



TOWN OF
VICTORIA PARK

Policy Committee Agenda – 28 June 2021



WE'RE OPEN
VIC PARK

Please be advised that a **Policy Committee** will be held at **5.30pm** on **Monday 28 June 2021** as an online meeting.

Ms Natalie Martin Goode
24 June 2021



Table of contents

Item	Page no
1 Declaration of opening	3
2 Attendance.....	4
2.1 Apologies.....	4
2.2 Approved leave of absence.....	4
3 Declarations of interest.....	5
4 Confirmation of minutes.....	6
5 Presentations.....	6
6 Method of dealing with agenda business	6
7 Reports	7
7.1 Adoption of Amendment (Signs on Thoroughfares) Local Law 2021	7
7.2 Review of Policy 014 - Appointment to outside bodies.....	13
7.3 Review of Policy 051 - Agenda Briefing Forum, Concept Forum and Workshops.....	16
7.4 Adoption of Policy 011 - Elections.....	20
7.5 Review of Council Policy 406 - Temporary Food Businesses and Itinerant Food Vendors.....	28
8 Motion of which previous notice has been given.....	32
9 Meeting closed to the public.....	32
9.1 Matters for which the meeting may be closed	32
9.2 Public reading of resolutions which may be made public.....	32
10 Closure	32

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

Mayor

Mayor Karen Vernon

Banksia Ward

Cr Wilfred Hendriks

Cr Claire Anderson

Cr Ronhhda Potter

Cr Luana Lisandro

Jarraah Ward

Cr Jesvin Karimi

Cr Brian Oliver (Presiding Member)

Cr Vicki Potter (Deputy Presiding Member)

Deputy Mayor Bronwyn Ife

A/Chief Executive Officer

Ms Natalie Martin Goode

Manager Governance and Strategy

Ms Bana Brajanovic

Manager Technical Services

Mr John Wong

Coordinator Governance and Strategy

Ms Jasmine Bray

Manager Development Services

Mr Robert Cruickshank

Secretary

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 meeting held on 24 May 2021.

5 Presentations

6 Method of dealing with agenda business

7 Reports

7.1 Adoption of Amendment (Signs on Thoroughfares) Local Law 2021

Location	Town-wide
Reporting officer	Principal Traffic and Design Coordinator
Responsible officer	Manager Technical Services
Voting requirement	Absolute majority
Attachments	<ol style="list-style-type: none">1. Amendment Signs on Thoroughfares Local Law 2020 Final Version [7.1.1 - 8 pages]2. Amendment Signs on Thoroughfares Local Law 2020 Public Submissions [7.1.2 - 1 page]

Recommendation

That the Policy Committee recommends that Council:

1. Considers the submissions received in relation to the proposed *Town of Victoria Park Amendment (Signs on Thoroughfares) Local Law 2021*; and
2. Makes the *Town of Victoria Park Amendment (Signs on Thoroughfares) Local Law 2021* as at attachment 1, in accordance with section 3.12 of the *Local Government Act 1995*.

Purpose and effect

The purpose of this local law is to amend the *Town of Victoria Park Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2000* to more easily provide for the regulation of advertising display signage on thoroughfares.

The effect of this local law is to amend Part 3 and Schedule 1 of the *Town of Victoria Park Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2000*.

Purpose

To consider submissions received in relation to the proposed *Amendment (Signs on Thoroughfares) Local Law 2021* and make the *Amendment (Signs on Thoroughfares) Local Law 2021*.

In brief

- As required by law, consultation commenced on the proposed *Amendment (Signs on Thoroughfares) Local Law 2020* on 5 November 2020 and closed on 23 December 2020.
- It is recommended the *Amendment (Signs on Thoroughfares) Local Law 2021* be made with minor amendments.

Background

1. Council at its meeting on 20 October 2020 resolved to give notice of its proposed *Amendment (Signs on Thoroughfares) Local Law 2020*.

2. The Town of Victoria Park as a local government is responsible for the maintenance and management of approximately 180km of roads. As part of this role, local governments make local laws to manage activities on thoroughfares.
3. The Town currently manages activities on thoroughfares, including the display of advertising signs on them through the *Town of Victoria Park Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2000*. Under this local law, a person cannot display without a permit, any sign that advertises something on a thoroughfare unless it is a "portable directional sign". In 2019 this issue was brought to the Town's attention in two cases:
 - a. An application for advertising on phone booths could not be accepted because the phone booth was located within three metres of the carriageway (kerb line) which is currently prohibited under clause 3.2 of the local law.
 - b. Businesses displaying "A-frame signs" advertising their business or stating "we're open" with some contention as to whether they could be considered 'portable direction signs' under the local law.
4. Examining nearby local governments' local laws, many have revisited and removed some of the regulations the Town currently has in place, often viewed as "red tape". Some local laws such as those at the City of Vincent now make provision for "portable advertising signs" with a permit for local businesses.
5. Further information about the proposed law can be found in the report of 20 October 2020.

