

Ordinary Council Meeting

9 August 2023

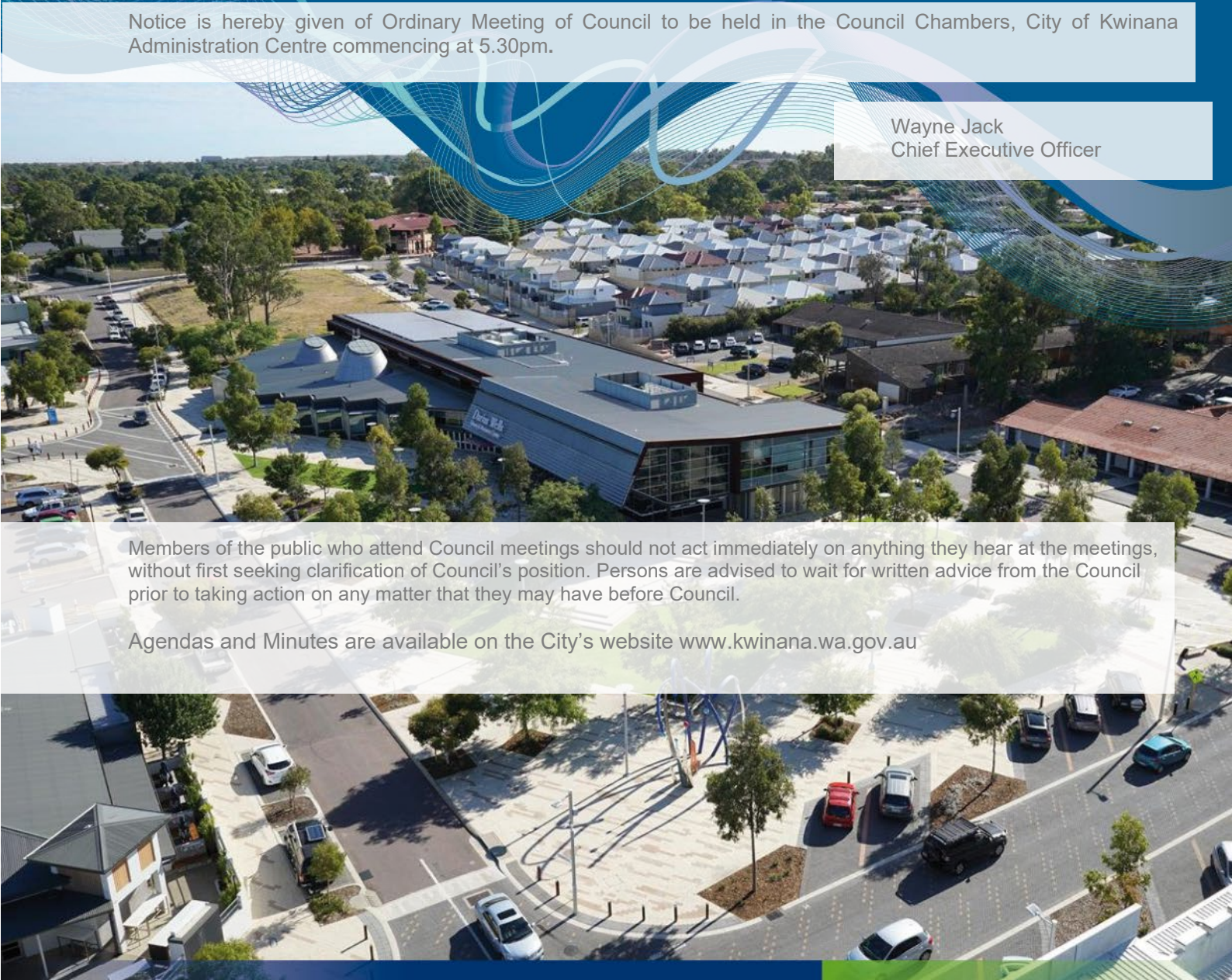
Agenda

Notice is hereby given of 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



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1 OPENING AND ANNOUNCEMENT OF VISITORS

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

Presiding Member to announce that the Ordinary Council Meeting is being live streamed and recorded in accordance with the City's Live streaming and Recording Council Meetings policy.

By being present at this meeting, members of the public consent to the City recording and livestreaming their image and/or voice.

2 WELCOME TO COUNTRY AND ACKNOWLEDGEMENT OF COUNTRY

Councillor Barry Winmar to present the Welcome to Country:

"Ngullak nyinniny kooralong koora ngullak noitj nidja noongar boodjar. Noongar moort djoorapiny nyinniny nidja ngulla quopadok noongar boodjar kooralong.

From the beginning of time to the end, this is Noongar Country. Noongar people have been graceful keepers of our nation for many, many years.

Djinanginy katatjin djoorapiny nidja weern noongar boodjar ngalla mia mia boorda.

Look, listen, understand and embrace all the elements of Noongar Country that is forever our home.

Kaya wandju ngaany koort djoorpiny nidja Noongar boodjar daadjaling waankganinyj Noongar Boodjar.

Hello and welcome my heart is happy as we are gathered on country and meeting here on Noongar 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

Deputy Mayor Peter Feasey 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:

Unknown at the time of issuing the agenda.

Leave(s) of Absence (previously approved):

Councillor D Wood from 4 August 2023 to 11 August 2023 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 –

- be addressed to the Mayor;
- be made by electors of the district;
- state the request on each page of the petition;
- contain at least five names, addresses and signatures of electors making the request;
- contain a summary of the reasons for the request;
- state the name of the person to whom, and an address at which, notice to the petitioners can be given; and
- 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 –

- that the petition be received;
- that the petition be rejected; or
- 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:

- 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.
- setting out the agenda item to which the deputation relates;
- whether the deputation is supporting or opposing the officer's or committee's recommendation; and
- 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 MINUTES OF THE ORDINARY COUNCIL MEETING HELD ON 26 JULY 2023

RECOMMENDATION

That the Minutes of the Ordinary Council Meeting held on 26 July 2023 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 —

in a written notice given to the CEO before the meeting; or
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 —

before the meeting the CEO is to cause the notice to be given to the person who is to preside at the meeting; and
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

10 ITEMS BROUGHT FORWARD FOR THE CONVENIENCE OF THOSE IN THE PUBLIC GALLERY

11 ANY BUSINESS LEFT OVER FROM PREVIOUS MEETING

Nil

12 RECOMMENDATIONS OF COMMITTEES

Nil

13 ENBLOC REPORTS

14 REPORTS – COMMUNITY

Nil

15 REPORTS – ECONOMIC

15.1 SALE OF LAND FOR UNPAID RATES

SUMMARY

This report seeks Council approval to proceed with the sale of six properties within the City of Kwinana due to unpaid rates and charges in accordance with section 6.64 of the *Local Government Act 1995* ('Act'). City officers have exhausted all other options in regard to recovering the outstanding debts of these properties.

OFFICER RECOMMENDATION

That Council approve the sale of land in accordance with section 6.64 of the *Local Government Act 1995* for the following properties:

- 1. Assessment 9404**
- 2. Assessment 16453**
- 3. Assessment 17768**
- 4. Assessment 18290**
- 5. Assessment 21847**
- 6. Assessment 23818**

VOTING REQUIREMENT

Simple majority

DISCUSSION

The Rates Collection Policy outlines the City's processes when attempting to collect outstanding rates and charges. When a rates account is not paid or an instalment option is not chosen by the due date, the City will undertake the following actions before legal action is commenced:

- Issue a final notice.
- Check that the ownership details are correct as per the certificate of title at Landgate.
- Check the City's electronic document management system for any further information.
- Attempt to contact the ratepayer three times by phone.
- Issue a notice of intended legal action letter.
- Attempt to contact the ratepayer another three times by phone.
- Send text message(s) if mobile number available.
- Email ratepayer requesting contact if an email address is available.

If the ratepayer fails to pay the outstanding balance or submit an acceptable payment arrangement to pay the debt during this time, the City then attempts to recover the debt through the Magistrates Court by lodging a Minor Case Claim if the debt balance is under \$10,000 or a General Procedure Claim if the balance is over \$10,000. Once the court grants judgment on the claim, the City can pursue the debt through the Magistrates Court by:

- Serving a Means Inquiry Summons – where the debtor (ratepayer) is summonsed to court to disclose their financial details to the Magistrates Court in order to determine the ratepayer's ability to pay the debt.
- Serving a Property Seizure and Sale Order – where goods are seized by the bailiff of the court to pay the debt.
- Serving a Default Inquiry Summons – if the debtor fails to comply with a court order as a result of a Means Inquiry hearing, the City can request that the debtor be summonsed back to court to enforce the court order.
- Warrant for Arrest – if the debtor (ratepayer) fails to attend court after being served a summons, the City can then apply for a Warrant for Arrest for the bailiff of the court to execute.

Depending on each situation, different course of court action can be taken in order to attempt to recover the debt.

Table 1 below is a summary of outstanding amounts as well as the recovery action taken by City officers to date in relation to the 6 listed properties within the district.

