

Minutes

Policy Review and Development Committee

Tuesday 31 May 2022

*By signing these minutes I certify that they were confirmed at the
Policy Review and Development Committee held on _____.*

CR JOSH EVESON
CHAIRPERSON

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Minutes of the Policy Review and Development Committee of the Bayswater City Council which took place in the Committee Room, City of Bayswater Civic Centre, 61 Broun Avenue, Morley on Tuesday 31 May 2022.

1 OFFICIAL OPENING

The Chairperson, Cr Josh Eveson, declared the meeting open at 5:00pm.

2 ACKNOWLEDGEMENT OF COUNTRY

In accordance with the City of Bayswater's Reflect Reconciliation Action Plan November 2019-November 2020, the Presiding Member will deliver the Acknowledgement of Country.

Noongar Language

Ngalla City of Bayswater kaatanginy baalapa Noongar Boodja baaranginy, Wadjuk moort Noongar moort, boordiar's koora koora, boordiar's ye yay ba boordiar's boordawyn wah.

English Language Interpretation

We acknowledge the Traditional Custodians of the Land, the Whadjuk people of the Noongar Nation, and pay our respects to Elders past, present and emerging.

The Chairperson, Cr Josh Eveson acknowledged the Traditional Custodians of the land, the Whadjuk people of the Noongar nation, and paid respects to Elders past, present and emerging.

3 ATTENDANCE

In accordance with regulation 14C(2)(c)(i), Cr Filomena Piffaretti, Mayor, authorised Crs Lorna Clarke and Cr Elli Petersen-Pik to attend via electronic means due to the increased level of COVID-19 in the community, this being consistent with regulation 14C(2)(b).

Members

Cr Josh Eveson	Chairperson
Cr Filomena Piffaretti, Mayor	
Cr Catherine Ehrhardt, Deputy Mayor	
Cr Lorna Clarke (attended via electronic means, from 5:08pm)	
Cr Steven Ostaszewskyj	

Observers

Cr Sally Palmer
Cr Elli Petersen-Pik (attended via electronic means from 5:05pm to 6:33pm)

Officers

Mr Cliff Frewing	Chief Executive Officer (from 5:14pm)
Mr Des Abel	Director Community and Development (from 5:35pm)
Mr Luke Botica	Director Works and Infrastructure
Ms Lorraine Driscoll	Director Corporate and Strategy
Ms Julie-Ann Gray	Manager Community Development (from 5:15pm to 5:34pm)
Mr Brett Wright	Manager Parks and Gardens
Mr Joe Gomboc	Manager Building Works (until 5:26pm)
Ms Alix Bray	Principal Strategic Planning and Place
Ms Alex Barker	Technical Officer – Tree Services
Mr Jarrad Wishart-Brown	Community Lease Officer (until 5:26pm)
Ms Karen D'Cunha	A/Governance Project Officer

Leave of Absence

Cr Giorgia Johnson

3.1 Apologies

Nil.

3.2 Approved Leave Of Absence

Councillor	Date of Leave	Approved by Council
Cr Giorgia Johnson	30 May 2022 to 3 June 2022	Ordinary Council Meeting 26 April 2022

4 DISCLOSURE OF INTEREST SUMMARY

In accordance with section 5.65 of the *Local Government Act 1995*:

A member who has an interest in any matter to be discussed at a Council or Committee meeting that will be attended by the member must disclose the nature of the interest -

- (a) in a written notice given to the CEO before the meeting; or
- (b) at the meeting immediately before the matter is discussed.

The following disclosures of interest were made at the meeting:

Name	Item No.	Type of Interest	Nature of Interest
Cr Lorna Clarke	8.1	Impartial	Cr Clarke is a social member of the Bayswater Bowling Club which is mentioned in the item.
Cr Lorna Clarke	8.3	Financial	Cr Clarke has a home on the heritage list and the report mentions the Heritage Funds Policy.
Cr Steven Ostaszewskyj	8.1	Impartial	Cr Ostaszewskyj is a member of the Morley Windmills.
Cr Catherine Ehrhardt, Deputy Mayor	8.1	Impartial	Cr Ehrhardt is a member of the Maylands Historical Society.
Cr Elli Petersen-Pik	8.1	Impartial	Cr Petersen-Pik is a member of the Bayswater Historical Society.

5 DELEGATED AUTHORITY BY COUNCIL

There are no items appearing in this agenda for which the Policy Review and Development Committee has been granted delegated authority by Council in accordance with section 5.23(1)(b) of the *Local Government Act 1995 (WA)*; this meeting is closed to the Public.

6 TERMS OF REFERENCE

TERMS OF REFERENCE Policy Review and Development Committee	
Purpose:	<p>The purpose of the Committee is to:</p> <ul style="list-style-type: none"> To review City of Bayswater policies (excluding Planning Policies) and facilitate the development of new policies for the consideration by Council as required. To make recommendations to Council on matters related to policy, policy review and policy development.

TERMS OF REFERENCE Policy Review and Development Committee	
	<ul style="list-style-type: none"> To explore opportunities that promote policy development in all areas that are within the Council's jurisdiction. To allow any draft policy developed and fully considered by another Committee of Council to be referred directly to Council for consideration. To provide City of Bayswater councillors with assistance and support to develop new policies
Elected Members membership:	Six Elected Members*. <i>*minimum three required under legislation</i>
External Member membership:	Nil.
Role of Representatives:	The roles and responsibilities of the City of Bayswater representatives on this Committee are: <ul style="list-style-type: none"> Member in own right; and Spokesperson for City of Bayswater.
Non-Voting Members:	Director Corporate and Strategy Coordinator Governance and Risk Management
Delegated Authority:	Nil.
Meetings:	Committee meetings are to be in accordance with the <i>City of Bayswater Standing Orders Local Law 2021</i> .
Meeting occurrence:	Quarterly.
Day of Meeting:	When suitable
Time of Meeting:	When suitable
Location of Meeting:	City of Bayswater, Civic Centre, 61 Broun Ave Morley WA 6062.
Liaison Officer:	Director Corporate and Strategy or nominated officer.

7 CONFIRMATION OF MINUTES

COMMITTEE RESOLUTION

The Minutes of the Policy Review and Development Committee held on 22 February 2022, which have been distributed, be confirmed as a true and correct record.

Cr Catherine Ehrhardt, Deputy Mayor Moved, Cr Steven Ostaszewskyj Seconded

CARRIED UNANIMOUSLY: 4/0

For: Cr Filomena Piffaretti, Mayor, Cr Catherine Ehrhardt, Deputy Mayor, Cr Josh Eveson and Cr Steven Ostaszewskyj.

Against: Nil.

