

minutes

Policy Committee

MEETING HELD ON

MONDAY 27 FEBRUARY 2023

Acknowledgement of Traditional Custodians

The City of Joondalup acknowledges the traditional custodians of the land, the Whadjuk people of the Noongar nation, and recognises the culture of the Noongar people and the unique contribution they make to the Joondalup region and Australia. The City of Joondalup pays its respects to their Elders past and present and extends that respect to all Aboriginal and Torres Strait Islander peoples.

This document is available in alternate formats upon request

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Note:

Clause 15.10 of the City's *Meeting Procedures Local Law 2013* states:

This local law applies generally to committee meetings except for clause 7.1 in respect of members seating and clause 7.8 in respect of limitation on members speaking.

MINUTES OF THE POLICY COMMITTEE MEETING HELD IN CONFERENCE ROOM 1, JOONDALUP CIVIC CENTRE, BOAS AVENUE, JOONDALUP ON MONDAY 27 FEBRUARY 2023.

ATTENDANCE

Cr Suzanne Thompson	<i>Presiding Member</i>
Mayor Hon. Albert Jacob, JP	
Cr Adrian Hill	
Cr Daniel Kingston	<i>Deputy Presiding Member</i>
Cr Russell Poliwka	
Cr John Raftis	

Officers:

Mr James Pearson	Chief Executive Officer
Mr Jamie Parry	Director Governance and Strategy
Mr Chris Leigh	Director Planning and Community Development
Mr Mat Humfrey	Director Corporate Services
Mrs Vivienne Stampalija	Governance Coordinator
Mrs Susan Hateley	Governance Officer

DECLARATION OF OPENING

The Presiding Member declared the meeting open at 6.00pm.

DECLARATIONS OF FINANCIAL INTEREST / PROXIMITY INTEREST / INTEREST THAT MAY AFFECT IMPARTIALITY

Nil.

APOLOGIES AND LEAVE OF ABSENCE

Apology

Cr John Chester.

CONFIRMATION OF MINUTES

MINUTES OF THE POLICY COMMITTEE HELD ON 31 OCTOBER 2022 AND RESUMED ON 7 NOVEMBER 2022

MOVED Cr Kingston, **SECONDED** Cr Thompson that the minutes of the meeting of the Policy Committee held on 31 October 2022 and resumed on 7 November 2022 be confirmed as a true and correct record.

The Motion was Put and

CARRIED (6/0)

In favour of the Motion: Cr Thompson, Mayor Jacob, Crs Hill, Kingston, Poliwka and Raftis.

ANNOUNCEMENTS BY THE PRESIDING MEMBER WITHOUT DISCUSSION

Nil.

IDENTIFICATION OF MATTERS FOR WHICH THE MEETING MAY BE CLOSED TO THE PUBLIC

In accordance with Clause 5.2 of the City's *Meeting Procedures Local Law 2013*, this meeting was not open to the public.

PETITIONS AND DEPUTATIONS

Nil.

REPORTS

ITEM 1 BEACH MANAGEMENT ACTIVITIES POLICY REVIEW

WARD	All
RESPONSIBLE DIRECTOR	Mr Mat Humfrey Corporate Services
FILE NUMBER	100932, 101515
ATTACHMENT	Attachment 1 <i>Beach Management Activities Policy</i>
AUTHORITY / DISCRETION	Legislative - includes the adoption of local laws, planning schemes and policies

PURPOSE

For Council to consider a minor review of the *Beach Management Activities Policy*.

EXECUTIVE SUMMARY

At its meeting held on 21 September 2010 (CJ158-09/10 refers), Council endorsed a *Beach Management Plan* in response to several coastal-related petitions received by the City in 2009. The plan detailed the City's approach to its beaches and coastline across three key areas; infrastructure, management and development.

Following the introduction of the *Beach Management Plan*, many of its initiatives such as the permanent establishment of dedicated summer beach patrols, beach activity restrictions, incident reporting systems and major infrastructure improvements were embedded into operational business-as-usual services delivered by the City. As a result, the *Beach Management Plan* was finalised in 2018 and replaced by the *Beach Management Activities Policy* (the Policy) (CJ028-02/18 refers).

The Policy has assisted the City in continuing to regulate and manage activities occurring along its coastline. A number of changes to beach use patterns have emerged since its adoption, requiring updates to the Policy to capture these changes and clarify the Policy's application to new recreational activities.

It is therefore recommended that Council adopt the revised Beach Management Activities Policy to manage ongoing beach activities as per Attachment 1 of this Report.

BACKGROUND

In 2009, the City received community petitions requesting that kitesurfing activities be banned at North Mullaloo Beach and the City consider extending the current Hillarys Dog Beach further north. The *Beach Management Plan* (the Plan) was developed in response to these petitions.

The purpose of the Plan was to provide a management framework for the use, enjoyment, maintenance, protection, preservation and appropriate development of the lands covered by the *Beach Management Plan* within available resources. The Plan was guided by the following principles:

- 1 To maintain the natural integrity of the City's coastline.
- 2 To facilitate high quality experiences for visitors to coastal locations within the City through the provision of quality infrastructure and services.
- 3 To enable a safe environment for beach users to undertake a variety of coastal activities.
- 4 To support activity diversity and growth with the Joondalup coastal region.

Divided into three key focus areas (infrastructure, management and development), the Plan identified issues and corresponding statements to articulate the City's position on how these issues should be resolved or managed. These statements provided guidance to decision-making processes on the provision of coastal services and infrastructure.

