



Policy Review and Development Committee

Minutes

26 July 2018

Committee Terms of Reference

- 1** *To review all existing Bunbury City Council policies within a two year period, in line with the local government election cycle and facilitate the development of new policies for consideration by Council on an ongoing basis.*
- 2** *To make recommendations to Council on matters of policy, policy and local law review and policy and local law development.*
- 3** *To explore opportunities that promote policy development in all areas that are within Council's jurisdiction.*
- 4** *To allow any draft policy developed and fully considered by another Advisory Committee of Council to be referred directly to Council for consideration.*
- 5** *To provide Bunbury City Councillors with assistance and support to develop new Council policies.*

City of Bunbury
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Bunbury WA 6231

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26 July 2018

Members of the public to note that recommendations made by this committee are not final and will be subject to adoption (or otherwise) at a future meeting of the Bunbury City Council.

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1. Declaration of Opening

The Presiding Member declared the meeting open at 10.02am.

2. Disclaimer

Not applicable to this committee.

3. Announcements from the Presiding Member

The Presiding Member acknowledged that Cr Smith was in attendance at the meeting as an observer.

4. Attendances

Committee Members:

Member Name	Representing
Mayor Gary Brennan	City of Bunbury
Cr Jaysen Miguel (Presiding Member)	City of Bunbury
Cr James Hayward	City of Bunbury
Mr Mark Seaward	BGCCI

Ex-officio Members (non-voting):

Member Name	Representing
Mr Mal Osborne	Chief Executive Officer

Others:

Name	Title
Cr Tresslyn Smith	Observing
Mr Greg Golinski	Manager Governance
Mrs Sarah Upton	Manager Environmental Health, Community Law, and Safety
Mr Keith Billington	Ranger
Mr Thor Farnworth	Manager Planning and Sustainability
Mrs Jana Joubert	Strategic Planning Officer

4.1 Apologies

Cr Brown

4.2 Approved Leave of Absence

Nil

5. Declaration of Interest

Cr Miguel declared an impartiality interest in item 10.8 as he works in Spencer Street.

6. Public Question Time

Not applicable

7. Confirmation of Minutes

Committee Decision: Moved: Mayor Brennan Seconded: Cr Hayward

The minutes of the Policy Review and Development Committee Meeting held on 31 May 2018 are confirmed as a true and accurate record.

CARRIED

8. Petitions, Presentations and Deputations

8.1 Petitions

Nil

8.2 Presentations

Nil

8.3 Deputations

Nil

9. Method of Dealing with Agenda Business

Items were dealt with in the order they appeared in the agenda.

10. Reports

10.1 Proposed New Council Policy: Occupational Safety and Health

Applicant/Proponent:	Internal
Responsible Officer:	Jason Hall, Senior OSH Coordinator
Responsible Manager:	Odetta Robertson, Manager Organisational Development and Human Resources
Executive:	Mal Osborne, Chief Executive Officer
Authority/Discretion	<input type="checkbox"/> Advocacy <input type="checkbox"/> Review <input type="checkbox"/> Executive/Strategic <input type="checkbox"/> Quasi-Judicial <input checked="" type="checkbox"/> Legislative <input type="checkbox"/> Information Purposes
Attachments:	Appendix 1: Proposed New OSH Policy

Summary

The purpose of this Report is for the Policy Review and Development Committee to consider a new Council Policy that outlines the City of Bunbury’s objectives and commitment to improving safety performance. A copy of the proposed policy is attached at Appendix 1.

Executive Recommendation

That the Policy Review and Development Committee recommend that Council adopt new Council Policy *Occupational Safety and Health* as presented.

Voting Requirements: Simple Majority Vote

Strategic Relevance

Theme 4: Our City
 Goal: Civic leadership, partnerships and sound governance in delivering with and for the community
 Objective 4.3: Trusted leadership and robust decision-making

Background

The City commissioned NSCO Consulting to undertake an audit of the Occupational Safety and Health compliance at the City. The audit identified that whilst the City currently has a Corporate Guideline: Occupational Safety and Health, Standard *AS/NZS 4801:2001 Occupational Health and Safety Management System* requires the City to adopt an overarching Occupational Safety and Health Policy to meet satisfactory compliance.

Council Policy Compliance

The City of Bunbury Risk Management Framework identifies the City’s Occupational Safety and Health Management System as an integral organisational program.

Legislative Compliance

- *Section 19 Occupational Safety and Health Act 1984*
- *Occupational Safety and Health Regulations 1996*
- *AS/NZS 4801:2001 Occupational Health and Safety Management Systems.*

Officer Comments

The Audit revealed a number of areas that need to be addressed to ensure the City is compliant with WorkSafe requirements and supports our vision of being a leader in safety in the South West. One of the key first steps is to have an overarching Occupational Safety and Health Policy.

The City of Bunbury has a legislative 'duty of care' in accordance with section 19 of the *Occupational Safety and Health Act 1984*, to provide a framework for a safe system of work appropriate to the nature and scale of City risks.

The proposed Occupational Safety and Health Policy is a statement authorised by City of Bunbury senior management defining its objectives and commitment to improving safety performance.

Analysis of Financial and Budget Implications

There are no budget implications resulting from the recommendations in this item.

Councillor/Officer Consultation

This proposed policy was presented to and endorsed by the Executive Leadership Team on 9 July 2018.

This report is presented to the Policy Review and Development Committee for consideration.

Outcome of Meeting

The executive recommendation was moved by Cr Hayward and seconded by Mayor Brennan and was carried unanimously as follows:

That the Policy Review and Development Committee recommend that Council adopt new Council Policy Occupational Safety and Health as presented.

Section 3.12 of the *Local Government Act 1995* outlines the process for the creation of a new local law and is applicable.

Section 3.16 of the *Local Government Act 1995* requires that local laws be reviewed every 8 years.

Officer Comments

The **purpose** of the proposed local law is to provide the City of Bunbury with measures in addition to those under the *Cat Act 2011* to control the keeping of cats.

The **effect** of the proposed local law is the ability to control the number of cats that can be kept and places where cats can be kept.

The proposed local law has been drafted based on similar instruments that current exist within other local governments within WA.

Analysis of Financial and Budget Implications

Gazettal and advertising costs will be accommodated in the 2018/19 budget.

Councillor/Officer Consultation

This matter is presented to the Committee for consideration. The proposed local law was also presented at an informal briefing on Thursday 12 July 2018.

Outcome of Meeting

The executive recommendation was moved by Cr Hayward and seconded by Mayor Brennan and was carried unanimously as follows:

That the Committee recommend that Council agrees to give public notice of its intention to make the City of Bunbury Cats Local Law 2018, in accordance with section 3.12 of the Local Government Act 1995.

10.3 Proposed City of Bunbury Dogs Local Law 2018

Applicant/Proponent:	City of Bunbury
Responsible Officer:	Sarah Upton, Manager Health and Community Law, Safety and Emergency Management Greg Golinski, Manager Governance
Responsible Manager:	Sarah Upton, Manager Health and Community Law, Safety and Emergency Management Greg Golinski, Manager Governance
Executive:	Felicity Anderson, A/Director Planning and Development Services
Authority/Discretion	<input type="checkbox"/> Advocacy <input type="checkbox"/> Review <input type="checkbox"/> Executive/Strategic <input type="checkbox"/> Quasi-Judicial <input checked="" type="checkbox"/> Legislative <input type="checkbox"/> Information Purposes
Attachments:	Appendix 3: Proposed City of Bunbury Dogs Local Law 2018

Summary

The purpose of this report is for the Committee to consider initiating the process to create a local law to control the keeping of dogs within the City of Bunbury. A copy of the proposed local law is at Appendix 3.

Should the Committee (and then Council) support the Executive Recommendation, a statutory public consultation period of 42 days applies (minimum) will need to be adhered to, following which the draft local law, along with any submissions received, will need to come back to the Committee and then Council for final approval.

Executive Recommendation

That the Committee recommend that Council agrees to give public notice of its intention to make the City of Bunbury Dogs Local Law 2018, in accordance with section 3.12 of the *Local Government Act 1995*.

Voting Requirements: Simple Majority Vote

Strategic Relevance

Theme 4: Our City
Goal: Civic leadership, partnerships and sound governance in delivering with and for the community
Objective 4.3: Trusted leadership and robust decision-making

Background

The current City of Bunbury Dogs Local Law was gazetted in 2002, and despite having been reviewed since that time, it has remained unchanged since the gazettal date.

Council Policy and Legislative Compliance

Section 3.12 of the *Local Government Act 1995* outlines the process for the creation of a new local law and is applicable.

Section 3.16 of the *Local Government Act 1995* requires that local laws be reviewed every 8 years.