8 REPORTS

8.1 Community Facility Lease And Licence/User Agreement Policy

Responsible Department	Building Works
Responsible Directorate:	Works and Infrastructure
Authority/Discretion:	Executive/Strategic
Voting Requirement:	Simple Majority
Attachments:	<ol style="list-style-type: none"> 1. Amended Lease Policy 2022 [8.1.1 - 5 pages] 2. Annexure 1 Categories of Tenants Reviewed 2022 [8.1.2 - 6 pages] 3. Amended Lease Policy 2022 Track Changes [8.1.3 - 5 pages] 4. ECM 3249778 v10 Community Facility Lease and Licence User Agree [8.1.4 - 3 pages] 5. Committee Amendments to Annexure 1 [8.1.5 - 6 pages]
Refer:	Item 11.2: OCM 26 April 2022 Item 10.4.4 OCM 26 May 2020 Item 11.4: OCM 20 August 2019 Item 10.1.1: OCM 9 April 2019 Item 11.1: OCM 25 September 2018 Item 13.3: OCM 28 August 2018 Item 11.2.7: OCM 19 April 2011

CR LORNA CLARKE DECLARED AN IMPARTIAL INTEREST

In accordance with regulation 11 of the Local Government (Rules of Conduct) Regulations 2007, Cr Lorna Clarke declared an impartial interest in this item as she is a social member of the Bayswater Bowling Club which is mentioned in the item. Cr Clarke remained in the room during voting on this item.

CR STEVEN OSTASZEWSKYJ DECLARED AN IMPARTIAL INTEREST

In accordance with regulation 11 of the Local Government (Rules of Conduct) Regulations 2007, Cr Steven Ostaszewskyj declared an impartial interest in this item as he is a member of the Morley Windmills. Cr Ostaszewskyj remained in the room during voting on this item.

CR CATHERINE EHRHARDT, DEPUTY MAYOR, DECLARED AN IMPARTIAL INTEREST

In accordance with regulation 11 of the Local Government (Rules of Conduct) Regulations 2007, Cr Catherine Ehrhardt, Deputy Mayor, declared an impartial interest in this item as she is a member of the Maylands Historical Society. Cr Ehrhardt, Deputy Mayor, remained in the room during voting on this item.

CR ELLI PETERSEN-PIK DECLARED AN IMPARTIAL INTEREST

In accordance with regulation 11 of the Local Government (Rules of Conduct) Regulations 2007, Cr Elli Petersen-Pik declared an impartial interest in this item as he is a member of the Maylands Historical Society. Cr Elli Petersen-Pik remained in the room during voting on this item.

SUMMARY

For Council to consider adopting the amended *Community Facility Lease and Licence/User Agreement Policy*.

At 5:08pm, Cr Lorna Clarke joined the meeting (via electronic means).

At 5:15pm, Ms Julie-Ann Gray joined the meeting.

OFFICER'S RECOMMENDATION

That Council:

1. Adopts the revised Community Facility Lease and Licence/User Agreement Policy as outlined in Attachment 1.
2. Notes that the revised policy will apply to all new City of Bayswater Community leases or licences and existing leases or licences as they are renewed.

MOTION

That the table in the annexure to the draft policy as contained in Attachment 1 be amended for "Category 1a - Small Volunteer Groups", with the following wording inserted after "Emergency Services Levy": "(exemptions apply for historical societies)."

Cr Catherine Ehrhardt, Deputy Mayor Moved, Cr Filomena Piffaretti, Mayor Seconded

CARRIED: 4/1

For: Cr Filomena Piffaretti, Mayor, Cr Catherine Ehrhardt, Deputy Mayor, Cr Lorna Clarke and Cr Josh Eveson.

Against: Cr Steven Ostaszewskyj.

COMMITTEE RECOMMENDATION TO COUNCIL

That Council:

1. Adopts the revised Community Facility Lease and Licence/User Agreement Policy as outlined in Attachment 1, with the following amendment:
The words "(exemptions apply for historical societies)" be inserted after "Emergency Services Levy" in the annexure for "Category 1a - Small Volunteer Groups" as shown in new Attachment 4.
2. Notes that the revised policy will apply to all new City of Bayswater Community leases or licences and existing leases or licences as they are renewed.

Cr Catherine Ehrhardt, Deputy Mayor Moved, Cr Filomena Piffaretti, Mayor Seconded

CARRIED: 4/1

For: Cr Filomena Piffaretti, Mayor, Cr Catherine Ehrhardt, Deputy Mayor, Cr Josh Eveson and Cr Steven Ostaszewskyj.

Against: Cr Lorna Clarke.

REASON FOR CHANGE

The Committee changed the officer's recommendation as it was of the opinion that the historical societies should not be required to pay Emergency Services Levy given long-standing agreements between those two groups and the City have not required them to do so.

At 5:26 pm, Mr Joe Gomboc and Mr Jarrad Wishart-Brown withdrew from the meeting and did not return.

BACKGROUND

At the Ordinary Council Meeting on 26 April 2022, Council made the following resolution regarding community facility leases:

“That Council:

- 1. Requests the Chief Executive Officer to present a revised Community Facility Lease and Licence/User Agreement Policy, that includes the requirement for lessees to be responsible for all outgoings including utility costs and Emergency Services Levy, to the next Policy Review and Development Committee Meeting.*
- 2. Notes that the amended Policy will apply to all new City of Bayswater leases or existing leases as they are renewed and may include exemptions for specific lessees depending on circumstances.”*

The *Community Facility Lease and Licence/User Agreement Policy* (the Policy) has been reviewed to address the requirements of the Council resolution. City officers have also taken the opportunity to conduct a general review of the entire policy.

The amended Policy is presented to the Committee for its consideration and recommendation.

EXTERNAL CONSULTATION

The City has reviewed leasing policies and/or framework from the following local government authorities (LGAs):

- City of Wanneroo;
- City of Canning;
- City of Joondalup; and
- City of Vincent.

Whilst the approach to community leasing differs for each of the above LGAs, there is consistency around the lessee’s responsibility to pay all outgoings associated with the leased facility, including utility costs, regardless of the size of the community group. Some LGAs do allow lessees to apply for ‘financial relief’ requiring significant evidence and justification of the lessee’s inability to pay for associated outgoings.

No consultation with existing leaseholders in the City has occurred at this stage. However, the City is aware that some leaseholders are aware that the City is reviewing the Policy, as the Notice of Motion was publicly available in the City’s Ordinary Council Meeting Agenda and Minutes.

OFFICER'S COMMENTS

The revised Community Facility Lease and Licence/User Agreement policy provides a clear structured framework to ensure a consistent approach to the management of the City’s community lease, licence and user agreements.

Whilst the intent of the current policy remains the same, the reviewed policy further elaborates and provides a clear statement on how the City will manage its lease, licence and user agreements.

Annexure 1 – Tenant Categories

Tenant categories have been re-defined with a clear set of criteria assigned to each. The new criteria will assist City officers, as well as current and potential tenants to better understand which category a leaseholder fits into and the associated roles and responsibilities. The redefined categories are as follows:

- Category 1a) – Small Volunteer Groups
- Category 1b) – Not-for-Profit Community Groups and Organisations

- Category 2) – Sporting Clubs and Recreational Groups
- Category 3) – Community Child Care Centres
- Category 4) – Large Not-for-Profit Organisations, State and National Clubs/Associations and Places of Worship
- Category 5) – Child Health Clinics

The redefined tenant categories follow the same basic categories as the current policy, with more specific category names and clearer definitions for each. Community Child Care Centres has also been placed in its own category (category 3), rather than being considered as a 'sub-category' under the current policy. The current tenant categories are as follows:

- Category 1 – Not-for-Profit Community Groups;
 - A) – Local Service Groups
 - B) – Community Child Care Centres
 - C) – Other Community Groups
- Category 2 – Sporting and Recreational Groups
- Category 3 – Not-for-Profit – Funded
- Category 4 – Child Health Clinics

The City has received feedback from leaseholders on the lack of clarity around each parties' responsibilities. Under the revised policy; the roles and responsibilities of the lessor and the lessee are now clearly defined based on the relevant tenant category. Aside from the amendment that all tenants will be responsible for utility costs as a part of their outgoings (unless otherwise exempt), the tenant's responsibilities and lease fees and charges remain unchanged.

