



Policy and Legislation Committee

# Minutes

8 November 2023

**MINUTES**

**Minutes of a meeting of the Policy and Legislation Committee held in the Council Chambers, Administration Building, Southern Drive, Busselton, on 8 November 2023 at 10:45am.**

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## 1 OFFICIAL OPENING

The meeting was opened at 10:50am.

The Chief Executive Officer welcomed Elected Members, staff, guests and members of the public to the Policy and Legislation Committee meeting of 8 November 2023.

The Chief Executive Officer acknowledges the Wadandi and Bibbulmun people as the traditional custodians of this region and pay respects to Elders past and present.

This meeting was audio recorded for minute taking purposes.

## 2 ATTENDANCE

PRESIDING MEMBER	MEMBERS
Cr Kate Cox ( <i>from 10:54am</i> )	Mayor Cronin
	Cr Jodie Richards
	Cr Jarrod Kennedy
	Cr Andrew Macnish

OFFICERS	
Mr Tony Nottle	Chief Executive Officer
Mr Oliver Darby	Director Infrastructure and Environment
Mr Paul Needham	Director Community Planning
Mr Ben Whitehill	Manager Legal and Governance
Ms Tegan Robertson	Governance and Risk Coordinator

APOLOGIES	
Nil	

PUBLIC	
Nil	

## 3 ELECTION OF PRESIDING MEMBER AND DEPUTY PRESIDING MEMBER

Mr Tony Nottle, Chief Executive Officer conducted the nomination and voting to elect a Presiding Member of the Policy and Legislation Committee in accordance with section 5.12 of the *Local Government Act 1995*.

The Chief Executive Officer called for nominations for the position of the Presiding Member of the Policy and Legislation Committee.

Cr Jodie Richards nominated herself for the position of Presiding Member.

Cr Kate Cox nominated herself for the position of Presiding Member.

Cr Richards withdrew her nomination.

Cr Cox was elected as Presiding Member for the Policy and Legislation Committee.

10:54am: At this time, Cr Cox assumed the Chair.

The Presiding Member called for nominations for the position of Deputy Presiding Member.

Cr Jodie Richards nominated herself for the position of Deputy Presiding Member.

With no other nominations received, Cr Richards was elected as Deputy Presiding Member of the Policy and Legislation Committee.

#### **4 DISCLOSURES OF INTEREST**

##### **DISCLOSURES OF FINANCIAL INTEREST**

Nil

##### **DISCLOSURES OF IMPARTIALITY INTEREST**

The Presiding Member noted that a Disclosure of Impartiality Interest had been received from Cr Phill Cronin in relation to Item 7.3, 'Council Policy Review – Bush Fire Brigade Management Policies'.

In accordance with regulation 22(2)(b) of the *Local Government (Model Code of Conduct) Regulations 2021*, this disclosure would be read out immediately before the item was discussed.

#### **5 PUBLIC QUESTION TIME**

##### **5.1 RESPONSES TO PREVIOUS QUESTIONS TAKEN ON NOTICE**

Nil

##### **5.2 QUESTION TIME FOR PUBLIC**

Nil

## 6 CONFIRMATION AND RECEIPT OF MINUTES

### 6.1 Policy and Legislation Committee 13 September 2023

#### **COUNCIL DECISION**

**PL2311/511** Moved Mayor Phill Cronin, seconded Cr Jodie Richards

**That the Minutes of the Policy and Legislation Committee 13 September 2023 be confirmed as a true and correct record.**

**CARRIED 4 / 1**

**FOR: Cr Jarrod Kennedy, Cr Jodie Richards, Cr Kate Cox  
and Mayor Phill Cronin**

**AGAINST: Cr Andrew Macnish**

## 7 REPORTS

### 7.1 Local Planning Policy Review: Adoption following consultation - LPP 1.5 Coastal Setbacks

<b>Strategic Theme:</b>	OPPORTUNITY - A vibrant City with diverse opportunities and a prosperous economy
<b>Strategic Priority:</b>	3.1 Work with key partners to facilitate the activation of our town centres, creating vibrant destinations and consumer choice.
<b>Subject Index:</b>	Development Control Policy
<b>Business Unit:</b>	Development Services
<b>Reporting Officer:</b>	Manager Development Services - Joanna Wilson
<b>Authorising Officer:</b>	Director Planning and Development Services – Paul Needham
<b>Nature of Decision:</b>	Legislative: adoption of “legislative documents” such as local laws, local planning schemes and local planning policies
<b>Voting Requirement:</b>	Simple Majority
<b>Attachments:</b>	<ol style="list-style-type: none"><li>1. Attachment A Proposed LPP 1.5 - Coastal Setbacks 1_1 [7.1.1 - 4 pages]</li><li>2. Attachment B Current LPP 1.5 - Coastal Setbacks 1_1 [7.1.2 - 3 pages]</li><li>3. Attachment C Map of Lots currently subject to LP P 1.5 1_1 [7.1.3 - 9 pages]</li><li>4. Attachment D Schedule of Submissions [7.1.4 - 13 pages]</li></ol>

#### COMMITTEE RECOMMENDATION

PL2311/512 Moved Mayor Phill Cronin, seconded Cr Andrew Macnish

That the Council:

1. Pursuant to Clause 4, Part 2 of Schedule 2 – Deemed Provisions for Local Planning Schemes of the *Planning and Development (Local Planning Schemes) Regulations 2015* adopt as final LPP 1.5 Coastal Setbacks, as set out at Attachment A; and
2. Publish a notice of adoption in a newspaper circulating within the Scheme area in accordance with Clause 4, Part 2 of Schedule 2 – Deemed Provisions for Local Planning Schemes of the *Planning and Development (Local Planning Schemes) Regulations 2015* of the Policy set out in 1 above.

**CARRIED 5 / 0**

**FOR: Cr Andrew Macnish, Cr Jarrod Kennedy, Cr Jodie Richards,  
Cr Kate Cox and Mayor Phill Cronin**

**AGAINST: Nil**

## **OFFICER RECOMMENDATION**

That the Council:

1. Pursuant to Clause 4, Part 2 of Schedule 2 – Deemed Provisions for Local Planning Schemes of the *Planning and Development (Local Planning Schemes) Regulations 2015* adopt as final LPP 1.5 Coastal Setbacks, as set out at Attachment A; and
2. Publish a notice of adoption in a newspaper circulating within the Scheme area in accordance with Clause 4, Part 2 of Schedule 2 – Deemed Provisions for Local Planning Schemes of the *Planning and Development (Local Planning Schemes) Regulations 2015* of the Policy set out in 1 above.

## **EXECUTIVE SUMMARY**

Council is asked to consider final adoption of the amended draft *LPP 1.5 Coastal Setbacks – West Busselton* ('LPP1.5'), as set out in Attachment A, following public consultation in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* ('Regulations').

## **BACKGROUND**

The *Planning and Development (Local Planning Schemes) Regulations 2015* ('Regulations') provide that Local Planning Policies ('LPPs') may be prepared by a local government in respect of any matter relating to planning and development within the *City of Busselton Local Planning Scheme No. 21* ('Scheme') area.

The intention of an LPP is to provide guidance to applicants/developers and the community regarding the decision-making process, as well as to the local government when exercising discretion under the Scheme. An LPP must be consistent with relevant Scheme provisions, including *State Planning Policy 7.3 – Residential Design Codes* ('R-Codes'), and cannot vary development standards or requirements set out in a Scheme or impose other mandatory requirements upon development, unless there is a specific power to do so.

LPPs are given due regard in the assessment of development applications and are listed as a "Consideration of application by local government" when making determination of a development application under Schedule 2, clause 67 of the Regulations.

In March 2019, the City commenced the first stage of the LPP review. This stage was policy neutral and did not alter the intent or provisions within the LPPs. The LPPs were re-formatted into an easier-to-read template, taking the policies from a single manual structure and separating them into individual policies. These changes were adopted by Council at its meeting on 27 March 2019 (C1903/053).