Officer Comments

The **purpose** of the proposed local law is to repeal the existing Dogs Local Law 2002 and to extend to Council the controls over dogs which exist under the *Dog Act 1976*.

The **effect** of the proposed local law is to provide Council with controls and regulatory measures in relation to the impounding of dogs, requirements and limitations on the keeping of dogs, and the management of dogs in public places.

Officers are proposing the repeal of the current Dogs Local Law and replacement with a new instrument, mainly due to the large number of changes required as a result of the current law being 16 years old. The alternative would be to adopt a lengthy amendment local law, which would make the application of the local law difficult and confusing as the two instruments would need to be read in conjunction with each other.

Analysis of Financial and Budget Implications

Gazettal and advertising costs will be accommodated in the 2018/19 budget.

Councillor/Officer Consultation

This matter is presented to the Committee for consideration. The proposed local law was also presented at an informal briefing on Thursday 12 July 2018.

Outcome of Meeting

The executive recommendation was moved by Mayor Brennan and seconded by Cr Hayward and was carried unanimously as follows:

That the Committee recommend that Council agrees to give public notice of its intention to make the City of Bunbury Dogs Local Law 2018, in accordance with section 3.12 of the Local Government Act 1995.

Section 3.12 of the *Local Government Act 1995* outlines the process for the creation of a new local law and is applicable.

Section 3.16 of the *Local Government Act 1995* requires that local laws be reviewed every 8 years.

Officer Comments

The **purpose** of the proposed local law is to repeal the existing Parking and Parking Facilities Local Law and to establish the requirements and conditions with which any persons parking or standing a vehicle within the district must comply.

The **effect** of the proposed local law is to provide for the regulation, control and management of parking and standing of vehicles generally, and for the regulation, control and management of parking facilities.

Officers are proposing the repeal of the current Parking and Parking Facilities Local Law and replacement with a new instrument, mainly due to the large number of changes required as a result of the current law being 13 years old. The alternative would be to adopt a lengthy amendment local law, which would make the application of the local law difficult and confusing as the two instruments would need to be read in conjunction with each other.

Analysis of Financial and Budget Implications

Gazettal and advertising costs will be accommodated in the 2018/19 budget.

Councillor/Officer Consultation

This matter is presented to the Committee for consideration. The proposed local law was also presented at an informal briefing on Thursday 12 July 2018.

Outcome of Meeting

The executive recommendation was moved by Mayor Brennan and seconded by Mr Seaward and was carried unanimously as follows:

That the Committee recommend that Council agrees to give public notice of its intention to make the City of Bunbury Parking and Parking Facilities Local Law 2018, in accordance with section 3.12 of the Local Government Act 1995.

10.5 Proposed Work Procedure for Development Contributions for Infrastructure

File Ref:	A04151
Applicant/Proponent:	Internal
Responsible Officer:	Thor Farnworth, Manager Sustainability, Planning and Development
Responsible Manager:	Thor Farnworth, Manager Sustainability, Planning and Development
Executive:	Felicity Anderson, Acting Director Planning and Development Services
Authority/Discretion	<input type="checkbox"/> Advocacy <input checked="" type="checkbox"/> Review <input type="checkbox"/> Executive/Strategic <input type="checkbox"/> Quasi-Judicial <input type="checkbox"/> Legislative <input type="checkbox"/> Information Purposes
Attachments:	Appendix 5: Letter from McLeods Appendix 6: Draft Work Procedure for Development Contributions for Infrastructure

Summary

A condition of development approval for a showroom complex requiring a development contribution towards the costs of renewing a section of degraded footpath fronting the subject site was disallowed as an outcome of the State Administrative Tribunal (SAT) appeal of Prosser v City of Bunbury [2017] DR 389, 8 May 2018.

As outlined in the legal advice provided by the City's solicitor **attached** at Appendix 5, the SAT's decision was based on recent case law indicating a hardening of the Supreme Court's position on proving beyond reasonable doubt the 'nexus' issue, and in this manner the SAT appears to be following the court's lead.

The implication of which means that Council Policy: Footpath Network Contributions for Development, adopted on 1 May 2018 (Decision 134/18), has now largely become redundant and can subsequently be replaced by the proposed draft Work Procedure for Development Contributions for Infrastructure **attached** at Appendix 6.

Consequently, the City of Bunbury will therefore continue to approve development applications that may seek development contributions for infrastructure, in accordance with the principles of State Planning Policy 3.6 Development Contributions for Infrastructure, where it can be demonstrated to be compellingly fair and reasonable to do so, subject to the guidelines as set out in the proposed draft Work Procedure for Development Contributions for Infrastructure.

Executive Recommendation

That the Policy Review and Development Committee:

1. Notes the letter of legal advice provided the City's solicitor McLeods Barristers & Solicitors, dated 9 May 2018, regarding the outcomes of SAT Review DR 389/2017: Prosser v City of Bunbury: Footpath Contribution Condition on Showroom Development Approval.
2. Notes the contents of the proposed draft Work Procedure for Development Contributions for Infrastructure for further comment/refinement and consideration for

adoption to the satisfaction of the committee.

3. Recommend that Council revoke adopted Council Policy: Footpath Network Contributions for Development, noting there will be no further legal or financial implications.

Voting Requirements: Simple Majority Required

Strategic Relevance

- Theme 3: Our places and spaces
Goal: A natural and built environment that reflects Bunbury's core values.
Objective 3.1: A city that is easy to get around with attractive streetscapes and pathways.
Objective 3.3: High-quality urban design, well-planned neighbourhoods with housing choice, and appropriate provision for diverse land uses to meet the community's needs.
- Theme 4: Our City
Goal: Civic leadership, partnerships and sound governance in delivering with and for the community.
Objective 4.2: A highly-engaged and involved community, working together on strategy development and implementation.
Objective 4.3: Trusted leadership and robust decision-making.
Objective 4.4: A skilled organisation, which exercises responsible asset stewardship, sound financial management, and exemplary customer service.

Background

An outcome of the State Administrative Tribunal (SAT) appeal decision regarding *Prosser v City of Bunbury* [2017] DR 389, 8 May 2018, was that a condition requiring a contribution by the developer towards half the costs of renewing a relatively short section of degraded footpath fronting #27 Spencer Street adjacent to a proposed showroom complex development was disallowed.

The SAT's decision confirmed the legality of Council imposing contributions for the renewal or upgrading of infrastructure by developers without the necessity of a Development Contribution Plan (DCP) being adopted, as was argued by the developer in relation to regulation 73(1) of the *Planning and Development (Local Planning Schemes) Regulation's 2015*. In doing so it was the opinion of the City's solicitor, **attached** at Appendix 5, that the City of Bunbury has nevertheless performed a service for local governments and other planning decision-making authorities generally in WA.

The City's solicitor advice was that ultimately the SAT's decision came down to proving technical matters of the 'need' and 'nexus' test and did not relate to the validity of the other seven principles the City applied in accordance with State Planning Policy 3.6 Development Contributions for Infrastructure (i.e. transparency, equity, certainty, efficiency, consistency, right of consultation and arbitration and accountable).

As outlined in the attached letter from the City's solicitor, the SAT's decision is based on recently evolving case law indicating an apparent hardening of the Supreme Court's position of proving beyond reasonable doubt the issue of 'nexus', and as such, SAT appears to be following the court's lead.

Nevertheless, the City of Bunbury may continue to approve development applications that impose conditions for developer contributions only where it is compellingly fair and reasonable to do so, subject to the observance of guidelines as provided in the proposed draft Work Procedure for Development Contributions for Infrastructure.

Legislative and Council Policy Compliance

The following statutory planning instruments of the State Planning Framework and Local Planning Framework are applicable to the matter of developer contributions planning:

- *Planning and Development Act 2005;*
- *Planning and Development (Local Planning Schemes) Regulations 2015;*
- State Planning Policy 3.6 Development Contributions for Infrastructure;
- City of Bunbury Local Planning Scheme No. 8 (LPS8); and
- City of Bunbury Local Planning Strategy.

Officer Comments

In summary, the lessons learned from the SAT appeal in relation to seeking development contributions for infrastructure are as follows:

- Council cannot apply a standard footpath network contribution as a levy for residential (or commercial) development.
- The imposing of a condition of development approval for the upgrading of a footpath must be based on individual merits and impacts of the proposal, in accordance with the principles and provisions of State Planning Policy 3.6 Development Contributions for Infrastructure.
- Council can nevertheless continue to require a developer to provide or upgrade a footpath (or any other standard infrastructure item listed in Appendix 1 - Standard development contribution requirements of State Planning Policy 3.6 Development Contributions for Infrastructure) without a gazetted Development Contribution Plan (DCP), provided that:
 - empirical evidenced based justification proves beyond reasonable doubt that the new development will create a significant increase in pedestrian traffic (i.e. pedestrian counts necessitating 'need' and 'nexus' for a footpath as demonstrated by a Transport Impact Assessment);
 - there is no footpath in existence or the footpath is in such poor condition that it needs to be replaced urgently (i.e. poor condition rating);
 - the substantial street frontage and/or the number of lots to be created is significant (e.g. a street block); and
 - connection to the existing footpath network is programmed to occur within a reasonably short time period (e.g. three 3 years).