Table 1 – Particulars of properties and recovery actions taken

Assessment Zoning Period Outstanding Amount Outstanding Payment Recovery Action	9404 TPS2 Residential R12.5/20 2019/2020 – 2022/2023 \$11,017.42 11/11/2022 \$150.00 27/10/2022 Payment arrangement 23/01/2023 Payment arrangement cancelled 23/01/2023 Notice of Intended Legal Action letter 24/03/2023 Minor Case Claim lodged 248/2023 16/04/2023 Minor Case Claim served 5/05/2023 Letter sent to mortgagee with certificate of judgment. Response Owner does not have capacity to pay outstanding balance
Assessment Zoning Period Outstanding Amount Outstanding Payment Recovery Action	16453 TPS2 Residential R20 2018/2019 – 2023/2024 \$20,639.40 18/03/2023 \$50.00 17/11/2022 Notice of Intended Legal Action letter 7/12/2022 Demand letter issued from lawyers to owners 7/12/2022 Demand letter issued from lawyers to Department of Communities 13/02/2023 General Procedure Claim lodged 125/2023 14/02/2023 General Procedure Claim served 17/03/2023 Letter sent to mortgagee with certificate of judgment Response Owners do not have capacity to pay outstanding balance
Assessment Zoning Period Outstanding Amount Outstanding Payment Recovery Action	17768 Development 2018/2019 – 2023/2024 \$23,132.49 21/06/2019 \$200 23/11/2022 Notice of Intended Legal Action issued 7/12/2022 Demand letter issued from lawyers to owners 13/02/2023 General Procedure Claim lodged 126/2023 14/02/2023 General Procedure Claim served 17/03/2023 Letter sent to mortgagee with certificate of judgment

Response	Owners do not have the capacity to pay the outstanding rates and charges
Assessment Zoning Period Outstanding Amount Outstanding Payment Recovery Action Response	18290 TPS2 Residential R25 2018/2019 – 2023/2024 \$13,755.02 26/11/2020 \$143.00 10/05/2022 Sale of Land letter issued 15/03/2022 Notice of Intended Legal Action letter 21/06/2022 Minor Case Claim 587/2022 24/06/2022 Minor Case Claim served 19/07/2022 Letter sent to mortgagee with certificate of title 24/08/2022 Means Inquiry Summons lodged 26/08/2022 Means Inquiry Summons served 13/10/2022 Warrant for arrest for non-appearance 17/11/2022 Means Inquiry hearing adjourned 30/03/2023 Means Inquiry hearing adjourned The owners have no capacity to pay the outstanding rates and charges
Assessment Zoning Period Outstanding Amount Outstanding Payment Recovery Action Response	21847 Residential 2019/2020 – 2023/2024 \$10,484.77 11/09/2019 \$532.93 2/11/2022 Notice of Intended Legal Action letter 28/11/2022 Minor Case Claim lodged 1170/2022 5/12/2022 Failed attempt to serve claim 7/12/2022 Failed attempt to serve claim 15/12/2022 Failed attempt to serve claim 17/12/2022 Affidavit for non-service Owner is avoiding service of minor case claim and not responding to any correspondence from the City
Assessment Zoning Period Outstanding Amount Outstanding Payment Recovery Action Response	23818 Development 2019/2020 – 2023/2024 \$10,988.13 No payments received from this ratepayer 15/03/2022 Notice of Intended Legal Action letter 24/03/2023 Minor Case Claim lodged 255/2023 16/04/2023 Minor Case Claim served 5/05/2023 Letter sent to mortgagee with certificate of judgment. Owner is not responding to any contact or correspondence from the City. The owner has not paid any rates since the settlement agent paid the balance when the owner purchased the property in 2018.

A summary of the owners of the properties referred to above is contained in a confidential attachment to this report.

The next option available to the City is to sell the land in accordance with section 6.64 of the Act. In order for the City to be able to do this, the arrears balance must span over at least three years prior to the current financial year and the City must have attempted court action to recover the debt. This is true for all of the listed assessments in Table 1.

The process for the sale of land in accordance with section 6.64 of the Act can be outlined as follows:

- Council resolves to sell the properties.
- City to notify ratepayer and other interested parties (e.g., mortgagees, memorial holders, caveators etc) by post that the City takes possession of the property and its intention to sell the land by issuing the prescribed Form 2;
- City to notify ratepayer and other interested parties by post that the City has taken possession of the property by affixing the prescribed Form 3 to the property.
- City to notify ratepayer and other interested parties by post that unless payment is received within 3 months from date of notice (prescribed Form 4), the property will be sold by auction.
- City to appoint an auctioneer to sell the property and set a date for the auction.
- City to advertise the auction date state-wide by using the prescribed Form 5.
- Auction date.
- If the property is passed in at auction i.e., the bidding does not reach the reserve price, the City can then sell the property by private treaty during the 12 months following the auction date; and
- If the property is still not sold within the 12 months after the auction date, the City can then transfer ownership to itself and dispose of the property however it wishes.

City officers have undertaken all reasonable efforts to recover the outstanding rates and charges owed to the City. These ratepayers are either unable or not willing to meet their obligations to pay their rates and charges and if no action is taken, the debt will continue to accumulate.

It should be noted that even if the City resolves to sell the properties listed, the ratepayer still has until the auction date to stop the process by paying the outstanding balance. In the past 5 financial years, the City has resolved to sell 30 properties. Out of those 30 properties, 20 have paid in full, 6 are on payment arrangements, 3 properties are currently being progressed through the sale of land process and only 1 property was sold by Council. In some instances, the mortgagee has decided to pay the outstanding balance to stop the process and protect their investment.

It is therefore recommended that the City proceed with the sale of land process for these assessments in order to recover the outstanding rates and charges owing on each property.

STRATEGIC IMPLICATIONS

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

SOCIAL IMPLICATIONS

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

LEGAL/POLICY IMPLICATIONS

Rates Collection Council Policy section 5.1.3(c) states:

If rates and service charges which are due to the City in respect of any rateable land remain unpaid for at least three (3) years, and reasonable attempts to commence legal action have been made, the City may take possession of the land under the provisions of Section 6.64 of the Local Government Act 1995. The approval of Council is required to be obtained before this course of action is undertaken.

Local Government Act 1995 states:

6.56. Rates or service charges recoverable in court

- (1) *If a rate or service charge remains unpaid after it becomes due and payable, the local government may recover it, as well as the costs of proceedings, if any, for that recovery, in a court of competent jurisdiction.*
- (2) *Rates or service charges due by the same person to the local government may be included in one writ, summons, or other process.*

6.64. Actions to be taken

- (1) *If any rates or service charges which are due to a local government in respect of any rateable land have been unpaid for at least 3 years the local government may, in accordance with the appropriate provisions of this Subdivision take possession of the land and hold the land as against a person having an estate or interest in the land and —*
 - (a) *from time to time lease the land; or*
 - (b) *sell the land; or*
 - (c) *cause the land to be transferred to the Crown; or*
 - (d) *cause the land to be transferred to itself.*
- (2) *On taking possession of any land under this section, the local government is to give to the owner of the land such notification as is prescribed and then to affix on a conspicuous part of the land a notice, in the form or substantially in the form prescribed.*
- (3) *Where payment of rates or service charges imposed in respect of any land is in arrears the local government has an interest in the land in respect of which it may lodge a caveat to preclude dealings in respect of the land, and may withdraw caveats so lodged by it.*

FINANCIAL/BUDGET IMPLICATIONS

Costs associated with selling the property will include valuer and auctioneer fees that will be added to the relevant rate accounts and recovered when the property sells. This will have a nil effect to the City's budget.

If the outstanding rates and charges are not recovered, the funds available to the City to spend on its programs and services are reduced.

ASSET MANAGEMENT IMPLICATIONS

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

ENVIRONMENTAL/PUBLIC HEALTH IMPLICATIONS

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

COMMUNITY ENGAGEMENT

Public notices will be issued in accordance with the Act.

ATTACHMENTS

- A. Attachment A - Confidential**
- B. Attachment B - Confidential**
- C. Attachment C - Confidential**
- D. Attachment D - Confidential**
- E. Attachment E - Confidential**
- F. Attachment F - Confidential**

16 REPORTS – NATURAL ENVIRONMENT

Nil

17 REPORTS – BUILT INFRASTRUCTURE

Nil

18 REPORTS – CIVIC LEADERSHIP**18.1 POLICY REVIEW - CITY OF KWINANA ELECTED MEMBERS, COMMITTEE MEMBERS AND CANDIDATES CODE OF CONDUCT****SUMMARY**

The City of Kwinana Elected Members, Committee Members and Candidates – Code of Conduct (Code of Conduct) was adopted by Council in February 2021.

In addition to incorporating the provisions of the mandatory provisions of the *Local Government (Model Code of Conduct) Regulations 2021* (Regulations), the Code of Conduct addresses such matters as communications with the public (including social media use), lobbying, transparency of decision making as well as statutory reporting mechanisms.

The Code of Conduct has been reviewed, with minor amendments made. To align with changes to the *Local Government Act 1995* (Act) as part of the current reform by State Government, Council are no longer able to allow participation by a Councillor in a matter which concerns the donor of a gift (or a series of gifts in a 12-month period) valued above \$300 to such Councillor.

A copy of the Code of Conduct as reviewed and amended is provided at Attachment A and is recommended for adoption by Council.

OFFICER RECOMMENDATION

That Council adopt the reviewed and amended City of Kwinana Elected Members, Committee Members and Candidates – Code of Conduct as at Attachment A.

VOTING REQUIREMENT

Simple majority

DISCUSSION

All Western Australian Local Governments are required to have a code of conduct which addresses the behavioural standard expected of its Elected Members.

The City's Code of Conduct incorporate the fundamental requirements set out in the Regulations. It also exceeds the requirements of the Regulations with respect to communications with the public, lobbying, transparency of decision making.

The Code of Conduct has been reviewed to ensure it remains consistent with the requirements of the Act with respect to participation in meetings involving the donor of a gift above the prescribed amount of \$300.

