



Policy Review and Development Committee

Notice of Meeting and Agenda 28 August 2024

Committee Terms of Reference

- 1** *To review all existing Bunbury City Council policies within a two year period, in line with the local government election cycle and facilitate the development of new policies for consideration by Council on an ongoing basis.*
- 2** *To make recommendations to Council on matters of policy, policy and local law review and policy and local law development.*
- 3** *To explore opportunities that promote policy development in all areas that are within Council's jurisdiction.*
- 4** *To allow any draft policy developed and fully considered by another Advisory Committee of Council to be referred directly to Council for consideration.*
- 5** *To provide Bunbury City Councillors with assistance and support to develop new Council policies.*

City of Bunbury
4 Stephen Street
Bunbury WA 6230
Western Australia
Correspondence to:
Post Office Box 21
Bunbury WA 6231

Policy Review and Development Committee Notice of Meeting

Dear Committee Members

An ordinary meeting of the Policy Review and Development Committee will be held in the Ocean Room, 2-4 Stephen Street, Bunbury on 28 August 2024 at 10.00am.

Signed:

Alan Ferris
Chief Executive Officer

Agenda

28 August 2024

Members of the public to note that recommendations made by this committee are not final and will be subject to adoption (or otherwise) at a future meeting of the Bunbury City Council.

Committee Members:

Member Name	Representing
Cr Gabi Ghasseb	City of Bunbury
Cr Karen Steele	City of Bunbury
Cr Marina Quain (Presiding Member)	City of Bunbury
Cr Cheryl Kozisek	City of Bunbury
Cr Tresslyn Smith	City of Bunbury

Ex-officio Members (non-voting):

Member Name	Representing
Mr Alan Ferris	Chief Executive Officer
Mrs Karin Strachan	Director Corporate and Community

Support Staff:

Name	Title
Mr Greg Golinski	Manager Governance and Integrated Planning
Mr Liam Murphy	Governance Officer
Mrs Maureen Keegan	Senior Governance Officer

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Acknowledgement of Country

We acknowledge the traditional owners of the land, the Noongar Wardandi people and their continuing connection to the land, waters and community. We pay our respects to all members of the Aboriginal community and their culture; and to Elders past, present and emerging.

Vision

Bunbury: welcoming and full of opportunities.

Organisational Values

#WEARECOB

WE ARE COMMUNITY

We are one team
We keep each other safe
We display empathy and respect
We have fun and celebrate our successes
We work together to achieve great outcomes

WE ARE OPEN

We are open to opportunities
We actively listen and think things through
We are inclusive and treat everyone equally
We are honest and open in our communications
We are open to feedback to improve our performance

WE ARE BRAVE

We lead the change, we own it
We trust and empower each other
We have the difficult conversations early
We hold ourselves to the highest standard
We have the courage to improve and simplify

Nature of Council’s Role in Decision Making

Advocacy: When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.

Executive/Strategic: The substantial direction setting and oversight role of the Council, e.g. adopting plans and reports, accepting tenders, setting and amending budgets.

Legislative: Includes adopting local laws, town planning schemes and policies.

Quasi-Judicial: When Council determines an application/matter that directly affects a person’s rights and interests. The Judicial character arises from the obligations to abide by the principles of natural justice.

Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (e.g. under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.

Information Purposes: Includes items provided to Council for information purposes only which do not require direction from Council (that is for ‘noting’).

1. Declaration of Opening

2. Disclaimer

Not applicable to this committee.

3. Announcements from the Presiding Member

4. Attendances

4.1 Apologies

4.2 Approved Leave of Absence

5. Declaration of Interest

IMPORTANT: Committee members to complete a “Disclosure of Interest” form for each item on the agenda in which they wish to disclose a financial/proximity/impartiality interest. They should give the form to the Presiding Member <u>before</u> the meeting commences. After the meeting, the form is to be forwarded to the Administration Services Section for inclusion in the Corporate Financial Disclosures Register.
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6. Confirmation of Minutes

Committee Decision: Moved _____ Seconded _____

The minutes of the Policy Review and Development Committee Meeting held on 18 June 2024 are confirmed as a true and accurate record.

CARRIED/LOST

7. Method of Dealing with Agenda Business

8. Reports

8.1 Review of Council Policy: Naming Conventions

Fine No.	COB/306
Applicant:	Internal
Responsible Officer:	Aaron Lindsay, Manager Projects and Asset Management
Responsible Manager:	Aaron Lindsay, Manager Projects and Asset Management
Executive:	Aileen Clemens, A/Director Infrastructure
Authority/Discretion	<input type="checkbox"/> Advocacy <input type="checkbox"/> Quasi-Judicial <input checked="" type="checkbox"/> Executive/Strategic <input type="checkbox"/> Information Purposes <input type="checkbox"/> Legislative
Attachments:	Appendix 8.1-A: Revised Council Policy Naming Conventions

Summary

This report is presented to the Policy Review and Development Committee (PRDC) to facilitate a review of current Council Policy: Naming Conventions.

Executive Recommendation

That the Policy Review and Development Committee recommend that Council adopt revised Council Policy: Naming Conventions as presented at Appendix 8.1-A.

Voting Requirement: Simple Majority Vote

Strategic Relevance

Pillar: Performance
Aspiration: Leading with purpose and robust governance
Outcome 13: A leading local government
Objective 13.1: Provide strong and accountable leadership and governance.

Regional Impact Statement

N/A

Background

The Policy was first endorsed by Council in 2014, and was previously known as the Naming of Roads, Reserves, Bridges and Other Places Council Policy.

At the Ordinary Council Meeting held on 29 June 2021, Council requested (via a motion on notice from Cr Steele) *that the Policy Review and Development Committee review existing Council Policy Naming of Roads, Reserves, Bridges and Other Places in the context of recognising Aboriginal history and language, as well as initiating a process for the naming or dual naming of landmarks, sites and streets.*

The Policy was last reviewed at the 12 October 2021 Council Meeting, where the policy was significantly amended to include information regarding Aboriginal and dual naming, as well as to retitle the policy to its current name.

The policy is now due for its bi-annual review.

Council Policy Compliance

This report facilitates the review of an existing Council Policy. The City's Reconciliation Action Plan is also applicable in this regard.

Legislative Compliance

N/A

Officer Comments

Officers have reviewed the Policy and suggest only minimal changes to ensure references to industry guidelines are up to date.

A copy of the revised policy with tracked changes is attached at appendix 8.1-A.

Analysis of Financial and Budget Implications

Nil

Community Consultation

Not applicable.

Councillor/Officer Consultation

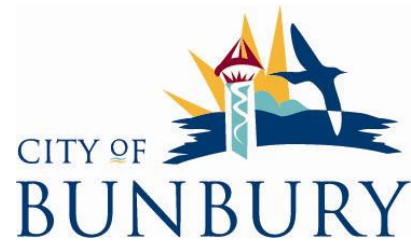
This matter is presented to the Policy Review and Development Committee for consideration.

Applicant Consultation

Not applicable.

Timeline: Council Decision Implementation

Any revisions to the policy will take effect immediately following Council's determination.



NAMING CONVENTIONS COUNCIL POLICY

POLICY STATEMENT

The names of Bunbury's geographic features are an important part of our community's identity and what it values as part of its heritage and cultural past, present and future. They provide not only an important tool for way finding but are also essential to our 'sense of place'. This Policy defines the standards and procedures for the naming of roads, reserves, bridges and other places within the City of Bunbury.

POLICY SCOPE

This policy applies to elected members and staff regarding the consideration of naming proposals for geographic features and, for new road, bridge and reserve naming proposals.

POLICY DETAILS

The City of Bunbury recognises Noongar people as the traditional owners of the South West. This Policy acknowledges that natural features and places in Bunbury were named by the traditional owners, the Wardandi people, long before European settlement. This Policy seeks to encourage the enduring use of Aboriginal language for geographic features, roads, reserves, bridges and other places that either do not already have an official name or that are considered for renaming.

It is acknowledged that Aboriginal names which may appear at first to be complex in spelling or pronunciation will, over time, become familiar and easy to use by Bunbury's community, as proudly a landmark of the South West.

Applications for naming proposals must be prepared in accordance with Landgate's Aboriginal and Dual Naming Guidelines ([Version 02:2023](#)), and Policies and Standards for Geographical Naming in Western Australia ([Version 03:2017](#)), ~~as amended~~, and require a resolution of endorsement by Council prior to a submission being lodged with Landgate for its approval.

Applications for the naming of roads must additionally be prepared in conformity with the provisions of AS/NZS 4819:2011 Rural and Urban Addressing (~~as amended~~).

POLICY PROCEDURES

Any person, community group or organisation may present a proposal in writing to the City of Bunbury for comment and/or support on a new name or an amendment to an existing name within the local government's municipal boundaries.

Applications are checked against the Policies and Standards for Geographical Naming in Western Australia. Initial advice from Landgate may be requested as part of this investigation.

In the case where the request for a name submitted is a person's name the submission must include details of the significance / contribution to Bunbury and not be a living person. If the applicant is not an immediate relative, written permission of the family is to be included in submission.

Submissions for naming proposals involving traditional Aboriginal names, or contemporary names derived from Aboriginal language, must have demonstrated consultation with the relevant Aboriginal groups prior to submitting the naming proposal for Council's consideration to endorse.

Names originating from Aboriginal language should be indigenous to the locality of the geographic feature and should be written in a standard recognised format for administrative boundaries, localities, roads and reserves.

The naming of new roads and reserves in contemporary Aboriginal language local to the area is encouraged, subject to being written in a standard recognised format and with generic descriptor (e.g. 'street').

Dual naming of cultural and natural topographic features and crown land reserves is supported as a means of giving concurrent and shared recognition of two cultures. Dual naming enables the assignment of an additional name to a feature that already has an official name that is widely accepted and in long use and when a name change is not possible or acceptable. Dual naming submissions will be given consideration when a feature already has either an official or established name of non-Aboriginal origin and that a recognised Aboriginal name should also apply.

Following assessment against the Policies and Standards for Geographical Naming in Western Australia, a report to Council will be prepared for consideration.

If the request is supported by Council, the name will be submitted to Landgate for approval.

COMPLIANCE REQUIREMENTS

LEGISLATION

- *Local Government Act 1995*
- *Land Administration Act 1997*

INDUSTRY

- Landgate, Policies and Standards for Geographical Naming in Western Australia ([Version 03:2017](#))
- Aboriginal Naming: A guideline to Aboriginal naming and dual naming of geographic features and places in Western Australia ([Version 02:2023](#)) (~~2020~~)
- Australian Standard AS/NZS 4819:2011 Rural and Urban Addressing

ORGANISATIONAL

Document Control					
Document Responsibilities:					
Owner:	Director Sustainable Communities		Owner Business Unit:	Community Partnerships	
Reviewer:	Manager Community Services		Decision Maker:	Council	
Document Management:					
Adoption Details	Res 234/14 8 July 2014		Review Frequency:	biennial	Next Due: 2023
Review Version	Decision Reference:		Synopsis:		
DOC/455731[v3]	Council Decision 204/21 12 October 2021		Policy reviewed and amended in the context of recognising Aboriginal history and language, as well as initiating a process for the naming or dual naming of landmarks, sites and streets.		
DOC/455731[v2]	Council Decision 049/20 17 March 2020		Consolidate policies and corporate guidelines in accordance with revised Policy Framework.		
DOC/455731[v1]			Converted from Mydocs to CM9		
CP-023761					
Date Printed	19 August 2024		22 July 2024		

“That Council request the Chief Executive Officer prepare a City of Bunbury Sustainability Strategy for Council consideration, including climate change actions and recommendations based on informed corporate net zero emission target scenarios.”

This policy relates to Council Decision (278/21) in that the Policy informed the focus of the Sustainability Strategy (now *Sustainability and Environment Strategy 2023-2028*) through establishing a sustainability definition and model, along with guiding principles for Council and the organisation.

This policy was first endorsed by Council at the Ordinary Council Meeting held 28 June 2022, and is now due for its bi-annual review.

Council Policy Compliance

This report facilitates the review of an existing Council Policy.

Legislative Compliance

N/A

Officer Comments

Officers have reviewed the Policy and suggest only minimal changes to ensure references to legislative, industry, and organisational compliance requirements are up to date.

A copy of the revised policy with tracked changes is attached at appendix 8.2-A.

Analysis of Financial and Budget Implications

Nil

Community Consultation

Not applicable.

Councillor/Officer Consultation

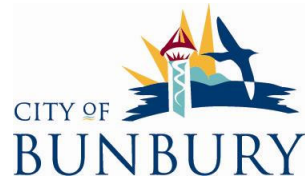
This matter is presented to the Policy Review and Development Committee for consideration.

Applicant Consultation

Not applicable.

Timeline: Council Decision Implementation

Any revisions to the policy will take effect immediately following Council’s determination.



SUSTAINABILITY COUNCIL POLICY

POLICY STATEMENT

The Sustainability Council Policy (Policy) demonstrates the City of Bunbury's (the City) commitment to embedding environmental sustainability into its operations, services, infrastructure, and facilities for the benefit of our community now and into the future.

POLICY SCOPE

This Policy applies to: Elected Members, Committee Members, and staff.

The objectives of the Policy are to:

- Provide a clear definition and model for sustainability; and
- Outline sustainability principles to guide decision-making and prompt consideration of sustainability across all areas of the organisation.

POLICY DETAILS

Sustainability Definition and Model

For the City, 'sustainability' means:

'Meeting the needs of the current and future generations through the integration of environmental protection, social advancement, economic prosperity and accountable and transparent governance.'

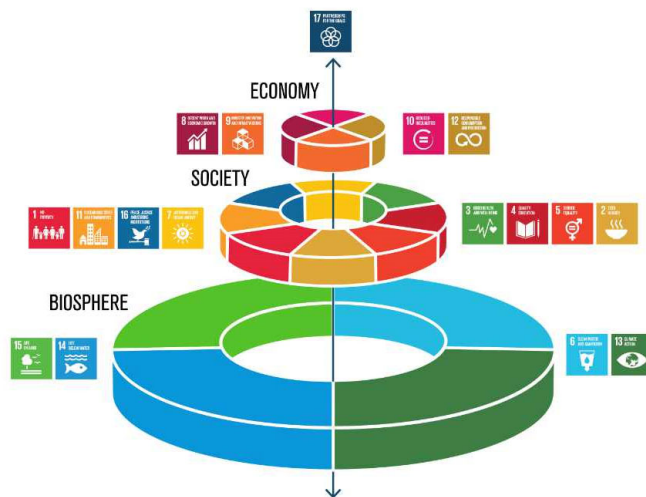


Figure 1 Sustainable Development Goals Wedding Cake Illustration

The Stockholm Resilience Centre's *Sustainable Development Goals Wedding Cake*¹(Model) (Figure 1) has been included as an illustrating Model to support the City's sustainability definition. The Model organises the United Nation's Sustainable Development Goals (SDGs) into three layers with the biosphere as the foundation, supporting society, which supports the economy. The Model recognises that societies and their economies are dependent on the biosphere's capacity to provide natural resources (clean air, water, food, materials) and to recycle or absorb waste and pollutants.

