



TOWN OF
VICTORIA PARK



Policy Committee Minutes – 28 February 2022



**WE'RE OPEN
VIC PARK**

Please be advised that a **Policy Committee** was held at **5:30pm** on **28 February 2022** as an electronic meeting.

Cr Jesvin Karimi - Presiding Member
1 March 2022

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1 Declaration of opening

Cr Jesvin Karimi opened the meeting at 5.30pm.

Acknowledgement of Country (by Presiding Member)

I am honoured to be standing on Whadjuk - Nyungar country on the banks of the Swan River.

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

Mayor

Ms Karen Vernon (*joined at 5.33pm*)

Banksia Ward

Deputy Mayor Claire Anderson

Cr Peter Devereux

Cr Wilfred Hendriks

Cr Luana Lisandro

Jarrah Ward

Cr Jesse Hamer

Cr Bronwyn Ife

Cr Jesvin Karimi (Presiding Member)

A/Chief Financial Officer

Mr Luke Ellis

Manager Technical Services

Mr John Wong

Finance Manager

Mr Stuart Billingham

Coordinator Governance and Strategy

Ms Jasmine Bray

Secretary

Ms Natasha Horner

2.1 Apologies

Jarrah Ward

Cr Vicki Potter

Chief Operations Officer

Ms Natalie Adams

2.2 Approved leave of absence

Nil.

3 Declarations of interest

Declaration of financial interest

Nil.

Declaration of proximity interest

Nil.

Declaration of interest affecting impartiality

Nil.

4 Confirmation of minutes

COMMITTEE RESOLUTION:

Moved: Cr Jesse Hamer

Seconded: Cr Luana Lisandro

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

Carried (8 - 0)

For: Deputy Mayor Claire Anderson, Cr Luana Lisandro, Cr Peter Devereux, Cr Jesvin Karimi, Mayor Karen Vernon, Cr Jesse Hamer, Cr Wilfred Hendriks and Cr Bronwyn Ife

Against: Nil

5 Presentations

Nil.

6 Method of dealing with agenda business

Nil.

7 Reports

7.1 Review of Policy 251 - Rainforest timbers – use in Town construction

| | |
|----------------------------|--|
| Location | Town-wide |
| Reporting officer | Coordinator Strategic Assets |
| Responsible officer | Chief Operations Officer |
| Voting requirement | Simple majority |
| Attachments | 1. Policy 251 - Rainforest timbers - use in Town construction [7.1.1 - 1 page] |

Recommendation

That the Policy Committee recommends that Council retains Policy 251 – Rainforest timbers – use in Town construction as attached.

Purpose

To review the content of Policy 251 – Rainforest timbers – use in Town construction (Policy 251).

In brief

- At its meeting of 21 April 2020, Council adopted a work plan to review several policies. Policy 251 was identified as one of the policies to be reviewed.
- Officers have reviewed Policy 251 and do not see any merit in making changes. It is therefore presented to the committee for the recommendation to retain the policy in its current form.
- Policy 251 relates to restricting the use of rainforest timbers to be used in any construction or building projects undertaken wholly or jointly by the Town.

Background

1. Council adopted Policy 251 (previously BLDG2) in 1994.
2. Council last reviewed Policy 251 on 20 August 2019, Council resolution 148/2019.
3. Council resolution 384/2020 of 21 April 2020 adopted a work plan to review the number of policies, and Policy 251 was identified to be completed in 2021/2022. A review of the policy has been completed and no amendments are proposed.
4. The policy's objective is to forbid the use of rainforest timber in Town construction.

Strategic alignment

| Environment | |
|---|---|
| Strategic outcome | Intended public value outcome or impact |
| EN05 - Appropriate and sustainable facilities for everyone that are well built, well maintained and well managed. | Reduce the Town's carbon footprint by forbidding the use of rainforest timber in Town construction. |

Engagement

| Internal engagement | |
|---------------------|---|
| Stakeholder | Comments |
| Manager Operations | No reason for change. Very difficult to source rainforest timbers in Australia. |

Legal compliance

Not applicable.