Analysis of Financial and Budget Implications

The intent of Council Policy: Footpath Network Contributions for Development represented the

then status quo for applying development conditions for the provision of footpaths as a standard infrastructure item in accordance with Appendix 1 - Standard development contribution requirements of State Planning Policy 3.6 Development Contributions for Infrastructure.

Funding for upgrading the city's footpath network is in large part provided for through the rolling capital works programme. As such, an amount of contributions by developers cannot reliably be assumed or budgeted on an annual basis, given that development is dependent upon the investment decisions of private landowners in response to fluctuating market forces.

Furthermore, the actual amount of developer contributions collected on an annual basis for footpaths has historically represented (and is project to be) only a nominal amount, and has remained relatively insignificant as compared to the total capital works budget funded out of the yearly rates revenue collected (i.e. including 1% dedicated for infrastructure renewal) and the footpath reserve.

Therefore, there are no known additional or unforeseen financial or budgetary implications associated with either adopting the proposed draft Work Procedure for Development Contributions for Infrastructure or rescinding the existing Council Policy: Footpath Network Contributions for Development.

Community Consultation

Not applicable, as the adoption of a work procedure is an operational matter of the local government.

Councillor/Officer Consultation

The information contained in the proposed draft Work Procedure for Development Contributions for Infrastructure is consistent with the legal advice provided by the City's solicitor and has been prepared with the technical input of staff from across directorates, in conjunction with statutory advice received from the Department of Planning, Lands and Heritage.

The proposed draft Work Procedure for Development Contributions for Infrastructure is now presented to the committee for further comment and refinement, subject to being considered for future adoption by the committee.

Outcome of Meeting

The executive recommendation was moved by Mayor Brennan and seconded by Cr Hayward and was carried unanimously as follows:

That the Policy Review and Development Committee:

- 1. Notes the letter of legal advice provided the City's solicitor McLeods Barristers & Solicitors, dated 9 May 2018, regarding the outcomes of SAT Review DR 389/2017: Prosser v City of Bunbury: Footpath Contribution Condition on Showroom Development Approval.***
- 2. Notes the contents of the proposed draft Work Procedure for Development***

Contributions for Infrastructure for further comment/refinement and consideration for adoption to the satisfaction of the committee.

- 3. *Recommend that Council revoke adopted Council Policy: Footpath Network Contributions for Development, noting there will be no further legal or financial implications.***

Objective 3.3: High-quality urban designs, well-planned neighbourhoods with housing choice, and appropriate provision for diverse land uses to meet the community's needs

Background

The *Planning and Development (Local Planning Schemes) Regulations 2015* sets out procedures for local governments to prepare and amend local planning policies. Local planning policies are a fundamental part of Council's Local Planning Framework and are required as a normal part of regulating land use and development. Local planning policies are used to assist the local government in making decisions on a range of issues that require more detailed guidance.

The adopted local planning policies require review on a regular basis in order to keep them up to date and relevant. The local planning policy review process is being undertaken in accordance with a quality assured approach (including a Relevancy, Efficacy and Veracity Test) that is documented in the Local Planning Policy Review Manual (as noted by the Committee at their meeting on 23 January 2018).

The draft Local Planning Policy: Administrative Framework and Procedures was identified as a new high priority local planning policy as part of this process.

Council Policy and Legislative Compliance

This draft local planning policy has been prepared in accordance with the provisions of 'Division 2 – Local Planning Policies' under 'Part 2 – Local Planning Framework' of 'Schedule 2 – Deemed Provisions for Local Planning Schemes' of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Officer Comments

The intent of draft Local Planning Policy: Administrative Framework and Procedures, as the overarching administrative local planning policy, is to provide the policy framework and procedures relevant to all local planning policies, with the aim to:

- address administrative and operational considerations;
- ensure a consistent approach to the implementation of all local planning policies; and
- avoid unnecessary repetition and duplication.

All local planning policies are therefore to be read in conjunction with the requirements of the draft Local Planning Policy: Administrative Framework and Procedures.

Following public advertising and adoption of the draft Local Planning Policy: Administrative Framework and Procedures by Council, the City of Bunbury will be in a position to revoke a number of related local planning policies which will consequently have been made redundant. These include:

- (a) Scheme Amendments: Application Requirements and Documentation for Purposes of Advertising (No. 60); and
- (b) Variation to Local Planning Scheme & Residential Design Codes (No. 64).

Analysis of Financial and Budget Implications

There are no known financial or budget implications other than the associated advertising costs of the proposal through the statutory public advertising procedure.

Community Consultation

Draft Local Planning Policy: Administrative Framework and Procedures will be publicly advertised for a period of not less than 21 days (including community and industry engagement through key stakeholders such as the BGCCI) before being returned to Council along with any submissions received for further consideration.

Councillor/Officer Consultation

Officers from across the Sustainability, Planning and Development department have contributed to the preparation of draft Local Planning Policy: Administrative Framework and Procedures.

Outcome of Meeting

General discussion took place regarding all the proposed planning policies in items 10.6 through 10.13. Specifically, and due to the complexity of these policies, it was requested that Elected Members receive a briefing at some stage regarding both the hierarchy of planning legislation, as well as the specific policies themselves.

The executive recommendation was moved by Cr Hayward and seconded by Mr Seaward and was carried unanimously as follows:

That the Committee recommends that Council:

- 1. In accordance with clause 4 of 'Division 2 – Local Planning Policies' under 'Part 2 – Local Planning Framework' of 'Schedule 2 – Deemed provisions for local planning schemes' of the Planning and Development (Local Planning Schemes) Regulations 2015, proceed to advertise the draft Local Planning Policy: Administrative Framework and Procedures for public comment for a period of not less than 21 days.***
- 2. Following public advertising, consider for adoption the draft Local Planning Policy: Administrative Framework and Procedures, along with any submissions lodged with the City of Bunbury during the public advertising period.***

10.7 Proposed New Draft Local Planning Policy: Zone Development Requirements

File Ref:	A04151
Applicant/Proponent:	City of Bunbury
Responsible Officer:	Jana Joubert, Strategic Planning Officer
Responsible Manager:	Thor Farnworth, Manager Sustainability, Planning and Development
Executive:	Felicity Anderson, Acting Director Planning and Development Services
Authority/Discretion	<input type="checkbox"/> Advocacy <input type="checkbox"/> Review <input type="checkbox"/> Executive/Strategic <input type="checkbox"/> Quasi-Judicial <input checked="" type="checkbox"/> Legislative <input type="checkbox"/> Information Purposes
Attachments:	Appendix 8: Modified Draft Local Planning Policy: Zone Development Requirements Appendix 9: Schedule of Submissions Appendix 10: Schedule of Modifications

Summary

The City of Bunbury’s inaugural Local Planning Strategy was endorsed on 1 March 2018 and the new Local Planning Scheme No. 8 (LPS8) was gazetted on 9 March 2018. The proposed draft Local Planning Policy: Zone Development Requirements (**attached** at Appendix 8) that was advertised from 30 January to 23 February 2018 is intended to support and complement LPS8 by providing the urban design provisions for the new suite of zones. The benefit also being that 12 other local planning policies can now be rationalised.

Executive Recommendation

That the Committee recommends that Council:

1. In accordance with clause 4 of ‘Division 2 – Local Planning Policies’ under ‘Part 2 – Local Planning Framework’ of ‘Schedule 2 – Deemed provisions for local planning schemes’ of the *Planning and Development (Local Planning Schemes) Regulations 2015*, resolve to proceed with the adoption of the modified proposed Local Planning Policy: Zone Development Requirements as attached.
2. Publish a notice of the adoption of proposed Local Planning Policy: Zone Development Requirements in a newspaper circulating in the Scheme area, with the draft Local Planning Policy: Zone Development Requirements having effect on publication of the notice.
3. Revoke and publish a notice of the revocation of the following local planning policies in a newspaper circulating in the Scheme area:
 - (a) Mixed Business Zone Special Development Area (Residential/Mixed Use Development) (No. 2.5);
 - (b) Building Facades of Commercial and Industrial Development (No. 3.2);
 - (c) Building Height (No. 3.12);
 - (d) Koombana Cove Design Guidelines (No. 4.1.3);
 - (e) Former St John of God Hospital Site (S.U.26) Design Guidelines (No. 4.1.4);
 - (f) Marlston Hill (Stage 1) Design Guidelines (No. 16);

- (g) Marlston Hill (Stage 2) Design Guidelines (No. 17);
- (h) Marlston Hill (Stage 3) Design Guidelines (No. 18);
- (i) Marlston Waterfront Precinct Development Design Guidelines (No. 19);
- (j) Pelican Point Development Design Guidelines (No. 22);
- (k) Commercial Development along Australind By-Pass (No. 36); and
- (l) Office Use Within the Mixed Business Zone (No. 54).

