



## Policy Committee Agenda – 22 March 2021



**WE'RE OPEN**  
**VIC PARK**

Please be advised that a **Policy Committee** will be held at **5:30pm** on **Monday 22 March 2021** as an electronic meeting.

**Mr Anthony Vuleta – Chief Executive Officer**

18 March 2021

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# 1 Declaration of opening

## Acknowledgement of Country (by Presiding Member)

I am not a Nyungar man, I am a non-Indigenous man. I am honoured to be standing on Whadjuk - Nyungar country on the banks of the Swan River.

*Ngany yoowart Noongar maam, ngany wadjella maam. Ngany djerapiny Wadjak – Noongar boodja-k yaakiny, nidja bilya bardook.*

I acknowledge the traditional custodians of this land and respect past, present and emerging leaders, their continuing cultural heritage, beliefs and relationship with the land, which continues to be important today.

*Ngany kaaditj Noongar moort keny kaadak nidja Wadjak Noongar boodja. Ngany kaaditj nidja Noongar birdiya – koora, ye-ye, boorda, baalapiny moorditj Noongar kaaditjin, moort, wer boodja ye-ye.*

I thank them for the contribution made to life in the Town of Victoria Park and to this region.

*Ngany youngka baalapiny Noongar birdiya wer moort nidja boodja.*

## **2 Attendance**

<b>Mayor</b>	Mayor Karen Vernon
<b>Banksia Ward</b>	Cr Wilfred Hendriks Cr Claire Anderson Cr Ronhhda Potter Cr Luana Lisandro
<b>Jarraah Ward</b>	Cr Jesvin Karimi Cr Brian Oliver (Presiding Member) Cr Vicki Potter (Deputy Presiding Member) Deputy Mayor Bronwyn Ife
<b>Chief Executive Officer</b>	Mr Anthony Vuleta
<b>Chief Community Planner A/Chief Operations Officer A/Chief Financial Officer</b>	Ms Natalie Martin Goode Ms Nicole Annson Mr Martin Roberts
<b>Manager Governance and Strategy</b>	Ms Bana Brajanovic
<b>Secretary</b>	Ms Natasha Horner

### **2.1 Apologies**

### **2.2 Approved leave of absence**

### **3 Declarations of interest**

Declarations of interest are to be made in writing prior to the commencement of the meeting.

#### **Declaration of financial interests**

A declaration under this section requires that the nature of the interest must be disclosed. Consequently, a member who has made a declaration must not preside, participate in, or be present during any discussion or decision-making procedure relating to the matter the subject of the declaration. An employee is required to disclose their financial interest and if required to do so by the Council must disclose the extent of the interest. Employees are required to disclose their financial interests where they are required to present verbal or written reports to the Council. Employees can continue to provide advice to the Council in the decision-making process if they have disclosed their interest.

#### **Declaration of proximity interest**

Elected members (in accordance with Regulation 11 of the Local Government [Rules of Conduct] Regulations 2007) and employees (in accordance with the Code of Conduct) are to declare an interest in a matter if the matter concerns: a) a proposed change to a planning scheme affecting land that adjoins the person's land; b) a proposed change to the zoning or use of land that adjoins the person's land; or c) a proposed development (as defined in section 5.63(5)) of land that adjoins the persons' land.

Land, the proposed land adjoins a person's land if: a) the proposal land, not being a thoroughfare, has a common boundary with the person's land; b) the proposal land, or any part of it, is directly across a thoroughfare from, the person's land; or c) the proposal land is that part of a thoroughfare that has a common boundary with the person's land. A person's land is a reference to any land owned by the person or in which the person has any estate or interest.

#### **Declaration of interest affecting impartiality**

Elected members (in accordance with Regulation 11 of the Local Government [Rules of Conduct] Regulations 2007) and employees (in accordance with the Code of Conduct) are required to declare any interest that may affect their impartiality in considering a matter. This declaration does not restrict any right to participate in or be present during the decision-making process. The Elected Member/employee is also encouraged to disclose the nature of the interest.

#### **4 Confirmation of minutes**

##### **Recommendation**

That the Policy Committee confirms the minutes of the Policy Committee held on 22 February 2021.

#### **5 Presentations**

Nil.

#### **6 Method of dealing with agenda business**

##### **Recommendation**

That Policy Committee in accordance with clause 58 of the *Meeting Procedures Local Law 2019* suspends clause 50 - Speaking twice of the *Meeting Procedures Local Law 2019* for the duration of the meeting.

## 7 Reports

### 7.1 Minor review of Council policies and policy workplan for 2021/22

<b>Location</b>	Town-wide
<b>Reporting officer</b>	Amy Noon
<b>Responsible officer</b>	Bana Brajanovic
<b>Voting requirement</b>	Simple majority
<b>Attachments</b>	<ol style="list-style-type: none"><li>1. Policy 053 Meetings of electors [7.1.1 - 3 pages]</li><li>2. Policy 054 Access to reserve funds through notices of motion [7.1.2 - 2 pages]</li><li>3. Policy 101 Governance of Council Advisory and Working Groups [7.1.3 - 8 pages]</li><li>4. Policy 112 Visual art [7.1.4 - 2 pages]</li><li>5. Policy 260 Single Use Plastic and Polystyrene [7.1.5 - 4 pages]</li><li>6. Policy 301 Purchasing [7.1.6 - 5 pages]</li><li>7. Policy 302 Investment [7.1.7 - 2 pages]</li><li>8. Policy 303 Debt Collection [7.1.8 - 5 pages]</li><li>9. Policy 305 Loan borrowing limitations [7.1.9 - 2 pages]</li><li>10. Policy 306 Business dealings with elected members and employees [7.1.10 - 2 pages]</li><li>11. Policy 312 Transaction card [7.1.11 - 3 pages]</li><li>12. Policy 331 Information Systems Security [7.1.12 - 4 pages]</li><li>13. Policy 001 Policy management and development [7.1.13 - 3 pages]</li><li>14. Policy 002 Review of decisions [7.1.14 - 2 pages]</li><li>15. Policy 003 Legal advice [7.1.15 - 4 pages]</li><li>16. Policy 004 Risk management [7.1.16 - 3 pages]</li><li>17. Policy 014 Appointment to outside bodies [7.1.17 - 1 page]</li><li>18. Policy 021 Elected members fees, expenses and allowances [7.1.18 - 4 pages]</li><li>19. Policy 022 Elected Member Professional Development [7.1.19 - 6 pages]</li><li>20. Policy 023 Provision of Information and Services - Elected Members [7.1.20 - 5 pages]</li><li>21. Policy 024 Event attendance [7.1.21 - 4 pages]</li><li>22. Policy 025 Independent committee members [7.1.22 - 3 pages]</li><li>23. Policy 051 Agenda Briefing Forum, Concept Forum and workshops [7.1.23 - 5 pages]</li><li>24. Policy 052 Recording and live streaming [7.1.24 - 3 pages]</li></ol>

#### Recommendation

That the Policy Committee recommends that Council:

1. Endorses minor amendments to the following policies, in line with Policy 001 – Policy Management and Development, as attached:
  - a. Policy 001 – Policy management and development
  - b. Policy 002 – Review of decisions
  - c. Policy 003 – Legal advice
  - d. Policy 004 – Risk management

