction licence, would not set a precedent for other similar proposals in the Wandi locality and positively contributes to the provision of employment, investment and in supporting the State Government’s COVID-19 recovery.

#### **State Planning Policy No. 2.3 - Jandakot Groundwater Protection**

*State Planning Policy No. 2.3 - Jandakot Groundwater Protection* (SPP 2.3) aims to protect the Jandakot Groundwater Protection area from development and land uses that may have a detrimental impact on the water resource. Groundwater is a highly valued resource of Western Australia. The Jandakot Groundwater Protection area provides a significant volume of high quality drinking water. Other sources of water, such as desalinisation and recycled water, are required to supplement (but not replace) this source of drinking water.

In order to protect the quality of the public drinking water source, there is a presumption against new urban or industrial land uses in the Water Catchment reservation and the Rural-Water Protection zone of the MRS. SPP 2.3 states that:

*“Amendments to the MRS will only be supported where the land has been identified for development in the manner proposed through a strategic planning document approved or prepared by the WAPC, such as a sub-regional planning framework or sub-regional structure plan.”*

SPP 2.3 (section 6.3(c)) states that planning for more intense land uses through strategic planning instruments (such as a subregional planning framework or sub-regional structure plan) and subsequent MRS amendments should have regard to a range of considerations. The WAPC has considered the proposed amendment against section 6.3(c) and notes that there are situations where development may be appropriate following a government led strategic planning process, which determines an Urban rezoning is the preferred outcome for the land.

The site is designated as “*Rural-Residential*” in the *South Metropolitan Peel Sub-regional Planning Framework*, and as the decision-maker in initiating MRS amendments the WAPC does have discretion when considering the merits of a particular case.

The DWER has considered the draft *Wandi, Lyon Road Precinct District Water Management Strategy* for advertising purposes and in accordance with the requirements of *Better Urban Water Management*, will require approval prior to a final determination being made on the amendment. Should the amendment be finalised, the DWER will take action to amend the priority water status over the subject land from Priority 2 (P2) to Priority 3\* (P3\*).

All future development will need to be connected to reticulated water and sewerage services and the minor expansion of the Urban zone is not expected to have a significant detrimental impact on the Jandakot Groundwater Protection Area, particularly compared to the existing non-conforming market garden use on Pt Lot 9001. This includes the use and storage of pesticides and fertilisers and the extraction of water for irrigation purposes. Also, the subject site does not contain or abut existing Water Corporation extraction bores.

On balance, the WAPC supports the amendment as it is considered a relatively unique urban infill site which completes the urbanisation of the site, removes the existing non-conforming market garden use, would not set a precedent for other similar proposals in the Wandi locality and given it’s positive contribution the State Government’s COVID-19 economic recovery justifies the proposed amendment proceeding.

This recommendation responds to the individual and particular circumstances of this proposal, and is not necessarily a recommendation that may be applicable in other areas or circumstances.

### **State Planning Policy 2.8 - Bushland Policy for the Perth Metropolitan Region**

*State Planning Policy 2.8 - Bushland Policy for the Perth Metropolitan Region* (SPP 2.8) aims to provide a policy and implementation framework that will ensure bushland protection and management issues are addressed and integrated with broader land use planning and decision-making. In general, the policy does not prevent development where it is consistent with policy measures and other planning and environmental considerations.

The site is primarily cleared of vegetation, however an area of Banksia Woodland TEC remains in the northern portion of the site. The DAWE has granted approval to develop the site (subject to conditions) under the EPBC Act. However, the WAPC has advised the proponent and the City of Kwinana that wherever possible consideration should be given to retaining portion of the existing remnant vegetation within the northern portion of Lot 9020 Lyon Road, Wandi.

### **State Planning Policy 3.7 - Planning in Bushfire Prone Areas**

*State Planning Policy 3.7 - Planning in Bushfire Prone Areas* (SPP 3.7) seeks to guide the implementation of effective risk-based land use planning and development to preserve life and reduce the impact of bushfire on property and infrastructure.

The accompanying *Guidelines for Planning in Bushfire Prone Areas* provide supporting information to assist in the interpretation of the objectives and policy measures outlined in SPP 3.7. A Bushfire Management Plan has been approved for the site by the Department of Fire and Emergency Services, subject to modifications being undertaken in future planning stages.



## **STATUTORY CONTEXT**

### **Environment**

The DWER has verbally advised that the existing Banksia Woodlands TEC exists in the northern portion of the site and abutting area and should be retained – if possible. Noting that approval (subject to conditions) has been received from the DAWE under the EPBC Act.

### **Urban Water Management**

The DWER has considered the draft *Wandi, Lyon Road Precinct District Water Management Strategy* for advertising purposes and will require approval, in accordance with the requirements of *Better Urban Water Management*, prior to a final determination being made on the amendment. Should the amendment be finalised the DWER will take action to amend the priority status over the subject land from P2 to P3\*.

### **Infrastructure**

#### **Water & Wastewater**

The Water Corporation has adopted water, wastewater and drainage infrastructure planning for the adjoining Urban zoned areas to the west. The Corporation advises that the addition of the proposed amendment to the Urban zone will require reviews of the Corporation's planning to determine how this land can be serviced. Any system upgrades to the existing water and wastewater networks will need to be funded by the proponents.

#### **Transportation**

Main Roads WA, Department of Transport and the Public Transport Authority raise no objections to the proposed amendment.

## **5 Aboriginal heritage**

The *Aboriginal Heritage Act 1972* (AHA) provides for the protection and preservation of Aboriginal heritage and culture throughout Western Australia, including places and objects that are of significance to Aboriginal people. Aboriginal sites and materials are protected whether or not they have been previously recorded or reported.

The process of rezoning or reservation of land in a region scheme is not in itself directly affected by the AHA. Proposed changes to land-use at MRS amendment stage are broad by nature and do not physically interfere with the land. Consideration of any protection that may be required is addressed more specifically at later stages of the planning process, typically being a local planning scheme amendment and when preparing a local structure plan.

Proponents of proposals are advised to familiarise themselves with the State's *Cultural Heritage Due Diligence Guidelines* (the Guidelines). These have been developed to assist proponents identify any risks to Aboriginal heritage and to mitigate risk where heritage sites may be present. The Guidelines are available electronically at: <https://www.dplh.wa.gov.au/information-and-services/aboriginal-heritage/land-use-under-the-aha/aboriginal-heritage-surveys>.

Nevertheless, in recognising the importance of having reliable Aboriginal information on land and the values attached to it, the WAPC and the Department of Planning, Lands and

Heritage have entered into a Memorandum of Understanding with the South West Aboriginal Land and Sea Council (SWALSC) for the provision of Aboriginal consultative services. All MRS amendment proposals likely to be of interest to Aboriginal persons are referred to SWALSC for comment before being released for public submission. SWALSC is the recognised Native Title Representative Body for Western Australia's southwest region and as such is well placed to provide advice on Aboriginal heritage.

This amendment was pre-referred to the SWALSC but no response was received. However, the amendment has been referred to SWALSC during the public advertising period.

## **6 Coordination of local and region scheme amendments**

Under section 126(3) of the *Planning and Development Act 2005* the WAPC has the option to concurrently rezone land being zoned Urban under the MRS to a "Development" zone (or similar) in the LPS. In accordance with standard practice, the WAPC will make a decision on the concurrent LPS amendment of the subject land at the final determination stage.

## **7 Substantiality**

The *Planning and Development Act 2005* allows for amendments to the MRS to be processed as either "minor" or "major" amendments depending on whether they are considered to constitute a substantial alteration to the MRS or not. WAPC Policy *Development Control 1.9 – Amendment to Region Schemes* sets out the criteria for deciding whether the major or minor process should be followed. In this regard, the amendment is proposed to be processed as "minor" amendment as follows:

- The proposed amendment is not considered complex and is a unique area which completes or "rounds-off" the urban development of the Wandí locality, removes a non-conforming market garden use (including the storage and use of pesticides and fertilisers) and existing water extraction licence.
- The proposal would not set a precedent for other similar proposals in the Wandí locality given its unique size, location (west of Lyon Road), primarily cleared nature and finalisation of the existing Whistling Grove and Wandí urban estates.
- The proposed amendment would positively contribute to the provision of employment, investment and in supporting the State Government's COVID-19 recovery.
- Relevant State Government agencies have not raised matters which prevent the initiation and/or advertising of the amendment or which can't be resolved in subsequent planning stages.

## **8 Sustainability**

The proposed amendment will complete and "round-off" the existing the urban development of the abutting Honeywood and Whistling Grove urban estates on land that is substantially cleared of vegetation and consistent with the Government's urban consolidation policy which seeks to maximise the use of the existing services and infrastructure.

## 9 Environmental Protection Authority advice

The proposed amendment was referred to the Environmental Protection Authority (EPA) for advice on whether environmental assessment would be required.

The EPA has advised that the proposed amendment does not require formal assessment under Part IV of the *Environmental Protection Act 1986*. However, it has provided advice on the key environmental factors for the amendment. A copy of the notice from the EPA is included at appendix A.

## 10 The amendment process

The procedures for amending the MRS are prescribed by the *Planning and Development Act 2005*. The amendment proposed in this report is being made under the provisions of section 57 of that Act.

In essence, the procedure for an amendment not constituting a substantial alteration to the MRS (often referred to as a minor amendment) involves:

- formulation of the amendment by the WAPC
- referral to the EPA for environmental assessment
- completion of an environmental review (if required) to EPA instructions
- public submissions sought on the proposed amendment (including environmental review if required)
- consideration of submissions
- approval, with or without any modifications in response to submissions, or decline to approve by the Minister
- the amendment takes legal effect with gazettal of the Minister's approval.

An explanation of this process entitled *The Metropolitan Region Scheme, what it is and how it is amended*, can also be found in the front of this report.

## 11 Submissions on the amendment

The WAPC invites people to comment on this amendment to the MRS.

The amendment will be advertised for public submissions for a period of 60 days from 15 June 2021 to 20 August 2021.

Copies of the amendment are available for public inspection at the:

- i) Western Australian Planning Commission, 140 William Street, Perth
- ii) City of Kwinana
- iii) State Reference Library, Northbridge.

Online submissions are encouraged via: <https://consultation.dplh.wa.gov.au>.

Written submissions commenting on the amendment should be sent to:-

The Secretary  
Western Australian Planning Commission  
Locked Bag 2506  
PERTH WA 6001

or by email to:-

[mrs@dplh.wa.gov.au](mailto:mrs@dplh.wa.gov.au)

**and must be received by 5 pm 20 August 2021.**

All submissions received by the WAPC will be acknowledged.

For your convenience a submission form (form 57) is contained in this report (appendix E). Additional copies of the form are available from the display locations and the Department of Planning, Lands and Heritage website: <https://www.dplh.wa.gov.au/mrs-amendments>.

You should be aware that calling for submissions is a public process and all submissions lodged will become public. All submissions are published and made available when the Minister has made a determination on the amendment. Advice of disclosure and access requirements are shown on side two of the submission form.

Before making your submission, it is recommended that you read the information in Appendix D of this report regarding preparing a submission.

## **12 Modifications to the amendment**

After considering any comments received from the public and government agencies, the WAPC may recommend that the Minister modify the amendment. The Minister may approve the amendment, with or without any modifications in response to submissions, or decline to approve.

## **13 Final outcome**

The recommendations of the WAPC, including any modifications, along with the determination of the Minister, are published in a report on submissions. Anyone who has made a submission, along with affected landowners, will be notified of the outcome when the amendment is gazetted to give it legal effect.



**MRS Amendment 1381/57**

**Part Lots 9001, 9020 and 9035 Lyon Road, Wandí**

**Amending Figure  
Proposal 1**









## **Appendix A**

### **Notice of environmental assessment**



Ms Sam Fagan  
The Secretary  
Western Australian Planning Commission  
Locked Bag 2506  
**PERTH WA 6001**

Our Ref: CMS 17481  
Enquiries: Renee Blandin, 6364 7259  
Email: [Renee.Blandin@dwer.wa.gov.au](mailto:Renee.Blandin@dwer.wa.gov.au)

Dear Ms Fagan

**DECISION UNDER SECTION 48A(1)(a)**  
***Environmental Protection Act 1986***

<b>SCHEME</b>	<b>Metropolitan Region Scheme Amendment 1381/57</b>
<b>LOCATION</b>	<b>Lots 9001, 9020 and 9035 Lyon Rd Wandi</b>
<b>RESPONSIBLE AUTHORITY</b>	<b>Western Australian Planning Commission</b>
<b>DECISION</b>	<b>Referral Examined, Preliminary Investigations and Inquiries Conducted. Scheme Amendment Not to be Assessed Under Part IV of the EP Act. Advice Given. (Not Appealable)</b>

Thank you for referring the above scheme to the Environmental Protection Authority (EPA).

After consideration of the information provided by you, the EPA considers that the proposed scheme should not be assessed under Part IV Division 3 of the *Environmental Protection Act 1986* (EP Act) but nevertheless provides the attached advice and recommendations. I have also attached a copy of the Chair's determination of the scheme.

Please note the following:

- For the purposes of Part IV of the EP Act, the scheme is defined as an assessed scheme. In relation to the implementation of the scheme, please note the requirements of Part IV Division 4 of the EP Act.
- There is no appeal right in respect of the EPA's decision to not assess the scheme.

A copy of the Chair's determination, this letter and the attached advice and recommendations will be made available to the public via the EPA website.

Yours sincerely



**Anthony Sutton**  
**Delegate of the Environmental Protection Authority**  
Executive Director  
EPA Services

21 May 2021

Encl. Chair's Determination  
Scheme Advice and Recommendations



**ADVICE UNDER SECTION 48A(1)(a)  
ENVIRONMENTAL PROTECTION ACT 1986**

**Metropolitan Region Scheme Amendment 1381/57**

**Location:** Lots 9001, 9020 and 9035 Lyon Rd Wandi

**Determination:** Scheme Not Assessed – Advice Given (Not Appealable)

**Determination Published:** 21 May 2021

**Summary**

The amendment proposes to transfer approximately 5.07 ha from the Rural-Water Protection zone to the Urban zone.

The Environmental Protection Authority (EPA) has considered the scheme amendment in accordance with the requirements of the *Environmental Protection Act 1986* (EP Act). The EPA considers that the scheme amendment as set out is unlikely to have a significant effect on the environment and does not warrant formal assessment under Part IV of the EP Act. The EPA has based its decision on the scheme amendment documentation provided by the Western Australian Planning Commission (WAPC). Having considered this matter, the following advice is provided.

**Environmental Factors**

Having regard to the EPA's *Statement of Environmental Principles, Factors and Objectives*, the EPA has identified the following preliminary environmental factors relevant to this scheme amendment:

- Inland Waters;
- Flora and Vegetation; and
- Terrestrial Fauna.

**Advice and Recommendations regarding Environmental Factors**

**Inland Waters**

The amendment area is located within *Jandakot Underground Pollution Control Area* and is classified as a Priority 2 Public Drinking Water Source Area (PDWSA), which is incompatible with urban development. Upon finalisation of the rezoning the Department of Water and Environmental Regulation (DWER) would amend the corresponding footprint of the Priority 2 PDWSA to Priority 3, which would allow for urban land uses with restrictions applied, to provide a greater level of protection to the drinking water source than a conventional urban development scenario.