Lease Fees and Charges

The City has noted that under the current policy, routine maintenance charges and responsibilities may not be clear, with tenants often confused by who should be maintaining inbuilt systems such as air conditioning, cool rooms, fire safety systems etc, and who is responsible for the associated maintenance costs.

Under the current policy, the City is responsible for undertaking the servicing of all inbuilt mechanical services, with the cost being borne by the tenant. This remains the same under the revised policy, with amended wording to clarify that the tenant will be invoiced annually for the routine maintenance costs associated with the facility they lease/licence.

Currently tenants are invoiced when the routine maintenance works are undertaken. This creates an administration burden for City officers leading to inconsistent invoicing and inconsistent expenses throughout the year for tenants. Instead, routine maintenance costs will be billed in advance at the start of the new financial year, once the estimated costs for the year have been calculated. Should tenants find themselves not able to pay the upfront costs of the routine maintenance, they may be able to enter into a 'payment arrangement' with the City's finance team.

Exemptions

Category 1a) tenants are generally small volunteer groups with limited or no capacity to generate revenue. To assist these groups financially and in recognition of the important programs/services they provide to the local community, these groups will only be charged 50% of the annual routine maintenance costs applicable to the leased facility.

In addition, and as per previous agreements, historical societies (who are considered as a Category 1a) will be exempt from utility and waste charges, in recognition of the contribution these volunteer groups provide by preserving historical information, items and facilities.

Utility Costs Under Current Policy

At the Ordinary Council Meeting held on 26 April 2022, officers estimated that the City pays in the vicinity of \$350,000 per annum in utility reimbursements and payments of utility bills for the leaseholders' use and occupation of City owned properties. As accurate figures were not able to be obtained at the time, it was noted that the City will be reviewing the actual figures for the 2020-2021 financial year to provide a more accurate estimation of the annual utility costs.

Upon reviewing the figures, the City now estimates that for the 2020-2021 financial year, the utility expenses are approximately \$290,000. The below table demonstrates indicative annual and cumulative savings the City could expect to see under the revised policy.

Note that the annual savings will not be realised immediately. The savings will start low in the first year and will increase in future years. This is on the understanding that the new charges will come into effect when new leases are entered into or existing ones expire and are renewed. The gradual change is the consequence of Limb 2 of Council Resolution from the April 2022 Ordinary Council Meeting.

Calculated Annual Savings for the City based on 2020/2021 usage figures are estimated as follows:

(Note: figures are not indexed for future years)

Year	Annual	Cumulative
2022/2023	\$10,220	\$10,220
2023/2024	\$52,679	\$62,899
2024/2025	\$135,577	\$198,477
2025/2026	\$186,697	\$385,174
2026/2027	\$247,327	\$632,502
2027/2028	\$269,062	\$901,565
2028/2029	\$269,062	\$1,170,627
2029/2030	\$269,062	\$1,439,690
2030/2031	\$269,062	\$1,708,752
2031/2032	\$269,062	\$1,977,815

It should be noted that the savings are based on usage figures from the 2020-2021 financial year. The actual savings are expected to vary from this, the extent of variation is dependent on usage patterns of the lease-holders and any changes to the facilities, such as the installation of solar panels.

LEGISLATIVE COMPLIANCE

Any changes made will be reflected in the Community Facility Lease and Licence/User Agreement Policy.

RISK ASSESSMENT

In accordance with the City's Risk Management Framework, the officer's recommendation/following options have been assessed against the City's adopted risk tolerance. Comments are provided against each of the risk categories.

Officer's Recommendation	That Council: <ol style="list-style-type: none"> 1. Adopts the revised Community Facility Lease and Licence/User Agreement Policy as outlined in <u>Attachment 1</u>. 2. Notes that the revised policy will apply to all new City of Bayswater Community leases or licences and existing leases or licences as they are renewed. 	
Risk Category	Adopted Risk Appetite	Risk Assessment Outcome
Strategic Direction	Moderate	Low
Reputation	Low	Low
Governance	Low	Low
Community and Stakeholder	Moderate	Moderate
Financial Management	Low	Low
Environmental Responsibility	Low	Low
Service Delivery	Low	Low
Organisational Health and Safety	Low	Low
Conclusion	It is considered that this option carries a moderate Community and Stakeholder risk, as some community groups/clubs may not wish to be responsible for utility costs under a new agreement.	

Option 2	That Council: 1. Adopts the revised Community Facility Lease and Licence/User Agreement Policy as outlined in <u>Attachment 1</u> , with further amendments 2. Notes that the revised policy will apply to all new City of Bayswater Community leases or licences and existing leases or licences as they are renewed.	
Risk Category	Adopted Risk Appetite	Risk Assessment Outcome
Strategic Direction	Moderate	Dependent on amendments made.
Reputation	Low	
Governance	Low	
Community and Stakeholder	Moderate	
Financial Management	Low	
Environmental Responsibility	Low	
Service Delivery	Low	
Organisational Health and Safety	Low	
Conclusion	The risks for this option will be dependent on changes made to the Policy	

Option 3	That Council: <ol style="list-style-type: none"> 1. Does not adopt the revised Community Facility Lease and Licence/User Agreement Policy as outlined in <u>Attachment 1</u>. 2. Chooses to continue with the current Community Facility Lease and Licence/User Agreement Policy. 	
Risk Category	Adopted Risk Appetite	Risk Assessment Outcome
Strategic Direction	Moderate	Low
Reputation	Low	Low
Governance	Low	Low
Community and Stakeholder	Moderate	Low
Financial Management	Low	High

Environmental Responsibility	Low	Low
Service Delivery	Low	Moderate
Organisational Health and Safety	Low	Low
Conclusion	It is considered that this option carries a high Financial Management risk, as the continued accumulated cost to the City for the payment of utility bills incurred by community lease/licence holders is quite significant with annual CPI being applied. It is also considered that this option carries a moderate Service Delivery risk as the revised policy provides a much clearer and updated approach to the City's community lease/licences.	

FINANCIAL IMPLICATIONS

The following financial implications are applicable:

Item 1: Amendment to Community Facility Lease and Licence/User Agreement Policy

Asset Category: Other

Source of Funds: Municipal

LTFP Impacts: The current LTFP has the utility expenses already included. The change in policy will allow reimbursement of part of the utility expenses, starting initially at approximately \$10,000 per annum, increasing annually to approximately \$270,000 in several years' time.

Notes: Financial implications are identified in table above.

ITEM NO.	CAPITAL / UPFRONT COSTS (\$)	ONGOING COSTS (\$) ANNUAL		INCOME (\$)	ASSET LIFE (YEARS)	WHOLE OF LIFE COSTS (\$)	CURRENT BUDGET (\$)
		MATERIALS & CONTRACT	STAFFING				
1	-	-	-	Estimated \$10,000 - \$270,000 annual	-	-	-

STRATEGIC IMPLICATIONS

In accordance with the City of Bayswater Strategic Community Plan 2021-2031 (as amended), the following applies:

Theme: Leadership and Governance

Goal L4: Communicate in a clear and transparent way.