STRATEGIC IMPLICATIONS

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

SOCIAL IMPLICATIONS

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

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.*

5.103. Model code of conduct for council members, committee members and candidates

- (1) *Regulations must prescribe a model code of conduct for council members, committee members and candidates.*
- (2) *The model code of conduct must include —*
 - (a) *general principles to guide behaviour; and*
 - (b) *requirements relating to behaviour; and*
 - (c) *provisions specified to be rules of conduct.*
- (3) *The model code of conduct may include provisions about how the following are to be dealt with —*
 - (a) *alleged breaches of the requirements referred to in subsection (2)(b);*
 - (b) *alleged breaches of the rules of conduct by committee members.*
- (4) *The model code of conduct cannot include a rule of conduct if contravention of the rule would, in addition to being a minor breach under section 5.105(1)(a), also be a serious breach under section 5.105(3).*
- (5) *Regulations may amend the model code of conduct.*

5.65. Members' interests in matters to be discussed at meetings to be disclosed

- (1) *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.*

Penalty: \$10 000 or imprisonment for 2 years.

- (2) *It is a defence to a prosecution under this section if the member proves that he or she did not know —*
 - (a) *that he or she had an interest in the matter; or*
 - (b) *that the matter in which he or she had an interest would be discussed at the meeting.*
- (3) *This section does not apply to a person who is a member of a committee referred to in section 5.9(2)(f).*

5.66. Meeting to be informed of disclosures

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.*

FINANCIAL/BUDGET IMPLICATIONS

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

ASSET MANAGEMENT IMPLICATIONS

No asset management implications have been identified as a result of this report or recommendation.

ENVIRONMENTAL/PUBLIC HEALTH IMPLICATIONS

No environmental or public health implications have been identified as a result of this report or recommendation.

COMMUNITY ENGAGEMENT

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

ATTACHMENTS

- A. City of Kwinana Elected Members, Committee Members and Candidates – Code of Conduct**



City of Kwinana Elected Members, Committee Members and Candidates – Code of Conduct



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1. Introduction

This is the City of Kwinana Code of Conduct for Elected Members, Committee Members and Candidates (Code of Conduct). It sets out general principles to guide the behaviour of Elected Members, committee members and candidates.

The Code addresses the broader issue of ethical responsibility and encourages greater transparency and accountability. It further encourages a commitment to ethical and professional behaviour and outlines principles on which individual and collective local government responsibilities may be based.

The Code of Conduct is complementary to the principles adopted in the *Local Government Act 1995* and Regulations which incorporate four fundamental aims:

- (a) better decision making by local governments.
- (b) greater community participation in the decisions and affairs of local governments.
- (c) greater accountability of local government to their communities; and
- (d) more efficient and effective local government.

2. Definitions

(1) In this Code:

Act means the *Local Government Act 1995*.

Activity involving a local government discretion means an activity:

- (a) that cannot be undertaken without an authorisation from the local government; or
- (b) by way of a commercial dealing with the local government.

Administration Regulations means the *Local Government (Administration) Regulations 1996*.

CEO means the Chief Executive Officer of the City.

Candidate means a candidate for election as an Elected Member.

City means City of Kwinana.

Committee means a committee established by Council under the Act.

Committee Member means a member of a committee of the City.

complaint means a complaint made under Division 5 of this Code of Conduct.

Council means the Elected Members of the City.

Designated employee means:

- (a) a CEO.
- (b) an employee, other than the CEO, to whom any power or duty has been delegated under Division 4.
- (c) an employee who is a member of a committee comprising Elected Members and employees; and
- (d) an employee nominated by the City to be a designated employee.

Elected Member means a person who holds the office of Mayor or Councillor on the Council.

employee means a person employed by the City.

gift means a gift as defined by section 5.57 of the *Local Government Act 1995*.

interest means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest and includes an interest arising from kinship, friendship or membership of an association.

local law means any local law adopted by Council.

notifiable gift means, in relation to a person who is an Elected Member or designated employee:

- (a) a gift worth between \$50 and \$300; or
- (b) a gift that is one of 2 or more gifts given to the Elected Member or employee by the same person within a period of 6 months that are in total worth between \$50 and \$300.

from a person who is undertaking or seeking to undertake or who it is reasonable to believe is intending to undertake an activity involving a local government discretion.

prohibited gift in relation to a person who is an Elected Member or employee, means —

- (a) a gift worth \$300 or more; or
- (b) a gift that is one of two or more gifts given to the Elected Member or employee by the same person within a period of six months that are in total worth \$300 or more.

from a person who is undertaking or seeking to undertake or who it is reasonable to believe is intending to undertake an activity involving a local government discretion.

Public interest information means information that —

- (a) relates to the performance of a public function by a public authority, public officer, or public sector contractor (either before or after the commencement of the *Public Interest Disclosure Act 2003* ('PID Act')); and
- (b) shows or tends to show that a public authority, a public officer, or a public sector contractor is, has been or proposes to be involved in.
 - (i) improper conduct; or
 - (ii) an act or omission that constitutes an offence under a written (State) law; or
 - (iii) substantial unauthorised or irregular use of, or substantial mismanagement of, public resources or.
 - (iv) an act done or omission that involves a substantial and specific risk of:
 - injury to public health; or
 - damage to property of the local government; or
 - prejudice to public safety; or
 - harm to the environment; or
 - a matter of administration that can be investigated under section 14 of the *Parliamentary Commissioner Act 1971* by the Parliamentary Commissioner (Ombudsman Western Australia).

Publish includes to publish on a social media platform.

Regulations means any regulations made under the Act.

Social media means websites and applications that enable users to create and share content or to participate in social networking, including but not limited to Facebook, Snapchat, Instagram, and LinkedIn.

Harassment is an action, conduct or behaviour that is viewed as unwelcome, humiliating, intimidating or offensive by the recipient.

Bullying is repeated verbal, physical, social, or psychological abuse by a person or group of people.

- (2) Other terms used in this code that are also used in the Act have the same meaning as they have in the Act unless the contrary intention appears.

3. Roles

3.1 Role of Elected Members

The primary role of an Elected Member is to represent the community, and the effective translation of the community's needs and aspirations into a direction and future for the local government will be the focus of the Elected Member's public life.

The role of Elected Members is set out at section 2.10 of the Act as follows:

"A Councillor:

- (a) represents the interests of electors, ratepayers, and residents of the district.*
- (b) provides leadership and guidance to the community in the district.*
- (c) facilitates communication between the community and the council.*
- (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."*

The role of the Mayor is set out at section 2.8(1) of the Act as follows:

- (1) The Mayor or President —*
 - (a) presides at meetings in accordance with this Act; and*
 - (b) provides leadership and guidance to the community in the district; and*
 - (c) carries out civic and ceremonial duties on behalf of the local government; and*
 - (d) speaks on behalf of the local government; and*
 - (e) performs such other functions as are given to the Mayor or President by this Act or any other written law; and*
 - (f) liaises with the CEO on the local government's affairs and the performance of its functions.*

An Elected Member is part of the team in which the community has placed its trust to make decisions on its behalf and the community is therefore entitled to expect high standards of conduct from its elected representatives. In fulfilling the various roles, Elected Members activities will focus on:

- achieving a balance in the diversity of community views to develop an overall strategy for the future of the community.
- achieving sound financial management and accountability in relation to the local government's finances.
- ensuring that appropriate mechanisms are in place to deal with the prompt handling of residents' concerns.
- working with other governments and organisations to achieve benefits for the community at both a local and regional level.

- having an awareness of the statutory obligations imposed on Elected Members and on local governments.

In carrying out its functions a local government is to use its best endeavours to meet the needs of current and future generations through an integration of environmental protection, social advancement, and economic prosperity.

3.2 Role of Committee Members

The role of committees is generally to deliberate upon matters within their authority as determined by Council, and to give advice and/or make recommendations to Council.

3.3 Role of Council

The Role of the Council is in accordance with section 2.7 of the Act:

- "(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."*

4. General principles

4.1 Overview of Division

This Division sets out general principles to guide the behaviour of Elected Members, committee members and candidates.

4.2 Personal integrity

- (1) An Elected Member, committee member or candidate should —
- (a) act with reasonable care and diligence; and
 - (b) act with honesty and integrity; and
 - (c) act lawfully; and
 - (d) identify and appropriately manage any conflict of interest; and
 - (e) avoid damage to the reputation of the local government.
- (2) An Elected Member or committee member should —
- (a) act in accordance with the trust placed in Elected Members and committee members; and
 - (b) participate in decision-making in an honest, fair, impartial and timely manner; and
 - (c) actively seek out and engage in training and development opportunities to improve the performance of their role; and
 - (d) attend and participate in briefings, workshops and training sessions provided or arranged by the local government in relation to the performance of their role.

4.3 Relationship with others

- (1) An Elected Member, committee member or candidate should —
 - (a) treat others with respect, courtesy, and fairness; and
 - (b) respect and value diversity in the community.
- (2) An Elected Member or committee member should maintain and contribute to a harmonious, safe and productive work environment.

4.4 Accountability

An Elected Member or committee member should —

- (a) base decisions on relevant and factually correct information; and
- (b) make decisions on merit, in the public interest and in accordance with statutory obligations and principles of good governance and procedural fairness; and
- (c) read all agenda papers given to them in relation to council or committee meetings; and
- (d) be open and accountable to, and represent, the community in the district.

4.5 Gifts

A gift is defined under section 5.57 of the Act as a conferral of a financial benefit (including a disposition of property) made by one person in favour of another person unless adequate consideration in money or money's worth passes from the person in whose favour the conferral is made to the person who makes the conferral. It includes any contributions to travel.

There are two aspects to gifts: disclosure of receipt and disclosing an interest when a matter comes before council or when the CEO provides advice or a report to council.

4.6 Disclosing the receipt of a gift

In accordance with the Act, Elected Members (section 5.87A) and CEOs (section 5.87B) are required to disclose gifts that are received in their capacity as Elected Member or CEO and:

- are valued over \$300; or
- are of a cumulative value that exceeds \$300 where the gifts are received from the same donor in a 12-month period. Additionally, a gift given by two or more related bodies corporate (as defined by section 50 in the *Corporations Act 2001* (Cth)) is considered to have been given by a single corporation.

