

Standing Committee Agenda Index – 10 November 2016

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Minutes of a Meeting of the Local Laws, Strategy, Policy & Organisation Development Standing Committee held in the Council Chambers on Thursday, 10 November 2016 commencing at 5.36pm.

The Presiding Member opened the meeting at 5.36pm

Acknowledgment of Country – Presiding Member

On behalf of the Councillors, staff and gallery, I acknowledge the Noongar People, the Traditional Owners of the Land on which we are gathered, and pay my respects to their Elders both past and present.

Attendance & Apologies

Presiding Member - A J Wilson

- J A Boyle

- J R Moore

- J Nicholas

- A Pratico

- P Quinby

- P Scallan

In Attendance - T P Clynch, CEO

- M Larkworthy, Executive Manager Corporate Services

- E Denniss, Executive Manager Community Services

- T M Lockley, Executive Assistant

Apologies - Cr S Hodson

- Cr D Mackman

Gallery - Nil

Petitions/Deputations/Presentations - Nil

Comment on Agenda Items by Parties With an Interest - Nil

Confirmation of Minutes

SC.01/1116 Ordinary Meeting held 13 October 2016

A motion is required to confirm the Minutes of the Ordinary Meeting of the Local Laws, Strategy, Policy & Organisation Development Standing Committee held 13 October 2016 as a true and correct record.

Committee Decision ***Moved Cr Quinby, Seconded Cr Moore***

SC.01/1116 That the Minutes of the Ordinary Meeting of the Local Laws, Strategy, Policy & Organisation Development Standing Committee held 13 October 2016 are confirmed as a true and correct record.

Carried 7/0

Announcements/Briefings by Elected Members

Cr Scallan extended his congratulations to the Greenbushes Ratepayers on their win in the Tidy Towns Awards. Cr Scallan announced there would be no national event as of next year.

Notification of Disclosure of Interests

Section 5.65 or 5.70 of the Local Government Act requires a Member or Officer who has an interest in any matter to be discussed at a Committee/Council Meeting that will be attended by the Member or Officer must disclose the nature of the interest in a written notice given to the Chief Executive Officer before the meeting; or at the meeting before the matter is discussed.

A Member who makes a disclosure under Section 5.65 or 5.70 must not preside at the part of the meeting relating to the matter; or participate in; or be present during, any discussion or decision making procedure relating to the matter, unless allowed by the Committee/Council. If Committee/Council allow a Member to speak, the extent of the interest must also be stated.

Name	S Donaldson
Type of Interest	Financial
Item No.	SC.02/1116 - Home Based Business Regulatory Review
Nature of Interest	My wife operates an approved business from home

Consideration of Motions of Which Previous Notice has been Given - Nil

Reports of Officers

Reports of Officers have been divided into the following Categories:

- Policy
- Local Laws
- Strategy
- Organisation Development

Policy

Mr Donaldson, being the author of Item SC.02/1116, declared a Financial Interest in that his wife operates an approved business from home.

ITEM NO.	SC.02/1116	FILE REF.	770
SUBJECT	Home Based Business Regulatory Review		
PROPONENT	Shire of Bridgetown-Greenbushes		
OFFICER	Manager Planning		
DATE OF REPORT	2 November 2016		

Attachment 1 Current Home Occupation & Cottage Industry Policy TP.20
Attachment 2 Draft Home-Based Business Policy

OFFICER RECOMMENDATION: *That Council*

1. Gives 'in-principle' support for following changes to Town Planning Scheme No. 3 and Town Planning Scheme No. 4:
 - a) Introduce 'Home Office' as defined in the Planning Regulations 2015, subject to supplemental provisions limiting the use to 20m² only, and to be conducted by the resident(s) of the dwelling only; with a 'Home Office' listed as a 'P' permitted use in the Commercial, Residential, Residential Development, Rural, Special Residential, Special Restricted Use and Special Rural zones under Town Planning Scheme No. 3; and listed as a 'P' permitted use in the Commercial, Residential, Rural 1, Rural 2, Rural 3, Rural 4, Special Residential, Special Rural and Special Use zones under Town Planning Scheme No. 4.
 - b) The definition of 'Home Occupation' be modified to reflect the model definition in the Planning Regulations 2015, which includes the prohibition of fuelling, repair or maintenance of motor vehicles.
 - c) Introduce 'Home Business' as defined in the Planning Regulations 2015, subject to a supplemental provision to prohibit the fuelling, repair or maintenance of motor vehicles; with a 'Home Business' listed as an 'AA' discretionary use in the Commercial, Residential, Residential Development, Rural, Special Residential, Special Restricted Use, and Special Rural zones under Town Planning Scheme No.3; and listed as a 'AA' discretionary use in the Commercial, Residential, Rural 1, Rural 2, Rural 3, Rural 4, Special Residential, Special Rural and Special Use zones under Town Planning Scheme No. 4.
 - d) Modify the permissibility of 'Cottage Industry' as an 'AA' discretionary use in the Commercial, Residential, Residential Development, Rural, Special Rural and some Special Restricted Use zones under TPS3; as a 'P' permitted use in the Industrial and Service Industry zones in TPS3; and as a 'P' permitted use in the Industrial zone in TPS4.
 - e) Introduce 'Rural Home Business' as defined in the Planning Regulations 2015, and listed as an 'SA' special approval use in the Rural 1, Rural 2, Rural 3 or Rural 4 zones only of TPS4.

2. *Directs the Chief Executive Officer to prepare necessary scheme amendment documentation reflecting Point 1. above, for presentation at a future meeting of Council.*
3. *Notes the content of the draft Home-Based Business Policy, as per Attachment 2, with the final draft policy to be presented to Council in conjunction with Point 2. above for future public consultation.*

Summary/Purpose

The purpose of this report is to consider potential amendments to the two operative local planning schemes and a review of the town planning scheme policy related to home based businesses. Should Council support the recommended changes, documentation for two formal scheme amendments can be prepared and the new draft policy can be further progressed.

Background

At the Ordinary Meeting of Council held on 28 May 2015, a motion was moved directing the CEO to investigate a possible amendment to Town Planning Scheme No. 4 to introduce a new 'Home Business' discretionary use class for the Rural zones, to potentially allow a small motor vehicle repair/servicing business to be conducted from a rural property. Noting the officer comments provided and discussion at the meeting, Council resolved:

"C.02/0515 That:

1. *The CEO present a report back to Council on the possible amendment to Town Planning Scheme No. 4, to introduce into a new use of "Home Business" with 'AA' use applicability in the Rural zones of the Scheme.*
2. *The report to Council also address allowing uses already listed in the zoning table to be approved as a Home Business subject to such businesses meeting the restrictions (floor area, restriction on employees, etc.) of a home business.*
3. *A review of the Home Occupation Cottage Industry Policy be undertaken in conjunction with the above report to Council."*

Officer Comment

The operation of home based businesses is regulated by the Shire's Town Planning Scheme No. 3 (TPS3) relating to the Bridgetown Townsite, and Town Planning Scheme No. 4 (TPS4) relating to balance of the Shire outside of the Bridgetown Townsite. The Shire's Home Occupation & Cottage Industry Town Planning Scheme Policy No. 20 also provides specific guidance for those two listed uses.

The purpose of controlling home based business activities within dwellings and ancillary outbuildings is to ensure that any such activities remain incidental to the primary residential use of the property, and that the amenity of surrounding properties is protected, particularly nearby residential dwellings or other sensitive land uses (ie. schools, hospitals, child care centres, etc).

There are a variety of home based business land uses applicable to the Shire of Bridgetown-Greenbushes, with a number already defined in TPS3 and TPS4, plus others defined in the 'Model provisions' in Schedule 1, Part 6, Division 1 of the Planning and Development (Local Planning Scheme) Regulations 2015 (Planning Regulations 2015).

A review of the other local planning schemes and the Planning Regulations 2015 has been undertaken, demonstrating the five types of home based business uses (in order of size) as Home Office, Home Occupation, Home Business, Cottage Industry and Rural Home Business, discussed below.

Home Office

Under the Planning Regulations 2015, a Home Office *“means a dwelling used by an occupier of the dwelling to carry out a home occupation if the carrying out of the occupation —*

- (a) is solely within the dwelling; and*
- (b) does not entail clients or customers travelling to and from the dwelling; and*
- (c) does not involve the display of a sign on the premises; and*
- (d) does not require any change to the external appearance of the dwelling.”*

A Home Office is typically a permitted use under most zones where a dwelling is permitted, and would be exempt from development approval where no works are proposed, particularly where located within the dwelling, no customers will be visiting the property, no signage is displayed and no works or change in the building. This use class could apply to a mobile business (ie. plumber), an online business (ie. marketing consultant) or service business (ie. book keeper).

A Home Office is not currently listed or defined in TPS3 or TPS4 however the current Home Occupation & Cottage Industry Policy recognises that mobile businesses do not require approval to use their home for administrative purposes. This unofficial exemption however does not technically apply to a person working from home, even where consistent with the home office definition, and is therefore best classified as a Home Occupation subject to development approval.

It is recommended that Home Office be incorporated into TPS3 and TPS4, subject to supplemental provisions limiting the use to 20m² only, and to be conducted by the resident(s) of the dwelling only. It is recommended Home Office be listed as a 'P' permitted use in the Commercial, Residential, Residential Development, Rural, Special Residential, Special Restricted Use, and Special Rural zones under TPS3; and listed as a 'P' permitted use in the Commercial, Residential, Rural 1, Rural 2, Rural 3, Rural 4, Special Residential, Special Rural and Special Use zones under TPS4.