4. Advise the submitters of Council's decision.

Voting Requirements: Simple Majority Required

Strategic Relevance

- Theme 1: Our community and culture
Goal: A safe, healthy and cohesive community, with a rich cultural life, and supportive social environment.
Objective 1.5: Establish Bunbury as the most accessible regional city in Australia
Objective 1.6: A community that provides for the particular needs of the young and the old
- Theme 2: Our economy
Goal: A thriving and dynamic economy, that plays to its strengths, and confidently presents to the world.
Objective 2.2: Bunbury is known far and wide for its strengths as a place to live, visit and do business
- Theme 3: Our places and spaces
Goal: A natural and built environment that reflects Bunbury's core values.
Objective 3.1: A city that is easy to get around with attractive streetscapes and pathways
Objective 3.3: High-quality urban designs, well-planned neighbourhoods with housing choice, and appropriate provision for diverse land uses to meet the community's needs

Background

The draft Local Planning Policy: Zone Development Requirements (Zone Codes) contain urban design controls (such as building heights), which were initially included as Part 4 and Schedule 5 of LPS8 as originally drafted but which were subsequently removed in the adopted version. This decision was made following extensive consultation with the Department of Planning, Lands and Heritage and in response to feedback received in workshops and by a number of submitters during the public advertising period.

At the time of the adoption of LPS8, the newly elevated status afforded to local planning policies by the *Planning and Development (Local Planning Schemes) Regulations 2015* meant that it was appropriate to transfer the performance based elements of the zoning requirements into a local planning policy. Consequently, as recognised planning instruments, local planning policies now form an appropriate balance for managing certainty and flexibility.

In accordance with 'Division 2 – Local Planning Policies' under 'Part 2 – Local Planning Framework' of 'Schedule 2 – Deemed Provisions for Local Planning Schemes', decision makers are required to have regard to local planning policies when making a determination in respect of a development proposal.

At its meeting of 23 January 2018, Council accepted the Policy Development and Review Committee's recommendation and determined to advertise the draft Zone Codes local planning policy for community and stakeholder comment.

Council Policy and Legislative Compliance

This draft local planning policy has been prepared in accordance with the provisions of 'Division 2 – Local Planning Policies' under 'Part 2 – Local Planning Framework' of 'Schedule 2 – Deemed Provisions for Local Planning Schemes' of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Officer Comments

The proposed local planning policy as drafted complements the new zones that form part of LPS8 and seeks to provide adequate flexibility in both the designing and assessment of development proposals within the new suite of zones.

Analysis of Financial and Budget Implications

There are no known financial or budget implications associated with the adoption of the proposed draft Zone Codes as a local planning policy.

Community Consultation

The draft Zone Codes was publicly advertised for community comment from 30 January 2018 to 23 February 2018 for a period of 21 days in accordance with clause 4 of 'Division 2 – Local Planning Policies' under 'Part 2 – Local planning framework' of Schedule 2 – Deemed provisions for local planning schemes' of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Public consultation measures included the following:

- public notice of the proposal was published during the advertising period in a locally circulated newspaper;
- public notice of the proposal was posted on the City of Bunbury's website;
- letters were sent to local property, planning, building and design consultancies;
- the City's Strategic Planning and Urban Design team presented to the members of the Bunbury Geographe Chamber of Commerce and Industry (BGCCI) an introductory overview of the draft policy on 3 May 2018;
- the City's Strategic Planning and Urban Design team engaged in a technical workshop with members of the BGCCI on 17 May 2018; and
- the City's Strategic Planning and Urban Design team were available to address questions and provide comment during a three hour public consultation drop-in session on 9 July 2018.

Twelve (12) submissions were received during the public advertising period, two of which were objections and the rest of which were either neutral or in support of the draft local planning policy. Refer to detailed comments provided in the Schedule of Submissions as **attached** at Appendix 9.

Two members of the public attended the subsequent public consultation drop-in session, resulting in further minor modifications to the draft policy chiefly in relation to minimum setbacks and landscaping requirements for service commercial, light and general industry zones.

Modifications to the draft Zone Codes were undertaken in accordance with the Schedule of Modifications (**attached** at Appendix 10) which provides the justification for any amendments to the local planning policy.

Councillor/Officer Consultation

Officers from across the Sustainability, Planning and Development department have contributed to the preparation and modification of draft Local Planning Policy: Zone Development Requirements and it has also been trialled in the assessment of live applications by the Development Assessment and Compliance Team since its initiation in January 2018.

Outcome of Meeting

The executive recommendation was moved by Mayor Brennan and seconded by Cr Hayward and was carried unanimously as follows:

That the Committee recommends that Council:

1. ***In accordance with clause 4 of 'Division 2 – Local Planning Policies' under 'Part 2 – Local Planning Framework' of 'Schedule 2 – Deemed provisions for local planning schemes' of the Planning and Development (Local Planning Schemes) Regulations 2015, resolve to proceed with the adoption of the modified proposed Local Planning Policy: Zone Development Requirements as attached.***
2. ***Publish a notice of the adoption of proposed Local Planning Policy: Zone Development Requirements in a newspaper circulating in the Scheme area, with the draft Local Planning Policy: Zone Development Requirements having effect on publication of the notice.***
3. ***Revoke and publish a notice of the revocation of the following local planning policies in a newspaper circulating in the Scheme area:***
 - (a) ***Mixed Business Zone Special Development Area (Residential/Mixed Use Development) (No. 2.5);***
 - (b) ***Building Facades of Commercial and Industrial Development (No. 3.2);***
 - (c) ***Building Height (No. 3.12);***
 - (d) ***Koombana Cove Design Guidelines (No. 4.1.3);***
 - (e) ***Former St John of God Hospital Site (S.U.26) Design Guidelines (No. 4.1.4);***
 - (f) ***Marlston Hill (Stage 1) Design Guidelines (No. 16);***
 - (g) ***Marlston Hill (Stage 2) Design Guidelines (No. 17);***
 - (h) ***Marlston Hill (Stage 3) Design Guidelines (No. 18);***
 - (i) ***Marlston Waterfront Precinct Development Design Guidelines (No. 19);***
 - (j) ***Pelican Point Development Design Guidelines (No. 22);***

- (k) Commercial Development along Australind By-Pass (No. 36); and**
- (l) Office Use Within the Mixed Business Zone (No. 54).**

- 4. Advise the submitters of Council's decision.**

10.8 Proposed New Draft Local Planning Policy: Spencer Street Activity Corridor Design Guidelines

File Ref:	A04151
Applicant/Proponent:	City of Bunbury
Responsible Officer:	Jana Joubert, Strategic Planning Officer
Responsible Manager:	Thor Farnworth, Manager Sustainability, Planning and Development
Executive:	Felicity Anderson, Acting Director Planning and Development Services
Authority/Discretion	<input type="checkbox"/> Advocacy <input type="checkbox"/> Review <input type="checkbox"/> Executive/Strategic <input type="checkbox"/> Quasi-Judicial <input checked="" type="checkbox"/> Legislative <input type="checkbox"/> Information Purposes
Attachments:	Appendix 11: Draft Local Planning Policy: Spencer Street Activity Corridor Design Guidelines

Summary

Following the advertising of the draft Local Planning Policy: Zone Development Requirements (the Zone Codes) and as a result of submissions received, the draft Local Planning Policy: Spencer Street Activity Corridor Design Guidelines (**attached** at Appendix 11) has been prepared and will be required to be advertised for public comment prior to its adoption.

The proposed draft Local Planning Policy: Spencer Street Activity Corridor Design Guidelines supplements the provisions of the Scheme and the draft Zone Codes and aims to guide the future development of the mixed use activity corridor in accordance with its design intent as identified within the City of Bunbury Local Planning Strategy.

Executive Recommendation

That the Committee recommends that Council:

1. In accordance with clause 4 of 'Division 2 – Local Planning Policies' under 'Part 2 – Local Planning Framework' of 'Schedule 2 – Deemed provisions for local planning schemes' of the *Planning and Development (Local Planning Schemes) Regulations 2015*, proceed to advertise the draft Local Planning Policy: Spencer Street Activity Corridor Design Guidelines for public comment for a period of not less than 21 days.
2. Following public advertising, consider for adoption the draft Local Planning Policy: Spencer Street Activity Corridor Design Guidelines, along with any submissions lodged with the City of Bunbury during the public advertising period.