- e. Policy 014 – Appointment to outside bodies
- f. Policy 021 – Elected member fees, expenses and allowances
- g. Policy 022 – Elected member professional development
- h. Policy 023 – Provision of information and services – Elected members
- i. Policy 024 – Event attendance
- j. Policy 025 – Independent committee members
- k. Policy 051 – Agenda Briefing Forum, concept forum and workshops
- l. Policy 052 – Recording and live streaming
- m. Policy 053 – Meetings of electors
- n. Policy 054 – Access to reserve funds through notices of motion
- o. Policy 101 – Governance of Council advisory and working groups
- p. Policy 112 – Visual art
- q. Policy 260 – Single use plastic and polystyrene
- r. Policy 301 – Purchasing
- s. Policy 302 – Investment
- t. Policy 303 – Debt collection
- u. Policy 305 – Loan borrowing limitations
- v. Policy 306 – Business dealings with elected members and employees
- w. Policy 312 – Transaction card
- x. Policy 331 – Information systems security

2. Requests that the Chief Executive Officer conducts a review of the following policies and reports and presents them to the Policy Committee as outlined below:

- a. Policy 406 – Temporary food businesses and itinerant food vendors by June 2021
- b. Policy 014 – Appointment to external bodies by June 2021
- c. Policy 051 – Agenda Briefing Forum, concept forum and workshops by June 2021
- d. Policy 257 – Waste removal - residential properties by July 2021
- e. Policy 258 – Waste removal – commercial properties by July 2021
- f. Policy 259 – Recycling collection – residential and commercial properties by July 2021
- g. Policy 225 – Hire and use of Town banner and flag sites by August 2021
- h. Policy 404 – Fireworks management by August 2021
- i. Policy 403 – Management of noise emissions from events at Belmont Racecourse – other than horse racing by August 2021
- j. Policy 006 – Gratuity payments to employees by November 2021
- k. Policy 306 – Business dealings with elected members and employees by November 2021
- l. Policy 022 – Elected member professional development by November 2021
- m. Policy 251 – Rainforest timbers – use in Town construction by February 2022
- n. Policy 252 – Nuclear free zone by February 2022
- o. Policy 401 – Smoking restriction – Town property by February 2022
- p. Policy 226 – Recreation reserves – hire by March 2022
- q. Policy 405 – Events on parks and reserves – notification to local residents by March 2022
- r. Policy 001 – Policy management and development by March 2022

3. Schedules its future Policy Committee meetings to be held on:

- a. 28 June 2021
- b. 26 July 2021
- c. 23 August 2021
- d. 22 November 2021
- e. 28 February 2022



## Purpose

To conduct a minor review of the policies of Council, set a policy review workplan for 2021/2022 and schedule meeting dates for 2021/2022.

## In brief

- Policy 001 – Policy management requires the Town to complete a minor review of all policies of Council each year.
- Council also undertakes a workplan of major policy reviews each year.
- There are 24 policies with minor changes being presented to Council for consideration. Changes mainly relate to updating responsible officers, updating references to policies and documents, and improving language and clause structuring.
- Eighteen policies have been proposed for major reviews to be completed in 2021/2022.
- Meeting dates have been proposed to allow for the proposed policy review deadlines to be met.

## Background

1. At its meeting in May 2019, Council resolved to adopt Policy 001 – Policy management and development. This policy requires the Town to complete a minor review of all policies of Council each year. It also requires that an evaluation take place for each policy, at least once every four years.
2. A minor review of the policies of Council has taken place each year, as required by the policy.
3. Major reviews of 44 policies have been undertaken since 2019.

## Strategic alignment

Civic Leadership	
Strategic outcome	Intended public value outcome or impact
CL08 - Visionary civic leadership with sound and accountable governance that reflects objective decision-making.	The annual review of policies ensures that policies set by Council support clear, consistent and effective direction for both the community and the Town.

## Engagement

Internal engagement	
Stakeholder	Comments
C-Suite	C-Suite reviewed the list of proposed policy reviews and had no issues.
Managers	Managers reviewed the list of proposed policy reviews and suggested minor changes to scheduling. They also completed minor reviews of policies that they are responsible for.

## Legal compliance

[Section 2.7 of the Local Government Act 1995](#)

## 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	Not applicable.				Low	
Environmental	Not applicable.				Medium	
Health and safety	Not applicable.				Low	
Infrastructure/ ICT systems/ utilities	Not applicable.				Medium	
Legislative compliance	Not applicable.				Low	
Reputation	Not applicable.				Low	
Service delivery	Not applicable.				Medium	

## Financial implications

<b>Current budget impact</b>	Sufficient funds exist within the annual budget to address this recommendation.
<b>Future budget impact</b>	Not applicable.

## Analysis

4. All policy managers were asked to complete a minor review of their policies. The review resulted in minor changes to 24 policies. A summary of these changes has been provided below and full amended policies with tracked changes have been attached to this report.

Policy	Proposed change	Reason
Policy 001 – Policy management and development	<ol style="list-style-type: none"> <li>Change references from Public Participation Policy to Policy 103 – Communications and engagement.</li> <li>Change responsible officer to Coordinator Governance and Strategy.</li> </ol>	<ol style="list-style-type: none"> <li>Policy name has been updated.</li> <li>New coordinator role created in Governance and Strategy.</li> </ol>

Policy 002 – Review of decisions	Change responsible officer to Coordinator Governance and Strategy.	New coordinator role created in Governance and Strategy.
Policy 003 – Legal advice	<ol style="list-style-type: none"> <li>1. Change terminology from programs and sections to functional areas and lines of business.</li> <li>2. Change responsible officer to Coordinator Governance and Strategy.</li> </ol>	<ol style="list-style-type: none"> <li>1. Update the terminology that is used by the Town.</li> <li>2. New coordinator role created in Governance and Strategy.</li> </ol>
Policy 004 – Risk management	Add a responsible officer.	Responsible officer not identified in current policy.
Policy 014 – Appointment to outside bodies	Change responsible officer to Coordinator Governance and Strategy.	New coordinator role created in Governance and Strategy.
Policy 021 – Elected members fees, expenses and allowances	<ol style="list-style-type: none"> <li>1. Add that the Mayor’s and Deputy Mayor’s allowances are as adopted by Council in the annual budget.</li> <li>2. Clarify that payments are made in the Town’s first payment run of the month.</li> <li>3. Add a responsible officer.</li> </ol>	<ol style="list-style-type: none"> <li>1. To clarify that the amount for the Mayor’s and Deputy Mayor’s allowances must also be adopted by Council in the annual budget.</li> <li>2. To make the policy more current as this clause referred to transitional arrangements following the original adoption of the policy.</li> <li>3. Responsible officer not identified in current policy.</li> </ol>
Policy 022 – Elected member professional development	Change responsible officer to Coordinator Governance and Strategy.	New coordinator role created in Governance and Strategy.
Policy 023 – Provision of information and services – elected members	<ol style="list-style-type: none"> <li>1. Add that provision of services and/or administrative requests can be resolved by submitting an electronic form on the Councillor Portal if a form is available.</li> <li>2. Change responsible officer to the Chief Executive Officer.</li> <li>3. Change responsible officer to Coordinator Governance and Strategy.</li> </ol>	<ol style="list-style-type: none"> <li>1. To allow for improvements to be made to processes as opportunities become available. An example of this could be completing an IT request form or professional development request form online.</li> <li>2. Council can only direct the Chief Executive Officer and the correct responsible officer should be identified.</li> <li>3. The new position of Coordinator Governance and</li> </ol>