Provide the community with useful information about Council's policies, services and events and advise the community of engagement outcomes.

CONCLUSION

It is recommended that Council adopt the revised *Community Facility Lease and License/User Agreement Policy*, as the revised policy aims to reduce the City's costs associated with community leases/licences in future budgets. The revised policy also provides for a significant update to the existing policy, by delivering structured framework for a clearer, refined and consistent approach to the City's management of its community leases/licenses, in-line with other LGAs.

City of
Bayswater

Policy [ID no.]

Community Facility Lease and Licence/User Agreement Policy



Responsible Division	Works and Infrastructure
Responsible Business Unit	Building Works
Responsible Officer	Community Lease Officer
Affected Business Units	Building Works
ECM Document Set ID	[ECM document set ID]

Purpose

To provide a structured framework and basic principles to ensure a consistent and equitable approach to the management of community lease and licence/user agreements, for the use and tenancy of City owned and managed properties, including land. This policy will provide guidance to City officers to assess and negotiate tenancy agreements.

Scope

This policy applies to all Community Lease and Licence/User Agreements for the use of City owned and managed properties. The policy defines clear tenant categories and associated roles and responsibilities of each party under a tenancy agreement, and provides basic principles for the consistent, equitable and effective management of the City's community leases, licences and user agreements.

Definitions

For the purpose of this policy —

Agreement: a legally binding arrangement between parties, i.e. a Lease, License or User Agreement.

Authorised Contact/s: individuals of a group, organisation or club who have been nominated as the primary contacts for all lease, licence or user agreement correspondence.

City: City of Bayswater.

Council: a body of individuals elected by City ratepayers to manage the affairs of the City

Facility: land or building owned or managed by the City

Lease: a contract by which one party conveys land, property or service to another for a specified time usually in return of periodic payment.

Licence: a contract for the non-exclusive use of a facility.

Licensee: a person, group, club or organisation that holds a licence for the use of a facility.

Lessee: a person, group, club or organisation that holds the lease for the exclusive use of a facility.

Lessor: the owner of an asset that is leased to another party.

Not for Profit: an organisation that does not operate for the financial gain of a group or individual

Public Liability Insurance: a type of insurance that covers an organisation or group against losses or damage to a third party as a result of that group's or organisation's activities.

Sub-tenant: someone who occupies all or part of a premises under a lease agreement with the original/primary tenant of the premises.

Tenant/s: a person or persons who occupy a facility leased from the City, also known as lessee

User Agreement: contractual arrangement outlining the terms and conditions associated with usage, as negotiated.

Policy Statement

1. The City will provide a range of well-maintained and well managed community facilities and enter into agreements with community based not-for-profit organisations and sporting and recreational groups to support community needs and engagement.
2. The City will ensure consistent and fair access to its community facilities for locally based groups/clubs and larger not-for-profit organisations which provide benefit to the community.
3. The City will aim to increase community access to activities and services by ensuring optimal utilisation of City facilities by encouraging multiuse, integration and co-location.
4. Any new tenancy agreements should be negotiated on the terms set out in this policy.
5. For the purposes of tenancy negotiation, all community lease and licences shall be classified into one of the categories as outlined in [Annexure 1](#).
6. Council's adopted standard community lease agreement will be applied to all new community leases, including renewals of existing tenants. The standard community lease agreement will not be varied, unless it is required to meet the operational needs of the tenant, and only then will minor variations be made under delegated authority.
7. The City reserves the right in all cases to inspect the premises and ensure lease conditions and Key Performance Indicators are being met.

Types of Agreements

8. The City will enter into one of the following agreements for the use of City owned and managed facilities:
 - a. Lease – provides exclusive use of a facility or a portion of a facility for an agreed term.
 - b. Licence – contractual agreement for the non-exclusive use of a premises under particular conditions, such as permitted access between agreed times only. Generally, will include regular payment as a consideration.

- c. User Agreement – contractual tenancy agreement which outlines the terms and conditions associated with the usage of the facility. The terms of a user agreement are not usually standard and are negotiated between the two parties.

Advertising a Facility for Lease/Licence and Lease/Licence Applications

9. The City will advertise and seek expressions of interest (EOI's) for consideration, to lease or licence a facility or portion of a facility when:
 - An existing building or space becomes vacant;
 - An existing agreement expires and is not renewed;
 - For reasons, an agreement is terminated by either party; and
 - A new building is constructed on land owned or managed by the City.
10. EOI submissions will be assessed by a panel against the City's Lease Assessment Criteria and presented to Council for consideration.
11. All EOI submissions must demonstrate how they satisfy each of the City's Lease Assessment Criteria and provide a formal proposal including the following:
 - A comprehensive business/organisation plan detailing the applicant's vision for the proposed lease space; and
 - Evidence that the proposed service/activities provides community benefit and/or an identified need of the community.

Lease Administration and Management

12. Lease/licence tenure, fees and charges and all tenant obligations shall be as applicable to the respective tenant category outlined in **Annexure 1**.
13. Where practicable, utility charges will be individually metered for each tenant, otherwise an equitable percentage of the overall site utility charges will be applied.
14. The City will undertake annual property inspections to ensure lease conditions and will provide the tenant with a copy of the inspection report and appropriate feedback. Prior notice of the inspection will be given to the tenants.
15. The tenant is expected to maintain and keep the premises clean and in good repair. Tenants are to report any maintenance, damage, or repair requirements to the City in writing and in a timely manner.
16. All maintenance and repair requests will be considered by the relevant City officer/s and only undertaken if deemed necessary.
17. Approved maintenance or repairs will be undertaken by the City within a reasonable timeframe determined by the level of urgency.

18. Tenants are not permitted to sub-let any part of the leased premises without the written consent from the City and then must use the City's standard sub-lease agreement.

Annual Audit

19. On the anniversary of the tenancy agreement, the City will assess the tenant's annual performance against the City's Lease Key Performance indicators (KPI's) and provide appropriate feedback on their performance. Tenants are required to complete the City's annual audit information request and provide copies of:
- Public Liability insurance with a minimum \$10 million coverage, preference being given to minimum coverage of \$20 million;
 - Pest control certificate;
 - Up to date authorised contacts list;
 - An up to date key register
 - Organisation financials/accounts;
 - AGM Minutes;
 - Playground inspection certificate (if applicable);
 - Any required maintenance records where maintenance is required as part of the lease; and
 - Copies of any required certifications or accreditations associated with the organisation.

