

NOTICE OF STANDING COMMITTEE MEETING

Dear Member

The next Ordinary Meeting of the Shire of Bridgetown-Greenbushes Local Laws, Strategy, Policy & Organisation Development Standing Committee Meeting to be held in the Council Chambers on Thursday, **11 August 2016** commencing at the conclusion of the Special Meeting of Council.

Signed by T Clynych



Date:

4 August 2016

Standing Committee Agenda Index – 11 August 2016

Subject	Page No
Acknowledgment of Country	2
Attendance & Apologies.....	2
Attendance of Gallery	2
Petitions/Deputations/Presentations.....	2
Comment on Agenda Items by Parties With an Interest.....	2
Confirmation of Minutes	2
SC.01/0816 Ordinary Meeting held 14 July 2016	2
Announcements/Briefings by Elected Members	2
Notification of Disclosure of Interest.....	3
Consideration of Motions of which Previous Notice Has Been Given	3
Reports of Officers.....	3
Policy	3
SC.02/0816 Revised Cut & Fill Town Planning Scheme Policy	3
SC.03/0816 Draft Assessment of Cultural Heritage Significance Policy	11
Local Laws	15
SC.04/0816 Statutory Review of Local Laws	15
Strategy	24
Organisation Development.....	24
SC.05/0816 Rolling Action Sheet	24
Urgent Business Approved By Decision.....	25
Responses to Elected Member Questions Taken on Notice	25
Elected Members Questions With Notice.....	25
Briefings by Officers	25
Notice of Motions for Consideration at Next Meeting	25
Matters Behind Closed Doors	25
Closure	25
List of Attachments.....	25

AGENDA

For a Meeting of the Local Laws, Strategy, Policy & Organisation Development Standing Committee to be held in the Council Chambers on Thursday, 11 August 2016 commencing at the conclusion of the Special Meeting of Council.

Meeting to be opened by the Presiding Member

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

- S C Hodson

- D Mackman

- 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

Gallery

Petitions/Deputations/Presentations

Comment on Agenda Items by Parties With an Interest

Confirmation of Minutes

SC.01/0816 Ordinary Meeting held 14 July 2016

A motion is required to confirm the Minutes of the Ordinary Meeting of the Local Laws, Strategy, Policy & Organisation Development Standing Committee held 14 July 2016 as a true and correct record.

Announcements/Briefings by Elected Members

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.

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

ITEM NO.	SC.02/0816	FILE REF.	770
SUBJECT	Revised Cut & Fill Town Planning Scheme Policy		
OFFICER	Manager Planning		
DATE OF REPORT	3 August 2016		

Attachment 1	Submissions
Attachment 2	Current Cut & Fill Policy
Attachment 3	Revised Cut & Fill Policy (as advertised)
Attachment 4	Revised Cut & Fill Policy (recommended)

OFFICER RECOMMENDATION: That Council notes the two submissions received, as per Attachment 1, and pursuant to Clause 6.7.3 of Town Planning Scheme No. 3 and Clause 7.6.3 of Town Planning Scheme No. 4 resolves to adopt the modified revised Cut & Fill Town Planning Scheme Policy, as per Attachment 4, incorporating modified policy requirements including submission of a post-landscaping plan and reduced earthworks bond.

Summary/Purpose

Council in May 2016 resolved to give 'in-principle' support to revise the Shire's Cut & Fill Policy by removing landscaping plan and bond requirements. Noting the two submissions received it is recommended that Council not adopt the revised policy as advertised, and instead adopt a revised policy incorporating modified requirements including submission of a post-landscaping plan and a reduced earthworks bond.

Background

Council at the Ordinary Meeting on 26 May 2016 resolved to adopt the Standing Committee recommendation as follows:

“C.13/0516 That Council endorse in-principle the following amendments to its Cut and Fill Town Planning Scheme Policy (TP8) and direct the CEO to commence the community consultation required for amending a town planning scheme policy by:

- 1. Deleting reference for the requirement of a landscaping plan.*
- 2. Deleting all reference to or requirements for submittal of a landscaping plan and payment of a landscaping bond.*
- 3. Noting that such amendments wouldn't be retrospective for applicants that have already had landscaping conditions imposed and/or paid a landscaping bond.”*

Public Consultation

The draft revised policy incorporating the above changes (see Attachment 3) was advertised for public comment with notices published in the Manjimup-Bridgetown Times, and posted on the Shire's noticeboards and website. The submission period ended on 21 July 2016 with two submissions received from local builders, discussed below.

Submitter 1 - Greg Tomkinson, Building Contractor

Comment 1 - Landscaping is done after a house has been completed and the owners have taken possession of the building. It seems rather pointless and premature to me to have people submit a plan with a building application.

Staff Response – Under the current policy the proposed earthworks and/or retaining wall details are required at the development application stage, however a landscaping plan is not required prior to the issue of a building permit.

Comment 2 - I understand that a bond of \$1200 has to be submitted with the building application showing what landscaping is to be done and has a set of conditions attached. This seems unnecessary given that it may be many months before these plans are put into action.

Staff Response – Under the current policy the landscaping bond (or retaining wall bond if applicable) is to be paid at the time of lodging a building permit application, however the granting of a building permit application is not to be held up pending payment of the fee. See Comment 1 and Staff Response above.

Comment 3 - I also believe that not all of the bond is given back. This needs to be clarified as to the intent of this policy and the withholding of people's money at the start of the building process.