Home Occupation

Under the Planning Regulations 2015, a Home Occupation *“means a dwelling or land around a dwelling used by an occupier of the dwelling to carry out an occupation if the carrying out of the occupation that —*

- (a) does not involve employing a person who is not a member of the occupier's household; and*

- (b) *will not cause injury to or adversely affect the amenity of the neighbourhood; and*
- (c) *does not occupy an area greater than 20 m²; and*
- (d) *does not involve the display on the premises of a sign with an area exceeding 0.2m²; and*
- (e) *does not involve the retail sale, display or hire of any goods unless the sale, display or hire is done only by means of the Internet; and*
- (f) *does not —*
 - (i) *require a greater number of parking spaces than normally required for a single dwelling; or*
 - (ii) *result in an increase in traffic volume in the neighbourhood; and*
- (g) *does not involve the presence, use or calling of a vehicle of more than 4.5 tonnes tare weight; and*
- (h) **does not include provision for the fuelling, repair or maintenance of motor vehicles; and**
- (i) *does not involve the use of an essential service that is greater than the use normally required in the zone in which the dwelling is located.”*
(author’s emphasis in bold)

Under both TPS3 and TPS4 a Home Occupation “means a business carried on with the permission of the responsible authority within a house or the curtilage of a house that:

- (a) *does not cause injury to or prejudicially affect the amenity of the neighbourhood including (but without limiting the generality of the foregoing) injury or prejudicial affection due to the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, grit, oil, waste water, or waste products;*
- (b) *does not entail the employment of any person not a member of the occupier's family, except in the case of a professional person;*
- (c) *does not occupy an area greater than 20 square metres;*
- (d) *does not require the provision of any essential service main of a greater capacity than normally required in the zone in which it is located; and*
- (e) *is restricted in advertisement to a sign not exceeding 0.2 square metres in area.”*

A Home Occupation is already listed in TPS3 as a discretionary use in the Commercial, Residential, Residential Development, Rural and Special Residential zones, plus some Special Restricted Use and Special Rural zones. A Home Occupation is also listed in TPS4 in the Residential, Rural 1, Rural 2, Rural 3, Rural 4 and Special Residential zones, plus some Special Rural and Special Use zones.

This activity could apply to people running a business service (ie. accountancy, graphic designer) or one-on-one personal or educational service (ie. hairdresser, music lessons). A Home Occupation could also include other services such as goods production (ie. florist, food), or perhaps group educational services (ie. cooking or gardening classes). An important restriction is the 20m² area to run the business activity, plus available onsite parking for any customers. Depending upon the type and scale of activity, some may be better suited to the Home Business use or Cottage Industry use, discussed further below.

As a discretionary use a Home Occupation may only be conducted with approval from the Shire, often subject to public advertising, particularly where the use may potentially generate noise and/or visitor traffic.

Pursuant to the model definition from the Planning Regulations 2015, the fuelling, repair or maintenance of motor vehicles (ie. home based mechanic), which have a propensity to create noise, fumes, increased traffic, etc, can be prohibited for a Home Occupation. This is an important distinction with respect to Council's initial request for information and the concerns raised by Shire staff regarding home based mechanics. As such, it is recommended that the definition of Home Occupation be modified in TPS3 and TPS4 to reflect the model definition in the Planning Regulations 2015.

Home Business

Under the Planning Regulations 2015, a Home Business *"means a dwelling or land around a dwelling used by an occupier of the dwelling to carry out a business, service or profession if the carrying out of the business, service or profession —*

- (a) does not involve employing more than 2 people who are not members of the occupier's household; and*
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood; and*
- (c) does not occupy an area greater than 50 m²; and*
- (d) does not involve the retail sale, display or hire of any goods unless the sale, display or hire is done only by means of the Internet; and*
- (e) does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood; and*
- (f) does not involve the presence, use or calling of a vehicle of more than 4.5 tonnes tare weight; and*
- (g) does not involve the use of an essential service that is greater than the use normally required in the zone in which the dwelling is located."*

A Home Business is typically a discretionary use under most zones where a dwelling is permitted, subject to development approval and public advertising. This use could apply to larger scale home based businesses such as pet grooming, plant nursery, or fitness classes for small groups.

A Home Business is not currently listed or defined in TPS3 or TPS4, limiting the ability for residents to undertake business activities from home that require more space. As a discretionary use a Home Business may only be conducted with approval from the Shire, subject to mandatory public advertising, as the use may potentially generate noise and/or visitor traffic.

Although the model definition in the Planning Regulations 2015 does not include the restriction of fuelling, repair or maintenance of motor vehicles (as recommended for a Home Occupation), including the same restriction to prohibit establishment of home based mechanics is considered appropriate across most zones.

It is recommended that the definition of Home Business be incorporated in TPS3 and TPS4 to reflect the model definition in the Planning Regulations 2015, supplemented by the additional provision to exclude fuelling, repair or maintenance of motor

vehicles.

It is also recommended that Home Business be incorporated into TPS3 and TPS4, and listed as an 'AA' discretionary use in the Commercial, Residential, Residential Development, Rural, Special Residential, Special Restricted Use, and Special Rural zones under TPS3; and listed as a 'AA' discretionary use in the Commercial, Residential, Rural 1, Rural 2, Rural 3, Rural 4, Special Residential, Special Rural and Special Use zones under TPS4.

Cottage Industry

Under TPS3 Cottage Industry and under TPS4 'Industry – Cottage' *"means an industry which produces arts and craft goods which cannot be carried out under the provisions relating to a Home Occupation" and that:*

- (a) does not cause injury to or prejudicially affect the amenity of the neighbourhood including (but without limiting the generality of the foregoing) injury, or prejudicial affection due to the emission of light, noise, vibration, steam, soot, ash, dust, grit, oil, liquid wastes or waste products;*
- (b) where operated in a Residential zone, does not entail the employment of any person not a member of the occupier's family normally resident on the land;*
- (c) is conducted in an outbuilding which is compatible to the zone and its amenity and does not occupy an area in excess of 55 square metres;*
- (d) does not require the provision of any essential service main of a greater capacity than normally required in the zone in which it is located; and*
- (e) does not display a sign exceeding 0.2 square metres in area."*

A Cottage Industry is typically a permitted or discretionary use under most zones where a dwelling is permitted, often subject to development approval and public advertising. This use generally applies to the production of arts and crafts goods such as furniture, toys, pottery, etc.

Under TPS3, Cottage Industry is a permitted use in the Commercial, Industrial, Residential, Residential Development, Rural, and some Special Restricted Use and Special Rural zones. Under TPS4 a Cottage Industry is a discretionary use in the Residential, Rural 1, Rural 2, Rural 3, Rural 4 and Special Residential zone, plus some Special Restricted Use and Special Rural zones.

Although Cottage Industry is not currently defined in the Planning Regulations 2015, as a permitted use development approval is exempt where consistent with scheme and policy provisions, meaning Shire approval is not required for a Cottage Industry within the Bridgetown townsite.

Given the maximum allowable area of 55m² and the potential for noise impacts, it is recommended that the permissibility of Cottage Industry be modified to an 'AA' discretionary use in the Commercial, Residential, Residential Development, Rural, Special Rural and some Special Restricted Use zones under TPS3, and listed as a 'P' permitted use in the Industrial and Service Industry Zones. It is also recommended that Cottage Industry be listed as a 'P' permitted in the Industrial zone under TPS4.

Rural Home Business

Under the Planning Regulations 2015, a Rural Home Business *“means a dwelling or land around a dwelling used by an occupier of the dwelling to carry out a business, service or occupation if the carrying out of the business, service or occupation —*

- (a) does not involve employing more than 2 people who are not members of the occupier’s household; and*
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood; and*
- (c) does not occupy an area greater than 200 m²; and*
- (d) does not involve the retail sale, display or hire of any goods unless the sale, display or hire is done only by means of the Internet; and*
- (e) does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood; and*
- (f) does not involve the presence, use or calling of more than 3 vehicles at any one time or of a vehicle of more than 30 tonnes gross weight.”*

A Rural Home Business with a generous area of 200m² could allow for a range of rural based businesses or trades that require substantially more work and/or storage area, such as small scale manufacturing (ie. wholesale bakery), storage yard (ie. earthmoving contractor) or supply yard (ie. rural supplies). Whilst some similar uses may already be defined in TPS3 and TPS4, and limited to appropriate commercial, industrial and rural zones, there may be scope for support of a range of rural home businesses.

A Rural Home Business is not currently listed in either TPS3 or TPS4 and could be considered a ‘Use Not Listed’ depending upon the nature of the proposed use. By including a Rural Home Business use class allows for restrictions on the type and scale of operation to only 200m² and only where associated with a residential dwelling in a rural zone.

The Shire of Murray for example allows a Home Based Trade use in specific zones, occupying up to 200m² but does not permit any vehicle refuelling or repairs. The Shire of Manjimup allows Rural Home Business with a 200m² maximum area and up to five employees who do not reside at the residence.

As the name suggests a Rural Home Business should only be permitted on Rural zoned land. There are many properties within the Bridgetown townsite zoned Rural under TPS3, plus many zoned Special Rural in TPS3 and in TPS4. It is not considered appropriate that a Rural Home Business use be permitted in these zones due to the modest sizes of the lots and proximity to neighbours.