Related Legislation

Local Government Act 1995 (WA)
Local Government (Functions and General) Regulations 1996
Residential Tenancies Act 1987 (WA)
Residential Park (Long-Stay Tenants) Act 2006 (WA) & Regulations

Related Documentation

City of Bayswater Community Lease Agreement
 City of Bayswater Community and Commercial Lease KPI's and Assessment Criteria
 City of Bayswater Breach of Lease Policy

Document details

Relevant delegations EF – D11 Leasing Agreements

Risk evaluation [low/moderate/high/extreme]

Strategic link	[link to Strategic Community Plan]		
Council adoption	19 April 2011	Resolution	11.2.7
Next review due	[date]		
Reviewed/modified	1 March 2016	Resolution	10.1.1
	9 April 2019		
Revision details	[revision no] [description]		

Category 1a – Small Volunteer Community Groups

Criteria Locally based organisations with a voluntary management committee and are a stand-alone Not-for-Profit organisation/community group (whether incorporated or not). Run solely by volunteers and facilitates programs/activities specifically targeted at local residents. Demonstrates a limited or no capacity to generate revenue through facility use and/or activities. Income is generally limited to low membership fees. Considered 'Exempt Dispositions' from section 3.58 of the <i>Local Government Act 1995</i> .	
Tenancy Term	Lease/Licence Agreement: Minimum term of 2 years – Maximum term of 5 years
Lease Fees and Charges	Annual Rent: \$1.00 Outgoings: <ul style="list-style-type: none"> • Emergency Services Levy • All utility costs related to the tenants use of the premises (exemptions for historical societies) • Waste charges (exceptions for historical societies) • Annual routine maintenance charges applicable to the facility discounted by 50% (e.g. servicing of air conditioning systems, cool rooms, alarm systems and fire safety systems) *Local Government Rates will not be charged by the City*
Tenant Obligations	<ul style="list-style-type: none"> • Contents, public liability insurance and any other insurances associated with the tenants use of the facility • Internal and external cleaning (including annual carpet cleaning) • Consumables associated with the facility and the tenants use. • Pest control (excluding termite inspections and treatment) • Minor general maintenance of the premises such as the repair and replacement of fittings and fixtures including light globes, taps, toilets, paper towel/roll dispensers and clearing of plumbing blockages caused by the tenants use.
City Obligations	<ul style="list-style-type: none"> • Building insurance • Building structural repairs and maintenance. • Gutter cleaning • External Drainage • Servicing of all inbuilt mechanical systems, security systems and fire safety systems (routine maintenance) with the cost being born by the tenant • Repair and replacement of inbuilt mechanical systems due to failure/end of useful life (not attributed to tenant's misuse or neglect) • Annual termite inspections and treatments as required.

Category 1b – Not-for-Profit Community Groups and Organisations

Criteria	<p>Locally based Not-for-Profit organisation, club, or community group run by volunteers or paid workers and are incorporated under the <i>Associations Incorporation Act 1987</i>. Servicing a wider catchment than the City of Bayswater District with their primary base of operations located within the City of Bayswater. Demonstrates an affordable membership regime and facilitates programs and activities that add value to the social and community fabric of the City. Has the capacity to generate revenue through membership, use of the premises, or activities consistent with the organisations purpose.</p>
Tenancy Term	Lease/Licence Agreement: Minimum term of 2 years – Maximum term of 5 years
Lease Fees and Charges	<p>Annual Rent: \$1,390 plus GST and indexed annually to CPI</p> <p>Outgoings:</p> <ul style="list-style-type: none"> • Emergency Services Levy • All utility costs related to the tenants use of the premises • Waste charges • Annual routine maintenance charges applicable to the facility (e.g. servicing of air conditioning systems, cool rooms, alarm systems and fire safety systems) <p>*Local Government Rates will not be charged by the City*</p>
Tenant Obligations	<ul style="list-style-type: none"> • Contents, public liability insurance and any other insurances associated with the tenants use of the facility • Internal and external cleaning (including annual carpet cleaning) • Consumables associated with the facility and the tenants use. • Pest control (excluding termite inspections and treatment) • Minor general maintenance of the premises such as the repair and replacement of fittings and fixtures including light globes, taps, toilets, paper towel/roll dispensers and clearing of plumbing blockages caused by the tenants use.
City Obligations	<ul style="list-style-type: none"> • Building insurance • Building structural repairs and maintenance. • Gutter cleaning • External Drainage • Servicing of all inbuilt mechanical systems, security systems and fire safety systems (routine maintenance) with the cost being born by the tenant • Repair and replacement of inbuilt mechanical systems due to failure/end of useful life (not attributed to tenant's misuse or neglect) • Annual termite inspections and treatments as required.

Category 2 – Sporting Clubs and Recreational Groups

Criteria	Locally based sporting clubs and recreational groups (whether incorporated or not) with a voluntary management committee. Demonstrates an affordable membership regime and facilitates sporting or recreational activities and programs that add value to the social and community fabric of the City. Has the capacity to generate revenue through its use of the property by way of membership, bar/kitchen facilities, or activities consistent with the club/groups purpose. Considered 'Exempt Dispositions' from section 3.58 of the <i>Local Government Act 1995</i> . *Excludes state and national sporting/recreational bodies*
Tenancy Term	Lease/Licence Agreement: Minimum term of 2 years – Maximum term of 5 years
Lease Fees and Charges	<p>Annual Rent: \$1.00</p> <p>Outgoings:</p> <ul style="list-style-type: none"> • Emergency Services Levy • All utility costs related to the tenants use of the premises • Waste charges • Annual routine maintenance charges applicable to the facility (e.g. servicing of air conditioning systems, cool rooms, alarm systems and fire safety systems) <p>*Local Government Rates will not be charged by the City*</p>
Tenant Obligations	<ul style="list-style-type: none"> • Contents, public liability insurance and any other insurances associated with the tenants use of the facility • Internal and external cleaning (including annual carpet cleaning) • Consumables associated with the facility and the tenants use. • Pest control (excluding termite inspections and treatment) • Minor general maintenance of the premises such as the repair and replacement of fittings and fixtures including light globes, taps, toilets, paper towel/roll dispensers and clearing of plumbing blockages caused by the tenants use.
City Obligations	<ul style="list-style-type: none"> • Building insurance • Building structural repairs and maintenance. • Gutter cleaning • External Drainage • Servicing of all inbuilt mechanical systems, security systems and fire safety systems (routine maintenance) with the cost being born by the tenant • Repair and replacement of inbuilt mechanical systems due to failure/end of useful life (not attributed to tenant's misuse or neglect) • Annual termite inspections and treatments as required.

Category 3 – Community Child Care Centres

Criteria Locally based Not-for-Profit Community Child Care Centres with a voluntary management committee and run by either volunteers or paid workers and are incorporated under the <i>Associations Incorporation Act 1987</i> . Established to provide community services and has the capacity to generate revenue through its use of the property.	
Tenancy Term	Lease/Licence Agreement: Minimum term of 2 years – Maximum term of 5 years
Lease Fees and Charges	Annual Rent: \$1,360 plus GST and indexed annually to CPI Outgoings: <ul style="list-style-type: none"> • Emergency Services Levy • All utility costs related to the tenants use of the premises • Waste charges • Annual routine maintenance charges applicable to the facility (e.g. servicing of air conditioning systems, cool rooms, alarm systems and fire safety systems) *Local Government Rates will not be charged by the City*
Tenant Obligations	<ul style="list-style-type: none"> • Contents, public liability insurance and any other insurances associated with the tenants use of the facility • Internal and external cleaning (including annual carpet cleaning) • Consumables associated with the facility and the tenants use • Pest control (excluding termite inspections and treatment) • Minor general maintenance of the premises such as the repair and replacement of fittings and fixtures including light globes, taps, toilets, paper towel/roll dispensers and clearing of plumbing blockages caused by the tenants use.
City Obligations	<ul style="list-style-type: none"> • Building insurance • Building structural repairs and maintenance. • Gutter cleaning • External Drainage • Servicing of all inbuilt mechanical systems, security systems and fire safety systems (routine maintenance) with the cost being born by the tenant • Repair and replacement of inbuilt mechanical systems due to failure/end of useful life (not attributed to tenant's misuse or neglect) • Annual termite inspections and treatments as required