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.	Recognising that a local law may be out of date (which prevents advertising) demonstrates sound governance.

Economic	
Strategic outcome	Intended public value outcome or impact
EC01 - A desirable place for commerce and tourism that supports equity, diverse local employment and entrepreneurship.	Removing "red tape" restrictions on businesses helps promote economic development and a vibrant business strip.

Engagement

Internal engagement	
Stakeholder	Comments
Street improvement	Street improvement are supportive of the proposed amendments.
Assets	Assets are supportive of the proposed amendments if the Town can diversify its revenue income.
Place planning	Place planning are supportive of the proposed amendments as an economic development measure.

External engagement	
Stakeholders	All community members
Period of engagement	5 November 2020 to 23 December 2020
Level of engagement	2. Consult
Methods of engagement	Your thoughts and written submissions
Advertising	Southern Gazette Social Media Website Public notice boards Your thoughts monthly email
Submission summary	1 submission received in support of the local law.
Key findings	The submitters support the local law.

Other engagement	
Stakeholder	Comments
Department of Local Government, Sport and Cultural Industries	The Department of Local Government, Sport and Cultural Industries provided a submission containing some brief comments regarding the proposed law.
Kott Gunning	The Town engaged Kott Gunning to provide legal advice in relation to the proposed law.

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	Increased administrative expenditure and loss of potential revenue due to overly restrictive local law.	Moderate	Likely	High	Low	Treat risk by amending local law.
Environmental	Not applicable.				Medium	
Health and safety	Potential safety hazard on the footpath as a result of increased advertising signs.	Minor	Possible	Medium	Low	Treat risk by ensuring amended local law contains relevant provisions to protect access to the footpath and safety.
Infrastructure/ ICT systems/ utilities	Not applicable.				Medium	
Legislative compliance	Not applicable.				Low	
Reputation	Damage to reputation with businesses as Town's advertising law is seen as overly restrictive.	Moderate	Possible	Medium	Low	Treat risk by amending the local law to allow more signage where deemed appropriate.
Service delivery	Not applicable.				Medium	

Financial implications

Current budget impact	Sufficient funds exist within the budget to address this recommendation.
Future budget impact	The Town will lose revenue from application fees for portable street signage (which currently attract a \$45 per application fee) However, given that there are few applications this would not represent a significant loss and would benefit local businesses.

Analysis

6. In accordance with section 3.12 of the *Local Government Act 1995*, prior to making any local law, the Town was required to give local public notice of the draft law and receive submissions from the public for at least six weeks. In total the submissions period was open for 52 days. In that period two submissions from the public were received (Attachment 13.1.2). In addition, a submission was received from the Department of Local Government, Sport and Cultural Industries (DLGSC).
7. The DLGSC submission provided for technical amendments to the local law, which have been made.
8. With no objections received it is recommended that the Council make the amendment local law which will cut red tape for local businesses.

Relevant documents

Not applicable.

Further consideration

9. At the February 2021 Agenda Briefing Forum, Council requested further information. Answers are provided as follows.
10. Home open signs placed on Council verges generally do not require a permit given their small size and temporary nature of the placement.
11. All banner type signs require a permit given their height, placement and stability concerns within the road reserve.
12. Officers do not support any further amendments to clause 3.5(3).
13. The business owner has a duty of care to apply for the appropriate permits. Otherwise, banners may be impounded if found to be a hazard affecting pedestrians or other road users.
14. At the February 2021 Ordinary Council Meeting, an amendment was proposed to achieve the following:
 - a) Clause 3.5(2)(b) changed to read: is placed or erected on a thoroughfare on an infrequent or occasional basis to direct attention to a place, activity or event during the hours or that activity or event.
 - b) Clause 3.5 (4) - Remove the words 'direction sign and one portable advertising' so the clause reads: An owner or occupier of land, a building or part of a building may only erect, place or display one portable sign directly in front of their land or building pursuant to this clause 3.5 without first obtaining a permit.
15. Rather than consider the amendment, Council referred the item to the Policy Committee to get further clarification and advice on the local law clauses.