The City commenced the second stage of the review process which included reviewing the substantive content of LPPs, but because of competing workload priorities, the review work has slowed. Instead the Statutory Planning team has had to prioritise the assessment of development applications. Nevertheless, some work on the policy review has been able to be progressed, albeit more slowly than had been anticipated in 2019. A focus has been on reviewing policies that have a more significant impact on workload.

LPP 1.5 originally formed part of the broader *Residential Design Guidelines Policy* which was adopted by Council on 17 October 2007 (C0710/236). The policy applied to low density coastal areas (coded R25 or less) that abut coastal foreshore reserves fronting Geographe Bay Road, or which directly abut Geographe Bay Road, but excludes Special Character Areas (e.g. Quindalup). Broadly the policy

provisions can be split into two main elements: primary street setbacks (where affected lots front Geographe Bay Road); and rear setbacks (where lots directly abut the foreshore reserve).

A copy of the current LPP 1.5 is provided at Attachment B. A map indicating the lots which are currently subject to LPP1.5 is provided at Attachment C.

The Council had first adopted a draft new version of LPP 1.5 on 11 November 2020. The most significant change proposed was that the scope of the policy was reduced to cover only the section of West Busselton between Craig Street and Earnshaw Road. It was considered that the additional controls were not necessary in most of the area affected by the current policy, but because of the unusually narrow street verge and foreshore reserve in this section of the coast, it may still be desirable to achieve bigger street setbacks, especially for development above the ground floor, in that part of West Busselton.

In addition, the following modifications to the policy were proposed:

- Objectives (purpose) were refined so that they are relevant and appropriate;
- Remove provisions that purport to vary the design principles of the R-Codes (noting that those provisions are *ultra vires* - i.e. 'outside the powers' of the Council);
- Introduction of interpretations for clarification;
- All rear setback provisions removed;
- Clarification that the policy applies to all sites adjoining Geographe Bay Road within the policy area, where previously corner lots where Geographe Bay Road was the secondary street were excluded;
- Introduction of a provision that allows for privacy screening;
- Introduction of diagrams to clarify setback provisions; and
- A change to the title, to reflect the much narrower scope proposed.

Community consultation took place in February 2021. As part of the consultation process, adverts were placed in a local newspaper, information placed on the City's website, and letters sent directly to all landowners within the area affected by the existing adopted policy. A total of eleven submissions were received, six of which objected to the proposed changes.

At its meeting on 25 January 2023 (C2301/11 refers) the Council resolved that, due to the amount of time that had lapsed since the public consultation period held in February 2021, further consultation was considered appropriate, with clarification to affected landholders of the ramifications and impacts of the draft policy. A total of ten submissions were received, three in support, six objecting and one was neutral. Discussion of issues raised in the submissions that were received during consultation is set out in the officer comment section of this report.

#### **OFFICER COMMENT**

In relation to the six submissions that were received which were opposed to the proposed changes, the key concern raised was regarding the loss of views and privacy because of proposed changes to front setback requirements. The requirements for measuring privacy setbacks are already considered by the R-Codes and the current Policy does not (and cannot) vary the provisions as set out in the R-Codes, as a result, this assessment will not change.

There is no specific protection or legal right to a view within the planning framework and loss of view is nearly always not a valid planning consideration when making a planning decision. Furthermore, it is noted that the original purposes of LPP1.5 was not for the protection of views. It was to maintain a certain residential character and reduce the dominance of built form in the coastal setting.



The area that is proposed to be retained within the Policy Area was selected due to the generally narrow coastal and road reserves and the proximity of the dual path to the lot boundaries. Between Craig Street and Earnshaw Road, the dual use path is located on the back of kerb and there is only a very narrow stretch of coastal reserve with setbacks of approximately 20m – 38m from the front boundary of the affected lots and the edge of the beach as there is no, or very little, dune system or foreshore reserve as well as generally narrow street verge widths. The impact of building bulk on these three street blocks is noticeable because of the proximity of dwellings to both the dual use path and the beach. It is considered reasonable in this location that additional setbacks be encouraged through the policy to reduce the impact of new development on the users of the adjacent dual use path and beach.

In other coastal areas, however, relatively wide verges and/or foreshore reserves significantly reduce the potential for residential buildings to be visually dominant in the streetscape, as they would generally be no higher than two storeys. Between Guerin Street and Ford Road, the verge can be as great as 37m, as such, the existing controls which impinge on landowners' capacity to develop their properties, are not considered to have a clear planning basis and an assessment of development applications within this area are adequately controlled by the design principles of the R-Codes.

In addition to the above, which has been set out in similar form in earlier reports on this matter, it is considered appropriate to outline two further important considerations with respect to the current policy -

1. The impact that LPP1.5 has on the development potential of affected land, and whether there is a need to continue to restrict that potential because there have been attempts to restrict that potential in the past; and
2. The inherent tension between what are understood to be the original aims of LPP1.5 and the actual operation of the R-Codes (which provide the most important head of power for LPP1.5).

Each of these considerations is outlined and discussed below.

In terms of the first consideration noted above, in essence, one of the rationales for retaining LPP1.5 is understood to be on the basis that it has applied in the past and, in some cases, owners have built to the greater setbacks supported by the policy, and it would be unfair to not continue to impose those greater setbacks on future owners/developers. The imposition of greater setbacks does, though, reduce the development potential of private land, and the fact that greater setbacks have been required in the past should not, in and of itself, justify the continued imposition of those greater setbacks. There needs to be an underlying planning rationale for continuing to do so.

As set out in a little more detail below, there is actually considered to be more of a case to apply lower, rather than greater, setback requirements to most of the lots affected by the current policy - when compared with other lots with the same density coding. That is because the primary purpose of front setback requirements is about streetscape, and avoiding a sense that buildings are overly dominant in the streetscape in relatively low-density residential areas. All of the areas affected by the street setback requirements of the current policy, however, are streets where there is private land and therefore houses on only one side of the street and where street verges are generally wider than what would normally be the case. As such, the potential for buildings to dominate the street is actually less than in a more typical 'two-sided' street with relatively narrow street verges.

In terms of the second consideration outlined above, it is noted that the R-Codes provides 'two paths' for approval. The first path is the 'deemed-to-comply' pathway. If a proposed development

meets a relevant deemed-to-comply standard, then it must be deemed to be acceptable, with respect to the matters/issues that are covered by that standard. Under the R-Codes, a policy can be adopted to modify some of the deemed-to-comply standards, including front setback requirements.

If a proposed development does not meet one or more of the relevant deemed-to-comply standards, however, it does not mean that the development is not appropriate. It means that an assessment is required in the context of the relevant 'design principles'. Whilst deemed-to-comply standards are generally quantitative and objectively verifiable, the design principles are generally not quantitative standards, they are more in the form of broad objectives, requiring the exercise of considered planning judgement – what is often referred to as 'discretion'. Under the R-Codes, a local government cannot vary the design principles.

That means that, notwithstanding that a local government may adopt a policy that varies the relevant deemed-to-comply standard, if that standard is not met, then the proposal must be assessed against the same design principles as would apply in the absence of the policy. In drafting the R-Codes, however, the State has already identified that, if the relevant deemed-to-comply standards have been met, then it should be considered that the relevant design principles are already met. That points towards a position where a policy that varies deemed-to-comply standards in such a way that they are relaxed could be implementable in practice, but a policy that varies those standards so that they are tightened may not be implementable. That is particularly the case where a local government is seeking to do so in contexts where, when judged against the relevant design principle, there is a stronger case for smaller rather than greater street setbacks. Note the main relevant design principle is as follows -

*P2.1 Buildings set back from street boundaries an appropriate distance to ensure they:*

- *contribute to, and are consistent with, an established streetscape;*
- *provide adequate privacy and open space for dwellings;*
- *accommodate site planning requirements such as parking, landscape and utilities; and*
- *allow safety clearances for easements for essential service corridors.*

No changes are proposed to the version of the Policy proposed for adoption from what was initiated by Council and advertised. It is, therefore, recommended that the Policy as set out in Attachment A be adopted as final.

### **Statutory Environment**

The key statutory environment is set out in the *Planning and Development Act 2005* and related subsidiary legislation, including the City of Busselton Local Planning Scheme No. 21 (the Scheme) and the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations), especially Schedule 2 (Deemed Provisions) of the Regulations, which form part of the Scheme.