Category 4 – Large Not-for-Profit Organisations, State and National Clubs/Associations and Places of Worship

Criteria Large Not-for-Profit groups that are professional organisations with paid staff and are generally Government funded, externally funded, or generates its own revenue through membership fees, events, venue hire, services, or other means consistent with the organisations purpose.	
Tenancy Term	Lease/Licence Agreement: Minimum term of 2 years – Maximum term of 10 years
Lease Fees and Charges	Annual Rent: 40% of market valuation plus GST, or as otherwise determined by the City following an Expression of Interest Process. Outgoings: <ul style="list-style-type: none"> • Emergency Services Levy • All utility costs related to the tenants use of the premises • Waste charges • Annual routine maintenance charges applicable to the facility (e.g. servicing of air conditioning systems, cool rooms, alarm systems and fire safety systems) *Local Government Rates will not be charged by the City*
Tenant Obligations	<ul style="list-style-type: none"> • Contents, public liability insurance and any other insurances associated with the tenants use of the facility • Internal and external cleaning (including annual carpet cleaning) • Consumables associated with the facility and the tenants use • Pest control (excluding termite inspections and treatment) • Minor general maintenance of the premises such as the repair and replacement of fittings and fixtures including light globes, taps, toilets, paper towel/roll dispensers and clearing of plumbing blockages caused by the tenants use.
City Obligations	<ul style="list-style-type: none"> • Building insurance • Building structural repairs and maintenance. • Gutter cleaning • External Drainage • Servicing of all inbuilt mechanical systems, security systems and fire safety systems (routine maintenance) with the cost being born by the tenant • Repair and replacement of inbuilt mechanical systems due to failure/end of useful life (unless attributed to tenant's misuse or neglect) • Annual termite inspections and treatments as required

Category 5 – Child Health Clinics

Criteria Services provided by Community Child Health Nurses which are employed by the Department of Health. Considered 'Exempt Dispositions' from section 3.58 of the <i>Local Government Act 1995</i> .	
Tenancy Term	Informal User Agreement with a maximum term of 2 years
Lease Fees and Charges	Annual Rent: \$1.00 Outgoings: <ul style="list-style-type: none"> • Emergency Services Levy • All utility costs related to the tenants use of the premises • Waste charges • Annual routine maintenance charges applicable to the facility (e.g. servicing of air conditioning systems, cool rooms, alarm systems and fire safety systems) *Local Government Rates will not be charged by the City*
Tenant Obligations	<ul style="list-style-type: none"> • Contents, public liability insurance and any other insurances associated with the tenants use of the facility • Internal and external cleaning (including annual carpet cleaning) • Consumables associated with the facility and the tenants use • Pest control (excluding termite inspections and treatment) • Minor general maintenance of the premises such as the repair and replacement of fittings and fixtures including light globes, taps, toilets, paper towel/roll dispensers and clearing of plumbing blockages caused by the tenants use.
City Obligations	<ul style="list-style-type: none"> • Building insurance • Building structural repairs and maintenance. • Gutter cleaning • External Drainage • Servicing of all inbuilt mechanical systems, security systems and fire safety systems (routine maintenance) with the cost being born by the tenant • Repair and replacement of inbuilt mechanical systems due to failure/end of useful life (unless attributed to tenant's misuse or neglect) • Annual termite inspections and treatments as required

City of
Bayswater

Policy [ID no.]

Community Facility Lease and Licence/User Agreement Policy



Responsible Division	Works and Infrastructure
Responsible Business Unit	Building Works
Responsible Officer	Community Lease Officer
Affected Business Units	Building Works
ECM Document Set ID	[ECM document set ID]

Purpose

To provide a structured framework and basic principles to ensure a consistent and equitable approach to the management of community lease and licence/user agreements, for the use and tenancy of City owned and managed properties, including land. This policy will provide guidance to City officers to assess and negotiate tenancy agreements.

Commented [JW1]: Reworded policy statement from current policy.

Scope

This policy applies to all Community Lease and Licence/User Agreements for the use of City owned and managed properties. The policy defines clear tenant categories and associated roles and responsibilities of each party under a tenancy agreement, and provides basic principles for the consistent, equitable and effective management of the City's community leases, licences and user agreements.

Commented [JW2]: Current policy does not contain a specific 'scope' Have included to clearly define the intent of the policy.

Definitions

For the purpose of this policy —

Agreement: a legally binding arrangement between parties, i.e. a Lease, License or User Agreement.

Authorised Contact/s: individuals of a group, organisation or club who have been nominated as the primary contacts for all lease, licence or user agreement correspondence.

City: City of Bayswater.

Council: a body of individuals elected by City ratepayers to manage the affairs of the City

Facility: land or building owned or managed by the City

Lease: a contract by which one party conveys land, property or service to another for a specified time usually in return of periodic payment.

Licence: a contract for the non-exclusive use of a facility.

Licensee: a person, group, club or organisation that holds a licence for the use of a facility.

Lessee: a person, group, club or organisation that holds the lease for the exclusive use of a facility.

Lessor: the owner of an asset that is leased to another party.

Not for Profit: an organisation that does not operate for the financial gain of a group or individual

Public Liability Insurance: a type of insurance that covers an organisation or group against losses or damage to a third party as a result of that group's or organisation's activities.

Sub-tenant: someone who occupies all or part of a premises under a lease agreement with the original/primary tenant of the premises.

Tenant/s: a person or persons who occupy a facility leased from the City, also known as lessee

User Agreement: contractual arrangement outlining the terms and conditions associated with usage, as negotiated.

Commented [JW3]: Definitions have been included to be consistent with newer policies.

Policy Statement

1. The City will provide a range of well-maintained and well managed community facilities and enter into agreements with community based not-for-profit organisations and sporting and recreational groups to support community needs and engagement.
2. The City will ensure consistent and fair access to its community facilities for locally based groups/clubs and larger not-for-profit organisations which provide benefit to the community.
3. The City will aim to increase community access to activities and services by ensuring optimal utilisation of City facilities by encouraging multiuse, integration and co-location.
4. Any new tenancy agreements should be negotiated on the terms set out in this policy.
5. For the purposes of tenancy negotiation, all community lease and licences shall be classified into one of the categories as outlined in **Annexure 1**.
6. Council's adopted standard community lease agreement will be applied to all new community leases, including renewals of existing tenants. The standard community lease agreement will not be varied, unless it is required to meet the operational needs of the tenant, and only then will minor variations be made under delegated authority.
7. The City reserves the right in all cases to inspect the premises and ensure lease conditions and Key Performance Indicators are being met.

Commented [JW4]: Policy details copied from current lease policy with slight rewording where required.

Commented [JW5]: Policy details copied from current lease policy with slight rewording where required

Types of Agreements

8. The City will enter into one of the following agreements for the use of City owned and managed facilities:
 - a. Lease – provides exclusive use of a facility or a portion of a facility for an agreed term.
 - b. Licence – contractual agreement for the non-exclusive use of a premises under particular conditions, such as permitted access between agreed times only. Generally, will include regular payment as a consideration.