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 | The use of rainforest and native forest timbers contributes to the destruction of these forests and the habitat they provide | Medium | Unlikely | Low | Medium | TREAT Climate Action Plan and adoption of Policy 251 |
| Health and safety | Not applicable. | | | | Low | |
| Infrastructure/ ICT systems/ utilities | Not applicable. | | | | Medium | |
| Legislative compliance | Not applicable. | | | | Low | |
| Reputation | Use of rainforest timbers in construction – against environmental plan and Policy 251. | Medium | Unlikely | Low | Low | TREAT risk by restricting use of rainforest timbers in tender/ contract documents and retaining Policy 251. |
| Service delivery | Not applicable. | | | | Medium | |

Financial implications

| | |
|------------------------------|---|
| Current budget impact | Sufficient funds exist within the annual budget to address this recommendation. |
| Future budget impact | Not applicable. |

Analysis

5. The scope of Policy 251 is still relevant. Therefore, no further changes are required to the content contained in the policy.
6. The Town rarely uses timber in construction, however when used it is plantation pine. Timber used for playgrounds is treated pine, jarrah or existing dead native trees for logs or steppers.
7. The use of plantation grown, or recycled timbers is a requirement in the Town's request for quotation and tender/contract documents.

Relevant documents

Not applicable.

COMMITTEE RECOMMENDATION:

Moved: Cr Jesvin Karimi

Seconded: Cr Luana Lisandro

That the Policy Committee recommends that Council retains Policy 251 – Rainforest timbers – use in Town construction as attached.

COMMITTEE DISCUSSION:

The committee discussed:

- whether the use of rainforest timbers is the Town's current procurement practice
- whether the use of rainforest timbers is in the Environment Plan
- clarification on the intention of the policy and whether it is for Town construction only
- clarification on the retention of current use of native forest timber furniture
- clarification on native and plantation timber
- clarification on old growth native forests
- whether there is a need to list the types of native forest
- whether there is a need to have this policy
- clarification on the definition of 'Town'.

PROCEDURAL MOTION

Moved: Mayor Karen Vernon

Seconded: Cr Bronwyn Ife

Refer item 7.1 - Review of Policy 251 - Rainforest timbers – use in Town construction to a future Policy Committee meeting.

Carried (8 - 0)

For: Deputy Mayor Claire Anderson, Cr Luana Lisandro, Cr Peter Devereux, Cr Jesvin Karimi, Mayor Karen Vernon, Cr Jesse Hamer, Cr Wilfred Hendriks and Cr Bronwyn Ife

Against: Nil

7.2 Review of Policy 252 - Nuclear free zone

| | |
|----------------------------|---|
| Location | Town-wide |
| Reporting officer | Environment Officer |
| Responsible officer | Chief Operations Officer |
| Voting requirement | Simple majority |
| Attachments | 1. Policy 252 - Nuclear free zone [7.2.1 - 2 pages] |

Recommendation

That the Policy Committee recommends that Council retains Policy 252 – Nuclear free zone as attached.

Purpose

To review Policy 252 - Nuclear free zone (Policy 252).

In brief

- At its meeting of 21 April 2020, Council adopted a work plan to review several policies. Policy 252 was identified as one of the policies to be reviewed.
- Officers have reviewed Policy 252 and do not see any merit in making any changes. It is therefore presented to the committee with the recommendation to retain it in its current form.

Background

1. Council last amended Policy 252 on 20 August 2019, Council resolution 148/2019 refers. The amendment included the addition of policy objective and scope to align with the new policy template.
2. Council resolution 384/2020 of 21 April 2020 adopted a work plan to review the number of policies, and Policy 252 was identified to be completed by February 2022. Officers have completed its review and no amendments are proposed.
3. The policy's objective is to establish the Town's stance to be a nuclear free zone.

Strategic alignment

| Environment | |
|---|--|
| Strategic outcome | Intended public value outcome or impact |
| EN05 - Appropriate and sustainable facilities for everyone that are well built, well maintained and well managed. | <p>The Town of Victoria Park is a nuclear free zone.</p> <p>Given that the transport, storage, treatment and use of radioactive substances could involve potential threats to the health and well-being of the residents and environment, the policy provides:</p> <p>a. That approval will not be given for the building of any nuclear power stations, enrichment plants, weapons plants, radio-active storage facilities within the Town;</p> |

| | |
|--|--|
| | <p>b. That approval will not be given for the storage of uranium and/or nuclear waste within the Town's boundaries;</p> <p>c. That approval will not be given to transport uranium or nuclear waste through the Town's boundaries;</p> <p>d. That the responsible use of low levels of radioactive material is acceptable in health facilities, equipment used in geological, geophysical, forensic investigations, structural engineering and materials analysis, and within smoke detectors as the benefits to residents far outweigh the risks to the community at large.</p> |
|--|--|