Staff Response – Under the current policy the \$1200 landscaping bond consists of the refundable \$1000 base bond, a refundable \$150 (15%) service fee plus non-refundable \$50 (5%) administration fee, as per the Shire's Schedule of Fees and Charges adopted by Council. The landscaping bond is refunded when Shire staff are satisfied that the required landscaping works have been completed, usually in accordance with an approved landscaping plan. Of the \$1200 bond, \$1150 plus

accrued interest is returned to the owner (or builder if applicable), with a \$50 administration fee retained by the Shire to cover costs associated with landscaping plan approval, final inspection and administration.

Comment 4 - The list of conditions that have to be met are far too early in the building process. People do plan differently once a house has been built and they are physically in it. The conditions such as list of species could easily change. Location of planting could easily change. Species of seed mix, fertiliser used and areas to be mulched and seeded all could change.

Staff Response – Shire staff agree hence why the landscaping plan is not required until post construction of the dwelling, with landowners to submit the landscaping plan and undertake the landscaping works once the dwelling is occupied.

Comment 5 - These conditions are impractical and most unfair on people who intend to build. I suggest that if the Shire does want landscaping plans that they be submitted once a house has been built and drop the very expensive \$1200 bond to a reasonable application fee.

Staff Response – Shire staff agree that the landscaping conditions be reviewed with the recommended submission of a post-landscaping plan and reduced earthworks bond of \$500.

Submitter 2 – Rade Ristovic, WA Country Builders

Comment 1 - We write in reference to the above pursuant to Clause 6.7.3 of the Shire's Town Planning Scheme No. 3 and we are requesting specifically that Clause 7.6.3 of the Shire's Town Planning Scheme No. 4 be removed and the reasons we submit are as follows.

Staff Response - The submission calls for removing Clause 7.6.3 from Town Planning Scheme No. 4 (TPS4), and appears to incorrectly paraphrase the circular provided to them which formed part of their emailed submission (see Attachment 1). Removing Clause 7.6.3 of TPS4 can only be progressed through a formal scheme amendment process and not through the policy review process being undertaken. It is assumed that the submitter has misunderstood the wording of the policy review, and instead supports the revised policy and deletion of landscaping requirements.

Comment 2 – Submission of a landscaping plan and payment of \$1200 bond before the building permit will be issued is a further financial impost upon our clients especially when only part of the bond will be refunded after all the conditions are met.

Staff Response – WA Country Builders has never queried the payment of the landscaping bond beforehand and in most cases makes payment of the bond themselves when lodging a building permit application. Shire staff have been advised that WA Country Builders includes the \$1200 landscaping bond in the client's contract price. See Submitter 1, Comment 3 and Staff Response in relation to bond refunds.

Comment 3 – The landscaping submission has many onerous requirements which will place a huge burden upon our clients and staff in completing the plan.

Staff Response – The preparation of a landscaping plan may take a significant time, researching and sourcing appropriate plant species, but is dependent upon the scale of the landscaping works required. See also Comment 4 and the Staff Response below.

Comment 4 – The onerous requirements of the landscaping provisions will also place a significant additional burden on our staff and our business resources and will result in increased cost to our business.

Staff Response - The Manager Planning does not recall WA Country Builders ever submitting a landscaping plan on behalf of their clients. The only attributable cost to WA Country Builders would be financial administration of bond payment and refunds, which would be minimal compared to the very complex process of residential construction.

Comment 5 - The costs to our business will be in additional wages, staff training, loss of time and productivity, cash flow implications associated with prolonging our lead times from contract to commencement of construction. Our drafting department will likely be tasked with actually preparing the landscaping plan on our client's behalf so we will have increased drafting overhead and loss of productivity. We have no option but to seek cost recovery for the increased drafting and other costs from our clients via our charging them a fee to comply with the provision of the landscaping plan.

Staff Response – See Comment 4 and Staff Response above.

Comment 6 – Associated decrease in service levels to our clients.

Staff Response - Noting the comments above that submission of the landscaping is not the responsibility of the builder, should the builder actually take on the role of landscape designer, that would be an increase in service level to their clients.

Comment 7 – Increased 'red tape' for our industry which is unwelcome and contrary to the industry's goal of reducing 'red tape' and striving for efficiencies to deliver more cost effective housing.

Staff Response – There is limited responsibility for builders regarding landscaping requirements. In many cases landowners pay the bond themselves, prepare and implement the landscaping plan, without any involvement from their builder.

Comment 8 – Our clients making application to have part of the landscaping bond refunded is another burden on them.

Staff Response – Partial refunds are not provided by the Shire and landowners can only request a full refund (minus \$50 administration fee) of the landscaping bond once all the approved works have been undertaken. There is therefore no additional burden as claimed by the submitter.

Comment 9 – As the major builder in your region our business will be adversely impacted on a scale greater than any other builder and the associated increase in our overhead costs is most unwelcome and in our view unjustified. The fee (cost

recovery) we will charge our clients to prepare a landscaping plan on their behalf we estimate will be in the vicinity of \$1,000 as a minimum.

Staff Response – Noting the comments above, there is little reason for WA Country Builders to be involved in the landscaping conditions other than payment and refunding of bonds if applicable.

Officer Comment

The comments below expand upon those provided to Council in May 2016. Shire staff have supported a comprehensive review of the Cut & Fill Policy to simplify some of the conditions and to possibly introduce more comprehensive conditions related to subdivision of land. Shire staff do not however support the ad hoc deletion of the landscaping plan and bond for reasons discussed below.