#### ***Division 2 — Local planning policies***

##### ***3. Local planning policies***

- (1) *The local government may prepare a local planning policy in respect of any matter related to the planning and development of the Scheme area.*
- (2) *A local planning policy —*

- (a) may apply generally or in respect of a particular class or classes of matters specified in the policy; and*
  - (b) may apply to the whole of the Scheme area or to part or parts of the Scheme area specified in the policy.*
- (3) A local planning policy must be based on sound town planning principles and may address either strategic or operational considerations in relation to the matters to which the policy applies.*
- (4) The local government may amend or repeal a local planning policy.*
- (5) In making a determination under this Scheme the local government must have regard to each relevant local planning policy to the extent that the policy is consistent with this Scheme.*

#### **4. Procedure for making local planning policy**

- (1) If the local government resolves to prepare a local planning policy the local government must, unless the Commission otherwise agrees, advertise the proposed policy as follows –*
  - (a) publish in accordance with clause 87 the proposed policy and a notice giving details of –*
    - (i) the subject and nature of the proposed policy; and*
    - (ii) the objectives of the proposed policy; and*
    - (iii) how the proposed policy is made available to the public in accordance with clause 87; and*
    - (iv) the manner and form in which submissions may be made; and*
    - (v) the period for making submissions and the last day of that period;*
  - (b) if, in the opinion of the local government, the policy is inconsistent with any State planning policy, give notice of the proposed policy to the Commission;*
  - (c) give notice of the proposed policy in any other way and carry out any other consultation the local government considers appropriate.*
- (2) The period for making submissions specified in a notice under subclause (1)(a)(v) must not be less than the period of 21 days after the day on which the notice is first published under subclause (1)(a).*
- (3) After the expiry of the period within which submissions may be made, the local government must –*
  - (a) review the proposed policy in the light of any submissions made; and*
  - (b) resolve to –*
    - (i) proceed with the policy without modification; or*
    - (ii) proceed with the policy with modification; or*
    - (iii) not to proceed with the policy.*
- (3A) The local government must not resolve under subclause (3) to proceed with the policy if –*

- (a) *the proposed policy amends or replaces a deemed-to-comply provision of the R-Codes; and*
- (b) *under the R-Codes, the Commission's approval is required for the policy; and*
- (c) *the Commission has not approved the policy.*
- (4) *If the local government resolves to proceed with the policy, the local government must publish notice of the policy in accordance with clause 87.*
- (5) *A policy has effect on publication of a notice under subclause (4).*
- (6) *The local government must ensure that an up-to-date copy of each local planning policy made under this Scheme that is in effect is published in accordance with clause 87.*
- (7) *Subclause (6) is an ongoing publication requirement for the purposes of clause 87(5)(a).*

**5. Procedure for amending local planning policy**

- (1) *Clause 4, with any necessary changes, applies to the amendment to a local planning policy.*
- (2) *Despite subclause (1), the local government may make an amendment to a local planning policy without advertising the amendment if, in the opinion of the local government, the amendment is a minor amendment.*

**Relevant Plans and Policies**

***State Planning Policy 7.3 Residential Design Codes Volume 1 (R-Codes)***

The purpose of the R-Codes is to provide a comprehensive basis for the control of residential development throughout Western Australia.

The R-Codes provide for residential development of an appropriate design for the intended residential purpose, density, context of place and Scheme objectives.

***Local Planning Scheme No. 21 (the Scheme)***

Relevantly, the purposes of the Scheme are to control and guide land use and development; and to set out procedures for the assessment and determination of applications for development approval.

**Financial Implications**

Not applicable.

### **Stakeholder Consultation**

After the Council meeting in January, further consultation was undertaken in April/May of this year. The consultation comprised of writing to 1289 landowners/occupiers outside the policy area and 88 landowners/occupiers within the policy area. The consultation included graphics explaining the proposed changes for both areas. In addition to letters, the proposed changes were advertised in the newspaper, Yoursay and on-line workshops.

The public consultation period commenced on 8 May 2023 and closed on 29 May 2023. Ten submissions were received in relation to the proposed changes to LPP1.5. Of the ten submissions:

- Three submissions were in support of the proposed changes;
- Six submissions were opposed to the proposed changes; and
- 1 submission was neutral.

A summary of all submissions received is provided at Attachment D.

In accordance with the Regulations, it is proposed that a notice be placed in the local newspaper advising that *LPP 1.5 Coastal Setbacks* has been adopted as final.

### **Risk Assessment**

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City’s risk management framework.

No risks of medium or greater level have been identified.

### **Options**

As an alternative to the proposed recommendation the Council could:

1. Retain the existing policy;
2. Modify the policy recommended to be adopted and for these changes to be re-advertised; or
3. Revoke the policy in its entirety.

### **CONCLUSION**

It is recommended that Council consider the discussion set out in this report and resolve to adopt the amended LPP 1.5.

### **TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

The officer recommendation will be implemented in full, or in stages as per the following table:

Milestone	Completion Date
Implementation of officer recommendation	Within one month of Council endorsement

## 7.2 Dogs Local Law

<b>Strategic Theme:</b>	Key Theme 4: Leadership 4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.
<b>Directorate:</b>	Corporate Strategy and Performance
<b>Reporting Officer:</b>	Legal Officer - Briony McGinty
<b>Authorised By:</b>	Director of Corporate Strategy and Performance - Sarah Pierson
<b>Nature of Decision:</b>	Legislative: adoption of “legislative documents” such as local laws, local planning schemes and local planning policies.
<b>Voting Requirements:</b>	Absolute Majority
<b>Disclosures of Interest:</b>	No officers preparing this item have an interest to declare.
<b>Attachments:</b>	1. Dogs Local Law (marked-up) [7.2.1 - 18 pages] 2. Dogs Local Law (clean) [7.2.2 - 18 pages]

### COMMITTEE RECOMMENDATION

**PL2311/513** Moved Mayor Phill Cronin, seconded Cr Andrew Macnish

That the Council:

1. Resolves to make the City of Busselton Dogs Local Law 2023 in accordance with section 3.12(4) of the *Local Government Act 1995*.
2. Authorises the Chief Executive Officer to carry out the processes required to make the City of Busselton Dogs Local Law 2023 in accordance with section 3.12(5) and section 3.12(6) of the *Local Government Act 1995*.

**CARRIED 5 / 0**

**FOR: Cr Andrew Macnish, Cr Jarrod Kennedy, Cr Jodie Richards,  
Cr Kate Cox and Mayor Phill Cronin**

**AGAINST: Nil**

### OFFICER RECOMMENDATION

That the Council:

1. Resolves to make the City of Busselton Dogs Local Law 2023 in accordance with section 3.12(4) of the *Local Government Act 1995*.
2. Authorises the Chief Executive Officer to carry out the processes required to make the City of Busselton Dogs Local Law 2023 in accordance with section 3.12(5) and section 3.12(6) of the *Local Government Act 1995*.

## EXECUTIVE SUMMARY

Council resolved on 16 August 2023 to initiate the law-making process for the City of Busselton Dogs Local Law 2023 (Proposed Local Law). The matter is now brought back before Council to enable consideration of the submissions made, and to determine whether to make the Proposed Local Law in accordance with section 3.12(4) of the Local Government Act 1995 (the Act).

## STRATEGIC CONTEXT

The provision of appropriate local laws in relation to dogs within the City supports the good governance of the district, whilst also facilitating a safe community.

## BACKGROUND

The *Dog Act 1976* (the Dog Act) provides for the control, registration, ownership and keeping of dogs. Under the Dog Act, local governments may make local laws providing for, amongst other things:

- a) establishment and maintenance of dog management facilities,
- b) detention, care and release or disposal of dogs seized,
- c) licensing, use and inspection of approved kennel establishments; and
- d) requirements that premises where dogs are kept must be fenced in a manner capable of confining the dog.

Significant amendments to the Dog Act and associated regulations came into effect in 2013. Those amendments included the capacity for local governments to determine dog exercise and dog prohibited areas via Council resolution (rather than through an amendment to its local law). As a result, several provisions in the City's then "Dog by-laws" became obsolete. In 2014 the City adopted the Current Local Law to be consistent with the new Dog Act.

