

Location	Town-wide
Reporting officer	Principal Environmental Health Officer
Responsible officer	Manager Development Services
Voting requirement	Simple majority
Attachments	{attachment-list-do-not-remove}

That Council:

1. Endorse the draft revised Policy 404 – Fireworks Management (as shown in Attachment 2) for public consultation; subject to the following amendment:
 1. Amend point 1 of the policy to read as follows:

“When considering a Fireworks Event Notice, the Town’s principal considerations will include:

 - a. The environmental health impact of the fireworks event upon the community and surrounding natural environment (including surrounding bird and animal life); including but not limited to the noise impact
 - b. Ensuring the community is reasonably informed of the fireworks event.
2. Give local public notice for a period of 28 days that comprise a notice in a local newspaper for three consecutive weeks and notice via the Town of Victoria Park’s social media channels and Your Thoughts.

Purpose

To review Council Policy 404 - Fireworks Management (Policy 404).

In brief

- Policy 404 has been identified for review as part of Council’s adopted policy work plan.
- Applications for fireworks displays will continue to be assessed having regard to Policy 404.
- A number of amendments are proposed to the policy to provide greater clarity in the assessment of applications, to clarify the Town’s role in the process and to address issues that have arisen in relation to the current policy.
- Given that fireworks display can sometimes have negative impact upon the community, it is recommended that the draft revised policy be advertised for public comment.

Background

1. The Policy 404 was created to assist in the management of fireworks displays in the Town. As part of that process, public consultation took place with comments being sought from surrounding local governments and major entertainment, sporting, and educational establishments within the Town. All comments that were received were tabled for Council information and taken into consideration in forming the final version of the policy that was submitted to Council for endorsement.

2. On 28 September 2004, Council adopted Council Policy HLTH5 – Fireworks Management to assist in the control of fireworks displays in the Town, particularly at Graduation Ceremonies held at Curtin University. In previous years, complaints from residents located in the Town and surrounding local governments had been received with respect to fireworks noise.
3. Previously, some venues within the Town sought exemption from compliance with the policy with such applications being referred to Council for determination. At its meeting on 16 October 2008, Council delegated to the Town’s Chief Executive Officer the authority to approve exemptions without referral to Council for determination and for applications to only be referred to Council where deemed necessary by the Chief Executive Officer.
4. Policy 404 was last reviewed and amended by Council on 20 August 2019 as part of the minor review of policies. Only minor administrative amendments were made at this time. A full review of the policy was not undertaken.
5. In the period since Fireworks Management Policy and Procedure HLTH5 was endorsed by Council on 28 September 2004, there has been significant built environment and demographic changes that necessitates a review of the policy.
6. The Department of Mines, Industry Regulation and Safety (DMIRS) is responsible for the approval of fireworks displays. When DMIRS receive an application to hold a fireworks display, support is sought from the local government responsible for the area in which the fireworks display is proposed. In considering whether or not to support an application to hold a fireworks display in the Town, applications are assessed against the requirements of Policy 404.
7. Since the adoption in 2004 of Policy 404, the following exemptions to the policy have been applied for in the Town:
 - a) Chinese New Year and Chinese Consulate National Day Celebration.
 - b) Graduation Ceremonies at Curtin University.
 - c) Crown Perth.
 - d) Private weddings.
8. At its meeting on 20 April 2021, Council adopted a work plan to complete the review of a number of policies. Policy 404 was one of the policies identified for review.

Strategic alignment

Civic Leadership	
Strategic outcome	Intended public value outcome or impact
CL01 – Everyone receives appropriate information in the most efficient and effective way for them	Public notification of all fireworks activities that may cause a noise nuisance within the Town.

Economic	
Strategic outcome	Intended public value outcome or impact
EC01 - A desirable place for commerce and tourism that supports equity, diverse local employment and entrepreneurship.	Simplify the approval process easier for anyone that wants to do business in the Town. Increase tourism within the Town.
EC02 - A clean, safe and accessible place to visit.	Improved management of noise nuisances relating to fireworks displays.

Engagement

Stakeholder	Comments
Environmental Health	The Town's Environmental Health Officers have provided input into the revised draft policy.

Stakeholder	Comments
Place Planning	No comments to make.
Community Development	No comments as they have not had any request for fireworks as part of a booking.
Ranger Services	<p>Requested that in assessing an application for a fireworks event, consideration should be given to parking and traffic management. This is not considered necessary, as fireworks are normally associated with an event, already the subject of traffic management, rather than being the primary purpose of an event. ie. traffic and parking is generated by an event, not fireworks at the event.</p> <p>Also requested that in relation to the public notification provisions for a fireworks event, this include advice to residents to secure their dogs during events. While the sentiment is understood, in advising residents of an event the resident can already make an informed decision as to whether or not to secure their dogs.</p>

Legal compliance

[Environmental Protection \(Noise\) Regulations 1997](#)

[Local Government Act 1995](#)

[Dangerous Goods Safety Act 2004](#)

[Dangerous Goods Safety \(Explosives\) Regulations 2007](#)

Risk management consideration

Risk impact category	Risk event description	Consequence rating	Likelihood rating	Overall risk level score	Council's risk appetite	Risk treatment option and rationale for actions
Financial	Engagement of consultants	Low	Likely	Low	Low	TREAT risk by ensuring that

						there is a budget allocation for unforeseen spent.
Environmental	Noise nuisances disrupting residents, pets and bird & wildlife	Moderate	Likely	Low	Low	TREAT risk by ensuring that affected area is notified and noise modelling undertaken in problem areas.
Health and safety	Noise complaints	Moderate	Likely	Low	Low	TREAT risk by ensuring that affected area is notified and noise modelling undertaken in problem areas.
Infrastructure / ICT Systems/Utilities	Nil	Nil	Nil	Nil	Nil	Nil
Legislative compliance	Breach of legislation.	Moderate	Likely	Low	Low	TREST risk by approving fireworks events in accordance with Regulation 18 of the <i>Environmental Protection (Noise) Regulations 1997</i> .
Reputation/ Image	Increased fireworks related noise complaints	Moderate	Likely	Low	Low	TREAT risk by ensuring that the contractor undertakes sufficient notification.