The inclusion of the Model within this Policy acknowledges that community and economy activity occur within environmental limits, known as planetary boundaries²; and the interdependence of our environment, community and economy must be considered in planning and decision-making.

Sustainability Principles

The City will apply the following sustainability principles to guide decision-making and to prompt consideration of sustainability across all areas of the organisation:

1. Inter and intra-generational equity

Acknowledge the City's responsibility to both current and future generations of our community, as well as potential impacts on communities beyond the City's boundaries. Ensure that the City works to meet the needs of the community now, without compromising future generations' ability to meet their own needs.

2. Precautionary principle³

Where there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. In the application of the precautionary principle, decisions should be guided by:

- a) careful evaluation to avoid, where practicable, serious or irreversible damage to the environment; and
- b) an assessment of the risk-weighted consequences of various options.

3. Integrated and long-term decision-making

Apply a long-term view to decisions and actions, through considering the long and short-term implications on our community, environment, and economy.

4. Biological diversity and ecological integrity

Sustainably manage, conserve, and enhance the biological diversity and integrity of native species and local ecosystems within the City.

5. Leadership in innovation and sustainable practices

Commit to continuous learning on innovation and sustainable practices. Lead by example through demonstrating innovations in policy and practice; empower community to take a shared leadership approach to sustainability challenges and opportunities; and advocate for increased community access to innovative sustainable solutions.

6. Strive for a circular economy

¹ [The SDGs wedding cake - Stockholm Resilience Centre](#)

² [Planetary boundaries - Stockholm Resilience Centre](#)

³ [Statement of Environmental Principles, factors and objectives Dec16 1.pdf \(epa.wa.gov.au\)](#)

Ensure responsible resource management, procurement, and impact reduction through striving towards a sustainable, low waste, circular economy.

7. Protect and conserve water

Conserve and sustainably manage local water resources for current, emerging and future generations.

8. Action on climate change

Respond to climate change by working to reduce emissions and build community and corporate resilience through appropriate climate change mitigation and adaptation strategies.

9. Environmental lifecycle costing and planning for reduced impact and quality of life

For future City developments:

- Understand the environmental lifecycle costs in early planning.
- Incorporate Environmentally Sustainable Design (ESD); sustainable landscape and urban design; and use of sustainable construction materials and processes, to minimise environmental impacts, and deliver positive environmental, social and economic outcomes.
- Facilitate safe, resilient and inclusive communities.

For existing City-owned buildings, prioritise retrofits to reduce environmental impacts and deliver positive environmental, social and economic outcomes.

10. Inclusion and diversity for sustainability

Provide the opportunity for all members of the community to be part of the conversation, planning and decision-making to improve sustainable outcomes for the City and our community. To ensure the process is inclusive, take into consideration the needs for people to adequately participate, for example people from culturally and linguistically diverse backgrounds, people with disability, access to transport or technology.

Acknowledge the Traditional Owners, Knowledge Holders and Elders' past, present and ongoing connection to country, both land and waterways. Ensure engagement is undertaken and approval sought as required as part of planning and decision-making.

11. Good governance

Apply good governance principles in the provision of its services and facilities as outlined in the City's Governance Framework. Good governance ensures that the City is able to manage its many complex responsibilities effectively and in the best interests of the community.

12. Support the City's Strategic Community Plan Aspirations

In alignment with the City's Strategic Community Plan ~~2022~~-2032, commit to promote and facilitate the achievement of the 5 Core Performance areas:






	 People	 Planet	 Place	 Prosperity	 Performance
ASPIRATION	A safe, healthy and connected community.	A healthy and sustainable ecosystem.	An integrated, vibrant and well planned City.	A strong and diversified economy.	Leading with purpose and robust governance.
DESIRED OUTCOMES	<ol style="list-style-type: none"> 1. A safe community. 2. A growing hub of culture and creativity. 3. A healthy and active community. 4. A compassionate and inclusive community. 	<ol style="list-style-type: none"> 5. A natural environment that is cared for and preserved. 6. An aware and resilient community equipped to respond to natural disasters and emergencies. 	<ol style="list-style-type: none"> 7. A community with high quality urban design and housing diversity. 8. A place with attractive and welcoming community spaces, where people want to live. 9. A city that is easy to get around safely and sustainably. 	<ol style="list-style-type: none"> 10. The premier city of regional Western Australia. 11. A strong, resilient and diverse economic hub for the South West. 12. A unique and desirable destination within the South West region. 	<ol style="list-style-type: none"> 13. A leading local government. 14. A well-informed community that is deeply engaged in decision making.

Figure 2 Core Performance Areas – City’s Strategic Community Plan 2022-2032

COMPLIANCE REQUIREMENTS

LEGISLATION

- ~~Section 1.3(3) of the~~ Local Government Act 1995

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INDUSTRY

- ~~United Nations’ Sustainable Development Goals~~
- ~~Western Australian Recovery Plan~~

ORGANISATIONAL

- ~~City of Bunbury~~ Strategic Community Plan 2022-2032
- ~~Sustainability and Environmental Strategy 2023-2028~~
- ~~City of Bunbury~~ Local Planning Strategy 2018
- ~~City of Bunbury~~ Long-term Financial Plan
- ~~City of Bunbury~~ Corporate Business Plan
- Climate Change Council Policy ~~(To Be Adopted)~~
- Welcome to and Acknowledgement of Country Council Policy ~~(DOC/491895)~~
- Purchasing Council Policy ~~(DOC/455742)~~
- Governance Framework ~~(DOC/896408)~~

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Document Control			
Document Responsibilities:			
Owner:	Chief Executive Officer	Owner Business Unit:	Projects and Asset Management
Reviewer:	Environmental Sustainability Officer	Decision Maker:	Council
Document Management:			
Adoption Details		Review Frequency:	Bi-Annual
Review Version	Decision Reference:	Next Due:	2023
	[decision date / TRIM Ref]	Synopsis:	
		[brief description of the adoption / changes approved]	
Date Printed	19-Aug-24	24-Aug-24	

Officer Comments

Officers have reviewed the Policy and suggest that the content is appropriate and does not require amendment.

A copy of the current policy is attached at appendix 8.3-A.

Analysis of Financial and Budget Implications

Nil

Community Consultation

Not applicable.

Councillor/Officer Consultation

This matter is presented to the Policy Review and Development Committee for consideration.

Applicant Consultation

Not applicable.

Timeline: Council Decision Implementation

Any revisions to the policy will take effect immediately following Council's determination.



RESERVE AREAS SET ASIDE FOR THE RIDING OF HORSES COUNCIL POLICY

POLICY STATEMENT

1. To provide a comprehensive framework for the management and control of activities involving horses being walked, ridden or driven in areas that fall under the care, control and management of the City.
2. To ensure that the walking, riding or driving of horses does not interfere with or cause a nuisance to users of an area.
3. To ensure environmental controls are considered for the future sustainability in areas that may be subject to an application.

POLICY SCOPE

This policy applies to areas within the City of Bunbury that come under the care, control and management of the City.

Nothing within this Policy shall prohibit the walking or riding of horses in a public place, road reserve or verge if the person in charge of the horse is in compliance with any written law.

POLICY DETAILS

1. An application shall be required by person who walk, ride or drive horses for commercial purposes, financial gain and/or participate in the harness racing or turf racing industry.
2. Persons who walk, ride or drive horses for recreational purposes shall not be required to make application, however those person shall adhere to any restrictions or conditions posted at a location and where applicable, the conditions of this Policy.
3. An application shall be in the form that is determined by an Authorised Person from time to time.
4. An application may require the payment of a fee. All fees are specified in the City's Schedule of Fees and Charges.
5. Following the assessment of an application by an Authorised Person, an approval may be provided to the applicant in the form determined by the Authorised Person.
6. The Chief Executive Officer may from time to time, set or vary the times for the use of those areas set aside for horses to be swam, walked, ridden or driven in Bunbury.
7. Any changes or variations to this policy or any changes to any activity times/dates/locations shall require local public notice to be given of not less than 28 days requesting public submission relating to the proposed changes or variations.
8. An application determined in accordance with this Policy may include, but not be limited to

uncontrolled and should be verified as current version.

the following conditions:

- a. The applicant shall only operate during the approved times as stipulated in an approval.
- b. The Applicant shall provide proof and a copy of certificate of currency of public liability insurance for the minimum sum of \$10,000,000, workers compensation insurance and personal accident insurance.
- c. The approval is not transferrable however nothing precludes the direct agent or employee of the applicant also being a party to an approval.
- d. The applicant shall ensure that they, their agent or their employees are trained and qualified to ensure the safe operation and handling of any horse and/or equipment.
- e. The applicant, agent or employee shall ensure that all equipment used for the training of horses is maintained in a safe manner.
- f. The applicant, agent or employee shall ensure that no nuisance of any kind whatsoever is created by the activity and must act and carry on the activity in a safe and responsible manner.
- g. The applicant, agent or employee shall ensure the removal of any litter, debris or horse excrement associated with their activities and comply with any condition relating to the protection of the environment i.e. dieback control.
- h. The applicant, agent or employee shall only be in the approved area/s specified on a permit and only during such times/dates as stated on a permit.
- i. The applicant, agent or employee must produce an Approval if requested to do so by an Authorised Person within the time as stipulated by the Authorised Person.
- j. An Authorised Person may at any time remove a person from an approved area and/or revoke an Approval if it is determined that the applicant, agent or employee acted in contravention of any condition as stipulated as part of an approval, or is found to be or have acted in contravention of a Local Law.
- k. An Authorised Person shall cause written notification to be forwarded to the applicant stating reasons as to why an approval has been revoked.
- l. The applicant shall not be entitled to any refund of any fees or charges if an approval is revoked.

COMPLIANCE REQUIREMENTS

LEGISLATION

- *Local Government Act 1995*

INDUSTRY

ORGANISATIONAL

- *City of Bunbury Local Government and Public Property Local Law*
- *Application Form*

Document Control					
Document Responsibilities:					
Owner:	Director Sustainable Communities	Owner Business Unit:	Rangers and Emergency Management		
Reviewer:	Manager Community Services	Decision Maker:	Council		
Document Management:					
Adoption Details	Res 196/0329 July 2003	Review Frequency:	biennial	Next Due:	2023
Review Version	Decision Reference:	Synopsis:			
DOC/424590[v1.1]	Council Decision 203/21 12 October 2021	Reviewed with no changes			
DOC/424590	Council Decision 208/19 23 July 2019	Reviewed			
<u>CP-026034 v1.0</u>	Res 172/1716 May 2017	Reviewed and amended			
<u>CP-026034</u>	Res 212/1029 June 2010	Reviewed			
Date Printed	19 August 2024				

8.4 Review of Council Policy: Food Regulation Compliance and Enforcement

Fine No.	COB/306
Applicant:	Internal
Responsible Officer:	Johan van Zyl, Team Leader Environmental Health
Responsible Manager:	Sarah Upton, Manager Community Wellbeing
Executive:	Andrew McRobert, Director Sustainable Development
Authority/Discretion	<input type="checkbox"/> Advocacy <input type="checkbox"/> Quasi-Judicial <input checked="" type="checkbox"/> Executive/Strategic <input type="checkbox"/> Information Purposes <input type="checkbox"/> Legislative
Attachments:	Appendix 8.4-A: Food Regulation Compliance and Enforcement

Summary

This report is presented to the Policy Review and Development Committee (PRDC) to facilitate a review of current Council Policy: Food Regulation Compliance and Enforcement.

Executive Recommendation

That the Policy Review and Development Committee recommend Council note the review of existing Council Policy: Food Regulation Compliance and Enforcement, with no changes recommended.

Voting Requirement: Simple Majority

Strategic Relevance

Pillar: Performance
Aspiration: Leading with purpose and robust governance
Outcome 13: A leading local government
Objective 13.1: Provide strong and accountable leadership and governance.

Regional Impact Statement

N/A

Background

This policy was last reviewed by Council in August 2022 and is presented to the Policy Review and Development Committee for discussion and review as part of Council's policy review schedule.

Council Policy Compliance

This report facilitates the review of an existing Council Policy.

Legislative Compliance

N/A

Officer Comments

Officers have reviewed the Policy and suggest that the content is appropriate and does not require amendment.

A copy of the current policy is attached at appendix 8.4-A.

Analysis of Financial and Budget Implications

Nil

Community Consultation

Not applicable.

Councillor/Officer Consultation

This matter is presented to the Policy Review and Development Committee for consideration.

Applicant Consultation

Not applicable.

Timeline: Council Decision Implementation

Any revisions to the policy will take effect immediately following Council's determination.



FOOD REGULATION COMPLIANCE AND ENFORCEMENT COUNCIL POLICY

POLICY STATEMENT

This Policy sets out the City's approach to food regulatory enforcement activity for food businesses within the City as an enforcement agency in accordance with the *Food Act 2008*. It also provides a range of prescribed compliance and enforcement options in response to food safety compliance failures.

POLICY SCOPE

This policy applies to: Food Business Operators in Bunbury, City of Bunbury Staff.

POLICY DETAILS

The City of Bunbury Food Regulation Compliance and Enforcement Policy is in accordance with the national Enforcement Guideline and the WA Department of Health's Compliance and Enforcement Guideline. The guideline requires the graduated application of enforcement measures. The objectives of the guideline are as follows:

1. To be consistent with the risk based approach to the enforcement activity.
2. To be efficient in enforcement approach.
3. To provide transparency to consumers and the food industry on how the City makes decisions on enforcement action.
4. To guide decision making and actions by the City in the consistent use of enforcement options commensurate with the risk.
5. To use compliance and enforcement strategies in such a way as to best achieve legislated objectives and encourage compliance with legislated provisions.
6. To provide a framework to implement a cooperative and collaborative approach to enforcement action to achieve compliance in a manner that protects consumers.
7. To provide protection for consumers from inappropriate and/or misleading trade practices.

POLICY PROCEDURE

The objectives of the procedure are:

- To provide for a consistent, risk-based, efficient approach to food regulation enforcement through adoption of a graduated and proportionate response to legislative noncompliance.
- To provide transparency to consumers and food businesses on how the City makes decisions on enforcement action.

- To guide decision making and action by the City's authorised officers in the consistent use of enforcement options proportionate with risk.
- To use compliance and enforcement strategies in the best way possible to achieve legislated objectives and encourage compliance with food legislation.