Section 3.16 of the Act requires that a local government should review its local laws every 8 years to determine whether they should be repealed or amended. The Current Local Law was gazetted in 2014 and was further amended in 2015. The Current Local Law is based on the WALGA model and has operated well since its inception. However, City officers conducted an internal review which resulted in proposed changes. Those changes were incorporated into the Proposed Local Law which was presented to Council for consideration.

On 16 August 2023 the Council resolved:

*That the Council:*

1. *Commences the law-making process for the City of Busselton Dogs Local Law 2023; the purpose and effect of the local law being as follows:*

***Purpose:*** *To repeal the Dogs Local Law of 2014 and make provisions about dogs which are permitted under the Dog Act 1976.*

**Effect:** To provide Council with controls and regulatory measures in relation to matters such as the impounding of dogs, to control the number of dogs that can be kept on premises and the manner of keeping those dogs.

2. Authorises the CEO to carry out the law-making procedure under section 3.12(3) of the Local Government Act 1995, by:
  - (a) Giving local public notice of the Proposed Local Law; and
  - (b) Giving a copy of the Proposed Local Law and public notice to the Minister for Local Government.
3. Notes that the CEO, after the close of the public consultation period, will submit a report to the Council on any submissions received on the Proposed Local Law to enable the Council to consider the submissions made and to determine whether to make the local law in accordance with section 3.12(4) of the Act.

The Proposed Local Law was advertised in accordance with the Act. The results of that consultation are discussed further below under External Stakeholder Consultation.

#### **OFFICER COMMENT**

State legislation provides for a three-tiered system for regulating the care for and control of dogs, as outlined below:

##### Dog Act

Under the Dog Act local governments are provided with legislative controls in relation to matters such as:

- a) registration and identification of dogs;
- b) power to seize dogs;
- c) dogs to wear collars and registration tags;
- d) declaring of and dealing with dangerous dogs; and
- e) what constitutes a dog nuisance and how to deal with such a nuisance.

##### Local Laws

The Dog Act also extends to local governments the power to regulate, by way of a local law, matters such as:

- a) impounding of dogs;
- b) number of dogs that can be kept;
- c) establishment of approved kennels;
- d) manner in which dogs are to be confined by the occupier of a premises; and
- e) creation of offences for non-compliance with certain provisions of a local law.

##### Council resolutions

Local governments can determine dog exercise areas and areas where dogs are prohibited by an absolute majority decision after giving 28 days' notice of its intention to do so.

This report only deals with the local law-making power.



The City's Current Local Law is based on the WALGA model and is consistent with those of many other local governments. However, in reviewing the Current Local Law several changes were identified as appropriate, to achieve a more contemporary local law. For administrative ease, it is proposed to repeal the Current Local Law and replace it with the Proposed Local Law (rather than present an amendment local law), found at Attachment B.

The Proposed Local Law is divided into parts, described further below:

#### Part 1

The preliminary section deals with matters of a more technical nature including the official title of the local law, the commencement date, the area to which the local law shall apply, repealing the Current Local Law and defining terminology used in the local law.

#### Part 2

This section deals with the impounding of dogs. It provides for fees, charges and costs to be imposed and determined by Council in relation to the seizure and impounding, release and/or destruction and disposal of a dog and the times at which an authorised person (previously referred to as "pound keeper") has to be in attendance at the animal management facility (previously referred to as "pound").

#### Part 3

This section requires from an occupier of a premises on which a dog is kept to cause the relevant portion of such premises to be fenced in a manner capable of confining the dog. It also limits the number of dogs which may be kept on any premises (other than an approved kennel establishment), to 2 dogs and the young of those dogs under the age of 3 months. The Proposed Local Law also includes a provision where, if located in an area zoned rural, then the limit of dogs which may be kept without a permit under section 26(3) of the Dog Act increases to 4. This is consistent with the WALGA template (with minor wording changes). The purpose of this change is to remove the necessity for owners of rural premises to apply for a permit for the keeping of 3 or 4 dogs, which, based on the experience of City rangers, will likely be granted in any event due to the size of the property.

#### Part 4

This section regulates the process for obtaining and transferring a license for an approved kennel establishment and its cancellation. It requires an applicant to give notice of the proposed use of the premises as a kennel establishment (notice to be given in a newspaper circulating in the district and to owners and occupiers of adjoining premises). It also provides for payment of fees in relation to applying for and issuing of a license for an approved kennel establishment.

#### Part 5

Under this section a dog must not excrete on a public place or on privately owned land without the consent of the occupier of such land. It also requires from a person in control of such a dog to immediately remove excreta, failing which such a person commits an offence.

## Part 6

This section of the Proposed Local Law deals with enforcement. A range of modified penalties (specified in Schedule 3 of the local law) are created and persons responsible for enforcing the Proposed Local Law are authorised to issue infringement notices. The modified penalties for offences have not been updated since the Current Local Law's inception in 2014. Given the maximum modified penalty that can be imposed in a local law is \$500 per offence, the new general modified penalty of \$200 per offence is seen as appropriate (and in line with other local governments). This is an increase from the previous penalties of between \$40-\$100. A higher penalty for failing to provide means for effectively confining a dog that has been declared dangerous is already provided for in the Regulations (given the potential consequences of such a failure). Therefore, based on advice from the DLGSCI, a separate penalty for this is not provided.

## Schedules

Schedule 1 of the Proposed Local Law consists of a template application for a licence for an approved kennel establishment. Schedule 2 contains draft conditions which could be imposed on a licence for an approved kennel establishment. Under Schedule 3 the offences in respect of which modified penalties apply, are specified.

## Statutory Environment

### **Dog Act 1976**

Section 51 of the Dog Act specifies the dog related matters in relation to which local governments may make local laws.

### **Local Government Act 1995**

Section 3.16 of the Act requires that every 8 years a local law should be reviewed to determine whether it should be repealed or amended.

Section 3.5 of the Act provides Council with the head of power for making local laws, which stipulates:

*A local government may make Local Laws under this Act prescribing all matters that are required or permitted to be prescribed by a local law, or are necessary or convenient to be so prescribed, for it to perform any of its functions under this Act.*

The procedure for making local laws is set out in sections 3.12 to 3.17 of the Act and regulation 3 of the Local Government (Functions and General) Regulations 1996 (WA). The person presiding at a Council meeting is to give notice of the purpose and effect of a proposed local law by ensuring that:

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

The purpose and effect of the Proposed Local Law is as follows:

- Purpose:** To repeal the Dogs Local Law of 2014 and make provisions about dogs which are permitted under the Dog Act 1976.
- Effect:** To provide Council with controls and regulatory measures in relation to matters such as the impounding of dogs, to control the number of dogs that can be kept on premises and the manner of keeping those dogs.

Local public notice must be given by advertising the Proposed Local Law in accordance with the requirements of sections 3.12(3) of the Act. The submission period must run for a minimum period of six weeks after which Council, having considered any submissions received, may resolve to make the local law as proposed or make a local law that is not significantly different from what was proposed.

### ***Parliamentary Scrutiny***

Section 42 of the Interpretation Act 1984 allows the WA State Parliament to disallow a local law, which is a mechanism to guard against the making of subsidiary legislation that is not authorised or contemplated by the empowering enactment, has an adverse effect on existing rights or ousts or modifies the rules of fairness. Parliament has appointed the JSC which is a committee of State politicians from both houses of the Western Australian Parliament, to undertake an overseeing role on its behalf, which includes the power to scrutinise and recommend the disallowance of local laws to the Parliament. After gazettal, a copy of the local law will be sent to the JSC who will examine the local law and determine whether it complies with the abovementioned criteria.

### **Relevant Plans and Policies**

Not applicable.

### **Financial Implications**

Costs associated with the advertising and gazettal of the local law will come from the legal budget. These costs are unlikely to exceed \$2,000. Making and implementing the local law should not have any other financial implications for the City.

### **External Stakeholder Consultation**

The Proposed Local Law was advertised publicly in local newspapers, on the City's website, on social media and on public notice boards for a minimum of 6 weeks in accordance with the requirements under section 3.12(3)(a) of the Act.