		Strategy is responsible for managing governance-related policies.
Policy 024 – Event attendance	Change responsible officer to Coordinator Governance and Strategy.	New coordinator role created in Governance and Strategy.
Policy 025 – Independent committee members	<ol style="list-style-type: none"> <li>1. Simplify some language without changing the intent or content of the policy.</li> <li>2. Add a responsible officer.</li> </ol>	<ol style="list-style-type: none"> <li>1. Make the policy easier to read.</li> <li>2. Responsible officer not identified in current policy.</li> </ol>
Policy 051 – Agenda Briefing Forum, concept forum and workshops	<ol style="list-style-type: none"> <li>1. Simplify, re-order, separate and re-number some clauses without changing the intent or content of the policy.</li> <li>2. Change reference to local law from <i>Standing Orders Local Law 2011</i> to <i>Meeting Procedures Local Law 2019</i>.</li> <li>3. Change any reference to audio recordings to recordings.</li> <li>4. Change reference from Public Participation Policy to Policy 103 – Communications and engagement.</li> <li>5. Add Policy 101 – Governance of Council advisory and working groups to related documents.</li> <li>6. Change responsible officer to Coordinator Governance and Strategy.</li> </ol>	<ol style="list-style-type: none"> <li>1. Make the policy easier to read, comprehend and reference.</li> <li>2. Local law has changed.</li> <li>3. Recordings covers both audio and video recordings.</li> <li>4. Policy name has been updated.</li> <li>5. Policy covers other informal meetings of Council that are not covered by the policy.</li> <li>6. New coordinator role created in Governance and Strategy.</li> </ol>
Policy 052 – Recording and live streaming	Change responsible officer to Coordinator Governance and Strategy.	New coordinator role created in Governance and Strategy.
Policy 053 – Meetings of electors	Change responsible officer to Coordinator Governance and Strategy.	New coordinator role created in Governance and Strategy.
Policy 054 – Access to reserve funds	<ol style="list-style-type: none"> <li>1. Change name to Access to reserve funds through notices of motion.</li> <li>2. Change responsible officer to Coordinator Governance and Strategy.</li> </ol>	<ol style="list-style-type: none"> <li>1. Clearly identify what the policy covers from the name.</li> <li>2. New coordinator role created in Governance and Strategy.</li> </ol>

Policy 101 – Governance of Council advisory and working groups	<ol style="list-style-type: none"> <li>1. Update reference to Policy 021 – Fees, expenses and allowances – elected members.</li> <li>2. Change responsible officer and policy manager.</li> </ol>	<ol style="list-style-type: none"> <li>1. Policy name has changed.</li> <li>2. Bring policy into line with other governance-related policies.</li> </ol>
Policy 112 – Visual art	Add clause that visual art purchased by the Town must be in accordance with Policy 301 – Procurement unless otherwise resolved by Council.	To provide clarity around procurement practices.
Policy 260 – Single use plastic and polystyrene	Add reference to Plastic-free Vic Park Guide.	To reference related information.
Policy 301 - Purchasing	<ol style="list-style-type: none"> <li>1. Remove Manager Corporate Services as responsible officer.</li> <li>2. Add Finance Manager as responsible officer.</li> </ol>	<ol style="list-style-type: none"> <li>1. Position no longer exists.</li> <li>2. New position added since policy was last reviewed.</li> </ol>
Policy 302 - Investment	<ol style="list-style-type: none"> <li>1. Remove Manager Corporate Services as responsible officer.</li> <li>2. Add Finance Manager as responsible officer.</li> </ol>	<ol style="list-style-type: none"> <li>1. Position no longer exists.</li> <li>2. New position added since policy was last reviewed.</li> </ol>
Policy 303 – Debt collection	<ol style="list-style-type: none"> <li>1. Remove Manager Corporate Services as responsible officer.</li> <li>2. Add Finance Manager as responsible officer.</li> </ol>	<ol style="list-style-type: none"> <li>1. Position no longer exists.</li> <li>2. New position added since policy was last reviewed.</li> </ol>
Policy 305 – Loan borrowing limitations	<ol style="list-style-type: none"> <li>1. Remove Manager Corporate Services as responsible officer.</li> <li>2. Add Finance Manager as responsible officer.</li> </ol>	<ol style="list-style-type: none"> <li>1. Position no longer exists.</li> <li>2. New position added since policy was last reviewed.</li> </ol>
Policy 306 – Business dealings with elected members and employees	<ol style="list-style-type: none"> <li>1. Remove Manager Corporate Services as responsible officer.</li> <li>2. Add Finance Manager as responsible officer.</li> </ol>	<ol style="list-style-type: none"> <li>1. Position no longer exists.</li> <li>2. New position added since policy was last reviewed.</li> </ol>
Policy 312 – Transaction card	<ol style="list-style-type: none"> <li>1. Remove Manager Corporate Services as responsible officer.</li> </ol>	<ol style="list-style-type: none"> <li>1. Position no longer exists.</li> <li>2. New position added since policy was last reviewed.</li> </ol>

	2. Add Finance Manager as responsible officer.	
Policy 331 – Information systems security	<ol style="list-style-type: none"> <li>1. Remove Manager Corporate Services as policy manager.</li> <li>2. Add Manager Technology and Digital Strategy as policy manager.</li> </ol>	<ol style="list-style-type: none"> <li>1. Position no longer exists.</li> <li>2. New position added since policy was last reviewed.</li> </ol>

5. Eighteen policies are proposed for major reviews in 2021/2022. Reasons that these policies have been proposed are provided below.

<b>Policy</b>	<b>Presented to Policy Committee</b>	<b>Reason</b>
Policy 406 – Temporary food businesses and itinerant food vendors	June 2021	Council resolved that the policy needed to be reviewed 18 months after its adoption.
Policy 014 – Appointment to external bodies	June 2021	This policy was adopted in 1997 and a major review has not been completed.
Policy 051 – Agenda Briefing Forum, concept forum and workshops	June 2021	This policy was adopted by Council in 2019. As it has now been in operation for two years, it is proposed to review the policy to ensure it is still fit-for-purpose.
Policy 257 – Waste removal - residential properties	July 2021	This policy was adopted by Council in 1997 and appears to have only been reviewed through the yearly review of all Council policies.
Policy 258 – Waste removal – commercial properties	July 2021	This policy was adopted by Council in 1997 and appears to have only been reviewed through the yearly review of all Council policies.
Policy 259 – Recycling collection – residential and commercial properties	July 2021	This policy was adopted by Council in 2008 and appears to have only been reviewed through the yearly review of all Council policies.
Policy 225 – Hire and use of Town banner and flag sites	August 2021	The policy manager nominated the policy for review to allow for Council to consider its position.

Policy 404 – Fireworks management	August 2021	<p>This policy was adopted by Council in 2004 and appears to have only been reviewed through the yearly review of all Council policies.</p> <p>Elected members and the community have also recently shown interest in the Town's policy covering the management of fireworks.</p>
Policy 403 – Management of noise emissions from events at Belmont Racecourse – other than horse racing	August 2021	<p>This policy was adopted by Council in 2002 and appears to have only been reviewed through the yearly review of all Council policies.</p>
Policy 006 – Gratuity payments to employees	November 2021	<p>This policy was adopted by Council in 1999 and appears to have only been reviewed through the yearly review of all Council policies.</p>
Policy 306 – Business dealings with elected members and employees	November 2021	<p>This policy was adopted by Council in 2000 and appears to have only been reviewed through the yearly review of all Council policies.</p>
Policy 022 – Elected member professional development	November 2021	<p>Section 5.128 (5)(a) of the Local Government Act 1995 requires that the professional development policy be reviewed after each ordinary election.</p>
Policy 251 – Rainforest timbers – use in Town construction	February 2022	<p>This policy was adopted by Council in 1994 and appears to have only been reviewed through the yearly review of all Council policies.</p>
Policy 252 – Nuclear free zone	February 2022	<p>This policy was adopted by Council in 2008 and appears to have only been reviewed through the yearly review of all Council policies.</p>
Policy 401 – Smoking restriction – Town property	February 2022	<p>This policy was adopted by Council in 1994 and appears to</p>

		have only been reviewed through the yearly review of all Council policies.
Policy 226 – Recreation reserves – hire	March 2022	This policy was adopted by Council in 1994 and appears to have only been reviewed through the yearly review of all Council policies.
Policy 405 – Events on parks and reserves – notification to local residents	March 2022	This policy was adopted by Council in 1995 and appears to have only been reviewed through the yearly review of all Council policies.
Policy 001 – Policy management and development	March 2022	If Council requests the Chief Executive Officer to undertake the proposed workplan, all policies of Council will have been either adopted or substantially reviewed within the last three years. Council may want to consider the process for policy reviews at this stage and a major review of this policy at this time may assist.