16. While the intent of the local law is to exempt signs similar to these home open signs from the requirement to obtain a permit (due to their size and temporary nature), it is recognised that the draft local law that was advertised did not allow for such an exemption under clause 3.5. This is based on the fact that in order to obtain an exemption from a permit requirement:
 - a. It is only the owner or occupier of land or buildings that may be given the exemption under clauses 3.5(2) - 3.5(4); and
 - b. The portable signs must be placed directly in front of the land or buildings under the same clauses.
17. As real estate agents generally do not own the land or buildings which are being advertised, they are effectively prohibited from displaying home open signage. To correct this unintended consequence, an additional sub clause 3.5(5) has been inserted into the local law to provide the necessary exemption from the requirement to obtain a permit for such advertising signage.
18. It is felt that the final local law is not significantly different from what was proposed in terms of section 3.12 of the *Local Government Act 1995*. Consequently, the requirements for local public notice etc. are not necessary, and the local law can be adopted without further advertising.
19. For clarification, this local law will apply to signs on thoroughfares only. In other instances, namely signs on private properties, the provisions of the Town's Signs Local Planning Policy will apply.

7.2 Review of Policy 014 - Appointment to outside bodies

Location	Town-wide
Reporting officer	Coordinator Governance and Strategy
Responsible officer	Manager Governance and Strategy
Voting requirement	Simple majority
Attachments	1. Policy 014 Appointment to outside bodies [7.2.1 - 1 page]

Recommendation

That the Policy Committee recommends that Council repeals Policy 014 – Appointment to outside bodies as attached.

Purpose

To repeal Policy 014 – Appointment to outside bodies (Policy 014).

In brief

- Policy 014 was identified for review as part of the Council adopted policy work plan.
- The policy sets out the period of appointment to outside bodies for elected members.
- As the appointment of elected members to outside bodies is dealt with by Council resolution, it is recommended the policy be repealed.

Background

1. At its meeting on 20 April 2021, Council adopted a work plan to complete the review of a number of policies. Policy 014 was one of the policies identified for review.
2. Policy 014 was last reviewed by Council on 20 April 2021 as part of the minor review of policies. The only amendment made at this time was a change to the responsible officer.

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 014 currently provides very little public value or guidance to Town officers. The repeal of this policy will not have a negative impact on this strategic outcome.

Engagement

Internal engagement	
Stakeholder	Comments
Elected members	Elected members were consulted on the Town's recommendation to repeal Policy 014 via the Councillor Portal. The comments received supported the repeal of Policy 014.

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

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

Analysis

- The appointment of elected members to outside bodies is dealt with by Council resolution, usually following each ordinary election.

4. The period of appointment is set by the outside body and is included in the Council report.
5. As appointments to outside bodies are directly related to the role of an elected member, the period of appointment must be limited to the balance of the term of office of the elected member appointed.
6. As the appointment to outside bodies is adequately dealt with through the Council meeting process, it is recommended that Policy 014 be repealed.

Relevant documents

Not applicable.

7.3 Review of Policy 051 - Agenda Briefing Forum, Concept Forum and Workshops

Location	Town-wide
Reporting officer	Coordinator Governance and Strategy
Responsible officer	Manager Governance and Strategy
Voting requirement	Simple majority
Attachments	<ol style="list-style-type: none"> 1. Policy 051 Agenda Briefing Forum, Concept Forum and Workshops - proposed amendments marked up [7.3.1 - 6 pages] 2. Policy 051 Agenda Briefing Forum, Concept Forum and workshops - final [7.3.2 - 5 pages]

Recommendation

That the Policy Committee recommends 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 six-month 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.

Purpose

To amend Policy 051 – Agenda Briefing Forum, Concept Forum and Workshops (Policy 051).

In brief

- Policy 051 was identified for review as part of the Council adopted policy work plan.
- Amendments are proposed to provide clarity on the purpose, structure and proceedings of the Town's informal (non-statutory) meetings.
- As part of the review of the *Town of Victoria Park Meeting Procedures Local Law 2019*, it has been suggested to remove the second opportunity for public participation at Council meetings. Prior to the Town undertaking the process to amend the local law, it is recommended to trial the removal of the second opportunity for public participation from Agenda Briefing Forums only, for a six-month period.