KEY ENFORCEMENT GUIDELINE PRINCIPLES:

The following principles are required to be applied to achieve ethical and effective enforcement of food law:

1. A Graduated and Proportionate Approach

Food legislation provides a range of enforcement options that vary in their severity. Choosing the appropriate option for the situation requires the application of the principle that the response should be commensurate with the severity of the non-compliance.

The graduated enforcement approach makes use initially of milder enforcement options to achieve compliance, such as improvement notices or warning letters or increased frequency of assessments. If compliance is not achieved through those measures, the authorised officer shall implement more significant enforcement actions such as the issuing of infringement notices and prohibition orders.

However, response measures must be balanced by the severity of the non-compliance and will be influenced by factors including:

- The impact of the offence on stakeholders.
- The particular circumstances of the offence and the circumstances of the food business involved.
- The compliance history of the food business, both in general and in relation to the specific offence committed.
- The cooperation of the offending food business, with respect to both investigations conducted on the offender's premises relating to the offence and following commencement of enforcement action.
- Any remedial action implemented by the offender to address the non-compliance.
- The timeframe over which the offence was committed.

Therefore, should the severity of the offence justify it, immediate and serious enforcement action should be taken by authorised officers.

2. Authorised by Law

Authorised officers should not exceed their statutory powers. Evidence collected must be able to substantiate the alleged offence. Evidence shall be properly obtained within legislative requirements and be admissible in a court of law. The evidence gathered shall be sufficient to be able to support the case against any appeal e.g. an infringement notice that is referred to court for a defended hearing or a matter that is appealable to the State Administrative Tribunal (SAT).

Evidence need not be assembled into a full prosecution brief for minor enforcement action. However, evidence collected should be sufficient to substantiate the offence if questioned.

3. Impartial and Procedurally Fair

Enforcement agencies shall be consistent in the way in which enforcement actions are applied.

Ethnicity, race, age or gender shall have no bearing when undertaking enforcement action.

Decision making shall not be influenced by political advantage or disadvantage to any individual or group; the consequences of a decision the personal or professional circumstances of the authorised officer making the decision; or the personal feelings of the authorised officer towards the offender.

Enforcement action shall be timely so that the food business associates the action with the non-compliance in order to undertake any necessary remedial action.

If statutory procedures are initiated, the food business proprietor shall be notified in writing of any statutory right of appeal available within the food legislation.

4. Accountable and Transparent

The City, as an enforcement agency, must be professional, accountable and transparent in actions regarding the implementation of enforcement actions on food businesses.

The following actions will be implemented by the City to achieve this:

- Ensure legislation, enforcement policies, complaints procedures and relevant information is easily accessible to food businesses and the public;
- Use clear and understandable language when communicating with the public and industry;
- Advise of any process of complaint or appeal that is available, with details of the process and likely timeframes; and
- Advise of any fees and charges that will be applied in discharging obligations or services under the relevant legislation.

5. Consistency

Consistent enforcement of food legislation is fundamental to ensure that consumers and food businesses are not unfairly advantaged or disadvantaged.

The City will ensure that all staff are adequately trained, and monitor performance of authorised officers to ensure that food businesses are handled in a consistent manner.

6. In the Public Interest

The overriding consideration in taking enforcement action will always be the protection of public health and safety.

7. Allow for Application of Multiple Enforcement Options under Appropriate Circumstances

Under the appropriate circumstances, the simultaneous application of multiple enforcement options may be required e.g., a serious hygiene breach where the concurrent issue of an infringement notice and prohibition order is considered appropriate.

There may also be circumstances where there are multiple non-compliances detected, of varying degrees of significance. In those circumstances the use of varied enforcement options may be warranted. Equally, the existence of multiple breaches may indicate system failure that may result in the use of more significant enforcement options.

ENFORCEMENT OPTIONS:

The food legislation provides a number of enforcement options. These options are listed below in a graduated order of seriousness that generally reflect the order in which they will usually be applied (refer to figure 1).

High-quality records are integral for authorised officers to maintain as part of their role in upholding food safety. It is the responsibility of authorised officers to maintain comprehensive records of food businesses including assessment reports, records of verbal directions, photographs, complaints, food sampling results, and any written notices and orders.

1. Informal and Internal Mediation and Conciliation/Verbal Warnings

This can be implemented at any stage in the enforcement process. Mediation and conciliation generally follow identification of non-compliance and provide an opportunity for the proprietors of a food business to offer an explanation or outline mitigating circumstances to authorised officers. Authorised officers can then make a determination on appropriate enforcement action or reach an agreed outcome with the proprietor regarding future compliance activities.

Notes relating to the above should be documented on the assessment form.

2. Warning Letters

Discretion shall be exercised when issuing warning letters as opposed to improvement notices. Warning letters shall only be used for breach(es) where the issuing of an improvement notice is not appropriate or warranted in the first instance.

The letter is to detail the exact nature of the offence; cite the relevant legislation and specific clauses breached; state the required remedial action in terms of desired outcome; the timeframe for compliance; specify the maximum penalty for the offence; and the intention of the City to enforce the legislation should the business fail to ensure the required actions have been undertaken (refer template in Appendix 1).

For example:

1. *Soap was not provided for the hand washing facility in the food preparation area. Clause 17 of Food Safety Standard 3.2.2 requires that food businesses maintain a supply of soap at or near each hand washing facility. Soap is to be provided for the hand wash basin in the food preparation area at all times **(24 hours)**;*
2. *The surface of the laminate chipboard shelf next to the stove is deteriorated and peeling. Clause 21 of Food Safety Standard 3.2.2 requires that a food business must maintain fixtures, fittings and equipment in a good state of repair. The shelf shall be repaired or replaced such that the surface is smooth, durable, impervious and easily cleanable **(21 days)**.*

A warning letter must be followed-up at the expiry of the timeframe to ensure the required actions have been taken. Failure to comply with a warning letter will result in further action. Further written warnings should not be issued for continued non-compliance or a subsequent similar offence.

3. Improvement Notices

Improvement notices are statutory notices that must only address prescribed issues and have prescribed content. An authorised officer may issue an improvement notice to the proprietor of a food business if it is believed that the business is acting in contravention to the Act, Regulations or Food Standards Code. Improvement notices should only be issued when it is considered to be an appropriate option (i.e. capable of providing sufficient incentive to the food business to address the matter). The improvement notice shall contain the following information:

- The provision(s) of the Act, Regulations or Food Standards Code that the authorised officer believes is being, or has been, contravened;
- A brief description of how the relevant legislative provision(s) have been or are being breached;
- The particular action in terms of desired outcome that the proprietor of the food business should undertake in order to rectify the observed noncompliance; and
- The timeframe in which the contravention should be resolved by the proprietor of the food business; within 24 hours for more serious issues and only specify a longer period if considered appropriate by the authorised officer. Timeframes allowed for compliance should consider the risk to public health associated with continued non-compliance.

The authorised officer shall conduct follow-up assessments at the timeframes nominated in the notice. Extensions to the date of compliance provided in an improvement notice may be granted at the discretion of the authorised officer. However, it is recommended that extensions are only provided in instances where the food business requests an extension before the expiry date of the notice. Extensions should only be considered for more minor matters such as repairs to equipment or replacement of equipment parts, or for minor revision of a food business food safety management system.

Food businesses shall be advised that failure to comply with an improvement notice will generally result in implementation of more serious enforcement action such as a prohibition order, infringement notice, or both.

Refer template in Appendix 2.

4. Infringement Notices

An infringement notice is a notice to the effect that the person to whom it is directed has committed a specified offence under the Act, Regulations or Food Standards Code. It requires payment of a specified monetary amount for the offence within a specified time. Infringement notices may be served by a designated officer (Section 126(2) of the Food Act) in the prescribed form (Schedule 4 of the Food Regulations).

Not complying with an infringement notice can result in referral to a court for hearing. While it is not essential that this evidence is used to develop a full brief of evidence, it should be logged and the chain of evidence secured as for legal action.

Infringement notices provide a cost effective and efficient method of dealing with offences. These are not appropriate for significant breaches (serious or imminent threat to food safety or public health) of the Act, Regulations or Food Standards Code.

If an infringement notice is withdrawn after the modified penalty has been paid, the amount paid must be refunded.

The provision to withdraw an infringement notice is in place to allow for the event that:

- an infringement notice was not justified after the payment was made; or
- as this was a first time offence that the person should be given the benefit of the doubt; or
- on review a notice was not an appropriate compliance/ enforcement response to the issue.

An infringement notice can only be withdrawn by the Manager Community Wellbeing or the Director Sustainable Communities.

The *Fines, Penalties and Infringement Notices Enforcement Act 1994* provides that the effect of payment of an infringement notice is that:

- no further prosecution of that matter can take place; and
- that payment is not to be taken as admission of any kind.

The effect of this is that once payment of the fine has occurred any ability to prosecute on that matter is lost. It does not matter if later the fine is refunded, because the original payment extinguished any ability to prosecute.

Refer templates in Appendices 3 and 4.

5. Prohibition Orders

Prohibition orders may be issued where it is necessary to prevent or mitigate a serious danger to public health or where an improvement notice has not been complied with.

A prohibition order will prohibit the handling of food on specified food premises, vehicles or equipment. It may also prohibit the handling of food in a specified way or for a specified purpose. [NB: Section 70 of the Act provides for compensation to be paid if there were insufficient grounds for the making of the prohibition order]

A prohibition order may be made with respect to any one or more of the following:

- any premises or any part of any premises, any food transport vehicle or any equipment specified in the notice or order;
- all equipment, or any specified equipment, contained on any premises or any part of any premises, or in a food transport vehicle, specified in the notice or order;
- the handling of food intended for sale by a food business in a specified way or for a specified purpose;
- the carrying out of activities specified in the notice or order in relation to food intended for sale.

A prohibition order must specify any provision of the Food Standards Code to which it relates; and may specify particular action to be taken by a proprietor to ensure compliance with the provision of the Code to which it relates.

Prohibition orders shall be signed by the Team Leader Environmental Health or the Manager Community Wellbeing (original signature only, no electronic signatures to be used).

A brief of evidence sufficient to prove all elements of a prosecution is the standard required prior to issue of a prohibition order. Breach of a prohibition order is an offence and will usually result in further enforcement action, such as prosecution.

A prohibition order will remain in place until a certificate of clearance is issued following a written request for inspection from the food business. A certificate of clearance shall be signed by the Team Leader Environmental Health or the Manager Community Wellbeing. The City may refuse to issue a certificate of clearance. This refusal can be appealed to the SAT.

The proprietor of the food business whose premises (other than a vehicle) are affected by a prohibition order may at any time after the order has been served make a written request to the City to cause the premises to be inspected by an authorised officer. The proprietor of the food business whose vehicle or equipment is affected by a prohibition order may at any time after the order has been served make a written request to the City to cause the vehicle or equipment to be inspected by an authorised officer:

- at the place where it was originally inspected; or
- if it is not convenient for it to be inspected at that place, at some other place that the City has agreed to.

If a request for inspection is made under this section and the premises, vehicle or equipment concerned, through no fault of the proprietor of the food business, are not inspected by an authorised officer within **48 hours** after the request is received by the City, a certificate of clearance is taken to have been given to the proprietor of the food business.

A certificate of clearance must be given if, after an inspection by an authorised officer there is no longer found to be a serious danger to public health, and any improvement notices served on the person whom the prohibition order was served have been complied with. The City may refuse to issue a certificate of clearance. Written notification must be given to the proprietor of a food business on whom a prohibition order has been served of the decision not to give a certificate of clearance after an inspection has occurred.

Refer templates in Appendices 5, 6 and 7.

6. Legal Action through the Courts

Prosecution will normally be reserved for the more serious breaches or matters where less severe enforcement action has not changed the noncompliant behaviour.

Evidence supporting prosecution should be objective and as comprehensive as possible. Briefs of evidence for the commencement of proceedings may include the following:

- Physical evidence (seized material).
- Photographs or video recordings of evidence.
- Video or sound recordings of conversations and interviews with alleged offenders.

- Records of interviews signed by all parties.

Full documentation of the chain of evidence and secure storage of all exhibits submitted as evidence should further form part of the brief of evidence.

Submissions to a Court on penalty should include details about the risk to public health and take into account the economic benefit gained by the food business in not complying with the legislation.

Proceedings must be commenced within twelve (12) months after the date of the alleged offence and, for food samples, within six (6) months after the date on which the sample was obtained.

7. Corrective Advertising

Requests may be made for court orders for corrective advertising should a person found guilty of an offence where there is potential ongoing risk to public health, or where it has been proven that a food has been promoted through advertising in an inappropriate or intentionally misleading way eg deliberately incorrect country of origin labelling.

8. Injunctions or Injunctive Relief

It is possible for enforcement agencies to seek an injunction or injunctive relief to prevent continuing activity that does not comply with the food legislation. Consideration should however be given to the potential for compensation following failure of any subsequent related prosecution.

9. Publication of the Names of Offenders

Section 121(2) of the Act places an obligation on the City to forward the details of any proceedings for an offence under the Act taken by an Authorised Officer within one month after the proceedings have been finally dealt with.

In the event that any proceedings lead to a conviction, the City must notify the CEO of the Department of Health (DoH) within **fourteen (14) days** from the date of the final order of the conviction. The 'Notification of Conviction' form is to be used for this purpose and can be found at <http://www.public.health.wa.gov.au>. This form is designed to be completed electronically and must be emailed to the Food Unit of the DoH at foodunit@health.wa.gov.au within the 14 day time period.

10. Action against Registration

In WA, food legislation requires food businesses to be registered. Operation of a food business without current registration issued by the enforcement agency is an offence.

A food business that fails to comply with regulatory requirements is subject to enforcement action. Registration can be cancelled under the following circumstances only:

- as a result of any annual or other fee not being paid by the date prescribed by the enforcement agency; or
- as a result of the food business ceasing to be conducted; or
- as the request of the holder of the certificate of food business registration.

Registration is a once-off activity and cannot be used as an enforcement option by enforcement agencies for non-compliance with food safety requirements.

POWERS OF ENTRY, INSPECTION AND SEIZURE

1. Entry and inspection

Under Part 5 Division 1 of the Food Act, an authorised officer has wide powers to enter and inspect a food transport vehicle or premises at a reasonable time where the officer believes that it is being used in connection with the handling of any food intended for sale, or for sale, in order to make any investigations and inquiries that may be necessary to ascertain whether an offence under the Food Act has been or is being committed; Section 38 of the Food Act sets out the extent of those powers.

An authorised officer may, however, only enter and inspect that part of the premises being used solely for residential purposes with the occupier's consent, or where a search warrant has been issued under Section 42 of the Food Act, or where that part of the premises is being used for the preparation or service of meals provided with paid accommodation.