All such gifts must be disclosed within ten days of receipt: the CEO makes the disclosure to the Mayor; Elected Members make the disclosure to the CEO. The CEO must update the gifts register within ten days and an up-to-date version of the register is required to be published on the local government's official website. Form 4 of the *Local Government (Administration) Regulations 1996* sets out the information that is to be disclosed:

- a description of the gift.
- the name and address of the donor.
- the date of receipt.
- the estimated value of the gift.
- the nature of the relationship between the donor and recipient; and
- in the case of travel, the date of the travel and a description
- in the case of an excluded gift, the date of the approval and reasons for the approval.

4.7 Interests in matters before council

The interest relating to gift provisions recognises that a relationship is created between the donor and a recipient of a gift which could be perceived to affect decision-making. This type of conflict arises when an Elected Member accepts a gift over \$300 within a year (either as one gift or cumulatively) from the same donor as it creates a close association under section 5.62 of the Act.

Where the donor of a gift has a matter before council from which the donor could benefit or suffer detriment, the Elected Member must disclose this interest in writing to the CEO before the meeting or immediately before the matter is discussed.

Unless the gift was received from WALGA, ALGA, LGPro, State, Commonwealth or another local government, an Elected Member must not participate or provide advice on a matter involving a closely associated person.

An Elected Member, that has disclosed an interest under section 5.65 of the Act, is not allowed to be present during any discussion or decision-making procedure, if the disclosure relates to:

- an electoral gift; or
- 1 or more gifts made by 1 person that exceed the prescribed amount.

If it is the CEO who has the interest relating to a gift, and the gift is valued at up to \$1,000, the council can allow the CEO to provide advice or a report, if they believe the nature of the interest is unlikely to influence the CEO. If the council decides that the interest is not trivial or insignificant and could be perceived to influence, the CEO should make arrangements for another employee to provide the advice or report.

4.8 Gifts excluded from the interest provisions

Certain gifts are specifically excluded from the conflict-of-interest provisions. These are gifts relating to attendance at an event where attendance has been approved by the council in accordance with the council endorsed Attendance at Events policy, and gifts from specified entities. Regulation 20B of the *Local Government (Administration) Regulations* prescribe the specified entities as WALGA (but not LGIS), ALGA, LG Professionals, a State public service department, a Commonwealth, State or Territory government department or another local government or regional local government.

Gifts from any of these sources must still be disclosed and published on the gifts register if they are over \$300 in a twelve-month period.

4.9 Gifts received during election periods

The *Local Government (Elections) Regulations 1997* provide for the disclosure of electoral gifts in a separate electoral gift register and are not required to be disclosed again under section 5.87A.

In accordance with section 30C of *Local Government (Elections) Regulations 1997*:

- (1) *For the purposes of regulation 30B(1) and 30CA(1), the period commences 6 months before the relevant election day, and concludes —*
 - a) *3 days after the election day, for unsuccessful candidates; or*
 - b) *on the start day for financial interest returns for successful candidates under section 5.74 of the Act.*
- (2) *Where a delay results from a declaration from the Court of Disputed Returns the period of delay is to be added to the 6 month period set out in subregulation (1)*
- (3) *If the day the local government (Elections) Amendment Regulations 2009 regulation 3 comes into operation 1 (the **commencement day**) is less than 6 months before a relevant election day, the period set out in subregulation (1) commences on the commencement day.*

5. Behaviour

5.1 Overview of Division

This Division sets out —

- (a) requirements relating to the behaviour of Elected Members, committee members and candidates; and
- (b) the mechanism for dealing with alleged breaches of those requirements.

5.2 Personal integrity

- (1) An Elected Member, committee member or candidate —
 - (a) must ensure that their use of social media and other forms of communication complies with this code; and
 - (b) must only publish material that is factually correct.
- (2) An Elected Member or committee member —
 - (a) must not be impaired by alcohol or drugs in the performance of their official duties; and
 - (b) must comply with all policies, procedures, and resolutions of the local Government.

5.3 Relationship with others

- (1) An Elected Member, committee member or candidate —
 - (a) must not bully or harass another person in any way;
 - (b) must deal with the media in a positive and appropriate manner and in accordance with any relevant policy of the local government;

- (c) must not use offensive or derogatory language when referring to another person; and
- (d) must not disparage the character of another Elected Member, committee member or candidate or a local government employee in connection with the performance of their official duties; and
- (e) must not impute dishonest or unethical motives to another Elected Member, committee member or candidate or a local government employee in connection with the performance of their official duties.

5.4 Council or committee meetings

When attending a council or committee meeting, an Elected Member, committee member or candidate —

- (a) must not act in an abusive or threatening manner towards another person; and
- (b) must not make a statement that the member or candidate knows, or could reasonably be expected to know, is false or misleading; and
- (c) must not repeatedly disrupt the meeting; and
- (d) must comply with any requirements of a local law of the local government relating to the procedures and conduct of council or committee meetings; and
- (e) must comply with any direction given by the person presiding at the meeting; and
- (f) must immediately cease to engage in any conduct that has been ruled out of order by the person presiding at the meeting.

5.5 Complaint about alleged breach

- (1) A person may make a complaint, in accordance with subclause (2), alleging a breach of a requirement set out in this Division.
- (2) A complaint must be made —
 - (a) in writing in the form approved by the local government; and
 - (b) to a person authorised under subclause (3); and
 - (c) within 1 month after the occurrence of the alleged breach.
- (3) The local government must, in writing, authorise 1 or more persons to receive complaints and withdrawals of complaints.

5.6 Dealing with complaint

- (1) After considering a complaint, the local government must, unless it dismisses the complaint under subclause (2) or the complaint is withdrawn, make a finding as to whether the alleged breach of the subject of the complaint has occurred.
- (2) Before making a finding in relation to the complaint, the local government must give the person to whom the complaint relates a reasonable opportunity to be heard (with such timeframe as is reasonable in the circumstances).
- (3) A finding that the alleged breach has occurred must be based on evidence from which it may be concluded that it is more likely that the breach occurred than that it did not occur.

- (4) If the local government makes a finding that the alleged breach has occurred, the local government may —
 - (a) take no further action; or
 - (b) prepare and implement a plan to address the behaviour of the person to whom the complaint relates.
- (5) When preparing a plan under subclause (4)(b), the local government must consult with the person to whom the complaint relates.
- (6) A plan under subclause (4)(b) may include a requirement for the person to whom the complaint relates to do 1 or more of the following —
 - (a) engage in mediation.
 - (b) undertake counselling.
 - (c) undertake training.
 - (d) issue an apology.
 - (e) take other action the local government considers appropriate.
- (7) If the local government makes a finding in relation to the complaint, the local government must give the complainant, and the person to whom the complaint relates, written notice of —
 - (a) its finding and the reasons for its finding; and
 - (b) if its finding is that the alleged breach has occurred — its decision under subclause (4).

5.7 Dismissal of complaint

- (1) The local government must dismiss a complaint if it is satisfied that —
 - (a) the behaviour to which the complaint relates occurred at a council or committee meeting; and
 - (b) either —
 - (i) the behaviour was dealt with by the person presiding at the meeting; or
 - (ii) the person responsible for the behaviour has taken remedial action in accordance with a local law of the local government that deals with meeting procedures.
- (2) If the local government dismisses a complaint, the local government must give the complainant, and the person to whom the complaint relates, written notice of its decision and the reasons for its decision.

5.8 Withdrawal of complaint

- (1) A complainant may withdraw their complaint at any time before the local government makes a finding in relation to the complaint.
- (2) The withdrawal of a complaint must be —
 - (a) in writing; and
 - (b) given to a person authorised under clause 11(3).

5.9 Other provisions about complaints

- (1) A complaint about an alleged breach by a candidate cannot be dealt with by the local government unless the candidate has been elected as an Elected Member.
- (2) The procedure for dealing with complaints may be determined by the local government to the extent that it is not provided for in this Division.

6. Rules of conduct

6.1 Overview of Division

- (1) This Division sets out rules of conduct for Elected Members and candidates.
- (2) A reference in this Division to an Elected Member includes an Elected Member when acting as a committee member.

6.2 Misuse of local government resources

- (1) In this clause —
electoral purpose means the purpose of persuading electors to vote in a particular way at an election, referendum or other poll held under the Act, the Electoral Act 1907 or the Commonwealth Electoral Act 1918.
resources of a Local Government includes —
 - (a) local government property; and
 - (b) services provided, or paid for, by a local government.
- (2) An Elected Member must not, directly, or indirectly, use the resources of a local government for an electoral purpose or other purpose unless authorised under the Act, or by the local government or the CEO, to use the resources for that purpose.

6.3 Securing personal advantage or disadvantaging others

- (1) An Elected Member must not make improper use of their office —
 - (a) to gain, directly or indirectly, an advantage for the Elected Member or any other person; or
 - (b) to cause detriment to the local government or any other person.
- (2) Subclause (1) does not apply to conduct that contravenes section 5.93 of the Act or The Criminal Code section 83.

6.4 Prohibition against involvement in administration

- (1) An Elected Member must not undertake a task that contributes to the administration of the local government unless authorised by the local government or the CEO to undertake that task.
- (2) Subclause (1) does not apply to anything that an Elected Member does as part of the deliberations at a council or committee meeting.

6.5 Relationship with local government employees

- (1) In this clause —
local government employee means a person —
 - (a) employed by a local government under section 5.36(1) of the Act; or
 - (b) engaged by a local government under a contract for services.