In accordance with section 3.12(3)(b) of the Act a copy of the Proposed Local Law was forwarded for consideration and comment to the Minister for Local Government.

The DLGSCI responded on behalf of its Minister and made some minor editing suggestions which have been incorporated in the Proposed Local Law before Council, as seen at Attachment A.

The consultation period did not result in any public submission being received, despite being advertised through a number of platforms including Facebook, City Connect and Your Say.

### **Risk Assessment**

No risks of a medium or greater level have been identified.

### **Options**

As an alternative to the proposed recommendation the Council could choose to vary the provisions of the Proposed Local Law in any number of ways. However, for the reasons outlined in this report, the Proposed Local Law is the form of local law recommended. Further, if any changes are of a significant nature the local law would need to be re-advertised.

### **CONCLUSION**

It is recommended that the Council makes the Proposed Local Law at Attachment B and authorises the CEO to carry out the actions required to give effect to that resolution.

### **TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

The officer recommendation will be implemented in full, or in stages as per the following table:

<b>Milestone</b>	<b>Completion Date</b>
Gazettal of Local Law	Within 1 month of adoption
Provision of required material to the JSC	Within 10 days of gazettal
Placement of Local Law on website	14 days after gazettal

### 7.3 Council Policy Review - Bush Fire Brigade Management Policies

<b>Strategic Theme:</b>	Key Theme 1: Environment 1.1 Ensure protection and enhancement of environmental values is a central consideration in land use planning Key Theme 4: Leadership 4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.
<b>Directorate:</b>	Community Planning
<b>Reporting Officer:</b>	Manager Community Safety - Rachel Runco
<b>Authorised By:</b>	Director Community Planning - Paul Needham
<b>Nature of Decision:</b>	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations.
<b>Voting Requirements:</b>	Simple Majority
<b>Disclosures of Interest:</b>	No officers preparing this item have an interest to declare.
<b>Attachments:</b>	<ol style="list-style-type: none"> <li>1. bushfire-brigades-bushfire-accounting [7.3.1 - 3 pages]</li> <li>2. bushfire-brigade-grievance-process-disciplinary-action [7.3.2 - 3 pages]</li> <li>3. bushfire-brigades-code-of-conduct-objectives-and-values [7.3.3 - 2 pages]</li> <li>4. bushfire-brigades-meetings-of-bush-fire-brigades [7.3.4 - 6 pages]</li> <li>5. bushfire-brigades-membership-of-bush-fire-brigades [7.3.5 - 4 pages]</li> <li>6. bushfire-brigades-qualifications-of-bush-fire-brigade-officers [7.3.6 - 4 pages]</li> <li>7. bushfire-brigades-roles-of-bush-fire-brigade-officers [7.3.7 - 5 pages]</li> <li>8. Draft Bushfire Management Policy (1) [7.3.8 - 3 pages]</li> </ol>

<b>DISCLOSURE OF INTEREST</b>	
Date	8 November 2023
Meeting	Policy and Legislation Committee
Name/ Position	Mayor Phill Cronin
Item No./ Subject	7.3 'Council Policy Review – Bush Fire Management Policies'
Type of Interest	Impartiality Interest
Nature of Interest	I am a member of the Metricup Bushfire Brigade

#### **COMMITTEE RECOMMENDATION**

**PL2311/514** Moved Cr Jodie Richards, seconded Cr Andrew Macnish

#### **That the Council:**

- 1. Rescind the following Council policies:**
  - a. Bushfire Brigades – Bushfire Accounting (Attachment 1)**

- b. **Bushfire Brigades – Bushfire Brigade Grievance Process Disciplinary Action (Attachment 2)**
  - c. **Bushfire Brigades – Code of Conduct, Bush Fire Brigade Objectives and Values (Attachment 3)**
  - d. **Bushfire Brigades – Meetings of Bush Fire Brigades (Attachment 4)**
  - e. **Bushfire Brigades – Membership of Bush Fire Brigades (Attachment 5)**
  - f. **Bushfire Brigades – Qualifications of Bush Fire Brigade Officers (Attachment 6)**
  - g. **Bushfire Brigades – Roles of Bush Fire Brigade Officers (Attachment 7)**
2. **Adopt the Bush Fire Brigade Management Policy (Attachment 8).**

**CARRIED 5 / 0**

**FOR: Cr Andrew Macnish, Cr Jarrod Kennedy, Cr Jodie Richards,  
Cr Kate Cox and Mayor Phill Cronin**

**AGAINST: Nil**

### **OFFICER RECOMMENDATION**

That the Council:

1. Rescind the following Council policies:
  - a. Bushfire Brigades – Bushfire Accounting (Attachment 1)
  - b. Bushfire Brigades – Bushfire Brigade Grievance Process Disciplinary Action (Attachment 2)
  - c. Bushfire Brigades – Code of Conduct, Bush Fire Brigade Objectives and Values (Attachment 3)
  - d. Bushfire Brigades – Meetings of Bush Fire Brigades (Attachment 4)
  - e. Bushfire Brigades – Membership of Bush Fire Brigades (Attachment 5)
  - f. Bushfire Brigades – Qualifications of Bush Fire Brigade Officers (Attachment 6)
  - g. Bushfire Brigades – Roles of Bush Fire Brigade Officers (Attachment 7)
2. Adopt the Bush Fire Brigade Management Policy (Attachment 8).

### **EXECUTIVE SUMMARY**

In 2015, the current Bush Fire Brigade Council Policies were adopted to provide governance and operational direction for management of the City's bushfire brigades. These policies have not been reviewed since adopted. This report commends that all current brigade management policies be rescinded and be replaced with the proposed Bush Fire Brigade Management Policy.

### **STRATEGIC CONTEXT**

Council policies are an important part of the City's governance systems. They guide the direction of the organisation in line with the community vision and aspirations. The proposed Bush Fire Brigade Management Policy aligns with the City's strategic goal to deliver governance systems that facilitate open, ethical, and transparent decision making,

### **BACKGROUND**

The City has seven policies relating to management of Bush Fire Brigades. These policies have not been reviewed in accordance with the City's Policy Framework as, when last presented to the

Committee, the Committee recommended that the review be deferred due to the review at the time of the State Government bushfire framework.

At the Bush Fire Advisory Committee (BFAC) on 13 December 2022 a motion was passed to review these management policies. It was determined by officers upon review that updating of the City's Bush Fire Brigade Local law could primarily replace these policies.

At the Ordinary meeting of Council 18 October 2023, Council resolved to make the City of Busselton Bushfire Brigades Local Law 2023 (BLL) in accordance with section 3.12 of the Local Government Act 1995.

### **OFFICER COMMENT**

Following the BFAC motion to review the City Bush Fire Brigade management policies. It was determined by officers that updating of the City's BLL would allow a streamline governance structure for the management of the Cities brigades with a single consolidated Council policy proposed to replace the current brigade management policies.

This approach has been recommended as certain matters related to management of Bush Fire brigades should, under the *Bush Fires Act 1954*, should be dealt with by way of local laws including:

- Establishment of Bush Fire Brigades
- Organisation and maintenance of Bush Fire Brigades
- Types of Bush Fire Brigade Membership
- Rules outlining the management model brigades are to operate within.
- Equipment of Bush Fire Brigades

The new Bush Fire Brigade management Policy sets out in broad terms (amongst other things):

1. The principles guiding the City's management of Bush Fire Brigades.
2. The minimum training requirements for Fire Fighting members.
3. The process for appointment and tenure of Chief and Deputy Chief Bush Fire Control Officers.
4. The appointment, suspension, and termination of members.

It is planned that, following adoption of the BLL and this policy, that operational practices, work processes and guidelines will be developed in collaboration with DFES and the City's Fire Control Officers to formalise the ongoing consistent management of the City's Bush Fire brigades.

### **Statutory Environment**

The enforcement of regulatory prohibitions is a necessary part of providing for 'good government' by maintaining acceptable standards of behaviour in the community.

Council is the governing body of a local government and is responsible under s 2.7 of the *Local Government Act 1995* for the performance of local government functions, including by determining the local government's policies.