Engagement

| Internal engagement | |
|---------------------------------|---|
| Operations Service Area Leaders | Supportive of the Town's current stance to protect the health and wellbeing of its community and ratepayers; especially when the hazards are man-made and of a nature not visible to human eyes, but are well proven by reputable and experienced scientists and health specialists as having the potential to negatively impact on human health. |
| Environmental Health | Clear risks to human health should there be any leakage of radioactive radiation on the human population. |
| Place Planning | No issues. |
| Planning | No issues. |
| Community Development | No problems with renewing the policy as it stands. |
| Safety | Nil. |

Legal compliance

Not applicable.

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 if current Policy remains. | Low |
| Service delivery | Not applicable. | Medium |

Financial implications

| | |
|------------------------------|---|
| Current budget impact | Sufficient funds exist within the annual budget to address this recommendation. |
| Future budget impact | Not applicable. |

Analysis

- The scope of Policy 252 and the conditions prescribed are deemed adequate. Therefore, no further changes are required to the content contained in Policy 252.
- No historical issues have been brought to the attention of the Town that would change the policy's intent.

Relevant documents

Not applicable.

COMMITTEE RECOMMENDATION:

Moved: Cr Peter Devereux

Seconded: Deputy Mayor Claire Anderson

That the Policy Committee recommends that Council retains Policy 252 – Nuclear free zone as attached.

COMMITTEE DISCUSSION:

The committee discussed:

- whether the WA Government is responsible for approving and licensing the construction of any nuclear power facilities within the Town, the storage of any nuclear material within the Town, and the transportation of nuclear material through the Town
- clarification on what purpose this policy serves considering that the WA Government is the responsible body
- whether the Town has ever been consulted by the WA Government about the storage or transportation of nuclear material within the Town
- whether the Town is required to be notified if nuclear material is being stored or transported in the Town
- whether there is evidence that the Town is a potential site for a nuclear power plant or for storage of nuclear material
- whether radioactive material used in medical diagnostics and research qualifies as nuclear material
- clarification of the definition of radioactive material in the policy
- whether Curtin University stores any radioactive material and how it relates to the policy
- whether this policy is necessary
- whether additional information should be added to the policy.

PROCEDURAL MOTION

Moved: Mayor Karen Vernon

Seconded: Cr Bronwyn Ife

Refer item 7.2 - Review of Policy 252 - Nuclear free zone to a future Policy Committee meeting.

Carried (8 - 0)

For: Deputy Mayor Claire Anderson, Cr Luana Lisandro, Cr Peter Devereux, Cr Jesvin Karimi, Mayor Karen Vernon, Cr Jesse Hamer, Cr Wilfred Hendriks and Cr Bronwyn Ife

Against: Nil

7.3 Review of Policy 302 - Investment

| | |
|----------------------------|--|
| Location | Town-wide |
| Reporting officer | Finance Manager |
| Responsible officer | Chief Financial Officer |
| Voting requirement | Simple majority |
| Attachments | Policy 302 1. Policy 302 - Investment [7.3.1 - 2 pages] |

Recommendation

That the Policy Committee recommends that Council retains Policy 302 – Investment as attached.

Purpose

To review the content of Policy 302 – Investment (Policy 302).

In brief

- At its meeting of 21 April 2020, Council adopted a work plan to review several policies. Policy 302 was identified as one of the policies to be reviewed.
- Officers have reviewed Policy 302 and do not see any merit in making changes. It is therefore presented to the committee for the recommendation to retain the policy in its current form.
- Policy 302 relates to the Investment of Town funds.

Background

1. Council first adopted Policy 302 in March 1999.
2. Council resolution 384/2020 of 21 April 2020 adopted a work plan to review the number of policies, and Policy 302 was identified to be completed in 2021/2022. Council last reviewed Policy 302 on 20 April 2021, item 15.4, Council resolution 78/2021.
3. As part of that review, the management practice was amended to include investments as recommended by the Town's Independent Investment Advisor.
4. A scope for the calling of expressions of interest for the appointment of an Investment Advisor was prepared in consultation with advice from the WA Treasury Corporation but not progressed in the current COVID climate.