Background

0. At its meeting on 20 April 2021, Council adopted a work plan to complete the review of a number of policies. Policy 051 was one of the policies identified for review.
1. Policy 051 was last reviewed by Council on 20 April 2021 as part of the minor review of policies. Minor administrative amendments were made at this time however, a full review of the policy was not undertaken.

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 sets out the Town's informal (non-statutory) meetings which aim to ensure elected members make informed decisions.
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Social	
Strategic outcome	Intended public value outcome or impact
S02 - An informed and knowledgeable community.	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	<p>Elected members were consulted on the review of Policy 051 and the proposed removal of the second public participation time at Agenda Briefing Forum's for a six-month trial, via the Councillor Portal.</p> <p>Amendments proposed have been incorporated into the draft policy. Comments received supported the trial removal of the second public participation time at Agenda Briefing Forum's for a six-month period.</p>

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				Low	ACCEPT the risk for the duration of

	reputation by limiting public participation to once during Agenda Briefing Forums.	the six-month trial.
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

3. The following amendments are proposed to Policy 051.

Clause	Proposed	Reason
Definitions	Definition for deputations included.	To clarify that a deputation is a presentation made by up to five members of the public, on a particular item.
Various	Replaced the term 'meeting' with 'forum' throughout the policy.	For consistency, the term 'meeting' has been replaced with 'forum' throughout the sections relating to Agenda Briefing Forums and Concept Forums.
Clause 9, 10, 13 and 14	Removed the term 'presentation'.	Presentations and deputations are listed in the order of business for Agenda Briefing Forums, in the public participation section. It is recommended that 'presentations' is removed from this section as members of the public can request to make a deputation which can include a presentation. 'Presentations' will be listed in the order of business for Agenda Briefing Forums before public participation section to allow officers to present if a request is made by an elected member.
Clause 15	Removed 'and at the end'.	To enable the Town to enact a trial removal of the second public participation opportunity, 'and at the end' has been removed from clause 15 of the policy.

Clause 27 and 29	Removed reference to 'the Presiding Member'.	To clarify who may invite a member of the public to attend a Concept Forum, reference to 'the Presiding Member' has been removed.
Clause 31	New clause included.	Clause 31 has been included to guide Town officers on how to provide elected members with any further information that was requested at a Concept Forum.
Clause 34	Included 'in consultation with the Presiding Member'.	To ensure consultation with the Presiding Member occurs in relation to the scheduling of workshops, 'in consultation with the Presiding Member' has been included.

4. As part of the review of the *Town of Victoria Park Meeting Procedures Local Law 2019*, it has been suggested to remove the second opportunity for public participation at Council meetings.
5. The majority of local governments in Western Australia do not allow for a second opportunity for public participation at the end of the meeting.
6. Prior to the Town undertaking the process to amend the local law, it is recommended to trial the removal of the second opportunity for public participation from Agenda Briefing Forums only, for a six-month period.
7. The public will continue to have the opportunity to make deputations on an item, ask questions and make statements at the beginning of each Agenda Briefing Forum.
8. As there are no Agenda Briefing Forums held during January, the proposed trial period will commence in August 2021 and finish in February 2022.
9. The draft policy incorporates the amendments proposed by elected members during the consultation period and the amendment to enact the removal of the public participation opportunity at the end of Agenda Briefing Forums.
10. Other minor amendments are proposed and are marked up in Attachment 1.
11. The proposed amendments provide clarity to the public, elected members and Town officers, on the proceedings of the Town's informal (non-statutory) meetings.
12. It is recommended that the amended policy be adopted.
13. A report on the outcome of the trial will be provided to the Policy Committee in February 2022.

Relevant documents

[*Town of Victoria Park Meeting Procedures Local Law 2019*](#)

7.4 Adoption of Policy 011 - Elections

Location	Town-wide
Reporting officer	Manager Governance and Strategy
Responsible officer	Acting Chief Executive Officer
Voting requirement	Simple majority
Attachments	<ol style="list-style-type: none">1. Policy 011 Elections [7.4.1 - 6 pages]2. Policy 011 Caretaker [7.4.2 - 8 pages]3. Policy 012 Street listing of owners and occupiers [7.4.3 - 2 pages]4. Policy 013 Electoral signs [7.4.4 - 2 pages]

Recommendation

That the Policy Committee recommends that Council:

1. Repeals:
 - a. Policy 011 Caretaker, as at attachment 2
 - b. Policy 012 Street listing of owners and occupiers, as at attachment 3
 - c. Policy 013 Electoral signs, as at attachment 4.
2. Adopts Policy 011 Elections, as at attachment 1.