6. Council have already requested that two policies be evaluated and presented to Council by June 2021. The following policy evaluations will be presented to the May 2021 Policy Committee meeting:
  - a. Policy 223 – Fleet management light vehicles
  - b. Policy 113 – Homeless – The Town’s role.
7. Policies are not proposed for review in September due to the caretaker period. Reviews have not been scheduled in October to allow for any new elected members to be inducted sufficiently before having to attend a formal committee meeting. December and January have also been kept free of reviews as December is notoriously a busy time for elected members and no meetings are held in January.
8. Meeting dates have been proposed to allow for the proposed policy review deadlines to be met.

## Relevant documents

[Policy 001 – Policy management and development](#)



## 7.2 Code of Conduct and Complaints Policy for Council Members, Committee Members and Candidates

<b>Location</b>	Town-wide
<b>Reporting officer</b>	Bana Brajanovic
<b>Responsible officer</b>	Anthony Vuleta
<b>Voting requirement</b>	Absolute majority
<b>Attachments</b>	<ol style="list-style-type: none"><li>1. Code of Conduct for Council Members Committee Members and Candidates [7.2.1 - 9 pages]</li><li>2. Complaints Policy for Council Members, Committee Members and Candidates [7.2.2 - 7 pages]</li></ol>

### Recommendation

That the Policy Committee recommends that Council:

1. Adopts the Code of Conduct for Council Members, Committee Members and Candidates, as shown in Attachment 1.
2. Adopts the Complaints Policy for Council Members, Committee Members and Candidates, as shown in Attachment 2.

### Purpose

Council to adopt the Code of Conduct and Complaints Policy for council members, committee members and candidates.

### In brief

- Section 5.104 of the *Local Government Act 1995* (Act) requires that local governments adopt a Code of Conduct for council members, committee members and candidates that incorporates the Model Code of Conduct by 3 May 2021.
- The Town's Code of Conduct (Code) for council members, committee members and candidates is shown in Attachment 1.
- The purpose of the Code is to guide the decisions, actions and behaviours of council and committee members and of candidates running for election as a council member.
- Where the behaviour of a council member, committee member or candidate does not comply with the Code, the behaviour must be addressed through the proposed Complaints Policy as shown in Attachment 2.
- Complaints can only be made in accordance with the proposed policy and Division 3 of the Code.

### Background

1. A review of the *Local Government Act 1995* led by the Department of Local Government, Sport and Cultural Industries (Department), including consultation with the community and sector stakeholders, led to the implementation of priority reforms under the *Local Government Amendment Act 2019* (Amendment Act).
2. The Amendment Act was developed in response to stakeholder feedback that there was a need for governance reforms, including a Code of Conduct for council members, committee members and candidates that reflects community expectations of behaviour.

3. As a result, key reforms under the Amendment Act include the introduction of the Model Code of Conduct Regulations 2021 (MCC Regulations) and Model Code of Conduct (Model Code) that must be adopted by local governments and applied to council members, committee members and candidates.
4. All local governments are required by s.5.104(1) of the Act to prepare and adopt their Code of Conduct to be observed by council members, committee members and candidates by May 2021.
5. The MCC Regulations have been developed to give effect to the Amendment Act and provide for:
  - a) overarching principles to guide behaviour
  - b) behaviours and complaints, which are managed by local governments and
  - c) rules of conduct, contraventions considered by the independent Local Government Standards Panel (Standards Panel) where appropriate.
6. The proposed Code of Conduct (Code) for council and committee members and candidates is shown in Attachment 1. The Code is based on the MCC Regulations and Model Code and does not have any additional sections or changes.
7. The purpose of the Code is to guide the decisions, actions and behaviours of members, both in council and on council committees, and of candidates running for election as a council member.
8. An individual who has nominated as a candidate for election as a council member is required to demonstrate professional and ethical behaviour during their election campaign. If elected, the individual must continue to comply with the Code in council and on council committees.
9. While local governments may not amend Division 2 (Principles) or Division 4 (Rules of Conduct) of the Model Code, additional behaviour requirements can be included in Division 3 (Behaviours) if deemed appropriate by the local government.
10. What is different in the proposed Code to the Town's previous Code is Division 3 regarding the mechanism for dealing with alleged breaches of the Code of Conduct. Provisions under Division 3 are new and deal with alleged complaints on council and committee members' behaviour and candidates who become council members.
11. Complaints regarding alleged breaches of the Code in Division 3 are to be managed by the Council as the Town's decision-making body.
12. To be able to deal with complaints made in accordance with Division 3 of the Code, the Town has developed a Complaints Policy for council members, committee members or candidates, as shown in Attachment 2.
13. The Code of Conduct and Complaints Policy were presented to elected members at the February Concept Forum. To assist the February Concept Forum process, elected members were provided two weeks to propose additional behaviours to Division 3 of the Model Code. After consideration by elected members no additional behaviours have been added to the Code as it is considered that the Model Code clearly reflects community expectations of behaviour.

## Strategic alignment

Civic Leadership	
Strategic outcome	Intended public value outcome or impact
CL08 - Visionary civic leadership with sound and accountable governance that reflects objective decision-making.	Resolving the recommended actions ensures that the Town of Victoria Park is compliant with governance obligations.
CL10 - Legislative responsibilities are resourced and managed appropriately, diligently and equitably.	The Complaints Policy prescribes the processes for the management of complaints involving council members, committee members and candidates in matters relating to breaches of the behaviour requirements in Division 3 of the Code of Conduct.

## Engagement

Internal engagement	
Elected Members	<p>Elected members provided feedback on additional behaviours under division 3 of the Code of Conduct through the February Concept Forum.</p> <p>Elected members provided feedback on the Complaints Policy through the February Concept Forum.</p>

Other engagement	
Department of Local Government, Sport and Cultural Industries	Department of Local Government, Sport and Cultural Industries was engaged to provide information on the Local Government (Model Code of Conduct) Regulations 2020 requirements in relation to the complaints process.
McLeods Barristers & Solicitors	The Town engaged McLeods Legal to provide advice in relation to the proposed Complaints Policy.

## Legal compliance

[Local Government \(Model Code of Conduct\) Regulations 2021](#)

## 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	Not applicable				Low	
Environmental	Not applicable				Medium	

Health and safety	Not applicable				Low	
Infrastructure/ ICT systems/ utilities	Not applicable				Medium	
Legislative compliance	<p>Council not adopting the Code of Conduct will result in noncompliance with the Town's statutory obligations.</p> <p>Council not adopting the Complaints policy will result in the Council having to investigate and consider all complaints relating to Division 3 of the Code.</p>	Moderate	Likely	High	Low	Treat risks by supporting the recommendation.
Reputation	Negative public perception towards the Town if it does not meet the legislative compliance.				Low	Treat risk by supporting the recommendation.
Service delivery	Not applicable				Medium	

## Financial implications

<b>Current budget impact</b>	<p>Sufficient funds do not exist within the annual budget. However, at this time it is unknown whether the Town will receive any complaints in the remainder of this financial year or the cost for panel members.</p> <p>Should funds be required, a minor budget variation will be sought.</p>
<b>Future budget impact</b>	<p>Passing of the recommendation will result in funds being required in future budget to cover the Investigator or Complaints Panel and mediator costs of dealing with complaints.</p>

## Analysis

### 14. Code of Conduct

- a) Divisions 1, 2, 3 and 4 of the Code of Conduct are consistent with provisions previously contained in the old Rules of Conduct Regulations and Town's Code of Conduct, though going into more detail in regard to Division 3, the requirements relating to behaviour. Division 4 - the Rules of Conduct, and provisions for their breach, correspond closely with what applied previously in the Rules of Conduct Regulations.
- b) What is different in the proposed Code are sections 11, 12, 13, 14 and 15 of Division 3 regarding the mechanism for dealing with alleged breaches of the Code. These provisions are new and deal with alleged complaints on the behaviour of council and committee members, and candidates who become council members.