As background, the Shire's Cut & Fill Policy (see Attachment 1) was originally adopted by Council in September 2002, with the Aim *"To preserve the natural topography of the Scheme Area by restricting the level of cut and fill development specifically on steep slopes."*

Section 1.0 Introduction of the Policy recognises the topographical challenges of the Shire to find a level building site, and the cut and fill techniques often used for development that requires sufficient management to prevent unsightliness and erosion implications and *"Inappropriate cut and fill development can represent a scar on the landscape."*

The Cut & Fill Policy has been reviewed and specifically varied four times since the 2002 adoption, most recently in February 2012. Most notably the maximum permitted fill height was increased from 1.5 metres to 2.0 metres above natural ground level to reduce the depth of cut required and associated costs; the retaining wall bond was to be applicable only to retain fill post construction; and landscaping to only be applicable to fill embankments and not the cut embankments.

Under Policy requirement 3.2.3 *"All exposed fill embankments are to be stabilised to prevent erosion using retaining walls or landscaped in accordance with an approved landscaping plan."* The Cut & Fill Policy draws on requirements from Volume 2 Part 3.1.1 of the Building Code of Australia in relation to unprotected embankments. Under the BCA retaining walls or other methods may be required depending upon the soil type and ratio of cut or fill, or alternatively exposed embankments must be stabilised by vegetation or similar works to prevent soil erosion.

Importantly, the resolution of Council from May 2016 only required deletion of landscaping plans and bonds from the policy. Current conditions requiring retaining or landscaping of embankments, respreading of topsoil, and payment of the retaining wall bond were still included in the advertised revised policy.

Currently, landscaping plans when submitted to the Shire are assessed by the Shire's consultant Environment Officer to determine the appropriateness of the planting in terms of species, numbers, layout, etc, with recommendations provided when required for alternative planting more suited to the local area. Once the plan has been endorsed, and the planting undertaken, the Manager Planning can then inspect the site and if satisfied with the works can arrange for the bond to be

refunded including accrued interest, with the \$50 administration fee retained by the Shire.

In the motion presented to Council in May 2016, the horticultural qualification and ability of the Manager Planning to adjudicate landscaping was questioned. Without a landscaping plan detailing plant species, size and suitability, the Manager Planning will instead need to assess onsite the appropriateness of required landscaping. Inspections therefore will need to be undertaken by the Shire's consultant Environment Officer, if still deemed necessary by Council.

Some landowners however have expressed the view that preparing a landscaping plan is an imposition, and that nominating the species to be planted can be difficult due in part to a lack of supply of preferred species. Some landowners have simply undertaken the landscaping without seeking Shire approval of a landscaping plan, with some (not all) in this case submitting 'as-constructed' landscaping plans.

In responding above to the submitters, Shire staff confirmed that landowners are encouraged to provide the landscaping plan once the construction and earthworks have been completed. There is currently no timeframe imposed for completion of the landscaping, with embankment landscaping projects generally completed between twelve to eighteen months from the completion of dwelling construction.

Shire staff see some benefit from removing the need for an up-front landscaping plan and support instead a post-landscaping plan, or perhaps even a planting list, being submitted once the landscaping has been completed. Shire staff can then assess the plan or list, inspect the property and make any recommendations for additional planting if required. This view was provided to Council in May 2015 and again in May 2016.

The landscaping bond is a significant incentive for the landowners to complete the landscaping of the raised embankments, and the Shire takes bonds for various forms of development including retaining walls, relocated dwellings, relocated outbuildings, extractive industry rehabilitation, etc. Conversely, there are many examples throughout the Shire where landowners who have paid a bond have not yet commenced landscaping works despite reminders. Some owners have even sold their properties without undertaking the landscaping, passing on the landscaping project to the new owners. This makes refunding the bonds to the original owners/builder very difficult when the landscaping is finally completed by the new owners.

The inaction by some landowners can create significant unsightly development sites, with overgrown weeds, un-shaped and potentially unstable earthworks, that may cause wash out onto the verge and public roads. Photos from a number of completed landscaping projects and incomplete unsightly properties will be circulated to Councillors at the Standing Committee meeting. The address of the properties will not be provided and the photos will not form part of the agenda attachments.

Pursuant to the Planning and Development (Local Planning Schemes) Regulations 2015, development approval is now exempt for single house development in the Residential zone where compliant with the Deemed-to-comply provisions of the Residential Design Codes of WA and relevant Shire policies. In that case where

development approval is not granted, conditions from the Cut & Fill Policy can not be applied and the requirement for a landscaping plan and bond not enforceable.

Should Council support the revised policy as advertised, in the interests of fairness then Shire staff also advocate for deletion of retaining wall bonds, although not raised in the original motion in May 2016 or by the two submitters. Should the need for landscaping plans and bonds be removed from the policy, there will be significant savings in Shire administration costs, however that is not considered a sound reason to waive landscaping requirements.

Noting the above, Shire staff have prepared a modified revised Cut & Fill Policy re-listing the Section 3.0 Policy Requirements, and including conditions requiring submission of a post-landscaping plan (with minimal plant species details) and payment of a \$500 earthworks bond to cover landscaping and/or retaining walls.

Alternative Recommendation

Should Council disagree with the Staff recommendation and wish to progress adoption of the revised Cut & Fill Policy as advertised, the alternative recommendation is provided to assist:

That Council notes the two submissions received, as per Attachment 1, and pursuant to Clause 6.7.2 of Town Planning Scheme No. 3 and Clause 7.6.2 of Town Planning Scheme No. 4 adopts the revised Cut & Fill Town Planning Scheme Policy as advertised, as per Attachment 3.

Should Council disagree with the Staff recommendation and wish to progress adoption of the revised Cut & Fill Policy as advertised, the second alternative recommendation is provided to assist:

That Council notes the two submissions received, as per Attachment 1, and pursuant to Clause 6.7.2 of Town Planning Scheme No. 3 and Clause 7.6.2 of Town Planning Scheme No. 4 adopts the revised Cut & Fill Town Planning Scheme Policy as advertised, as per Attachment 3, including deletion of Policy Requirement 3.3.5.