Strategic alignment

| Civic Leadership | |
|--|--|
| Strategic outcome | Intended public value outcome or impact |
| CL06 - Finances are managed appropriately, sustainably and transparently for the benefit of the community. | Risks associated with investing surplus funds are minimised. |
| CL08 - Visionary civic leadership with sound and accountable governance that reflects objective decision-making. | Sound decisions are made on investing surplus funds. |

Engagement

| Internal engagement | |
|---------------------|-----------------------|
| Stakeholder | Comments |
| Finance Manager | No reason for change. |

Legal compliance

[Local Government Act 1995 - Section 6.14;](#)

[Local Government \(Financial Management\) Regulations 1996;](#)

[The Trustees Act 1962 – Part III](#)

[Australian Accounting Standards](#)

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 | Financial loss as a result of investment decisions. | High | Unlikely | High | Low | TREAT risk by ensuring that all investments are limited to those investments listed in the Investment Practice. |
| Environmental | Not applicable. | | | | Medium | |
| Health and safety | Not applicable. | | | | Low | |
| Infrastructure/ ICT systems/ utilities | Not applicable. | | | | Medium | |
| Legislative compliance | Not applicable. | | | | Low | |
| Reputation | Any financial loss reported in the local media may cause the Town reputational damage. | High | Unlikely | High | Low | TREAT risk by ensuring that all investments are limited to those investments listed in the Investment Practice. |
| Service delivery | Not applicable. | | | | Medium | |

Financial implications

| | |
|------------------------------|---|
| Current budget impact | Sufficient funds exist within the annual budget to address this recommendation. |
| Future budget impact | Not applicable. |

Analysis

5. The policy's objective is to provide guidelines for the investment of surplus funds.
6. A review of Policy 302 has been completed and the scope of Policy 302 is still relevant therefore, no amendments to the policy are proposed.

Relevant documents

Not applicable.

COMMITTEE RESOLUTION:

Moved: Deputy Mayor Claire Anderson

Seconded: Cr Luana Lisandro

That the Policy Committee recommends that Council retains Policy 302 – Investment as attached.

Carried (8 - 0)

For: Deputy Mayor Claire Anderson, Cr Luana Lisandro, Cr Peter Devereux, Cr Jesvin Karimi, Mayor Karen Vernon, Cr Jesse Hamer, Cr Wilfred Hendriks and Cr Bronwyn Ife

Against: Nil

7.4 Waste Local Law 2022

| | |
|----------------------------|---|
| Location | Town-wide |
| Reporting officer | Project Officer - Waste |
| Responsible officer | Manager Technical Services |
| Voting requirement | Absolute majority |
| Attachments | 1. Waste Local Law 2022 - Final [7.4.1 - 16 pages] 2. Waste Local Law 2022 - revision (tracked changes highlighted) [7.4.2 - 17 pages] |

Recommendation

That the Policy Committee recommend 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 39 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 Local Law 2022*, as at attachment 1, which will repeal clauses 39 through to 48 (inclusive) of the *Town of Victoria Park Health Local Law 2003* (as amended) in accordance with section 3.12 and 3.13 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 Local Law 2022*.

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 the Town of Victoria Park waste services must comply.

Purpose

To recommence the process for making the Waste Local Law 2022 in line with section 3.13 of the *Local Government Act 1995*.

In brief

- The Town reviewed the *Town of Victoria Park Health Local Law 2003*, and part of this review relates to waste activities. Council resolved to give notice of its intention to make a Waste Local Law in April 2021 and proceeded with the statutory advertising and notification requirements prior to resolving to make the local law. However, after consultation with DWER and upon further advice from the Department of Local Government, Sport and Cultural Industries (DLGSC) it is prudent for the Town to recommence the procedure under section 3.13 of the *Local Government Act 1995*.