2. Seizure

The severity of seizure as an evidence gathering measure can vary considerably, dependent upon not only the value of the food, equipment or materials seized, but the subsequent impact of the loss of the food, equipment or materials on the conduct of the business.

Authorised officers have seizure powers under the Act to seize food, vehicles, equipment, packages and labelling, advertising materials or any other thing that the authorised officer reasonably believes is evidence that a provision of the Act, Regulations or Code has been contravened.

The impact of a seizure should be considered in the application of any other enforcement action. The authorised officer shall document how they reached their decision and collect evidence as detailed in Figure 2.

[NB: the Act provides for compensation to be paid if there were no grounds for the making of the seizure. In circumstances where an enforcement agency reviews a seizure action and it becomes evident that there has been no contravention of the Act, Regulations or Code in relation to items which have been seized they should be returned as soon as possible to the person from whom the items were seized]

The authorised officer shall provide written notification to the person from whom the item/s was seized of the following information:

- description of the item/s seized;
- reason for the seizure;
- explanation of rights of appeal;
- address of the place where the item/s are being held, if removed from the premises where they were seized; and
- the name of the enforcement agency ie City of Bunbury

Seized goods forfeited to the City shall be destroyed or disposed of in a manner that ensures there can be no allegation of improper conduct or corruption, and does not pose a risk to public health and safety (eg does not re-enter the food chain). Records should be kept of how, when and where seized goods are disposed. Disposals of seized goods shall be witnessed by at least two authorised officers.

Refer seizure notice template in Appendix 8.

COMPLIANCE REQUIREMENTS

LEGISLATION

- *Food Act 2008*
- *Food Regulations 2009*
- *Food Standards Code*

INDUSTRY

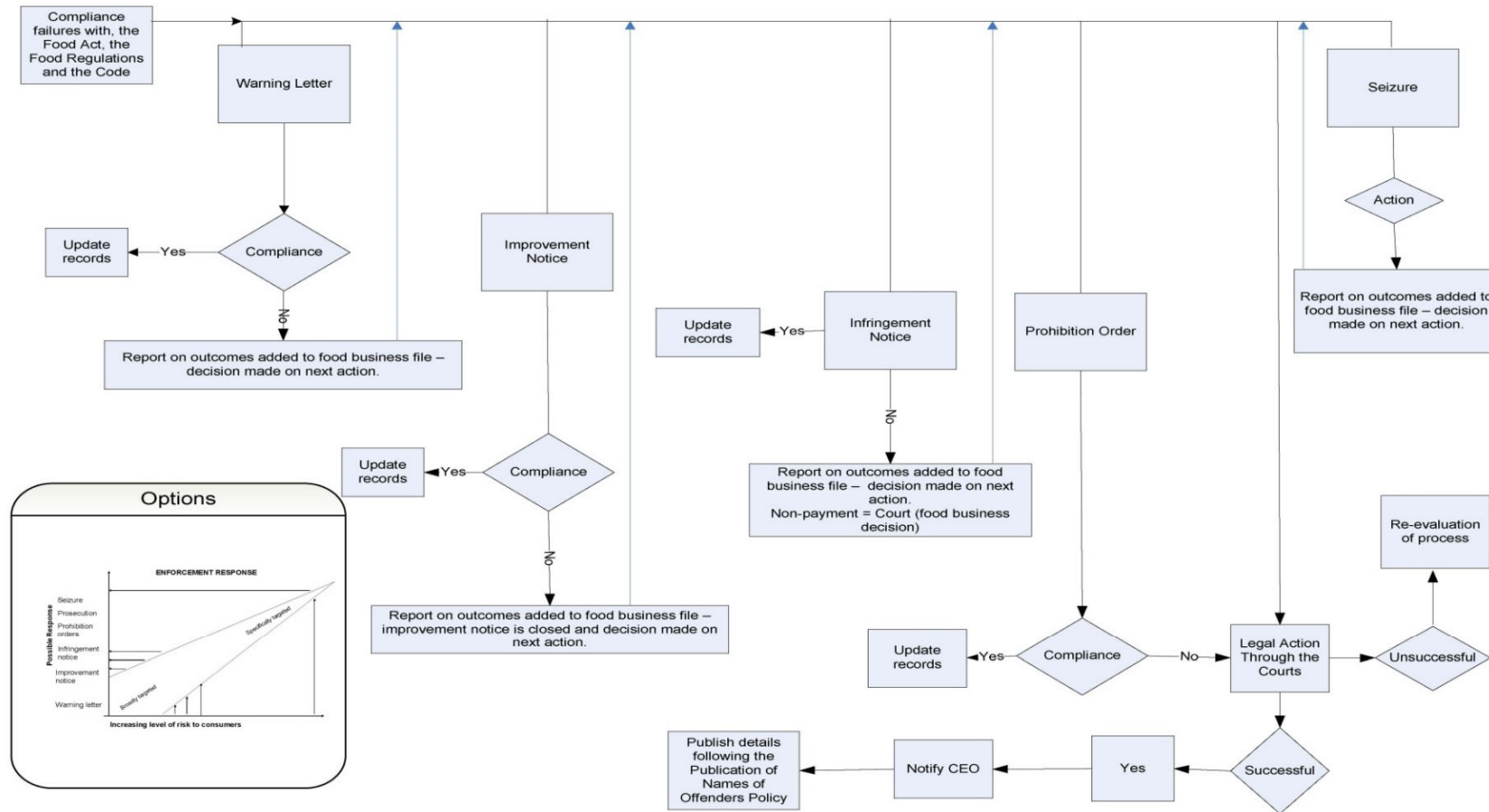
- Department of Health WA Compliance and Enforcement Guideline
- Australia and New Zealand Food Regulation Enforcement Guideline

ORGANISATIONAL

- [Appendix 1 Letter of Non-compliance](#)
- [Appendix 2 Improvement Notice](#)
- Appendix 3 Hard copy Infringement Notice
- [Appendix 4 Withdrawal of Infringement Notice](#)
- [Appendix 5 Letter with Prohibition Order](#)
- [Appendix 6 Certificate of Clearance](#)
- [Appendix 7 Notification to not issue certificate of clearance](#)
- [Appendix 8 Seizure Notice](#)

Document Control					
Document Responsibilities:					
Owner:	Chief Executive Officer	Owner Business Unit:	Manager Community Wellbeing		
Reviewer:	Manager Community Wellbeing	Decision Maker:	Council		
Document Management:					
Adoption Details	Res278/12 25 September 2012	Review Frequency:	biennial	Next Due:	2021
Review Version	Decision Reference:	Synopsis:			
DOC/455720[v3]	Council Decision 168/22 16 August 2022	Policy reviewed and updated with amendments to position titles and delegations, and clarifications.			
DOC/455720[v2]	Council Decision 049/20 17 March 2020	Consolidate policies and corporate guidelines in accordance with revised Policy Framework.			
DOC/455720[v1]		Converted from Mydocs to CM9			
CP-026036	Res 132/19 28 May 2019	Reviewed with no changes			
CP-026036	Res 104/17 21 March 2017	Reviewed with no changes			
CP-026036	Res 82/15 17 March 2015	Reviewed			
Date Printed	19 August 2024				

Figure 1 Graduated and Proportionate Use of Enforcement Options



APPENDIX 1

Our Ref:

Your Ref:

Enquiries: ☎ (08) 9792 7

E-Mail: {email name}@bunbury.wa.gov.au

{ Click on here and type Date - Date Month Year }

{ Click on here and type Address }

Dear

RE: (PREMISES NAME), (PREMISES ADDRESS) – NON-COMPLIANCE WITH FOOD LEGISLATION

An assessment of the above mentioned premises was conducted on **(DATE)** by City Authorised Officer, **(NAME)**. At this time, the following items were observed as requiring attention in order for the food business to comply with the *Food Act 2008*, the *Food Regulations 2009* and the *Australia New Zealand Food Standards Code*:

Exact nature of breach, specific clause breached, required remedial action in terms of desired outcome (timeframe for compliance).

These works shall be completed within the timeframes specified in brackets. Should the works not be completed within the allocated timeframes, further action will be taken in the form of an improvement notice and/or infringement notice in accordance with the *Food Act 2008*. A reassessment of the premises will be conducted of the food business to ascertain compliance.

Please note, offences under the aforementioned legislation incur maximum penalties ranging from \$5,000 to \$100,000 for an individual and from \$5,000 to \$500,000 for a body corporate.


Should you have any queries regarding this matter or extenuating circumstances that you are not able to complete the works within the required timeframe, please contact **(NAME)** on **(PHONE NO)**.

Yours faithfully

{Click on here and type Name }

{CLICK ON HERE AND TYPE POSITION }

APPENDIX 2

 <p>CITY OF BUNBURY</p>	<p>IMPROVEMENT NOTICE <i>Food Act 2008 Part 6 Division 1</i></p>
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Issued to:

Name of Proprietor:

Name of Food Business:

Address of Premises:

State:

Post Code:

Take notice that an assessment of the above mentioned premises by City of Bunbury’s Authorised Officer **(insert name)** on the **(insert date)** revealed that, in accordance with Part 6 Division 1 Section 62 of the *Food Act 2008*, there are reasonable grounds to serve an Improvement Notice under Section 63. These grounds are detailed within the following table:

Item	Issue(s) of non-compliance to be rectified:	Action to be completed (date):	Compliance observed	
			Y/N	Date
Number of additional pages attached:				
Notice served:		Date:	Time:	

Take further notice that the above matters must be rectified within the time specified and non-compliance with this notice may result in issue of a Prohibition Order under section 65 of the *Food Act 2008* which may prohibit the handling or conveyance of food or the use of specified equipment or other actions within the food business premises.

Signature: _____

APPENDIX 3

Refer hard copy Infringement Notice

APPENDIX 4

 CITY OF BUNBURY WITHDRAWAL OF INFRINGEMENT NOTICE <i>Food Act 2008</i> Section 126(7) and <i>Food Regulations 2009</i> Regulation 54(2)		Notice No.
Alleged Offender	Family name or body corporate name and ACN:	
	Other names:	
	Address:	No. Street Name:
		Postcode:
Infringement notice	Infringement Notice No.:	
	Date of issue:	
Alleged offence <i>[*delete whichever is not applicable]</i>	Description of offence:	
	<i>*Food Act 2008 Section</i> _____ <i>*Food Regulations 2009 Regulation</i> _____	
Designated officer withdrawing notice	Name:	
	Title:	
	City of Bunbury	
	Signature:	
	Date of notice:	
Withdrawal of infringement notice <i>[*delete whichever is not applicable]</i>	The above infringement notice issued against you has been withdrawn. If you have already paid the modified penalty for the alleged offence you are entitled to a refund. *Your refund is enclosed.	
	<i>or</i> *If you have paid the modified penalty, but a refund is not enclosed, to claim your refund sign this notice and post it to: City of Bunbury PO Box 21 BUNBURY WA 6231 Signature:	

APPENDIX 5

Our Ref:

Enquiries: ☎ (08) 9792 7

<Proprietor name>

<Food business name>

<Proprietor address>

<Suburb> <State> <Postcode>

To <Proprietor name>,

FOOD ACT 2008

PROHIBITION ORDER UNDER SECTION 65

WHEREAS:

1. You are the registered proprietor of a food business trading as <name of food business> located at <address of food premises>; and
2. The City of Bunbury is satisfied from an assessment of the above mentioned premises on the <date> that reasonable grounds (refer to attached schedule for details) exist in accordance with section 65 (1) for the service of a prohibition notice.

TAKE NOTICE THEREFORE that pursuant to section 65 of the *Food Act 2008*, the City of Bunbury orders that –

Provide details of prohibition; for example –

- *no food intended for sale is to be handled on specified premises or a specified part of specified premises;*
- *no food intended for sale is to be conveyed in a specified vehicle;*
- *specified equipment is not to be used in connection with food intended for sale;*
- *no food intended for sale is to be handled by a food business in a specified way or for a specified purpose; or*
- *no other specified activities in relation to food intended for sale are to be carried out on specified premises or a specified part of specified premises.*

This prohibition will remain in force until a certificate of clearance has been issued to you by the City of Bunbury.

FURTHER TAKE NOTICE that failure to comply with this order may result in:

- the issue of an infringement notice under the *Food Regulations 2009* which carries penalties of \$500 for an individual or \$1,000 in the case of a body corporate; or
- legal action through the Courts for contravention of section 68 of the *Food Act 2008* which carries maximum penalties of \$50,000 for an individual or \$250,000 for a body corporate.

Signed:

Name: <insert full name of authorised delegate>

Title: TEAM LEADER ENVIRONMENTAL HEALTH/MANAGER COMMUNITY WELLBEING

DATE:

CERTIFICATE OF CLEARANCE – SECTION 66

This prohibition remains in force until a certificate of clearance has been provided by the City of Bunbury.

In order to obtain a certificate of clearance you may request an authorised officer to reinspect the premises affected by this prohibition order at any time after the order has been served. A certificate of clearance will only be issued if the inspection reveals that the premises are (a) not a serious danger to public health and (b) the person on whom the prohibition order was served has complied with the prohibition order and any improvement notices served on the person.

In accordance with section 67 the request for re-inspection must be in writing and is to be forwarded to:

CITY OF BUNBURY
MANAGER COMMUNITY WELLBEING
PO BOX 21
BUNBURY WA 6231
FAX: 08 9792 7184

or presented in person during office hours (Monday to Friday 8.30am to 5.00pm) to:

CITY OF BUNBURY ADMINISTRATION OFFICE
4 STEPHEN STREET, BUNBURY WA

GROUNDS FOR ISSUING PROHIBITION ORDER

<insert grounds here>

APPENDIX 6

Our Ref:

Enquiries: ☎ (08) 9792 7

<Proprietor name>

<Food business name>

<Proprietor address>

<Suburb> <State> <Postcode>

FOOD ACT 2008

CERTIFICATE OF CLEARANCE UNDER SECTION 66

Following an assessment of the food business registered to:

[name of proprietor]

located at:

[address of food business]

by the City of Bunbury's authorised officer:

[name of officer]

on the:

[date of assessment]

the City of Bunbury is satisfied that:

[provide details of the premises/part of the premises, vehicle or equipment/the handling of food by the food business in a specified way or for the specified purpose or the carrying out of the specified activities]

are not/is not [delete appropriate] a serious danger to public health; and the person on whom the prohibition order dated:

[date of prohibition order]

was served has complied with the prohibition order and improvement notices dated:

[date of improvement notices if applicable]

served on the person.