Future development should be consistent with *State Planning Policy 2.3: Jandakot Groundwater Protection*, and *Water Quality Protection Note 25 - Land use compatibility tables for public drinking water source areas* (DWER, 2016). Further consultation with DWER, and water quality risk mitigation measures, will be required at the later stages of the planning process.

The amendment area is also within the area covered by *Environmental Protection (Peel Inlet - Harvey Estuary) Policy 1992* (Policy). Water management planning for the site should maintain or improve groundwater and surface quality, and pre-development hydrology to ensure water quality objectives for the Policy area are achieved.

Water management planning for the site should also consider management of potential impact of future development on the nearby downstream conservation category wetlands (CCWs), and should maintain or improve groundwater and surface quality, and pre-development hydrology.

### **Flora and Vegetation; Terrestrial Fauna**

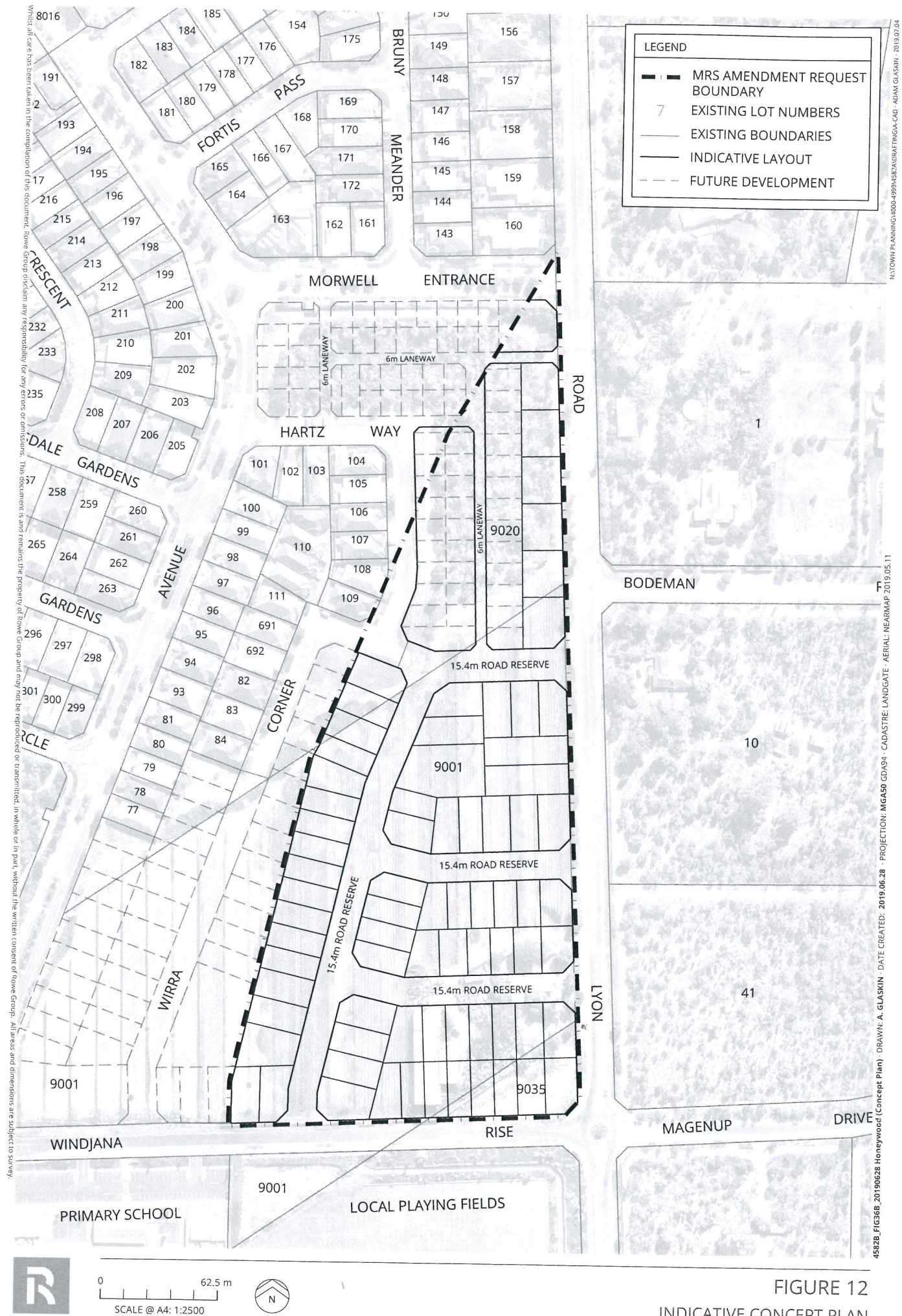
The amendment area contains approximately 0.7 hectares (ha) of vegetation in very good to excellent condition mapped as *Banksia* low woodland to open forest and potential foraging habitat for threatened species of black cockatoo.

The vegetation is considered to be representative of *Banksia Woodlands of the Swan Coastal Plain* listed as a Priority Ecological Community by the Minister for Environment and a Threatened Ecological Community under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). The EPA notes the amendment area is part of a broader area with EPBC approval subject to conditions (reference number 2010/5476) for urban development.

The EPA supports the WAPC's resolution to advise the City of Kwinana and the proponent that in the subsequent local structure planning stage, consideration should be given to retaining the existing remnant vegetation.

### **Recommendation**

The EPA concludes that the implementation of the amendment can be managed to meet the EPA's environmental objectives for the above factors through existing planning controls. The EPA recommends its advice is implemented to mitigate potential impacts to Inland Waters, Flora and Vegetation, and Terrestrial Fauna.



### 17.3 Tender 686KWN21 – Honeywood Sporting Clubrooms – Construction

#### **SUMMARY:**

The City of Kwinana invited Tenders from suitably qualified and experienced contractors for the construction of Honeywood Sporting Clubrooms.

The Request for Tender was advertised in “The Weekend West” newspaper on 26 June 2021. The Tender was also advertised on the City’s official website, the City’s public notice boards and issued through the City’s e-tendering portal Tenderlink.

The City received eight submissions and these were assessed by City Officers, with their assessment outlined in Confidential Attachment A. City Officers recommend that Council award the tender as per the recommendations of Attachment A.

#### **OFFICER RECOMMENDATION:**

**That Council award Contract for 686KWN21 – Honeywood Sporting Clubrooms – Construction to Shelford Constructions Pty Ltd in accordance with the City’s special conditions of Contract, general conditions of the Contract, the specifications and their Tender submission including their schedule of rates. The total Contract value is \$2,882,230.00 (ex GST).**

#### **DISCUSSION:**

The evaluation panel comprised of:

- a. A Contracts Officer who evaluated the Tenderers’ submissions in accordance with the compliance criteria provided in the Request for Tender documentation; and
- b. The Manager Asset Management Services, Director City Infrastructure, Coordinator Facility Maintenance, who evaluated the Tenderers’ submissions in accordance with the qualitative criteria included in the Request for Tender documentation.

The panel evaluated the tender submissions in accordance with the documented compliance and qualitative criteria (refer to Confidential Attachment A). The evaluation recommendation report is under confidential cover as it contains commercial-in-confidence information.

The proposed cost of the Clubrooms is within the project budget.

#### **LEGAL/POLICY IMPLICATIONS:**

*Local Government (Functions and General) Regulations 1996*  
*City of Kwinana Purchasing Policy – 2020*



**17.3 TENDER 686KWN21 – HONEYWOOD SPORTING CLUBROOMS – CONSTRUCTION****FINANCIAL/BUDGET IMPLICATIONS:**

The budget implications are detailed in Confidential Attachment A – Recommendation Report to Award Tender – 686KWN21.

*Financial Risk Due Diligence*

A financial Risk of Failure report was obtained through a third party, Illion Direct. This report details the likelihood of a company experiencing severe financial distress or failure within the next 12 months. It utilises illion's Failure Risk Score which looks at over 50 variables including financial statements, company age and structure, court actions, payment history, collections and defaults to predict future performance. The result of this report was that Shelford Constructions Pty Ltd is at a low risk of failure in the coming twelve months.

**ASSET MANAGEMENT IMPLICATIONS:**

Construction and ongoing operational and maintenance costs have been factored into the asset management and long term financial plans.

**ENVIRONMENTAL/PUBLIC HEALTH IMPLICATIONS:****Environmental implications:**

Design and construction of the building will be in accordance with the City's Policy - Green Building - new and renovated Council buildings.

**Public Health Implications:**

Provision of community facilities are in line with the public health priorities for improving the health of the community.

**STRATEGIC/SOCIAL IMPLICATIONS:**

This proposal will support the achievement of the following objectives and strategies detailed in the Strategic Community Plan and/or Corporate Business Plan (D16/3339).

Plan	Outcome	Objective
Strategic Community Plan	Infrastructure and services that are sustainable and contribute to health and wellbeing	Develop quality, financially-sustainable infrastructure and services designed to improve the health and wellbeing of the community

**17.3 TENDER 686KWN21 – HONEYWOOD SPORTING CLUBROOMS – CONSTRUCTION**

**COMMUNITY ENGAGEMENT:**

The City has undertaken various forms of community engagement in order to assess and meet the local community's needs through the provision of the Honeywood Sporting Clubrooms. In August 2020, the City conducted engagement to update the community on the progress of the project and seek feedback on the proposed design.

The tender was advertised in accordance with the requirements of the Local Government (Functions and General) Regulations 1996.

## 18 Reports – Civic Leadership

### 18.1 Budget Variations

#### SUMMARY:

To amend the 2021/2022 budget to reflect various adjustments to the General Ledger with nil effect to the budgeted surplus position as detailed below.

#### OFFICER RECOMMENDATION:

That Council approves the required budget variations to the Current Budget for 2021/2022 as follows.

ITEM #	DESCRIPTION	CURRENT BUDGET	INCREASE/ DECREASE	REVISED BUDGET
1	Operating Expenditure – Fire & Emergency Management - Mitigation Works Expenses	Nil	(376,250)	(376,250)
	Operating Expenditure – Fire & Emergency Management - Consultancy	(80,000)	80,000	Nil
	Operating Revenue – Fire & Emergency Management – Department Fire and Emergency Services Grant funding	80,000	296,250	376,250

**NOTE: AN ABSOLUTE MAJORITY OF COUNCIL IS REQUIRED**

#### DISCUSSION:

##### Budget Variations:

ITEM #	DESCRIPTION	CURRENT BUDGET	INCREASE/ DECREASE	REVISED BUDGET
1	Operating Expenditure – Fire & Emergency Management - Mitigation Works Expenses	Nil	(376,250)	(376,250)
	Operating Expenditure – Fire & Emergency Management - Consultancy	(80,000)	80,000	Nil
	Operating Revenue – Fire & Emergency Management – Department of Fire and Emergency Services Grant funding	80,000	296,250	376,250

The City has received a commitment from the Department of Fire and Emergency services to provide funding for on-ground mitigation works per the current bushfire management plan. A budget variation is required to increase the funding amount per the signed agreement.



## 18.1 BUDGET VARIATIONS

### LEGAL/POLICY IMPLICATIONS:

The *Local Government Act 1995* Part 6 Division 4 s 6.8 (1) requires the local government not to incur expenditure from its municipal fund for an additional purpose except where the expenditure-

(b) is authorised in advance by resolution\*

“additional purpose” means a purpose for which no expenditure estimate is included in the local government’s annual budget.

\*requires an absolute majority of Council.

### FINANCIAL/BUDGET IMPLICATIONS:

The financial implications are detailed in this report.

### ASSET MANAGEMENT IMPLICATIONS:

The allocation of funds towards the upgrading and purchase of City assets will be included in the City’s Asset Management Strategy.

### ENVIRONMENTAL/PUBLIC HEALTH IMPLICATIONS:

There are no implications on any determinants of health as a result of this report.

### STRATEGIC/SOCIAL IMPLICATIONS:

This proposal will support the achievement of the following outcome and objective detailed in the Corporate Business Plan.

Plan	Outcome	Objective
Corporate Business Plan	Visionary leadership dedicated to acting for its community	5.1 Model accountable and ethical governance, strengthening trust with the community

### COMMUNITY ENGAGEMENT:

There are no community engagement implications as a result of this report.

## 18.2 Council Policy Review

### **SUMMARY:**

As part of the City's ongoing review of Council policies to ensure they meet the needs of the organisation, the following findings have been identified:

Policies identified necessary for Council to implement:

- Electoral Caretaker Period; and
- Temporary Employment or Appointment of CEO.

Policies that have been identified as no longer reflecting current practices and are recommended for revocation:

- Elected Member Photographs;
- Local Employment Solutions; and
- Employment in the City of Kwinana.

Policies that have required review and amendments:

- Elected Members Allowances, Expenses and Gifts; and
- Elected Members Training and Development.

### **OFFICER RECOMMENDATION:**

**That Council resolve as follows:**

1. **Adopt the Electoral Caretaker Period Policy, as at Attachment A and the Temporary Employment or Appointment of CEO Policy, as at Attachment B.**
2. **Revocation the following Council Policies:**
  - **Elected Member Photographs, as at Attachment C**
  - **Elected Members and Officers representing Council or the City as Delegates, as at Attachment D**
  - **Local Employment Solutions, as at Attachment E**
  - **Employment in the City of Kwinana, as at Attachment F**
3. **Adopt the following amended Council Policies:**
  - **Elected Members Allowances, Expenses and Gifts, as at Attachment G**
  - **Elected Members Training and Development, as at Attachment H**

**NOTE – AN ABSOLUTE MAJORITY OF COUNCIL IS REQUIRED**

## 18.2 COUNCIL POLICY REVIEW

### DISCUSSION:

The following policies have been identified as having a requirement to be implemented and approved by Council for adoption:

#### **Electoral Caretaker Period Policy**

This Policy establishes protocols for the purpose of avoiding actual and perceived advantage or disadvantage to a candidate in a Local Government Election through the use of public resources or decisions made by the Council or the City on behalf of the City during the period immediately prior to an election.

This Policy extends to Elected Member candidacy for State and/or Federal elections in addition to Local Government Elections.

#### **Temporary Employment or Appointment of CEO Policy**

Following the City's recent adoption of the Standards for CEO Recruitment, Performance and Termination it has also been identified that a policy is required relating to the temporary employment or appointment of an acting CEO.

Where the role of CEO is not fulfilled for a significant period, this leads to increased risk to the operations and governance of the local government. Therefore, local governments are required to develop and implement a policy that outlines the arrangements to temporarily replace a CEO for any period less than twelve months.

In accordance with, Section 5.39C of the *Local Government Act 1995*, the City's proposed Temporary Employment or Appointment of CEO Policy, as at Attachment B has been prepared and the policy provides the details of the City of Kwinana's processes for appointing an Acting or Temporary Chief Executive Officer (CEO) for periods of less than 12 months of planned or unplanned leave or an interim vacancy in the substantive office.

A review has been undertaken of the following Council policies to ensure they continue to meet the evolving needs of the organisation and to greater reflect the requirements of the *Local Government Act 1995*.

The following policies are recommended for deletion as Officers have identified they are no longer required:

#### **Elected Members and Officers representing Council or the City as Delegates Policies**

This policy has been identified as no longer required and is therefore recommended to be revoked due to Elected Members and City Officers both have a Code of Conduct that addresses their representation of the City.