Conclusion

Noting the content of the two submissions, Shire staff do not recommend adoption of the revised Cut & Fill Policy as advertised, which includes deletion of conditions for a landscaping plan and bond. Shire staff instead recommend that Council support a modified revised policy listing modified Section 3.0 Policy Requirements, including submission of a post-landscaping plan and a reduced earthworks bond.

Statutory Environment

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

Alteration of an adopted Town Planning Scheme Policy can only become operative after the draft policy has been advertised for public comment and that any comments be considered along with the Policy by Council where it shall decide to adopt the draft policy with or without amendment, rescind the former Policy or to not proceed,

pursuant to Clause 6.7.3 of Town Planning Scheme No. 3 and Clause 7.6.3 of Town Planning Scheme No. 4.

Policy

This item concerns the review of the current Cut and Fill Town Planning Scheme Policy TP.8.

Strategic Implications

Strategic Community Plan 2012

Environment Objective 2: Our unique natural and built environment is protected and enhanced.

- *Outcome 2.8.5 – Support and promote sound environmental management practices.*

Civic Leadership Objective 4: A collaborative and engaged community

- Outcome 4.4 The Shire provides a can-do approach within the regulatory framework.
- Outcome 4.1.1 Review existing policies to determine if the regulatory framework is aligned to the needs of the broader community.

Budget Implications

If Council decides to adopt the draft Policy costs of approximately \$300 will be incurred for public notification, with funds currently available. Advertising costs of approximately \$300 to \$400 would be incurred for further community consultation if required.

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

The content of the two submissions received has assisted consideration of the policy review.

Delegated Authority

Nil. The item relates to adoption of a revised town planning scheme policy which requires a decision of Council.

Voting Requirements – Simple Majority

ITEM NO.	SC.03/0816	FILE REF.	770
SUBJECT	Draft Assessment of Cultural Heritage Significance Policy		
OFFICER	Manager Planning		
DATE OF REPORT	3 August 2016		

Attachment 5 State Heritage Office Submission
Attachment 6 Draft Assessment of Cultural Heritage Significance Policy

OFFICER RECOMMENDATION: That Council, noting the submission from the State Heritage Office, per Attachment 5, adopts the draft Assessment of Cultural Heritage Significance Policy, as per Attachment 6, pursuant to Clause 6.7.3 of Town Planning Scheme No. 3 and Clause 7.6.3 of Town Planning Scheme No. 4, subject to the following changes:

- 1. Reword Section 8.0 Heritage Places, second paragraph (page 6) to read: "Places in both the 'Exceptional Significance' and 'High Significance' categories will include those already in TPS3 Schedule 4 or considered worthy of protection under a Local Heritage List. Places in the 'Exceptional Significance' category are further considered to be essential to the heritage of the locality and are rare and/or outstanding examples, which may also be considered for assessment for entry in the State Register of Heritage Places (RPH)."*
- 2. Reword Table 1: Levels of Heritage Significance for Individual Heritage Places, Exceptional Significance, third column, second sentence to read: "If not already, to be included on the Local Heritage List and considered for assessment for entry in the RHP".*

Summary/Purpose

The draft Assessment of Cultural Heritage Significance Policy has been prepared to assist in the identification, conservation and protection of selected heritage places through inclusion on the Local Heritage List. Following the completion of public advertising whereby one submission was received from the State Heritage Office, the draft Policy is presented to Council for final adoption.

Background

The draft Assessment of Cultural Heritage Significance has been prepared in conjunction with the current review of the Municipal Heritage Inventory, and presented to Council at its meeting on 28 April 2016 whereby Council resolved (in part):

"C.11/0416 That Council:

- 3. Supports the draft Assessment of Cultural Heritage Significance Policy, as per Attachment 14, and directs the Chief Executive Officer to proceed to public consultation in accordance with Clause 6.7.2 of Town Planning Scheme No.3 and Clause 7.6.2 of Town Planning Scheme No.4, with a report and feedback to be presented to a future meeting of Council."*

The background to the Policy was presented to Council in April 2016 and has not been repeated for reasons of brevity.

The draft Policy was advertised for public comment for a period of 21 days, with the submission period ending on Thursday 30 June 2016. Notices were posted on the

Shire's noticeboards and website, Shire's Insight newsletter, and an advertisement published in the Manjimup-Bridgetown Times. A written submission was received from State Heritage Office (see Attachment 1) with the following comments made:

- "1. It is encouraging to see the Shire taking an active approach towards guiding the identification, conservation and protection of heritage place, through the introduction of a new planning policy.*
- 2. The proposed policy is generally consistent with the guidelines set out in the Heritage Council's document, 'Criteria for the Assessment of Local Places and Areas', and contains information to assist in the identification of heritage places within the local government area.*
- 3. The intent of heritage assessments undertaken by local government is to determine those places that are, or may become, of cultural heritage significance in the context of the local district. The process of identifying and assessing places of significance to the State is undertaken separately by the Heritage Council, with the assistance of the State Heritage Office.*

Section 8.0 of the draft Policy states that the category of 'exceptional significance' (Management Category A) will be applied only to those places which are already listed on the State Register, or [are] considered worthy of assessment for inclusion in the Register. This does not provide any opportunity to identify places that are of exceptional significance to the local area but below the threshold for State significance.

It is therefore recommended that the 'Management category and Desired Outcome' column of Table 1 is amended to remove the direct association with the State Register. For example the description could read, 'Essential to the heritage of the locality. Rare or outstanding example'.