A variety of initiatives were undertaken to operationalise the issue statements in the Plan. Following a progress review, many of the identifiable actions were either completed, formed part of ongoing capital works programming or were incorporated into the delivery of issue-specific plans. In addition, many of its initiatives such as the permanent establishment of dedicated summer beach patrols, beach activity restrictions, incident reporting systems and major infrastructure improvements were embedded into operational business-as-usual services delivered by the City.

As a result, the *Beach Management Plan* was finalised in 2018 and replaced by the *Beach Management Activities Policy* (CJ028-02/18 refers). The Policy retained the three key focus areas and was created to provide ongoing guidance for decisions related to the City's beaches.

The majority of the Policy focused on the management of beach activities, specifically conflicting recreational activities such as kitesurfing, jet and water skiing, animal beach exercising and para-motoring, as well as commercial trading.

DETAILS

The *Beach Management Activities Policy* has assisted the City in regulating and managing activities occurring along its coastline, however a number of changes to beach use patterns have emerged since its adoption. The policy now requires updates to the policy to capture these changes and clarify the policy's application to new recreational activities.

Application

Section 1 of the *Beach Management Activities Policy* specifies which areas along the City's coastline are applicable under the Policy:

"1. *Application:*

This policy applies to land stretching from the City's northern boundary at Burns Beach to its southern boundary at Marmion, and 200m west into the sea from the low water mark to where the first sealed road commences in the east."

In 2022, the City clarified with the Department of Transport as to which party was responsible for enforcement of activities within the water at the City's beaches. The Department confirmed that it manages all waters up to the high tide line including those within 200 metres from the shore. Whilst the City has the ability to gazette local laws within 200 metres from shore, those laws shall not conflict with state legislation and where a conflict occurs, state legislation will take precedence.

As the Department is already responsible for water-based activities within 200 metres of the high tide line, and the City does not have the assets to conduct water-based patrols, it was identified that the current wording in the Policy creates confusion as to who enforces activities occurring in the water.

Changes to Section 1 of the Policy are proposed to remove the reference to the City's role in water-based activities. These changes are shown in Attachment 1 to this Report.

The City will still retain the option to gazette local laws within 200 metres of the high tide line, and to manage the land components of water-based activities, such as boat launching and commercial trading in order to regulate conflicting activities.

Recreational Activities

Since its adoption in 2018, the *Beach Management Activities Policy* has provided context for the consideration of requests for activities to be undertaken on City beaches.

Section 2 of the Policy provides definitions for low, medium and high intensity recreation zones and the types of facilities and activities that would be expected in each zone. The Policy does not provide a map or specify where these zones are located along the coastline. This allows the City flexibility to adapt to changes in usage patterns over time and consider beach activities within the context of the time.

Section 2 of the Policy also provides definitions of low, medium and highly conflicting activities, with examples of each provided in section 4.2. Under the Policy, only medium intensity recreation zones permit highly conflicting activities to occur, with these activities subject to exclusion zones, designated areas and licence requirements.

Exclusion zones currently exist in the City for kite surfing, with designated areas for the activity located at Pinnaroo Point and North Mullaloo Beach. For other water-based activities, the Department of Transport specifies designated launching areas for powered watercraft, in addition to speed restrictions and on-water exclusion zones for these activities.

Since the adoption of the *Beach Management Activities Policy*, the City has received requests to conduct a number of emerging activities not captured within the policy. These include but are not limited to fly-boarding, jet-ski hire, and non-motorised equipment hire such as stand-up paddle boards.

While the policy can be interpreted to apply to these sports, in order to provide clarity for the City and beach users, additions to the policy to include reference to these activities are proposed.

Vehicle access

Section 4.2.b of the Policy outlines the City's position on commercial trading on beaches in addition to vehicle access onto beaches. While the information regarding vehicle access has historically been applied to all beach users, not just commercial traders, its position in the policy has led to some confusion about when the City will permit vehicle access to beaches.

The City regularly receives requests for vehicle access from non-commercial organisations hosting events on beaches. This is primarily for the purposes of equipment setup and pack down, however the current policy is not clear on the City's position on permitting vehicle access in these scenarios.

In order to improve clarity for beach users not conducting commercial activities, it is proposed to introduce a specific sub-section of the policy to separate out vehicle access to beaches from being exclusively for commercial traders, and instead applicable to all beach users.

Infrastructure and Development

Section 4.1 and 4.3 of the *Beach Management Activities Policy* contain guiding statements for the City's consideration of infrastructure provision and coastal commercial development opportunities:

4.1 Infrastructure:

The City aims to provide quality infrastructure to service the region's needs within designated activity locations and to ensure the preservation of natural areas through effective infrastructure design and location.

4.3 Development:

The City aims to effectively plan for commercial development opportunities along the City's coastline. It is acknowledged that commercial development and activities require a balance against existing character of an area and potential environmental impacts."

These statements provide the City with the flexibility to respond to the needs, priorities and expectations of the City's residents and visitors as they change. They also provide direction for the development of a number of strategies and plans that facilitate infrastructure provision along the City's coastline, including the *Public Open Space Framework*, *Five Year Capital Works Program* and the *Asset Management Strategy*.

In addition, the City has recently progressed planned commercial cafe / restaurant developments at both Burns Beach Park, Burns Beach and Pinnaroo Point, Hillarys. Both developments considered the *Beach Management Activities Policy*, in addition to being guided by local and state legislation and planning policies.

No changes have been proposed to these sections of the policy to ensure the City continues to acknowledge the significance of its coastal areas when considering infrastructure provision and commercial development.

Issues and options considered

The proposed changes to the *Beach Management Activities Policy* aim to provide clarity for the City and users about recreational beach activities. To support the Policy, information about activity restrictions and permissions along the City's coastline is updated regularly on the City's website. In addition, information or links to planned capital works, coastal development and approval processes continue to be published on the City's website and other locations as appropriate.