### 15. The Code of Conduct consists of four divisions:

- a) Division 1 — Preliminary provisions contains citations and terms used.
- b) Division 2 General principles - sets out the fundamental rules that council members, committee members and candidates are expected to adhere to, promote and support. Adhering to these rules will assist individuals to comply with the behaviours outlined in Division 3 and 4. The principles outline the overarching approach that members and candidates should demonstrate in their role as public representatives, or potential public representatives. The principles are grouped into three key areas: Personal Integrity; Relationships with others and Accountability.
- c) Division 3 Behaviour - sets the standards of behaviour which reflect the general principles outlined in Division 2. It is the individual responsibility of members and candidates to demonstrate, promote and support professional and ethical behaviour as provided in the Code. Section 5.103(3)(a) of the Act introduce the discretion for the Code of Conduct to deal with alleged breaches of requirements relating to behaviour. This is a significant amendment as the Act has not previously mandated a complaints process relating to behavioural content of a Code of Conduct. Complaints regarding alleged breaches of the Code in Division 3 are to be managed by the Council as the decision-making body of the Town. Division 3 also provides a process for responding to alleged breaches. The emphasis is on education and development, rather than punitive sanctions, with the aim of establishing or restoring positive working relationships and avoiding further breaches. The attached Complaints Policy outlines the proposed process for dealing with complaints made under Division 3 of the Code.
- d) Division 4 Rules of Conduct - sets out rules of conduct for council and committee members and candidates that relate to the principles in Division 2 and the behaviours in Division 3. This Division also introduces a new rule of conduct to address situations where a member does not undertake the actions required by the Council following a breach of the Code. A contravention of this rule of conduct is considered a minor breach, as defined in the Act. The process for complaints under Division 4 is outlined in the Act and all complaints made under Division 4 are considered by the Standards Panel.

### 16. The proposed Complaints Policy for council members, committee members and candidates consists of 17 clauses:

- a) Appointment of Investigator or Independent Complaints Panel to review and consider complaints

- I. While the Department was developing the MCC Regulations, one of the major concerns raised by the sector stakeholders was the requirement for Local Governments to determine behavioural breach allegations specified in Division 3 of the MCC Regulations. The administrative process for dealing with breach allegations is unspecified in the Regs. Therefore, it is up to each local government to decide on the procedure and on who is going to review and consider complaints.
- II. Options on who could review and consider complaints provided by the Department in the Model Code of Conduct Guidelines are as follows:
  - The President/Mayor or Deputy consider all complaints
  - Delegation of complaints to the CEO to prepare a report for the Council
  - Appointment of an independent/external consultant to review complaints and provide a report to the Council
  - Establish a committee to review complaints and report to the Council. The committee may include independent members.
- III. All options suggested by the Department have been considered. The advantages and disadvantages of the Department's suggested options are provided in the table below.

Table below shows advantages and disadvantages for each option -

Option	Advantages	Disadvantages
Mayor or Deputy Mayor	<ul style="list-style-type: none"> <li>• Less costly</li> </ul>	<p>If the Mayor or Deputy Mayor were to review and consider complaints the following disadvantages have been noted:</p> <ul style="list-style-type: none"> <li>• Mechanism for dealing with alleged breaches' provisions may have the potential to engage a great deal of time of Mayor and Deputy Mayor</li> <li>• Council becoming factionalised, whether actual or perceived it may hinder application of natural justice (e.g. the bias rule) when dealing with complaints or lead to a rash of complaint upon complaint</li> <li>• Impartiality and procedural fairness</li> <li>• Mayor and/or Deputy Mayor may have limited experience in managing a task of this nature and may therefore be inadequately prepared</li> <li>• Potential conflicts of interests</li> <li>• Could be directly involved in the subject matter of the complaint</li> </ul>
Chief Executive Officer	<ul style="list-style-type: none"> <li>• Less costly</li> </ul>	<p>If the CEO and Town employees were to review and consider complaints the following disadvantages have been noted:</p> <ul style="list-style-type: none"> <li>• Council and administration becoming factionalised</li> <li>• Impartiality and procedural fairness</li> </ul>

		<ul style="list-style-type: none"> <li>• The Town did not operate a complaints process under the previous Code</li> <li>• Town employees may have limited experience in managing a task of this nature and may therefore be inadequately prepared</li> <li>• Employees responsible for considering complaints would need to be trained – additional cost</li> <li>• Conflicts of interests</li> <li>• Taking up disproportionate amounts of staff resources – additional cost</li> </ul>
<p>Appointment of an independent/external consultant/investigator/independent panel</p>	<ul style="list-style-type: none"> <li>• Impartial and procedurally fair outcomes can be achieved</li> <li>• Appropriate aptitude, knowledge, and skills to review and consider complaints</li> <li>• Appropriate qualifications, experience and availability</li> <li>• Independent from Council</li> <li>• Efficient complaints process</li> </ul>	<ul style="list-style-type: none"> <li>• Potentially costly (depending on the number of submitted complaints)</li> </ul>
<p>Committee (consisting of council members only or council members and external members)</p>	<ul style="list-style-type: none"> <li>• Less costly</li> </ul>	<p>If a Committee of Council was to review and consider complaints the following disadvantages have been noted:</p> <ul style="list-style-type: none"> <li>• Having council members on the committee may result in Council becoming factionalised, whether actual or perceived it may hinder application of natural justice (e.g. the bias rule) when dealing with complaints</li> <li>• Having council members on the committee may cause impartiality issues and procedural fairness</li> <li>• Council members did not operate a complaints process under the previous Code</li> <li>• Council members may have limited experience in managing a task of this nature and may therefore be inadequately prepared</li> <li>• Conflicts of interests</li> <li>• Council members who are committee members could be directly involved in the subject matter of the complaint</li> </ul>

- IV. As shown in the table above, some suggested options do not provide a fair process for dealing with complaints. Therefore, the draft Complaint Policy proposes that complaints should be reviewed and considered by an Investigator or Independent Complaints Panel so that impartial and procedurally fair outcomes can be achieved. Person(s) who will be considering complaints will be the most important factor in ensuring that the complaints process is appropriate and effective. Therefore, it is important that whoever plays that key role is impartial, trained, has the appropriate aptitude, knowledge, and skills to consider complaints. The involvement of an Investigator or Independent Complaints Panel will come at a cost to the Town.
- V. In accordance with Clause 4 of the policy, the Investigator or Independent Complaints Panel would review and consider complaints and provide their findings to Council. The Council would then make the ultimate finding as to whether or not a breach has occurred and impose the action plan sanction.

b) Process for making a complaint

Sets out a process for making a complaint. Any person may make a complaint alleging a breach of Division 3 the Model Code of Conduct by submitting a Complaint About Alleged Breach Form to the Behaviour Complaints Officer within 1 month of the occurrence of the alleged breach. All complaints must be submitted in accordance with clause 5 of the policy.