- As part of the State government's approach to waste management; and recognising that its strategy involves not only recycling but also the 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 September 2020. The Waste Plan was subsequently endorsed by the Department of Water and Environmental Regulation (DWER) in November 2020.
- While the WALGA model 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 conducted 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, the Town's local law was amended 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 2022. Implementation is currently at Stage 4.
3. In reviewing the current law, the review was conducted based on four topics:
 - a. Animals
 - b. Waste
 - c. The natural and urban environment; and
 - d. Public health.
4. This report details 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 the 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 administration regarding the current recyclable waste (yellow top bin) collection. It was recognised 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, early morning noise, privacy concerns, injury concerns or other 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 address this issue specifically. It is noted that the orderly picking up of usable "junks" or bulk waste materials from the verge area is generally accepted by the community as long as people don't make a mess of the verge or footpath.
7. At the same time as the introduction of the CDS, the issue of the separation of organic material at the point of waste collection became more important due to the issues affecting the ability of the Mindarie Regional Council to process general waste at the Resource Recovery Facility (RRF). It is noted that from August 2021 the operations at the RRF have ceased.
8. With the likelihood of the introduction of an organics separation process at the point of waste collection increasing, the Town also recognised that the current local law on health did not cover (nor had been expected to cover) the issues that may arise in relation to such a system. As the Council has now endorsed the introduction of a separate organics system in the 2022/23 financial year, it is important also to consider what local law clauses should cover this aspect of waste collection activity.

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. | 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. |

| Economic | |
|---|---|
| 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. |

| Environment | |
|---|---|
| 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. |

| Social | |
|----------------------------|---|
| 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 | Environmental Health 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. |
| DWER and DLGSC | Consent to the <i>Waste Local Law 2022</i> is required to be given by the Chief Executive Officer of DWER. Comments received and changes required from the DWER review mean that some of the changes could be interpreted as resulting in the Town making a local law that is significantly different from what it first proposed (in terms of section 3.13 of the <i>Local Government Act 1995</i>). It is therefore prudent for the Town to recommence the procedure. |

Legal compliance

Section [3.12](#) and [3.13](#) 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 penalise 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

| | |
|------------------------------|---|
| Current budget impact | Sufficient funds exist within the annual budget to address this recommendation. |
| Future budget impact | 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 significantly 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 DWER.

11. As part of the consultation undertaken following the notice of intention to make the local law was resolved in April 2021, DWER consent to the local law was requested. DWER responded in November 2021 and has required the Town to make changes to the proposed local law which do not appear to substantially alter the scope and intent of the local law.
12. However, further advice was sought from DLGSC on assessing any impact on the final making of the local law in terms of section 3.13 of the *Local Government Act 1995*. The advice received was that any changes made to the original advertised local law which *legally* impact on the rights or obligations of those affected by the local law may be considered to represent a significant change to that local law when reviewed by the JSC. While the changes may not be considered to significantly alter the intent of the local law, on a strict legal interpretation some of the changes being requested can be seen to fall within the category of being significant changes in terms of section 3.13.
13. Consequently, as a matter of prudence, the Town should recommence the procedure for making the local law. Prior to doing this, the Town has sought confirmation from DWER that it is satisfied with the changes made by the Town in the revised local law (included in the attachments). DWER has acknowledged that the Town will recommence the process and that many of the recommendations made by DWER will be taken up in the final local law; but will only make a final review of the proposed local law once the Minister for Environment has been advised of the Town's intention to make the local law.
14. It is also noted that the Town needs to slightly alter the original resolution of April 2021 in relation to the amendment of the *Town of Victoria Park Health Local Law 2003*. The original wording included the replacement of clause 38 through to 48 of that local law. This retained clause 49 of the local law, relating to the burning of "rubbish or refuse". However, on further review it was noted that clause 38 contained the definition of "rubbish or refuse" within the local law, which is not defined elsewhere within the local law.
15. The retention of the definition of "rubbish or refuse" is required to provide a relevant meaning to clause 49 in relation to the burning of rubbish or refuse. Consequently, clause 38 needs to be retained, and so this clause is now omitted from the clauses to be replaced in the recommendation. As the enactment of the *Town of Victoria Park Waste Local Law 2022* has been forestalled by the need to recommence the procedure, the original resolution has not been capable of being implemented. Therefore, a rescission of the original resolution is not required, and the replacement recommendation has been included in this item.
16. The revised draft local law is included as Attachment 1 to this item, and a version including those changes resulting from the DWER review (tracked and highlighted) has been included in Attachment 2 to this item.
17. Aspects of the potential impacts of the proposed local law have been previously examined in the Council item which was approved in April 2021. While no concern was raised through the consultation process (outside of the DWER review) it is worthwhile reiterating these potential issues in the following paragraphs.
18. 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.
19. 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 B, 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 B, item 9.