To support the ongoing consideration of beach activity requests, Council may choose to adopt the proposed amendments to the *Beach Management Activities Policy* for the management of beach activities. Should Council choose not to adopt the proposed changes, the City may be unable to effectively and consistently manage recreational activities and use of the City's beaches.

Legislation / Strategic Community Plan / policy implications**Legislation**

Local Government and Public Property Local Law 2014.
Western Australian Marine Act 1982.
Environmental Protection Act 1986.
Biodiversity Conservation Act 2016.

10-Year Strategic Community Plan**Key theme**

Environment.

Outcome

Managed and protected – you value and enjoy the biodiversity in local bushland, wetland and coastal areas.

Policy

Asset Management Council Policy.
Commercial, Mixed Use and Service Commercial Zone Local Planning Policy.
Environmentally Sustainable Design for City Buildings Policy.
Sustainability Policy.
Requests for New of Capital Upgrades to Existing Community Venues Council Policy.

Risk management considerations

Considering the significant interest received by the City during the development of the *Beach Management Plan*, it is important that ongoing issues identified in this Plan continue to be effectively managed over the long term to ensure community expectations are met. If the City fails to manage these issues, it risks criticism from the community on the effectiveness of its beach management practices.

Financial / budget implications

While the *Beach Management Activities Policy* is intended to guide infrastructure provision and development along the City's coastline, there are no specific projects listed within the document. Any costs associated with coastal infrastructure, development or enforcement of recreational activities are included in other project budgets, ongoing staff costs, or within the City's *Five Year Capital Works Program*.

Regional significance

Based on the City's coastal location, the implementation of beach management strategies impact upon regional visitors to the area and should therefore seek to accommodate and consider both regional and local needs.

Sustainability implications

The purpose of the *Beach Management Activities Policy* is to guide the sustainable use and management of the City's coastline.

Consultation

Not applicable.

COMMENT

The *Beach Management Plan* resulted in the successful implementation of initiatives that have either resolved or significantly reduced conflicts previously present along the City's coastline. These initiatives have been incorporated into the City's normal operational regime, while other aspects of the plan relating to infrastructure, development activity and general management considerations are now duplicated across the City's planning framework and capital works programming.

The *Beach Management Activities Policy* was adopted to manage ongoing and emerging beach activities, and has done so successfully since its adoption in 2018. Due to changing beach use patterns and newly emerging recreational activities, the Policy now requires updates to capture these changes and clarify the Policy's application to new recreational activities.

VOTING REQUIREMENTS

Simple Majority.

OFFICER'S RECOMMENDATION

That Council ADOPTS the revised *Beach Management Activities Policy*, as detailed in Attachment 1 of this Report.

MOVED Cr Thompson, SECONDED Cr Poliwka that Council:

- 1 **ADOPTS** the revised *Beach Management Activities Policy*, as detailed in Attachment 1 of this Report subject to the following amendments to the Policy:
 - 1.1 In relation to section 2 – Definitions, the “medium intensity recreation zones” dot point three, to remove the words, such as animal exercising, boating, boat launching, sailing and windsurfing and replace with (refer Table 1);
 - 1.2 In relation to section 2 – Definitions, the “medium intensity recreation zones” dot point four, to remove the words, such as areas for water skiing, jet skiing and kitesurfing and replace with (refer Table 1);
 - 1.3 In relation to section 4.2.1 – Recreational Activities, insert a heading above the table, named Table 1.

The Motion was Put and

CARRIED (6/0)

In favour of the Motion: Cr Thompson, Mayor Jacob, Crs Hill, Kingston, Poliwka and Raftis.

Appendix 1 refers

To access this attachment on electronic document, click here: [Attach1agnPOLICY230227.pdf](#)

ITEM 2 SETTING OF THE 2023 MEETING DATES – POLICY COMMITTEE

WARD	All
RESPONSIBLE DIRECTOR	Mr Jamie Parry Governance and Strategy
FILE NUMBER	02153, 103963, 101515
ATTACHMENTS	Nil
AUTHORITY / DISCRETION	Executive - The substantial direction setting and oversight role of Council, such as adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.

PURPOSE

For the Policy Committee to consider the proposed schedule of committee meeting dates for 2023.

EXECUTIVE SUMMARY

In order to assist with forward planning for all Elected Members, management and staff, a schedule of meeting dates is required to be prepared for the Policy Committee, ensuring synergy between meeting dates and the flow of information and decision-making.

It is therefore recommended that the Policy Committee ADOPTS the following meeting dates and times for the Policy Committee of the City of Joondalup to be held at the Joondalup Civic Centre (Conference Room 1), Boas Avenue, Joondalup:

- 1 *Monday 8 May 2023, commencing at 6.00pm;*
- 2 *Monday 7 August 2023, commencing at 6.00pm.*

Please note an additional meeting of the Policy Committee is tentatively scheduled for Monday 20 November 2023, which will be set and confirmed by the newly appointed Committee following the 2023 Local Government elections.

BACKGROUND

The Policy Committee was established at the Special Council Meeting held on 1 November 2021 and the Policy Committee's Terms of Reference were initially adopted at the time.

Subsequently, the Policy Committee's Terms of Reference were reviewed by Council at its meeting held on 16 August 2022 (CJ134-08/22 refers) and it was resolved that the revised Terms of Reference for the Policy Committee, are as follows:

- make recommendations to Council on the development and review of the City's policies and overall policy framework
- make recommendations to Council on the development and review of the City's local laws
- oversee the strategic direction of the City's Art Award events, Visual Art Collection and Visual and Performing Arts Programs.