- (2) An Elected Member or candidate must not —
 - (a) direct or attempt to direct a local government employee to do or not to do anything in their capacity as a local government employee; or
 - (b) attempt to influence, by means of a threat or the promise of a reward, the conduct of a local government employee in their capacity as a local government employee; or
 - (c) act in an abusive, threatening or demeaning manner towards a local government employee.
- (3) Subclause (2)(a) does not apply to anything that an Elected Member does as part of the deliberations at a council or committee meeting.
- (4) If an Elected Member or candidate, in their capacity as an Elected Member or candidate, is attending a council or committee meeting or other organised event (for example, a briefing or workshop), the Elected Member or candidate must not orally, in writing or by any other means —
 - (a) make a statement that a local government employee is incompetent or dishonest; or
 - (b) use an offensive or objectionable expression when referring to a local government employee.
- (5) Subclause (4)(a) does not apply to conduct that is unlawful under The Criminal Code Chapter XXXV.

6.6 Disclosure of information

- (1) In this clause —
 - closed meeting** means a council or committee meeting, or a part of a council or committee meeting, that is closed to members of the public under section 5.23(2) of the Act.
 - confidential document** means a document marked by the CEO, or by a person authorised by the CEO, to clearly show that the information in the document is not to be disclosed.
 - document** includes a part of a document.
 - non-confidential document** means a document that is not a confidential document.
- (2) An Elected Member must not disclose information that the Elected Member —
 - (a) derived from a confidential document; or
 - (b) acquired at a closed meeting other than information derived from a non-confidential document.
- (3) Subclause (2) does not prevent an Elected Member from disclosing information —
 - (a) at a closed meeting; or
 - (b) to the extent specified by the council and subject to such other conditions as the council determines; or
 - (c) that is already in the public domain; or
 - (d) to an officer of the Department; or
 - (e) to the Minister; or
 - (f) to a legal practitioner for the purpose of obtaining legal advice; or
 - (g) if the disclosure is required or permitted by law.

6.7 Disclosure of interests

- (1) In this clause —
Interest —
 - (a) means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest; and
 - (b) includes an interest arising from kinship, friendship, or membership of an association.
- (2) An Elected Member who has an interest in any matter to be discussed at a council or committee meeting attended by the Elected 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.
- (3) Subclause (2) does not apply to an interest referred to in section 5.60 of the Act.
- (4) Subclause (2) does not apply if an Elected Member fails to disclose an interest because the Elected Member did not know —
 - (a) that they had an interest in the matter; or
 - (b) that the matter in which they had an interest would be discussed at the meeting and the Elected Member disclosed the interest as soon as possible after the discussion began.
- (5) If, under subclause (2)(a), an Elected Member discloses an interest in a written notice given to the CEO before a meeting, then —
 - (a) before the meeting the CEO must cause the notice to be given to the person who is to preside at the meeting; and
 - (b) at the meeting the person presiding must bring the notice and its contents to the attention of the persons present immediately before any matter to which the disclosure relates is discussed.
- (6) Subclause (7) applies in relation to an interest if —
 - (a) under subclause (2)(b) or (4)(b) the interest is disclosed at a meeting; or
 - (b) under subclause (5)(b) notice of the interest is brought to the attention of the persons present at a meeting.
- (7) The nature of the interest must be recorded in the minutes of the meeting.
- (8) If a plan under in relation to a council member includes a requirement, the council member must comply with such requirement.

7. Lobbying

7.1 Responsibilities

7.1.1 Mayor

The role of the Mayor includes being a key community leader and the principal spokesperson of the City of Kwinana. The Mayor is to establish partnerships, network and actively promote Council's interests where opportunities arise.

7.1.2 Elected Members

The role of Elected Members is to represent their community, advocate on their behalf to various stakeholders and government bodies and work towards delivering the vision of the City of Kwinana. Elected Members are a valuable link between the community and the local government and play a key role in communicating messages to the community.

7.2 Inappropriate Lobbying

It is in the public interest that lobbying is fair and does not undermine public confidence in impartial decision-making. Lobbying is a two-way process between Elected Members and lobbyists.

Elected Members should take care that their duty to consider issues fairly and properly is not compromised by participating in lobbying practices that are outside the bounds of appropriate or lawful behaviour.

It is not possible to define every type of activity that could constitute inappropriate or unlawful lobbying. Generally, however, inappropriate or unlawful, conduct on the part of someone lobbying an Elected Member usually involves an attempt to obtain preferential consideration or treatment based on factors other than the merits of the matter. Examples include:

- (i) accepting undisclosed payments or benefits while making a decision that affects the gift giver's interests.
- (ii) accepting a political donation in return for the favourable exercise of discretion during decision making.
- (iii) granting access to a particular individual or group while unreasonably denying similar access requested by another party.
- (iv) fettering discretion by giving undertakings to an interested party prior to considering all the information relevant to a decision.
- (v) acting in a manner that exceeds the role of an Elected Member as defined in section 2.8, 2.9 or 2.10 of the Act.
- (vi) disclosing confidential information while being lobbied; and
- (vii) being unduly influenced by factors that are irrelevant to the merits of the matter under consideration.

7.3 Transparency

Elected Members should exercise judgement when deciding whether to be involved in private meetings with people seeking to influence a Council decision. Suspicions of inappropriate lobbying can occur when lobbying is not open to public scrutiny. Regardless of whether such suspicions are justified, they still have the potential to undermine public confidence in Council decision-making and adversely affect an Elected Member's reputation.

Transparency is the means of governing accountability and perceptions of fairness in lobbying processes. There are a number of ways Elected Members can help ensure transparency whilst being lobbied. These include:

- documenting meetings with proponents.
- generally conducting meetings in official locations, such as City premises.
- having other people present during meetings.
- inviting applicants who have approached them for a meeting to discuss significant developments, to write to the City seeking a meeting with all Elected Members and employees.
- providing copies of information presented during lobbying meetings to City employees for consideration and assessment (if required), distribution to other Elected Members and filing as part of the City records.
- asking people who have requested a meeting to put their arguments in writing; and
- making a declaration at a Council meeting about lobbying activities they have been engaged in that are not part of Council's formal processes.

7.4 Tendering

The lobbying of Elected Members, the CEO, or other employees by tenderers about the outcome of a tender process is not permissible.

8. Communication and Public Relations

8.1 Communication

- a) Unless on approved leave of absence or unavailable for other reasons, Elected Members shall respond to all written, electronic, and verbal enquiries in a timely manner.
- b) All aspects of communication by Elected Members (including verbal, written or personal), involving the City's activities should reflect the status and objectives of Council. Communications should be accurate, polite and professional.
- c) Elected Members should avail themselves of advice from a council officer to ensure their communications are accurate and in accordance with council policy.

8.2 Record Keeping

Elected members have a unique and pivotal role within the local government and the community. They represent the interests of electors, residents and ratepayers, participate in local government decision making at council and committee meetings, and facilitate communication between the community and the Council.

The State Records Commission policy regarding the records of local government elected members requires the creation and retention of records of the:

“...communications and transactions of elected members which constitute evidence affecting the accountability of the Council and the discharge of its business.”

Elected Members are required to maintain a record of all required correspondence in accordance with the State Records Office of Western Australia – Local Government Elected Members Records.

8.3 Mayor to Speak on Behalf of Council

The Mayor or CEO will only express the view or position of Council, where Council has formally determined a view or position. Where Council has not determined the matter or has no clear view/position, the Mayor or CEO may express a personal view, providing they clearly preface such remarks as being their own personal view and not those of Council.

8.4 Corporate Obligations

As representatives of the community, Elected Members need to be not only responsive to community views, but to adequately communicate the attitudes and decisions of Council. In doing so Elected Members should acknowledge that:

- a) as a member of Council there is respect for the decision-making processes of Council, which are based on a decision of the majority of Council.
- b) information relating to decisions of Council on approvals, permits and so on ought to be communicated in an official capacity by a designated employee of the City.
- c) information concerning adopted policies, procedures and decisions of Council is conveyed accurately; and
- d) information of a confidential nature shall not be communicated until it is no longer treated as confidential.

8.5 Expression of Personal Views

Elected Members are free to make their own personal position known about any matter. It should be made clear that any views expressed are their own and do not necessarily reflect a formal position of the City of Kwinana Council.

Elected Members will not adversely reflect on a Council Decision.

8.6 Comment during Public Consultation Period

- will refrain from making public comment expressing a personal opinion or prejudice a matter whilst the matter is being advertised for public comment and/or is yet to be considered and determined by Council.
- will clearly preface any of their remarks as being their own personal views and not those of Council or possibly be construed to be on behalf of Council; and
- will encourage members of the public to make a submission to the City.
- The Mayor and/or CEO may take appropriate action (including issuing a statement to the media) to correct any misinformation or erroneous information which is in the public arena.

8.7 Defamation

Elected Members should acknowledge that:

- a) Comments by Elected Members at meetings of Council and/or committees, forums, working or advisory groups of the City are not covered from defamation action by absolute privilege.
- b) Elected Members should ensure that comments made are pertinent to the business of local government and they are not made maliciously or without due regard to whether they represent the truth.

9. Social Media Guidelines for Elected Members

The language and approach used on-line is to be consistent with what the community would expect from an Elected Member.

Elected Members should:

- remember the Mayor and the CEO are the official spokespersons for the City as per the Act; any statements on behalf of the City should only be made with specific authority.
- clearly label content and responses as their own personal views and not those of the City or Council.
- ensure content is accurate, relevant and complies with current policies.
- avoid offensive, defamatory, intimidating, and provocative language, and avoid commenting on or liking posts that contain this type of language.
- avoid making personal comments about other Elected Members, staff or members of the community.
- maintain a positive and respectful tone.
- adhere to copyright, privacy, defamation, discrimination, harassment and other applicable laws.
- observe confidentiality.
- remember Council decision making is by majority, and while there may be decisions that are disagreed with, alternative points of view should be made respectfully and constructively.
- where requests for service or official feedback has been posted, comments should encourage direct contact with the City to enable the matter to be dealt with;
- where misinformation or factually incorrect information is posted, encourage the original poster to make contact with the relevant contact at the City for clarification.
- consider the appropriateness of liking, sharing or reacting to another person's/organisation post on Social Media, as it is taken to be an endorsement of that material.
- not to make public statements expressing their opinion on matters before the Council that would indicate a predetermined voting position.