In addition, following each Local Government Election a report is presented to Council with nominations being made regarding Elected Member and City Officer appointment as representatives to City committees, working groups, panels as well as external committees. Included within this report will be the acknowledgement of delegates not being empowered to commit Council or the City to any course of action unless provided with specific authority of Council or until such time as Council has approved of such action through Council's normal process.

## 18.2 COUNCIL POLICY REVIEW

### **Elected Member Photographs Policy**

The Elected Member Photographs policy is no longer required and is recommended to be revoked due to the relevant content being addressed within City Officer processes and procedures, ensuring that a photographic record of Elected Members and Council are recorded for historical value.

### **Local Employment Solutions Policy**

It has been identified that the Local Employment Solutions policy is recommended to be revoked as the relevant content from this policy will be addressed within the proposed economic development strategy.

### **Employment in the City of Kwinana Policy**

Following a review of the Employment in the City of Kwinana policy, it has been noted that the *Equal Opportunity Act 1984* governs the City's commitment to ensuring equal employment opportunities. Therefore the Council policy is not required and is recommended to be revoked.

A review of the following City policies has been undertaken and their amendments are recommended for Council endorsement:

### **Elected Members Allowances, Expenses and Gifts**

This policy has had several updates to reflect budgetary measures implemented as a result of the COVID-19 pandemic, including the following:

- Elected Members were previously entitled to purchase a briefcase (or similar) following their inaugural election to the value of \$200. This allowance has been removed due to Elected Members making efforts to utilise their electronic equipment in lieu of paper documents, thereby removing the need for briefcases.
- A reimbursement of clothing, footwear, apparel, dry cleaning, and personal presentation, to a maximum cost to the City of \$1000 per Elected Member and \$2000 for the Mayor per financial year has been removed for the 2020/2021 financial year and will be reviewed for consideration in the 2021/2022 budget.
- The Corporate Jacket allowance has been updated to only allow for purchases to be made for a newly elected Councillor following their inaugural election to office.

This policy also provides for the requirement for all Elected Members to undertake training within the first 12 months of being elected. These changes were introduced last year in recognition of the unique and challenging role of Councillors.

Councillors are required to complete the training course, Council Member Essentials, which was developed to provide Councillors with the skills and knowledge to perform their role as leaders in their community.

In addition, numerous other updates have been made, namely to the insurance section which has been updated to provide a greater outline.

## 18.2 COUNCIL POLICY REVIEW

### **Elected Members and Chief Executive Officer Training and Development**

A review of the Elected Members and Chief Executive Officer Training and development Policy has been undertaken and is now recommended for Council endorsement.

Previously, the Policy included reference to the Chief Executive Officer which has since been removed due to the Chief Executive Officer not needing to be referred to within this Policy due to their Training and Development being determined by their contract of employment and the recently adopted CEO Standards Recruitment, Performance Review and Termination – Employee Code of Conduct. Following this amendment, it is recommended that the policy be renamed to Elected Members Training and Development.

Other amendments include the addition of Section 5.11, Elected Member Induction, which is the City's current practice and the inclusion is to reiterate current processes and procedures.

The proposed amendments are highlighted in tracked changes in the Policy (Attachment H).

### **LEGAL/POLICY IMPLICATIONS:**

*Local Government Act 1995 –*

#### **2.7. Role of council**

(1) *The council —*

- (a) *governs the local government's affairs; and*
- (b) *is responsible for the performance of the local government's functions.*

(2) *Without limiting subsection (1), the council is to —*

- (a) *oversee the allocation of the local government's finances and resources; and*
- (b) *determine the local government's policies.*

#### **2.10. Role of councillors**

*A councillor —*

- (a) *represents the interests of electors, ratepayers and residents of the district; and*
- (b) *provides leadership and guidance to the community in the district; and*
- (c) *facilitates communication between the community and the council; and*
- (d) *participates in the local government's decision-making processes at council and committee meetings; and*
- (e) *performs such other functions as are given to a councillor by this Act or any other written law.*

#### **5.90A. Policy for attendance at events**

(1) *In this section — event includes the following —*

- (a) *a concert;*
- (b) *a conference;*
- (c) *a function;*
- (d) *a sporting event;*
- (e) *an occasion of a kind prescribed for the purposes of this definition.*

## 18.2 COUNCIL POLICY REVIEW

- (2) *A local government must prepare and adopt\* a policy that deals with matters relating to the attendance of council members and the CEO at events, including —*
  - (a) *the provision of tickets to events; and*
  - (b) *payments in respect of attendance; and*
  - (c) *approval of attendance by the local government and criteria for approval; and*
  - (d) *any prescribed matter.**\* Absolute majority required.*
- (3) *A local government may amend\* the policy.*  
*\* Absolute majority required.*
- (4) *When preparing the policy or an amendment to the policy, the local government must comply with any prescribed requirements relating to the form or content of a policy under this section.*
- (5) *The CEO must publish an up-to-date version of the policy on the local government's official website.*

**5.98. Fees etc. for council members**

- (1A) *In this section —*  
*determined means determined by the Salaries and Allowances Tribunal under the Salaries and Allowances Act 1975 section 7B.*
- (1) *A council member who attends a council or committee meeting is entitled to be paid —*
  - (a) *the fee determined for attending a council or committee meeting; or*
  - (b) *where the local government has set a fee within the range determined for council or committee meeting attendance fees, that fee.*
- (2A) *A council member who attends a meeting of a prescribed type at the request of the council is entitled to be paid —*
  - (a) *the fee determined for attending a meeting of that type; or*
  - (b) *where the local government has set a fee within the range determined for meetings of that type, that fee.*
- (2) *A council member who incurs an expense of a kind prescribed as being an expense —*
  - (a) *to be reimbursed by all local governments; or*
  - (b) *which may be approved by any local government for reimbursement by the local government and which has been approved by the local government for reimbursement, is entitled to be reimbursed for the expense in accordance with subsection (3).*
- (3) *A council member to whom subsection (2) applies is to be reimbursed for the expense —*
  - (a) *where the extent of reimbursement for the expense has been determined, to that extent; or*
  - (b) *where the local government has set the extent to which the expense can be reimbursed and that extent is within the range determined for reimbursement, to that extent.*
- (4) *If an expense is of a kind that may be approved by a local government for reimbursement, then the local government may approve reimbursement of the expense either generally or in a particular case but nothing in this subsection limits the application of subsection (3) where the local government has approved reimbursement of the expense in a particular case.*

**18.2 COUNCIL POLICY REVIEW**

- (5) *The mayor or president of a local government is entitled, in addition to any entitlement that he or she has under subsection (1) or (2), to be paid —*
  - (a) *the annual local government allowance determined for mayors or presidents;*  
*or*
  - (b) *where the local government has set an annual local government allowance within the range determined for annual local government allowances for mayors or presidents, that allowance.*
- (6) *A local government cannot —*
  - (a) *make any payment to; or*
  - (b) *reimburse an expense of, a person who is a council member or a mayor or president in that person's capacity as council member, mayor or president unless the payment or reimbursement is in accordance with this Division.*
- (7) *A reference in this section to a committee meeting is a reference to a meeting of a committee comprising —*
  - (a) *council members only; or*
  - (b) *council members and employees.*

**5.98A. Allowance for deputy mayor or deputy president**

- (1) *A local government may decide to pay the deputy mayor or deputy president of the local government an allowance of up to the percentage that is determined by the Salaries and Allowances Tribunal under the Salaries and Allowances Act 1975 section 7B of the annual local government allowance to which the mayor or president is entitled under section 5.98(5).*
- (2) *An allowance under subsection (1) is to be paid in addition to any amount to which the deputy mayor or deputy president is entitled under section 5.98.*

**5.99. Annual fee for council members in lieu of fees for attending meetings**

*A local government may decide that instead of paying council members a fee referred to in section 5.98(1), it will instead pay all council members who attend council or committee meetings —*

- (a) *the annual fee determined by the Salaries and Allowances Tribunal under the Salaries and Allowances Act 1975 section 7B; or*
- (b) *where the local government has set a fee within the range for annual fees determined by that Tribunal under that section, that fee.*

**5.99A. Allowances for council members in lieu of reimbursement of expenses**

- (1) *A local government may decide\* that instead of reimbursing council members under section 5.98(2) for all of a particular type of expense it will instead pay all eligible council members —*
  - (a) *the annual allowance determined by the Salaries and Allowances Tribunal under the Salaries and Allowances Act 1975 section 7B for that type of expense; or*
  - (b) *where the local government has set an allowance within the range determined by the Salaries and Allowances Tribunal under the Salaries and Allowances Act 1975 section 7B for annual allowances for that type of expense, an allowance of that amount, and only reimburse the member for expenses of that type in excess of the amount of the allowance.*



**18.2 COUNCIL POLICY REVIEW**

- (2) *For the purposes of subsection (1), a council member is eligible to be paid an annual allowance under subsection (1) for a type of expense only in the following cases —*
  - (a) *in the case of an annual allowance that is paid in advance, if it is reasonably likely that the council member will incur expenses of that type during the period to which the allowance relates;*
  - (b) *in the case of an annual allowance that is not paid in advance, if the council member has incurred expenses of that type during the period to which the allowance relates.*

**5.100. Payments for certain committee members**

- (1) *A person who is a committee member but who is not a council member or an employee is not to be paid a fee for attending any committee meeting.*
- (2) *Where —*
  - (a) *a local government decides that any person who is a committee member but who is not a council member or an employee is to be reimbursed by the local government for an expense incurred by the person in relation to a matter affecting the local government; and*
  - (b) *a maximum amount for reimbursement of expenses has been determined for the purposes of section 5.98(3)(b), the local government must ensure that the amount reimbursed to that person does not exceed that maximum.*

**Division 10 — Training and development****5.126. Training for council members**

- (1) *Each council member must complete training in accordance with regulations.*
- (2) *Regulations may —*
  - (a) *prescribe a course of training; and*
  - (b) *prescribe the period within which training must be completed; and*
  - (c) *prescribe circumstances in which a council member is exempt from the requirement in subsection (1); and*
  - (d) *provide that contravention of subsection (1) is an offence and prescribe a fine not exceeding \$5 000 for the offence.*

**5.127. Report on training**

- (1) *A local government must prepare a report for each financial year on the training completed by council members in the financial year.*
- (2) *The CEO must publish the report on the local government's official website within 1 month after the end of the financial year to which the report relates.*

**5.128. Policy for continuing professional development**

- (1) *A local government must prepare and adopt\* a policy in relation to the continuing professional development of council members.*  
\* Absolute majority required.
- (2) *A local government may amend\* the policy.*  
\* Absolute majority required.
- (3) *When preparing the policy or an amendment to the policy, the local government must comply with any prescribed requirements relating to the form or content of a policy under this section.*
- (4) *The CEO must publish an up-to-date version of the policy on the local government's official website.*
- (5) *A local government —*
  - (a) *must review the policy after each ordinary election; and*
  - (b) *may review the policy at any other time.*

## 18.2 COUNCIL POLICY REVIEW

### **FINANCIAL/BUDGET IMPLICATIONS:**

There are no financial/budget implications that have been identified as a result of this report or recommendation.

### **ASSET MANAGEMENT IMPLICATIONS:**

There are no asset management implications that have been identified as a result of this report or recommendation.

### **ENVIRONMENTAL/PUBLIC HEALTH IMPLICATIONS:**

There are no environmental/public health implications that have been identified as a result of this report or recommendation.

### **STRATEGIC/SOCIAL IMPLICATIONS:**

There are no strategic/social implications as a result of this proposal.

### **COMMUNITY ENGAGEMENT:**

There are no community engagement implications as a result of this report.

# Council Policy

## Electoral Caretaker Period





<b>Council Policy</b>	
Legal Authority	<i>Local Government Act 1995</i>
Department	Governance and Legal

- Title**  
Electoral Caretaker Period

- Purpose**  
This Policy establishes protocols for the purpose of avoiding actual and perceived advantage or disadvantage to a candidate in a Local Government Election through the use of public resources or decisions made by the Council or the City during the period immediately prior to an election.

This Policy extends to Elected Member candidacy for State and/or Federal elections in addition to Local Government Elections.

- Scope**  
This policy applies to Elected Members and employees during a 'Caretaker Period' relevant to:
  - Decisions made by the Council;
  - Materials published by the City;
  - Discretionary community consultation;
  - Attendance and participation at events and functions in an official capacity;
  - Use of City resources; and
  - Access to information held by the City.

- Definitions**

**Act** means the *Local Government Act 1995*.

**Caretaker Period** means the period of time prior to an Election Day, specifically being the period from the close of nominations (37 days prior to the Election Day in accordance with section 4.49(a) of the Act) until 6.00pm on Election Day.

**CEO** means the Chief Executive Officer of the City of Kwinana.

**Election Day** means the day fixed under the Act for the holding of any poll needed for an election. For the purposes of this Policy, 'Election Day' generally excludes an Extraordinary Election Day unless otherwise specified.

**Electoral Material** includes any advertisement, handbill, pamphlet, notice, letter, email, social media post or article that is intended or calculated to affect an Election Day result, but does not include:

- An advertisement in a newspaper announcing the holding of a meeting (section 4.87(3) of the Act);
- Any materials exempted under Regulation 78 of the *Local Government (Elections) Regulations 1997*; or
- Any materials produced by the City relating to the election process by way of information, education or publicity, or materials produced by or on behalf of the Returning Officer for the purposes of conducting an election.

**Events and Functions** includes gatherings for the purpose of discussion, review, acknowledgement, communication, consultation, celebration or promotion, of any matter relevant to the City and/or its stakeholders and may take the form of conferences, workshops, forums, launches, promotional activities, social occasions such as dinners and receptions, including gatherings coordinated or facilitated by the City or an external entity.

**Extraordinary Circumstances** includes circumstance that requires the Council to make or announce a Significant Local Government Decision during the Caretaker Period because, in the CEO's opinion, delaying the decision or announcement to occur after the Caretaker Period has reasonable potential to:

- (a) Incur or increase legal, financial and/or reputational risk; or
- (b) Cause detriment to the strategic objectives of the City of Kwinana.

**Significant Local Government Decision** includes any decision:

- (a) Relating to the employment, remuneration or termination of the CEO or any other designated Senior Employee, other than a decision to appoint an Acting CEO or suspend the current CEO (in accordance with the terms of their Contract of Employment) pending the Election Day result;
- (b) Relating to the City entering into a sponsorship arrangement with a total City contribution that would constitute Significant Expenditure, unless the Council resolved 'in principle' support for the sponsorship prior to the Caretaker Period taking effect and sufficient funds are allocated in the Annual Budget;
- (c) Relating to the City entering into a commercial enterprise as defined by section 3.59 of the Act;
- (d) That would commit the City to Significant Expenditure or actions that, in the CEO's opinion, are significant to the Local Government operations, strategic objectives and/or will have significant impact on the community;
- (e) To prepare a report, initiated by the City, an Elected Member, candidate or member of the public that, in the CEO's opinion, may be perceived as or is actually an election campaign issue;
- (f) Initiated through a Notice of Motion by an Elected Member, where the effect of that motion will change the status quo or, in the CEO's opinion, may be relevant to the circumstances described in sub-clauses (a) to (e) above;
- (g) That adopts a new, or significantly changes an existing, policy, service or service level that incurs Significant Expenditure, unless the decision is necessary to comply with legislation;
- (h) That initiates or adopts a new Local Planning Scheme, amendment to a Local Planning Scheme or Planning Policy; or
- (i) Significant Local Government Decision does NOT include any decision necessary in response to an Emergency, either declared by the State or Federal Government or by the Mayor in accordance with section 6.8(1)(c) of the Act.