At its meeting held on 15 November 2022, Council endorsed a revised schedule of Council meetings as follows:

- Strategy Sessions to be held in week 1 of the month.
- Briefing Sessions to be held in week 2 of the month.
- Council meetings to be held in week 4 of the month.

In the past the City has generally scheduled committee meetings in the first week of the month to allow committee recommendations to be listed in the Briefing Session agenda and subsequently the Council meeting agenda. However, this is not always possible given other Council/committee meetings and Council activities.

DETAILS

The Policy Committee will oversee the development and review of the City's policies and local laws as well as oversee the strategic direction of the City's Art Award events, Visual Art Collection and Visual Art Programs.

It has been requested that committee meetings not be held on the same week as Briefing Sessions and Council Meetings to reduce Elected Member fatigue in reading multiple meeting papers. This request has been incorporated into the Committee meeting schedule.

It is therefore suggested that the Policy Committee meets in 2023 as follows:

- Monday 8 May 2023, commencing at 6.00pm.
- Monday 7 August 2023, commencing at 6.00pm.
- Monday 20 November 2023, commencing at 6.00pm (to be determined once the new committee is established following the 2023 Local Government elections).

Issues and options considered

The Policy Committee can either:

- adopt the meeting dates as proposed in this Report
or
- amend the meeting dates.

Legislation / Strategic Community Plan / Policy implications

Legislation *Local Government Act 1995.*
Local Government (Administration) Regulations 1996.
City of Joondalup Meeting Procedures Local Law 2013.

10-Year Strategic Community Plan

Key theme Leadership.

Outcome Capable and effective – you have an informed and capable Council backed by a highly skilled workforce.

Policy Not applicable.

Risk management considerations

Should forward planning of committee meetings not be identified, then there is a risk for meetings to be held on an ad-hoc basis; lacking coordination with other key meetings and corporate planning processes.

Financial / budget implications

Not applicable.

Regional significance

Not applicable.

Sustainability implications

Not applicable.

Consultation

Not applicable.

COMMENT

The proposed Policy Committee meeting dates for 2023 have been based on the expected demand and timeframes associated with policy and local law reviews, oversight of the City's art collections, art awards and programs, as well as the broader monthly meeting cycle of Council, other committee meetings and civic events.

VOTING REQUIREMENTS

Simple Majority.

MOVED Cr Raftis, SECONDED Mayor Jacob that the Policy Committee ADOPTS the following meeting dates and times for the Policy Committee of the City of Joondalup to be held at the Joondalup Civic Centre (Conference Room 1), Boas Avenue, Joondalup:

- 1 Monday 8 May 2023, commencing at 6.00pm;**
- 2 Monday 7 August 2023, commencing at 6.00pm.**

The Motion was Put and

CARRIED (6/0)

In favour of the Motion: Cr Thompson, Mayor Jacob, Crs Hill, Kingston, Poliwka and Raftis.

ITEM 3 2023 POLICY REVIEW SCHEDULE

WARD	All
RESPONSIBLE DIRECTOR	Mr Jamie Parry Governance and Strategy
FILE NUMBER	110327, 101515
ATTACHMENTS	Attachment 1 2023 Policy Review Schedule
AUTHORITY / DISCRETION	Information — includes items provided to Council for information purposes only that do not require a decision of Council (that is for 'noting').

PURPOSE

For the Policy Committee to note the 2023 Policy Review Schedule.

EXECUTIVE SUMMARY

The 2023 Policy Review Schedule is provided as Attachment 1 to this Report, which details the following for the policies identified for review in 2023:

- policy name
- policy type
- last date amended
- due date for five-year review
- planned date for review in 2023.

It is therefore recommended that the Policy Committee NOTE the 2023 Policy Review Schedule, as detailed in Attachment 1 to this Report.

BACKGROUND

Policies at the City of Joondalup are reviewed in three ways as follows:

- Policy revocation — a policy is deemed no longer required or has been subsequently superseded by another policy.
- Requiring minor amendments — a policy requires changes to language, style, formatting, that do not impact on the application of the policy.
- Requiring major amendments — a policy requires changes that significantly alter the City's position on an issue or change the strategic intent of the policy.

Policies are generally scheduled for review every five years; however, policies may be reviewed at an earlier date as a result of:

- legislative changes which have a bearing on a particular policy
- Council decisions which affect the continued validity or applicability of a policy
- important technological, industry or social changes
- any other such circumstance that would justify an earlier review.

DETAILS

At the Policy Committee meeting held on 31 October 2022, following a review of the City of Joondalup Policy Manual, it was noted that an annual Policy Review Schedule would be presented at the first Policy Committee meeting every year.

The 2023 Policy Review Schedule (the Schedule) is provided as Attachment 1 to this Report, which details the following for the policies identified for review in 2023:

- policy name
- policy type
- last date amended
- due date for five-year review
- planned date for review in 2023.

It should be noted that any changes to the Schedule throughout the year will be reflected in the Upcoming Reports to Council, Committees and Executive Leadership Team (ELT) Calendar which is distributed to Elected Members via the Desk of the CEO each month.

Issues and options considered

The Policy Committee can either:

- note the 2023 Policy Review Schedule, as detailed in Attachment 1 to this Report or
- provide direction with regard to the priority of policy reviews, recognising that this may have an impact on resourcing and community engagement (if required).

Legislation / Strategic Community Plan / Policy implications

Legislation *Local Government Act 1995.*

10-Year Strategic Community Plan

Key theme Leadership.

Outcome Accountable and financially-sustainable - you are provided with a range of City services which are delivered in a financially responsible manner.

Policy Not applicable.