### **Relevant Plans and Policies**

The officer recommendation relates to the following adopted plan or policy:

Plan:  
Not applicable.

Policy:  
[Bushfire Brigades - Bushfire Accounting](#)  
[Bushfire Brigades - Grievance Process and Disciplinary Action](#)  
[Bushfire Brigades - Code of Conduct, Bush Fire Brigade Objectives and Values](#)  
[Bushfire Brigades - Meetings of Bush Fire Brigades](#)  
[Bushfire Brigades - Qualifications of Bush Fire Brigade Officers](#)  
[Bushfire Brigades - Roles of Bush Fire Brigade Officers](#)  
[Bushfire Brigades - Membership of Bush Fire Brigades](#)

**Financial Implications**

Not Applicable

**External Stakeholder Consultation**

Not Applicable

**Risk Assessment**

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City’s risk management framework, with risks assessed considering any controls already in place. No risks of a medium or greater level have been identified.

**Options**

As an alternative to the proposed recommendation the Council could choose not to rescind the existing policies and not to adopt the Bush Fire Brigade Management Policy. Council could also seek amendments to the Bush Fire Brigade Management Policy or alternatively decide to have no Bush Fire Brigade Management Policy.

**CONCLUSION**

It is recommended that Council rescind the seven existing Bushfire Brigade management policies as per attachments 1 - 7. It is also recommended that Council adopt the Bush Fire Brigade Management Policy at Attachment 8.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

The officer recommendation will be implemented in full, or in stages as per the following table:

Milestone	Completion Date
Update website to remove rescinded policies and include new policy	31 December 2023



## 7.4 Council Policy Review - Media and Public Statements

<b>Strategic Theme:</b>	Key Theme 4: Leadership 4.1 Provide opportunities for the community to engage with Council and contribute to decision making.
<b>Directorate:</b>	Corporate Strategy and Performance
<b>Reporting Officer:</b>	Director Corporate Strategy and Performance - Sarah Pierson
<b>Authorised By:</b>	Chief Executive Officer – Tony Nottle
<b>Nature of Decision:</b>	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations.
<b>Voting Requirements:</b>	Simple Majority
<b>Disclosures of Interest:</b>	No officers preparing this item have an interest to declare.
<b>Attachments:</b>	<ol style="list-style-type: none"> <li>1. Proposed Council Policy Media and Public Statements [7.4.1 - 4 pages]</li> <li>2. Track Changes Edits [7.4.2 - 5 pages]</li> </ol>

### COMMITTEE RECOMMENDATION

**PL2311/515** Moved Cr Andrew Macnish, seconded Mayor Phill Cronin

**That the Council adopts the amended Council Policy ‘Media and Public Statements’ (Attachment 1), subject to the removal of clause 5.11 and renumbering accordingly, to replace the current policy, with the policy having been reviewed as part of the City’s ongoing policy review cycle.**

**CARRIED 5 / 0**

**FOR: Cr Andrew Macnish, Cr Jarrod Kennedy, Cr Jodie Richards, Cr Kate Cox and Mayor Phill Cronin**

**AGAINST: Nil**

**Reasons:** The Committee proposed the removal of clause 5.11 to provide further clarity on Council engagement processes with the Media.

### OFFICER RECOMMENDATION

That the Council adopts the amended Council Policy ‘Media and Public Statements’ (Attachment 1) to replace the current policy, with the policy having been reviewed as part of the City’s ongoing policy review cycle.

### EXECUTIVE SUMMARY

This report presents an amended Council Policy: ‘Media and Public Statements’ (the Policy) (Attachment 1). The Policy has been reviewed as part of the City’s ongoing policy review cycle and amended with minor amendments and edits to improve readability.

## STRATEGIC CONTEXT

The provision of good media practice safeguards the City's image, ensures consistent communication, protects confidential information, and promotes responsible social media use and behaviours. This ensures the City is professionally and accurately represented, maximising positive public perception. Regular review of City policies reflects good governance.

## BACKGROUND

It is the function of the Policy and Legislation Committee to consider new and review existing Council policies. The City's Policy Framework sets out an ongoing cycle of policy review, with the aim of determining the ongoing strategic importance and applicability of Council policies.

The purpose of the Policy is to establish protocols for the release of public statements issued by the City of Busselton (including to the media and on Social Media); such that the City is professionally and accurately represented and to maximise a positive public perception of the City.

The Policy was first implemented in February 2020 (**C2002/037**). With a heightened focus on communications and engagement, both across the sector and within the City of Busselton, it was considered timely that Council adopt a formal position of the issuing of media and public statements.

## OFFICER COMMENT

The Policy guides the issuing of media statements and public statements pertaining to City of Busselton business, with reference to the roles and responsibilities of the Mayor and Deputy Mayor, Elected Members, and the CEO (or authorised officer/s).

The Policy seeks to channel media enquiries through the Stakeholder Relations team in the first instance, however notes that the Mayor, in his/her official capacity as spokesperson for the City, can provide statements directly to the media if he/she elects to do so. The Policy outlines the City's approach to responding to official media enquiries (including social media).

Officers consider that the Policy achieves its stated intent and is of continuing relevance, with only minor amendments proposed to improve the structure and readability of the Policy and reduce repetition, for instance, the combining of points within the 'Speaking on behalf of the City of Busselton' and 'Statements on City Matters' sections.

## Statutory Environment

In accordance with section 2.7(2)(b) of the the *Local Government Act 1995* (the Act), it is the role of the Council to determine the local government's policies. The Council does this on recommendation of a committee it has established in accordance with section 5.8 of the Act.

Specific references to the roles and responsibilities of the Mayor, Deputy Mayor, Elected Members, and the CEO as per the Act, are referenced in the Policy.

**Relevant Plans and Policies**

The officer recommendation relates to the following adopted plan or policy:

Plan:  
Not applicable.

Policy:  
[Media and Public Statements](#)

The current version of the policy is linked above for reference. A track changes version is provided at Attachment 2.

**Financial Implications**

Not applicable.

**External Stakeholder Consultation**

Not applicable.

**Risk Assessment**

An assessment of the potential implications of implementing the Officer recommendation has been undertaken using the City’s risk management framework, with risks assessed considering any controls already in place.

The Officer recommendation serves to mitigate the identified risk of inconsistent and potentially incorrect information and/or inappropriate commentary being relayed to the public by Elected Members and Employees, helping to ensure the risk is reduced from a high inherent risk (likelihood of likely) to a medium level risk as outlined below.

<b>Risk:</b> Inconsistent and potentially incorrect information and/or inappropriate commentary being relayed to the public by Elected Members and City of Busselton Employees.			
Category	Consequence	Likelihood	Rating
Reputation	Moderate	Possible	Medium

**Options**

As an alternative to the proposed recommendation the Council could:

1. Decide to retain the Policy in its current form.
2. Decide to make additional amendments.

## CONCLUSION

This report recommends that Council adopt the amended Council Policy 'Media and Public Statements,' to replace the current policy.

## TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The Officer recommendation will be implemented in full, or in stages as per the following table:

Milestone	Completion Date
Policy placed on the City's website	29 November 2023

## 7.5 Council Policy Review - Elected Member Training and Professional Development

<b>Strategic Theme:</b>	Key Theme 4: Leadership 4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.
<b>Directorate:</b>	Corporate Strategy and Performance
<b>Reporting Officer:</b>	Manager Legal and Governance - Ben Whitehill
<b>Authorised By:</b>	Director of Corporate Strategy and Performance - Sarah Pierson
<b>Nature of Decision:</b>	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations.
<b>Voting Requirements:</b>	Absolute Majority
<b>Disclosures of Interest:</b>	No officers preparing this item have an interest to declare.
<b>Attachments:</b>	<ol style="list-style-type: none"> <li>1. Proposed Elected Member Training and Professional Development Policy [7.5.1 - 3 pages]</li> <li>2. Proposed Elected Member Training and Professional Development Policy (tracked changes) [7.5.2 - 4 pages]</li> </ol>

### COMMITTEE RECOMMENDATION

**PL2311/517** Moved Cr Andrew Macnish, seconded Mayor Phill Cronin

**That the Council adopts the amended Council Policy ‘Elected Member Training and Professional Development’ (Attachment 1) to replace the current policy, with the policy having been reviewed as part of the City’s ongoing policy review cycle, inclusive of insertion of a new clause 5.14 to read as follows, with subsequent renumbering as required:**

**5.14 Where an additional training budget has not been approved by the Council, nothing in this Policy prevents the elected member choosing to fund the shortfall for training and development.**

**CARRIED 5 / 0**

**FOR: Cr Andrew Macnish, Cr Jarrod Kennedy, Cr Jodie Richards,  
Cr Kate Cox and Mayor Phill Cronin**

**AGAINST: Nil**

**Reasons:** The committee proposed the addition of the clause to clarify that the elected member may self-fund approved training and development in instances where the elected member training allowance has been exceeded.