Strategic Relevance

- Theme 1: Our community and culture
- Objective 1.2: An active community, able to access a wide range of sporting, recreation and leisure options
- Objective 1.5: Establish Bunbury as the most accessible regional city in Australia
- Theme 2: Our economy
- Objective 2.1: Bunbury builds on its competitive advantages, supports innovation and celebrates business success

Objective 2.2: Bunbury is known far and wide for its strengths as a place to live, visit and do business

Theme 3: Our places and spaces

Objective 3.1: A city that is easy to get around with attractive streetscapes and pathways

Objective 3.3: High-quality urban designs, well-planned neighbourhoods with housing choice, and appropriate provision for diverse land uses to meet the community's needs

Theme 4: Our City

Objective 4.3: Trusted leadership and robust decision-making

Background

The draft Local Planning Policy: Zone Development Requirements was prepared and advertised for public comment from 30 January 2018 to 23 February 2018. Comments by submitters included the need for increased clarity and certainty around the intent for the Spencer Street Activity Corridor as this area does not necessarily reflect the objectives or requirements of the 'Local Centre Zone', 'Mixed Use – Commercial Zone' and/or 'Mixed Use – Residential Zone' of which it is comprised.

In response to feedback received during the public advertising period officers have prepared the draft Local Planning Policy: Spencer Street Activity Corridor Guidelines, which establishes a set of development requirements that augment those in the Scheme and the Zone Codes and which aim to address site specific design considerations and standards such as setback and pedestrian shelter requirements.

Council Policy and Legislative Compliance

This draft local planning policy has been prepared in accordance with the provisions of 'Division 2 – Local Planning Policies' under 'Part 2 – Local Planning Framework' of 'Schedule 2 – Deemed Provisions for Local Planning Schemes' of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Officer Comments

The City of Bunbury's endorsed Local Planning Strategy identifies Spencer Street as a future Mixed Use Activity Corridor. Mixed use activity corridors generally support a mix of land uses as well as pedestrian-oriented, active environments and often have other transport demands and functions such as cycle lanes.

The Local Planning Strategy proposes the gradual relocation of the existing caryards along Spencer Street in order for the corridor to transition to an active mixed use corridor in accordance with the principles of incentives and graduated density.

Spencer Street Activity Corridor comprises a number of different zones and is therefore subject to a number of different design standards (i.e. varying setback requirements) under the Scheme and the Zone Codes. In order to achieve a homogenous and consistent active frontage along Spencer Street, in accordance with the principles and strategies as set forth in the Local Planning Strategy, this mixed use activity corridor would rightly benefit from a set of design standards that are customised to the intent of the corridor and its four sub-precincts or interfaces.

Analysis of Financial and Budget Implications

There are no known financial or budget implications other than the associated advertising costs of the proposal through the statutory public advertising procedure.

Community Consultation

Draft Local Planning Policy: Spencer Street Activity Corridor Design Guidelines will be publicly advertised for a period of not less than 21 days (including community and industry engagement through key stakeholders such as the BGCCI) before being returned to Council along with any submissions received for further consideration.

Councillor/Officer Consultation

Officers from across the Sustainability, Planning and Development department have contributed to the preparation of draft Local Planning Policy: Spencer Street Activity Corridor Design Guidelines.

Outcome of Meeting

The executive recommendation was moved by Cr Hayward and seconded by Mr Seaward and was carried unanimously as follows:

That the Committee recommends that Council:

- 1. In accordance with clause 4 of 'Division 2 – Local Planning Policies' under 'Part 2 – Local Planning Framework' of 'Schedule 2 – Deemed provisions for local planning schemes' of the Planning and Development (Local Planning Schemes) Regulations 2015, proceed to advertise the draft Local Planning Policy: Spencer Street Activity Corridor Design Guidelines for public comment for a period of not less than 21 days.***
- 2. Following public advertising, consider for adoption the draft Local Planning Policy: Spencer Street Activity Corridor Design Guidelines, along with any submissions lodged with the City of Bunbury during the public advertising period.***

- Objective 2.2: Bunbury is known far and wide for its strengths as a place to live, visit and do business
- Theme 3: Our places and spaces
- Objective 3.1: A city that is easy to get around with attractive streetscapes and pathways
- Objective 3.3: High-quality urban designs, well-planned neighbourhoods with housing choice, and appropriate provision for diverse land uses to meet the community's needs
- Objective 3.6: The public health and amenity of the community is protected
- Theme 4: Our City
- Objective 4.2: A highly-engaged and involved community, working together on strategy development and implementation
- Objective 4.3: Trusted leadership and robust decision-making

Background

The existing Local Planning Policy: Access and Parking for Pedestrians, Bicycles and Vehicles was first adopted by Council on 30 November 2010, with the aim of assisting officers and Council in the exercising of discretion when determining applications for development approval with respect to those matters affecting the provision of parking and/or access for pedestrians, bicycles and vehicles.

The gazettal of the new LPS8 and changes in State legislation generally, and the *Planning and Development (Local Planning Schemes) Regulations 2015* in particular, has resulted in the need to update the Local Planning Policy: Access and Parking for Pedestrians, Bicycles and Vehicles in line with these new provisions.

Council Policy and Legislative Compliance

This draft local planning policy has been prepared in accordance with the provisions of 'Division 2 – Local Planning Policies' under 'Part 2 – Local Planning Framework' of 'Schedule 2 – Deemed Provisions for Local Planning Schemes' of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Officer Comments

The local planning policy review process is being undertaken in accordance with a quality assured approach (including a Relevancy, Efficacy and Veracity Test) that is documented in the Local Planning Policy Review Manual (as noted by the Committee at their meeting on 23 January 2018) and forms the basis of the review process.

The review process identified the Local Planning Policy: Access and Parking for Pedestrians, Bicycles and Vehicles as being part of a suite of frequently used high priority local planning policies that require updating in line with revised State legislation and new LPS8 provisions.

The revised draft Local Planning Policy: Access and Parking for Pedestrians, Bicycles and Vehicles has therefore undergone a minor review, as the planning intent and objectives of the policy remain sound and its contents current. A Policy Review Document containing a summary of amendments/modifications to the policy is **attached** at Appendix 13.

Analysis of Financial and Budget Implications

There are no known financial or budget implications other than the associated advertising costs of the proposal through the statutory public advertising procedure.

Community Consultation

The revised draft Local Planning Policy: Access and Parking for Pedestrians, Bicycles and Vehicles will be publicly advertised for a period of not less than 21 days (including community and industry engagement through key stakeholders such as the BGCCI) before being returned to Council along with any submissions received for further consideration.

Councillor/Officer Consultation

Officers from across the Sustainability, Planning and Development department have contributed to the review of the Local Planning Policy: Access and Parking for Pedestrians, Bicycles and Vehicles. As such, the policy has undergone continuous monitoring since its adoption in 2010 which has also informed its review.

Outcome of Meeting

The executive recommendation was moved by Cr Hayward and seconded by Mayor Brennan and was carried unanimously as follows:

That the Committee recommends that Council:

- 1. In accordance with clause 4 of 'Division 2 – Local Planning Policies' under 'Part 2 – Local Planning Framework' of 'Schedule 2 – Deemed provisions for local planning schemes' of the Planning and Development (Local Planning Schemes) Regulations 2015, proceed to advertise the revised draft Local Planning Policy: Access and Parking for Pedestrians, Bicycles and Vehicles for public comment for a period of not less than 21 days.***
- 2. Following public advertising, consider for adoption the revised draft Local Planning Policy: Access and Parking for Pedestrians, Bicycles and Vehicles, along with any submissions lodged with the City of Bunbury during the public advertising period.***

planning framework’ of ‘Schedule 2 - Deemed provisions for local planning schemes’ of the *Planning and Development (Local Planning Schemes) Regulations 2015*, resolve to proceed with the adoption of the modified proposed Local Planning Policy: Signage and Advertisements as attached.

2. Publish a notice of the adoption of the modified proposed Local Planning Policy: Signage and Advertisements in a newspaper circulating in the Scheme area, with the draft local planning policy having effect on publication of the notice.
3. Advise the sole submitter of Council’s decision.
4. Note that the Council is in a position to rescind the City of Bunbury Local Law Relating to Advertising Devices and the associated City of Bunbury Local Law Policy Relating to Signage and Advertising Devices on Public Land.