Risk management considerations

To fulfil the Council's governance requirements, the City's Policy Manual enables the documentation, maintenance and review of its current policies. Regular reviews of the City's policies are required to ensure their continued relevance and applicability.

Regular review of policies means that relevant risks related to each policy is undertaken on a regular basis and, as such, the current risk related to reputation and governance is low.

Financial / budget implications

There are currently no financial implications associated with the review of the City's policies.

Regional significance

Not applicable.

Sustainability implications

Not applicable.

Consultation

Not applicable.

COMMENT

In line with the need for periodic reviews of policies to ensure good governance principles are maintained, it is proposed that the Policy Committee note the 2023 Policy Review Schedule and the proposed timeframes for policy reviews.

VOTING REQUIREMENTS

Simple Majority.

MOVED Cr Kingston, SECONDED Mayor Jacob that the Policy Committee NOTES the 2023 Policy Review Schedule, as detailed in Attachment 1 to this Report.

The Motion was Put and

CARRIED (6/0)

In favour of the Motion: Cr Thompson, Mayor Jacob, Crs Hill, Kingston, Poliwka and Raftis.

Appendix 2 refers

To access this attachment on electronic document, click here: [Attach2agnPOLICY230227.pdf](#)

ITEM 4 PROPOSED AMENDMENTS TO THE DEVELOPMENT PROPOSALS BEFORE THE STATE ADMINISTRATIVE TRIBUNAL LOCAL PLANNING POLICY – CONSIDERATION FOLLOWING ADVERTISING

WARD	All
RESPONSIBLE DIRECTOR	Mr Chris Leigh Planning and Community Development
FILE NUMBERS	101281, 101515
ATTACHMENTS	Attachment 1 <i>Current Development Proposals before the State Administrative Tribunal Local Planning Policy</i> Attachment 2 <i>Draft Revised Development Proposals before the State Administrative Tribunal Local Planning Policy – as advertised</i> Attachment 3 <i>Draft Revised Development Proposals before the State Administrative Tribunal Local Planning Policy – as modified following advertising</i> Attachment 4 <i>Draft Revised Development Proposals before the State Administrative Tribunal Local Planning Policy – clean version</i> Attachment 5 <i>Summary of submissions received</i>
AUTHORITY / DISCRETION	Legislative - includes the adoption of local laws, planning schemes and policies.

PURPOSE

For Council to consider the draft revised Development Proposals before the State Administrative Tribunal Policy following public advertising.

EXECUTIVE SUMMARY

The *Development Proposals before the State Administrative Tribunal Local Planning Policy* (the Policy) broadly outlines the manner in which planning decisions before the State Administrative Tribunal are to be dealt with by the City.

A review of the Policy was undertaken to ensure it aligns with relevant legislation and processes. Amendments to the Policy are proposed to provide further detail on the City's current practice, which aims to ensure these matters are dealt with in an open and accountable manner. Minor amendments are also proposed to align with the City's current policy template and to refer to *Local Planning Scheme No. 3* and the *Planning and Development (Local Planning Schemes) Regulations 2015*.

At its meeting held on 16 August 2022 (CJ140-08/22 refers), Council resolved to proceed to advertise the draft revised *Development Proposals before the State Administrative Tribunal Local Planning Policy* for a period of 21 days. Public consultation concluded on 15 December 2022, with five submissions received, being one submission in support, and four neutral or comment-only submissions.

In response to the submissions received, a further minor modification is proposed to the policy, to clarify when external professional services would be engaged to represent the City in State Administrative Tribunal proceedings.

It is therefore recommended that Council proceeds with the draft revised Development Proposals before the State Administrative Tribunal Local Planning Policy, as modified following advertising.

BACKGROUND

The *State Administrative Tribunal – Mediation and Revised Development Proposals Policy* was adopted by Council at its meeting held on 11 October 2005 (CJ206-10/05 refers). The Policy was renamed and updated in 2012 to remove procedural elements and better reflect its intent. At its meeting held on 20 November 2012 (CJ254-11/12 refers), Council adopted the modified *Development Proposals before the State Administrative Tribunal Local Planning Policy* (the Policy) (Attachment 1 refers).

At its meeting held on 16 August 2022 (CJ140-08/22 refers), Council resolved to proceed to advertise the draft revised *Development Proposals before the State Administrative Tribunal Local Planning Policy* (Attachment 2 refers) for a period of 21 days.

DETAILS

The Policy is proposed to be updated to align with the City's current policy template and to refer to *Local Planning Scheme No. 3* and the *Planning and Development (Local Planning Schemes) Regulations 2015*. The Policy has also been expanded to include any planning decision subject to review, not just applications for development approval.

The draft amendments to the Policy expand on the processes to be followed for planning decisions subject to review by the State Administrative Tribunal and aim at ensuring these matters are dealt with in an open and accountable manner. These processes include the following:

- Informing Elected Members and any submitters to a development proposal when an application is subject to review by the State Administrative Tribunal.
- Engaging external parties where a decision made by Council varies significantly from the Administration's recommendation.
- Seeking sufficient time from the State Administrative Tribunal to undertake further community consultation when an amended proposal has been presented.
- Establishing a position for instances where a community member makes a submission to the State Administrative Tribunal or applies to intervene in a review, the City will not oppose community members participating in the process.

Clarification has also been provided where the City or Council is not the decision maker (for example an application determined by a Development Assessment Panel or Western Australian Planning Commission). In these instances, where the City can participate in the State Administrative Tribunal process, regard will be given to the policy to the extent possible.

The processes incorporated into the draft revised policy are consistent with similar policies of other local governments. It is noted that some local government policies include further information, including detail on when costs may be sought, mediation and appeals against State Administrative Tribunal decisions. A set position on these matters is not considered practical to include in a policy as they would need to be considered on a case-by-case basis and in some instances would be subject to seeking legal advice on the best course of action.