The intent of these guidelines is to protect Elected Members and assist in ensuring that the use of all forms of online and social media by Elected Members aligns with the position of the City and reflective of their professional position and standing in the community.

10. Other Statutory Reporting Mechanisms

10.1 Corruption, Crime and Misconduct Act 2003

Elected Members and Committee Members must be aware of the *Corruption, Crime and Misconduct Act 2003* which requires the Principal Officer of an organisation (ie, the CEO) to report possible misconduct or corruption to the Commission.

Section 175 of the *Corruption, Crime and Misconduct Act 2003* provides that a person must not:

- a) threaten to prejudice the safety or career of any person.
- b) intimidate or harass, or threaten to intimidate or harass, any person; or
- c) do an act that is, or is likely to be, to the detriment of any person, because the person mentioned in paragraph (a), (b) or (c), or someone else, gave evidence to, or helped, the Commission, the Public Sector Commissioner or the Parliamentary Inspector in the performance of their functions.

10.2 Public Interest Disclosure Act 2003 ('Whistle Blower Legislation')

The *Public Interest Disclosure Act 2003* facilitates the reporting of public interest information and provides protection for those who report this information under that Act.

A public interest disclosure is a disclosure which is made by a person who discloses to the City's nominated Public Interest Disclosure Officer, information which tends to show that the City, or an employee or a contractor of the City, may be involved in activity which constitutes:

- improper conduct
- action which may constitute an offence under a written law
- substantial, unauthorised or irregular use of or mismanagement of public resources
- a substantial and specific risk of injury to public health, prejudice to public safety or harm to the environment; or
- a matter of administration which could be investigated by the Ombudsman.

A person who makes an appropriate disclosure of public interest information to the City's nominated Public Interest Disclosure Officer under section 5 of the *Public Interest Disclosure Act 2003*:

- a) incurs no civil or criminal liability for doing so.
- b) is not, for doing so, liable:
 - i. to any disciplinary action under a written law.
 - ii. to be dismissed.
 - iii. to have his or her services dispensed with or otherwise terminated; or
 - iv. for any breach of duty of secrecy or confidentiality or any other restriction on disclosure (whether or not imposed by a written law) applicable to the person.

A person who makes a false or misleading disclosure commits an offence and is liable to a significant fine or a term of imprisonment.

11. Implementation, Review and Compliance

11.1 Implementation and Review

- a) The original Code of Conduct was first adopted by the City on 28 November 1990 and is reviewed and amended as required by the *Act*.
- b) Council currently review the Code of Conduct after each ordinary election (i.e., every two years) and any amendments to the Code of Conduct will be subsequently communicated to Elected Members, Committee Members, employees and the community.

11.2 Adherence to the Code

- a) Elected Members are required to make a declaration to comply with Council's Code of Conduct upon being sworn in.
- b) Any Elected Member and Committee Members having concerns with regard to an actual, perceived, potential, intended or unintended breach of either the specific provisions or the spirit of the Code of Conduct, or any provisions of the Act, Regulations, Council policies or local laws, should discuss those concerns with the CEO where such matters relate to Elected Members, Committee Members or the Mayor in the case of matters involving the CEO.
- c) In all matters, the subject of the complaint shall be treated in the strictest confidence until such time as an appropriate investigation has been undertaken.
- d) Any actions taken as a result of a breach will be made in accordance with the provisions of any applicable legislative requirement and the City's responsibilities as an employer.
Serious and/or repeated breaches of the Code of Conduct will be reported to the Council or appropriate authority or relevant person for consideration and appropriate action, where necessary.

11.3 Protection of persons reporting unacceptable or illegal behavior

The CEO is to ensure that Elected Members, Committee Members, and employees who report unacceptable or illegal behaviour of Elected Members or employees (that is, whistleblowers) are not in any way disadvantaged or victimised because of their actions. The CEO's action is limited to matters for which he/she has responsibility and/or jurisdiction to act.

18.2 COUNCIL POLICY REVIEW - ELECTED MEMBERS

SUMMARY

Council policies are high-level statements articulating the intent of the City's strategic objectives and provide high level guidance for the City's operations. Appropriate policies help strengthen the City's governance as well as support consistency in decision-making and outcomes.

Unlike local laws, the *Local Government Act 1995* (Act) does not mandate review timeframes for Council policies. However, the City has determined that policies should be reviewed every two years to ensure they remain contemporary.

As part of the City's ongoing review of Council policies, the following have been examined with only minor amendments made:

- Electoral Caretaker Period
- Elected Members Allowances, Expenses and Gifts
- Elected Members Training and Development
- Elected Member and Chief Executive Officer Attendance at Events.

Copies of the policies as amended are provided at Attachments A – D.

OFFICER RECOMMENDATION

That Council adopt the following amended Council Policies:

- **Electoral Caretaker Period (Attachment A).**
- **Elected Members Allowances, Expenses and Gifts (Attachment B).**
- **Elected Members Training and Development (Attachment C); and**
- **Elected Member and Chief Executive Officer Attendance at Events (Attachment D).**

VOTING REQUIREMENT

Simple majority

DISCUSSION

In accordance with the Act, the following policies have been reviewed and are presented for adoption by Council:

Electoral Caretaker Period Policy

The Electoral Caretaker Period Policy establishes protocols for the purpose of avoiding actual and perceived advantage/disadvantage to a candidate in a Local Government Election through the use of public resources or decisions by Council during the period immediately prior to an election. It also addresses Elected Member candidacy for State and/or Federal Elections in addition to Local Government Elections.

This Policy has undergone a minor amendment following review to ensure it appropriately reflects the recent amendment to the Act, with respect to the changed timeframe for the caretaker period commencing.

Elected Members Allowances, Expenses and Gifts Policy

The Elected Members Allowances, Expenses and Gifts Policy has been reviewed with minor amendments made.

The City provides Elected Members with a suitably equipped ICT device to enable Council related business to be conducted. This is done to ensure the hardware is supported for access to the City's systems and to manage issues such as cyber security. Wording changes to the policy are intended to make it clearer that the cost of ICT hardware provided to Elected Members will be deducted from the information and communications technology allowance over their four-year term of office. This aligns with guidance to Local Governments from the Salaries and Allowances Tribunal.

The Policy has also been amended to reflect the recent change to section 2.25(5B) of the Act which sets out that Elected Members are now entitled to parental leave when themselves, their spouse or de facto partner either:

- gives birth;
- adopts a person under 16 years of age; or
- becomes the guardian or foster parent of a person under 16 years of age.

Elected Members Training and Development Policy

The Elected Members Training and Development Policy has been reviewed and undergone formatting changes. No other amendments have been made.

Elected Member and Chief Executive Officer Attendance at Events Policy

The Elected Member and Chief Executive Officer Attendance at Events Policy has been reviewed and undergone formatting changes. No other amendments have been made.

STRATEGIC IMPLICATIONS

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

SOCIAL IMPLICATIONS

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

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.*

2.8. Role of mayor or president

- (1) *The mayor or president —*
 - (a) *presides at meetings in accordance with this Act; and*
 - (b) *provides leadership and guidance to the community in the district; and*
 - (c) *carries out civic and ceremonial duties on behalf of the local government; and*
 - (d) *speaks on behalf of the local government; and*
 - (e) *performs such other functions as are given to the mayor or president by this Act or any other written law; and*
 - (f) *liaises with the CEO on the local government's affairs and the performance of its functions.*
- (2) *Section 2.10 applies to a councillor who is also the mayor or president and extends to a mayor or president who is not a councillor.*

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.*
- (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

- (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.*
- (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.*
- (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.*

1.4A. Caretaker period

- (1) *In this Act —*
caretaker period, *in relation to a local government, means a period that —*
 - (a) *begins at the close of nominations (as defined in section 4.49(a)) for a relevant election for the local government; and*

- (b) ends —
 - (i) on the day after the day on which the returning officer declares the result of the relevant election under section 4.77; or
 - (ii) if section 4.57(1) applies to the relevant election — on the day after the day on which the close of nominations falls; or
 - (iii) if section 4.58(1) applies to the relevant election — on the day after the day on which the candidate dies.

Section 2.25 (5B) Parental Leave

For the purposes of subsection (5)(c), a member is entitled to parental leave for the period of 6 months beginning on the day on which the member or the member's spouse or de facto partner —

- (a) gives birth; or
- (b) either alone or with another person and whether in the State or elsewhere — adopts, or becomes the guardian or foster parent of, a person who is under 16 years of age.

FINANCIAL/BUDGET IMPLICATIONS

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

ASSET MANAGEMENT IMPLICATIONS

No asset management implications have been identified as a result of this report or recommendation.

ENVIRONMENTAL/PUBLIC HEALTH IMPLICATIONS

No environmental or public health implications have been identified as a result of this report or recommendation.