Purpose

To review Policy 011 Caretaker, Policy 012 Street listing of owners and occupiers and Policy 013 Electoral signs, and have Council adopt a consolidated policy, Policy 011 – Elections.

In brief

- At the April 2020 Ordinary Council Meeting, Council resolved for the Chief Executive Officer to conduct a review of the three policies relating to elections. The review was conducted and presented to the September Policy Committee. The Policy Committee resolved to defer the proposed policy to the November Concept Forum.
- The caretaker policy was adopted in 2016, with the other two policies being policies carried over from the City of Perth in 1994.
- It is proposed to merge the policies together into one election policy and focus on, where possible, simplifying and clarifying the policy.
- The Town's policy on electoral signs was inconsistent with its own local law in respect of electoral signage and this inconsistency needs to be addressed.
- The policy is resubmitted for consideration following discussion at November and May Concept Forums.

Background

1. At its meeting on 21 April 2020, Council adopted a work plan to complete the review of several policies. Policies 011 Caretaker, 012 Street listing of owners and occupiers and 013 electoral signs were policies identified for review.
2. At its meeting on 28 September 2020, the Policy Committee considered the proposed policy and referred it to the November Concept Forum.

3. Policy 011 Caretaker was adopted by Council at its meeting on 8 November 2016, however it previously existed as a different policy regarding publishing matters about elected members during an election year.
4. Policies 012 and 013 based upon the Council report of 28 September 1999, were part of the City of Perth Policy Manual of 1994 and have remained broadly unchanged since then.
5. The caretaker policy establishes a caretaker period prior to an ordinary election to help promote appropriate decision making and use of public resources prior to an election.
6. A street listing of owners and occupiers is also known as a ratepayer roll and can be sourced by any member of the public for a \$190 fee after they make a statutory declaration that it will not be used for commercial purposes.
7. The Town has provisions relating to electoral signs in the Activities on *Throughfares and Trading on Throughfares and in Public Places Local Law 2000*.

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.	Ensuring the appropriate use of public resources and sound decision making during an election ensures the delivery of this strategic outcome.

Social	
Strategic outcome	Intended public value outcome or impact
S02 - An informed and knowledgeable community.	Ensuring proper promotion of the election helps to inform the community of their opportunity to vote.

Engagement

Internal engagement	
Stakeholder	Comments
Stakeholder relations	Feedback, particularly in relation to media and communications was provided.
Street improvement	Feedback relating to electoral signs was provided.
Rangers and parking	Feedback relating to electoral signs was provided.
C-Suite	C-Suite members supplied general feedback in relation to the proposed policy.
Elected members	<ul style="list-style-type: none"> • Elected members provided feedback through the September 2020 Policy Committee meeting. • Elected members provided feedback through the November 2020 Concept Forum. • Elected members provided feedback through the February Policy 2021 Committee meeting. • Elected members provided feedback through the May 2021 Concept Forum.

Legal compliance

8. The Town sought legal advice about the extent to which it could prohibit election signs. Based upon a series of court decisions and the Town's current local law it is not proper for policy to prohibit signs on thoroughfares. It can however utilise the permit system required under the *Activities on Thoroughfares and Trading on Thoroughfares and in Public Places Local Law 2000*.
9. The Town sought legal advice on whether candidates for state and federal elections should be prohibited from campaigning at Town events. Summary of the legal advice:
 - There is a constitutionally implied right to freedom of communication on matters relevant to political discussion. Because of the constitutionally implied right to freedom of communication on political discussion, there are restrictions on the ability of the local government to legislate to restrict the transmission of political advertisements and campaigning at Town events during election periods.

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

[Activities on Thoroughfares and Trading on Thoroughfares and in Public Places Local Law 2000](#)

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	An extensive amount of unregulated election signs litter thoroughfares.	Minor	Likely		Medium	Accept - It is still a breach of the local law to display electoral signs without a permit and it would be unlikely that the Town would grant such an extensive number of permits for electoral signs.
Health and safety	An extensive amount of unregulated election signs creates hazards for motorists.	Minor	Likely		Low	Accept - It is still a breach of the local law to display electoral signs without a permit and infringements can be issued if a significant hazard is created.