Submissions were received during community consultation in relation to:

- concerns over the role of the State Administrative Tribunal
- the added clarity provided by the revised policy
- when the City would engage external representation
- community consultation on amended proposals being considered by the State Administrative Tribunal.

All comments are outlined and addressed in the summary of submissions (Attachment 5 refers).

In response to the submissions received, a further minor modification is proposed to the Policy, to clarify when external professional services would be engaged to represent the City in State Administrative Tribunal proceedings. This proposed modification is noted in italics below:

External professional services will be engaged to represent the City in State Administrative Tribunal proceedings where a Council decision is significantly different to the Administration's recommendation, *including a reversal of that recommendation.*

The revised policy, as modified after advertising, is included as Attachment 3 (tracked changes) and Attachment 4 (clean version) to this Report.

Issues and options considered

Council can either:

- proceed with the revised Development Proposals before the State Administrative Tribunal Local Planning Policy, as modified after advertising
- proceed with the revised *Development Proposals before the State Administrative Tribunal Policy* without further modifications
or
- not proceed with the revised *Development Proposals before the State Administrative Tribunal Policy.*

Legislation / Strategic Community Plan / Policy implications

Legislation *Planning and Development Act 2005.*
 State Administrative Tribunal Act 2004.
 Planning and Development (Local Planning Schemes)
 Regulations 2015.
 Local Planning Scheme No. 3.

10-Year Strategic Community Plan

Key theme Leadership.

Outcome Engaged and informed – you are able to actively engage with the City and have input into decision-making.

Policy *Development Proposals before the State Administrative Tribunal Policy.*
Planning Consultation Local Planning Policy.

Risk management considerations

The amendments to the Policy provide transparency by outlining the manner in which planning matters before the State Administrative Tribunal are to be managed by the City. Should the policy not be updated, the City would still undertake these processes, but there could be a perceived lack of transparency.

Financial / budget implications

There would be no cost associated with the notice of final adoption being placed on the City's website.

Regional significance

Not applicable.

Sustainability implications

Not applicable.

Consultation

The draft revised policy was advertised for a period of 21 days closing on 15 December 2022, by way of:

- a notice published in the local newspaper
- an email to the Community Engagement Network
- an email to registered resident and ratepayer groups
- a notice on the City's social media platforms
- a notice and documents placed on the City's website.

Five submissions were received, comprising one submission of support, and four neutral or comment-only submissions.

A summary of submissions and the City's comment is included as Attachment 5 to this Report.

COMMENT

The proposed amendments to the Policy aim to provide transparency in how the City approaches matters before the State Administrative Tribunal.

In response to the submissions received, a further minor modification is proposed to clarify when external professional services would be engaged to represent the City in State Administrative Tribunal proceedings. It is recommended that Council proceeds with the policy, as modified following advertising.

VOTING REQUIREMENTS

Simple Majority.

MOVED Cr Thompson, SECONDED Cr Poliwka that Council:

- 1** In accordance with clauses 4 and 5 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, **PROCEEDS** with the revised *Development Proposals before the State Administrative Tribunal Local Planning Policy* as detailed in Attachment 4 to this Report;
- 2** **NOTES** that the revised *Development Proposals before the State Administrative Tribunal Local Planning Policy* will come into effect when published on the City's website.

The Motion was Put and

CARRIED (6/0)

In favour of the Motion: Cr Thompson, Mayor Jacob, Crs Hill, Kingston, Poliwka and Raftis.

Appendix 3 refers

To access this attachment on electronic document, click here: [Attach3agnPOLICY230227.pdf](#)

ITEM 5 REVIEW OF VARIOUS LOCAL PLANNING POLICIES – COMMERCIAL, MIXED USE AND SERVICE COMMERCIAL ZONE LOCAL PLANNING POLICY AND LIGHT INDUSTRY ZONE LOCAL PLANNING POLICY

WARD	All
RESPONSIBLE DIRECTOR	Mr Chris Leigh Planning and Community Development
FILE NUMBER	106157, 101515
ATTACHMENTS	Attachment 1 Draft revised Commercial, Mixed Use and Service Commercial Zone Local Planning Policy - tracked changes Attachment 2 Draft revised Light Industry Zone Local Planning Policy – tracked changes
AUTHORITY / DISCRETION	Legislative - includes the adoption of local laws, planning schemes and policies.

PURPOSE

For Council to consider a review of the operation of various existing local planning policies, specifically the *Commercial, Mixed Use and Service Commercial Zone Local Planning Policy* and the *Light Industry Zone Local Planning Policy*.

EXECUTIVE SUMMARY

The City has a suite of local planning policies that provide guidance on a range of planning matters, including specifying development standards and guiding the exercise of discretion.

Local planning policies are prepared in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* (LPS Regulations). While there is no requirement under the LPS Regulations for local planning policies to be reviewed at specific intervals, it is good practice to ensure that the City's local planning policy framework remains appropriate and relevant to changes in planning legislation.

The *Commercial, Mixed Use and Service Commercial Zone Local Planning Policy* and the *Light Industry Zone Local Planning Policy* set out the development requirements for non-residential development on land that is zoned 'Commercial', 'Mixed Use' and 'Service Commercial' and 'Light Industry' respectively under the City's *Local Planning Scheme No. 3* (LPS3).

Both policies include development provisions relating to building setbacks, height, built form design, parking standards and access, landscaping, and service arrangements to facilitate development.