**Caretaker Protocol** means the practices or procedures prescribed in this Policy.

**Public Consultation** includes a process which involves an invitation to individuals, groups, organisations or the wider community to provide comment on a matter, proposed action or proposed policy which may be perceived as or is actually an electoral/campaign issue, but does not include statutory consultation/submission periods prescribed in a written law.

**Significant Expenditure** means expenditure that exceeds 0.01% of the City's annual budgeted revenue (exclusive of GST) in the relevant financial year.

**Returning Officer** means the Returning Officer appointed under section 4.20 of the Act.

**City** means City of Kwinana

## 5. Policy statement

### 5.1 Caretaker Period Protocols – Decision Making

The CEO will ensure that:

- (a) At least 30-days prior to a Caretaker Period, the CEO will advise Elected Members and employees in writing of the dates that the Caretaker Period commences and concludes.
- (b) Candidates are provided with a copy of this Policy at the time of their nomination for election, to ensure their awareness of the protocols and equitable access requirements.

#### 5.1.1 Scheduling significant Local Government decisions

- (a) During a Caretaker Period, unless Extraordinary Circumstances apply, the CEO will reasonably ensure that:
  - i. Council or Committee Agenda, do not include reports and/or recommendations that constitute Significant Local Government Decisions; and
  - ii. Council Forums, Workshops or Briefings, do not list for discussions matters that relate to Significant Local Government Decisions.
- (b) The CEO shall reasonably ensure that, unless Extraordinary Circumstances apply, Significant Local Government Decisions are either:
  - i. Considered by the Council prior to the Caretaker Period; or
  - ii. Scheduled for determination by the incoming Council.
- (c) The CEO shall reasonably ensure that, unless Extraordinary Circumstances apply, Delegated Authority from the Council to the CEO or a Committee is not exercised where the exercise of that delegated authority relates to a Significant Local Government Decision or an election campaign issue.

#### 5.1.2 Council reports electoral caretaker period policy statement

##### Extraordinary Circumstances

- (a) Council Reports

Where, during a Caretaker Period, the CEO determines that Extraordinary Circumstances apply, the CEO may submit a report on a Significant Local Government Decision for Council's consideration, subject to the report including:

  - i. Details, if applicable, of options for what aspects of the decision are necessary to be made within the Caretaker Period and what aspects may be deferred until after the Caretaker Period.
  - ii. An Electoral Caretaker Period Policy Statement, which details why Extraordinary Circumstances apply.

(b) Council Forums, Workshops or Briefings

Where, during a Caretaker Period, the CEO determines that Extraordinary Circumstances apply, the CEO may include matters relating to a Significant Local Government Decision for Elected Member discussion at Council Forums, Workshops or Briefings.

The CEO is required to provide Council with advice as to why Exceptional Circumstance apply. Details of this advice is to be retained, with the Forum, Workshop or Briefing notes, as a Local Government record.

5.1.3 Managing CEO employment

This Policy, prohibits Significant Local Government Decisions relating to the employment, remuneration or termination of the CEO during a Caretaker Period.

The Council is however required to fulfil its obligations as the CEO's employer regardless of a Caretaker Period. Therefore, during a Caretaker Period:

(a) The Council may consider and determine:

- i. CEO's leave applications;
- ii. appoint an Acting CEO, where necessary;
- iii. suspend the current CEO, where appropriate and in accordance with the terms of their contract.

(b) The Council may not initiate a new CEO recruitment process or initiate or undertake a CEO performance review process, during a Caretaker Period.

5.1.4 Delegated Authority decision making in extraordinary circumstances

During a Caretaker Period, Employees who have Delegated Authority are required to consider if a proposed delegated authority decision may relate, or be subsidiary, to a Significant Local Government Decision or election campaign issue and if so, refer the matter to the CEO for review and consideration.

**5.2 Caretaker Period Protocols – Candidates**

Candidates, including Elected Members who have nominated for re-election, relevant to an Election Day or Extraordinary Election Day, shall be provided with equitable access to the City of Kwinana's public information in accordance with section 5.94 of the Act.

The CEO shall ensure that assistance and advice provided to candidates as part of the conduct of the election is provided equally to all candidates.

Elected Members nominating for re-election, may access information and assistance regarding the City of Kwinana's operations and Council matters during a Caretaker Period, but only to the extent necessary to perform their role as a Councillor and limited to matters currently relevant to the City.

All election process enquiries from Candidates, including Elected Members who have nominated for re-election, will be directed to the Returning Officer, or where the matter is outside the responsibility of the Returning Officer, to the CEO.

#### 5.2.1 Candidate requests on behalf of electors, residents or ratepayers

Where a Candidate, including Elected Members who have nominated for re-election, requires the assistance of the City to respond to a request made by an Elector, Resident or Ratepayer, then the City will provide the response directly to the requesting Elector, Resident or Ratepayer and will also advise the candidate of the outcome.

#### 5.2.2 Candidate campaign electoral materials

Candidates, including Elected Members who have nominated for re-election, should note that the City of Kwinana's official crest or logo may not be used in campaign Electoral Materials.

Candidates and/or Elected Members are permitted to publish campaign material on their own behalf, but cannot claim for that material to be originating from or authorised by the City, e.g. branding and/or Logo.

#### 5.2.3 Candidate attendance at meetings

To ensure equitable access to information about Council's decision making during a Caretaker Period, the CEO will encourage Candidates, who are not sitting Elected Members, to attend Ordinary and Special Council Meetings (if open to the public) called and convened during a Caretaker Period; also advising each Candidate where to locate a copy of the meeting agenda at the time it is distributed to Elected Members.

Ordinary Council Meeting dates during the Caretaker Period will be provided to all Candidates at the time of their nomination.

For the purposes of transparency and the benefit of the public gallery, Candidates are requested to identify themselves as an election candidate prior to asking a question or making a statement at a Council or Committee meeting.

### 5.3 Elected Member caretaker period protocols

#### 5.3.1 Access to information and advice

During a Caretaker Period all Elected Members will scrupulously avoid using or accessing City information, resources or employee resources and expertise for the purpose of gaining electoral advantage or disadvantage relevant to their own candidacy or any other person's candidacy.

During a Caretaker Period, all Elected Member requests for information and advice from the City will be reviewed by the CEO and where the subject of the information or advice is considered as relating to an election campaign issue, the CEO will either make a determination, or refer the request for Council's determination, as to if the information or advice is/is not to be provided, including if information is provided to one candidate, or if that information is also to be provided to all candidates (i.e. including candidates who are not current Elected Members).



### 5.3.2 Media and publicity

During a Caretaker Period, all Elected Member requests for media advice or assistance, including Elected Members who have nominated for re-election, will be referred to the CEO for review.

The CEO will only authorise Elected Member access to media advice or assistance where, in the CEO's opinion, the subject matter is relevant to the City of Kwinana's objectives or operations and is not related to an election campaign purpose or issue or to the Elected Member's candidacy or the candidacy of another person.

### 5.3.3 Elected Member business cards, City printed materials

Elected Members must ensure that City business cards and Local Government printed materials are only used for purposes associated with their role as an Elected Member, in accordance with section 2.10 of the Act.

Elected Members are prohibited from using City business cards or printed materials at any time, including times outside a Caretaker Period, for any election campaign purpose, either in support of their own candidacy or the candidacy of another person.

### 5.3.4 Elected Member participation in event and functions

During a Caretaker Period Elected Members may continue to fulfil their role through attendance at events and functions hosted by external bodies.

### 5.3.5 Elected Member delegates to external organisations

At any time, including times outside of a Caretaker Period, Elected Members who are the Council's appointed delegate to an external organisation, must not use their attendance at an external organisation's meeting, event or function for any purpose associated with an election campaign purpose, including; recruiting campaign assistance or to promote their own candidacy or the candidacy of another person.

### 5.3.6 Elected Member addresses/speeches

Excluding the Mayor and Deputy Mayor, when fulfilling their functions prescribed in sections 2.8 and 2.9 of the Act, Elected Members who have nominated for re-election, shall not be permitted to make speeches or addresses during a Caretaker Period at events or functions organised or sponsored by the City of Kwinana, unless expressly authorised by the CEO.

In any case, the Mayor, Deputy Mayor and Elected Members are prohibited from using an official speech or address during a Caretaker Period to promote an election campaign purpose.

### 5.3.7 Elected Member misuse of Local Government resources

A Elected Member who uses City resources for the purpose of persuading electors to vote in a particular way is a misuse of Local Government resources in breach of the *Local Government (Rules of Conduct) Regulations 2007*.

This prohibition on misuse of Local Government Resources for electoral purposes applies at all times and is not only applicable to a Caretaker Period.

For clarity, Local Government resources includes, but is not limited to:

- employee time or expertise
- City provided equipment
- information and communication technologies
- stationery
- hospitality
- images
- communications
- services
- reimbursements
- allowances provided by the City.

City employees are prohibited from undertaking any tasks connected directly or indirectly with an election campaign and must avoid actions that may create a perception that they are assisting Elected Members with their campaign.

#### **5.4 City publicity, promotional and civic activities protocols**

Publicity campaigns and promotional activities during a Caretaker Period may be undertaken only for the purposes of:

- (a) Promoting City services and activities, where such promotion do not relate to an electoral campaign issue and would otherwise be undertaken as part of normal operations; and,
- (b) Conducting the Election and promoting Elector participation in the Election.

All other, publicity and promotional activities of City initiatives will be, where reasonably practicable, avoided during the Caretaker Period, including the announcement of Significant Local Government Decisions, made prior to the commencement of a Caretaker Period or proposed to be made after a Caretaker Period.

The CEO may determine if Exceptional Circumstances apply and if a Significant Local Government Decision announcement is necessary during a Caretaker Period.

##### **5.4.1 Civic events and functions**

The City will avoid the scheduling of Civic Events and Functions during a Caretaker Period, which may give rise to any actual or perceived electoral advantage to Elected Members who have nominated for re-election.

Where the City is required to schedule a Civic Event or Function during a Caretaker Period at which Elected Members would usually be invited, it will be limited to those that the CEO considers essential to the operation of the City, and must not be considered relevant to, or likely to influence the outcome of an election.

#### 5.4.2 City publications and communications

All City publications and communications distributed during a Caretaker Period must not include content that:

- (a) may actually, or be perceived to, persuade voting in an election;
- (b) is specific to a candidate or candidates, to the exclusion of other candidates; or
- (c) draws focus to or promotes a matter which is a Significant Local Government Decision or which is an electoral campaign issue.

All City publications and communications proposed to occur immediately prior to, throughout or during, a Caretaker Period must be reviewed and approved by the CEO prior to publication or distribution.

#### 5.4.3 City website and social media content

1. During the Caretaker Period, this Policy applies to content proposed for publication on the City of Kwinana's website and social media channels.

Website and social media content regarding Elected Members will be limited to: Elected Member names, contact details, membership of committees and Council appointments as City Delegates on external committees and organisations however, all other biographical information related to a sitting Elected Member who is also a candidate will be removed from public access for the duration of the Caretaker Period.

The Candidate Election Profiles prescribed in section 4.49(b) of the Act, may also be published on the City of Kwinana's website and social media.

2. Website and social media content, published prior to a Caretaker Period, will not be subject to this Policy.
3. New website or social media content which relates to Significant Local Government Decisions or election campaign issues will not be published during a Caretaker Period, unless Exceptional Circumstances apply.
4. Content posted by the public, candidates or Elected Members on the City of Kwinana's social media channels, which is perceived as candidate election campaign material or promotes a candidate or candidates will be removed.
5. No media advice will be provided in relation to election issues or regarding publicity that involves an Elected Member who is a pre-selected Candidate or has nominated in a local, State or Federal election.

#### 5.4.4 Community consultation

The City will undertake planned community consultation (discretionary and legislative) during a Caretaker Period, unless the consultation relates to a Significant Local Government Decision or potentially contentious election campaign issue.

## 6. References

Date of adoption and resolution No.	
Review dates and resolution No.	
Next review due date	2023
Related documents	<p><b>Acts/Regulations</b>  <i>Local Government Act 1995</i></p> <p><i>Local Government (Elections) Regulations 1997</i>  <i>Local Government (Model Code of Conduct) Regulations 2021</i></p> <p><i>Local Government (Elections) Regulations 1996</i></p> <p><b>Plans/Strategies/Policies/Processes</b>            Code of Conduct for Elected Members, Committee Members and candidates</p> <p>Employee Code of Conduct</p> <p>Elected Members Training and Development Policy</p> <p>Elected Members Allowances, Expenses and Gifts Policy</p>

**Note:** Changes to references may be made without the need to take the Policy to Council for review.



# Council Policy

## Temporary Employment or Appointment of CEO



<b>Council Policy</b>	
Legal Authority	Section 5.39C, <i>Local Government Act 1995</i>
Department	Human Resources

1. **Title**  
Temporary Employment or Appointment of CEO
2. **Purpose**  
To establish policy, in accordance with section 5.39C of the *Local Government Act 1995* ('the Act'), that details the City of Kwinana's ('City') processes for appointing an acting or temporary Chief Executive Officer (CEO) for periods of less than 12 months of planned or unplanned leave, or otherwise in the event of an interim vacancy in the substantive office.
3. **Scope**  
This policy applies to the statutory position of CEO of the City.
4. **Definitions**  
**Acting CEO**, means a person employed or appointed to fulfil the statutory position of CEO during a period where the substantive CEO remains employed, but is on planned or unplanned leave.  
  
**Temporary CEO** means a person employed or appointed to fulfil the statutory position of CEO for the period of time between the end of the substantive CEO's employment and the appointment and commencement of a newly appointed substantive CEO.
5. **Policy statement**
  - 5.1 **Acting and temporary CEO Requirements and Qualification**
    - 5.1.1 When the CEO is on planned or unplanned leave, or the CEO's employment with the Local Government has ended, an Acting or Temporary CEO is to be appointed in accordance with this Policy to fulfil the functions of CEO as detailed in Section 5.41 of the Act as well as other duties as set out in the Act and associated Regulations.
    - 5.1.2 Through this policy and in accordance with section 5.36(2)(a) of the Act, employees permanently appointed to the substantive position(s) of Director/s are considered suitably qualified to perform the role of Acting or Temporary CEO.
  - 5.2 **Appoint Acting CEO – Planned and unplanned leave for periods up to six weeks**
    - 5.2.1 The CEO shall have the discretion to appoint an Acting CEO in circumstances where the CEO is on planned or unplanned leave for periods not exceeding six weeks, subject to the CEO's consideration of the City Officers performance, availability, operational requirements and where appropriate, the equitable access to professional development opportunities.
    - 5.2.2 The CEO must appoint an Acting CEO for any leave applications periods greater than 48 hours and less than six weeks.
    - 5.2.3 The CEO is to advise all Elected Members as soon as possible when

and for what period of time the City Officer is appointed as Acting CEO.