It is recommended that the definition of ‘Rural Home Business’ be incorporated into TPS4 only, to reflect the model definition in the Planning Regulations 2015, and listed as an ‘SA’ special approval use in the Rural 1, Rural 2, Rural 3 or Rural 4 zones only.

To assist with discussion, a ‘Rural Industry’ under TPS3 and TPS4 is defined as *“means an industry handling, treating, processing or packing primary products grown, reared or produced in the locality, and a workshop servicing plant or equipment used for rural purposes in the locality.”*

A 'Rural Industry' is a permitted use in the Rural zone and discretionary use in the Industrial zone within TPS3, and a 'Rural Industry' is a discretionary use in the Industrial, Rural 1, Rural 2, Rural 3 and Rural 4 zones of TPS4.

An example of a rural industry could be a vineyard or orchard with a processing facility, and a workshop to service plant or equipment, whether used on or offsite. The generation of noise and traffic therefore associated with a rural industry would be significant in most cases, subject to compliance with relevant regulations. Importantly a Rural Industry would not need to be associated with a dwelling and therefore not defined as a Rural Home Business.

Current Scheme Uses

As stated above, Council in May 2015 requested a further report to allow uses already listed in the zoning table to be approved as a Home Business, subject to such activity meeting appropriate restrictions.

As reported to Council in May 2015, Shire staff raised concerns regarding home based businesses, such as motor repair stations, where the use is better defined and already listed in the applicable zoning table. There are many listed land uses that are currently or could be undertaken as incidental uses to a residential dwelling, however the appropriateness of these will depend upon the scale of operation and the location and zoning of the property.

It is difficult to provide a full analysis of all current uses listed in TPS3 and TPS4 and their appropriateness as a home based business, although the above comments and suggested permissibility is provided for consideration. Shire staff are comfortable however that the proposed range of home based business, including the new Home Office, Home Business and Rural Home Business, will provide sufficient scope and regulation of incidental home based business activities.

Policy Review

In accordance with the May 2015 resolution of Council, and in light of the above, a review of the current Home Occupation & Cottage Industry Policy has been undertaken, and a preliminary draft Home Based Business Policy (see Attachment 2) prepared for preliminary consideration by Council.

Whilst the current Policy is limited to home occupations and cottage industry, the draft Home Based Business Policy could include all five categories of home based businesses (in order of scale and permissible area) being Home Office, Home Occupation, Home Business, Cottage Industry and Rural Home Business.

The aim of the draft Policy is *"To enable low scale businesses the opportunity to be conducted from home without having a detrimental impact on the amenity of local area."* The draft Policy seeks to provide Council, Shire staff and the general community with a clear process for the assessment and operation of home-based businesses throughout the Shire on the presumption that home based businesses will be supported where it can operate without impact on the amenity of the locality.

It is not recommended that the draft policy be formally adopted at this time as amendments to TPS3 and TPS4 would be required first to introduce the new use classes of Home Office, Home Business and Rural Home Business. Further drafting is still needed to clarify the Policy requirements and assessment processes, with the final draft to be presented to Council together with scheme amendment documentation.

Conclusion

The resolution of Council from May 2015 sought a report on the possible amendment to Town Planning Scheme No. 4 to introduce a Home Business use within the rural zones outside of the Bridgetown townsite, incorporating appropriate restrictions to allow current uses under the home business classification, in conjunction with a review of the Home Occupation and Cottage Industry Policy.

Whilst Shire staff are of the view that a stand alone vehicle mechanic is not appropriate in a rural area, there is scope for Council to introduce the Home Business and/or Rural Home Business use classes to facilitate a broader range of business activities that are incidental to a residential dwelling.

It is therefore recommended that Council give in-principle support and direct the CEO to prepare scheme amendments to both Town Planning Scheme No. 3 and No. 4 to introduce new use classes of Home Office, Home Business and Rural Home Business. It is also recommended that Council note the content of the draft Home Based Business Policy at this time, for formal consideration at a future meeting, subject to the outcomes of the relevant scheme amendments. If and when formally supported, the draft Home Based Business Policy will supersede the current Home Occupation and Cottage Industry Policy.

Statutory Environment

- Shire of Bridgetown-Greenbushes Town Planning Scheme No. 3 and No. 4

Whilst not directly applicable at this stage, amendments to both Town Planning Scheme No. 3 and Town Planning Scheme No. 4 will be required to introduce new or modified definitions, use classes and permissibility in the zoning tables.

Schedule 2, Part 7 of the Regulations 2015 cites 'Deemed provisions for local planning schemes' that automatically form and/or override any inconsistency in TPS3 and TPS4. Under Clause 61 (2), development approval of the local government is not required for the following (inter alia):

- “(b) *development that is a use identified in this Scheme as a use that is permitted in the zone in which the development is located and –*
 - (i) *the development has no works component; or*
 - (ii) *development approval is not required for the works component of the development;*
- (c) *the use of premises as a home office;*
- (e) *any other use specified in a local planning policy or local development plan that applies to the development as a use that does not require development approval;*

- (f) *use of a type identified elsewhere in this Scheme as a use that does not require development approval.”*

Under sub-clause (3) however the exemption may not apply to land in a special control area or land designated as being bush fire prone. Development approval is therefore exempt, in most cases, for development listed as a ‘P’ permitted use under TPS3 and TPS4, and clarification on appropriate permissibility of the various home based business uses will be required.

Whilst not directly applicable at this stage, alteration of an adopted Town Planning Scheme Policy must be progressed pursuant to Clause 6.7.3 of Town Planning Scheme No. 3 and Clause 7.6.3 of Town Planning Scheme No. 4.

- Planning and Development Act 2005

Whilst not directly applicable at this stage, an amendment to a Local Planning Scheme must be processed in accordance with the Planning and Development Act 2005. After public advertising, Council will consider any issues and determine the appropriateness of the proposal and whether to adopt the amendment for final approval. The final decision on whether to grant final approval to an amendment rests with the Minister for Planning, acting upon recommendation from the WAPC.

- Planning and Development (Local Planning Schemes) Regulations 2015

Whilst not directly applicable at this time, Part 5 of the Planning Regulations 2015 sets out the procedure for amending a local planning scheme. The recommended changes to TPS3 and TPS4 are likely to be defined as a Standard Amendment with the process prescribed under Division 3 of the Planning Regulations 2015.

Furthermore, Schedule 2, Part 2 of the Planning Regulations 2015 provides the statutory power and procedure for amending or preparing a new planning policy.

Policy

- Shire of Bridgetown-Greenbushes Home Occupation & Cottage Industry Policy

The Shire of Bridgetown-Greenbushes Home Occupation & Cottage Industry Policy TP.20 was last reviewed in October 2010. A review of the current Policy has been undertaken and a new draft Home Based Business Policy presented to Council for preliminary consideration, in light of the recommended changes to permissible land uses.

Strategic Implications

- Strategic Community Plan 2012

Economic Objective 1 – A strong, resilient and balanced economy.

- Outcome 1.1 A diverse range of employment opportunities.
- Outcome 1.1.3 Support value-add and service industries.

Civic Leadership Objective 4 – A collaborative and engaged community

- Outcome 4.4 – The Shire provides a can-do approach within the regulatory environment

➤ Outcome 4.4.1 – Review existing policies to determine if the regulatory framework is aligned to the needs of the broader community

- Corporate Business Plan - Nil
- Long Term Financial Plan - Nil
- Asset Management Plans - Nil
- Workforce Plan - Nil
- Other Integrated Planning - Nil

Budget Implications

Nil at this time, other than officer time to prepare scheme amendment and policy documentation.

Fiscal Equity

Facilitating home-based business is considered to be fundamental to ensuring a full range of services are provided throughout the Shire, particularly in areas with limited commercial and industrial land and/or businesses.

Whole of Life Accounting – Not applicable

Social Equity

Appropriate controls will need to be included in the draft Policy to ensure local amenity is adequately considered.

Ecological Equity

Appropriate controls will need to be included in the draft Policy to ensure the local environment is adequately considered.

Cultural Equity – Not Applicable

Risk Management – Not Applicable

Continuous Improvement

A review of schemes and policies used by other local authorities has assisted consideration of the issues and potential alternatives.

Delegated Authority

Nil – Determination by Council is required given the previous resolution from May 2015.