Infrastructure/ ICT systems/ utilities	Not applicable.					Medium
Legislative compliance	The resources of the Town are used for electoral purposes.	Insignificant	Possible	Low	Low	Accept - The Rules of Conduct provide that this is a minor breach.
Reputation	The Council makes decisions in the lead up to the election that influence the election outcome.	Moderate	Possible	Medium	Low	Treat - By maintaining a caretaker 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

Review of Policy 011 Caretaker

10. The version of the caretaker policy adopted by Council in 2016 was a copy of the template policy produced by the Western Australian Local Government Association (WALGA). This template has since been changed by WALGA which has been considered in this review. The WALGA template policy is quite complex and in undertaking the review the opportunity was taken to simplify the policy where possible.
11. The current policy is unclear in how it applies to several digital communication methods. This has been identified as an opportunity for improvement in the current policy.
12. Queries arose this year as to if the policy applies to an extraordinary election. It is recommended to resolve this question through this review. The Town did not apply the policy to this year's extraordinary election because:
 - a) The adopted policy did not specify that it applied to extraordinary elections and the report adopting it and clauses direct themselves at an ordinary election;
 - b) At other levels of government, a caretaker policy does not apply to a 'by-election'.
 - c) the primary goal of the policy is intended to prevent 'decisions that would bind an incoming council' and 'promoting the re-election of sitting members or new candidates'. There is no sitting member in an extraordinary election and the majority of members had already been elected.

Review of Policy 012 Street listing of owners and occupiers

13. In examining this policy, the Town has established that an elected member has not requested a street listing in a number of years. The street listing or rates roll is available for members of the public to buy for \$190. However, members of the public also have to supply a statutory declaration that they are not utilising it for a commercial purpose, such as a real estate agent using it to contact property owners.
14. In considering the review of this policy the Town considered if it is right for elected members to receive free of charge the ratepayers roll, without the statutory declaration. Having examined other neighbouring local governments, and those local governments created by the splitting up of the City of Perth in 1994, none of these councils have a similar policy.
15. Given that a policy such as this is not kept by other local governments and creates an entitlement for elected members that other persons have to supply payment and a statutory declaration for, it is recommended that this policy be repealed.
16. Elected members and candidates can always access a copy of the electoral roll from the CEO or Returning Officer which is updated following the close of rolls at each election. If an elected member sought a copy of a street listing/rates roll they would be able to access it on the same basis as any other member of the public.

Review of Policy 013 Electoral Signs

17. There were a number of complaints given to the Town and Returning Officer during the last ordinary election in relation to election signs. These signs were displayed along a mixture of thoroughfares as well as parks. No permit was issued to display these signs on public property.
18. In preparing the *Amendment (Signs on Thoroughfares) Local Law 2020* and preparing the review of the electoral signs policy the Town identified that the policy was inconsistent with the local law. The Town cannot have a policy that overrides a local law. In preparing both documents, legal advice was obtained that the Town could not prohibit electoral signs on thoroughfares as this would likely be struck down by the Joint Standing Committee on Delegated Legislation.

Proposed Policy 011 Elections

19. It is proposed as a result of the review to repeal the three policies and adopt one policy to replace it. This policy combines portions of the original three policies and provides one guideline for all matters relating to elections.

Caretaker period

20. This policy establishes the caretaker period is starting from the date of the opening of nominations being 44 days prior to Election Day in accordance with Section 4.49(a) of the *Local Government Act 1995*, until 6pm on Election Day.
21. The caretaker period seeks to prevent, where possible, four key things from occurring during the caretaker period:
 - Major decisions;
 - Community engagement;
 - Town events; and
 - Media and publications that promote sitting elected members
22. The caretaker period does not apply in an extraordinary election unless four or more elected members are up for election.

Major decisions

23. This section establishes how major decisions are to be dealt with in the caretaker period.

Community engagement

24. This section supports how community engagement occurs during the caretaker period.

Events and functions

25. This section sets out that elected members that are also candidates should not be permitted to make speeches or addresses at events and functions organised or sponsored by the Town during the caretaker period.

Media

26. This section sets out a number of provisions around the Town's media and communications materials during the caretaker period. It is changed from the current provisions to be clearer about what is and isn't allowed in communications materials.

Promotion of the election

27. These clauses establish that the Town should promote in a suitable and a-political way elections to remind community members to vote and promote nominating for the local government elections.