Signed:

[name of authorised delegate]

**TEAM LEADER ENVIRONMENTAL HEALTH/MANAGER COMMUNITY WELLBEING
CITY OF BUNBURY**

DATE: [insert date]

APPENDIX 7

Our Ref:

Your Ref:

Enquiries: ☎ (08) 9792 7

E-Mail: {email name}@bunbury.wa.gov.au

{ Click on here and type Date - Date Month Year }

{ Click on here and type Address }

Dear

RE: (PREMISES NAME), (PREMISES ADDRESS) – NOTIFICATION TO NOT ISSUE CERTIFICATE OF CLEARANCE

An assessment of your food business by City Authorised Officer, (NAME), on (DATE) was conducted in response to your written request, following the issue of a prohibition order under the *Food Act 2008* on (DATE).

In accordance with Section 67 of the *Food Act 2008*, a Certificate of Clearance will not be issued in relation to the abovementioned prohibition order as the assessment revealed that <insert information> is/are a serious danger to public health and the prohibition order and improvement notices have not been complied with.

As such, the prohibition order remains in place and shall be complied with until a Certificate of Clearance is issued.

Failure to comply with a prohibition order incurs a maximum penalty of \$50,000 for an individual and \$250,000 for a body corporate.

You may apply to the State Administrative Tribunal for a review of a decision of the City to refuse to give a certificate of clearance within 28 days after the day on which notification of the decision was received.

Please contact me on (PHONE NO.) should you have any queries.

Yours faithfully

{Click on here and type Name }

TEAM LEADER ENVIRONMENTAL HEALTH/MANAGER COMMUNITY WELLBEING

APPENDIX 8

 CITY OF BUNBURY SEIZURE NOTICE <i>Food Act 2008 Section 50</i>		Notice No.
Alleged Offender	Family name or body corporate name and ACN:	
	Other names:	
	Address:	No. Street Name:
		Postcode:
Seizure notice	Seizure Notice No:	
	Date of issue:	
Alleged offence [*delete whichever is not applicable]	Description of offence:	
	*Food Act 2008 Section _____ *Food Regulations 2009 Regulation _____	
Description of items seized		
Location where seized items are being held		
Designated officer issuing notice	Name:	
	Title:	
	City of Bunbury	
	Signature:	
	Date of notice:	
Right of appeal	In accordance with Section 57 of the <i>Food Act 2008</i> , a person claiming to be entitled to any item seized under the Act may, <u>within ten (10) days after the date on which the seizure took place</u> , lodge an application with the court for an order disallowing the seizure. The application to the court cannot be heard unless the applicant has served a copy of the application on the City of Bunbury.	

Officer Comments

Officers have reviewed the current policy and suggested changes to be in line with the WALGA Street trees guidance report and City of Melville’s Tree Policy as recommended in the WALGA document.

A copy of the revised policy with tracked changes is attached at appendix 8.5-A

Analysis of Financial and Budget Implications

Nil

Community Consultation

Nil

Councillor/Officer Consultation

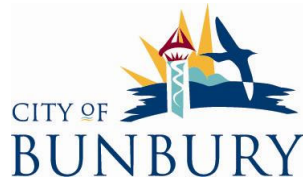
This policy is presented to the Policy Review and Development Committee for consideration

Applicant Consultation

Not applicable

Timeline: Council Decision Implementation

Following Council endorsement, any revisions will become effective immediately.



TREE MANAGEMENT COUNCIL POLICY

POLICY STATEMENT

This [Policy provides guidance and direction in the management of all Council owned trees.](#)

POLICY SCOPE

[This policy sets out the processes and conditions by which Council owned trees are managed in the City of Bunbury. This policy applies to all trees located on land vested in the City of Bunbury, and all trees on land managed by the City of Bunbury.](#) ~~This Policy will:~~

- ~~• provide guidance in relation to the management of the City's tree assets;~~
- ~~• increase and retain the City's tree canopy cover;~~
- ~~• protect and increase the long term viability of City trees on verges, reserves, public open spaces, and including those adjacent to development sites;~~
- ~~• provide safe amenity to pedestrians, road traffic and property;~~
- ~~• improve the cooling of the City in summer and help reduce the Urban heat Island Effect;~~
- ~~• enhance the amenity of trees and reserves through the planting of new trees; and~~
- ~~• define the circumstances under which the City's trees may be removed or pruned.~~

POLICY DETAILS

[The City is responsible for managing and removing all Council owned trees.](#)

[The City recognises and values the significance of trees within the urban setting for the many social, environmental, cultural, aesthetic, and economic benefits they provide. Trees contribute to the wellbeing of the community and to the natural environment. The City is committed to protecting, maintaining, and enhancing its tree population, in line with the objectives and actions in the City of Bunbury Greening Plan.](#)

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~~1. Council may consider the removal of trees for the following reasons:~~

- ~~• The tree is dead;~~
- ~~• The tree is dying from disease that cannot be successfully treated unless it is defined that they must remain in the landscape for habitat provision or other purposes;~~
- ~~• The tree is structurally weak or dangerous and places public at unacceptable risk;~~
- ~~• The tree affects sight distance as per Austroads Guide to Road Design: Part4A;~~
- ~~• The tree interferes with essential services i.e. Western Power, AlintaGas, Aqwest, Water Corporation, MainRoads;~~
- ~~• The tree is causing or likely to cause significant damage to property or infrastructure i.e. road surfaces, walls, fences, buildings, footpaths, kerbing and drainage.~~
- ~~• Where development approval has been granted. The applicant will be required to pay removal costs and the amenity value of the tree, calculated in accordance with the City's Amenity Formula, and reinstatement costs of replacement tree prior to removal.~~

~~Note: In the case of clauses 1.3, 1.4, 1.5 and 1.6 removal will only be considered after alternatives have been identified and evaluated by an appropriately trained City officer or qualified arborist e.g. root barriers, redesign of structure, crown pruning, root pruning, tree relocation.~~

~~2. Requests for the removal of trees will not be considered for the following circumstances:~~

- ~~• When the removal is requested to improve or create views;~~
- ~~• Where a tree is considered to have some significant value i.e. an historic tree, conservation value and is habitat for native and threatened species; a rare species or form of species;~~
- ~~• Where proposed development can be altered to avoid conflict with existing trees;~~

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- ~~Due to the creation of natural litter e.g. leaves, twigs, flowers, sap, fruit;~~
 - ~~Due to unwanted shading of lawns, gardens or infrastructure;~~
 - ~~Due to unjustified property damage claims;~~
 - ~~Due to causing minor allergenic or irritant responses.~~
3. ~~Requests for tree removal from the public will only be considered when a request has been submitted and in accordance with the Council Policy Tree Management~~

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PROCEDURE

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1. Tree Maintenance Requests, Tree Pruning and Tree Removal

1.1 General

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All tree works are to be undertaken by qualified City of Bunbury staff members or by contracted arborists appointed by the City. All works are to comply with AS4373 (2007) – Pruning of Amenity Trees.

Annually, the City's contracted arborists undertake a ground up visual inspection on each Council owned street tree. Reserve trees are inspected on an individual basis when a hazard has been reported by a resident or staff member.

Pruning of trees located beneath overhead power lines is undertaken to comply with Western Power exclusions zones around the aerial lines. The City often undertakes this pruning; however Western Power has authority to prune Council owned trees without consulting the City.

Residents are not permitted to prune or remove a Council owned tree, under Section 5 and Part 8 of the City of Bunbury Public Property Local Law and the Local Government Act, 1995. The City can issue infringement notices and/or prosecute residents found in breach of this law and/or regulation. Residents who breach this law and/or regulation, may be responsible for the replacement and establishment costs of a reinstatement tree.

1.2 Tree Maintenance Requests - General

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A tree maintenance application for Council owned trees can be submitted by residents. The City will respond to all requests for tree maintenance. The following points will not be considered as justifiable reasons to prune or remove a City owned tree.

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Tree removal or pruning will **not be considered** when:

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- The tree obstructs views partially or entirely.
- Proposed verge developments such as non-essential crossovers or new hardstand areas can be designed to avoid conflict with existing trees.

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- [The tree produces natural litter e.g. leaves, twigs, flowers, sap, fruit.](#)
- [The tree overshadows private gardens or infrastructure.](#)
- [Damage to property claims based on Council owned tree are unjustified.](#)
- [The tree is perceived to aggravate minor allergenic or irritant responses.](#)
- [The tree is disliked and is considered inappropriate for the site by residents.](#)
- [There is a perceived risk of damage to property or person, including perceived fire risk by the resident.](#)
- [The tree is overhanging a property boundary.](#)

[Pruning or removal will not be considered where a Council owned tree has value as determined by Council staff. Values include:](#)

- [Conservation value.](#)
- [Habitat provision for native and threatened species.](#)
- [Cultural value and significance.](#)
- [Is a rare species or form of species.](#)

[1.3 Tree Pruning](#)

[Pruning is generally undertaken by the City to remove structural hazards or to extend the useful life expectancy of a Council owned tree.](#)

[A tree pruning request for a Council owned tree can be submitted by residents. The City will consider pruning of Council owned trees, after an assessment by a contracted arborist or qualified staff member. Pruning can take place to:](#)

- [Reduce the proven risk of harm to persons or property.](#)
- [Ensure safe and clear traffic and pedestrian access on footpaths, roads, and crossovers.](#)
- [Manage the health and well-being of the tree if the tree is dead or in irreversible decline.](#)
- [Manage the form of the tree.](#)
- [Mitigate contact between trees and built infrastructure.](#)
- [Maintain views from public lookouts.](#)
- [Protect public art and signage.](#)

[1.4 Tree Removal](#)

[A tree removal request application can be submitted by residents. The City will consider the application after an assessment by a contracted arborist or qualified staff member. Each tree removed by the City will be replaced by a minimum of one tree at the subsequent planting season, at the City's discretion. See section 2.2 below.](#)

[Council will consider the removal of Council owned trees if the tree is:](#)

- [Dead or in irreversible decline.](#)
- [Significantly damaged and beyond remediation.](#)

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- Inappropriate for the site considering section 2.3.
- An unauthorised planting.
- Dying from disease that cannot be successfully treated unless deemed it must remain in the landscape for habitat provision or other purposes, if safe.
- The tree is structurally weak or dangerous and places public at unacceptable risk.
- Impacting sight distance as per Austroads Guide to Road Design: Part4A.
- Interferes with essential services i.e. Western Power, AlintaGas, Aqwest, Water Corporation, MainRoads.
- Determined to be structurally unsound by a contracted arborist or a qualified member of staff.
- Not in keeping with streetscape aesthetics as determined by the City.
- Causing or likely to cause significant damage to property or infrastructure i.e. road surfaces, walls, fences, buildings, footpaths, kerbing and drainage, as determined by the City.
- Damaged by any development, or where retention or relocation is not a viable option. See section 4.
- Where development approval has been granted. The applicant will be required to pay for removal costs, the loss of amenity value resulting from the trees removal, and or the reinstatement costs, prior to removal. See section 4.

Planting, pruning and removal of City trees is the responsibility of the City of Bunbury, the City bares this responsibility for various reasons. Trees are an important social (environmental and aesthetic) utility.

The City spends considerable funds on its annual maintenance program and utilises qualified arborists. The City has a duty to exercise reasonable care in the management of vegetation for which it is responsible, including verge trees, to avoid creating a hazard or allowing one to manifest.

The City does not support residents pruning trees due to risk of injury to oneself and other residents, but also injury and spread of diseases to the tree and poor practice that could lead to weakening of the tree.

The City has 16,477 rateable/non rateable land assessments and 14,575 street tree assets captured (Feb 2016). Residents are not permitted to plant, prune or remove City trees.

The City of Bunbury actively manages its tree assets to ensure the City's residents receive all the economic, environmental, and social and health benefits that trees afford our community. These include:

- Reducing air pollution and airborne particulates
- Storing and sequestering of carbon from the atmosphere
- Reducing heat from built environment
- Creating microclimates that reduce the effects of summer heat, reflection and glare, ultra-violet radiation, wind and evaporation.

- Helping to control erosion, dust, atmospheric pollution, smoke from fires, noise, and fire risks.
- Reducing energy costs due to shading in summer decreasing the need for air conditioning
- Providing habitat for native fauna
- Providing a sense of place and creation of local identity and character
- Increasing property values
- Architectural abilities for delineating space, screening, linking and providing privacy.
- Potential to contribute towards traffic calming
- Aesthetic qualities in terms of form, texture, colour, seasonal change, movement, sound and perfume.
- Heritage value, through recognition of historic, cultural and local significance
- Defining areas

2 Tree Planting

2.

2.1 Winter Street Tree Programme

The City will undertake is responsible for the planting of trees on land vested in the City and City-owned land under its annual tree planting program. This program includes new tree planting in areas such as parks, road verges, medians, roundabouts, reserves and natural areas on Council owned land. Residents are also able to order a verge tree for planting in front of their property. The City will determine the species and select the location of the tree in consideration of site conditions, infrastructure, utility services, sight lines and other constraints. Generally, one tree will be planted per verge, while properties with large verges with adequate room could receive more than one tree. Property owners will be given the opportunity to discuss can provide input on the species selection and positioning of the tree on the verge. The City will undertake all activities required to establish new trees and provide ongoing maintenance.

The City is responsible for the post planting watering of all newly planted street trees as per watering schedules, until they are deemed by the city to be established. Residents/owners are encouraged to water street trees to assist in the establishment of the street tree.

2.2 New Trees – Where a new tree is proposed for a verge that is not a replacement tree, the City will plant the tree unless requested otherwise by the adjacent property owner. Generally, one tree will be planted per verge abutting private property, while properties with larger or corner frontages may receive more.

Replacement Trees

Where a tree has been removed from residential verges under this policy, –The City will endeavour to plant a new tree for each tree that has been removed from residential verges under this policy replacement tree on the same verge. Where it is not possible to plant a replacement tree on the same verge, the City will plant the new tree in a suitable location as near as possible to the original location.

2.3 Tree planting considerations

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When planting a tree, the City will allocate tree species in consideration of:

- Mature size and form.
- Suitability to the site.
- Existing street tree pattern and structure.
- Range of tolerances and
- Contribution to species diversity.

The City will determine the location of the new tree through consideration of:

- Existing street tree alignment.
- Potential impact on road and pedestrian safety.
- The presence of below and above ground infrastructure.
- Agreed outcomes between the property owner and the City through engagement.

3. Unauthorised Tree Planting

Trees are not permitted to be privately planted on the verge without prior written approval from the City. Where an unauthorised tree planting is identified, the City will determine whether the planting will be retained or removed. Where an unauthorised planting will not be retained, the resident will be given the opportunity to relocate the tree onto their own property prior to removal.

To access removal or retention of unauthorised tree planting, Council will consider if the planting is:

- An appropriate species for location.
- Aligned in relation to other street trees.
- Self – germinated or planted.

4. Trees and Developments

4.1 Tree protection for Building and Development Applications

All developments are to use the Australian Standard 4970-2009 – Protection of trees on development sites as a guide where there is a requirement to protect adjoining verge trees.