## **OFFICER RECOMMENDATION**

That the Council adopts the amended Council Policy ‘Elected Member Training and Professional Development’ (Attachment 1) to replace the current policy, with the policy having been reviewed as part of the City’s ongoing policy review cycle.

## **EXECUTIVE SUMMARY**

This report presents an amended Council Policy: Elected Member Training and Professional Development (the Policy) (Attachment 1). The Policy has been reviewed in accordance with section 5.128(5)(a) of the *Local Government Act 1995* (the Act), which requires a council policy, in relation to the professional development of elected members, to be reviewed after each ordinary election.

## **STRATEGIC CONTEXT**

The training and continuing professional development of elected members enhances knowledge and develops skills, improving the Council’s capacity for well-informed decision-making and the provision of good government for our community.

## **BACKGROUND**

In accordance with section 5.128 of the Act, a local government is to prepare and adopt, by absolute majority, a policy in relation to the continuing professional development and must review the policy after each ordinary election.

The purpose of the Policy is to provide guidance concerning the training and professional development of elected member. The Policy was last adopted in January 2022, after the 2021 Local Government elections with only minor amendments made.

## **OFFICER COMMENT**

The 2023 Local Government Ordinary Election was held on Saturday 21 October 2023. In accordance with section 5.128(5)(a) of the Act, officers have reviewed the Policy, with amendments proposed.

The proposed amendments to the Policy are:

1. to specify an annual allowance of \$3,000 per elected member per annum (see paragraph 5.2 of the amended policy). This reflects the amount that has been allocated over the past few years by virtue of each elected member being entitled to an equal split of the allocated budget. Having a fixed amount assists with budgeting and provides some certainty for members;
2. to provide clarity on the process for making and approving applications for training or professional development (see paragraphs 5.6-5.9 of the amended Policy);
3. to state that applications for training or professional development will not be approved in certain circumstances to reflect the legislative changes introduced in section 5.129 of the Act and reg 37 of the *Local Government (Administration) Regulations 1996* (see paragraph 5.14 of the amended Policy); and
4. minor amendments for accuracy, structure or readability.

A tracked changes version is provided at Attachment 2.

Officers consider that the Policy broadly achieves its stated intent and the minor amendments are proposed to provide clarity, achieve legislative compliance and otherwise to improve the structure and readability of the Policy.

### **Statutory Environment**

In accordance with section 2.7(2)(b) of the Act, it is the role of the Council to determine the local government's policies. The Council does this on recommendation of a committee it has established in accordance with section 5.8 of the Act.

### **Relevant Plans and Policies**

The officer recommendation aligns to the following adopted plan or policy:

Plan:

Not applicable.

Policy:

[Elected Member Training and Professional Development Fees, Allowances and Expenses for Elected Members](#)

The current version of the policy is linked above for reference, along with an associated policy.

### **Financial Implications**

Not Applicable

### **External Stakeholder Consultation**

Not Applicable

### **Risk Assessment**

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City’s risk management framework, with risks assessed taking into account any controls already in place. No risks of a medium or greater level have been identified.

### **Options**

As an alternative to the proposed recommendation the Council could not accept the proposed amendments or propose further amendments to the Policy.

### **CONCLUSION**

The Policy has been reviewed in accordance with section 5.128(5)(a) of the Act, with the amended Policy (at Attachment 1) presented to Council for adoption.

### **TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

The Officer recommendation will be implemented in full, or in stages as per the following table:

<b>Milestone</b>	<b>Completion Date</b>
Policy placed on the City’s website	29 November 2023



## 7.6 Council Policy Review - Waste Management Facility and Plant Reserve

<b>Strategic Theme:</b>	Key Theme 4: Leadership 4.1 Provide opportunities for the community to engage with Council and contribute to decision making.
<b>Directorate:</b>	Corporate Strategy and Performance
<b>Reporting Officer:</b>	Director Corporate Strategy and Performance - Sarah Pierson
<b>Authorised By:</b>	Chief Executive Officer – Tony Nottle
<b>Nature of Decision:</b>	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations.
<b>Voting Requirements:</b>	Simple Majority
<b>Disclosures of Interest:</b>	No officers preparing this item have an interest to declare.
<b>Attachments:</b>	<ol style="list-style-type: none"> <li>1. Proposed Council Policy Waste Management Facility and Plant Reserve [7.6.1 - 2 pages]</li> <li>2. Council Policy Waste Management Facility and Plant Reserve track changes [7.6.2 - 2 pages]</li> </ol>

### COMMITTEE RECOMMENDATION

**PL2311/518** Moved Mayor Phill Cronin, seconded Cr Andrew Macnish

**That the Council adopts the amended Council Policy ‘Waste Management Facility and Plant Reserve’ (Attachment 1) to replace the current policy, with the policy having been reviewed as part of the City’s ongoing policy review cycle.**

**CARRIED 5 / 0**

**FOR: Cr Andrew Macnish, Cr Jarrod Kennedy, Cr Jodie Richards,  
Cr Kate Cox and Mayor Phill Cronin**

**AGAINST: Nil**

### OFFICER RECOMMENDATION

That the Council adopts the amended Council Policy ‘Waste Management Facility and Plant Reserve’ (Attachment 1) to replace the current policy, with the policy having been reviewed as part of the City’s ongoing policy review cycle.

## **EXECUTIVE SUMMARY**

This report presents an amended Council Policy: 'Waste Management Facility and Plant Reserve' (the Policy) (Attachment 1). The Policy has been reviewed as part of the City's ongoing policy review cycle and amended with minor amendments and edits to improve readability.

## **STRATEGIC CONTEXT**

The provision of a robust long term funding strategy for waste management activities links to Council's strategic priority for the implementation of best practice waste management strategies which in turn contributes to the protection and enhancement of environmental values. Regular review of City policies reflects good governance.

## **BACKGROUND**

It is the function of the Policy and Legislation Committee to consider new and review existing Council policies. The City's Policy Framework sets out an ongoing cycle of policy review, with the aim of determining the ongoing strategic importance and applicability of Council policies.

A policy in relation to the long-term funding of waste management activities for the district was originally adopted in March 2013, with the policy establishing a commitment that any waste related surplus/deficit would be transferred to or from the Waste Management Facility and Plant Reserve. The policy was reviewed in March 2015 with changes made to recognise that funding for new and replacement plant and equipment required by waste services would be funded by the reserve.

## **OFFICER COMMENT**

The purpose of the Policy is to outline Council's policy position with respect to the long-term funding of waste management activities for the district to ensure that current and future generations share the costs of waste management.

The Policy ensures that revenues derived from waste management fees and charges are retained in a Waste Management Facility and Plant Reserve for the purpose of funding all facets of waste management, including

- development and rehabilitation of waste disposal sites both within the district and regionally,
- acquisition of waste plant and equipment, and
- any waste management activities that may include (but is not limited to) contaminated sites within the district.

The long-term funding of waste management remains an issue of strategic significance and therefore retention of the Policy is recommended, with only minor amendments proposed to improve the readability of the Policy. A track changes version is provided at Attachment 2.

### **Statutory Environment**

In accordance with section 2.7(2)(b) of the *Local Government Act 1995* (the Act), it is the role of the Council to determine the local government's policies. The Council does this on recommendation of a committee it has established in accordance with section 5.8 of the Act.