- 5.2.4 If the CEO is unavailable or unable to determine an Acting CEO then City Officers appointed in the permanent position of a Director are considered suitably qualified to perform the role. The appointment will align with the criteria specified at clause 5.2.1.
- 5.2.5 Council may, by resolution, extend the period of appointment of an Acting CEO pursuant to clause 5.2.4 beyond six weeks where the substantive CEO remains unavailable or unable to perform their functions and duties.

### **5.3 Appoint Acting CEO for extended leave periods greater than six weeks but less than 12 months**

- 5.3.1 This clause applies to the following periods of extended leave:
  - Substantive CEO's Extended Planned Leave which may include accumulated annual leave, long service leave or personal leave; and
  - Substantive CEO's Extended Unplanned Leave which may include any disruption to the substantive CEO's ability to continuously perform their functions and duties.
- 5.3.2 The Council will, by resolution, appoint an Acting CEO for periods greater than six weeks but less than 12 months as follows:
  - a) Appoint one employee, or multiple employees for separate defined periods, as Acting CEO to ensure the CEO position is filled continuously for the period of extended leave; or
  - b) Conduct an external recruitment process in accordance with clause 5.4.1)(a).
- 5.3.3 The Mayor shall liaise with the CEO, or in their unplanned absence the Manager Human Resources, to coordinate Council reports and resolutions necessary to facilitate an Acting CEO appointment.
- 5.3.4 Subject to Council's resolution, the Mayor will execute in writing the Acting CEO appointment with administrative assistance from the Manager Human Resources.

### **5.4 Appoint Temporary CEO – Substantive Vacancy**

- 5.4.1 In the event that the substantive CEO's employment with the City is ending, the Council when determining to appoint a Temporary CEO may by resolution either:
  - a) following an external recruitment process in accordance with the principles of merit and equity prescribed in section 5.40 of the Act, appoint a Temporary CEO for the period of time until the substantive CEO has been recruited and commences employment with the Local Government; or
  - b) City Officers appointed in the permanent position of a Director are considered suitably qualified to perform the role of Acting CEO. The appointment will align with the criteria stated at clause 5.2.1.
- 5.4.2 The Mayor will liaise with the Manager Human Resources to coordinate Council reports and resolutions necessary to facilitate a Temporary CEO appointment.
- 5.4.3 The Mayor is authorised to execute in writing the appointment of a



Temporary CEO in accordance with Councils resolution/s, with administrative assistance from the Manager Human Resources.

## 5.5 Remuneration and conditions of Acting or Temporary CEO

- 5.5.1 Determined at the time of appointment in consultation with the Manager Human Resources, Chief Executive Officer and the Mayor (where required). The remuneration will be a percentage of the cash component only of the substantive CEO's total reward package.
- 5.5.2 Council will determine by resolution, the remuneration and benefits to be offered to a Temporary CEO when entering into a contract in accordance with the requirements of Sections 5.39(1) and (2)(a) of the Act.
- 5.5.3 Subject to relevant advice, the Council retains the right to terminate or change, by resolution, any Acting or Temporary CEO appointment.

## 6. References

Date of adoption and resolution No.	
Review dates and resolution No.	
Next review due date	2023
Related documents	<b>Acts/Regulations</b> <i>Local Government Act 1995</i> Section 5.39, 5.39C and 5.40  <b>Plans/Strategies/Policies/Processes</b> Employee Code of Conduct  Policy - Standards for CEO Recruitment, Performance and Termination

**Note:** Changes to references may be made without the need to take the Policy to Council for review.



# Policy

## Elected Members – Photographs



## Elected Members – Photographs

Adopted:	30/05/1984 #
Last reviewed:	27/09/2006 #519 28/04/2010 #105 11/07/2012 #163 10/12/2014 #347 14/12/2016 #409 24/04/2018 #150
New review date:	24/04/2020
Legal Authority:	Local Government Act Section 2.7 – The Role of Council
Directorate:	City Strategy
Department:	City Strategy
Related documents:	Acts/Regulations Local Government Act 1995 Plans/Strategies Strategic Community Plan Policies Nil Work Instructions Nil

*Note: Changes to References may be made without the need to take the Policy to Council for review.*

### Policy:

#### 1. Title

Elected Members - Photographs

## **2. Purpose**

The purpose of this Policy is to;

- a) Promote public awareness of the current serving Elected Members; and
- b) Maintain a photographic history of the local government's elected Councils.

## **3. Scope**

This policy is to be referred to when photographs need to be taken of new Elected Members and when a new Council group is formed, specifically following the biennial local government elections.

## **4. Definitions**

Council means the group of Elected Members who as a group form the Council of the City of Kwinana.

Elected Member means a current serving Elected Member of Council and includes the Mayor.

## **5. Policy Statement**

The following points need to be adhered to when photographs for the purposes of this Policy are taken:

- That individual photographs of the current serving Elected Members be displayed in the main foyer of the Administration Centre with the current Mayor and Deputy Mayor taking the prominent position.
- That a group photograph of the elected Council be taken after an election and displayed in the Administration Building.
- That all Elected Members receive an electronic copy of the current group photograph and their individual photograph.
- Photographs of the retiring Elected Members and past Councils to be removed from the frame and be provided to the Kwinana Library to be stored in the History Collection.
- Electronic copies of photographs are to be stored within the Records Management System

## **6. Financial/Budget Implications**

Funding allocations for photographs are to be provided for by Council in its annual budget.

## **7. Asset Management Implications**

There are no specific asset management implications associated with this Policy, however, photographs are to be archived if no longer on display and also held digitally.

## **8. Environmental Implications**

There are no specific environmental implications associated with this Policy

## **9. Strategic/Social Implications**

Strategic Community Plan 2017 – 2027 Objective 1.8 - Respect and promote Kwinana's unique heritage.

## **10. Occupational Safety and Health Implications**

There are no specific OSH implications associated with this Policy.

## **11. Risk Assessment**

A risk assessment conducted as part of the Policy review has indicated that the risk to the City by not taking a photographic history of the City's Elected Members and Council need would result in a risk rating of Moderate.

It is assessed that the risk rating following the implementation of this Policy would reduce the risk rating to Low.



# Policy

## **Elected Members and Officers representing Council or the City as Delegates**



## Elected Members and Officers representing Council or the City as Delegates

Adopted:	23/03/1992 #394
Last reviewed:	27/09/2006 #519 28/04/2010 #105 11/07/2012 #163 08/04/2015 #427 24/04/2018 #150
Next review date due:	24/04/2020
Legal Authority:	Local Government Act Section 2.7 – The Role of Council
Directorate:	City Strategy
Department:	City Strategy
Related documents:	Acts/Regulations Local Government Act 1995 Plans/Strategies Strategic Community Plan Policies Nil Work Instructions Nil Other documents Nil

*Note: Changes to References may be made without the need to take the Policy to Council for review.*

# **Policy:**

## **1. Title**

Elected Members and Officers representing Council or the City as Delegates.

## **2. Purpose**

To outline the role of Elected Members and Officers representing Council or the City as delegates on external committees with agencies and organisations

## **3. Scope**

Elected Members and Officers representing Council or the City as delegates are not empowered to commit Council or the City to any course of action unless provided with specific authority of Council or until such time as Council has approved of such action through Council's normal process.

## **4. Policy Statement**

- 4.1 Officers appointed to external committees or representing the City at any meeting other than Council meetings are to maintain close liaisons with Council.
- 4.2 When a delegate requires a decision from Council in respect to their external appointment, a request should be provided to the Chief Executive Officer to enable the preparation of a written report. The views of the delegate may, if deemed appropriate by the Chief Executive Officer, be expressed in the report, however the Officers should only reflect his or her professional opinion on the subject.
- 4.3 Wherever practicable, delegate's reports should be submitted in writing to Council and circulated to Elected Members.

## **5. Financial/Budget Implications**

There are no specific financial or budget implications associated with this Policy.

## **6. Asset Management Implications**

There are no specific asset management implications associated with this Policy.

## **7. Environmental Implications**

There are no specific environmental implications associated with this Policy.



## **8. Strategic/Social Implications**

Strategic Community Plan 2017 – 2027 - Objective 1.5 Actively work with the community to build local capacity.

## **9. Occupational Safety and Health (OSH) Implications**

There are no specific OSH implications associated with this Policy.

## **10. Risk Assessment**

A risk assessment conducted as part of the Policy review has indicated that the risk to the City by not outlining the role of Elected Members and Officers representing Council or the City as delegates on external committees with agencies and would result in a risk rating of moderate.

It is assessed that the risk rating following the implementation of this Policy would result in a risk rating of low.

# Council Policy

## Local Employment Solutions Policy





# Council Policy

## Local Employment Solutions Policy

D18/49901

1. **Title**  
Local Employment Solutions Policy
2. **Purpose**  
This Policy defines the City of Kwinana's commitment to promoting local employment opportunities.
3. **Scope**  
The policy refers to the actions of City Officers and Elected Members in advocating for opportunities within the City and the wider region.
4. **Definitions**  
All words have their normal dictionary meaning.
5. **Policy Statement**
  - 5.1 The City of Kwinana is to assume the role of facilitator and catalyst to improve employment outcomes and opportunities for people of all ages within the community in cooperation with other local authorities within the region.
  - 5.2 The City will work with relevant stakeholders to:
    - 5.2.1 Identify and develop local initiatives that will strengthen local labour markets and lead to the creation of local job opportunities;
    - 5.2.2 Improve, co-ordinate and integrate local service delivery to assist people to increase their level of social and economic participation; and
    - 5.2.3 Harness other resources that may be available in the community to support local employment outcomes.
6. **Financial/Budget Implications**  
There are no specific financial or budget implications associated with this Policy.
7. **Asset Management Implications**  
There are no specific asset management implications associated with this Policy.
8. **Environmental Implications**  
There are no specific financial or budget implications associated with this Policy.
9. **Strategic/Social Implications**  
*Strategic Community Plan*  
Outcome: Varied Job Opportunities  
Objective 2.1: Residents to have access to ample job opportunities locally
10. **Occupational Safety and Health Implications**  
There are no specific OSH implications associated with this Policy.
11. **Risk Assessment**

The risk implications in relation to this proposal are as follows:

Risk Event	City Officers do not advocate for employment opportunities in the region.
Risk Theme	Business and community disruption
Risk Effect/Impact	Reputation
Risk Assessment Context	Strategic
Consequence	Minor
Likelihood	Unlikely
Rating (before treatment)	Low
Risk Treatment in place	Reduce - mitigate risk
Response to risk treatment required/in place	Prepare and review Corporate Business Plan with specific actions for developing opportunities for local employment.
Rating (after treatment)	Low

## 12. References

Name of Policy	Local Employment Solutions Policy
Date of Adoption and resolution No	12 October 2011 (Decision 406)
Review dates and resolution No #	8 April 2015 #427 26 September 2018 #284
New review date	To be reviewed in 2020/21 Financial Year
Legal Authority	<i>Local Government Act 1995</i>
Directorate	City Strategy
Department	Economic Development
Related documents	<b>Acts/Regulations</b> Nil. <b>Plans/Strategies</b> Economic Development Action Plan <b>Policies</b> Nil. <b>Work Instructions</b> Nil. <b>Other documents</b> Nil.

**Note: Changes to References may be made without the need to take the Policy to Council for review.**



## POLICY

### EMPLOYMENT IN THE CITY OF KWINANA



## EMPLOYMENT IN THE CITY OF KWINANA

**This Policy defines the City of Kwinana's commitment to enabling employment growth in the City, ensuring equal employment opportunity and promoting local employment opportunities.**

Adopted:	<b>21/01/2015 #369</b>
Last amended:	
Legal Authority	Local Government Act 1995 Section 2.7 - Role of Council Equal Opportunity Act 1984

### Policy:

1. The City is committed to equal opportunity principles and continues to develop and implement equal opportunity strategies to ensure that all employment related decisions are based on the assessment of individual ability and achievement.
2. The City recognises its legal obligations under the Equal Opportunity Act 1984 and actively promotes equal employment opportunity based solely on merit to ensure that discrimination does not occur on the grounds of gender, marital status, pregnancy, race, impairment, religious or political convictions, age, family responsibility or family status.
3. The City ensures that all employment practices are transparent and equitable and that all externally advertised vacancies are advertised in a manner available locally to ensure the maximum number of applicants from within the City.
4. All offers of employment within the City are to be directed towards providing equal opportunity to prospective employees provided their relevant experience, skills and ability meet the minimum requirements for engagement.
5. All training at the City is directed towards providing equal opportunity to all employees provided their relevant experience, skills and ability meet the minimum requirements for such training.
6. All policies, practices, decisions and opportunities relating to promotion and advancement are directed towards providing equal opportunity to all employees provided their relevant experience, skills and ability meet the minimum requirements for such promotion.
7. The City does not tolerate harassment within its workplace. Harassment is defined as any unwelcome, offensive action or remark concerning a person's race, colour, language, ethnicity, political or religious convictions, gender, marital status, sexual orientation, pregnancy, impairment, age, family responsibility or family status.
8. The equal employment opportunity culture of the City is aimed at providing an enjoyable, challenging, inclusive and harmonious work environment for all employees where each has the opportunity to progress to the extent of their ability.





## Council Policy

### Elected Members Allowances, Expenses and Gifts





<b>Council Policy</b>	
Legal Authority	<i>Local Government Act 1995</i>
Department	City Legal

- Title**  
Elected Members Allowances, Expenses and Gifts

- Purpose**  
To outline the support ~~that is to be~~ provided to Elected Members by the City through the payment of allowances, reimbursement of expenses and provision of equipment and stationary incurred, insurance cover and supplies provided in accordance with the *Local Government Act 1995* while performing the official duties of office, in accordance with the requirements of the *Local Government Act 1995*.

To outline the insurance policies to be held by the City for the benefit of Elected Members in the performance of their duties as an Elected Member.

- Scope**  
The policy applies to all Elected Members~~Elected Members should take care to differentiate between expenditure incurred in their private capacity and expenditure necessary to fulfil their role as an Elected Member. Reimbursement is to be made for expenses outlined in the Policy.~~

- Definitions**  
Nil

- Policy Statement**  
**5.1 Allowances:**

#### **5.1.1 Mayoral Allowance**

Pursuant to section 5.98(5) of the *Local Government Act 1995*, t~~The Mayor is to receive the maximum annual *local government* allowance specified by the Salaries and Allowances Tribunal pursuant to allowed under the *Salaries and Allowances Act 1975*.~~

#### **5.1.2 Deputy Mayoral Allowance**

Pursuant to section 5.98A(1) of the *Local Government Act 1995*, T~~he Deputy Mayor is to receive the maximum annual *local government* allowance specified by the Salaries and Allowances Tribunal pursuant to allowed under the *Salaries and Allowances Act 1975*.~~

#### **5.1.3 Annual Meeting Attendance Fees**

Pursuant to section 5.98(1)(b) of the *Local Government Act 1995*, T~~he Mayor and Councillors (Elected Members) are to receive the maximum annual *local government meeting* attendance fee specified by the Salaries and Allowances Tribunal pursuant to allowed under the *Salaries and Allowances Act 1975*.~~

This annual fee is provided on the principle basis that each Elected Member regularly attends meetings of Council and such Committees ~~to which as~~ they are appointed, as well as and carry out other responsibilities of their position office.