4.2 Tree Protection Zone (TPZ) Requirements at Development Sites

For all demolition and construction works the applicant is responsible for the protection of all City owned trees adjacent to the development property by:

- Installing a fence to create a TPZ at the cost of the applicant.
- Fencing must be in line with the Australian Standard 4970 for Protection of Trees on Development Sites.

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- The size of the TPZ will be determined using the tree tec formula [http://www.treetec.net.au/TPZ SRZ DBH calculator.php](http://www.treetec.net.au/TPZ_SRZ_DBH_calculator.php).
- At minimum, the TPZ will cover two metres by two metres around the tree trunk- any lesser exceptions will be subject to approval by the City.
- The TPZ should not obstruct roads or footpaths unless approved alternatives are in place.

4.3 Tree Assessment Process for Building and Development Applications

All City owned trees adjoining proposed development sites will be formally assessed and documented prior to planning approval.

The assessment will note:

- The amenity value of each tree as calculated using the City's Amenity valuation method formula:
Tree value = basic value x tree size x aesthetics x species x special species x form x condition x habitat x significance.
- The existing condition and health of the tree for comparison before and after the development process.
- Any advice notes or conditions included as part of the development approval.

4.4 Tree Removals for Developments

The City will not consider removal of a healthy managed Council owned tree for development except when:

- There is insufficient space to accommodate a compliant crossover.
- The proximity of the works will significantly compromise the tree's amenity, form or longevity as determined by the City.

If the applicant does not agree with any tree assessment and recommendations, with clear and justifiable reason, then section 1.3 of this policy can be applied.

Permission for the removal of a City tree may be granted by the City staff, under this Policy. If a tree removal is approved, the amenity value of the tree using the above calculation, removal costs and reinstatement costs will be paid by the applicant, prior to removal. All tree removals are to be undertaken by the City's appointed contracted arborist.

The applicant will pay the invoice for the tree removal which includes:

- Tree removal.
- Stump grinding to 30mm below ground level.
- Traffic management cost as required.
- Costs for loss in amenity value: calculated in accordance with the City's amenity valuation method formula; and or
- Reinstatement Greening Costs: calculated in accordance with the greening required to replace the loss incurred by removal as determined by Council, taking into consideration the location, significance, and the amenity of the tree. This will specify the number of replacement trees to mitigate the loss of removals.

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- [Establishment of replacement trees \(2 years\).](#)

[Upon receipt of this payment the City will arrange:](#)

- [Tree removal and stump grinding within approximately 10 weeks.](#)
- [Tree replacement timing and amount to be arranged.](#)

[4.5 Intentional Damage to a Council owned tree](#)

[Under Section 5 and Part 8 of the City of Bunbury Public Property Local Law and the Local Government Act, it is prohibited for developers to damage Council owned trees.](#)

[The City of Bunbury can issue infringement notices or prosecute applicants found in breach of this law and/or regulation. Applicants who breach this law and/or regulation may also be responsible for the planting and establishment costs of a suitable replacement tree.](#)

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Tree planting bolsters ecological linkages in the urban forest. Landscape and Open Space (LOS) undertakes tree planting in winter, subject to funding. Property owners may request that a tree be planted on the verge. The species provided is as selected by the City and in most cases this is determined by the predominant suitable tree species in the existing streetscape.

Any request will be assessed by the City and crossovers, intersections, powerlines, environmental factors and existing street trees are all considered as part of the assessment. The applicant is responsible for watering the tree during its establishment period.

The below table outlines the clearance required between trees and infrastructure:

Planting Locations

Prior to planting, the City may liaise with service providers to ensure below ground assets are not compromised.

Infrastructure	Clearance Required – Metres
Street intersection	10
Traffic signals (from pole)	10
Crossovers	3
Power pole	3
Underground services pits	2 from edge
Storm water inlet	2 from edge
Bus stop	10 – subject to site conditions
Signs – Stop, Give Way & Speed	5 if in front or 2 if behind the sign
Signs – Other	2
Roadside kerbline	1.5

The below table outlines preferred tree spacing and heights in verges

Tree Spacing in Verges

Verge Width Type	Verge Width Metres	Approximate Tree Height Metres	Approximate Tree Spacing Metres
Very Narrow	Up to 2	Small Trees to 5	3-5
Narrow	2-3	Small Trees to 9	5-7
Medium	4-6	Medium Trees to 15	7-10
Wide	7-10	Tall Trees to 22	10-13
Very Wide	Over 10	Very Tall Trees Over 22	13-17

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1.5 Street Tree Watering

Street trees installed by the City will receive an initial watering at time of planting and the City encourages property owners to water the street tree during its establishment period

The City is responsible for the post-planting watering of all newly planted street trees as per watering schedules, until they are deemed by the city to be established. Residents/owners are encouraged to water street trees to assist in the establishment of the street tree.

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2. Unauthorised Tree Planting

Trees planted without the City's approval are considered unauthorised plantings and will be considered as one of the following:

- A tree planted of an inappropriate species for location.
- A tree planted out of desired alignment.
- A tree of an undesirable species.
- A tree that has self-germinated.

Where an unauthorised tree planting is identified, the City will determine whether the planting will be retained or removed dependent on its suitability for the location. Where an unauthorised planting will not be retained, the resident will be given the opportunity to relocate the tree onto their own property prior to removal.

Trees are not to be privately planted on the verge without prior written approval from the City.

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3. Pruning of Trees

Pruning is generally only undertaken by the City to remove structural hazards or to extend a trees useful life expectancy.

Pruning of trees unaffected by powerlines does not normally occur, however pruning may be undertaken in the interests of:

- Public safety;
- Traffic and pedestrian access;
- Removing growth abnormality or disease;
- Maintaining views from public lookouts;
- Protecting public art and signage; and
- Managing the health and well-being of the tree.

The City's qualified arboricultural contractors undertake an annual ground up visual inspection on each street tree in the City. For trees other than street trees, where a hazard has been reported, a visual ground up inspection will be undertaken by arboricultural contractors or an appropriately trained Officer of the City.

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Pruning of trees located near aerial power lines is necessary to prevent trees from growing into the Western Power exclusions zones around the aerial lines. The City undertakes these works to comply with Western Power statutory requirements, although, Western Power has authority to prune without consulting the City.

Any tree works are to comply with AS4373 (2007) — Pruning of Amenity Trees and should be undertaken by suitably qualified/trained City of Bunbury staff members or by suitably qualified/trained arborists as appointed by the City.

The following reasons will not warrant consideration for pruning:

- Too tall or wide;
- Ugly;
- Perceived fire risk;
- Due to leaf litter, bark, twigs, flowers, sap, fruit;
- Tree shades lawns, gardens, houses, pools, solar panels etc.;
- Overhanging property boundary;
- A perceived and unwarranted danger that the tree or a limb may fail;
- Unsubstantiated damage to infrastructure;
- Perceived risk of damage to property;
- To enhance or clear views, inclusive of advertising signage;
- The tree attracts birdlife or other fauna;
- The tree causes allergies or health problems;
- The tree is dropping litter on footpath;
- The tree shape and structure is not liked;
- For the installation of non essential crossovers or verge paving.

Residents are not permitted to prune city trees

Section 5.2(h) of the *City of Bunbury Local Government and Public Property Local Law* states: "a person must not, without a permit — (h) fell any tree on or across any public place...".

Section 5(1)(a) of the *Local Government (Uniform Local Provisions) Regulations 1996* states: "a person must not, without lawful authority — interfere with the soil of, or anything on, land that is local government property".

Part 8.8 of the *City of Bunbury Local Government and Public Property Local Law* states: "A person shall not on, in or from any local government property, without having first obtained a written approval from the local government to do so — (m) — cut, break, injure, deface, pull up, pick, remove, or destroy any tree, shrub, flower, grass or plant of any kind...".

The City of Bunbury can issue infringement notices or prosecute people found in breach of this law and/or regulation. Parties who breach the regulation and/or this Local Law may also be responsible for the amenity value, replacement and establishment costs of a suitable replacement tree.

4. Significant Trees Register

The City maintains a Significant Tree Register as part of the City of Bunbury Municipal Inventory 2001.

5. Tree Removals

Trees are assessed by suitably qualified City staff, where possible, using the Quantified Tree Risk Assessment method—an internationally accepted approach to tree assessment. QTRA measures the probability of failure against the likelihood of harm based on the Tolerability of Risk framework (HSE 2001).

Council may consider the removal of trees for the following reasons:

- a) The tree is dead;
- b) The tree is dying from disease that cannot be successfully treated unless it is defined that they must remain in the landscape for habitat provision, conservation value or other purposes;
- c) The tree is structurally weak or dangerous and places public at unacceptable risk;
- d) The tree affects sight distance as per Austroads Guide to Road Design: Part 4A;
- e) The tree interferes with essential services i.e. Western Power, AlintaGas, Aqwest, Water Corporation, Main Roads;
- f) The tree is causing or likely to cause significant structural damage to property or infrastructure i.e. road surfaces, walls, fences, buildings, footpaths, kerbing and drainage.
- g) Where development approval has been granted. The applicant is required to pay removal costs, amenity value calculated in accordance with the City's Amenity Formula and reinstatement costs prior to removal.

Note: In the case of clauses d, e, f and g removal will only be considered after alternatives have been identified and evaluated e.g. root barriers, redesign of structure, crown pruning, root pruning, tree relocation.

Trees will not be considered for removal under the following circumstances:

- h) When the removal is requested to improve or create views;
- i) Where a tree is considered to have some significant value i.e. an historic tree, conservation value, a rare species or form of species, and its removal will detract from the aesthetics of the area;
- j) Where proposed development can be altered to avoid conflict with existing trees;
- k) Due to the creation of natural litter e.g. leaves, twigs, flowers, sap, fruit;
- l) Due to unwanted shading of lawns, gardens or infrastructure;
- m) Due to unjustified property damage claims;

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n) Due to causing minor allergenic or irritant responses.

6.1 General tree removal procedure:

The following process will be followed after a tree removal request is submitted:

- 3.1. Acknowledgement sent to the applicant informing receipt of application;
- 3.2. Initial inspection by a qualified City of Bunbury officer or person appointed by the City of Bunbury to undertake the inspection;
- 3.3. Where a tree is removed under the Tree Management Policy a replacement tree shall, wherever possible, be provided in its place or nearby. The replacement tree species is that provided by the City and specified as an appropriate species for the location.

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6. Tree Removal for Development

Where a City tree prevents the impending development of an abutting property, and all possible design solutions have been deemed exhausted by an authorised planning officer, a request for assessment will be forwarded to a LOS Officer. Permission for the removal of a City tree may be granted by the LOS officer under this Policy. If approved, the associated cost of the tree (as calculated using the City's Amenity valuation method) is to be paid to the local government or representative prior to removal by the City's authorised arboricultural contractor.

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Process:

- i. Initial planning application assessed by a planning officer;
- ii. Where the development cannot be altered to accommodate the tree, planning submits an assessment request to LOS officer and the tree is valued.
- iii. LOS Officer advises planning of the valuation and planning process the transaction. LOS notified once payment is received and action removal.

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The costs associated with the removal of a tree include:

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- a) Removal costs: amounting to the fees incurred by the City for assessing and removing the tree;
- b) Amenity value: calculated in accordance with the City's amenity formula; and or
- c) Reinstatement Greening Costs: calculated in accordance with the greening required to replace the loss incurred by removal as determined by Council, taking into consideration the location, significance and the amenity of the tree.

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The VALUATION of a tree is calculated using the City of Bunbury tree valuation formula:

Tree Value= Basic Value x Tree Size x Aesthetics X Locality x Species x Special Species X Form X Condition X Habitat X Significance.

7. — Development

Trees can be killed or damaged by a wide range of construction activities and need to be protected at development sites. All developments, where trees may be affected will need to comply with Australian Standard 4970 2009 — Protection of trees on development sites. Developments will include a suitable advice note and/or condition of approval and bonds may be held.

Tree Protection Zone (TPZ) Requirements at Development Sites

For all demolition and construction works the developer/owner is responsible for the protection of all City trees on City managed land adjacent to the property by adhering to the following:

- A fence must be installed to create a TPZ at the cost of the applicant.
- The type of fencing must be in line with the Australian Standard 4970 for Protection of Trees on Development Sites.
- The size of the TPZ will be determined by the use of the tree tec formula http://www.treetec.net.au/TPZ_SRZ_DBH_calculator.php.
- At minimum, the TPZ will cover two metres by two metres around the tree trunk — any lesser exceptions must first be approved by the City of Bunbury.
- The TPZ should not obstruct roads or footpaths unless approved alternatives are in place

8. — Intentional Damage

Section 5(1)(a) of the *Local Government (Uniform Local Provisions) Regulations 1996* states: “a person must not, without lawful authority — interfere with the soil of, or anything on, land that is local government property”.

Part 8.8 of the *City of Bunbury Local Government and Public Property Local Law* states: “A person shall not on, in or from any local government property, without having first obtained a written approval from the local government to do so —
(m) cut, break, injure, deface, pull up, pick, remove, or destroy any tree, shrub, flower, grass or plant of any kind..”.

The City of Bunbury can issue infringement notices or prosecute people found in breach of this law and/or regulation. Parties who breach the regulation and/or this Local Law may also be responsible for the amenity value, replacement and establishment costs of a suitable replacement tree.

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9. Native Vegetation

Under the *Environmental Protection Act 1986*, which is administered by the Department of Water and Environmental Regulation, a permit may be required to remove or prune native vegetation.