Service Delivery	Increased work for Town's staff	Low	Likely	Low	Low	TREAT risk by ensuring that the applicant submit the application on time and a late application fee charged for any late application
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Financial implications

Current budget impact	This policy review will not result in any current budgetary changes.
Future budget impact	This policy review will not result in any future budgetary changes.

Analysis

9. A review of Policy 404 (as shown in Attachment 1) has been completed by Council officers. This review has considered:
 - a) the effectiveness of the current policy including any issues of interpretation, application, gaps or deficiencies.
 - b) similar policies of other local governments;
 - c) alignment with relevant State legislation, policy and guidelines;
 - d) greater clarity in the objectives of the policy;
 - e) improving the presentation and ease of use (for both the public and Council officers) of the policy.
10. The major issues identified with the current policy include:
 - a) The policy scope and policy objectives are very brief.
 - b) The policy scope is brief and does not clarify the Town's role in the approval process for a fireworks event.
 - c) There is no definition of important terms used;
 - d) There is no clarity regarding the assessment process for a fireworks application nor the assessment criteria used;
 - e) A lack of clarity as to what constitutes an event.
11. In view of the above, the policy has been amended inclusive of the following:
 - a) Re-arranged the sequence and flow of headings and sub-headings of the policy in a logical manner;
 - b) Improved and expanded the policy scope and policy objective.
 - c) The policy scope clarifies the Town's role, and that of other agencies, in the approval process.

- d) Provided definitions for important terms that are used in the policy.
 - e) Consistent with advice received from the Department of Water and Environmental Regulation (DWER), included clarification that if a fireworks event is likely to exceed the assigned noise levels under the *Environmental Protection (Noise) Regulations* then an approval under Regulation 18 will be required before the Town supports a fireworks application.
 - f) Provided clarity on the assessment process and the assessment criteria that will be considered by the Town when assessing an application (see clause 3).
 - g) In clause 4, outlined the circumstances where the Town will offer no objection to a fireworks application.
 - h) Outlined relevant conditions that will be applied to the Town's support of a fireworks event, including greater clarity on the public notification requirements (see clause 7).
12. The amended policy will ensure greater clarity and consistency in the approval process. The policy seeks to recognise the benefits that can arise from fireworks displays, while also considering the impact upon local amenities and surrounding communities.
13. In view of the above, it is recommended that Council consent to public advertising of draft amended Policy 404 as shown in Attachment 2, for 28 days to seek public comments. A further report will be presented to Council in the future following the conclusion of the public advertising period, reporting on any submissions received, and seeking a final decision from Council as to whether or not to adopt the amended policy (in its current form or in a further modified form).

Further consideration

14. Following the Policy Committee held on 23 August 2021, further information is provided as responses to questions taken on notice:
- (a) What would be the costs and implications of employing an ornithologist to assess the impact on bird life of fireworks applications?

Following the Policy Committee meeting, an ornithologist was contacted, and they have provided advice including the following:

- There is no need to engage an ornithologist for every application. Instead their Technical Guidance Note (TGN) should inform the Town's policy.
- It is a fact that pyrotechnics (includes fireworks) negatively impact on birds and other wildlife in the vicinity.
- Under the Department of Biodiversity, Conservation and Attractions (DBCA), *Biodiversity Conservation Act 2016*, previously *Wildlife Conservation Act 1950*, it is considered an offence to intentionally scare listed wildlife, and therefore a pyrotechnics display that would negatively impact wildlife could constitute an offence.
- This situation could be exacerbated if species listed under the Australian Government, *Environment Protection and Biodiversity Conservation Act 1999* (EPBC) are also affected. In the context of the Town this would primarily relate to Red-tailed Black Cockatoo (*Calyptorhynchus banksii*), and Carnaby' Black Cockatoo (*Zanda latirostris*). Other species of birds within the impact area of a display are also likely to be negatively affected.
- The ornithologist recommended the following:

- The Town to begin communications with relevant Department of Biodiversity, Conservation and Attractions (DBCA) section to determine if a scare/disturbance license is required.
- If required, the Town apply for the license to scare birds under the DBCA *Biodiversity Conservation 2016*.
- The Town engage with stake holders (BirdLife Australia, DBCA & WA Museum), to determine the presence of birds and the species in question using the environs of the proposed pyrotechnic display areas.
- The Town to maintain a 'current' map of all known roost sites for EPBC Act listed species, within the Town, allowing for compliance appraisal of future requests from private entities who wish to engage in pyrotechnic display events.
- The Town to check for presence of birds, of all species, and particularly roost sites at proposed public pyrotechnic display areas.
- The Town post event to check for the presence of birds, or other wildlife that may have been negatively impact, (died), in the immediate vicinity of a pyrotechnic event.
- The Town to establish a data capture system within the environment section of Town relating to pyrotechnic displays and possible negative impacts of birds and other wildlife.
- The Town may wish to include wildlife safety issues in their application form relating to private pyrotechnic events.

15. In view of the above advice, it is considered necessary to liaise with the DBCA before proceeding further with the policy review, and that further consideration be given to the resourcing and other implications of the ornithologist advice. Accordingly, Officers recommend that further consideration of the item be deferred to the November 2021 Policy Committee.