Based on the recommendations from the State Heritage Office, it is recommended that Section 8.0 Heritage Places be modified with the second paragraph to read: *"Places in both the 'Exceptional Significance' and 'High Significance' categories will include those already in TPS3 Schedule 4 or considered worthy of protection under a Local Heritage List. Places in the 'Exceptional Significance' category are further considered to be essential to the heritage of the locality and are rare and/or outstanding examples, which may also be considered for assessment for entry in the State Register of Heritage Places (RPH)."*

Furthermore, it is recommended that *Table 1: Levels of Heritage Significance for Individual Heritage Places* be modified for *Exceptional Significance*, third column, second sentence to read: *"If not already, to be included on the Local Heritage List and considered for assessment for entry in the RHP".*

It is therefore recommended that Council adopts the draft Assessment of Cultural Heritage Significance Policy subject to the two modifications.

Statutory Environment

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

A draft Town Planning Scheme Policy can only become operative after the policy has been advertised for public comment under Clause 6.7.2 of Town Planning

Scheme No. 3 and Clause 7.6.2 of Town Planning Scheme No. 4. Any comments must be considered along with the Policy by Council where it shall decide to adopt the draft policy with or without amendment, or not proceed with the draft Policy, pursuant to Clause 6.7.3 of Town Planning Scheme No. 3 and Clause 6.7.3 of Town Planning Scheme No. 4.

Under TPS3 applicable to the Bridgetown townsite only, Schedule 4 – Places of Natural Beauty, Historic Buildings and Objects of Historic or Scientific Interest forms the statutory Local Heritage List. Progression of the Local Planning Strategy and Local Planning Scheme No. 5 will link back to the Municipal Heritage Inventory (MHI) with all places assessed as being of Exceptional or High Significance (see Section 7) to then form the Local Heritage List.

- Planning and Development (Local Planning Schemes) Regulations 2015

The Planning and Development (Local Planning Scheme) Regulations 2015 provide statutory power under local planning schemes to identify and designate Heritage Areas and the procedures for adoption of planning policies.

- Heritage of Western Australia Act 1990

Section 45(1) of the Heritage of Western Australia Act 1990 requires that a local government compile and maintain an inventory of places within its district that, in its opinion, have or may have cultural heritage significance. Section 45(2) requires that the MHI is updated annually and reviewed every four years after completion.

Policy Implications

- Shire of Bridgetown-Greenbushes Municipal Heritage Inventory

This report relates to the progressive review of the Shire's Municipal Heritage Inventory.

- Bridgetown Special Design Heritage Precinct – Statement of Planning Policy

The draft policy makes reference to and complements the current Bridgetown Special Design Heritage Precinct – Statement of Planning Policy, which is TP.10 in Section 8 – Town Planning of the Shire's Policy Manual.

- Procedures for Adopting New Sites/Properties for Inclusion in the Municipal Heritage Inventory

The draft policy makes reference to and complements the Procedures for Adopting New Sites/Properties for Inclusion in the Municipal Inventory Policy O.5, noting this policy needs subsequent review following finalisation of the draft heritage assessment policy.

- Western Australian Planning Commission Statement of Planning Policy 3.5 - Historic Heritage Conservation

The draft policy makes reference to and complements SPP 3.5 Historic Heritage Conservation.

Strategic Plan Implications

- Strategic Community Plan

Environment Objective 2: Our unique natural built environment is protected and enhanced.

Outcome 2.1 Maintain the heritage and character of the main streets in Bridgetown and Greenbushes

Strategy 2.1.1 Monitor the effectiveness of the existing policy and design guidelines.

Strategy 2.1.2 Ensure the maintenance of the Town Centre achieves a high level of appearance and amenity.

Outcome 2.2 Recognition and retention of our cultural, indigenous and heritage assets.

Strategy 2.2.1 Review the municipal heritage inventory.

Strategy 2.2.4 Work with the community to identify and assist in the implementation of projects that promote the unique heritage and history of each town.

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

Budget Implications

If Council decides to adopt the draft Policy costs of approximately \$300 will be incurred for public notification, with funds currently available.

Fiscal Equity – Not applicable

Whole of Life Accounting – Not applicable

Social Equity – Not applicable

Ecological Equity – Not applicable

Cultural Equity

Adoption of the draft Assessment of Cultural Heritage Assessment Policy will assist the review of the Municipal Heritage Inventory and will ultimately improve identification, protection and conservation of cultural heritage places.

Risk Management - Not applicable

Continuous Improvement

Detailed input from the Shire's heritage consultant has assisted the MHI review preparation of the draft policy, with the comments from the State Heritage Office assisting consideration for final adoption.

Delegated Authority

Nil. The item relates to adoption of a new town planning scheme policy which requires a decision of Council.

Voting Requirements – Simple Majority

Local Laws

ITEM NO.	SC.04/0816	FILE REF.	105
SUBJECT	Statutory Review of Local Laws		
OFFICER	Senior Administration Officer		
DATE OF REPORT	25 July 2016		

Attachment 7 Submissions on each Local Law

OFFICER RECOMMENDATION that Council:

- 1. Resolves to amend the following Local Laws and request the CEO to provide a report and draft amendment local law for each proposed amendment to the October 2016 meeting of the Standing Committee:*
 - Cemeteries*
 - Keeping & Welfare of Cats*
 - Parking and Parking Facilities*
- 2. Resolves to remake the Health Local Law and that the CEO be requested to provide a report and draft new local law to the Standing Committee no later than March 2017.*
- 3. Resolves to make no amendments and thus retains without modification the following current local laws:*
 - Activities in Thoroughfares and Trading in Thoroughfares and Public Places*
 - Bush Fire Brigades*
 - Dogs*
 - Fencing*
 - Local Government Property*
 - Pest Plants*

Summary/Purpose

Section 3.16 of the Local Government Act 1995 requires that a periodic review of all Local Laws be undertaken within a period of 8 years from the date the Local Law commenced or was last reviewed.