**Formatted:** Font: Italic

**Formatted:** Font: Italic

**Formatted:** Font: Italic

**Formatted:** Indent: Left: 2.5 cm, First line: 0 cm

**Formatted:** Font: Italic

**Formatted:** Font: Italic

**Formatted:** Font: Italic

**Formatted:** Indent: Left: 2.5 cm

**Formatted:** Font: Italic

**Formatted:** Font: Italic

#### 5.1.4 Information and Communications Technology Allowance

Pursuant to section 5.99A of the Local Government Act 1995, The Elected Members are to receive the maximum annual local government information and communications technology allowance specified by the Salaries and Allowances tribunal pursuant to the Salaries and Allowances Act 1975.

As a minimum, Elected Members are to provide:

- at least one telephone access point for City and community access, and a mobile phone, inclusive of voice message recording capacity;
- a fully functioning internet connection which allows them to access emails, attend meetings via instantaneous media, perform any necessary research and keep abreast of current and contentious issues in regard to their role as an Elected Member; and.
- consumables for computer equipment, printer, and internet, fax, phone, and mobile usage (such as printing cartridges, paper).

This allowance is designed to meet all Council related call costs and all other relevant telecommunication costs, including relevant hardware to use a telephone, mobile phone, and the internet.

#### 5.1.5 Payments

The amount of an Elected Members entitlement to an annual attendance fee or annual allowance specified in this Policy shall be apportioned on a pro rata basis according to the portion of a year that the person holds office as an Elected Member and is eligible for the relevant annual attendance fee or annual allowance. All payments will be in arrears and paid monthly on the 5<sup>th</sup> day of the following month.

### 5. 2. Information and Communication Equipment

#### 5.2.1 ICT Equipment and Office Supplies

a) — The City is to make available to all Elected Members, for use during their term of office, a suitably equipped laptop or iPadiPad for the conduct of Council related business, which is in line with the standard IT product the City uses within the organisation at the date of request.

b) — The City does not provide other hardware required to meet their communication needs, such as modems, internet sticks, and handsets, as outlined in section 5.1.4 of this Policy.

A request to purchase a laptop or iPad will be submitted to the Chief Executive Officer, and the purchase must be made by the City. No reimbursement to Elected Members will be made for this hardware. All equipment must be is namely provided for Council business only.

c) — If the standard equipment provided by the City does not suit the Elected Member requirements, the Elected Member must, at their own expense, purchase the preferred equipment, and maintain the equipment that will best suit their requirements. No reimbursement can be claimed.

#### Notes:

Electronic equipment that is provided by the City remains the property of the local government and is to be returned by the Elected Member if no longer required, their term has expired and they are not re-elected, or it requires replacement.

Formatted: Font: Italic

Formatted: Font: Italic

Formatted: Indent: First line: 0.04 cm

Formatted: Indent: Left: 2.5 cm, Hanging: 1 cm

Formatted: Indent: Left: 2.5 cm

Formatted: Indent: Left: 2.5 cm, First line: 0 cm

It is expected that Elected Members are to make every effort to utilise their electronic equipment, in lieu of paper documents for attendance at meetings etc.

Personal computers and associated equipment that is provided by the City is to be offered to the Elected Member for purchase at the depreciated value of the equipment at the expiry of their term of office, or at other times as approved by the Chief Executive Officer. No City property is to be disposed of without prior approval of the Chief Executive Officer.

### 5.2.2 Maintenance of equipment

a) — At all times during an Elected Member's term, the City is to provide and make provision for the ongoing maintenance of the supplied equipment referred to in clause 5.2.1 of this Policy with all maintenance costs being met by the City. The City will not provide ongoing maintenance to equipment that has been purchased by the Elected Member.

Formatted: Indent: Left: 2.5 cm, First line: 0 cm

b) — In the event of a malfunction of the equipment the Elected Member is to contact, during business hours, the Council Administration Officer (Councillors) / Executive Assistant to the Chief Executive Officer and Mayor (Mayor), whom ~~are~~ ~~is~~ to coordinate the attendance of maintenance personnel.

Formatted: Indent: Left: 2.5 cm

Formatted: Indent: Left: 2.5 cm, First line: 0 cm

c) — Under no circumstances should Elected Members undertake repairs or maintenance to City equipment without the express permission of the Chief Executive Officer.

Formatted: Indent: Left: 2.5 cm

Formatted: Indent: Left: 2.5 cm, First line: 0 cm

## 5.3. Reimbursable Expenses

### 5.3.1 Travelling Expenses

#### 5.3.1.1 Private Vehicles

Pursuant to section 5.98(2)(a) and (3) of the Local Government Act 1995

Formatted: Indent: Left: 2.5 cm, First line: 0 cm

Formatted: Font: Italic

Elected Members are to be reimbursed for travelling expenses incurred while driving a privately owned or leased vehicle (rather than a commercially hired vehicle) in the performance of the official duties of their office, subject to:

~~5.3.1.1~~ Claims being related to travel to a destination from their normal place of residence or work and return in respect to the following:

Formatted: Indent: Left: 2.5 cm, First line: 0 cm

- (a) Council meetings, civic functions, citizenship ceremonies or briefings called by either Council, the Mayor and/or the Chief Executive Officer;
- (b) Committees to which the Elected Member is appointed a delegate or in the circumstance an Elected Member deputising for the delegate who is unable to attend, by Council.
- (c) Meetings, training and functions scheduled by the Chief Executive Officer or Directors.
- (d) Conferences, community organisations, industry groups and local government associations to which the Elected Member has been appointed by Council as its delegate or a deputy to the delegate.
- (e) Functions and presentations attended in the role as an Elected Member or whilst deputising for the Mayor, that are supported by a copy of the relevant invitation or request for attendance.
- (f) Gatherings or events (i.e. funerals, local business or community events), approved by the Chief Executive Officer for attendance by the Mayor or the Mayor's nominated deputy as a representative of the City.
- (g) Any other occasion in the performance of an act under the express authority of Council.

Formatted: Indent: Left: 2.5 cm, Hanging: 1 cm

- (h) Site inspections in connection with matters listed on any Council agenda (members to state the item number listed on any Council agenda along with the date and time of the visit on the claim form).
- (i) In response to a request to meet with a ratepayer/elector, but excluding contact with any relevant to the biennial elections (members to state the time and purpose of the visit and the name and address of the ratepayer/elector on the claim form).

Formatted: Indent: Left: 2.5 cm, Hanging: 1 cm

**5.3.1.2** Elected Members are to be reimbursed travelling expenses incurred while using their own private motor vehicle in the performance of the official duties of Council. -The extent to which an Elected Member of a local government can be reimbursed for travel costs referred to in regulation 31(1)(b) of the *Local Government (Administration) Regulations 1996* is –

Formatted: Font: Italic

Formatted: Indent: Left: 2.5 cm, Hanging: 1 cm

- (a) if the person lives or works in the local government district or an adjoining local government district, the actual cost for the person to travel from the person's place of residence or work to the meeting and back; or
- (b) if the person does not live or work in the local government district or an adjoining local government district, the actual cost, in relation to a journey from the person's place of residence or work and back —
  - (i) for the person to travel from the person's place of residence or work to the meeting and back; or
  - (ii) if the distance travelled referred to in subparagraph (i) is more than 100 kilometres, for the person to travel from the outer boundary of an adjoining local government district to the meeting and back to that boundary.

Formatted: Indent: Left: 3.5 cm, Hanging: 1 cm

**5.3.1.3** All claims for reimbursement being lodged with the Council Administration Officer (*Councillors/Executive Assistant to the Chief Executive Officer and Mayor (Mayor)*) on the appropriate claim form, on a monthly basis. In submitting claims for reimbursement, Elected Members are to detail the date of the claim, particulars of travel and nature of business, distance travelled, vehicle displacement and the total travelled in kilometres and certify the accuracy of information. This should be accompanied by supporting documentation where applicable.

**5.3.1.4** Travel costs incurred while driving a privately owned or leased vehicle (rather than a commercially hired vehicle) are to be calculated at the same rate contained within Section 30.6 of the *Local Government Officers' (Western Australia) Interim Award 2011* as at 17 June 2015.

Formatted: Font: Italic

### **5.3.1.2**

#### **5.3.1.5 Public Transport**

In the event that an Elected Member does not have access to a private vehicle, for travel referred to above, or has a preference for public transport, the Elected Member may ~~use elect to travel by way the services of the bus and or~~ rail public transport system, expenditure for which is to be reimbursed upon completion of a travel claim form and ~~lodgement~~lodgment of receipts. A taxi (~~including Uber or similar company~~)-service is also acceptable where this is considered necessary.

Formatted: Indent: Left: 2.5 cm

Formatted: Font: Bold

Formatted: Indent: Left: 2.5 cm, First line: 0 cm

Formatted: Not Highlight

#### **5.3.1.63 Parking Fees**

Parking fees incurred as a result of travel to any occasion referred to in clause 5.3.1.1 of this policy are to be reimbursed upon ~~lodgement~~lodgment of receipts accompanying the associated travel claim form. The cost of 'valet' parking is not to be reimbursed (unless authorised by the Chief Executive Officer).

Formatted: Font: Bold

Formatted: Indent: Left: 2.5 cm

### 5.3.2 Child care costs

#### 5.3.2.1. Attending Council Meeting or Meeting of a Committee

Elected Members are to receive reimbursement of the lesser of the actual cost incurred or the maximum amount allowed under the *Salaries and Allowances Act 1975* for care of children, of which they are a parent or legal guardian, whilst attending a Council meeting or a meeting of a Committee of which they are a member.

#### 5.3.2.2. Attending Other Meetings While Representing Council

Elected Members are to receive reimbursement of the lesser of the actual cost incurred or the maximum amount allowed under the *Salaries and Allowances Act 1975* for care of children, of which they are a parent or legal guardian, whilst they are representing Council and attending meetings other than a Council meeting or a meeting of a Committee.

### 5.4. Other support/supplies/gifts from the local government

#### 5.4.1 Supplies

The City is to supply the following items to be used only in fulfilling the role of the office of Elected Member:

~~(a) Briefcase or Similar~~

~~A briefcase or similar (i.e. laptop-carrying bag) is to be supplied to each Elected Member following their inaugural election to office up to a maximum value of \$200.~~

~~(a)~~ Corporate Jacket

A corporate jacket is to be supplied to each newly Elected Member following their inaugural election to office.

**Note:** Corporate jackets ~~and brief cases or similar are to be replaced where they are damaged to an extent to be unserviceable through reasonable wear and usage, approved by the Chief Executive Officer. The briefcase or similar and corporate jacket,~~ may be retained by the Elected Member at the expiry of the Elected Member's term of office.

**Note:** Elected Members should note that any diary used by an Elected Member to record the scheduling or occurrence of activities related to the fulfilment of the office of Elected Members is subject to the requirements of the *State Records Act 2000*.

~~(b)~~ Letterhead

Reasonable quantities of personalised Elected Member letterhead is to be supplied and replaced on request.

Elected Members are not permitted to use City of Kwinana letterhead due to legal implications associated with the use of official City stationery.

~~(c)~~ Business Cards

The City is to provide each Elected Member with a quantity of 500 colour printed business cards for relevant City business use within each term of office.

The Elected Member business card format is to include; photograph, name, bestowed titles and contact information.

**Formatted:** Indent: Left: 2.5 cm, Hanging: 1 cm, Tab stops: 8.5 cm, Left + Not at 1.27 cm + 2.54 cm + 3.81 cm + 5.08 cm + 6.35 cm + 8.36 cm

**Formatted:** Font: Bold

**Formatted:** Not Highlight

**Formatted:** Font: Bold

**Formatted:** Indent: Left: 3.5 cm, First line: 0 cm

**Formatted:** Font: Italic

**Formatted:** Font: Bold

**Formatted:** Indent: Left: 3.5 cm, First line: 0 cm

**Formatted:** Not Highlight

**Formatted:** Font: Bold

**Formatted:** Indent: Left: 3.5 cm

**Formatted:** Font: Italic

**Formatted:** Font: Italic

**Formatted:** Indent: Left: 3.5 cm

**Formatted:** Indent: Left: 2.5 cm, Hanging: 1 cm

**Formatted:** Indent: Left: 3.5 cm

**Note:** Letterheads and business cards and are to be used strictly for official Council business and are not to be used for election purposes under any circumstances.

**(de) Name Badges**

- i. Formal (gold tone) Elected Member name badge.
- ii. Formal (gold tone) Elected Member partner name badge.
- iii. Plastic informal Elected Member name badge.

Formatted: Indent: Left: 3.5 cm, Hanging: 1 cm

**Note:** The City is to within reason, replace on request any name badge which is lost or irreparably damaged.

Formatted: Indent: Left: 3.5 cm

**(f) Other Council Business Related Expenses**

~~Other reimbursements for Council related expenses include: reimbursement of clothing, footwear, apparel, dry cleaning, and personal presentation, to a maximum cost to the City of \$1000 per Elected Member and \$2000 for the Mayor per financial year, to fulfil their role as an Elected Member for attending official functions where they are formally representing the City. Where an Elected Member is due for election the maximum amount will be based on a pro rata amount.~~

**5.4.2 Insurance**

The City is to ~~maintain insurance policies for the benefit~~ insure or provide insurance cover for ~~of~~ Elected Members ~~as follows~~ for:

Formatted: Indent: Left: 2.54 cm, Hanging: 1.21 cm

~~5.4.2.1(a)~~ Accidental death or Personal Accident following ~~accidental~~ injury whilst engaged in the performance of ~~the~~ official duties of their office. - Key benefits of the policy include, but are not limited to lump sum payment for permanent disablement, weekly injury benefit for loss of regular income for a temporary disablement, non-Medicare medical expenses and out of pocket expenses.

~~5.4.2.2(b)~~ Corporate Travel following accidental injury or illness whilst undertaking travel in the performance of the official duties of their office, including any incidental travel. - Key benefits of the policy include, but are not ~~to~~ limited to lump sum payment for permanent disablement, weekly injury benefit for loss of regular income for a temporary disablement, medical expenses, cancellation and loss of luggage. - Cover is extended to accompanying spouses and dependent children.

~~5.4.2.3(c)~~ Councillors Liability for third party allegations of a wrongful act whilst engaged in the performance of the official duties of their office. - Cover provides for legal representation costs and damages awarded against the Elected Member, however does not cover dishonest or fraudulent acts

~~5.4.2.4(d)~~ Public Liability for third party allegations of negligence whilst engaged in the performance of the official duties of their office, which has resulted in property damage or a personal injury.

**5.4.3 Medical Expenses**

Elected Members are to receive reimbursement of medical expenses not covered by their medical insurance fund, incurred while in the performance of the official duties of their office, upon submission of relevant receipts and medical documentation to the Chief Executive Officer and subject to such reimbursement being limited to the sum of \$500 without the prior approval of

Formatted: Indent: Left: 2.5 cm



Council. This can include damage to or loss of spectacles (including prescription and sunglasses), flu vaccine, and other aids.

#### 5.4.4 Gifts from the Local Government

In accordance with Clause 5.100A of the Local Government Act 1995 and Local Government (Administration) Regulations 1996 clause 34AC gifts may only be given to Elected Members upon the occasion of their retirement, following the completion of at least one full four year term of office.