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COMPLIANCE REQUIREMENTS

LEGISLATION

- Local Government Act 1995
- Environmental Protection Act 1986
- Aboriginal Heritage Act 1972

INDUSTRY

- Australian Standards – AS 4373-2007 Pruning of Amenity Trees, AS 4970-2009 Protection of Trees on Development Sites
- Austroads Guide to Road Design: Part4A
- Quantified Tree Risk Assessment Practice Note V5.2.3 (Au) 2017

ORGANISATIONAL

- [City of Bunbury Significant Tree Register](#) (In Development)
- City of Bunbury Local Planning Policies
- [City of Bunbury Local Government and Public Property Local Law](#)
- [City of Bunbury Greening Plan](#)
- [City of Bunbury Sustainability Strategy](#)
-

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Document Control					
Document Responsibilities:					
Owner:	Director Infrastructure	Owner Business Unit:	Landscape and Open Space Parks and Reserves		
Reviewer:	Manager Landscape and Open Space Infrastructure Maintenance Services	Decision Maker:	Council		
Document Management:					
Adoption Details	Res 386/0421 December 2014 –	Review Frequency:	biennial	Next Due:	2022
Review Version	Decision Reference:	Synopsis:			
DOC/455753[v3]	Council Decision 123/20 23 June 2020	Policy revised with minor amendments			
DOC/455753[v2]	Council Decision 049/20 17 March 2020	Consolidate policies and corporate guidelines in accordance with revised Policy Framework.			
CP-011265 v2	Res 135/181 May 2018 –	Reviewed with changes			
CP-011265 v1	Res 59/168 March 2016 –	Reviewed with changes			
	Res 80/1517 March 2015 –	Reviewed with changes			
	Res 121/1029 June 2010 –				
	July 2007				
	22 February 2005				
Date Printed	19/08/2024 22/07/2024 28/05/2024 27/05/2024				

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8.6 Review of Council Policy: Bunbury Museum, Heritage Centre, and Local Studies Policy

Fine No.	COB/306
Applicant:	Internal
Responsible Officer:	Georgia-Mae O’Brien, A/Manager Community Connection
Responsible Manager:	Georgia-Mae O’Brien, A/Manager Community Connection
Executive:	Karin Strachan, Director Corporate and Community
Authority/Discretion	<input type="checkbox"/> Advocacy <input type="checkbox"/> Quasi-Judicial <input checked="" type="checkbox"/> Executive/Strategic <input type="checkbox"/> Information Purposes <input type="checkbox"/> Legislative
Attachments:	Appendix 8.6-A: Bunbury Museum, Heritage Centre, and Local Studies Policy

Summary

This report is presented to the Policy Review and Development Committee (PRDC) to facilitate a review of current Council Policy: Bunbury Museum, Heritage Centre, and Local Studies Policy.

Executive Recommendation

That the Policy Review and Development Committee recommend Council note the review of existing Council Policy: Bunbury Museum, Heritage Centre, and Local Studies Policy, with no changes recommended.

Voting Requirement: Simple Majority

Strategic Relevance

Pillar: Performance
 Aspiration: Leading with purpose and robust governance
 Outcome 13: A leading local government
 Objective 13.1: Provide strong and accountable leadership and governance.

Regional Impact Statement

N/A

Background

This policy was last reviewed by Council in September 2021 and is presented to the Policy Review and Development Committee for discussion and review as part of Council’s policy review schedule.

Council Policy Compliance

This report facilitates the review of an existing Council Policy.

Legislative Compliance

N/A

Officer Comments

Officers have reviewed the Policy and suggest that the content is appropriate and does not require amendment.

A copy of the current policy is attached at appendix 8.6-A.

Analysis of Financial and Budget Implications

Nil

Community Consultation

Not applicable.

Councillor/Officer Consultation

This matter is presented to the Policy Review and Development Committee for consideration.

Applicant Consultation

Not applicable.

Timeline: Council Decision Implementation

Any revisions to the policy will take effect immediately following Council's determination.



BUNBURY MUSEUM AND HERITAGE CENTRE AND LOCAL STUDIES COLLECTIONS COUNCIL POLICY

POLICY STATEMENT

This policy guides the development and management of the Bunbury Museum and Heritage Centre and Local Studies collections, including acquisition, deaccession, conservation and loans.

POLICY SCOPE

This policy applies to City of Bunbury employees.

POLICY DETAILS

The Bunbury Museum and Heritage Centre and Local Studies collections are owned and managed by the City of Bunbury, through the Bunbury Museum and Heritage Centre, on behalf of the people of the City of Bunbury.

The Bunbury Museum and Heritage Centre will apply professional museum standards of best practice to develop and manage the collections, as guided by the *National Standards for Australian Museums and Galleries* (Version 1.5, September 2016) and *Spectrum 5.0 Collection Management Standards* (2017).

Acquisitions will be made by purchase, commission, donation, gift, bequest, or transfer. Any deaccession recommendations will be made by the Curator Bunbury Museum and Heritage Centre with approval of the Manager Community Facilities and presented as a report to Council for consideration and endorsement.

Objects will be identified for potential acquisition by the Curator Bunbury Museum and Heritage Centre.

Items identified for potential acquisition fall into two categories:

- Category 1: Minor items with a value up to \$1,000; and
- Category 2: Substantial items with a value of \$1,000 or more.

Category 1 items will be assessed under the criteria detailed within the Policy for relevance to the collections and can be acquired by the Curator Bunbury Museum and Heritage Centre within the adopted budget.

If a category 2 item has been identified as a potential acquisition under the criteria detailed within the Policy, an acquisition proposal form will be completed as soon as possible detailing the rationale for inclusion against the selection criteria within the adopted budget for consideration.

Acquisition of objects for the collections will be enabled through an annual acquisition budget allocation by the City of Bunbury and, where possible, by corporate, private and public sources.

POLICY PROCEDURE

1. The Collections

1.1 Mission

The Bunbury Museum and Heritage Centre seeks to inspire, entertain, and educate visitors and the local community about the social history and cultural heritage of the Bunbury region on Wardandi Noongar Boodja.

The Museum is committed to developing, managing and enriching its unique collections as an accessible and lifelong educational and research resource, for community participation through exhibitions and public programs, to encourage a local sense of belonging and place, and to engage and provoke visitors and residents to consider how aspects of the past relate to their present and future.

1.2 The Collections

The Bunbury Museum and Heritage Centre collection was established in 2013. The collection initially focussed on objects and documents that supported the first planned permanent exhibitions of the museum, which opened in 2016. The museum collection encompasses 'primary' and 'secondary' (or handling) sub-collections, which are comprised of objects and artefacts.

The Local Studies collection was established as a response to the interest in Australia's history at the time of Bicentenary celebrations in 1988, before Bunbury had a city-focused Museum and Heritage Centre. This collection contains paper-based and digital items including archival records, photographs, Council documents, oral history recordings and transcripts, maps, books and other ephemera.

1.3 Scope

This Policy applies to material owned and managed by the City of Bunbury as part of the Bunbury Museum and Heritage Centre Collection and the City of Bunbury Local Studies Collection.

This Policy does not apply to items held in the other City of Bunbury collections such as the City of Bunbury Art Collection and the City of Bunbury Sister Cities Collections.

2. Policy Guidelines

2.1 Acquisition and Collection Development

2.1.1 Acquisition Criteria

A wide variety of material relevant to the key collection themes below, demonstrating change over time, will be collected in order to tell the stories of Bunbury up to the present day. Exploration of these themes may cross current local government boundaries.

Key Collection Themes

The Bunbury Museum and Heritage Centre has developed a primary collection based on the following three (3) key themes, each with sub themes:

Land and Environment

- Environmental context and change;

- Indigenous communities; and
- Explorers, early settlers and land use.

Developing Bunbury

- Agriculture and rural history;
- Growth of Bunbury;
- Local business and industry including the Port, maritime and shipwrecks;
- Secondary industries including, tourism, communications; and
- Governance and Authority.

Community

Domestic life including

- Arts and Culture;
- Schools, education and religion;
- Health and Hospitals;
- Recreation, Sport and Holidays;
- Family Life;
- Retail and Shopping;
- War service;
- Migration;
- Contemporary events and subjects; and
- Significant people, business or social groups.

Additional themes may be developed and prioritised as specific gaps are identified and active collecting strategies will be reviewed regularly.

The Bunbury Museum and Heritage Centre will not seek to collect items that:

- Are well represented in other public collections;
- require storage, display or conservation beyond the City's capacity;
- are duplicates of items already in the collection unless these are suitable for:
 - the 'secondary' or handling collection
 - for spare parts; or
 - are of superior condition and/or historical value and therefore replace the original item.

2.2 Acquisition Guidelines

All collection acquisitions will be subject to a process of due diligence to ensure that material acquired for the collection:

- is consistent with one or more of the key collection themes;
- has clear legal title (proof of ownership and provenance) to enable full transfer of title to the Bunbury Museum and Heritage Centre;
- is able to be appropriately stored and cared for by the City of Bunbury and is available for research and display;
- is in good condition, or is able to be conserved and stabilised;
- is unlikely, in the future, to result in major expense (for conservation, storage, display and security) unless such likelihood is identified and considered in the approval process;

- is unlikely to cause occupational safety and health problems in the course of handling, storage, display and accessibility; and
- complies with the *ICOM Code of Ethics for Museums* (2004) .

Acquisitions will also be assessed according to the following criteria laid out in *Significance 2.0* (2009) before being accepted into the collections;

- Significance;
- Provenance and documentation;
- Rarity or representativeness;
- Condition, and;
- Interpretive capacity.

The Bunbury Museum and Heritage Centre also maintains a ‘secondary’ or handling collection, which contains materials of low significance that still link to the key themes of the collection policy. The items in this collection may be used as educational resources, and for research, outreach, or repair purposes.

The City of Bunbury and Bunbury Museum and Heritage Centre will be mindful of religious and/or cultural sanctions attached to objects and will not acquire or exhibit an object in breach of the *Aboriginal Heritage Act 2006*.

In accordance with *First Peoples A Roadmap for Enhancing Indigenous Engagement in Museums and Galleries* (2018), the City will commit to engaging meaningfully with the appropriate individuals, groups and organisations with regards to Aboriginal cultural material.

All donations will be accompanied by a Deed of Gift, completed and signed by the donor.

All acquisitions will be subject to consistent museum standard registration procedures before they are stored or displayed.

2.3 Acquisition Approval Process and Procedures

Items will be identified for potential acquisition by the Curator Bunbury Museum and Heritage Centre, with advice from other staff of the Museum.

Items identified for potential acquisition fall into two categories:

- Category 1: Minor items with a value up to \$1,000; and
- Category 2: Substantial items with a value of \$1,000 or more.

Category 1 items will be assessed under the criteria detailed in this Policy for relevance to the collections and can be acquired by the Curator Bunbury Museum and Heritage Centre within the adopted budget.

If a Category 2 item has been identified as a potential acquisition under the criteria detailed within the Policy, an acquisition proposal form will be completed as soon as possible detailing the rationale for inclusion against the selection criteria within the adopted budget for consideration.

The proposal form will be forwarded to and discussed with the Department Manager for approval.

2.4 Donations and Bequests

Bequests and donations are encouraged to further enhance the collections but must comply with the acquisition criteria, processes and guidelines detailed in this policy.

All proposed donations and bequests must be examined by the Curator before deciding on acceptance of the item. If physical examination is not possible, photographs accompanied by information on the item may suffice.

The museum will not accept donations with conditions attached such as permanent display, as an entire collection only, or for the donor to recall at will.

Long term loans will not be considered.

2.5 Deductible Gift Recipient (DGR) status from the Australian Tax Office

Bunbury Museum and Heritage Centre will maintain endorsement for Deductible Gift Recipient DGR status with the Australian Tax Office for the Bunbury Museum and Heritage Centre collections to enable donors to obtain a deductible tax incentive.

As a pre-requisite for DGR status the City of Bunbury will establish and maintain a gift fund for any monies or artworks to be accountable and separately identified and be for the sole purpose of the Bunbury Museum and Heritage Centre collections.

Winding up clause: In the unlikely event of the gift fund being wound up, or revoked, any surplus assets of the gift fund remaining after the payment of liabilities attributed to it, shall be transferred to a fund, authority or institution with similar objectives to the Bunbury Museum and Heritage Centre and under the guidance of the Australian Museums and Galleries Association to which income tax deductible gifts can be made.

2.6 De-accessioning and Disposal of Collection Items

De-accessioning should only occur in rare cases, consistent with the role of a public museum collection as a valuable community resource.

A recommendation to deaccession an item must include the item's catalogue information, a statement of justification, proposed method of disposal and, if the item has been lost or stolen the date it was last seen, by whom, and steps taken to locate the item.

Any recommendation to deaccession an item(s) will be presented as a report to Council for consideration and endorsement.

Items may be considered for removal from the collections under the following criteria:

- The item does not meet the acquisition criteria for the collections;
- The item does not have historical merit as determined by appropriate experts;
- The item is in poor condition and is considered to be of insufficient merit to allocate the resources to ensure its conservation;
- The item is irreparably damaged or destroyed, or is missing or stolen without hope of return;
- The item lacks any supporting information to enable proper identification or to establish its relevance to the collection, or is of insignificant historical or archival value;
- The item poses a hazard to other items in the collections;
- The item is a duplicate or forgery that serves no specific cultural function;
- The item proves to be not authentic;
- A substantiated request for the return of the item to its owner/donor is received; and

- In this instance the donor may be required make restitution of any unreasonable financial loss to the collections.

After deaccessioning the following shall be maintained:

- Record of deaccession against the object in the accession register; and
- A record of all previous documentation, including catalogues, cards, correspondence and research, to be placed in a separate deaccession file housed with the accession and registration records.

2.7 Method of Disposal

Disposal of collection materials will only be considered once they have been formally deaccessioned.

The proceeds of items/objects sold should be used for further acquisitions or maintenance of other items/objects as indicated and placed in the reserve.

Items/objects acquired by donation will be offered in the first instance to the donor or the family of the donor if deceased.

Other than above, disposal shall be carried out in line with the disposal of asset legislation under the *Local Government Act 1995* and the City of Bunbury Disposal of Minor Assets Management Policy.

Disposal will be approached in the following order of priority:

- offered to the donor or the family of the donor if deceased;
- offered to another not-for-profit museum or collecting institution;
- sold as per the City's Disposal of Minor Asset Management Policy and the Local Government Act (1995); and
- thrown away.

City of Bunbury Staff and their families, are prohibited from purchasing or otherwise acquiring de-accessioned items due for disposal (other than auction).

3 Collection Management, Care and Conservation

Collection objects will be exhibited, stored, and otherwise maintained in accordance with the *National Standards for Australian Museums and Galleries* (2016) and shall not be stored in situations where conditions are detrimental to the objects or have the potential to be harmful to the public.

The display of items with cultural and/or religious significance will be in accordance with the *Code of Ethics for Art, History and Science Museums* (1999).

Where items are held or displayed outside of Bunbury Museum and Heritage Centre or Local Studies facilities the ambient environment and the works shall be closely monitored.

Only personnel trained in museum materials handling will handle Collections items.

Professional registration procedures and appropriate records of the collection will be maintained, including cataloguing, documentation, continued research and loans management. All items will be documented in a suitable database system.

A conservation management plan will be established using the expertise of an appropriate conservator(s) and maintained to ensure necessary work is completed in a timely manner. The conservation management plan will be regularly reviewed.

Only appropriately trained and accredited conservators will be contracted to advise or work on the collections.

Collection storage facilities will be climate monitored and maintained at appropriate established industry levels of temperature and humidity.

Storage facilities will be inspected at least once every quarter for security, damp, pests, and any other condition that may pose a risk to the collection items.

A Collection Disaster Management Plan will be prepared, and a fully equipped disaster management kit will be maintained in an appropriate location.

4. Loans

4.1 Rights and Responsibilities

Bunbury Museum and Heritage Centre will consider requests for loans in accordance with this Policy and the Department shall have authority to approve requests which comply with the Policy.