The review is to determine whether or not Council considers that a Local Law should be:

- Retained without amendment;
- Repealed; or
- Amended

Background

A report was presented to the April round of meetings where Council resolved (C.10/0416)

“That Council:

- 1. Notes the legislative requirement within Section 3.16 of the Local Government Act 1995 and proceeds to undertake a review of its existing Local Laws, excepting the Extractive Industries Local Law and Standing Orders Local Law.*
- 2. In accordance with section 3.16(2) of the Local Government Act 1995, gives State wide public notice of its intention to undertake a review of its Local Laws, excepting the Extractive Industries Local Law and Standing Orders Local Law.*
- 3. That the CEO be requested to submit a report back to Council on the review of its Local Laws at the conclusion of the statutory advertising period.”*

The Local Laws involved in the statutory review are:

- Activities in Thoroughfares and Trading in Thoroughfares and Public Places
- Bush Fire Brigades
- Cemeteries
- Dogs
- Fencing
- Health
- Keeping & Welfare of Cats
- Local Government Property
- Parking and Parking Facilities
- Pest Plants

Advertising of the statutory review finished on 7 July 2016 and at the close of this period only one submission had been received from the public for each of the Local Laws (Refer Attachment 1). A summary of the submissions is listed below along with officer comment:

Local Law	Submission Summary	Officer Comment
Activities in Thoroughfares and Trading in Thoroughfares and Public Places Local Law	1. As there has been no review undertaken, no reports prepared or recommendations made to or by Council in relation to this review of the above Local law, it is impossible to comment on the review. 2. As the Shire and Council have refused to advertise intended changes to local laws subsequent to the initial advertising of an intention to review, the community will be intentionally and deliberately precluded from making any submission to any proposal. 3. As a submitter, if the Shire President and Council maintain	1. The requirement (under Section 3.16 of the Local Government Act) for a periodic review of local laws is for Council to determine whether or not it considers that the local laws should remain unchanged, be repealed or amended. If Council resolves that a local law is to be repealed or amended, then the process to do so must be undertaken in the same manner as the adoption of a local law, including separate public advertising. If Council resolves not to repeal and/or amend any local law, no further action is required and the review process is finalised. The purpose of advertising that a review of the local laws is being undertaken is to seek some feedback from the community on the current wording

	consistency in the application of submitters, then I will be permitted to make a presentation on this local law. 4. As a consequence of the wording of the motion and the process, I have no option but to make a submission as a protective measure for myself and the entire community. 5. As the CEO has still not provided a response to the procedural motion passed in September 2015, specifically in regard to local laws versus policy, it is also not possible to make a submission. 6. I note the CEO's advice to Council in regard to the Extractive Industry local law, that local laws are not needed as a policy will do the same job. 7. I expect there to be consistency in the conduct of the CEO, his staff and Council. Therefore unless the CEO wishes to advise the Council, community, Minister for Local Government and jsld, that he incorrectly advised Council, then he has no option but to recommend the repeal of this local law. 8. Specifically in relation to this local law, all fees, charges and penalties should be updated.	and applicability of the local laws. This process is not for Council to signal upfront proposed amendments to the local laws as the amendment process is separate to the periodic review process. 2. Advertising of Council's intention to review its local laws has occurred in accordance with Section 3.16 of the Local Government Act. A review of local law/s is not the same as an amendment to local law/s. 3. Under Council's Standing Orders, an author of a submission to Council, will be able to address the Standing Committee and Council meetings as a 'party with an interest'. 4. Noted. 5. A response to the procedural motion carried at the Ordinary Council meeting of 24 September 2015 was presented to a Special meeting of Council held on 15 October 2015 (refer Pages 17-20 of the minutes of that meeting). This included "information on the pros and cons of policy versus local law approach". It should also be noted that this information was specific to the subject of extractive industries (local law versus policy approach) and isn't applicable to all local law considerations. 6. That advice (provided by the Manager Planning as well as the CEO) was applicable to extractive industries and cannot simply be interpreted to apply to all local laws. The basis of that advice was that extractive industries, being a development and land use, falls under the head of power of the town planning scheme and therefore did not necessarily require to also fall
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		under the head of power of a local law. The same argument cannot possibly be put forward to the matters covered by other Council local laws such as parking, dogs, cats, health, etc. 7. There was no incorrect advice provided by the CEO or other staff to Council regarding the need or otherwise of an Extractive Industries Local Law. The decision by Council to repeal the Extractive Industries Local law isn't a precedent for Council to have to repeal all local laws. 8. The modified penalties prescribed in Schedule 1 of the Local Law are deemed to be adequate, noting that under the Local Law the local government has the power to seek a court conviction for an offence under the local law. Infringements are issued for relatively minor offences under the local law with major offences being prosecuted.
Bush Fire Brigade	As per submission on Activities in Thoroughfares and Trading in Thoroughfares and Public Places Local Law excepting no comment provided on updating fees, charges and penalties. Also an additional comment made that the support brigade should not be able to issue permits as it does not have a geographical area.	Refer comments 1-7 on Activities in Thoroughfares and Trading in Thoroughfares and Public Places Local Law. The issuing of permits is not relevant to the Bush Fire Brigade Local Law however it is noted that the "support" brigade's official name is the Bridgetown Bush Fire Brigade. This brigade does have an operational capacity and is utilised as a first response to incidents where it is the closest and most appropriate brigade to respond. The Bridgetown Bush Fire Brigade also has a geographical area of responsibility, being the area near the sportsground and waste disposal site.
Cemeteries	As per submission on Activities in Thoroughfares and Trading in Thoroughfares and Public Places Local Law. Additional comment made that consideration needs to occur of the points he raised in his previous	Refer comments 1-7 on Activities in Thoroughfares and Trading in Thoroughfares and Public Places Local Law. When Council undertook a review of the