20. While the local law provides 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.
21. 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 intends to promote the system through the education of residents to abide by 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 recognise 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.
22. It is therefore recommended that the Town adopt the WALGA model 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.
23. 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 \$5,000. It would also be possible to issue infringements in the place of having to prosecute every offence.
24. The proposed Waste Local Law 2022 is set out as detailed below.

Part 1 - Preliminary

25. 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

26. These clauses establish:
 - a. The Town will supply to residential premises 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; and
 - i. The laws in respect of verge collections.

Part 3 – General duties

27. These clauses provide that a person must:
 - a. Ensure they have sufficient bins for all of their waste;
 - b. Keep their bins in good condition;
 - c. Take reasonable steps to keep them clean, odour free and not breeding insects;
 - d. Where directed by the Town, clean their bins;

- e. Not remove things from other peoples' bins; and
- f. Not deposit their household waste in or remove waste from public bins.

Part 4 – Enforcement

28. 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'

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

Schedule B - Prescribed offences

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

Relevant documents

Not applicable.

COMMITTEE DISCUSSION:

The committee discussed:

- the definitions of 'collectable waste', 'liquid waste', 'liquid refuse' and 'municipal solid waste'
- whether the repetition of words could be removed from the local law
- the Model Waste Local Law and what is required to be retained
- the intent of the removal of the words 'so as to increase the risk of harm to any person'.

AMENDMENT:

Moved: Cr Wilfred Hendriks

Seconded: Cr Peter Devereux

2. Gives notice that it intends to make the Town of Victoria Park Waste Local Law 2022, as at attachment 1, which will repeal clauses 39 through to 48 (inclusive) of the *Town of Victoria Park Health Local Law 2003* (as amended) in accordance with section 3.12 and 3.13 of the *Local Government Act 1995* subject to the word "third" be replaced with "fourth" in clause 25(2).

Carried (8 - 0)

For: Deputy Mayor Claire Anderson, Cr Luana Lisandro, Cr Peter Devereux, Cr Jesvin Karimi, Mayor Karen Vernon, Cr Jesse Hamer, Cr Wilfred Hendriks and Cr Bronwyn Ife

Against: Nil

Reason:

Correction.

COMMITTEE RESOLUTION:

Moved: Cr Jesvin Karimi

Seconded: Cr Luana Lisandro

That the Policy Committee recommend 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 39 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 Local Law 2022*, as at attachment 1, which will repeal clauses 39 through to 48 (inclusive) of the *Town of Victoria Park Health Local Law 2003* (as amended) in accordance with section 3.12 and 3.13 of the *Local Government Act 1995*; subject to the word "third" be replaced with "fourth" in clause 25(2).
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 Local Law 2022*.

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 the Town of Victoria Park waste services must comply.

Carried (8 - 0)

For: Deputy Mayor Claire Anderson, Cr Luana Lisandro, Cr Peter Devereux, Cr Jesvin Karimi, Mayor Karen Vernon, Cr Jesse Hamer, Cr Wilfred Hendriks and Cr Bronwyn Ife

Against: Nil

7.5 Agenda Briefing Forum public participation - results of trial

| | |
|----------------------------|-------------------------------------|
| Location | Town-wide |
| Reporting officer | Coordinator Governance and Strategy |
| Responsible officer | Manager Governance and Strategy |
| Voting requirement | Simple majority |
| Attachments | Nil |

Recommendation

That Council:

1. Notes the results of the trial period for the removal of the second public participation time at Agenda Briefing Forums.
2. Approves the permanent removal of the second public participation time at Agenda Briefing Forums.

Purpose

To present the results of the trial removal of the second public participation time at Agenda Briefing Forums.

In brief

- In July 2021, Council resolved to undertake a trial removal of the second public participation time at Agenda Briefing Forums.
- During the trial period, the Town's administration did not receive any formal complaints in regards to the removal of the second public participation time from Agenda Briefing Forums.
- Sufficient time was allowed for public participation at all Agenda Briefing Forums during the trial period, including extensions to allow more time when required.