- c. User Agreement – contractual tenancy agreement which outlines the terms and conditions associated with the usage of the facility. The terms of a user agreement are not usually standard and are negotiated between the two parties.

Commented [JW6]: Types of agreements were not specified in current policy. Have included to be clear on agreements used by the City.

Advertising a Facility for Lease/Licence and Lease/Licence Applications

9. The City will advertise and seek expressions of interest (EOI's) for consideration, to lease or licence a facility or portion of a facility when:
- An existing building or space becomes vacant;
 - An existing agreement expires and is not renewed;
 - For reasons, an agreement is terminated by either party; and
 - A new building is constructed on land owned or managed by the City.
10. EOI submissions will be assessed by a panel against the City's Lease Assessment Criteria and presented to Council for consideration.
11. All EOI submissions must demonstrate how they satisfy each of the City's Lease Assessment Criteria and provide a formal proposal including the following:
- A comprehensive business/organisation plan detailing the applicant's vision for the proposed lease space; and
 - Evidence that the proposed service/activities provides community benefit and/or an identified need of the community.

Commented [JW7]: Have included details on how the City will advertise facilities for lease/licence

Lease Administration and Management

12. Lease/licence tenure, fees and charges and all tenant obligations shall be as applicable to the respective tenant category outlined in **Annexure 1**.
13. Where practicable, utility charges will be individually metered for each tenant, otherwise an equitable percentage of the overall site utility charges will be applied.
14. The City will undertake annual property inspections to ensure lease conditions and will provide the tenant with a copy of the inspection report and appropriate feedback. Prior notice of the inspection will be given to the tenants.
15. The tenant is expected to maintain and keep the premises clean and in good repair. Tenants are to report any maintenance, damage, or repair requirements to the City in writing and in a timely manner.
16. All maintenance and repair requests will be considered by the relevant City officer/s and only undertaken if deemed necessary.
17. Approved maintenance or repairs will be undertaken by the City within a reasonable timeframe determined by the level of urgency.

Commented [JW8]: Policy details copied from current lease policy with slight rewording where required.

18. Tenants are not permitted to sub-let any part of the leased premises without the written consent from the City and then must use the City's standard sub-lease agreement.

Commented [JW9]: These points are consistent with the key Tenant/City obligations under the City's community Lease/Licence agreements. Have included to clearly demonstrate expectations of both parties and how this will be managed.

Annual Audit

19. On the anniversary of the tenancy agreement, the City will assess the tenant's annual performance against the City's Lease Key Performance indicators (KPI's) and provide appropriate feedback on their performance. Tenants are required to complete the City's annual audit information request and provide copies of:
- Public Liability insurance with a minimum \$10 million coverage, preference being given to minimum coverage of \$20 million;
 - Pest control certificate;
 - Up to date authorised contacts list;
 - An up to date key register
 - Organisation financials/accounts;
 - AGM Minutes;
 - Playground inspection certificate (if applicable);
 - Any required maintenance records where maintenance is required as part of the lease; and
 - Copies of any required certifications or accreditations associated with the organisation.

Commented [JW10]: Annual audit and tenants requirements to provide information and documentation is not addressed under the current policy.

Related Legislation

Local Government Act 1995 (WA)
Local Government (Functions and General) Regulations 1996
Residential Tenancies Act 1987 (WA)
Residential Park (Long-Stay Tenants) Act 2006 (WA) & Regulations

Related Documentation

City of Bayswater Community Lease Agreement
City of Bayswater Community and Commercial Lease KPI's and Assessment Criteria
City of Bayswater Breach of Lease Policy

Document details

Relevant delegations EF – D11 Leasing Agreements^[1]

Risk evaluation [low/moderate/high/extreme]

Strategic link	[link to Strategic Community Plan]		
Council adoption	19 April 2011	Resolution	11.2.7 [item no.]
Next review due	[date]		
Reviewed/modified	1 March 2016	Resolution	[item no.]
	9 April 2019		10.1.1
Revision details	[revision no] [description]		

COUNCIL POLICY: COMMUNITY FACILITY LEASE AND LICENCE/USER AGREEMENT POLICY

POLICY OWNER: Manager Strategic Planning and Place

POLICY STATEMENT: To provide a structured and consistent approach to the management of Council's lease and licence/user agreements with not-for-profit organisations and sporting and recreational groups for the use of community facilities.



POLICY DETAILS

1. Council will provide a range of well-maintained and well managed community facilities and enter into agreement with community based not-for-profit organisations and sporting groups for their use in order to ensure the city owned buildings and infrastructure are of a high quality appropriate to community needs.
2. Council will ensure consistent, fair, equitable access for locally based organisations to its community facilities.
3. Council will ensure that its community facilities are managed to an appropriate and sustainable standard. The City will undertake periodical inspections as required with appropriate feedback given to the Tenant.
4. Council will aim to increase community access to activities and services by optimum use of Council facilities achieved by encouraging integration and co-location.
5. For the purposes of tenancy negotiation, all community leases shall be classified into one of the categories as outlined in Annexure 1.
6. Lease tenure, lease fees and annual charges, and tenant/city obligations shall be as outlined in Annexure 1.
7. Where practicable utility charges will be individually metered for each Tenant otherwise an equitable percentage of the overall site utility charges will be applied.
8. The tenant shall have responsibility for all obligations as outlined in Annexure 1.
9. Council reserves the right in all cases to inspect premises and ensure Lease conditions and Key Performance Indicators are being met.

RELATED LEGISLATION AND OTHER REFERENCES

Local Government Act 1995 (WA).

Residential Tenancies Act 1987 (WA)

Residential Park (Long-Stay Tenants) Act 2006 (WA) & Regulations

Adopted by Council:	19 April 2011
Reviewed	1 March 2016 9 April 2019
Modified	20 August 2019
Strategic Link	C1.1 - A strong sense of community through the provision of quality services and facilities
Document Ref	3249778