	submission to the cemeteries local law.	Cemeteries Local Law in 2008, Council supported comments from the Submitter in relation to Clauses 8.2 and 8.6. In view of this changes were made to both clauses however due to an oversight for clause 8.6, the title was not changed from “Advertising” to “Unauthorised Advertising or Conduct of Business”. It is proposed to include this change in the Report to be presented to the September meeting of the Standing Committee.
Dogs	As per submission on Activities in Thoroughfares and Trading in Thoroughfares and Public Places Local Law excepting no comment provided on updating fees and charges. Additional comment made that all reference to penalties should be updated.	Refer comments 1-7 on Activities in Thoroughfares and Trading in Thoroughfares and Public Places Local Law. The modified penalties contained in the current local law are consistent with the model Dogs Local Law excepting for the penalty associated with an infringement for a dog excreting in a prohibited place. The Local Law provides for a penalty of \$100 whereas Council’s current local law has a penalty of \$40. Taking into account the limited number of infringements issued for this offence it is recommended that the current local law be retained.
Fencing	As per submission on Activities in Thoroughfares and Trading in Thoroughfares and Public Places Local Law excepting no comment provided on updating fees, charges and penalties.	Refer comments 1-7 on Activities in Thoroughfares and Trading in Thoroughfares and Public Places Local Law.
Health	As per submission on Activities in Thoroughfares and Trading in Thoroughfares and Public Places Local Law excepting no comment provided on updating fees, charges and penalties.	Refer comments 1-7 on Activities in Thoroughfares and Trading in Thoroughfares and Public Places Local Law.
Keeping and Welfare of Cats	As per submission on Activities in Thoroughfares and Trading in Thoroughfares and Public Places Local Law excepting no comment provided on updating fees and charges.	Refer comments 1-7 on Activities in Thoroughfares and Trading in Thoroughfares and Public Places Local Law.
Local Government Property	As per submission on Activities in Thoroughfares and Trading in Thoroughfares and Public Places Local Law excepting no comment provided on updating fees, charges and penalties.	Refer comments 1-7 on Activities in Thoroughfares and Trading in Thoroughfares and Public Places Local Law.
Parking and Parking	As per submission on Activities in Thoroughfares and Trading in	Refer comments 1-7 on Activities in Thoroughfares and Trading in

Facilities	Thoroughfares and Public Places Local Law with additional comment that parking time limits should be reviewed.	Thoroughfares and Public Places Local Law. Parking time limits are not stipulated in the Local Law. Instead Clause 2.1 of the Parking and Parking Facilities Local Law states that the local government may by resolution constitute, determine and vary and also indicate by signs - (a) parking stalls; (b) parking stations; (c) permitted time and conditions of parking in parking stalls and parking stations which may vary with the locality; (d) permitted classes of vehicles which may park in parking stalls and parking stations; (e) permitted classes of persons who may park in specified parking stalls or parking stations; and (f) the manner of parking in parking stalls and parking stations. On various occasions Council, via resolution, has amended parking time limits. With regard to penalties the modified penalties contained in council's current local law are consistent with other local government parking local laws therefore no changes are recommended.
Pest Plants	As per submission on Activities in Thoroughfares and Trading in Thoroughfares and Public Places Local Law excepting no comment provided on updating fees, charges and penalties. Additional comments made that he could find no reference to a pest plans local law, as referred to in the public notice on the Shire of Bridgetown-Greenbushes website. The Shire may have meant to advertise a review of the pest plants local law, but consistent with the sloppy nature of Shire documentation I have outlined for over a decade, this has not occurred. If the Shire is to comply with the council resolution and directing, and the Act, it will have to readvertise the intention to	Refer comments 1-7 on Activities in Thoroughfares and Trading in Thoroughfares and Public Places Local Law. A typographical error had occurred with the wording of "Pest Plants" whereby the words "Pest Plan" were typed in error. Advice was sought from the Department of Local Government and Communities (DLGC) on whether this typographical error would trigger the need to re-advertise the intent to review the Pest Plants Local Law. The advice from the DLGC was: <i>There isn't a statutory requirement that would require re-advertising of council's intention to review its local Laws due to the misspelling. Therefore, it would be a case</i>

	review the pest plants local law.	<i>of an administrative oversight or error which is unlikely to affect the overall proposal to review the local laws. The typographic error just needs correction in future notifications. If persons are interested enough, the notice is to state that a copy of the local law may be inspected or obtained at any place specified in the notice and any misunderstanding would be clarified at that point.</i> Although not recommended, Council can re-advertise the intent to review this local law if it believes the public were misled by the minor discrepancy caused by the typographical error.
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Staff has assessed all of Council's existing Local Laws and recommend as follows:

Activities in Thoroughfares and Trading in Thoroughfares and Public Places 2000 (amended 2007 and 2012)

The current Local Law is adequate and it is recommended the Local Law be retained without amendment.

Bush Fire Brigades 2000 (amended 2009)

The current Local Law is adequate and it is recommended the Local Law be retained without amendment.