Voting Requirements – Simple Majority

Committee Recommendation Moved Cr Scallan, Seconded Cr Pratico
SC.02/1116 That Council:

1. Gives 'in-principle' support for following changes to Town Planning Scheme No. 3 and Town Planning Scheme No. 4:
 - a) Introduce 'Home Office' as defined in the Planning Regulations 2015, subject to supplemental provisions limiting the use to 20m² only, and to be conducted by the resident(s) of the dwelling only; with a 'Home Office' listed as a 'P' permitted use in the Commercial, Residential, Residential Development, Rural, Special Residential, Special Restricted Use and Special Rural zones under Town Planning Scheme No. 3; and listed as a 'P' permitted use in the Commercial, Residential, Rural 1, Rural 2, Rural 3, Rural 4, Special Residential, Special Rural and Special Use zones under Town Planning Scheme No. 4.
 - b) The definition of 'Home Occupation' be modified to reflect the model definition in the Planning Regulations 2015, which includes the prohibition of fuelling, repair or maintenance of motor vehicles.
 - c) Introduce 'Home Business' as defined in the Planning Regulations 2015, subject to a supplemental provision to prohibit the fuelling, repair or maintenance of motor vehicles; with a 'Home Business' listed as an 'AA' discretionary use in the Commercial, Residential, Residential Development, Rural, Special Residential, Special Restricted Use, and Special Rural zones under Town Planning Scheme No.3; and listed as a 'AA' discretionary use in the Commercial, Residential, Rural 1, Rural 2, Rural 3, Rural 4, Special Residential, Special Rural and Special Use zones under Town Planning Scheme No. 4.
 - d) Modify the permissibility of 'Cottage Industry' as an 'AA' discretionary use in the Commercial, Residential, Residential Development, Rural, Special Rural and some Special Restricted Use zones under TPS3; as a 'P' permitted use in the Industrial and Service Industry zones in TPS3; and as a 'P' permitted use in the Industrial zone in TPS4.
 - e) Introduce 'Rural Home Business' as defined in the Planning Regulations 2015, and listed as an 'SA' special approval use in the Rural 1, Rural 2, Rural 3 or Rural 4 zones only of TPS4.
2. Directs the Chief Executive Officer to prepare necessary scheme amendment documentation reflecting Point 1. above, for presentation at a future meeting of Council.
3. Notes the content of the draft Home-Based Business Policy, as per Attachment 2, with the final draft policy to be presented to Council in conjunction with Point 2. above for future public consultation.

Carried 7/0

ITEM NO.	SC.03/1116	FILE REF.	203
SUBJECT	Annual Review of Policies		
OFFICER	Chief Executive Officer		
DATE OF REPORT	25 October 2016		

Attachment 3 Policy Manual [separate Attachment on CD]

OFFICER RECOMMENDATION that Council:

1. *Endorse the following Policies with minor modifications as set out in the body of the report:*
 - *M.1 – Policy Manual*
 - *M.4 – Members Allowances/Expenses*
 - *M.7 – Elected Members – Presentations on Retirement*
 - *M.15 – Organisation Structure*
 - *M.16 – Citizenship Ceremonies & Certificates*
 - *M.19 – Meetings of Council – Guest Speakers*
 - *M.23 – Passenger Vehicle Use & Acquisition Policy*
 - *M.24 – Provision of Information*
 - *M.26 - Complaints*
 - *M.38 – Advertising of Annual General Meeting of Electors*
 - *A.4 – Facility Opening Hours to the Public*
 - *A.15 – Library – Personal Use Compute*
 - *A.17 – Library Membership*
 - *A.19 – Supplementary Superannuation Contributions for Employees*
 - *A.20 – Library Loans*
 - *A.24 – Social Media*
 - *F.6 – Purchasing Policy*
 - *F.8 – Facility Hire*
 - *F.15 – Asset Management*
 - *F.17 – Collection of Non-Rates Fees and Charges*
 - *F.19 – Assets Financing and Borrowings*
 - *O.7 – Provision of Refreshments to Fire Fighters*
 - *O.10 – Bridgetown-Greenbushes Visitor Centre Membership*
2. *Revoke the following Policies:*
 - *P.2 - Minimum Standards for Scheme Amendments*
 - *P.3 - Advice for Subdivision - Applicants*
 - *O.2 – Facility Hire*
 - *O.3 – Hire of Swimming Pool*
3. *With the revocation of existing Policies O.2 and O.3 renumber Policies O.4 to O.16 as O.2 to O.14.*
4. *Note and retain all other Policies without modification.*

Background

Although not a requirement of the Local Government Act, Council has resolved to review its Policy Manual on an annual basis. In some years the Policy Manual has been reviewed section by section on a monthly basis and in other years it has been

reviewed during November in line with the review of Council Delegations to Committees and to the CEO.

In addition to the annual review, any changes in existing policies that are identified during the course of a year are presented through the Standing Committee for Council consideration.

Policies Amended or Adopted during past 12 months:

Administration Section

- A.4 – Facility Opening Hours to the Public (amended April 2016)

Health Section

- H.7 – Mobile & Itinerant Traders (adopted May 2016)

Town Planning

- TP.8 – Cut & Fill Policy (amended August 2016)
- TP.15 – Extractive Industry (new policy replaced former policy of same name – June 2016)
- TP.26 – Assessment of Cultural Heritage Significance Policy (adopted August 2016)

Other

- O.16 – Australia Day Events (adopted May 2016)

In addition to the Policies listed above, the consultation process for the proposed amendment to Policy TP.1 – Relocated Dwelling Policy was approved at the October 2016 meeting.

Policies recommended for minor amendment:

Members

- M.1- Policy Manual
Amend Part 5 by adding the following at the end of the current wording:

“The manuals will be supplied in an electronic format.”

Reason for Amendment – This wording confirms the existing practice of providing information such as the Policy Manual to Councillors in an electronic format.

- M.4 – Members Allowances/Expenses
Delete existing Part (i) and replace with:

“(i) The Salaries and Allowances Tribunal (the Tribunal) conducts an annual review of fees, allowances and expenses for elected council members of Local Governments throughout Western Australia. The annual determination establishes a scale of payments and provisions for reimbursement of expenses in accordance with the Local Government Act 1995 and the Local Government (Administration) Regulations 1996. After the Tribunal has made

its annual determination the Council will set allowances or attendance fees within the permissible range set by the Tribunal.”

Reason for Amendment – Recognises that the range of fees and allowances are set by the Salaries and Allowances Tribunal.

- M.7 – Elected Members – Presentations on Retirement

Delete “Policy M.35 Council Photographs” from the last paragraph and replace with “the applicable policy pertaining to Council Photographs.”

Reason for Amendment – Removes the need to amend the Policy every time the number for the “Council Photographs” Policy is changed.

- M.15 – Organisation Structure

Replace “Finance & Administration” with “Corporate Services”.

Reason for Amendment – Recognises change of departmental name.

- M.16 – Citizenship Ceremonies & Certificates

(a) Rename title of Policy to “Australian Citizenship Ceremonies”.

(b) Delete existing Part 1 and replace with:

1. Australian Citizenship Ceremonies are held as a stand alone event, separate from Council and Standing Committee meetings. The default date for the Citizenship Ceremonies is 4.00pm on the day of an Ordinary Council meeting however it is recognised that due to scheduling, priorities and urgency, this date may not always be suitable to the recipient. On those occasions a revised date will be scheduled.”

Reason for Amendments

(a) The proposed re-naming of the Policy is more appropriate to the Policy.

(b) Currently the policy allows for citizenship ceremonies to be held at the start of a Council meeting. Although such a ceremony hasn’t been held at a Council meeting for some years previous experience was that this environment didn’t provide the atmosphere necessarily sought by the recipient and family/friends as the Council meeting is a formal meeting and once the ceremony was completed there was a need to immediately proceed with the balance of the meeting. The stand-alone ceremonies allow the recipients to celebrate with family/friends and interested councillors.

Not all recipients are able to make the default date due to work or personal commitments or urgency to obtain citizenship for passport applications. In these situations a date is determined in consultation with the recipient.

- M.19 – Meetings of Council – Guest Speakers

Amend Clause 3 to delete reference to the Shire President and/or CEO being authorised to invite guests at Council meetings to attend a Council dinner.

Reason for Amendment – Meals after Council meetings are an informal affair whereas when this Policy was developed dinners were held at restaurants after every Council meeting.

- M.23 – Passenger Vehicle Use & Acquisition Policy

In the “Pool Vehicle” and “General” clauses, replace “Executive Assistant” with “Customer Service Officer”.

Reason for Amendment – bookings (and collection of keys) for the Pool vehicle are now made through the Customer Service Officer.

- M.24 – Provision of Information

Change title of Policy from “Provision of Information” to “Provision of Information for Councillors”.

Reason for Amendment – the proposed change better defines the contents of the Policy.

- M.26 – Complaints

Insert the following sentence under the Sections titled “What is a Complaint?” and “Complaints Against Elected Members, President for the Chief Executive Officer”:

“Where a complaint against an elected member (including the President) comes under the authority of the Local Government (Rules of Conduct) Regulations then the process under that legislation is to take priority and no investigation under this Policy will proceed.”

Reason for Amendment – To separate “Rules of Conduct” complaints and associated complaints handling processes under Regulation from other complaints.

- M.38 – Advertising of Annual General Meeting of Electors

(a) Delete ‘dot’ points 2 and 3 and replace with: “The CEO is to give at least 14 days public notice of the meeting date, time and place with the advert appearing in both the Donnybrook Bridgetown Mail and Manjimup Bridgetown Times newspapers.”

(b) Insert a new ‘dot’ point 3 to read: “Notice of the Annual General Meeting of Electors is to be posted on the Shire website and social media (Facebook) page, and an email forwarded to participants of the ‘Shire Bytes’ email information service.”

Reason for Amendments – the wording of the current Policy necessitates the Annual General Meeting of Electors being advertised in both local newspapers a total of six (6) times (3 adverts in each paper) which incurs a huge expense. Clause 5.29(1) of the *Local Government Act 1995* sets out what notice is required which is ‘at least 14 days’. When this Policy was first adopted Council did not have a Facebook account although a notice was posted on our website.

The inclusion of the proposed new dot point 3 will ensure that advertising of the Meeting will appear in formats that differ to printed newspapers.