COMMUNITY ENGAGEMENT

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

ATTACHMENTS

- A. Policy - Electoral Caretaker Period
- B. Policy - Elected Members Allowances, Expenses and Gifts
- C. Policy - Elected Members Training and Development
- D. Policy - Elected Member and Chief Executive Officer Attendance at Events



Council Policy

Electoral Caretaker Period



Council Policy

Legislation/local law requirements	<i>Local Government Act 1995</i> <i>Local Government (Elections) Regulations 1997</i> <i>Local Government (Model Code of Conduct) Regulations 2021</i> <i>Local Government (Elections) Regulations 1996</i>
Related policy procedures and documents	Code of Conduct for Elected Members, Committee Members and candidates Employee Code of Conduct Elected Members Training and Development Policy Elected Members Allowances, Expenses and Gifts Policy

1. Introduction

This policy applies to Elected Members, local government election candidates and employees and specifically applies during a Caretaker Period.

2. 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.

3. Objective

To provide guidance in the lead up to Election Day, ensuring that major decisions which would bind an incoming Council are avoided where possible, preventing the use of public resources in ways that can be seen to be advantageous to, or promoting candidates, and also ensuring staff act impartially in relation to candidates.

4. Scope

This policy applies to Elected Members and employees during a 'Caretaker Period' relevant to:

- a) Decisions made by the Council.
- b) Materials published by the City.
- c) Discretionary community consultation.
- d) Attendance and participation at events and functions in an official capacity.
- e) Use of City resources; and
- f) Access to information held by the City.

Policy Provisions

5. 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 (44 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:

- a) An advertisement in a newspaper announcing the holding of a meeting (section 4.87(3) of the Act);
- b) Any materials exempted under Regulation 78 of the *Local Government (Elections) Regulations 1997*; or
- c) 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

6. Policy

6.1 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.

6.1.1 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.

6.1.2 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

6.1.3 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.

6.1.4 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.

6.2 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.

6.2.1 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.

6.2.2 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.

6.2.3 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.

6.3 Elected Member caretaker period protocols

6.3.1 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).

6.3.2 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.

6.3.3 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.

6.3.4 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.

6.3.5 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.

6.3.6 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.

6.3.7 Elected Member misuse of Local Government resources

An 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.

6.4 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 does 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.

6.4.1 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.

6.4.2 City publications and communications

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

- a) may, 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.

6.4.3 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.

6.4.4 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.

OFFICER USE ONLY

Officers may amend this section without council approval.

Responsible Team	Governance and Legal	
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Next Review Date	Date: 2025	
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Council Policy

Elected Members Allowances, Expenses and Gifts



Council Policy

Legislation/local law requirements	<p><i>Local Government (Administration) Regulations 1996, Part 8</i></p> <p><i>Local Government Act 1995 Sections 2.7, 2.8, 2.10, 2.25, 5.98, 5.98A, 5.99, 5.99A, and 5.100</i></p> <p><i>Salaries and Allowances Act 1975, Part 7B.</i></p> <p>Australian Taxation Office (deductions)</p>
Related policy procedures and documents	<p>Code of Conduct for Elected Members, Committee Members and candidates</p> <p>Elected Members Training and Development Policy</p> <p>Elected Members Caretaker Period Policy</p> <p>Elected Member and Chief Executive Officer Atten</p>

1. Introduction

This policy applies to Elected Members with regards to Allowances, Expenses and Gifts whilst performing their official duties of office.

2. Purpose

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

3. Objective

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.

4. Scope

The policy applies to all Elected Members.

Policy Provisions

5. Definitions

Nil

6. Policy

6.1 Allowances:

6.1.1 Mayoral Allowance

Pursuant to section 5.98(5) of the *Local Government Act 1995*, the Mayor is to receive the maximum annual allowance specified by the Salaries and Allowances tribunal pursuant to the *Salaries and Allowances Act 1975*.

6.1.2 Deputy Mayoral Allowance

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

6.1.3 Annual Meeting Attendance Fees

Pursuant to section 5.98(1)(b) of the *Local Government Act 1995*, the Mayor, and Councillors (Elected Members) are to receive the maximum annual attendance fee specified by the Salaries and Allowances Tribunal pursuant to the *Salaries and Allowances Act 1975*. This annual fee is provided on the basis that each Elected Member regularly attends meetings of Council and such Committees as they are appointed, as well as carry out other responsibilities of their position.

6.1.4 Information and Communications Technology Allowance

Pursuant to section 5.99A of the *Local Government Act 1995*, the City has determined that instead of reimbursing Elected Members for information and communications expenses, it will instead pay 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/or 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.

Elected Members are responsible for providing all consumables for computer equipment, printer, internet, fax, phone, and mobile usage (such as printing cartridges, paper). In addition, any repairs, maintenance to these hardware items is the responsibility of the Elected Member.

6.1.5 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 5th day of the following month.

6. 2. Information and Communication Equipment

6.2.1 ICT Equipment and Office Supplies

The City is to make available to all Elected Members, for use during their term of office, a suitably equipped ICT device for the conduct of Council related business, which is in line with the ICT devices the City uses within the organisation at the date of request.

The cost for this ICT device will be deducted from the information and communications technology allowance over the four-year term of office.

The City does not provide other hardware required to meet their communication needs, such as modems, internet sticks, and handsets, as outlined in section 6.1.4 of this Policy.

A request to purchase an ICT device 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 is namely provided for Council business.

If the standard equipment provided by the City does not suit the Elected Member requirements, the Elected Member must seek the approval of the Chief Executive Officer first and then at their own expense, ensure the preferred equipment is compatible with City ICT systems, purchase 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.

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.

iPads and associated equipment 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. Devices leased by the City (including laptops) are unable to be offered for purchase by Elected Members.

6.2.2 Maintenance of equipment

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 6.2.1 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.

Elected Members are expected to protect and secure supplied ICT equipment as it may contain sensitive or confidential information. This includes physically securing the ICT devices and not leaving them unattended or allowing others to use the device, installing security updates, or making the device available to City maintenance personnel when requested.

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

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

6.3. Reimbursable Expenses

6.3.1 Travelling Expenses

6.3.1.1 Private Vehicles

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

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

- (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.
- (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).

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 –

- (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 kilometers, for the person to travel from the outer boundary of an adjoining local government district to the meeting and back to that boundary.

All claims for reimbursement being lodged with the Council Governance Officer (Elected Members)/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 kilometers and certify the accuracy of information. This should be accompanied by supporting documentation where applicable.

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 adopted by the Australian Taxation Office cents per kilometer method for the applicable financial year.

6.3.1.2 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 elect to travel by way of bus or rail public transport system, expenditure for which is to be reimbursed upon completion of a travel claim form and lodgment of receipts. A taxi (including Uber or similar company) service is also acceptable where this is considered necessary.

6.3.1.3 Parking Fees

Parking fees incurred as a result of travel to any occasion referred to in clause 6.3.1.1 of this policy are to be reimbursed upon 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).

6.3.2 Child care costs

6.3.2.1 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.

6.3.2.2 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.

6.4. Other support/supplies/gifts from the local government**6.4.1 Supplies**

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

- (a) Corporate Jacket
A corporate jacket is to be supplied to each newly Elected Member following their inaugural election to office.

Note: Corporate jackets may be retained by the Elected Member at the expiry of the Elected Member's term of office.

- (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.

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

- (d) Name Badges
 - i. Formal Elected Member name badge.
 - ii. Plastic informal Elected Member name badge.

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

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*.

6.4.2 Insurance

The City is to maintain insurance policies for the benefit of Elected Members as follows:

- (a) Accidental death or injury whilst engaged in the performance of 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.

- (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 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.
- (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
- (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.

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

6.4.4 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 four-year term of office has been served).

6.4.5 Accompanying Person on Official City Business

Where an Elected Member 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.

6.4.6 Parental Leave

Pursuant to section 2.25(5B) of the *Local Government Act 1995*, Elected Members are entitled to parental leave when themselves, or their spouse or de facto partner, either:

- (a) gives birth; or
- (b) either alone or with another person and whether in the State or elsewhere — adopts, or becomes the guardian or foster parent of, a person who is under 16 years of age.

An Elected Member is entitled to 6 months of parental leave beginning on the day on which the Elected Member, or their spouse or de facto partner, gives birth, adopts or becomes a guardian or foster parent. The Act does not allow for the period of parental leave to be deferred to a later date. The period of parental leave can be less than 6 months if desired.

Note: While an Elected Member is on parental leave, their office on council is not to be counted when determining quorum for a meeting.

OFFICER USE ONLY

Officers may amend this section without council approval

Responsible Team	Governance and Legal	
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Council Policy

Elected Members Training and Development



Council Policy

Legislation/local law requirements	Acts/Regulations <i>Local Government Act 1995</i> Section 2.7 – Role of Council Part 5 Division 10 – Training and Development <i>Local Government (Administration) Regulations 1996</i> Part 10 - Training <i>State Public Service Award 1992</i>
Related policy procedures and documents	D12/48178[v7] – Elected Members Training and Development Application D14/87288[v4] – Elected Members Training and Development Report Promapp – Process an Elected Members Expense Claim Elected Member and Chief Executive Officer Attendance at Events Policy

1. Introduction

To provide a framework within which Elected Members will be provided with ongoing training and professional development opportunities that will assist them to undertake their role in a professional manner.

2. Purpose

The purpose of this policy is to –

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

3. Objective

The development of relevant skills and competencies for the Elected Members which will enhance their knowledge, develop their skills, decision making ability and ongoing professional development.

4. Scope

4.1 Eligible Events

4.1.1 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.
- (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 to attend.

4.1.2 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 clause 6.5 of this council policy and will not be included the Elected Members training allowance allocation.

4.2 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.

Policy Provisions

5. Definitions

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

6. Policy statement

6.1 Request for Attendance

Elected Members 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. The City will arrange the booking of the accompanying person.

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.

6.2 Attendance Approval

6.2.1 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 6.2.2 of this policy.
- (b) That approval of attendance at events does not impede a quorum at any scheduled Council or Committee meetings.

This section forms the core of your policy and should contain high-level principles, values and rules that guide the organisation. Statements should link to the policy purpose and provide how the objectives are to be achieved.