A review of the *Commercial, Mixed Use and Service Commercial Zone Local Planning Policy* and the *Light Industry Zone Local Planning Policy* has been undertaken to ensure alignment with current legislation and processes. Amendments to the policies are proposed to align with the City's current policy template and correct legislative clauses, provide for consistency with the Residential Design Codes (R-Codes) in relation to height, include additional parking standards and to address other minor inconsistencies (Attachments 1 and 2 refer).

It is therefore recommended that Council supports the draft revised Commercial, Mixed Use and Service Commercial Zone Local Planning Policy and Light Industry Zone Local Planning Policy for the purposes of public consultation for a period of 21 days.

BACKGROUND

Local planning policies are prepared in accordance with the provisions of the LPS Regulations. While there is no requirement for local planning policies to be reviewed, it is good practice to ensure that the policy framework remains relevant to changes in the planning legislation.

The *Commercial, Mixed Use and Service Commercial Zone Local Planning Policy* and *Light Industry Zone Local Planning Policy* were created to provide the development provisions which were previously included in the City's former *District Planning Scheme No. 2 (DPS2)*. Both policies came into effect in October 2018 at the time LPS3 was gazetted.

DETAILS

The *Commercial, Mixed Use and Service Commercial Zone Local Planning Policy* applies only to land within the 'Commercial', 'Mixed Use' and 'Service Commercial' zones and the *Light Industry Zone Local Planning Policy* within the 'Light Industry' zone. Where a development is covered by an activity centre plan, structure plan or precinct structure plan which more appropriately provides detailed guidance aimed at enhancing the character of an area, it will be subject to those provisions to the extent that they apply. While it is considered that the policies have been working adequately since adoption, several amendments are proposed to both policies. These include the following:

- Minor format changes to align with the current policy template.
- Updating the statement section to include reference to other local planning policies.
- Aligning the maximum building heights and coastal area building heights with the R-Codes.
- Including an additional parking standard in relation to 'Reception Centre' and 'Restaurant/Café' and an additional parking standard for 'Consulting Rooms', 'Medical Centre' and 'Veterinary Centre'.
- Updating clause references.

The main proposed amendments to the policy are outlined below.

It is noted that this review is only in regard to the current operation of the policies in order to ensure that there are no fundamental issues with the implementation of the policies. A comprehensive review will be undertaken as part of the review of the local planning scheme which is scheduled to commence in the 2023-24 financial year.

Building Height

In developing the policies, height requirements were derived from the now revoked policy '*Height of Non-Residential Buildings Local Planning Policy*'. In considering the building heights within that policy, a report presented to Council at its meeting held on 17 August 2015 (CJ147-08/15 refers) contained the following advice in relation to height:

"Non-residential development in the 'Mixed-Use', 'Business' and 'Commercial' zones will be limited to the maximum height set out in Table 4 of the R-Codes for the applicable coding of that lot. This will maintain consistency in height in these zones between residential and non-residential development."

"In addition to the above requirement, where a lot is zoned 'Mixed-Use', 'Business' and 'Commercial', 'Service Industrial'...and abuts a 'Residential' zoned lot, the maximum building height is limited to six metres within six metres of this common boundary. This requirement is proposed to limit this development to a height comparable to two storeys to manage the impact of these developments on adjoining residential properties."

In February 2019, the *R-Codes Volume 2 – Apartments* was released as part of the State Government's planning reform project, 'Design WA'. In relation to maximum building heights, Volume 2, unlike Volume 1 and the City's policies, does not include reference to maximum wall heights, only the overall building height.

It is proposed to update both policies to align with the current maximum height requirements of the R-Codes Volume 2, effectively allowing the same maximum height provisions for commercial development and multiple dwelling development within the 'Commercial' and 'Mixed Use' zones. The proposed amendment does not change the overall maximum height currently permitted within the policies.

Similar to the above, it is proposed that the references to maximum wall height are removed from the *Light Industry Zone Local Planning Policy*, however the overall maximum building height will continue to be 12 metres.

Car Parking Standards

The following amendments to the required number of car parking bay standards are proposed:

Commercial, Mixed Use and Service Commercial Zone Local Planning Policy:

- For 'Reception Centre' and 'Restaurant/Café', amend the standard to read '1 per 4 people accommodated *or 1 per 5m² of dining room, whichever is greater*' (addition in italics).
- For 'Consulting Rooms', 'Medical Centre' and 'Veterinary Centre', amend the standard to read '5 bays per practitioner *or 5 bays per consulting room, whichever is greater*' (addition in italics).

Light Industry Local Planning Policy:

- For 'Veterinary Centre', amend the standard to read '5 bays per practitioner *or 5 bays per consulting room, whichever is greater*' (addition in italics).

The additional parking standards will assist in the planning assessment of new developments where a specific operator of the land use is not known at the time of the planning application being submitted. The City has recently encountered scenarios where applications have been received for developments that do not have a pre-determined end user or tenant. In such instances the applicant is unable to provide specific information that would address the car parking needs of a particular business. As the number of people to be accommodated in a restaurant/café, or the number of practitioners within a consulting room, may not be determined by the applicant at that point, the car parking assessment can be based on floorspace or the number of consulting rooms as applicable. It is noted that in certain instances, the additional standard may be more onerous, however it will ensure sufficient parking is provided.

It is noted that the Department of Planning, Lands and Heritage are currently progressing planning reform projects which include a review of car parking requirements in commercial and mixed-use precincts as well as standards for the provision of electric vehicle charging facilities. It has been advised that interim guidelines for non-residential parking are to be released for consultation in the first quarter of 2023-24. A detailed review of car parking standards can be undertaken once these guidelines have been formalised and in conjunction with the review of LPS3.