Administration

- A.4 Facility Opening Hours to the Public
Part 5 – change “Integrated Recreation Facility” to “Bridgetown Leisure Centre” and also note that the gym is available 24 hours per day for gym members.

Reason for Amendment – Reflect the name of the facility.

- A.15 – Library – Personal Use Computer
 - (a) Reword the second sentence in clause 2 to read: “Users are required to “sign on” to use a computer at the Help Desk and to “sign off” at the end of the allocated session time.
 - (b) Delete clause 4.
 - (c) Delete clause 7.
 - (d) Delete clause 11.
 - (e) Re-number clauses appropriately ensuring that “Clause 12” in clause 14 also be updated.

Reasons for Amendments – minor amendments to reflect changes in the available technology and the updating of the language used to better reflect current terminology.

- A.17 – Library Membership
 - (a) Under “Introduction” replace “on-line resources” with “E-resources”.
 - (b) Delete current wording for “Procedure” and replace with:
 - 1) Proof of Identity
Any person wishing to register as a member of the Shire of Bridgetown-Greenbushes Library must complete a Library Membership Application Form and provide proof of identity (1) from the following list:
 - A valid Driver’s Licence or Proof of Age Card
 - Passport
 - Birth certificate
 - A Pension or Concession Card
 - Other proof of identification
 - 2) Current Address
In addition, proof of current address is required. If located on primary identification such as a Driver’s License, this is sufficient. If address is not on the proof of identity then a current utilities bill or bank statement in the name of the applicant or similar can be used as proof of address. People who have no fixed address may join the library at the discretion of the Library Services Coordinator, if they have adequate proof of identity and can give evidence of the address and contact details of an agent or case worker or other responsible person who may be contacted to confirm they have regular contact with the applicant.

3) People Under 18

People under 18 years of age are required to have a parent or guardian as guarantor for the account activities of the minor in their care, including any penalties incurred for overdue or lost/damaged items and must be informed of this on joining.

Parents and guardians must provide proof of identity and address as outlined, for themselves and it is preferred that they provide some evidence of the identity of the underage applicant such as a Medicare Card with the name of the parent/guardian and the applicant or a birth certificate.

Library staff must be satisfied that the identity and address of the applicant is correct before providing active membership.

4) Emergency Contact

Applicants must also provide the name and contact details of an emergency contact person(s) not residing at the same address as the applicant.

5) Temporary Resident

Any person who is a temporary resident (eg; residing in a caravan park, hotel, motel or similar accommodation, or visiting relatives or friends) who cannot give satisfactory evidence of residence will be permitted to register only on a payment of a temporary membership fee determined by Council and ratified by the Library Board of Western Australia.

The temporary membership fee is refundable when membership ceases, all items have been returned and no monies are outstanding from fines or other fees."

- (c) Delete clauses (b) and (c) from "Suspension from Membership" and replace wording for clause (d) to read: "Serious misuse of the library or its equipment, abuse of staff or any other misdemeanour involving damage or serious annoyance to other members (subject to the right of appeal to the CEO)."

- (d) Change current wording for clause (b) under "Permanent suspension....who:" to read: "Fails to return library items and/or non-payment of accounts relating to the outstanding items 90 working days after the date on which the accounts were raised."

Reasons for Amendments – to bring the Bridgetown-Greenbushes Membership Policy more into line with the draft membership policy of the South West Library Consortia and the concept of 'ONE LIBRARY' which is the branding for the joint library use project. The aim of the consortia, of which Bridgetown is a part, is to provide an integrated library service for participating libraries of the South West region and to act as a possible model for the future provision of library services across the State. Individual Shire policies still apply to patrons using Shire libraries but in the interests of conformity, the more closely the Shire policies are to the consortia agreement, the less confusion there will be for patrons accessing multiple libraries throughout the South West.

Proof of Identity - the current Policy did not provide enough specific detail for the *Proof of Identity* for the practical application of the policy by library officers.

Suspension of Membership - the current Policy contained no mention of abusive behaviour towards library officers being grounds for suspension from membership of the library as was discovered during recent abusive behaviour of a client towards library officers. This mention of “abuse of staff” has now been inserted.

- A.19 – Supplementary Superannuation Contributions for Employees
 - (a) Under “Policy” replace existing ‘dot’ point 4 with: “If intending to cease participating in the supplementary superannuation scheme a member of staff must give a minimum fourteen (14) days notice.”
 - (b) Delete reference to “Western Australian Superannuation Fund” and replace with “employee’s superannuation fund”.

Reasons for Amendments – both changes recognise that the superannuation options available to staff have been freed up in recent years and employees are free to select a superannuation fund of their own choice.

- A.20 – Library Loans
 - (a) Under “Library Loans” replace “Library Manager” in dot point 3 with “Library Services Coordinator”.
 - (b) In dot point 4 of Library Loans, insert the word “Unaccompanied” at the beginning of the clause.
 - (c) Under “Overdue Items” delete dot points 2, 3 and 4 and replace with:
 - When items are overdue by a week an overdue reminder notice is sent. This is followed by contact with the borrower by phone or email after the item has been overdue for two weeks. After two (2) attempts to recover the item(s) or more than six (6) weeks – 42 days overdue, the item(s) are deemed lost and the library will generate an invoice, adding an administration fee as per the Fees and Charges schedule.
 - Borrowing privileges are then suspended until the items are returned and all outstanding fees are paid. Members may continue to use the libraries facilities during this time with the exception of borrowing privileges.
 - (d) Under “Renewals”, dot point 2 change “maximum of three” to “maximum of one”.

Reasons for Amendments – replacement of the previously posted second letter with contact by telephone and email is as effective at retrieving outstanding library items as the previous Policy and is a more effective use of staff time and improved customer relations. With the installation of new library software in April 2017, it is anticipated that all overdue notices will be emailed to patrons by an automated email system wherever possible and the only letters that will be posted are to those patrons who do not have an email facility.

- A.24 – Social Media

Delete Part 11 – “Adoption of the Social Media policy” as the adoption date is provided in the head table of the policy and all Council Policies are reviewed on an annual basis.

Reason for Amendment – this part is superfluous.

Finance

- F.6 – Purchasing Policy

(a) In Part 1.6.3, replace “exceeds \$20,000 but is less than \$39,999” with “ranges between \$20,000 and \$39,999”.

(b) In Part 1.6.4, replace “exceeds \$40,000 but is less than \$99,999” with “ranges between \$40,000 and \$99,999”.

(c) In Part 1.7.9, replace “\$99,999” with “\$149,999”.

Reasons for Amendments – Consistence with the purchasing thresholds contained in the table under Part 1.6 of the Policy.

(d) Part 1.7.1, change title from “Tender Exemption” to “Exemptions”.

(e) Part 1.7.1, delete existing wording and replace with:

Tenders do not have to be publicly invited where the proposed purchase is being done in accordance with Regulation 11 of the Local Government (Functions and General) Regulations. However where the supply of the goods or services is to be obtained through the WALGA Preferred Supplier Program, then compliance to the balance of this Purchasing Policy will be required. This includes meeting the requirements to obtain a minimum number of quotations unless the CEO waives such a requirement taking into account the nature of the purchase and availability/suitability of potential suppliers.

Reasons for Amendments – There is no need for the Policy to repeat the contents of Regulation 11 of the Local Government (Functions and General) Regulations.

The change also makes it clear that notwithstanding that Regulation 11 removes the need to enter into a public tender for specific purchases the expectation of Council is that the procedures for these purchases will still follow the intent of Council’s Purchasing Policy. There are however occasions when the need for multiple quotes is either impractical or unnecessary and the policy already provides a mechanism for the CEO to approve waiving of multiple quotes in those situations.

- F.8 – Facility Hire

Change all references to “Recreation Centre” with “Leisure Centre”.

Reason for Amendments – Reflects the new name of the facility.

- F.15 – Asset Management
Delete second 'dot' point under "Policy Statement".

Reason for Amendment – The value of assets changes annually dependent upon acquisition, disposition and revaluations. This information is provided in Council's Asset Management Plans which are the appropriate reference document.

- F.17 – Collection of Non-Rates Fees and Charges
Replace "\$100" with "\$500".

Reason for Amendment – Matches the increase to delegated authority approved by Council in November 2015.

- F.19 – Assets Financing and Borrowings
Delete the following wording in Part 1.3.2 – "the Shire shall then reassess its capacity to pay on an annual basis and publish the results of that assessment in its annual report".

Reason for Amendment – Assessment of borrowing ratios and capacity to pay is done during budget preparation (if loans are proposed to be taken out). In the event of a loan being taken out outside the annual budget process a full assessment of the proposal will be undertaken, including public consultation in accordance with the *Local Government Act 1995*.

Other

- O.7 – Provision of Refreshments to Firefighters
(a) Change title of Policy to "Provision of Refreshments to Fire Fighters by Incident Controller".
(b) Under "Policy":
 - Delete first 'dot' point and replace with: "In addition to relevant Shire staff the Incident Controller is authorised to incur expenditure for the welfare of fire fighters.
 - Second and third 'dot' points – change "fire control officers" to "Incident Controller".
 - Fourth 'dot' point – increase \$500 to \$1,000.
 - Add new sixth 'dot' point to read: "This Policy is only for the purpose of authorising expenditure by the Incident Controller. The provision of refreshments during a fire or other emergency is a standard procedure and applicable Shire staff are authorised to incur expenditure to meet the requirements of the fire or emergency".