Strategic Relevance

Theme 1: Our community and culture

Objective 1.5: Establish Bunbury as the most accessible regional city in Australia

Objective 1.6: A community that provides for the particular needs of the young and the old

Theme 2: Our economy

Objective 2.2: Bunbury is known far and wide for its strengths as a place to live, visit and do business

Theme 3: Our places and spaces

Objective 3.1: A city that is easy to get around with attractive streetscapes and pathways

Objective 3.3: High-quality urban designs, well-planned neighbourhoods with housing choice, and appropriate provision for diverse land uses to meet the community’s needs

Theme 4: Our City

Objective 4.2: A highly-engaged and involved community, working together on strategy development and implementation

Objective 4.3: Trusted leadership and robust decision-making

Background

The Policy Review and Development Committee, at its meeting on 17 November 2016, discussed options for the review of the adopted signage policy in respect to the requirements and standards applied to graphic display screens. The recommendation of the Policy Review and Development Committee is provided in the summary.

The requirement to review the policy was originally triggered by Council at its ordinary meeting held on 6 September 2016, where Council considered an application for development approval to install a 54m² LED illuminated electronic graphic display screen on the wall of the Retraivision building located at the intersection of Blair Street, Sandridge Road and Albert Road in South Bunbury.

At this meeting Council resolved (Decision 327/16) to:

1. *Refuse the application for planning approval (application reference: DA/2016/161/1) for the development of the proposed signage – ‘Electronic Graphic Display Screen – Large’ at Lot 150 (street address number 59) Forrest Avenue, South Bunbury, in accordance with the City of Bunbury’s Town Planning Scheme No. 7, for the following reasons:*
 - (a) *The proposed sign face area of 54m² significantly exceeds the prescribed maximum of 20m² for an electronic graphic display screen - large, contrary to Council’s Local Planning Policy: Signage and Advertisements;*
 - (b) *The proposal is contrary to objective (d) of Local Planning Policy: Signage and Advertisements, which relates to the safety and operation of “Other Regional Roads Reserve”;*
 - (c) *The proposal is contrary to objective (f) of Local Planning Policy: Signage and Advertisements, which relates to the character of signage within the city;*
 - (d) *The proposal is likely result in adverse impacts on road safety and the visual amenity of the locality, and hence, does not represent orderly and proper planning.*
2. *Advise the applicant, landowner and submitters of Council’s decision.*
3. *Refer the matter of the sign policy to the Policy Committee for review.*

In accordance with Council’s decision, the adopted Local Planning Policy: Signage and Advertisements was referred to the Policy Review and Development Committee for its consideration to review, after which the revised policy was advertised for public comment from 8 August to 7 September 2017.

Council Policy and Legislative Compliance

This draft modified local planning policy has been prepared in accordance with the provisions of ‘Division 2 - Local planning policies’ under ‘Part 2 - Local planning framework’ of ‘Schedule 2 - Deemed provisions for local planning schemes’ of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Officer Comments

In line with industry trends, the modified revised draft local planning policy proposes to increase the deemed-to comply size for all types of billboard signage from 36m² to a new standard size of 45m², regardless of whether or not the sign is animated. As part of the review, it is also proposed to make a number of changes to the wording of certain policy provisions and associated notes in the interest of maintaining public confidence in road safety.

The proposed changes to the local planning policy seek to facilitate and appropriately manage the growth in demand for digital billboard advertising, along with rationalising the format and content of the policy, with the aim of simplifying and increasing the effectiveness and efficiency of the policy’s implementation.

Analysis of Financial and Budget Implications

There are no known financial or budget implications associated with the adoption of the local planning policy.

Community Consultation

The revised draft Local Planning Policy: Signage and Advertisements was publicly advertised for community comment from 8 August to 7 September 2017, in accordance with clause 4 of 'Division 2 - Local planning policies' under 'Part 2 - Local planning framework' of 'Schedule 2 - Deemed provisions for local planning schemes' of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Public consultation measures included the following:

- Public notice of the proposal was published during the advertising period in a locally circulated newspaper;
- public notice of the proposal was posted on the City of Bunbury's website; and
- letters were sent to industry leaders and stakeholders as per the list below:
 - Main Roads WA South West Region (MRWA);
 - Planning and Community Development Policy Team – Western Australian Local Government Association (WALGA);
 - Bunbury Chamber of Commerce and Industries (BCCI); and
 - Outdoor Media Association (OMA) the peak national industry body that represents most of Australia's traditional and digital outdoor media display companies and production facilities, as well as some media display asset owners.

Two (2) submissions were received during the latest round of public advertising, which were from the OMA and a local resident Mr Noel Whittle. The OMA submission is included in the Schedule of Submissions **attached** at Appendix 15 which expressed general support for the proposed revised draft policy, in addition to providing information on behalf of its 31 members. Conversely, the objection made by the private submitter mainly expressed concerns regarding road safety issues relating to digital signage.

Modifications to the revised draft local planning policy were undertaken in response to submissions and the outcomes of the peer review conducted by Cardno on behalf of the City, as detailed in the Schedule of Modifications (**attached** at Appendix 16) which provides the justification for any amendments to the local planning policy.

Councillor/Officer Consultation

The Policy Review and Development Committee considered this matter at its meeting held on 26 November 2015. The proposal has also been referred to the City of Bunbury's Development Coordination Unit (DCU) for professional advice and technical assessment prior to the finalisation of this report.

Outcome of Meeting

General discussion took place in relation to this item, specifically in relation to the removal of the prohibitions against third party advertising outside of the CBD.

Mayor Brennan moved and Cr Hayward seconded the following motion which was carried unanimously:

That the Committee:

- 1. Refers this draft policy back to Officers' for re-work to facilitate the possibility of third party signage outside of the CBD; and***
- 2. Requests the Chief Executive Officer refer this item directly to Council once the modifications in (1) above have been made.***

10.11 Proposed Revised Draft Local Planning Policy: Non-Residential Development Adjoining Residential Development

File Ref:	A04151
Applicant/Proponent:	City of Bunbury
Responsible Officer:	Jana Joubert, Strategic Planning Officer
Responsible Manager:	Thor Farnworth, Manager Sustainability, Planning and Development
Executive:	Felicity Anderson, Acting Director Planning and Development Services
Authority/Discretion	<input type="checkbox"/> Advocacy <input type="checkbox"/> Review <input type="checkbox"/> Executive/Strategic <input type="checkbox"/> Quasi-Judicial <input checked="" type="checkbox"/> Legislative <input type="checkbox"/> Information Purposes
Attachments:	Appendix 17: Draft Local Planning Policy: Non-Residential Development Adjoining Residential Development Appendix 18: Local Planning Policy: Non-Residential Development Adjoining Residential Development Review Document

Summary

Following the gazettal of the new City of Bunbury Local Planning Scheme No. 8 (LPS8) and as part of the programme for reviewing local planning policies, the existing Local Planning Policy: Non-Residential Development Within or Adjoining Residential Development has been reviewed (as **attached** at Appendix 17) and will be required to be advertised for public comment prior to its adoption.

This minor review of Local Planning Policy: Non-Residential Development Within or Adjoining Residential Development seeks to update the policy in line with the revised *Planning and Development (Local Planning Schemes) Regulations 2015* and to reflect the new requirements of LPS8. The renaming of the policy to Local Planning Policy: Non-Residential Development Adjoining Residential Development reflects the fact that LPS8 now sufficiently deals with non-residential development within residential areas through its application of the new 'Mixed Use – Commercial' and 'Mixed Use - Residential Zone.'

Executive Recommendation

That the Committee recommends that Council:

1. In accordance with clause 4 of 'Division 2 – Local Planning Policies' under 'Part 2 – Local Planning Framework' of 'Schedule 2 – Deemed provisions for local planning schemes' of the *Planning and Development (Local Planning Schemes) Regulations 2015*, proceed to advertise the revised draft Local Planning Policy: Non-Residential Development Adjoining Residential Development for public comment for a period of not less than 21 days.
2. Following public advertising, consider for adoption the revised draft Local Planning Policy: Non-Residential Development Adjoining Residential Development, along with any submissions lodged with the City of Bunbury during the public advertising period.

Voting Requirements: Simple Majority Required

Strategic Relevance

- Theme 2: Our economy
Objective 2.2: Bunbury is known far and wide for its strengths as a place to live, visit and do business
- Theme 3: Our places and spaces
Objective 3.1: A city that is easy to get around with attractive streetscapes and pathways
Objective 3.3: High-quality urban designs, well-planned neighbourhoods with housing choice, and appropriate provision for diverse land uses to meet the community's needs
Objective 3.6: The public health and amenity of the community is protected
- Theme 4: Our City
Objective 4.2: A highly-engaged and involved community, working together on strategy development and implementation
Objective 4.3: Trusted leadership and robust decision-making

Background

The existing Local Planning Policy: Non-Residential Development Within or Adjoining Residential Development was first adopted by Council on 18 February 2003, with the aim of assisting officers and Council in the exercising of discretion when determination applications for development approval by regarding non-residential land use and development within or adjoining residential areas (in particular the then 'Residential Zone' and 'Mixed Business Zone'), through the requirement for boundary treatments (i.e. fencing and setbacks) that minimise potential land use conflict and maintain the established level of residential amenity.