On the retirement of an Elected Member and in recognition of their years of service the following will be presented;

- i. Framed photograph (which the retiring member can indicate their preference of);
- ii. Plaque
- iii. a gift up to the value of \$100 per year of service to a maximum of \$1000 (provided that at least one full 4-four year term of office has been served).

#### 5.4.5 Accompanying Person on Official City Business

Where an Elected Member ~~and/or the Chief Executive Officer~~ attends an event, for example receiving an award on behalf of the City, attending stakeholder annual dinners, in an official capacity representing the City, the payment of one accompanying person will be made, and must be approved by the Chief Executive Officer. ~~In the case that it is the Chief Executive Officer is attending in their official capacity representing the City, the payment of one accompanying person will be made, and must be approved by the Mayor.~~

~~The City will pay for up to four events per financial year for an accompanying person to attend with an Elected Member or the Chief Executive Officer.~~

## 12. References

Date of adoption and resolution No	11/07/2012 #163
Review dates and resolution No #	11/12/2013 #055 12/11/2014 #304 24/02/2016 #122 10/08/2016 #291 09/08/2017 #563 24/04/2018 #150
Next review due date	24/04/2020
Related documents	<b>Acts/Regulations</b> <u>Local Government (Administration) Regulations 1996</u> , Part 8  <u>Local Government Act 1995</u> Sections 2.7, 2.8, 2.10, 5.98, 5.98A, 5.99, 5.99A, and 5.100  <u>Salaries and Allowances Act 1975</u> , Part 7B.  <b>Plans/Strategies/Policies/Processes</b> <u>Promapp – Process an Elected Member Expenses Claim</u>

**Note:** Changes to References may be made without the need to take the Policy to Council for review.



## Council Policy

Elected Members ~~and~~  
~~Chief Executive Officer~~  
Training and Development



<b>Council Policy</b>	
Legal Authority	<i>Local Government Act 1995</i> <i>Local Government (Administration) Regulations 1996</i> <i>State Public Service Award 1992</i>
Department	Governance and Legal

# 1. Title

Elected Members ~~and Chief Executive Officer~~ Training and Development

# 2. Purpose

The purpose of this policy is to –

- (a) provide access to training and development by Elected Members ~~and the Chief Executive Officer~~ in order to enhance their knowledge, representation, decision making ability and ongoing professional development; and
- (b) encourage Elected Members ~~and the Chief Executive Officer~~ to attend training and development in order to enhance their knowledge, develop their skills, decision making ability and ongoing professional development.

# 3. Scope

## 3.1 Eligible Events

**3.1.1** Events to which this policy applies are generally limited to those coordinated and/or run by either:

- (a) The Australian or Western Australian Local Government Associations (ALGA / WALGA).
- (b) The major professional bodies associated with local government.
- (c) Accredited organisations offering training relevant to the role and responsibilities of Elected Members ~~and the Chief Executive Officer~~.
- (d) Other local government specific events where the Chief Executive Officer or Council is of the opinion attendance would benefit the Elected Members, Chief Executive Officer and the City.
- (e) Study tours, arranged by the City or by a third party, where there is a benefit to Council for Elected Members ~~and the Chief Executive Officer~~ to attend.

**3.1.2** Any Elected Member Training that is imposed by the State Government is not included in the scope of this Council Policy. As this training is compulsory and it is a mandatory requirement for Elected Members, any actual costs (including registration, accommodation, meals and travel) which has been incurred will be funded outside of the Elected Member training allocation identified in this Council Policy. Note: All expenses will be paid for in accordance with ~~section clause~~ 5.5 of this Council Policy and will not be included the Elected Members training allowance allocation.

Formatted: Not Highlight

### 3.2 Professional Membership

In addition to eligible events, Elected Members may elect to utilise a portion of their budget allocation for Professional Membership. Professional Membership must relate to their role as an Elected Member in local government and be approved by the Chief Executive Officer.

## 4. Definitions

**Event** means conferences, seminars, forums, workshops, courses, study tours, information training sessions and other like events conducted within Australia and internationally.

## 5. Policy statement

### 5.1 Request for Attendance

Elected Members or the Chief Executive Officer who wish to attend an event may make application by completing a training and development application form detailing the following:

- (a) Title, location and dates
- (b) Program
- (c) Anticipated benefits to the City from attendance
- (d) Total estimated costs including accommodation, travel and sundry expenses.
- (e) If applicable, name of accompanying person requesting to attend an official event dinner ~~which the Elected Member will be responsible for payment of. The City will arrange the booking of the accompanying person; however, the payment of the accompanying person must be made by the Elected Member.~~

All applications are to be forwarded to the Chief Executive Officer in reasonable time to meet the event registration deadline, and preferably to meet any 'early bird' registration deadline. ~~Approvals in respect to the Chief Executive Officer must be forwarded to the Mayor.~~

### 5.2 Attendance Approval

#### 5.2.1 Conditions for granting approval include:

- (a) Generally, no more than two Elected Members may attend a particular event outside Western Australia at the same time, unless Council has resolved for additional Elected Members to attend. If the Mayor requests the Chief Executive Officer to attend, this will be in addition to the maximum number of Elected Members attending. The maximum number of two Elected Members attending an event outside of Western Australia does not apply to study tours. All Elected Members are entitled to attend a study tour if they meet the conditions set out ~~at clause in~~ 5.2.2 of this Policy.
- (b) That approval of attendance at events does not impede a quorum at any scheduled Council or Committee meetings.

Formatted: Not Highlight

**5.2.2** Approval for Elected Members attendance may be granted by:

- (a) The Chief Executive Officer where the:
  - (i) Application complies with this policy;
  - (ii) Event is to be held within Australia or New Zealand; and
  - (iii) Estimated expenses incurred by the City for each event are less than \$4000 per Elected Member.
- (b) Resolution of Council; where the:
  - (i) Application does not comply with this policy;
  - (ii) Estimated event expenses exceed the available balance of the Elected Member's annual expense allocation;
  - (iii) Event is to be held outside of Australia or New Zealand; or
  - (iv) Estimated expenses incurred by the City for each event are greater than \$4000 per Elected Member.

~~5.2.3 Approval the Chief Executive Officer attendance may be granted by:~~

- ~~(a) The Mayor where the:~~
  - ~~(i) Application complies with this policy;~~
  - ~~(ii) Event is to be held within Australia or New Zealand; and~~
  - ~~(iii) Estimated expenses incurred by the City for each event are less than \$4000.~~
- ~~(b) Resolution of Council; where the:~~
  - ~~(i) Application does not comply with this policy;~~
  - ~~(ii) Estimated event expenses exceed the available balance of the Chief Executive Officer's annual expense allocation;~~
  - ~~(iii) Event is to be held outside of Australia or New Zealand; or~~
  - ~~(iv) Estimated expenses incurred by the City for each event are greater than \$4000.~~

**5.3 Professional Membership and Attendance – Interstate and Intrastate Restrictions**

**5.3.1** An Elected Member or the Chief Executive Officer who has failed to fulfil the obligations of this Policy in attending a prior event, namely by failing to provide a report arising from attendance at an event, in accordance with Clause 5.8, is ineligible to attend any future event unless authorisation is granted by Council.

Formatted: Not Highlight

**5.3.2** ~~Other than the Mayor, Councillors~~~~Elected Members~~ who only have two calendar months of their term of office remaining are not eligible to attend events. Elected Members can attend an event at their own expense if they only have two calendar months of their term of office remaining.

**5.3.3** Elected Members who request professional membership to be paid in a year that their term of office is not a full financial year, will only have the membership paid in full (if their annual allowance allows) and in the event they become a retired Elected Member, Council will seek the proportion paid for the days of the membership period paid that they no longer hold office.

Formatted: Default, Indent: Left: 2.54 cm, Hanging: 0.96 cm, Space After: 0 pt, Line spacing: single

## 5.4 Event Registration and Bookings

Air fares, conference registration fees and accommodation are to be arranged directly by the City. Delegates are not to pay such costs and seek reimbursement, except in the case of an emergency or unique circumstances, following the approval of either the Mayor or the Chief Executive Officer. ~~In respect to an application by the Chief Executive Officer approval of the Mayor will be required.~~

## 5.5 Expenses

Subject to approval being granted to attend an event, ~~by the Mayor (in the case of the applicant being the Chief Executive Officer), the~~ Chief Executive Officer or Council as applicable, the following expenses are to be met:

### 5.5.1 Travel

Where travel is involved, the actual cost of travel to and from the event venue are to be met by the City for the respective Elected Member ~~or the Chief Executive Officer.~~

- (a) All air travel is to be by Economy Class (unless otherwise provided for by Council Policy) at a time that is convenient to the Elected Member or the Chief Executive Officer. As far as is practicable, advantage should be taken of any available discount fares including advance purchased fares. Upgraded seats can be secured at the Elected Member ~~or the Chief Executive Officer's~~ cost (noting that the cost difference is to be determined as the amount between the lowest discounted economy fare available and the upgraded cost).
- (b) Where in particular circumstances an Elected Member ~~or the Chief Executive Officer~~ desire to travel interstate or intrastate by private motor vehicle, they are to be reimbursed for vehicle costs in accordance with the *State Public Service Award 1992*, but only up to an equivalent amount that would have been expended had arrangements been made to travel by air.
- (c) Elected Members ~~and the Chief Executive Officer~~ must not receive any personal frequent flyer or accommodation loyalty points for air travel or accommodation booked and paid for by the City.

### 5.5.2 Registration

Registration fees may include, where applicable, event registration, conference program dinners, technical tours and accompanying workshops identified within the event program.

### 5.5.3 Accommodation

Reasonable accommodation for the Elected Member ~~or the Chief Executive Officer~~ for a room at or in close proximity to the event venue. Allowance for delegates to arrive the day prior to the start of the event and depart the day following the close of the event are acceptable if it is not reasonable to expect travel to occur on the days of the conference.

Formatted: Font: Italic



Should an Elected Member ~~or the Chief Executive Officer~~ wish to upgrade their accommodation standard or extend their visit for personal reasons not associated with approved City business, all extended stay and additional costs associated with that stay are to be met by the Elected Member ~~or the Chief Executive Officer~~ (including any additional airfare costs).

#### 5.5.5 Meals and Incidental Expenses

Funding for meals and incidental expenses is to be provided in accordance with the ~~State Public Service Award 1992~~ conditions of service and allowances ~~set out in the State Public Service Award 1992~~:-

- (a) Meals expenses are to be interpreted as reasonable expenses incurred for the purchase of breakfast, lunch and dinner where these are not provided at the event or in travel. The extent to which an Elected Member ~~or the Chief Executive Officer~~ can be reimbursed for intrastate or interstate travel and accommodation costs is at the same rate applicable to reimbursement of travel and accommodation costs in the same or similar circumstances under the *State Public Service Award 1992*. The Elected Member ~~or the Chief Executive Officer~~ is not required to acquit the allowance paid.

Note: When meals are included and have been paid for as part of the registration fee or accommodation costs, claims for alternative meals at venues other than the event is not to be paid by the City.

- (b) Incidental expenses are to be interpreted as reasonable expenses incurred by the delegate for telephone calls, newspapers, laundry, public transport and sundry food and beverages. The Elected Member ~~or the Chief Executive Officer~~ is not required to acquit the allowance paid.
- (c) In accordance with the *State Public Service Award 1992*, the current cash advance of \$128 per day for interstate or international travel, and \$93 for intrastate travel, will be made to cover meals, incidental expenses and intra-City transport as mentioned in 7.4(a) and (b). The advance can be sought by the delegate prior to departure for the event. ~~The cash advance is broken down accordingly:~~

<b>Meal</b>	<b>Perth</b>	<b>Interstate/International</b>
Breakfast	16.30	21.20
Lunch	16.30	33.20
Dinner	46.50	52.20
Incidentals	14.55	21.70
<b>Total \$</b>	<b>93.65</b>	<b>128.30</b>

#### 5.5.6 Transport

Transport to and from the airport and necessary intra-City movement is via taxi, or any other more ~~cost-effective~~ ~~cost-effective~~ reasonable alternatives are to be provided for by the City. Please note, that cab charges are available from the Executive Assistant to the Chief Executive Officer and Mayor. Receipts must be kept in order for the City to reimburse the Elected Member ~~or Chief Executive Officer~~.

(D14/82821[v7])

#### 5.5.7 Travel Insurance – Intrastate, Interstate and International

Elected Members ~~and the Chief Executive Officer~~ may be covered by the City's travel insurance for the duration of their travel, however it may not be adequate for their own personal level of health and eligibility.

Any Elected Member ~~or the Chief Executive Officer~~ should make themselves familiar with the conditions of the City's Corporate Travel Insurance Policy and Schedule so that the City and/or the delegates can make any alternative decisions and arrangements if need be regarding the intended travel.

#### 5.6 Accompanying persons/entertainment costs

Other than conference dinner and shared accommodation. Elected Members are responsible and will be required to pay all costs associated with an accompanying person attending an event. ~~(including conference dinners and functions). The City may register the accompanying person to an event dinner or function, however all costs must be incurred by the Elected Member.~~

#### 5.7 Acquittal of Expenses

Where an allowance has been paid and the Elected Member ~~or the Chief Executive Officer~~ are provided a meal by the organiser/ related party of the event, upon their return, they must notify the Council Administration Officer (Councillors) / Executive Assistant to the Chief Executive Officer and Mayor (Mayor), to arrange reimbursement of the allowance that was paid for that meal. However, there is no requirement to undertake an acquittal of expenses for other meals and incidentals. Elected Members ~~and the Chief Executive Officer~~ cannot claim for event related meals and incidental expenditure, in excess of the meal and/or incidental allowance.

Request for reimbursement for taxi ~~/uber~~ and other expenses must be submitted with receipts to support the claim.

#### 5.8 Sharing of Knowledge

Within a reasonable time (~~the period of time is not to exceed~~ 30 days) of attendance at an interstate event the Elected Member ~~or the Chief Executive Officer~~ is to provide a written report or presentation (including copies of conference papers where appropriate) concerning the event for the information of other Elected Members and for the City records.

Where appropriate, ~~t~~The Chief Executive Officer is to distribute the report to all other Elected Members.

#### 5.9 Elected Member Mandatory Training

~~Following the 2019 Local Government Election and if~~ In accordance with the *Local Government Act 1995* and the *Local Government (Administration) Regulations 1996*, all newly Elected Members are required to attend Mandatory Training.

### 5.9.1 Training to be completed

Elected Members are required to complete the course titled Council Member Essentials that consists of the following modules —

- (i) Understanding Local Government;
- (ii) Serving on Council;
- (iii) Meeting Procedures;
- (iv) Conflicts of Interest; and
- (v) Understanding Financial Reports and Budgets;

### 5.9.2 Training timeframe

The period within which the course of training must be completed is 12 months, beginning on the day on which the Elected Member is elected, unless exempt under Regulation 36 of the Local Government (Administration) Regulations 1996.

### 5.10 Report on Training

The City must prepare a report for each financial year on the training completed by the Elected Members, within that financial year.

The Chief Executive Officer must publish the report on the City's official website within one month, after the end of the financial year, to which the report relates.

### 5.11 Elected Member Induction

Following each Local Government Election, the City conducts an induction for all newly appointed Elected Members. The induction, depending on the Elected Members experience with being a representative of the City, could include meetings with the City's Executive Team and information provided to assist with their understanding of the roles and responsibilities, legislative obligations and the strategic direction of the City.