Reasons for Amendments – Since this Policy was initially adopted in 2002 the position of Incident Controller at a fire has been introduced. The purpose of the Policy is to give authorisation to the Incident Controller to incur minimal (up to \$1,000) expenditure. For greater expenditure requirements applicable Shire staff are able to organise and authorise.

- O.10 – Bridgetown-Greenbushes Visitor Centre Membership Policy
(a) New 'dot' point to be added to "Full Membership" to read:

- For restaurants and cafés, inclusion of the following:
 - Menu and contact details on the outside window of the Visitor Centre
 - Inclusion on the Daily Dining Guide, distributed to all accommodation operators in the Shire for their guests' information folders
 - Inclusion on Bridgetown's Easter & Christmas opening hours document
- (b) Under "Membership Criteria" replace second 'dot' point with:
- Businesses that accept bookings from the Bridgetown-Greenbushes Visitor Centre shall pay 12.5% commission on all bookings made, and 15% for bookings that come via www.waholidayguide.com.au.
 - Members undertake to maintain all necessary licenses and insurances for the duration of their membership.
 - Membership renewal must be completed within three months of the membership invoice date, or the operator's listing shall be disabled until such time as the renewal is paid.

Reasons for Amendments

- (a) Information added expands upon the benefits of membership for cafes and restaurants.
- (b) Some Operators have been delaying payment, often for months in spite of receiving regular reminders and requests for payment. The proposed amendment should overcome this issue.

Obsolete Policies recommended for Revocation:

Planning

- P.2 – Minimum Standards for Scheme Amendments
Part 5 of the new Planning and Development (Local Planning Schemes) Regulations 2015 defines and sets out the process and information required for the three new types of scheme amendments being Basis, Standard and Complex. The current Shire Policy simply gives discretion to the CEO to determine what used to be a Minor or a Major scheme amendment, dependent upon the complexity of the proposal and is no longer considered necessary.
- P.3 Advice for Subdivision – Applicants
The practice of notifying subdividers of Council's recommendation is entrenched into staff practice and recognised as good customer service, therefore a specific Policy is no longer considered necessary.

Other Section

- O.2 – Facility Hire
It is recommended this Policy be revoked as it replicated as Policy F.8.
- O.3 – Hire of Swimming Pool
It is recommended this Policy be revoked as the Policy is now obsolete as group booking provisions now exist for the facility. As it is integrated, the aquatic complex cannot be accessed by a private hire without that group

having access to the entire complex. With the expanded operating hours of the Leisure Centre, including the 24 hour access gym, hiring the whole centre for exclusive use of a private party is not considered appropriate.

With the deletion of Policies O. 2 and O.3, Policies O.4 – O.16 to be re-numbered accordingly.

Policies requiring further review with separate reports to be presented to a future Meeting:

Works & Services

- WS.1 Street Trees
- WS.17 Placement of Memorial Plaques

Planning

- P.4 Holiday Accommodation Policy (apart from requirements needing to be updated it is considered more prudent to adopt the Policy as a Town Planning Scheme Policy).

Town Planning

- TP.1 Relocated Dwellings Policy
- TP.3 Road Access to New Development
- TP.4 Bed & Breakfast Accommodation Policy
- TP.6 Ancillary Accommodation Policy
- TP.7 Plantation Applications Policy
- TP.12 On-Site Manoeuvring of Vehicles Policy
- TP.13 River Road Subdivision Guide Plan Policy
- TP.14 Mattamattup Valley Subdivision Guide Plan Policy
- TP.16 Demountable Buildings Policy
- TP.17 Relocatable Storage Units Policy
- TP.18 Relocated Outbuildings Policy
- TP.19 Construction of Barn Style Dwellings
- TP.20 Home Occupation & Cottage Industry Policy
- TP.21 Siting of Water Tanks Policy
- TP.22 Outbuildings in the Residential Zone Policy
- TP.23 Approval of Second Rural Dwellings Policy
- TP.24 Transportable Dwellings Policy

Statutory Environment - Nil

Integrated Planning

- Strategic Community Plan
 - Objective 4: A collaborative and engaged community
 - Outcome 4.4: The Shire provides a can-do approach within the regulatory framework
 - Strategy 4.4.1 – review existing policies to determine if the regulatory framework is aligned to the needs of the broader community

- Corporate Business Plan
Objective: A collaborative and engaged community
Desired Outcome: A high standard of governance and accountability
- Long Term Financial Plan – N/A
- Asset Management Plans – N/A
- Workforce Plan – N/A
- Other Integrated Planning – N/A

Policy Implications

This Item is the review of the Policy Manual

Budget Implications – Nil

Fiscal Equity – Not Applicable

Whole of Life Accounting – Not Applicable

Social Equity - Not Applicable

Ecological Equity - Not Applicable

Cultural Equity – Not Applicable

Risk Management – Not Applicable

Continuous Improvement

Regular review of policies represents good governance

Voting Requirements – Simple Majority

Committee Recommendation *Moved Cr Scallan, Seconded Cr Pratico*

SC.03/1116 That Council:

1. **Endorse the following Policies with minor modifications as set out in the body of the report:**
 - **M.1 – Policy Manual**
 - **M.4 – Members Allowances/Expenses**
 - **M.7 – Elected Members – Presentations on Retirement**
 - **M.15 – Organisation Structure**
 - **M.16 – Citizenship Ceremonies & Certificates**
 - **M.19 – Meetings of Council – Guest Speakers**
 - **M.23 – Passenger Vehicle Use & Acquisition Policy**
 - **M.24 – Provision of Information**
 - **M.26 - Complaints**
 - **M.38 – Advertising of Annual General Meeting of Electors**
 - **A.4 – Facility Opening Hours to the Public**
 - **A.15 – Library – Personal Use Compute**
 - **A.17 – Library Membership**
 - **A.19 – Supplementary Superannuation Contributions for Employees**
 - **A.20 – Library Loans**
 - **A.24 – Social Media**

- **F.6 – Purchasing Policy**
 - **F.8 – Facility Hire**
 - **F.15 – Asset Management**
 - **F.17 – Collection of Non-Rates Fees and Charges**
 - **F.19 – Assets Financing and Borrowings**
 - **O.7 – Provision of Refreshments to Fire Fighters**
 - **O.10 – Bridgetown-Greenbushes Visitor Centre Membership**
2. **Revoke the following Policies:**
- **P.2 - Minimum Standards for Scheme Amendments**
 - **P.3 - Advice for Subdivision - Applicants**
 - **O.2 – Facility Hire**
 - **O.3 – Hire of Swimming Pool**
3. **With the revocation of existing Policies O.2 and O.3 renumber Policies O.4 to O.16 as O.2 to O.14.**
4. **Note and retain all other Policies without modification.**
- Carried 7/0**

ITEM NO.	SC.04/1116	FILE REF.	203
SUBJECT	Annual Review of Council Delegations		
OFFICER	Chief Executive Officer		
DATE OF REPORT	25 October 2016		

Attachment 4 Delegation Register – Council to CEO

OFFICER RECOMMENDATION that Council:

1. *Amend Delegations F6 – ‘Recreation Centre Fees’ and ‘F.10 – Disposal of Surplus Equipment, Materials, Tools, Etc.’ as follows:*

Delegation F.6 – Recreation Centre Fees

- (a) *Change reference of “Recreation Centre” to “Leisure Centre”.*
- (b) *Add a new paragraph to read:*

“The Chief Executive officer is delegated authority to approve free trials/classes (to a maximum of two trials/classes each) when new programs or initiatives are introduced.”

Delegation F.10 – disposal of Surplus Equipment, Materials, Tools, Etc

Add the word “each” after “\$2,000” at the end of the delegation.

2. *Adopt a new delegation, Delegation ‘O.11 – Burning, Prohibited and Restricted Times (Variations)’ to read:*
- “Council has delegated to the President and the Chief Bush Fire Control Officer the authority to vary prohibited (including restricted) burning times in accordance with the Bush Fires Act.”*

3. *Note and retain the contents of the following Delegations to the CEO without amendment:*
- *A.1 – Acting Chief Executive Officer*
 - *A.2 – Authorisation of Officers*
 - *A.3 – Transfer of Land Document*
 - *A.5 – Execution of Contracts*
 - *A.6 – Appointment of PID Officer*
 - *A.7 – EEO Implementation Officer*
 - *E.1 – Code of Conduct – Complaints Officer*
 - *E.2 – Recording of Procedures*
 - *F.1 – Payment from Municipal Fund and Trust Fund*
 - *F.2 – Donations*
 - *F.3 – Write Off of Money Owing to the Local Government*
 - *F.4 – Contract Variations*
 - *F.5 – Tenders for Providing Goods & Services*
 - *F.7 – Authority to Invest Surplus Funds*
 - *F.8 – Budget Expenditure*
 - *F.9 – Acceptance of Tenders*
 - *WS.1 – Multi Combination Vehicles*
 - *WS.2 – Events on Roads*
 - *P.1 – Development Applications – Extension of Time*
 - *P.2 – Setback Variations*
 - *P.3 – Subdivisions*
 - *P.4 – Development Applications*
 - *P.5 – Road Closures*
 - *P.6 – Subdivisional Road Names*
 - *P.7 – Subdivision Clearance*
 - *P.8 – Directional Signs*
 - *P.9 – Provision of Streets in Subdivisions under the Planning & Development Act 2005*
 - *P.10 – Signs and Hoardings*
 - *B.1 – Powers and Duties – Building Act 2011 - CEO*
 - *B.2 – Powers and Duties – Building Act 2011 – Principal Building Surveyor*
 - *O.1 – Firebreak Order – Variation*
 - *O.2 – Proceedings Under Dog & Cat Acts*
 - *O.3 – General Orders*
 - *O.4 – Removal of Hazards*
 - *O.5 – Offences – Bush Fires Act*
 - *O.6 – Enforcement and legal Proceedings*
 - *O.7 – Harvesting Bans*
 - *O.8 – Use of Blackwood River for Active Recreation*
 - *O.9 – Use of Shire Reserves for Camping*
 - *O.10 – Fire Management Plan*

Summary/Purpose

Section 5.46(2) of the Local Government Act 1995 requires Council to review its delegations at least once every financial year.