The gazettal of the new LPS8 and changes in State legislation generally, and the *Planning and Development (Local Planning Schemes) Regulations 2015* in particular, has resulted in the need to update the Local Planning Policy: Non-Residential Development Within or Adjoining Residential Development in line with these new provisions.

Council Policy and Legislative Compliance

This draft local planning policy has been prepared in accordance with the provisions of 'Division 2 – Local Planning Policies' under 'Part 2 – Local Planning Framework' of 'Schedule 2 – Deemed Provisions for Local Planning Schemes' of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Officer Comments

The local planning policy review process is being undertaken in accordance with a quality assured approach (including a Relevancy, Efficacy and Veracity Test) that is documented in the Local Planning Policy Review Manual (as noted by the Committee at their meeting on 23 January 2018) and forms the basis of the review process.

The review process identified the Local Planning Policy: Non-Residential Development Within or Adjoining Residential Development as being part of a suite of frequently used high priority local planning policies that require updating in line with revised State legislation and new LPS8 provisions.

One of the new zones introduced by the newly gazetted LPS8 is the 'Mixed Use - Residential Zone', which now replaces the historical Frame Area requirements that were identified within Local Planning Policy: Non-Residential Development Within or Adjoining Residential Development. The Frame Area map and provisions of the existing policy sought to guide all non-residential development and/or uses in residential areas where originally indicated in the superseded Town Planning Scheme No. 7 (TPS7) as discretionary land uses.

Frame Areas were developed to ensure the minimisation of any potential land use conflict between residential and non-residential land uses. The new LPS8 now adequately addresses these requirements through new zoning provisions, and hence, the concept of Frame Areas can thus be removed from the revised Local Planning Policy: Non-Residential Development Within or Adjoining Residential Development.

The Local Planning Policy: Non-Residential Development Within or Adjoining Residential Development has therefore undergone a minor review to bring its provisions in to line with the new requirements of LPS8, and its name amended to 'Local Planning Policy: Non-Residential Development Adjoining Residential Development' in order to reflect these modifications.

A Policy Review Document containing a summary of amendments/modifications to the policy is **attached** at Appendix 18.

Analysis of Financial and Budget Implications

There are no known financial or budget implications other than the associated advertising costs of the proposal through the statutory public advertising procedure.

Community Consultation

The revised draft Local Planning Policy: Non-Residential Development Adjoining Residential Development will be publicly advertised for a period of not less than 21 days (including community and industry engagement through key stakeholders such as the BGCCI) before being returned to Council along with any submissions received for further consideration.

Councillor/Officer Consultation

Officers from across the Sustainability, Planning and Development department have contributed to the review of the Local Planning Policy: Non-Residential Development Within or Adjoining Residential Development. As such the policy has undergone continuous monitoring since its adoption in 2003 which has also informed its review.

Outcome of Meeting

The executive recommendation was moved by Mayor Brennan moved and seconded by Cr Hayward and was carried unanimously as follows:

That the Committee recommends that Council:

- 1. In accordance with clause 4 of 'Division 2 – Local Planning Policies' under 'Part 2 – Local Planning Framework' of 'Schedule 2 – Deemed provisions for local planning schemes' of***

the Planning and Development (Local Planning Schemes) Regulations 2015, proceed to advertise the revised draft Local Planning Policy: Non-Residential Development Adjoining Residential Development for public comment for a period of not less than 21 days.

- 2. Following public advertising, consider for adoption the revised draft Local Planning Policy: Non-Residential Development Adjoining Residential Development, along with any submissions lodged with the City of Bunbury during the public advertising period.***

10.12 Proposed Revised Local Planning Policy: Sea Containers and Transportable or Relocatable Storage Containers or Structures

File Ref:	A04151
Applicant/Proponent:	City of Bunbury
Responsible Officer:	Jana Joubert, Strategic Planning Officer
Responsible Manager:	Thor Farnworth, Manager Sustainability, Planning and Development
Executive:	Felicity Anderson, Acting Director Planning and Development Services
Authority/Discretion	<input type="checkbox"/> Advocacy <input type="checkbox"/> Review <input type="checkbox"/> Executive/Strategic <input type="checkbox"/> Quasi-Judicial <input checked="" type="checkbox"/> Legislative <input type="checkbox"/> Information Purposes
Attachments:	Appendix 19: Draft Local Planning Policy: Sea Containers and Transportable or Relocatable Storage Containers or Structures Appendix 20: Local Planning Policy: Sea Containers and Transportable or Relocatable Storage Containers or Structures Review Document

Summary

Following the gazettal of the new City of Bunbury Local Planning Scheme No. 8 (LPS8) and as part of the programme for reviewing local planning policies, the existing Local Planning Policy: Sea Containers and Transportable or Relocatable Storage Containers or Structures has been reviewed (as **attached** at Appendix 19) and will be required to be advertised for public comment prior to its adoption.

This minor review of the revised draft Local Planning Policy: Sea Containers and Transportable or Relocatable Storage Containers or Structures was prepared to provide guidance on the regulation of sea containers and other transportable or relocatable storage containers and structures.

Executive Recommendation

That the Committee recommends that Council:

1. In accordance with clause 4 of 'Division 2 – Local Planning Policies' under 'Part 2 – Local Planning Framework' of 'Schedule 2 – Deemed provisions for local planning schemes' of the *Planning and Development (Local Planning Schemes) Regulations 2015*, proceed to advertise the draft Local Planning Policy: Sea Containers and Transportable or Relocatable Storage Containers or Structures for public comment for a period of not less than 21 days.
2. Following public advertising, consider for adoption the revised draft Local Planning Policy: Sea Containers and Transportable or Relocatable Storage Containers or Structures, along with any submissions lodged with the City of Bunbury during the public advertising period.

Strategic Relevance

Theme 2: Our economy

Objective 2.1: Bunbury builds on its competitive advantages, supports innovation and celebrates business success

Objective 2.2: Bunbury is known far and wide for its strengths as a place to live, visit and do business

Theme 3: Our places and spaces

Objective 3.1: A city that is easy to get around with attractive streetscapes and pathways

Objective 3.3: High-quality urban designs, well-planned neighbourhoods with housing choice, and appropriate provision for diverse land uses to meet the community's needs

Objective 3.5: Efficient use of resources, particularly water and energy, with minimum waste and efficient disposal

Objective 3.6: The public health and amenity of the community is protected

Theme 4: Our City

Objective 4.2: A highly-engaged and involved community

Objective 4.3: Trusted leadership and robust decision-making

Background

The existing Local Planning Policy: Sea Containers and Transportable or Relocatable Storage Containers or Structures was first adopted by Council on 9 February 2016, with the aim of assisting officers and Council in the exercising of discretion when determining applications for development approval with respect to sea containers and other transportable or relocatable types of storage containers and structures.

The gazettal of the new LPS8 and changes in State legislation generally, and the *Planning and Development (Local Planning Schemes) Regulations 2015* in particular, has resulted in the need to update the Local Planning Policy: Sea Containers and Transportable or Relocatable Storage Containers or Structures in line with these new provisions.

Council Policy and Legislative Compliance

This draft local planning policy has been prepared in accordance with the provisions of 'Division 2 – Local Planning Policies' under 'Part 2 – Local Planning Framework' of 'Schedule 2 – Deemed Provisions for Local Planning Schemes' of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Officer Comments

The local planning policy review process is being undertaken in accordance with a quality assured approach (including a Relevancy, Efficacy and Veracity Test) that is documented in the Local Planning Policy Review Manual (as noted by the Committee at their meeting on 23 January 2018) and forms the basis of the review process.

The review process identified the Local Planning Policy: Sea Containers and Transportable or Relocatable Storage Containers or Structures as being part of a suite of frequently used high priority local planning policies that require updating in line with revised State legislation and new LPS8 provisions.

The revised draft Local Planning Policy: Sea Containers and Transportable or Relocatable Storage Containers or Structures has therefore undergone a minor review as the planning intent and

objectives of the policy remain sound and its content current. A Policy Review Document containing a summary of amendments/modifications to the policy is **attached** at Appendix 20.

Analysis of Financial and Budget Implications

There are no known financial or budget implications other than the associated advertising costs of the proposal through the statutory public advertising procedure.

Community Consultation

The revised draft Local Planning Policy: Sea Containers and Transportable or Relocatable Storage Containers or Structures will be publicly advertised for a period of not less than 21 days (including community and industry engagement through key stakeholders such as the BGCCI) before being returned to Council along with any submissions received for further consideration.