c) Mediation

Mediation will be offered to both parties as the first option for dealing with a complaint and before progressing with the consideration or determination of the complaint.

d) Investigator making a determination

Investigator considers a complaint and determines if the alleged behaviour breach has occurred. The determination must be based on evidence from which it may be concluded that it is more likely that the breach occurred than that it did not occur. Once the Investigator makes a determination on the alleged breach, the Investigator must provide a report to the Behaviour Complaints Officer.

e) Action plans

Clause 8 of the policy provides that if the Investigator makes a finding that a breach of the Code of Conduct did occur, the Investigator may determine that no further action is required; or that an action plan must be prepared and implemented. The Code requires that in preparing the action plan, consultation must be undertaken with the member to whom the plan relates. This is designed to provide the member with the opportunity to be involved in matters such as the timing of meetings or training. Having made a determination on the alleged behaviour breach, the Investigator must inform the Behaviour Complaints Officer by providing a determination and reasons for it in a Determination and Reasons Report.

f) Report provided to Council

The Behaviour Complaints Officer must provide a confidential report to Council including – copy of the complaint; Report of the Investigator; recommendation on the question whether or not a behaviour breach has occurred; recommendation as to whether any and if so what further action is required; if further action is required, a recommendation must be provided to the Council on an action plan.

g) Council finding

Clause 10 requires the Council to consider whether the alleged matter which is the subject of a complaint, did occur and make a final finding on whether the matter constituted a breach of the



Code of Conduct. A finding that the alleged behaviour breach has occurred must be based on evidence from which it may be concluded that it is more likely that the breach occurred than that it did not occur.

- h) Behaviour Complaints Officer acting on Council finding  
When the Council makes a finding in relation to a Complaint, the Behaviour Complaints Officer must give the complainant and the person to whom the Complaint relates written notice of the finding.
- i) Confidentiality of Complaints  
Complaints should not be disclosed unless and until the Council has made a formal finding of breach in respect of the Complaint.
- j) Dismissal of Complaint  
Complaints can be dismissed if - the behaviour occurred at a Council or committee meeting and the behaviour was dealt with at that meeting or the complaint is withdrawn.
- k) Withdrawal of Complaint  
A complainant may withdraw their Complaint any time before it is considered by the Council.
- l) Compliance with plan requirement  
The Behaviour Complaints Officer is to monitor the actions in timeframes set out in an action plan. Where a member does not undertake the actions required by the Council following a breach of the Code a contravention of this rule of conduct is considered a minor breach, as defined in the Act.
- m) Complaints that are inappropriate under this Policy  
Complaints such as the following are inappropriate to be dealt with under this Policy:
  - I. Complaints made with the intent of addressing personal grievances or disagreements
  - II. Complaints made to express dissatisfaction with a council or committee member's lawfully made decisions or performance of their role
  - III. Minor breaches under section 5.105(1) of the LG Act
  - IV. Serious breaches under section 5.114 of the LG Act and
  - V. Allegations of corruption.
- n) Cost in the complaints process  
The Investigator or the members of a Panel, or a mediator, appointed pursuant to the Policy may charge the Town a fee to cover the costs of dealing with the Complaint whether or not a breach is ultimately found.

## Relevant document

Not applicable.

### 7.3 Review of Policy 207 Paths - locations within road reserves

<b>Location</b>	Town-wide
<b>Reporting officer</b>	Denis Lau
<b>Responsible officer</b>	John Wong
<b>Voting requirement</b>	Simple majority
<b>Attachments</b>	1. Policy-207- Paths-locations-within-road-reserves [7.3.1 - 2 pages]

#### Recommendation

That the Policy Committee recommends that Council receives the review of Policy 207 (paths – location within road reserves), as at attached.

#### Purpose

To review the content of Policy 207 – paths – location within road reserves.

#### In brief

- At its meeting of 21 April 2020, Council adopted a work plan to review several policies. Policy 207 was identified as one of the policies identified for review.
- The Town has reviewed Policy 207 and no changes are required. It is therefore presented for adoption in its last revised form.

#### Background

1. The last review/amendment to Policy 207 was made in the Council item of 20 August 2019 which amended the policy to bring it in line with the current policy template.
2. Council resolution 384/2020 of 21 April 2020 adopted a work plan to review several policies and Policy 207 was identified to be completed by April 2021. The Town has now completed its review and no changes are required.

#### Strategic alignment

Environment	
Strategic outcome	Intended public value outcome or impact
EN02 - A safe, interconnected and well maintained transport network that makes it easy for everyone to get around.	To provide clear guidance on the physical locations of footpaths within the road reserve, subject to various constraints.

#### Engagement

Internal engagement	
Stakeholder	Comments
Technical Services	Review of the policy.

Operations	Review and support of the policy.
Place Planning	Review and support of the policy. Will lead new policy statement encompassing the style and type of footpath materials.

## Legal compliance

[Section 2.7\(2\)\(b\) of the Local Government Act 1995](#)

## 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	Not having clear policy on footpath location may result in extra cost for alignment correction	Minor	Unlikely	Low	Low	Maintain policy
Environmental	Not applicable					
Health and safety	Footpaths may be located in an unsafe position.	Moderate	Unlikely	Moderate	Low	Maintain policy and take constraints into consideration
Infrastructure/ ICT systems/ utilities	Not applicable					
Legislative compliance	Not applicable					
Reputation	Not applicable					
Service delivery	Not applicable					

## Financial implications

<b>Current budget impact</b>	Sufficient funds exist within the annual budget to address this recommendation.
<b>Future budget impact</b>	There are no future budget impacts.

## Analysis

3. Policy 207 refers only to the actual location of footpaths within the road reserve with regards to their physical location relative to property boundaries. Outside of the constraints imposed by verge levels, significant trees, above ground public utility services or invasion of privacy for adjoining property owners, footpaths will be located adjacent (within 500mm) to property boundaries.
4. The literal interpretation of the scope of this policy is clearly defined, and no changes are recommended to be made.
5. The scope of Policy 207 is limited to defining physical location with regards to property boundaries. This precludes it from addressing other issues on the style and types of footpath materials to be used in relation to particular areas located within the Town. The content and extent of the defined areas and the style/type of material to be used for future is currently being considered through the Place Planning area. It is considered that these style guidelines should form part of future policy determination to be developed through Place Planning, with Technical Services and Operations input.

## Relevant documents

Not applicable.

## 7.4 Review of Policy 208 – Street verges – reinstatement of lawns following works

<b>Location</b>	Town-wide
<b>Reporting officer</b>	Gregor Wilson
<b>Responsible officer</b>	Nicole Anson
<b>Voting requirement</b>	Simple majority
<b>Attachments</b>	1. Policy-208- Street-verges- Reinstatement-of-lawns-following-works [7.4.1 - 2 pages]

### Recommendation

The Policy Committee recommends that Council receives the review of Policy 208 (Street verges – reinstatement of lawns following works), as attached.

### Purpose

To review the content of Policy 208 – Street verges – reinstatement of lawns after works.

### In brief

- At its meeting of 21 April 2020, Council adopted a work plan to review several policies. Policy 208 was identified as one of the policies to be reviewed.
- The Town has reviewed Policy 208 and does not require any changes to the policy document. It is therefore presented for adoption in the existing form.
- The existing policy addresses reinstatement of synthetic turf. As synesthetic turf is not a permissible verge treatment and as such reinstatement is not a requirement.

### Background

1. The last review/amendment to Policy 208 was made in the council item of 20 August 2019 which amended the policy to bring it in line with the current policy template.
2. Council resolution 384/2020 of 21 April 2020 adopted a work plan to review several policies and Policy 208 was identified to be completed by April 2021. The Town has now completed a policy review.