Formatted: Indent: Left: 2.5 cm

## 6. References

Date of adoption and resolution No.	21/07/2012 #163
Review dates and resolution No.	26/02/2014 #104 12/11/2014 #304 24/04/2018 #150 13/06/2018 #192 26/06/2019 #482 28/07/2021 #TBA
Next review due date	2023
Related documents	<b>Acts/Regulations</b> <i>Local Government Act 1995</i> Section 2.7 – Role of Council Division 10 – Training and Development  <i>Local Government (Administration) Regulations 1996</i> Part 10 - Training

(D14/82821[v7])

	<p><i>State Public Service Award 1992</i></p> <p><b>Plans/Strategies/Policies/Processes</b></p> <p>D12/48178[v7] – Elected Members Training and Development Application</p> <p>D14/87288[v3] – Elected Members Training and Development Report</p> <p>Promapp – Process an Elected Members Expense Claim</p> <p><u>Elected Member and Chief Executive Officer Attendance at Events Policy</u></p>
--	---

**Note:** Changes to references may be made without the need to take the Policy to Council for review.

### 18.3 Compliance and Enforcement Policy

#### SUMMARY:

As part of the City of Kwinana's (The City) ongoing review of Council policies it has been identified that a Compliance and Enforcement Policy is required.

To ensure that there is a clear direction and framework for the integrated compliance function of the City, it was deemed that a Council policy would direct officers in how best to deal with compliance related matters in the City and what needed to be considered for a proper investigation to be undertaken.

This Policy provides a framework, to inform the community of Council's position in relation to the compliance of legislation, including the circumstances which will be considered when assessing compliance and enforcement actions. More specifically it provides guidance to ensure:

- Consistency in decision making and provide for good governance;
- Ensure transparency, procedural fairness and the principles of natural justice are preserved; and
- Use compliance and enforcement strategies to best achieve legislated objectives in the interests of the City of Kwinana.

#### OFFICER RECOMMENDATION:

**That Council adopt the Compliance and Enforcement Policy, as at Attachment A.**

#### DISCUSSION:

Approximately 5 years ago, the City determined to integrate planning compliance into the Essential Services Team. This resulted in the then planning compliance officer being transferred into this new team to create an integrated compliance function of Council.

At that time the focus was primarily on accommodating the planning compliance related needs of the City.

However, as the service continued to evolve under the new direction, it was soon determined that more than planning compliance investigations and follow up were required and the area of compliance needed to take into consideration other compliance related issues, such as swimming pool and verge permit inspection needs, as well as both building and engineering compliance related matters.

Noting this and following a more recent review of the Essential Services team structure, in late 2019 – 2020, it was determined that for the integrated compliance function to achieve its full functional requirements that additional resources were required, this would also allow for the short to medium term needs for the City, whilst also providing a career development opportunity for other staff within the Essential services team.

### 18.3 COMPLIANCE AND ENFORCEMENT POLICY

The review determined that a total of 3 officers were to be allocated to the compliance area, (1 Senior Compliance officer and 2 Compliance officers). These officers were tasked to oversee all matters related to planning, building, engineering and health (where appropriate) compliance.

The City is committed to providing quality customer service in all of its' interactions. Fairness, compassion and opportunity are key considerations when it comes to responding to complaints received and in particular how the City responds to non-compliance matters.

It was identified that each department or section involved in compliance or enforcement, had their own established processes and handling standards, however the City as whole had not established set parameters or standards.

Upon identifying this deficiency, the City sought to address this and established a working group to develop the City's first ever Compliance and Enforcement policy that is supported by operational standards and processes for all authorised and delegated officers to follow.

The Compliance and Enforcement Policy provides a guide for City's authorised or delegated officers in the way they are to handle the complainant and compliance process, and highlights steps which need to be considered when investigating a compliance or enforcement matter.

The policy itself will guide all staff in how they undertake enforcement, and investigation considerations, guide officers on how they are to manage or action any default notices, orders or directions, and how to best determine an enforcement outcome.

#### **LEGAL/POLICY IMPLICATIONS:**

*Local Government Act 1995 - 5.103 - Code of Conduct and other related subsections*  
*Corruption, Crime and Misconduct Act 2003*

*Local Government (Rules of Conduct) Regulations 2007*

*State Administrative Tribunal Act 2004*

Guidelines for complaint management in organisations (AS/NZS 10002-2014)

Guidelines for dealing with unreasonable complainant conduct (Ombudsman of Western Australia)

Other state legislation for which City's officer are authorised or delegated to deal with

#### **FINANCIAL/BUDGET IMPLICATIONS:**

There are no financial/budget implications as a result of this report.

#### **ASSET MANAGEMENT IMPLICATIONS:**

There are no asset management implications as a result of this report.



### 18.3 COMPLIANCE AND ENFORCEMENT POLICY

#### **PUBLIC HEALTH AND ENVIRONMENTAL IMPLICATIONS:**

There are no public health or environmental implications as a result of this report.

#### **STRATEGIC/SOCIAL IMPLICATIONS:**

Strategic Community Plan 2021-2031- 3.1 and 3.2

#### **COMMUNITY ENGAGEMENT:**

There are no community engagement implications as a result of this report.

# **Council Policy**

## **Compliance & Enforcement**



<b>Council Policy</b>	Compliance & Enforcement
Legal Authority	Local Government Act 1995, Building Act 2011, Planning and Development Act 2005, Environmental Protection Act 1986, Cat Act 2011, Dog Act 1976, Bush Fire Act 1954, Food Act 2008, Health (Miscellaneous Provisions) Act 1911, Public Health Act 2016, Waste Avoidance and Resource Recovery Act 2007; Caravan Parks and Camping Grounds Act 1995, Biosecurity and Agriculture Management Act 2007, Tobacco Products Control Act 2006, Litter Act 1979 and subsidiary legislation.
Directorate	City Development and Sustainability

## 1. Policy purpose

To state the City's objectives and principles that will guide the City of Kwinana's Local Government Authorised Officer's implementation of compliance and enforcement action to ensure consistent and good governance.

## 2. Policy statement

The Local Government Authorised Officers are responsible for administering a wide range of legislation providing for the safety and amenity of the community. This Policy serves to inform the community of Council's position in relation to compliance of legislation, including the circumstances, which will be considered when assessing different compliance and enforcement options.

The policy will provide guidance to:

- ensure consistency in decision making and provide for good governance;
- ensure transparency, procedural fairness and that the principles of natural justice are preserved;
- use compliance and enforcement strategies in such a way as to best achieve legislated objectives and provide for the good government of the City of Kwinana.

## 3. Scope

The policy applies to all City of Kwinana Authorised Local Government Officers, who have regulatory responsibility within the Kwinana district:

- Local Government Act 1995;
- Building Act 2011;
- Planning and Development Act 2005;
- Dog Act 1976;

- Cat Act 2011;
- Bush Fire Act 1954;
- Litter Act 1979
- Hope Valley Wattleup Re Development Act 2000
- Caravan Parks and Camping Grounds Act 1995;
- Food Act 2008;
- Health (Miscellaneous Provisions) Act 1911;
- Public Health Act 2016;
- Tobacco Products Control Act 2006;
- Biosecurity and Agriculture Management Act 2007;
- Waste Avoidance and Resource Recovery Act 2007;
- Environmental Protection Act 1986; and
- All-subsidary legislation as amended.

This Policy is made subject to existing state policies and legislation in existence and applies to all land within the City of Kwinana.

#### 4. Definitions

**Compliance** - refers to a corporation or person meeting or taking steps to comply with relevant legislation in place.

**Enforcement** - means procedures and actions taken by the City's Authorised Officers to ensure that a person or organisation complies with their statutory obligations.

**Local Government Authorised Officer**- A City of Kwinana employee or contractor, other than a Councilor, appointed by council to carry out a compliance functions or an enforcement function under legislation.

**Non-compliance** - means a breach of relevant legislation administered by the City's Authorised Officers.

**Prosecution** - means of the taking of legal proceedings against a person (s) or corporation, as defined in Law, for alleged unlawful activity.

**Public Interest** - means the interests of the community as a whole, or a group within the community or individuals.

**Trivial** - an allegation made without real grounds, of insignificant value or importance.

**Remedial** - means an intent to correct something that is wrong or to improve a bad situation

## **5. Principles of enforcement**

The City will carry out its enforcement related work with due regard to the following principles:

### **i. Graduated and proportionate**

The City's actions will be scaled to the seriousness of the non-compliance.

Prosecution will generally be used as a last resort, or for serious offences. The City's financial resources are finite and will not be used to pursue cases that are trivial or not in the public interest.

### **ii. Consistency, unbiased and equitable**

The City will take a similar approach in similar cases to achieve similar outcomes. While decisions on enforcement require the use of professional judgement and discretion to assess varying circumstances, the City will follow listed standard operating procedures to ensure fair, equitable and unbiased treatment in every case.

### **iii. Accountable and transparent**

The City will be open and transparent about the manner in which it undertakes enforcement activities. When remedial action is needed the City will explain clearly why the action is necessary, identify the action required to achieve compliance and the timeframe for completing that action. Timeframes set for achieving compliance will be reasonable and may take into consideration individual circumstances.

### **iv. Natural justice**

The City will follow the principles of natural justice in every investigation by properly and genuinely considering all relevant submissions and evidence in each case, and by ensuring all parties to the matter have the right to be heard.

## **6. Compliance approach to implementing regulatory responsibility**

The City will adopt the following approach to ensure appropriate implementation of its regulatory responsibilities:

- (1) Respond to all regulatory complaints received having regard for Council Policies.
- (2) Adopt a proactive approach to identifying and investigating non-compliance by implementing an enforcement work plan as required.
- (3) Refer matters to external agencies, where appropriate, when the allegation falls outside the City's jurisdiction.
- (4) Review its compliance and enforcement activities and incorporate lessons learned into policy, operating procedures and broader compliance tools.

## **7. Responding to complaints**

All complaints concerning unlawful activity that are within the City's jurisdiction will be investigated except in the following circumstances where discretion may be used:

- (1) The allegation is trivial.
- (2) The complaint has been made primarily as a result of a neighbourhood dispute.
- (3) The City is not the appropriate authority to investigate the matter.
- (4) Where the complainant is anonymous, unless the matter is considered to be a significant risk to public health, public safety or the environment or a significant impact on the amenity of a locality and there is sufficient information in the complaint to enable an investigation to be undertaken.

## **8. Enforcement approach to implementing regulatory responsibility**

Where an investigation has been undertaken and it is considered that sufficient evidence exists to determine non-compliance, the City will take the most appropriate enforcement action based on the specific circumstances of each case.

The decision to take enforcement action and the type of action taken will be at the discretion of the City and will be made having due regard to this Policy.

### **i. Key considerations when making this determination will include:**

- (a) The type of offence (first, second, third);
- (b) Voluntary action by the offender to remedy the non-compliance;
- (c) Cooperation given to the City by the offender and willingness to commit to remedial actions;
- (d) Failure to comply with informal requests, lawful directions or notices given by the City;
- (e) The seriousness of the incident having regard to the potential impacts on the community, amenity, the environment and the impacts on people;
- (f) Issues of public concern, including the need for specific and general



deterrence;

- (g) Legal precedents and statutory time limits; and
- (h) The public interest and the financial risk to the City.

**ii. The City may take no enforcement action, discontinue or withdraw after investigation where:**

- (a) The individual or entity has made good the non-compliance;
- (b) Having considered the nature of the non-compliance, an educative approach to preventing the matter from re-occurring is considered most appropriate;
- (c) There is insufficient evidence to prove non-compliance after reasonable attempts have been made by the City to investigate the matter;
- (d) The matter is considered trivial or;
- (e) Does not align with the Strategic intent or objectives of the City
- (f) The matter falls outside the City's legal area of authority; or
- (g) Having regard for the legal capacity of the alleged offender, is determined that an alternative approach to achieving compliance is more appropriate.

**9. Acting in default of notices, orders and directions**

- (1) Where under legislation it is authorised to do so, the City may enter on to private land to carry out works in a situation where the owner, occupier or person has failed to commence or complete remedial works specified in a written notice, and the non-compliance with the Notice has been verified beyond reasonable doubt.
- (2) The City may undertake works on private property where:
  - (a) There is a significant risk to a person's health, to public safety, the natural environment or local amenity as a result of the continued non-compliance with the Notice;
  - (b) The person upon whom the Notice has been issued has significant health issues that are considered to be preventing the person from complying with the notice; or
  - (c) The works required to be undertaken are minor and the estimated costs associated with completing the remedial works are minimal.
- (3) Should works be undertaken by the City on private property as a result of non-compliance with a Notice, this action does not preclude the City from commencing legal action for non-compliance with the Notice.
- (4) The City may seek to recover its fair and reasonable costs in all cases because of undertaking works on private land.

## 10. Undertaking enforcement action

- (1) The City's Authorised Local Government Officer with relevant delegated authority or authorisation may initiate the enforcement action.
- (2) The City will use the most appropriate action necessary, which may include one or more of the following enforcement options:
  - (a) pursue no further action
  - (b) informal action
  - (c) formal warning
  - (d) infringements
  - (e) prohibition orders
  - (f) seizures
  - (g) written directions and orders
  - (h) formal notices
  - (i) prosecutions and or injunctions
- (3) Nothing in this policy precludes the City from commencing prosecution in respect of a noncompliance at any time.

Date of adoption and resolution No.	Insert the date on which the Policy was first adopted by Council and the resolution No.
Review dates and resolution No.	List the dates on which the Policy was reviewed by Council and the resolution No.s
Next review due date	Insert the date on which the next review should be completed by.
Related documents	<b>Acts/Regulations</b> <ul style="list-style-type: none"><li>• Local Government Act 1995;</li><li>• Building Act 2011;</li><li>• Planning and Development Act 2005;</li><li>• Dog act 1976;</li><li>• Cat Act 2011;</li><li>• Bush Fire Act 1954;</li><li>• Litter Act 1979</li><li>• Hope Valley Wattleup Re Development Act 2000</li><li>• Caravan Parks and Camping Grounds Act 1995;</li><li>• Food Act 2008;</li><li>• Health (Miscellaneous Provisions) Act 1911;</li><li>• Public Health Act 2016;</li><li>• Tobacco Products Control Act 2006;</li><li>• Biosecurity and Agriculture Management Act 2007;</li></ul>

	<ul style="list-style-type: none"> <li>• Waste Avoidance and Resource Recovery Act 2007;</li> <li>• Environmental Protection Act 1986; and</li> <li>• All-subsidary legislation as amended.</li> </ul>
--	--

**Note:** Changes to references may be made without the need to take the Policy to Council for review.

DRAFT

**19 Notices of motions for consideration at the following meeting if given during the meeting**

**20 Late and urgent Business**

Note: In accordance with Clauses 3.13 and 3.14 of Council's Standing Orders, only items resolved by Council to be Urgent Business will be considered.

**COUNCIL DECISION**

**###**

**MOVED CR**

**SECONDED CR**

**That Council deal with the ..... items of urgent business as presented in the Addendum to the Agenda.**

**21 Reports of Elected Members**

**22 Answers to questions which were taken on notice**

Nil

**23 Mayoral Announcements**

**24 Confidential items**

**25 Close of meeting**