Section 6.11 of the Act allows the Council to establish reserve accounts such as this one.

### **Relevant Plans and Policies**

The officer recommendation relates to the following adopted plan or policy:

Plan:

Not applicable.

Policy:

The current version of the policy is linked above for reference.

### **Financial Implications**

Not applicable.

### **External Stakeholder Consultation**

Not applicable.

### **Risk Assessment**

An assessment of the potential implications of implementing the Officer recommendation has been undertaken using the City's risk management framework, with risks assessed considering any controls already in place. No risks of a medium or greater level were identified.

### **Options**

As an alternative to the proposed recommendation the Council could:

1. Decide to retain the Policy in its current form.
2. Decide to make additional amendments.

### **CONCLUSION**

This report recommends that Council adopt the amended Council Policy 'Waste Management Facility and Plant Reserve,' to replace the current policy.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

The Officer recommendation will be implemented in full, or in stages as per the following table:

Milestone	Completion Date
Policy placed on the City's website	29 November 2023

**7.7 Various Council Policy Reviews – Early Clearance of Subdivisions, Reinstatement Works in Road Reserves, Crossovers, and Defects Liability Bonds for Subdivisions**

<b>Strategic Theme:</b>	Key Theme 4: Leadership 4.4 Govern a professional organisation that is healthy, capable and engaged.
<b>Directorate:</b>	Corporate Strategy and Performance
<b>Reporting Officer:</b>	Director Corporate Strategy and Performance - Sarah Pierson
<b>Authorised By:</b>	Chief Executive Officer – Tony Nottle
<b>Nature of Decision:</b>	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations.
<b>Voting Requirements:</b>	Simple Majority
<b>Disclosures of Interest:</b>	No officers preparing this item have an interest to declare.
<b>Attachments:</b>	<ol style="list-style-type: none"> <li>1. Proposed Policy Early Clearance of Subdivisions [7.7.1 - 2 pages]</li> <li>2. Proposed Policy Reinstatement Works in Road Reserve [7.7.2 - 2 pages]</li> <li>3. Proposed Policy Crossovers [7.7.3 - 3 pages]</li> <li>4. Proposed Policy Defects Liability Bonds for Subdivisions [7.7.4 - 2 pages]</li> <li>5. Proposed Policy Management and Removal of Asbestos [7.7.5 - 2 pages]</li> <li>6. Early Clearance of Subdivisions track changes [7.7.6 - 2 pages]</li> <li>7. Reinstatement Works in Road Reserves track changes [7.7.7 - 2 pages]</li> <li>8. Crossovers track changes [7.7.8 - 3 pages]</li> <li>9. Defects Liability Bonds for Subdivisions track changes [7.7.9 - 3 pages]</li> <li>10. Management and Removal of Asbestos track changes [7.7.10 - 2 pages]</li> </ol>

**COMMITTEE RECOMMENDATION**

**PL2311/519** Moved Cr Jarrod Kennedy, seconded Cr Andrew Macnish

**That the Council adopts the following policies to replace the current council policies, with the policies having been reviewed as part of the City’s ongoing policy review cycle:**

- 1. Early Clearance of Subdivisions (Attachment 1)**
- 2. Reinstatement Works in Road Reserves (Attachment 2)**
- 3. Crossovers (Attachment 3)**
- 4. Defects Liability Bonds for Subdivisions (Attachment 4)**
- 5. Management and Removal of Asbestos (Attachment 5)**

**CARRIED 5 / 0**

**FOR: Cr Andrew Macnish, Cr Jarrod Kennedy, Cr Jodie Richards,**

**Cr Kate Cox and Mayor Phill Cronin**

**AGAINST: Nil**

### **OFFICER RECOMMENDATION**

That the Council adopts the following policies to replace the current council policies, with the policies having been reviewed as part of the City's ongoing policy review cycle:

1. Early Clearance of Subdivisions (Attachment 1)
2. Reinstatement Works in Road Reserves (Attachment 3)
3. Crossovers (Attachment 3)
4. Defects Liability Bonds for Subdivisions (Attachment 4)
5. Management and Removal of Asbestos (Attachment 5)

### **EXECUTIVE SUMMARY**

This report presents four amended Council Policies (the Policies) (Attachments 1 to 5) for adoption, each having been reviewed as part of the City's ongoing review of its Council policies.

### **STRATEGIC CONTEXT**

The regular review of Council policies ensures strategic guidance remains relevant and appropriate and reflects good governance.

### **BACKGROUND**

It is the function of the Policy and Legislation Committee to consider new and review existing Council policies. The City's Policy Framework sets out an ongoing cycle of policy review, with policies to be reviewed every 3 years, with the aim of determining the ongoing strategic importance and applicability of the policy.

### **OFFICER COMMENT**

The Policies have been reviewed and are considered of ongoing relevance and strategic importance. Minor changes have been made to the Policies to clarify improve their readability, as well as update any terms and references used and bring them into line with the current policy template. For instance, in all policies the strategic context section has been reformatted. In the Early Clearance of Subdivisions policy point 5.4 has been deleted as the following point (previously 5.5) provides for the provision of an early clearance fee as a condition of an early clearance approval. In the Reinstatement Works in Road Reserves policy the City of Busselton has been referenced (City) and then City used thereafter.

With respect to more substantive changes:

- Crossovers policy - definitions have been updated to reflect their alignment with regulations and the City's *Activities in Thoroughfares and Public Places and Trading Local Law 2015*. Details in relation to a Standard Crossover have been removed from the policy with reference instead to the City's Engineering Technical Standards and Specifications. This helps to ensure the policy remains up to date with the City's specifications.
- Defects Liability Bonds for Subdivisions policy - the calculation of the Defects Liability Bond is proposed to be calculated at a flat 5% of the value of the subdivision works, as opposed to using a sliding percent value. This is to reflect the increased market conditions and costs of potential works. It also streamlines processes. Reference to contractor has also been removed as the City collects the defect liability bond from the developer.
- Management and Removal of Asbestos – the definition of Asbestos Containing Materials (ACM) has been removed as it is an acronym, and it is not considered necessary to define asbestos or material that contains it. The strategic priority link has been adjusted as the management of ACM primarily relates to the provision of well-maintained community assets. Point 5.4 has been amended to reflect what the City will do to manage the risk of ACM, with the list comprising of actions the City takes.

Track changes versions are provided at Attachments 6 to 10.

### **Statutory Environment**

In accordance with section 2.27(2)(b) of the Local Government Act 1995 (the Act), it is the role of the Council to determine the local government policies. The Council does this on recommendation of a Committee it has established in accordance with section 5.8 of the Act.

### **Relevant Plans and Policies**

The officer recommendation aligns to the following adopted plan or policy:

Plan:

Not applicable.

Policy:

[Early Clearance of Subdivisions](#)

[Reinstatement Works in Road Reserves](#)

[Crossovers](#)

[Defects Liability Bonds for Subdivisions](#)

[Management and Removal of Asbestos](#)

The current policies are linked for reference above.

The officer recommendation aligns to the City's Policy Framework. The framework sets out the intent of Council policies, as opposed to operational documents such as operational practices and work procedures.

### **Financial Implications**

Not Applicable

### **External Stakeholder Consultation**

Not Applicable

### **Risk Assessment**

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk management framework, with risks assessed considering any controls already in place. No risks of a medium or greater level have been identified.

### **Options**

As an alternative to the proposed recommendation the Council could decide not to adopt the Policies or require further amendments to be made.

### **CONCLUSION**

The Policies have been reviewed as part of the City's ongoing review of its Council policies and are recommended for approval, with minor edits and updates having been made.

### **TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

The officer recommendation will be implemented in full, or in stages as per the following table:

<b>Milestone</b>	<b>Completion Date</b>
Policies placed on the City's website	29 November 2023



**8 CONFIDENTIAL MATTERS**

Nil

**9 NEXT MEETING DATE**

To be confirmed.

**10 CLOSURE**

The meeting was closed at 12:00pm.

**The minutes of the Policy and Legislation Committee meeting held 8 November 2023 were confirmed as a true and correct record on**

Date: 24/11/24.

Presiding Member: *[Signature]*