6.2.2 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.
- (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.

6.3 Professional Membership and Attendance – Interstate and Intrastate Restrictions

6.3.1 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 6.8, is ineligible to attend any future event unless authorisation is granted by Council.

6.3.2 Other than the Mayor, 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.

6.3.3 Elected Members who request professional membership to be paid in a year that their term of office is not a full financial year, will 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.

6.4 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.

6.5 Expenses

Subject to approval being granted to attend an event, the Chief Executive Officer or Council as applicable, the following expenses are to be met:

6.5.1 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.

- (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. 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 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 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 must not receive any personal frequent flyer or accommodation loyalty points for air travel or accommodation booked and paid for by the City.

6.5.2 Registration

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

6.5.3 Accommodation

Reasonable accommodation for the Elected Member 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.

Should an Elected Member 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 (including any additional airfare costs).

6.5.4 Meals and Incidental Expenses

Funding for meals and incidental expenses is to be provided in accordance with the 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 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 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 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:

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

6.5.5 Transport

Transport to and from the airport and necessary intra-City movement is via taxi, or any other more 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.

6.5.6 Travel Insurance – Intrastate, Interstate and International

Elected Members 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 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.

6.6 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.

6.7 Acquittal of Expenses

Where an allowance has been paid and the Elected Member are provided a meal by the organiser/ related party of the event, upon their return, they must notify the Council Governance Officer (Elected Members) / 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 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.

6.8 Sharing of Knowledge

Within a reasonable time (not exceeding 30 days) of attendance at an interstate event the Elected Member 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, the Chief Executive Officer is to distribute the report to all other Elected Members.

6.9 Elected Member Mandatory Training

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.

6.9.1 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;

6.9.2 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*.

6.10 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.

6.11 Elected Member Induction

Following each Local Government Election, the City conducts an induction for all newly appointed Elected Members. A City of Kwinana Induction Handbook is provided which provides information to assist with their understanding of their roles and responsibilities, legislative obligations and the strategic direction of the City, as well as the Elected Member Induction Program which comprises of the Elected Member Onboarding, meetings with the City's Executive Team and tours of both the Kwinana Facilities and the Kwinana Industrial Area.

The City is supportive of the professional development of its Council and where deemed appropriate additional training arrangements may be made.

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Officers may amend this section without council approval

Responsible Team		
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Council Policy

Elected Member and Chief Executive Officer Attendance at Events



Council Policy

Legislation/local law requirements	Acts/Regulations <i>Local Government Act 1995</i> <i>Local Government (Administration) Regulations 1996</i>
Related policy procedures and documents	Elected Members Allowances, Expenses and Gifts Policy Elected Members Training and Development Policy

1. Introduction

Section 5.90A of the *Local Government Act 1995* (Act) requires that local governments have an attendance at events policy. This policy is made in accordance with those provisions and addresses event attendance by the Elected Members and Chief Executive Officer (CEO) of the City of Kwinana (City). Events include concerts, conferences, functions, or sporting events, whether attending free of charge, as part of a sponsorship agreement or attendance is paid for by the City.

2. Purpose

The purpose of the policy is to promote greater transparency through the establishment of guidelines for the appropriate disclosure and management of event attendance by the City's Elected Members and CEO.

Attendance at an event in accordance with this policy will exclude the gift holder from the requirement to disclose an interest if the ticket is above \$300 and the donor has a matter before council. Any gift received that is less than \$300 (either one gift or cumulative over 12 months from the same donor) also does not need to be disclosed as an interest. Receipt of the gift will still be required under the gift register provisions.

3. Objective

Elected Members and the CEO are required to attend events as part of fulfilling their leadership role in the community. The objective of this policy is to establish guidelines for them doing so.

4. Scope

This policy applies to the City's Elected Members and CEO in attending an event in their official capacity.

This Policy does not apply to events run by the City of Kwinana involving any form of refreshments or entertainment and to which there is an expectation that Elected Members (and spouse) will be invited to attend.

Policy Provisions

5. Definitions

Nil

6. Policy statement

6.1 Invitations – Elected Members

Elected Members and the CEO are required to attend events as part of fulfilling their leadership role within the community.

Elected Members are permitted to accept invitations (including offers of tickets) from third parties to attend events falling into the following categories:

- a) concerts.
- b) conferences.
- c) functions; and
- d) sporting events.

Where an invitation is extended to specified Elected Members, the relevant Elected Member is able to accept or decline such invitation in their own right.

If an Elected Member is unable or otherwise does not wish to attend the event to which the invitation relates, the Elected Member is to advise the event organiser. At the discretion of the event organiser, the invitation may be gifted to another Elected Member of their choosing.

Where an invitation to attend an event including tickets, is extended to the City, and is addressed to the Mayor, the Mayor may either accept the invitation or offer the invitation to the Deputy Mayor in the first instance. If the Deputy Mayor declines such invitation, it may be offered to other Elected Members by way of a ballot.

Where an invitation is received by the Mayor and is extended to multiple unspecified Elected Members, the Mayor may distribute the invitation (including offers of tickets) to Elected Members of their choosing.

Where an Elected Member accepts tickets to any event in accordance with this policy and the value of such tickets exceeds \$300, it must be declared and entered in the City's Gift Register in accordance with Section 5.87A of the Act.

The Council Governance Officer (Elected Members)/Executive Assistant to the CEO and Mayor are to be given notification of all events.

6.2 Invitations – CEO

The CEO may accept invitations (including offers of tickets) addressed to either the CEO or the City from third parties for attendance at events within the following categories:

- a) concerts.
- b) conferences.
- c) functions; and
- d) sporting events

If the CEO is unable, or otherwise does not wish to attend the event to which the invitation relates, the CEO is to advise the event organiser. At the discretion of the event organiser, the CEO may distribute such tickets to a staff member of their choosing.

Where multiple invitations are received by the CEO to attend an event, the CEO may distribute such invitation to staff members of their choosing.

The Executive Assistant to the CEO and Mayor is to be notified of events.

6.3 Approval of attendance

In making a determination regarding attendance at an event, the Mayor and/or CEO is to consider the following:

- a. who is providing the invitation or ticket to the event.
- b. the location of the event in relation to the local government (whether within or outside of the district)
- c. the role of the Elected Member or CEO when attending the event (for example, participant, observer or presenter) and the value of their contribution.
- d. whether the event is sponsored by the City.
- e. the benefit of City representation at the event,
- f. the number of invitations/tickets received; and
- g. any cost to attend the event, including the cost of ticket (or estimated value of the event per invitation) and any other expenses such as travel and accommodation.

Approval to attend events in accordance with this policy will be made by the Mayor and/or CEO in accordance with any authorisation provided in this policy.

6.4 Payments in respect of attendance at events

Where an invitation or ticket to an event is provided free of charge, the City may contribute to appropriate associated expenses including travel and accommodation where the event is outside the district, provided the Mayor and/or CEO determines attendance to be of public value.

For any events where a member of the public is required to pay, unless previously approved and one of the following event types:

- Advocacy lobbying or Ministerial briefings.
- Annual General Meetings of clubs or organisations within the City of Kwinana.
- Any free event held in the City of Kwinana.
- Australian or West Australian local Government events.
- Awards nights/dinners of clubs within the City of Kwinana.
- City hosted events, ceremonies, and functions.
- City hosted events with employees.
- City run tournaments or events.
- City sponsored functions or events.
- Community art exhibitions.
- Cultural events or festivals.
- Events run by a local, state, or federal government.
- Events run by schools, universities, or educational institutions.
- Major professional bodies associated with local government.
- Opening or launch of an event or facility within the City of Kwinana.
- Recognition of service events.
- Service club events (eg Rotary, Lions, RSL etc); or
- Events where the Mayor, Elected Member or CEO attendance has been formally requested,

Then the Mayor and/or CEO will determine whether it is in the best interests of the local government for an Elected Member or the CEO or another officer to attend on behalf of the Council.

If the Mayor and/or CEO determines that an Elected Member or CEO should attend a paid event, the local government will pay the cost of attendance and reasonable expenses, such as travel and accommodation.

Where spouses of an authorised local government representative attend an event, the City will pay for such attendance. Alternatively, invitations/tickets received by the City may be provided for this purpose (where available).

6.5 Event Attendance

Attendees are authorised in order of priority, subject to the number of available invitations/tickets. Where there are insufficient invitations/tickets available for all authorised attendees to attend, the CEO (in liaison with the Mayor) will determine attendance.

It is considered appropriate for a spouse of an Elected Member or the CEO to accompany them to an event held outside of normal business hours. The City will pay for such attendance. Alternatively, invitations/tickets received by the City may be provided for this purpose (where available).

The Mayor may delegate any approved attendance to an event to the Deputy Mayor or another Elected Member.

Invitations/tickets to events may be provided to the City by event organisers. Where attendance at these events is approved in accordance with this Policy, the requirement to disclose a financial interest under the Act will not apply.

An invitation provided or addressed personally to an Elected Member or to the CEO (for instance via a personal email account) will not be captured by this Policy, and the requirement to disclose a financial interest where the amount exceeds the amount prescribed under the *Local Government (Administration) Regulations 1996, Regulation 20A* will apply.

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Responsible Team		
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19 NOTICES OF MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

**20 NOTICE OF MOTIONS FOR CONSIDERATION AT THE FOLLOWING MEETING
IF GIVEN DURING THE MEETING**

21 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.

22 REPORTS OF ELECTED MEMBERS

23 ANSWERS TO QUESTIONS WHICH WERE TAKEN ON NOTICE

Nil

24 MAYORAL ANNOUNCEMENTS

25 CONFIDENTIAL ITEMS

Nil

26 CLOSE OF MEETING