Cemeteries 2000 (amended 2001 and 2008; amended by the Minister in 2011 and 2015)

It is recommended the Local Law be amended to (1) define who may remove withered flowers from a grave or memorial (clause 8.4) and (2) to change the title of clause 8.6 as the wording that was adopted by Council in 2008 but missed when making the Amendment Local Law is more appropriate to the content of the clause.

Dogs 2000 (amended 2001, 2008, 2011 and 2014)

The current Local Law is adequate and it is recommended the Local Law be retained without amendment.

Fencing 2004 (amended 2007 and reviewed without amendment in 2008)

The current Local Law is adequate and it is recommended the Local Law be retained without amendment.

Health 2001, (amended 2003)

The purpose and effect of the Health Local Law is to provide a statutory means to effectively control issues that have the ability to adversely impact on the health and wellbeing of the community.

There are several amendments to this local law that should be considered, including removal of clauses pertaining to disposal of refuse as the head of power for waste disposal is no longer with the Health Act. A review of 'Part 5 – Nuisances and General' is also proposed in order to better clarify the types of properties able to keep animals, poultry, pigeons, pigs, etc. The current local law references the term "townsite" which in the case of Bridgetown and North Greenbushes can include larger lots not normally characteristic of a townsite.

Keeping & Welfare of Cats 2010 (amended 2011)

It is recommended the Local Law be amended to delete Clause 4 (Cats to be Identified and Registered) as this is covered in the Cat Act 2011.

Local Government Property 2000 (reviewed 2008 without amendment in 2008; amended by the Minister in 2015)

The current Local Law is adequate and it is recommended the Local Law be retained without amendment.

Parking and Parking Facilities 2000 (amended 2009)

It is recommended that a minor amendment be made to clause 1.3(1) – Interpretation – to "sign", to include road markings.

Pest Plants 2009

The current Local Law is adequate and it is recommended the Local Law be retained without amendment at this point in time. It should be noted however that if changes occur to the operations of the Department of Agriculture & Food WA in the future, then Council may have to make amendments to the Local Law.

Officer Comment

Following the comments above it is recommended that Council resolves to amend the following Local Laws and request the CEO to provide a report and draft amendment local law for each proposed amendment to the October meeting of the Standing Committee:

- Cemeteries
- Keeping & Welfare of Cats
- Parking and Parking Facilities

With regards the Health Local Law, as there are major amendments to be made to this local law it is recommended that the local law be remade and that the CEO be requested to provide a report and draft new local law to the Standing Committee no later than March 2017. The new local law to include a repeal of the existing local law.

Once Council endorses the amendments to the local laws listed above, the process set out in section 3.12 of the *Local Government Act 1995* will be followed which includes advertising the proposed amendments for public comment. There will be a 6 week advertising period following which Council will consider any submissions that are received.

Statutory Environment

Local Government Act 1995 provide the following –

3.16 Periodic review of local laws

- (1) Within a period of 8 years from the day when a local law commenced or a report of a review of the local law was accepted under this section, as the case requires, a local government is to carry out a review of the local law to determine whether or not it considers that it should be repealed or amended.
- (2) The local government is to give Statewide public notice stating that –
 - (a) the local government proposes to review the local law; and
 - (b) a copy of the local law may be inspected or obtained at any place specified in the notice; and
 - (c) submissions about the local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given.
- (2a) A notice under subsection (2) is also to be published and exhibited as if it were a local public notice.
- (3) After the last day for submissions, the local government is to consider any submissions made and cause a report of the review to be prepared and submitted to its council.
- (4) When its council has considered the report, the local government may determine (absolute majority required) whether or not it considers that the local law should be repealed or amended.

Integrated Planning

- Strategic Community Plan
 - Outcome 4.2 – A High Standard of Governance and Accountability
 - 4.2.3 – Ensure compliance with relevant legislation
- Corporate Business Plan - Nil
- Long Term Financial Plan - Nil
- Asset Management Plans - Nil
- Workforce Plan – Nil
- Other Integrated Planning – Nil

Policy/Strategic Implications - Nil

Budget Implications

Council has allocated sufficient funding in the 2016/2017 budget to cover advertising and gazettal costs for amending Local Laws identified in the body of this report.

Whole of Life Accounting – Not Applicable

Social Equity – Not Applicable

Ecological Equity – Not Applicable

Cultural Equity – Not Applicable

Risk Management – Not Applicable

Voting Requirements – Absolute Majority

Strategy - Nil

Organisation Development

ITEM NO.	SC.05/0816	FILE REF.	209
SUBJECT	Rolling Action Sheet		
OFFICER	Chief Executive Officer		
DATE OF REPORT	1 August 2016		

Attachment 8 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

Urgent Business Approved by Decision

Responses to Elected Members Questions Taken on Notice

Elected Members Questions With Notice

[Elected Members Questions with Notice should be submitted to the Executive Assistant prior to 10.00am on the day of the Standing Committee Meeting]

Briefings by Officers

Notice of Motions for Consideration at Next Meeting

Matters Behind Closed Doors

Closure

The Presiding Member to close the Meeting

List of Attachments

Attachment	Item No.	Details
1	SC.02/0816	Submissions
2	SC.02/0816	Current Cut & Fill Policy
3	SC.02/0816	Revised Cut & Fill Policy (as advertised)
4	SC.02/0816	Revised Cut & Fill Policy (recommended)
5	SC.03/0816	State Heritage Office Submission
6	SC.03/0816	Draft Assessment of Cultural Heritage Significance Policy
7	SC.04/0816	Submissions on each Local Law
8	SC.05/0816	Rolling Action Sheet

Agenda Papers checked and authorised by CEO, Mr T Clynych		4.8.16
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