28. These clauses also establish that the promotion should reach as many people and demographic groups as possible.

29. Finally, it is expected that the Town will arrange a candidate information session for local government elections.

Use of Town resources

30. These two clauses reinforce the principle that the Town's resources are not to be used for electoral purposes. This is proposed to include federal and state elections in addition to local government elections.

Elected Member Access to Information

31. This clause notes that during the Caretaker Period, Elected Members can access Council information relevant to their role as an Elected Member. Any Council information accessed must not be used for electoral purposes.

Election signs

32. The following five clauses capture the relevant rules about elections signs, which are:

- a) They are not allowed on parks, administrative or recreational facilities;
- b) They are allowed on throughfares, with a permit;
- c) If they are in a place they are not allowed, they will be removed and if appropriate, an infringement will be issued to the person who authorised the material.
- d) The CEO will ensure this is communicated to candidates.
- e) These clauses apply to all elections including local, state, or federal.

Electoral roll and rates roll

33. These two clauses deal with the ability of candidates and other people to obtain copies of the electoral roll and rates roll.

Changes made to the Elections Policy

34. The following changes have been made to the Elections Policy as an outcome of the Policy Committee discussions from February 2021 -

Clause / section	Change	Reason
Policy definitions - extraordinary circumstances	Definition for extraordinary circumstances refined so that all points are under the Chief Executive Officer's opinion.	To ensure that all 3 points under this definition are consistent.
Policy definitions – major decision	Definition for major decision amended to reference major trade undertaking rather than a commercial enterprise.	The change was made to include definition of the major trading undertaking.
Policy definitions	New definition added - community engagement events.	To provide clarity on which events are considered as community engagement events.
Policy definitions	New definition added – events and functions.	To provide clarity on which events are considered as events and functions.
Events - clause 6	Clause 6 renamed to events and functions.	Events and functions term added under definitions to provide more clarity.
Events - clause 6a	<p>Clause deleted</p> <p><i>To give effect to clause 1.c, the Chief Executive Officer should: ensure that all ongoing or planned events are held prior to the caretaker period or scheduled to begin following the election.</i></p>	<p>Clause 6a has been deleted to allow for events to be scheduled during the caretaker period. Community should be able to attend events during the caretaker period. It is proposed that elected members that are also candidates are not permitted to speak at events during the caretaker period.</p> <p>If the Elections Policy is adopted by Council in August and clause 6a stays in the policy, the Town will have to cancel all events scheduled during the caretaker period (reputational risk).</p>
Events - clause 6b	Clause deleted	Elected members are invited to attend events in their capacity

	<p><i>Where events are held, beside a meeting of Council or citizenship ceremony, invite all candidates for the election in addition to elected members.</i></p>	<p>as councillors and not as candidates.</p>
<p>Events – clause 8 replaced with clause 7</p>	<p>Clause added</p> <p><i>Elected members that are also candidates are not be permitted to make speeches or addresses at events/functions organised or sponsored by the Town and community engagement events during the caretaker period.</i></p>	<p>Elected members that are also candidates should not be permitted to make speeches or addresses at events and functions organised or sponsored by the Town during the caretaker period as this could be perceived as electioneering and would not be fair to candidates who are not elected members.</p>

Relevant documents

Not applicable.

7.5 Review of Council Policy 406 - Temporary Food Businesses and Itinerant Food Vendors

Location	Town-wide
Reporting officer	Manager Development Services
Responsible officer	Acting Chief Community Planner
Voting requirement	Simple majority
Attachments	1. Policy-406- Temporary- Food- Businesses-and- Itinerant- Food- Vendors [7.5.1 - 4 pages] 2. Pages from OC M-minutes-20- August-2019 (1) [7.5.2 - 10 pages]

Recommendation

That the Policy Committee recommends that Council support the retention of Policy 406 – Temporary Food Businesses and Itinerant Food Vendors as contained at Attachment 1, without modification.

Purpose

Council Policy 406 – Temporary Food Businesses and Itinerant Food Vendors (Policy 406) was adopted at the Ordinary Council Meeting in August 2019. Council also resolved at the meeting to review the policy after 18 months *“to measure its success and consider any changes that could be made to address the needs of all stakeholders.”* This report reviews the policy as per Council’s resolution.

In brief

- The current policy permits mobile food vendors to trade at authorised events only. An earlier version of the draft policy had proposed to allow mobile food vendors, with a permit, to operate at 12 areas of public open space across the Town.
- The economic impact of COVID-19 has been significant upon existing food premises within the Town.
- Even prior to COVID-19, a number of existing food premises raised significant concerns about the financial impact of mobile food vendors on the economic viability of their business.
- These concerns would have only been compounded by the impact of COVID-19.
- On this basis, it is recommended that Policy 406 be retained in its current form, only allowing mobile food vendors to operate in association with authorised events.