Background

Section 5.16 of the Local Government Act allows a local government to delegate powers to Committees, other than the power of delegation. Similarly, Section 5.42 of the Local Government Act allows a local government the ability to delegate powers to its CEO.

A local government which delegates powers to its CEO or Committees is to carry out a review of all Delegations during each financial year.

Delegations to Committees

There are currently no Delegations to Council Committees.

Delegations to CEO

Minor Amendments Proposed to Current Delegations:

Category “Finance”

1. Delegation F.6 – Recreation Centre Fees
 - (a) Change reference of “Recreation Centre” to “Leisure Centre”.
 - (b) Add a new paragraph to read:
“The Chief Executive officer is delegated authority to approve free trials/classes (to a maximum of two trials/classes each) when new programs or initiatives are introduced.”
2. Delegation F.10 – disposal of Surplus Equipment, Materials, Tools, Etc
Add the word “each” after “\$2,000” at the end of the delegation.

Proposed New Delegation

Category “Other”

1. Delegation O.11 – Burning, Prohibited and Restricted Times (Variations)

Section 18 (10) of the Bush Fires Act states that a local government may be resolution delegate to its Mayor, or President, and its Chief Bush Fire Control Officer, jointly its powers and duties under subsections (7) and (8) which relate the decisions made to vary prohibited (including restricted) burning times. It is considered that the best method of recording this resolution is within Council’s Delegation Register.

The new delegation would read:
“Council has delegated to the President and the Chief Bush Fire Control Officer the authority to vary prohibited (including restricted) burning times in accordance with the Bush Fires Act.”

It is recommended all other Delegations be retained without modification.

Statutory Environment

Local Government Act 1995 – Sections 5.42 – 5.48

5.42. Delegation of some powers and duties to CEO

- (1) A local government may delegate* to the CEO the exercise of any of its powers or the discharge of any of its duties under this Act other than those referred to in section 5.43. * Absolute majority required.
- (2) A Delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of Delegation.

5.43. Limits on Delegations to CEO's

A local government cannot delegate to a CEO any of the following powers or duties —

- (a) any power or duty that requires a decision of an absolute majority or a 75% majority of the local government;
- (b) accepting a tender which exceeds an amount determined by the local government for the purpose of this paragraph;
- (c) appointing an auditor;
- (d) acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government for the purpose of this paragraph;
- (e) any of the local government's powers under section 5.98, 5.98A, 5.99, 5.99A or 5.100;
- (f) borrowing money on behalf of the local government;
- (g) hearing or determining an objection of a kind referred to in section 9.5;
- (h) any power or duty that requires the approval of the Minister or the Governor; or
- (i) such other powers or duties as may be prescribed.

5.44. CEO may delegate powers and duties to other employees

- (1) A CEO may delegate to any employee of the local government the exercise of any of the CEO's powers or the discharge of any of the CEO's duties under this Act other than this power of Delegation.
- (2) A Delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of Delegation.
- (3) This section extends to a power or duty the exercise or discharge of which has been delegated by a local government to the CEO under section 5.42, but in the case of such a power or duty —

- (a) the CEO's power under this section to delegate the exercise of that power or the discharge of that duty; and
 - (b) the exercise of that power or the discharge of that duty by the CEO's delegate, are subject to any conditions imposed by the local government on its Delegation to the CEO.
- (4) Subsection (3)(b) does not limit the CEO's power to impose conditions or further conditions on a Delegation under this section.
- (5) In subsections (3) and (4) —
- “conditions” includes qualifications, limitations or exceptions.
- 5.45. Other matters relevant to Delegations under this Division
- (1) Without limiting the application of sections 58 and 59 of the Interpretation Act 1984 —
- (a) a Delegation made under this Division has effect for the period of time specified in the Delegation or where no period has been specified, indefinitely; and
 - (b) any decision to amend or revoke a Delegation by a local government under this Division is to be by an absolute majority.
- (2) Nothing in this Division is to be read as preventing —
- (a) a local government from performing any of its functions by acting through a person other than the CEO; or
 - (b) a CEO from performing any of his or her functions by acting through another person.

5.46. Register of, and records relevant to, Delegations to CEO's and employees

- (1) The CEO is to keep a register of the Delegations made under this Division to the CEO and to employees.
- (2) At least once every financial year, Delegations made under this Division are to be reviewed by the delegator.
- (3) A person to whom a power or duty is delegated under this Act is to keep records in accordance with regulations in relation to the exercise of the power or the discharge of the duty.

Integrated Planning

- Strategic Community Plan
 - Objective 4: A collaborative and engaged community
 - Outcome 4.4: The Shire provides a can-do approach within the regulatory framework

- Corporate Business Plan
Objective: A collaborative and engaged community
Desired Outcome: A high standard of governance and accountability
- Long Term Financial Plan – N/A
- Asset Management Plans – N/A
- Workforce Plan – N/A
- Other Integrated Planning – N/A

Policy/Strategic Implications

Many of the delegations contained within the Council Delegation Register relate back to Policy and Local Laws which have been set by Council to enable Officers to work effectively in line with Council's requirements.

Budget Implications - Nil

Fiscal Equity – Not Applicable

Whole of Life Accounting – Not Applicable

Social Equity – Not Applicable

Ecological Equity – Not Applicable

Cultural Equity – Not Applicable

Risk Management

Council needs to be satisfied that appropriate policy, strategy and direction have been provided to the CEO and staff for effective decisions to be made under delegated authority.

Continuous Improvement – Not Applicable

Voting Requirements – Absolute Majority

Committee Recommendation *Moved Cr Boyle, Seconded Cr Pratico*

SC.04/1116 That Council:

1. ***Amend Delegations F6 – 'Recreation Centre Fees' and 'F.10 – Disposal of Surplus Equipment, Materials, Tools, Etc. 'as follows:***

Delegation F.6 – Recreation Centre Fees

- (a) ***Change reference of "Recreation Centre" to "Leisure Centre".***
- (b) ***Add a new paragraph to read:***
"The Chief Executive officer is delegated authority to approve free trials/classes (to a maximum of two trials/classes each) when new programs or initiatives are introduced."

Delegation F.10 – disposal of Surplus Equipment, Materials, Tools, Etc

Add the word "each" after "\$2,000" at the end of the delegation.

2. ***Adopt a new delegation, Delegation 'O.11 – Burning, Prohibited and Restricted Times (Variations)' to read:***

“Council has delegated to the President and the Chief Bush Fire Control Officer the authority to vary prohibited (including restricted) burning times in accordance with the Bush Fires Act.”

3. Note and retain the contents of the following Delegations to the CEO without amendment:

- **A.1 – Acting Chief Executive Officer**
- **A.2 – Authorisation of Officers**
- **A.3 – Transfer of Land Document**
- **A.5 – Execution of Contracts**
- **A.6 – Appointment of PID Officer**
- **A.7 – EEO Implementation Officer**
- **E.1 – Code of Conduct – Complaints Officer**
- **E.2 – Recording of Procedures**
- **F.1 – Payment from Municipal Fund and Trust Fund**
- **F.2 – Donations**
- **F.3 – Write Off of Money Owing to the Local Government**
- **F.4 – Contract Variations**
- **F.5 – Tenders for Providing Goods & Services**
- **F.7 – Authority to Invest Surplus Funds**
- **F.8 – Budget Expenditure**
- **F.9 – Acceptance of Tenders**
- **WS.1 – Multi Combination Vehicles**
- **WS.2 – Events on Roads**
- **P.1 – Development Applications – Extension of Time**
- **P.2 – Setback Variations**
- **P.3 – Subdivisions**
- **P.4 – Development Applications**
- **P.5 – Road Closures**
- **P.6 – Subdivisional Road Names**
- **P.7 – Subdivision Clearance**
- **P.8 – Directional Signs**
- **P.9 – Provision of Streets in Subdivisions under the Planning & Development Act 2005**
- **P.10 – Signs and Hoardings**
- **B.1 – Powers and Duties – Building Act 2011 - CEO**
- **B.2 – Powers and Duties – Building Act 2011 – Principal Building Surveyor**
- **O.1 – Firebreak Order – Variation**
- **O.2 – Proceedings Under Dog & Cat Acts**
- **O.3 – General Orders**
- **O.4 – Removal of Hazards**
- **O.5 – Offences – Bush Fires Act**
- **O.6 – Enforcement and legal Proceedings**
- **O.7 – Harvesting Bans**
- **O.8 – Use of Blackwood River for Active Recreation**
- **O.9 – Use of Shire Reserves for Camping**
- **O.10 – Fire Management Plan**

Carried 7/0

Local Laws - Nil

Strategy - Nil

Organisation Development

ITEM NO.	SC.05/1116	FILE REF.	209
SUBJECT	Rolling Action Sheet		
OFFICER	Chief Executive Officer		
DATE OF REPORT	1 November 2016		

Attachment 5 Rolling Action Sheet

OFFICER RECOMMENDATION that the information contained in the Rolling Action Sheet be noted.