### Strategic alignment

<b>Civic Leadership</b>	
Strategic outcome	Intended public value outcome or impact
CL03 - Well thought out and managed projects that are delivered successfully.	Ensuring that the streetscape reinstatement after works is well-managed.

<b>Economic</b>	
Strategic outcome	Intended public value outcome or impact
EC02 - A clean, safe and accessible place to visit.	By ensuring verges are reinstated to an acceptable standard, it reduces the risk of trips or falls.

Environment	
Strategic outcome	Intended public value outcome or impact
EN06 - Appropriate, inviting and sustainable green spaces for everyone that are well maintained and well managed.	Reinstatement of greenspace encourages residents to maintain the verges to a good standard improving the environment and aesthetics of the street.

## Engagement

Internal engagement	
Stakeholder	Comments
Parks staff	Review of the policy
Engineering staff	Review of the policy

## Legal compliance

[Section 2.7 of the Local Government Act 1995](#)

## 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	Not having a clear policy may result in inconsistency with reinstatements.	Minor	Unlikely	Low	Low	TREAT risk by maintaining policy
Environmental	Not applicable				Medium	
Health and safety	Injuries to members of the public due to badly reinstated verge	Moderate	Unlikely	Moderate	Low	Treat risk by ensuring verges are reinstated as per policy
Infrastructure/ ICT systems/ utilities	Not applicable				Medium	
Legislative compliance	Not applicable				Low	
Reputation	Dissatisfaction with verge reinstatement	Minor	Unlikely	Low	Low	Treat risk by ensuring residents are aware of

		reinstatement Policy
Service delivery	Not applicable	Medium

### Financial implications

<b>Current budget impact</b>	The review of this policy does not result in a budgetary impact.
<b>Future budget impact</b>	There are no future budget impacts anticipated.

### Analysis

3. Policy 208 refers to the standard that verges will be reinstated to following works.
4. It refers to the reinstatement of lawns, but also includes the Town reinstating “permissible verge treatments” which may include mulch and hardscapes.
5. The scope of this policy is clearly defined, and there have been no changing circumstances requiring consideration. As such no changes are recommended to be made to the existing policy.

### Relevant documents

Not applicable.

## 7.5 Proposed Waste Disposal Local Law 2021

<b>Location</b>	Town-wide
<b>Reporting officer</b>	Jon Horne
<b>Responsible officer</b>	Nicole Anson
<b>Voting requirement</b>	Absolute majority
<b>Attachments</b>	1. Revised Waste Disposal Local Law 2021 [4EZ7] [7.5.1 - 16 pages]

### Recommendation

That the Policy Committee recommends that Council:

1. Determines that as a result of the review of the *Town of Victoria Park Health Local Law 2003*, as amended, that clauses 38 through to 48 (inclusive) of that local law be repealed and replaced, in accordance with section 3.16 of the *Local Government Act 1995*.
2. Gives notice that it intends to make the *Town of Victoria Park Waste Disposal Local Law 2021*, as at attachment 1, which will repeal clauses 38 through to 48 (inclusive) of the *Town of Victoria Park Health Local Law 2003*, as amended in accordance with section 3.12 of the *Local Government Act 1995*.
3. Seeks the consent of the Chief Executive Officer of the Department of Water and Environmental Regulation to the proposed *Town of Victoria Park Waste Disposal Local Law 2021*.

#### *Purpose and effect of the local law.*

The purpose of this local law is to provide for the protection of the natural and urban environment and the mitigation of environmental hazards through ensuring the appropriate disposal of local government waste.

The effect of this local law is to:

- (a) Provide for regulation, control and management of waste services; and
- (b) Establish the requirements with which any owner or occupier of premises using Town of Victoria Park waste services, must comply.

### Purpose

To commence the process for making the Waste Disposal Local Law 2021.

### In brief

- The Town is currently reviewing the *Town of Victoria Park Health Local Law 2003*, this review is being conducted in stages, the first two of which are Animals (which is subject to a separate report) and Waste.
- As part of the State government's approach to waste management; and recognising that its strategy involves not only recycling, but also separation of organics at source collection, and extraction of containers through the Container Deposit Scheme (CDS – also known as Containers for Change); a model local law on waste has been developed to provide legislative backing for better control of such waste collection activities. The West Australian Local Government Association (WALGA) and the Joint



Standing Committee on Delegated Legislation of the WA Parliament (JSC) have adopted an agreed model local law for waste to cover current and anticipated future extra waste management related activities. These activities are not covered in any comprehensive manner under the existing health local law.

- The necessity to consider and introduce a local law specifically covering waste has also been identified as an action item in the Waste Plan approved by Council in its September 2020 round of meetings (and which was subsequently endorsed by the Department of Water and Environmental Regulation (DWER) in November 2020).
- While the model WALGA local law on waste provides extensive and perhaps far-reaching legislative power on specific waste matters, it is recommended to be adopted as any concerns on potential infringements for minor infractions using the local law can be tempered by the Town using a commonsense approach (combined with an emphasis on waste management education).

## Background

1. Following the resolution of Council at its meeting on 15 September 2020 the Town has been conducting the review of the *Health Local Law 2003*. This local law is extensive and covers varied topics and has not completed a full review since 2003.
2. In the period since the *Health Local Law 2003* was adopted, the following significant state legislative changes have occurred:

- a. *Waste Avoidance and Resource Recovery Act 2007*

This Act addresses several state measures to control and manage waste, including 'local government waste'. It is under this Act that future local laws managing waste must be made.

- b. *Food Act 2008*

This Act transferred the laws managing food establishments, from local laws to a single law for the whole state. By order of the Governor, our local law was amended accordingly and the Town's *Eating Houses Local Law 2003* was repealed.

- c. *Cat Act 2011*

This Act provided for greater regulation of Cats, including mandatory registration and sterilisation and enabled local governments to make local laws to regulate cats even further.

- d. *Public Health Act 2016*

This Act, updated after 105 years, was the state's primary public health law. As part of its roll out, the Department of Health has been reviewing regulations, guidelines and local laws that were made under the previous act. The Act came in force in 2016 and implemented in a five staged process due to be fully implemented by 2021. Implementation is currently at Stage 4.

3. In reviewing the current law, the review is being conducted based on four topics:
  - a. Animals
  - b. Waste
  - c. The natural and urban environment; and
  - d. Public health
4. This report is the result of the review of laws in respect of waste.

5. As part of the impetus to develop a model local law on waste, WALGA and the JSC have considered two significant waste collection activities outside of separate recycling: the introduction of the CDS, and the future direction for collection of separate organics material from households.
6. The Town has also considered the introduction of the CDS and its requirements in terms of participation; planning; and also, administration with regard to the current recyclable waste (yellow top bin) collection. It was recognized in the September 2019 Council item that a possible problem existed with the recyclable collection due to the potential for scavenging of CDS items from recycling bins (leading to littering or socially undesirable activities). At the time it was noted that the local law on health provided some statutory backing to make scavenging illegal under Division 2 of that local law (with penalties under Part 10). However, this had not been legally tested, and it remained open to Council to introduce a separate local law to specifically address this issue.
7. At the same time of the introduction of the CDS, the issue of the separation of organic material at the point of waste collection has become more important due to the issues affecting the ability of the Mindarie Regional Council to process general waste at the Resource Recovery Facility.
8. With the likelihood of the introduction of an organics separation process at the point of waste collection increasing, the Town also recognized that the current local law on health did not cover (nor had been expected to cover) the issues that may arise with regard to such a system. As the Council has now endorsed the introduction of a separate organics system in the near future through the December 2020 round of Council meetings, it is important to also consider what local law clauses should cover this aspect of waste collection activity.