The museum requesting the loan will be responsible for all costs associated with the loan, including all packing, transport and insurance requirements during the term of the loan.

When making any decision on requests for loan of items from the collections, the Curator will take into consideration the physical condition of the item and its ability to withstand the rigours of travel. This consideration must also be made in relation to loans which include touring.

4.2 Parameters

Any requests for loans which are outside the guidelines of this Policy will be referred to the CEO.

4.3 Procedure

Consideration for outgoing loans of items will be undertaken in the context of the development of meaningful reciprocal arrangements that are in the best interests of Council.

Requests will be considered and approved by the Department Manager, subject to an Outward Loan Agreement being signed by the applicant.

Appropriate transport, packing and courier services are to be approved by the Curator and will be detailed in the Loan Agreement.

Prior to an agreement being signed, applicants must provide a satisfactory facilities report detailing the conditions under which the loaned item will be handled and exhibited including environmental control (climate), security and display standards.

Applicants must also provide documentation proving adequate insurance cover for the borrowed item for the loan period including when in transit, during exhibition preparation and display period.

Before a loaned object leaves the City a condition report will be completed by a suitably trained staff member. The borrower(s) will also complete a condition report supplied by the Bunbury Museum and Heritage Centre on arrival and unpacking and immediately before packing and return to Bunbury Museum and Heritage Centre. Copies of these reports will be forwarded to the Bunbury Museum and Heritage Centre as soon as possible.

4.4 Inward Loans

As part of the Bunbury Museum and Heritage Centre exhibition program, the City of Bunbury may enter into arrangements with other institutions and/or individuals to borrow items to complement public exhibitions of the Bunbury Museum and Heritage Centre.

All borrowed items will be covered by an extended insurance through the City of Bunbury.

All lenders will be acknowledged in any public display, marketing and promotions.

A formal loan agreement, including the Terms and Conditions of the loan must be completed by both the Lender and the City of Bunbury. This agreement will record the conditions of the loan and the period of the loan.

COMPLIANCE REQUIREMENTS

LEGISLATION

- *Local Government Act 1995*
- *Income Tax Assessment Act 1997 Division 376 – Gifts or Contributions*
- *Aboriginal Heritage Act 2006*
- *Copyright Act 1968*
- *Underwater Cultural Heritage Act 2018*

INDUSTRY

- *Australian Government's Cultural Gifts Program Guide (2019)*
- *ICOM Code of Ethics for Museums (2004)*
- *National Standards for Australian Museums and Galleries (Version 1.5, September 2016)*
- *Continuous Cultures, Ongoing Responsibilities: Principles and guidelines for Australian museums working with Aboriginal and Torres Strait Islander cultural heritage (2005)*
- *First Peoples: A Roadmap for Enhancing Indigenous Engagement in Museums and Galleries (2018)*
- *Spectrum 5.0 Collection Management Standards (2017)*
- *Significance 2.0: a guide to assessing the significance of collections (2009)*

ORGANISATIONAL

Document Control					
Document Responsibilities:					
Owner:	Director Sustainable Communities	Owner Business Unit:	Community Facilities		
Reviewer:	Curator Bunbury Museum and Heritage Centre	Decision Maker:	Council		
Document Management:					
Adoption Details	Res 52/13 15 March 2013	Review Frequency:	biennial	Next Due:	2023
Review Version	Decision Reference:	Synopsis:			
DOC/424295[v3]	Council Decision 205/21 12 October 2021	Reviewed and amended to establish greater clarity and simplification where possible.			
DOC/424295[v2]	Council Decision 049/20 17 March 2020	Consolidate policies and corporate guidelines in accordance with revised Policy framework.			
DOC/424295[v1]	Council Decision 207/19 23 July 2019	Reviewed and amended			
CP-037586	Res 437/16 13 December 2016				
	Res 14/15 20 January 2015				
	Res 174/13 11 June 2013				
Date Printed	19 August 2024				

the broader community of Bunbury is to create a policy that assesses each application against a set of criteria.

The policy is intended to be inclusive of all members of our community, whilst ensuring it is reflective of those members of our community that had a strong connection to the location or site the memorial is requested for.

Notwithstanding the above, it is also recognised that the installation of memorials within public open space must be managed in a way to maintain local amenity, ensure the safety of residents and minimise maintenance requirements.

Council Policy Compliance

This report is presented to Council to consider a new Council policy.

Legislative Compliance

Local Government Act 1995

Officer Comments

The purpose of the Personal Memorials in Public Spaces policy is to provide residents of Bunbury a clear process on how to request personal memorials in public spaces within the City.

When drafting this policy, several other local government's policies were reviewed to determine efficacy of criteria, process, and costs, There is no universal approach to personal memorial policies, with each local government having different criteria, costs, and processes. The key themes show the importance of allowing community members the opportunity to make an application and provide evidence to support the deceased's connection to the proposed site and their community.

The proposed policy allows the CEO to decide on the outcome of applications but allows for community members to request a review by council should they disagree with outcome. The proposed policy also includes that community consultation may be required depending on the requested site/location of the memorial.

Analysis of Financial and Budget Implications

The proposed policy includes an application fee – this is currently undefined, however in line with other local governments, the proposed fee would be \$150. The cost of the memorial will depend on several factors and will need to be assessed on a case-by-case basis.

Community Consultation

Nil

Councillor/Officer Consultation

This matter is prescribed to the Policy Review and Development Committee for consideration.

Applicant Consultation

No applicable.

Timeline: Council Decision Implementation

Immediately following Council decision.



Personal Memorials In Public Place Council Policy

POLICY STATEMENT

The City of Bunbury (the City) acknowledges the use of memorials as a means of assisting people to grieve for loved ones and to honour the past contributions of deceased persons within their local community.

Notwithstanding the above, it is also recognised that the installation of memorials within public open space must be managed in a way to maintain local amenity, ensure the safety of residents and minimise maintenance requirements.

It is the City's position that persons be encouraged to install memorials within designated memorial facilities, such as cemeteries. However, applications for the installation of suitable memorials, plaques, trees and furniture in public parks and reserves within the City may be considered in accordance with the conditions of this Policy.

POLICY SCOPE

This policy is applicable to requests or applications for plaques 'personal memorials' in various formats, to be installed in public open spaces within the City of Bunbury.

This policy does not cover:

- Plaques and memorials on private land
- Roadside memorials
- Public Art
- Signage, display boards, banners – temporary or permanent.
- Naming of places
- Signage associated with Council-developed heritage walks or interpretive projects

POLICY DETAILS

The City of Bunbury provides an opportunity to acknowledge deceased persons that have made a significant social and/or cultural contribution to the City of Bunbury.

Approval must be obtained from the City of Bunbury prior to the installation of any personal memorials. Any existing plaque or memorial cannot be taken as a precedent for future approvals. All applications for memorials will be considered on an individual basis by the City.

No new personal memorials will be considered for persons already memorialised in the City of Bunbury unless there are exceptional circumstances and there is a demonstrated justification and need.

The number of personal memorials within a public open space cannot impact on the primary role of the area or the community's use and enjoyment of the public open space. The City of Bunbury may determine that specific areas are not suitable for the inclusion of additional personal memorials. Such areas will be designated as 'fully allocated'.

Should a proposed site be of substantial community significance, community consultation may be required and will be determined on a case-by-case basis. Applications will be considered within the context of existing asset management plans, potentially allowing applicants to utilise existing assets for the proposed memorial.

A memorial plaque will not be approved where it is for a religious or political affiliation. Approval will not be granted if the City of Bunbury is of the opinion the memorial plaque is considered offensive or has the potential to offend.

The City of Bunbury will not permit the burial or interment of ashes of deceased persons on Council owned or managed land.

i) Eligibility for Personal Memorials

The City will consider on its merits any request for personal memorials to be installed within the City's public open spaces or road reserves. The criteria to be considered shall include: -

- a) A personal memorial shall only commemorate a person who is no longer living and has been deceased for a minimum of twelve (12) months at the date of application.
- b) Personal memorials will not be approved for animals.
- c) The commemorated person must have had a relevant relationship to the proposed site.
- d) Applications for personal memorials shall demonstrate the individual's significant social and or cultural contribution* to the City of Bunbury, and their connection to the proposed site.
- e) All applications made by community members must be supported by a family member of the deceased person and shall include the signature of the spouse, children, or other family representative of the deceased.

**Full eligibility criteria (including examples) are outlined within the application form "Application for Personal Memorial in a Public Space".*

ii) Characteristics of Personal Memorials

- a) Personal memorials shall be functionally and aesthetically appropriate to their purpose and place.
- b) Personal memorials shall provide amenity to the community.
- c) Personal memorials shall be durable items and shall conform to the City's standard specification for that item, if applicable.

iii) Location of Personal Memorials

- a) Applicants may nominate a location for a personal memorial.
- b) Personal memorials will not be installed in Anzac Park.
- c) With the exception of existing trees, applicants may nominate an existing non-commemorative asset as the location for a personal memorial. If the location is approved, and relocation is required, the applicant may be required to pay the costs associated with the relocation of the existing asset and the provision of a new asset at the location.
- d) The City will assess the suitability of a nominated location regarding the purpose of the area, the number and type of existing assets and the impact that the provision of an additional asset will have on the functionality and management of the space.
- e) Where an application is submitted for an area that is designated as 'fully allocated' the City will liaise with the applicant to identify alternative options suitable for the area or alternative locations for the proposed memorial.
- f) The City reserves the right to relocate a personal memorial when the area in which it is placed is to be redeveloped. The relocation of a personal memorial requires the approval of the Chief Executive Officer. The City will attempt to contact the applicant to determine an acceptable alternative location for affected memorials.

iv) Commemorative Plaques

- a) A personal memorial may have a commemorative plaque affixed or located nearby, as appropriate.
- b) The size, material, text, and any other content (illustration, symbol etc.) of a commemorative plaque requires the approval of the Chief Executive Officer. The City will liaise with applicants to determine appropriate content for a plaque.
- c) Applications for personal memorials which do not meet the requirements of the policy may be referred to Council for a decision upon request by the applicant.

v) Duration of Personal Memorials

- a) Personal memorials shall remain as memorials for the useful life of the asset or for a maximum period of 25 years from the date of approval.
- b) At least 3 months prior to the end of the 25-year period or the end of the asset's useful life, the City will attempt to contact the applicant to advise the expiry date of the memorial.
- c) The City will assess whether the asset is still in good condition, suitable to the location and the benefit to the community. If applicable, the item will remain but will no longer be classified as a memorial and any plaques associated with it will be returned to the applicant if possible.
- d) Provided the expired memorial is not in a location which is classified as 'fully allocated', the applicant may apply for an extension. Except for trees, this may require the replacement of the asset. Extensions will be subject to the conditions of the policy current at the time of the new application.
- e) If the expiring memorial is in an area designated as 'fully allocated' an extension will not be granted for an existing memorial. With the exception of trees, if the item or structure is

still appropriate for the area, the location of the expired memorial will be made available to new applicants.

vi) Costs

- a) Applicants will be required to pay an application fee.
- b) If an application is approved, the applicant will be provided with the expected costs associated with the provision of the personal memorial, which will include an allocation toward the cost of the routine maintenance of the item or facility.
- c) For personal memorials approved for an existing asset the applicant will be provided with the breakdown of costs associated with the existing asset or its relocation (if applicable).
- d) The City will be responsible for the supply, installation, maintenance, and repair of memorial items within the lifespan of the memorial.

COMPLIANCE REQUIREMENTS

LEGISLATION

- *Local Government Act 1995*
- *Land Administration Act 1997*
- *Cemeteries Act 1986*
- *Local Government (Uniform Local Provisions) Regulations 1996 - Regulation 6: Public Places and Local Government Property Local Law 2018*

INDUSTRY

- Policies and Standards for Geographical Naming in Western Australia

ORGANISATIONAL

- City of Bunbury Naming Conventions Council Policy

Document Control					
Document Responsibilities:					
Owner:	Chief Executive Officer	Owner Business Unit:	Manager Community Connection		
Reviewer:	Manager Community Connection	Decision Maker:	Council		
Document Management:					
Adoption Details		Review Frequency:	biennial	Next Due:	[20##]
Review Version	Decision Reference:	Synopsis:			
	[decision date / TRIM Ref]	[brief description of the adoption / changes approved]			
Date Printed	19-Aug-24				

Personal Memorial Application Form

Application Date									
Applicant Information									
First Name									
Surname									
Email Address									
Phone Number									
Residential Address									
Relationship to Deceased									
<input type="checkbox"/>	Parent	<input type="checkbox"/>	Spouse	<input type="checkbox"/>	Sibling	<input type="checkbox"/>	Child	<input type="checkbox"/>	Other (please complete familial information below)
Family Member Information (if 'other' chosen above)									
First Name									
Surname									
Email Address									
Phone Number									
Residential Address									
Relationship to Deceased									
<input type="checkbox"/>	Parent	<input type="checkbox"/>	Spouse	<input type="checkbox"/>	Sibling	<input type="checkbox"/>	Child	<input type="checkbox"/>	Other:
Information of the person to be memorialised									
First Name									
Surname									
Date of Death									
Plaque Information									

Length (top to bottom) 100mm-150mm	
Width (left to right) 100mm-150mm	
Requested Location	
Relationship to Location	
Details for plaque Name / Date of birth & death / Epitaph	

Eligibility for Personal Memorial in Public Place

The City will consider on its merits any request for personal memorials to be installed within the City's public open spaces or road reserves. The criteria to be considered shall include: -

- Applications for personal memorials shall provide information with relevant supporting evidence about the person to be commemorated that demonstrates the significant social and or cultural contribution to the City of Bunbury, and their connection to the proposed site.

“Significant social and or cultural contribution” may include (but is not limited to):

- Longstanding/significant contribution to:
 - Local sporting clubs;
 - Community organisations;
 - Local cultural or arts organisations;
 - Other City of Bunbury organisations, industries, or businesses.
- Local community leaders.
- An individual who has left a tangible legacy that has resonance with the broader Bunbury community.

Response to Criteria

Signatures

Relative of the Deceased		Date	
Applicant (if different from above)		Date	

DRAFT

9. Questions from Members

9.1 Response to Previous Questions from Members taken on Notice

At the Policy Review and Development Committee Meeting held on 18 June 2024, Cr Ghasseb asked a question which was taken on notice and is now presented below with a response.

Question

In relation to this policy [Registration of Freehold Commercial Leases], are there any legislative requirements under the retail tenancy act?

Response

No.

9.2 Questions from Members

10. Urgent Business

11. Date of Next Meeting

The next PRDC meeting is scheduled for Wednesday, 30 October 2024.

12. Close of Meeting

The Presiding Member closed the meeting at _____.