Issues and options considered

Council can either:

- advertise the draft revised Commercial, Mixed Use and Service Commercial Zone Local Planning Policy and/or Light Industry Zone Local Planning Policy as recommended
- advertise the draft revised Commercial, Mixed Use and Service Commercial Zone Local Planning Policy and/or Light Industry Zone Local Planning Policy, with modifications
or
- not support the advertising of the draft revised Commercial, Mixed Use and Service Commercial Zone Local Planning Policy and/or Light Industry Zone Local Planning Policy.

Legislation / Strategic Community Plan / Policy implications

Legislation *Planning and Development Act 2005.*
 State Administrative Tribunal Act 2004.
 Planning and Development (Local Planning Schemes) Regulations
 2015.
 Local Planning Scheme No. 3.

10-Year Strategic Community Plan

Key theme	Leadership.
Outcome	Engaged and informed – you are able to actively engage with the City and have input into decision-making.
Policy	<i>Commercial, Mixed Use and Service Commercial Zone Local Planning Policy.</i>

Risk management considerations

If the review of the local planning policies is not progressed there will be no specific risk, however not progressing with a review will mean references to outdated legislative clauses will be retained and the policies will not align with other current planning documents.

Financial / budget implications

The costs associated with any public advertising of the draft revised local planning policies will be approximately \$1,000.

Regional significance

Not applicable.

Sustainability implications

Not applicable.

Consultation

The consultation requirements for proposed amendments to a local planning policy are stipulated in the LPS Regulations and the City's *Planning Consultation Local Planning Policy*.

The LPS Regulations require a major amendment to a policy to be advertised for public comment for a period of not less than 21 days. The local government may make an amendment to a local planning policy without advertising if, in the opinion of the local government, the amendment is a minor amendment.

The *Planning Consultation Local Planning Policy* states minor amendments include correction of typographical or formatting errors, updates to legislation references and similar, but does not include an amendment to development provisions or standards. As some amendments are proposed to the development provisions of the policies, consultation is considered appropriate in this instance.

The draft revised local planning policies are proposed to be advertised for 21 days as follows:

- A notice published in the local newspaper.
- Letter sent to registered resident and ratepayer groups.
- An email to the Community Engagement Network.
- A notice and documents placed on the City's website.
- A notice on the City's social media platforms.

COMMENT

While the *Commercial, Mixed Use and Service Commercial Zone Local Planning Policy* and *Light Industry Zone Local Planning Policy* have been working well since adoption it is considered minor changes could be made to improve their operation. The changes recommended are considered to reflect current requirements and improve consistency and clarity.

It is recommended that Council supports the proposed amendments to the *Commercial, Mixed Use and Service Commercial Zone Local Planning Policy* and *Light Industry Zone Local Planning Policy* for the purposes of public consultation for a period of 21 days.

VOTING REQUIREMENTS

Simple Majority.

OFFICER'S RECOMMENDATION

That Council, in accordance with Clauses 4 and 5 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, ADVERTISES the draft revised *Commercial, Mixed Use and Service Commercial Zone Local Planning Policy* and *Light Industry Zone Local Planning Policy*, as shown in Attachments 1 and 2 to this Report for a period of 21 days.

MOVED Cr Thompson, SECONDED Cr Kingston that Council, in accordance with Clauses 4 and 5 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, ADVERTISES the draft revised *Commercial, Mixed Use and Service Commercial Zone Local Planning Policy* and *Light Industry Zone Local Planning Policy*, as shown in Attachments 1 and 2 to this Report for a period of 21 days, subject to the following changes:

1 Amend the *Commercial, Service Commercial and Mixed Use Zone Local Planning Policy* to:

1.1 Separate the building height requirements for R40 and R80 coded Commercial and Mixed Use zones as provided in clause 5.2 as follows:

Zone	Maximum height of wall (m)	Maximum total building height (m)	
		Gable, skillion and concealed roof	Hipped and pitched roof
Commercial R40	7	8	10
Mixed Use R40	7	8	10

Zone	Maximum total building height (m)
Commercial R80*	15
Mixed Use R80*	15

*Where a lot abuts the Residential zone, the maximum building height within 6 metres of the common boundary shall be in accordance with Commercial and Mixed Use R40;

1.2 Amend Coastal Area Building Height clause 5.3a to state 'The maximum building height as measured from the natural ground level is to be in accordance with Commercial and Mixed Use R40';

2 Amend the *Light Industry Zone Local Planning Policy* to:

2.1 Retain Building Height clause 5.2a as per the current, adopted version of the local planning policy;

2.2 Amend Building Height clause 5.2b to state 'Where a lot abuts the Residential zone, the maximum building height within 6 metres of the common boundary shall be 7 metres'.

The Motion was Put and

CARRIED (6/0)

In favour of the Motion: Cr Thompson, Mayor Jacob, Crs Hill, Kingston, Poliwka and Raftis.

Appendix 4 refers

To access this attachment on electronic document, click here: [Attach4agnPOLICY230227.pdf](#)

URGENT BUSINESS

Nil.

MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

REQUESTS FOR REPORTS FOR FUTURE CONSIDERATION

Cr Kingston requested that a report be prepared in relation to the *Pest Plant Local Law 2012* and the following plants be considered as prescribed pest plants within the City of Joondalup district:

- 1 Golden Crownbeard.
- 2 Prickly Lettuce.

CLOSURE

There being no further business, the Presiding Member declared the meeting closed at 6.57pm the following Committee Members being present at that time:

CR SUZANNE THOMPSON
MAYOR HON. ALBERT JACOB, JP
CR ADRIAN HILL
CR DANIEL KINGSTON
CR RUSSELL POLIWKA
CR JOHN RAFTIS