Background

1. In early 2018, preliminary consultation was undertaken with the community in relation to permitting mobile food vendors, with a permit, to trade at a number of public open spaces throughout the Town.
2. Following a general level of support, a draft policy was prepared which would have allowed mobile food vendors to trade at 12 areas of public open space across the Town. This draft policy was the subject of community consultation and resulted in concerns being expressed largely by existing ‘bricks-and-mortar’ food premises.
3. Following consideration of the public submissions received, and a workshop convened with local businesses, officers reconsidered the merits of the proposed policy. Town officers made the following comments in the report presented to the August 2019 Ordinary Council Meeting:

“The workshop held with local businesses has underscored the significant financial strain that a number of local businesses within the Town find themselves under and the low confidence and outlook that a number of local businesses have within the current economic climate. On balance, the moderate amenity benefits that may be enjoyed by local residents supportive of mobile food vendors at public open spaces within the Town is not considered to offset the potentially more significant and deleterious impacts to local business confidence and customer trade in the current economic climate. Local businesses also refer to the decline of bricks and mortar businesses in established commercial strips in other metropolitan local government areas and contend that one of a number of the factors that has contributed to this, is mobile food vendors.

In view of the above, it is recommended that Council no longer progress implementation of a trial of mobile food vending at several public open spaces within the Town, and that the current practice of only allowing trading associated with authorised events continue to remain.”

4. Council supported this position at its August 2019 Ordinary Council Meeting and resolved to adopt Policy 406, and to review the policy in 18 months' time (see Attachment 2).

Strategic alignment

Economic	
Strategic outcome	Intended public value outcome or impact
EC01 - A desirable place for commerce and tourism that supports equity, diverse local employment and entrepreneurship.	The policy outlines the Town’s approach to mobile food vending and provides certainty and clarity to existing and prospective businesses.

Engagement

Extensive community consultation was undertaken prior to the adoption of the current policy in August 2019. This is detailed in Attachment 2.

No consultation has been undertaken as part of this review.

Legal compliance

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

[Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2000](#)

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	N/A					
Environmental	N/A					
Health and safety	N/A					
Infrastructure/ ICT systems/ utilities	N/A					
Legislative compliance	N/A					
Reputation	Significant concerns from existing food businesses if the Town were to allow mobile food vendors to trade in public places, particularly given the impact of COVID-19.	Moderate	Likely	Medium	Low	TREAT by retaining the current policy position.
Service delivery	N/A					

Financial implications

Current budget impact	Not applicable
Future budget impact	Not applicable

Analysis

5. Policy 406 has been effective in clarifying Council's requirements in relation to mobile food vendors.
6. There have been no issues identified by officers in the administration and use of the policy.
7. Furthermore, officers are not aware of any feedback from mobile food vendors that the policy is unworkable or has negatively impacted upon their business viability.

8. When Council resolved in August 2019 to undertake a review of the policy in 18 months' time, it may have been expected that this would have been a comprehensive review potentially involving further consultation with both existing food business operators and mobile food vendors.
9. However, with the subsequent COVID-19 pandemic and the implications upon existing food premises, it is immediately evident that any modifications to the current policy, so as to allow greater flexibility for mobile food vendors to operate, would have a negative impact upon existing food premises and potentially further exacerbate the strain that they have already faced from COVID-19.
10. In this context, further consultation with the community is only likely to result in further concerns from the operators of existing food premises at the prospect of mobile food vendors being allowed greater reign to operate and further impact upon their business viability, or set unrealistic expectations for mobile food vendors that there is a prospect of the Town supporting more flexible arrangements for them at this point in time.
11. In conclusion, it is difficult to measure the success of the policy given the impact of COVID-19 upon both existing food premises as well as mobile food vendors. However, there have been no issues identified with the operation of the current policy, and in view of the impact of COVID-19 there is no basis for Council to depart from its current policy position, which was founded upon concerns about the impact of mobile food vendors on existing 'brick and mortar' food premises, already operating in a difficult financial climate prior to COVID-19.
12. Accordingly, it is recommended that Policy 406 be retained without modification.

Relevant documents

Nil.

8 Motion of which previous notice has been given

Nil.

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

Nil.

10 Closure