## Strategic alignment

<b>Civic Leadership</b>	
Strategic outcome	Intended public value outcome or impact
CL08 - Visionary civic leadership with sound and accountable governance that reflects objective decision-making.	For Council to be seen to be responsibly addressing the legal uncertainty for verge waste collection.
CL10 - Legislative responsibilities are resourced and managed appropriately, diligently and equitably.	To allow for management of enforcement actions and penalties for inappropriate verge waste treatment.

<b>Economic</b>	
Strategic outcome	Intended public value outcome or impact
EC02 - A clean, safe and accessible place to visit.	To provide a mechanism to discourage littering and any consequent reduction of amenity in the public arena.

<b>Environment</b>	
Strategic outcome	Intended public value outcome or impact
EN04 - A clean place where everyone knows the value of waste, water and energy.	To provide a mechanism to reduce the level of contaminants placed in waste collections.

<b>Social</b>	
Strategic outcome	Intended public value outcome or impact
S01 - A healthy community.	To provide a mechanism to discourage littering of verge bins.

## Engagement

Internal engagement	
Stakeholder	Comments
Technical Services	Advice and background details on the necessity for a waste local law.
Environmental Health	EHOs are generally supportive of the greater separation of this local law away from the other Health related local laws.

Other engagement	
Stakeholder	Comments
WALGA	Provision of standard local law format and advice

## Legal compliance

Section 3.12 of the *Local Government Act 1995*.

## 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	Not adopting an enforceable local law may result in higher contamination levels and increased waste charges.	Minor	Possible	Moderate	Low	Treat risk by adopting an appropriate local law to better control contamination rates.
Environmental	Higher contamination rates are counterproductive for waste management treatment	Minor	Possible	Moderate	Medium	Treat risk by adopting an appropriate local law to better control contamination rates.
Health and safety	Potential for health risks in having an unenforceable local law	Minor	Possible	Moderate	Low	Treat risk by adopting local law which contains infringements making it easier to

						enforce the local law.
Infrastructure/ ICT systems/ utilities	Not applicable.				Medium	
Legislative compliance	Not applicable.				Low	
Reputation	The local law may be seen as excessively onerous and provide legislative power to penalize even minor infractions.	Moderate	Likely	High	Low	Treat risk by emphasis on education activity for waste management and use of local law infringements for only more serious breaches.
Service delivery	Not applicable.				Medium	

## Financial implications

<b>Current budget impact</b>	Sufficient funds exist within the annual budget to address this recommendation.
<b>Future budget impact</b>	The introduction of the local law may have some potential for additional compliance costs and offsetting infringement income, however, at this stage it is not considered to be material enough to consider for future budget impact.

## Analysis

9. The Town gave notice of the review of the *Health Local Law 2003* on 1 October 2020 and a submission period was open until 23 November 2020. No submissions were received in respect of local laws pertaining to waste.
10. Policy settings relating to waste in WA have evolved heavily since 2003 with the introduction of the *Waste Avoidance and Resource Recovery Act 2007*. This Act clarified the powers of local governments to make local laws for managing waste. The Town has not taken the opportunity to make local laws in respect of waste since this bill passed. These local laws require the consent of the Chief Executive Officer of the Department of Water and Environmental Regulation.
11. WALGA and the JSC have adopted an agreed model local law for Waste. Varying from this law has to be justified appropriately by the Town. No major modification is proposed to the local law.

12. The WALGA model local law on waste considers not only the aspect of scavenging for CDS items, but also encompasses other potential infringements for inappropriate use of the bins for type of refuse disposed within the bins.
13. The proposed local law (based on the WALGA model) gives a much wider coverage of activities, and what may constitute unacceptable practice for which infringements may be levied. For example: recycling being deposited into general bins is prohibited under the WALGA draft local law, clause 11(2), with a modified penalty under schedule B, item 6; general waste (or organic waste, where relevant) being deposited into recycling bins is prohibited under the WALGA draft local law, clause 12(a), with a modified penalty under schedule 2, item 7; and similarly for anything other than specified organic waste being deposited into an organic waste receptacle under clause 13(a), with a modified penalty under schedule 2, item 9.
14. While the local law provides a more comprehensive coverage of acceptable waste practices, the extent of the local law may be seen to be excessive in the context of waste management. There may be some concern that even minor infractions can be targeted.
15. However, the local law needs to be viewed in the overall context of waste management practices being fostered by the Town. With the introduction of an organics separation system the Town would intend to promote the system through the education of residents to abide with the type of waste that may be placed in each type of bin. The Town would not intend to deliberately seek to infringe residents due to occasional lapses in waste placement; but it needs to recognize at the same time that it is still necessary to have an infringement system in place to discourage those residents that may deliberately flout regulations on a regular basis. Similarly, the potential for enforceable penalties relevant to persistent scavenging activities (e.g. scavenging of CDS items from recycling bins) needs to be in place.
16. It is therefore recommended that the Town adopt the model WALGA local law going forward with the CDS and future organics separation system (at the waste collection point). This is consistent with the orderly administration of local laws. By not pursuing infringement action for only minor infractions, it would still meet the requirement for good government from its execution of general and executive powers under the Local Government Act 1995. Local law adoption is also in line with the requirement of the implementation plan section of the Council approved (and DWER endorsed) Waste Plan for the Town.
17. Further, local laws made under the *Local Government Act 1995* such as this one can utilise the penalties under the *Local Government Act 1995*. This means any replacement laws could have a maximum penalty of \$5000 in the place of \$1000. It would also be possible to issue infringements in the place of having to prosecute every offence.

#### Part 1 - Preliminary

18. This section sets out administrative matters enabling the local law and repeals the current local laws in respect of local government waste (but not liquid waste and the like).

#### Part 2 – Local Government Waste

19. These clauses establish that:
  - a. The Town will supply to residential purposes wheelie bins (called receptacles in the local law) for disposing of waste;
  - b. People will deposit the waste in the wheelie bins and not deposit 'non-collectable waste' or too much waste (by weight) in the wheelie bin;
  - c. People will only deposit recyclables in a recycling bin;
  - d. People will only deposit organic materials in an organics bin;
  - e. The Town can direct a person to place a wheelie bin out for collection and/or remove it after rubbish collection;

- f. Owners and occupiers must keep their bins stored on their property, place them in the appropriate location, make sure they have appropriate bins and if the bins are stolen or damaged to notify the Town;
- g. The Town can grant exemptions to the duties of owners and occupiers where it is appropriate to do so;
- h. A person cannot damage or remove a bin;
- i. The laws in respect of verge collections;

### Part 3 – General duties

20. These clauses provide that a person must:

- a. Ensure they have sufficient bins for all of their waste
- b. That they keep their bins in good condition
- c. They take reasonable steps to keep them clean, odour free and not breeding insects
- d. Where directed by the Town that they clean the bins.
- e. Not remove things from other peoples' bins;
- f. Deposit their household waste or remove waste from public bins.

### Part 4 – Miscellaneous

21. This clause requires a person to ensure when they dispose of refrigerators or ice boxes that they remove the locks so children or animals cannot climb in and be locked inside.

### Part 5 – Enforcement

22. These clauses provide for the enforcement of the local law and review of the decisions of the Town under it.

### Schedule A – Meaning of 'non collectable waste'

23. This schedule provides the definition of what waste the Town will not collect.

### Schedule B - Prescribed offences

24. This schedule provides for infringements for breaches of the local law ranging from \$50 to \$400.

## Relevant documents

Not applicable.

**8 Motion of which previous notice has been given**

**9 Meeting closed to the public**

**9.1 Matters for which the meeting may be closed**

Nil.

**9.2 Public reading of resolutions which may be made public**

**10 Closure**