Background

1. As part of the review of the *Town of Victoria Park Meeting Procedures Local Law 2019*, it was suggested to remove the second opportunity for public participation at Council meetings.
2. The majority of local governments in Western Australia do not allow for a second opportunity for public participation at the end of the meeting.
3. Prior to the Town undertaking the process to amend the local law, it was recommended to trial the removal of the second opportunity for public participation from Agenda Briefing Forums only, for a six-month period.
4. At its meeting held 20 July 2021, Council resolved as follows:

That Council:

1. *Adopts the amended Policy 051 – Agenda Briefing Forum, Concept Forum and Workshops as attached.*
2. *Endorses the removal of the second public participation time at Agenda Briefing Forums, for a sixmonth trial.*
3. *Requests the Chief Executive Officer to present a report to the February 2022 Policy Committee meeting, to report the results of the six-month trial.*

5. Policy 051 – Agenda Briefing Forum, Concept Forum and workshops (Policy 051) was amended to enact the trial removal of the public participation opportunity at the end of Agenda Briefing Forums.

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. | Policy 051 informs and provides guidance to the public on the purpose, structure and proceedings of the Town's informal (non-statutory) meetings. |

Engagement

| Internal engagement | |
|---------------------|--|
| Stakeholder | Comments |
| Elected members | Elected members were consulted prior to implementing the trial removal of the second public participation time at Agenda Briefing Forums for the six-month trial, via the Councillor Portal. Comments received supported the trial. |

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 | Possible damage to the Town's reputation by limiting public | | | | Low | ACCEPT the risk. No formal complaints were received by the |

| | | |
|------------------|--|-------------------------------|
| | participation to once during Agenda Briefing Forums. | Town during the trial period. |
| Service delivery | Not applicable. | Medium |

Financial implications

| | |
|------------------------------|---|
| Current budget impact | Sufficient funds exist within the annual budget to address this recommendation. |
| Future budget impact | Not applicable. |

Analysis

- During the six-month trial period, the Town has not received any formal complaints relating to the removal of the second public participation time at Agenda Briefing Forums.
- During the six-month trial, the following data from public participation time at Agenda Briefing Forums was collected.

| Meeting date | Time allowed ¹ | Time used | Questions asked | Statements made |
|------------------------------|---------------------------|------------|-----------------|-----------------|
| 3 August 2021 | 30 minutes | 10 minutes | 5 | 4 |
| 7 September 2021 | 30 minutes | 35 minutes | 14 | 9 |
| 5 October 2021 | 30 minutes | 43 minutes | 17 | 4 |
| 2 November 2021 | 30 minutes | 55 minutes | 20 | 2 |
| 30 November 2021 | 30 minutes | 34 minutes | 11 | 4 |
| 1 February 2022 ² | 30 minutes | 27 minutes | 9 | 4 |

¹ In accordance with regulation 6(1) of the *Local Government (Administration) Regulations 1996*, the minimum time allowed for public question time is 15 minutes. The Town's standard practice is to allow 30 minutes for public participation.

² Meeting was held online. Questions and statements submitted prior to the meeting were read aloud by the Presiding Member.

- Based on the data there was sufficient time allowed for questions and statements including extensions to allow more time when required.
- As Policy 051 has already been amended to allow for the trial to be enacted, there is no requirement for Council to make any further amendments to the policy to enact the permanent removal of the second public participation time at Agenda Briefing Forums.

Relevant documents

[Policy 051 – Agenda Briefing Forum, Concept Forum and workshops](#)

COMMITTEE DISCUSSION:

The committee discussed whether any formal community consultation was undertaken.

COMMITTEE RESOLUTION:

Moved: Mayor Karen Vernon

Seconded: Deputy Mayor Claire Anderson

That Council:

1. Notes the results of the trial period for the removal of the second public participation time at Agenda Briefing Forums.
2. Approves the permanent removal of the second public participation time at Agenda Briefing Forums.

Tied (4 - 4)

Carried by casting vote by Presiding Member (5 - 4)

For: Deputy Mayor Claire Anderson, Cr Jesvin Karimi, Mayor Karen Vernon and Cr Bronwyn Ife

Against: Cr Luana Lisandro, Cr Peter Devereux, Cr Jesse Hamer and Cr Wilfred Hendriks

8 Motion of which previous notice has been given

Nil.

9 Meeting closed to the public

Nil.

10 Closure

There being no further business, Cr Jesvin Karimi closed the meeting at 7.01pm.

I confirm these minutes to be true and accurate record of the proceedings of the Council/Committee.

Signed:

Dated this:

Day of: 2022

2022