Officer Consultation

Officers from across the Sustainability, Planning and Development department have contributed to the review of Local Planning Policy: Sea Containers and Transportable or Relocatable Storage Containers or Structures. As such the policy has undergone continuous monitoring since its adoption in February 2016 which has also informed its review.

Outcome of Meeting

The executive recommendation was moved by Cr Hayward and seconded by Mr Seaward and was carried unanimously as follows:

That the Committee recommends that Council:

- 1. In accordance with clause 4 of 'Division 2 – Local Planning Policies' under 'Part 2 – Local Planning Framework' of 'Schedule 2 – Deemed provisions for local planning schemes' of the Planning and Development (Local Planning Schemes) Regulations 2015, proceed to advertise the draft Local Planning Policy: Sea Containers and Transportable or Relocatable Storage Containers or Structures for public comment for a period of not less than 21 days.***
- 2. Following public advertising, consider for adoption the revised draft Local Planning Policy: Sea Containers and Transportable or Relocatable Storage Containers or Structures, along with any submissions lodged with the City of Bunbury during the public advertising period.***

- (a) Application Fees for Planning Approval for Development of Heritage Places (No. 31);
- (b) Assessment of Cultural Heritage Significance (No. 32);
- (c) Development Application Process for Heritage Places (No. 40);
- (d) Heritage Conservation and Development Policy for Heritage Places (No. 46);
- (e) Rate Concession for Heritage Places (No. 57); and
- (f) Stirling Street Heritage Area (No. 61).

4. Advise the submitters of Council's decision.

The Heritage Advisory Committee requested that if there are any subsequent changes to either of the policies as a result of the presentation to the Policy Review and Development Committee, prior to the policies going to the Ordinary Council Meeting, that they be referred back to the Heritage Advisory Committee for further consideration.

Strategic Relevance

- Theme 1: Our community and culture
Objective 1.4: Arts, culture, heritage and events that enrich our understanding and enjoyment of life, celebrate our identity and bring the community together
- Theme 3: Our places and spaces
Objective 3.3: High-quality urban designs, well-planned neighbourhoods with housing choice, and appropriate provision for diverse land uses to meet the community's needs

Background

The City of Bunbury Local Planning Strategy incorporates heritage and character as a theme. It recognises the City's rich and diverse built heritage and the contribution it makes to Bunbury's unique character.

By acknowledging the City's statutory obligations and the need to complement other local planning strategies, the Strategy endeavors to promote a planning framework that will ensure inherent values are conserved for the benefit of current and future generations. The local planning policies are based on principles of sound and responsible planning for the conservation and protection of historic heritage consistent with the Burra Charter.

At the ordinary meeting of Council on 6 September 2016, Council accepted the Heritage Advisory Committee's recommendation that Council proceed to advertise the draft local planning policies and that any submissions from the public advertising period were to be returned to Council for further consideration. The proposed local planning policies included:

- East Bunbury Heritage Area;
- Application fees for Planning Approval of Development of Heritage Places;
- Development Assessment Process for Heritage Places;
- Heritage Buildings;
- Assessment of Cultural Heritage Significance;
- Heritage Rate Concession; and
- Variations to Planning Scheme and Residential Design Codes.

Council Policy and Legislative Compliance

This final draft of the proposed modified local planning policies have been prepared in accordance with the provisions of 'Division 2 – Local Planning Policies' under 'Part 2 – Local Planning Framework' of 'Schedule 2 – Deemed Provisions for Local Planning Schemes' of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Officer Comments

Preparation of the modified final draft of the local planning policies was in response to the issues raised in submissions by the public and by officer 'road testing' during the consultation period that there were too many documents. The policies were then consolidated into two documents, with one being administrative and the other design based. This streamlined the policies into a heritage package that is more user-friendly whilst retaining the content and criteria that earned the City's recent recognition as winner of the 'Heritage Practices by a Local Government' category at the WA Heritage Awards 2018.

Key issues raised in the nine public submissions (one support, eight objections) included:

- side setbacks – minimal to one side should be encouraged
- alterations and additions – an amount of protrusion should be allowed for second storey development and there should be no restriction on floor space
- garages and carports – restricting frontage to 35% and 6 metre maximum for a garage does not reflect modern living standards; inhibits the ability of residents to design satisfactory, secure vehicle parking solutions where they have a lack of rear access; and is in conflict with discouraging parking in front of houses. This element should be removed and be based on R-Coded (50% of frontage)
- incidental development requirements – solar panels that have to have north elevation should be allowed even if visible from primary street frontage
- challenging that individual properties should be included in a heritage area if they have no significance
- red-tape associated with doing alterations/additions to conform to heritage area
- such an assortment of different styles of houses that it does not indicate that it should be a heritage area
- should be able to have rate concessions for more than five years
- fees for heritage applications should be free
- support the heritage area as it is an important area of Bunbury and deserves preservation, it has historic, cultural, architectural and social values, and it remains essentially untouched.

Refer to detailed comments provided in the Schedule of Submissions as **attached** at Appendix 23.

It is acknowledged that certain provisions included in the draft local planning policies may be regarded as more restrictive than those of the Residential Design Codes (R-Codes), which is a direct consequence of endeavouring to ensure new development respects the character and prevailing built form of a heritage place/area.

The intent of the local planning policies however is to establish performance based guidelines that allow flexibility in the delivery of acceptable outcomes. Accordingly, it should be noted that proposals that vary from the deemed-to-comply provisions would still be considered and

assessed on their individual merits against design principles in the same way as the R-Codes operate.

Analysis of Financial and Budget Implications

There are no known financial or budget implications associated with the adoption of the modified draft local planning policies as proposed. The City of Bunbury already offers rate concessions for conservation works and the finalised draft local planning policies provide guidance and a consistent approach to assessing applications for rate concessions and development approval.

Community Consultation

The proposed draft local planning policies were publicly advertised for community comment from 14 September 2016 to 14 October 2016, in accordance with clause 4 of 'Division 2 – Local Planning Policies' under 'Part 2 – Local planning framework' of Schedule 2 – Deemed provisions for local planning schemes' of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Public consultation measures included the following:

- public notice of the proposal was published during the advertising period in a locally circulated newspaper;
- public notice of the proposal was posted on the City of Bunbury's website; and
- letters were sent to owners of properties within the heritage area and/or heritage listed.

Nine submissions were received during the public advertising period, which are summarised in the officer comments.

The community representatives on the Heritage Advisory Committee were consulted as part of the development of the local planning policies and recommended public advertisement to Council.

Councillor/Officer Consultation

The Heritage Advisory Committee and Council considered the policies prior to public consultation and responses reported back to the Heritage Advisory Committee on 11 April 2018.

The proposed policies have been referred to the City of Bunbury's Development Coordination Unit (DCU) for professional advice and technical assessment prior to the finalisation of this report. Officers from across the Sustainability, Planning and Development Department have contributed to the preparation of draft Local Planning Policy: Heritage Conservation and Development and draft Local Planning Policy: Heritage Listing, Assessment and Concessions. The revised policies have also been trialled in the assessment of live applications by the Development Assessment and Compliance Team.

Outcome of Meeting

The executive recommendation was moved by Mayor Brennan and seconded by Cr Hayward and was carried unanimously as follows:

The Committee recommend that Council:

- 1. In accordance with clause 4 of 'Division 2 – Local Planning Policies' under 'Part 2 – Local Planning Framework' of 'Schedule 2 – Deemed provisions for local planning schemes' of the Planning and Development (Local Planning Schemes) Regulations 2015, resolve to proceed with the adoption of the modified proposed Local Planning Policy: Heritage Conservation and Development and proposed Local Planning Policy: Heritage Listing, Assessment and Concessions as attached.***
- 2. Publish a notice of the adoption of these local planning policies in a newspaper circulating in the Scheme area, with the draft Local Planning Policy: Heritage Conservation and Development and draft Local Planning Policy: Heritage Listing, Assessment and Concessions having effect on publication of the notice.***
- 3. Revoke and publish a notice of the revocation of the following local planning policies in a newspaper circulating in the Scheme area:***
 - (a) Application Fees for Planning Approval for Development of Heritage Places (No. 31);***
 - (b) Assessment of Cultural Heritage Significance (No. 32);***
 - (c) Development Application Process for Heritage Places (No. 40);***
 - (d) Heritage Conservation and Development Policy for Heritage Places (No. 46);***
 - (e) Rate Concession for Heritage Places (No. 57); and***
 - (f) Stirling Street Heritage Area (No. 61).***
- 4. Advise the submitters of Council's decision.***

11. Applications for Leave of Absence

Not applicable to this committee.

12. Questions from Members

12.1 Response to Previous Questions from Members taken on Notice

Nil

12.2 Questions from Members

Nil

13. Urgent Business

Nil

14. Date of Next Meeting

27 September 2018

15. Close of Meeting

The Presiding Member closed the meeting at 11.31am