Summary/Purpose

The presentation of the Rolling Action Sheet allows Councillors to be aware of the current status of Items/Projects that have not been finalised.

Background

The Rolling Action Sheet has been reviewed and forms an Attachment to this Agenda.

Statutory Environment – Nil

Policy/Strategic Plan Implications – Nil

Budget Implications – Nil

Fiscal Equity – Not Applicable

Whole of Life Accounting – Not Applicable

Social Equity – Not Applicable

Ecological Equity – Not Applicable

Cultural Equity – Not Applicable

Risk Management – Not Applicable

Continuous Improvement – Not Applicable

Voting Requirements – Simple Majority

Committee Recommendation ***Moved Cr Pratico, Seconded Cr Boyle***
SC.05/1116 That the information contained in the Rolling Action Sheet be noted.

Carried 7/0

Urgent Business Approved by Decision

ITEM NO.	SC.06/1116	FILE REF.	105
SUBJECT	Plastic Bag Ban – Discussion Paper		
PROPONENT	WALGA		
OFFICER	Chief Executive Officer		
DATE OF REPORT	9 November 2016		

Reason for Urgent Business: Discussion of this matter is best suited to a Standing Committee meeting rather than an ordinary Council meeting.

Attachment 6 WALGA Discussion Paper

OFFICER RECOMMENDATION that Item SC.06/1116 be accepted as urgent business.

OFFICER RECOMMENDATION that Council advises WALGA that it doesn't support a state-wide ban on plastic bags if the legislative power for such a ban is to rest with local government. Furthermore responses to the four questions asked by WALGA as part of its discussion paper be provided in line with the officer comments made in the body of this agenda report.

Summary/Purpose

WALGA has prepared a Discussion Paper on the subject of local governments progressing a ban on the use of plastic bags and is seeking feedback from all local governments.

Background

WALGA has prepared a Discussion Paper (refer Attachment 6), which highlights the issue of plastic pollution as an environmental and potential human health hazard.

The Discussion Paper investigates the approaches taken by Governments that have addressed plastic bags as a contributing cause of plastic pollution. Together with providing the Discussion Paper, WALGA has requested feedback from Local Governments to determine the extent of the issue of plastic bags in local environments and to determine support for banning plastic bags at the State and/or Local level.

The Discussion Paper highlights the key motivations for Local Government to act on plastic bags:

- ☐ Reduce litter in the terrestrial and marine environment: this reduces impacts on the environment and the need for resource intensive clean-ups
- ☐ Reduce plastic bag contamination of alternative waste treatment plants and composting facilities: this would increase the value of compost produced and reduce the amount of pre-treatment required.

- Engage the community to challenge established social norms relating to consumption.

The Discussion Paper highlights that the south west of Western Australia has a relatively high density of littered plastic debris (CSIRO published data) and according to information provided by 'Clean Up Australia'. Australians are using approximately 4 billion High Density Polyethylene (HDPE) plastic bags annually, such as those supplied by supermarkets and other retailers. Whilst plastic bags are considered to be a 'free' commodity, they actually add an additional cost to the price of goods purchased by consumers.

As many as two-thirds of plastic bags are reused once or twice prior to disposal, few are recycled and some inevitably contribute to litter. 'Clean Up Australia' information suggests that between 30-50 million plastic bags could be entering the Australian environment as litter every year.

Officer Comment

WALGA has requested feedback on four questions:

1. Is plastic pollution and litter an issue for your local government?
2. What actions is your local government taking to address littering and prevent plastic entering the environment (e.g. provision of public waste bins, gross pollutant traps, facilitating "adopt a spot" projects)?
3. Does your Council support a state-wide plastic bag ban?
4. Would your council like to introduce a Local Law to ban plastic bags?

Officer comments on the four questions are provided below:

1. Is plastic pollution and litter an issue for your local government?

Response – Littering in general is an issue – not necessarily a prolific issue but one that exists. "Plastic" littering in itself is not considered to be a greater issue than other types of litter but the consequences of plastic littering are noted – impacts on wildlife and the environment are well known. Reports of littering and general concerns about littering – plastic or other materials – are not significantly raised with the Shire by the local community but they are serious issues of concern to many residents and local environmental groups.

2. What actions is your local government taking to address littering and prevent plastic entering the environment (e.g. provision of public waste bins, gross pollutant traps, facilitating "adopt a spot" projects)?

Response - Litter fences are in place at the Bridgetown Waste Disposal site to catch windblown litter, including plastic bags and lightweight plastics. Bins are provided at urban parks and recreational areas. Rangers monitor littering and have the authority to fine and/or prosecute offenders.

3. Does your Council support a state-wide plastic bag ban?

Response - Local Government is not the appropriate regulatory authority for initiating and enforcing a ban. Such authority should rest with the State Government. Therefore officers recommend Council articulate its non-support for a state-wide plastic bag ban if it is being suggested as a local government initiative.

4. Would your council like to introduce a Local Law to ban plastic bags?

Response - The banning of plastic bags through a Local Law is not practical as this is considered to be a state-wide issue. Banning plastic bags would need to be introduced at a state level to ensure that local businesses are not unfairly impacted where a ban is in place at a local level.

Sturdy reusable bags that are used to their full potential demonstrated the best environmental gains, whilst meeting the needs of the retailer and consumer. Any ban on single use plastic bags will need to address the requirements of their use as bin liners as a valid argument exists that the use of plastic bags as bin liners is an excellent example of recycling and if plastic bags are banned people will simply purchase pre-packaged bin liners as an alternative.

Statutory Environment

No statutory implications are evident at the moment as the subject matter is simply being raised as a discussion item and there is no current mandate from the State Government for legislative change.

Integrated Planning

- Strategic Community Plan
Objective 2 – our unique natural and built environment is protected and enhanced
Outcome 2.8 - Natural resources are used efficiently and effectively
Strategy 2.8.5 - Support and promote sound environmental management practices
- Corporate Business Plan - Nil
- Long Term Financial Plan – Not Applicable
- Asset Management Plans – Not Applicable
- Workforce Plan – Not Applicable
- Other Integrated Planning - Nil

Policy - Nil

Budget Implications - Nil

Fiscal Equity – Not Applicable

Whole of Life Accounting – Not Applicable

Social Equity – Not Applicable

Ecological Equity

The ecological consequences of plastic bag littering are well described in the discussion paper.

Cultural Equity – Not Applicable

Risk Management – Not Applicable

Continuous Improvement – Not Applicable

Voting Requirements – Simple Majority

Committee Decision ***Moved Cr Nicholas, Seconded Cr Scallan***
SC.06/1116 That Item SC.06/1116 be accepted as urgent business.

Moved Cr Scallan, Seconded Cr Nicholas

That Council advises WALGA that it doesn't support a state-wide ban on plastic bags if the legislative power for such a ban is to rest with local government. Furthermore responses to the four questions asked by WALGA as part of its discussion paper be provided in line with the officer comments made in the body of this agenda report.

Amendment Moved Cr Scallan, Seconded Cr Moore

Amend the first sentence to read: That Council advises WALGA that it supports a state-wide ban on plastic bags. This support is based on the fact that it is to be legislated and implemented by the State Government.

Carried 7/0

The Amended Motion becomes the Substantive Motion – The Motion was Put

Committee Recommendation ***Moved Cr Scallan, Seconded Cr Nicholas***

SC.06/1116a That Council advises WALGA that it supports a state-wide ban on plastic bags. This support is based on the fact that it is to be legislated and implemented by the State Government. Furthermore responses to the four questions asked by WALGA as part of its discussion paper be provided in line with the officer comments made in the body of this agenda report.

Carried 7/0

Reason for amending the officer recommendation

Council wanted to articulate its support for a state wide plastic bag ban.

Responses to Elected Members Questions Taken on Notice - Nil

Elected Members Questions With Notice - Nil

Briefings by Officers - Nil

Notice of Motions for Consideration at Next Meeting - Nil


Matters Behind Closed Doors - Nil

Closure

The Presiding Member closed the Meeting at 6.07pm

List of Attachments

Attachment	Item No.	Details
1	SC.02/1116	Current Home Occupation & Cottage Industry Policy TP.20
2	SC.02/1116	Draft Home-Based Business Policy
3	SC.03/1116	Policy Manual [separate Attachment on CD]
4	SC.04/1116	Delegation Register – Council to CEO
5	SC.05/1116	Rolling Action Sheet
6	SC.06/1116	WALGA Discussion Paper

Minutes checked and authorised by CEO, Mr T Clynch		11.11.16
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CERTIFICATION OF MINUTES

As Presiding Member, I certify that the Minutes of the Local Laws, Strategy, Policy & Organisation Development Standing Committee Meeting held 10 November 2016 were confirmed as a true and correct record of the proceedings of that meeting at the Standing Committee meeting held on 9 February 2017.

.....9 February 2017