Annexure 1 - Categories of Tenants

Category No.	Lessee Description	Reference	Lease Fee and Charges	City and Lessee Obligations	Lease Tenure
1.	Not-for-profit community groups: a) Local service groups – the lessee operates exclusively in, and its membership is predominately drawn from, the City of Bayswater district. b) Community child care centres. c) Other community groups – those with locations outside, and/or servicing a wider catchment than the City of Bayswater district.	Member based not for profit groups made up of mostly community representatives and volunteers, (whether incorporated or not) established to provide community, services and/or raise money for those in need and deemed exempt dispositions under the <i>Local Government Act 1995</i> (WA).	a) Local service groups - \$1/pa b) Community child care centres - \$1,360/pa (plus GST) c) Other community groups - \$1,390/pa (plus GST) Plus outgoings (excluding rates and utility costs) identified as Lessee Obligations under the immediately preceding lease or licence/user agreement. The Lease fee will be indexed annually to CPI where applicable. Rates and utility costs will not be charged by the City. Emergency Services Levy will be charged by the City.	Lessee Cleaning, pest control, consumables, and contents and public liability insurance associated with the facility. Repairs and maintenance on items installed by the Lessee or where the damage is attributable to Tenant use/activity. Waste charges will be payable by the City as determined by the Coordinator Environmental Health on a case-by- case basis based on individual club needs. City Building insurance and all maintenance and repairs excluding damage attributable to Tenant use/activity. The City will undertake the servicing of all inbuilt mechanical services (eg air conditioning and cool rooms) and alarm systems, with the cost being borne by the tenant.	Lease/Licence Agreement (2-5 years)
2.	Sporting and recreational groups	Being sporting and recreational groups (whether incorporated or not) that would be deemed exempt dispositions under the <i>Local Government Act 1995</i> (WA). Excludes state sporting/recreational bodies.	\$1/pa Plus outgoings (excluding rates and utility costs) identified as Lessee Obligations under the immediately preceding lease or licence/user agreement. Rates and utility costs will not be charged by the City. Emergency Services Levy will be charged by the City.	Lessee Cleaning, pest control, consumables, and contents and public liability insurance associated with the facility. Repairs and maintenance on items installed by the Lessee or where the damage is attributable to Tenant use/activity. Waste charges will be payable by the City as determined by the Coordinator Environmental Health on a case-by- case basis based on individual club needs. City Building insurance and all maintenance and repairs excluding damage attributable to Tenant use/activity. The City will undertake the servicing of all inbuilt mechanical services (eg air conditioning and cool rooms) and alarm systems, with the cost being borne by the tenant.	Lease/Licence Agreement (2-5 years)
3.	Not for profit – funded	Not for profit groups, that are professional organisations with paid staff and are generally Government funded or have significant membership bases. Includes places of worship and state sporting/recreational bodies.	40% of market valuation or as otherwise determined by the City following an Expression of Interest process Plus the Emergency Services Levy, GST and all utility costs and other outgoings identified as Lessee Obligations. The Lease fee will be indexed annually to CPI. Rates will not be charged by the City.	Lessee Cleaning, pest control, consumables, and contents and public liability insurance associated with the facility. Repairs and maintenance on items installed by the Lessee or where the damage is attributable to Tenant use/activity. Waste charges will be payable by the City as determined by the Coordinator Environmental Health on a case-by- case basis based on individual club needs. City Building insurance and all maintenance and repairs excluding damage attributable to Tenant use/activity. The City will undertake the servicing of all inbuilt mechanical services (eg air conditioning and cool rooms) and alarm systems, with the cost being borne by the tenant.	Lease Agreement (2-10 years)

4.	Child Health Clinics	Services provided by community child health nurses, employed by WA Health, deemed exempt dispositions under <i>the Local Government Act 1995</i> (WA).	<p>\$1/pa</p> <p>Plus outgoings (excluding rates and utility costs) identified as Lessee Obligations under the immediately preceding lease or licence/user agreement.</p> <p>Rates and utility costs will not be charged by the City.</p> <p>Emergency Services Levy will be charged by the City.</p>	<p>Lessee</p> <p>Consumables, insurances and all outgoings associated with the facility.</p> <p>Repairs and maintenance on items installed by the Lessee or where the damage is attributable to Tenant use/activity.</p> <p>Waste charges will be payable by the City as determined by the Coordinator Environmental Health on a case-by- case basis based on individual club needs.</p> <p>City</p> <p>Building insurance and all maintenance and repairs excluding damage attributable to Tenant use/activity.</p> <p>The City will undertake the servicing of all inbuilt mechanical services (eg air conditioning and cool rooms) and alarm systems, with the cost being borne by the tenant.</p>	Informal User Agreement (up to two years)
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Category 1a – Small Volunteer Community Groups

Criteria	Locally based organisations with a voluntary management committee and are a stand-alone Not-for-Profit organisation/community group (whether incorporated or not). Run solely by volunteers and facilitates programs/activities specifically targeted at local residents. Demonstrates a limited or no capacity to generate revenue through facility use and/or activities. Income is generally limited to low membership fees. Considered 'Exempt Dispositions' from section 3.58 of the <i>Local Government Act 1995</i> .
Tenancy Term	Lease/Licence Agreement: Minimum term of 2 years – Maximum term of 5 years
Lease Fees and Charges	Annual Rent: \$1.00 Outgoings: <ul style="list-style-type: none"> • Emergency Services Levy (exemptions for historical societies) • All utility costs related to the tenants use of the premises (exemptions for historical societies) • Waste charges (exceptions for historical societies) • Annual routine maintenance charges applicable to the facility discounted by 50% (e.g. servicing of air conditioning systems, cool rooms, alarm systems and fire safety systems) *Local Government Rates will not be charged by the City*
Tenant Obligations	<ul style="list-style-type: none"> • Contents, public liability insurance and any other insurances associated with the tenants use of the facility • Internal and external cleaning (including annual carpet cleaning) • Consumables associated with the facility and the tenants use. • Pest control (excluding termite inspections and treatment) • Minor general maintenance of the premises such as the repair and replacement of fittings and fixtures including light globes, taps, toilets, paper towel/roll dispensers and clearing of plumbing blockages caused by the tenants use.
City Obligations	<ul style="list-style-type: none"> • Building insurance • Building structural repairs and maintenance. • Gutter cleaning • External Drainage • Servicing of all inbuilt mechanical systems, security systems and fire safety systems (routine maintenance) with the cost being born by the tenant • Repair and replacement of inbuilt mechanical systems due to failure/end of useful life (not attributed to tenant's misuse or neglect) • Annual termite inspections and treatments as required.

Category 1b – Not-for-Profit Community Groups and Organisations

Criteria	<p>Locally based Not-for-Profit organisation, club, or community group run by volunteers or paid workers and are incorporated under the <i>Associations Incorporation Act 1987</i>. Servicing a wider catchment than the City of Bayswater District with their primary base of operations located within the City of Bayswater. Demonstrates an affordable membership regime and facilitates programs and activities that add value to the social and community fabric of the City. Has the capacity to generate revenue through membership, use of the premises, or activities consistent with the organisations purpose.</p>
Tenancy Term	Lease/Licence Agreement: Minimum term of 2 years – Maximum term of 5 years
Lease Fees and Charges	<p>Annual Rent: \$1,390 plus GST and indexed annually to CPI</p> <p>Outgoings:</p> <ul style="list-style-type: none"> • Emergency Services Levy • All utility costs related to the tenants use of the premises • Waste charges • Annual routine maintenance charges applicable to the facility (e.g. servicing of air conditioning systems, cool rooms, alarm systems and fire safety systems) <p>*Local Government Rates will not be charged by the City*</p>
Tenant Obligations	<ul style="list-style-type: none"> • Contents, public liability insurance and any other insurances associated with the tenants use of the facility • Internal and external cleaning (including annual carpet cleaning) • Consumables associated with the facility and the tenants use. • Pest control (excluding termite inspections and treatment) • Minor general maintenance of the premises such as the repair and replacement of fittings and fixtures including light globes, taps, toilets, paper towel/roll dispensers and clearing of plumbing blockages caused by the tenants use.
City Obligations	<ul style="list-style-type: none"> • Building insurance • Building structural repairs and maintenance. • Gutter cleaning • External Drainage • Servicing of all inbuilt mechanical systems, security systems and fire safety systems (routine maintenance) with the cost being born by the tenant • Repair and replacement of inbuilt mechanical systems due to failure/end of useful life (not attributed to tenant's misuse or neglect) • Annual termite inspections and treatments as required.

Category 2 – Sporting Clubs and Recreational Groups

Criteria	Locally based sporting clubs and recreational groups (whether incorporated or not) with a voluntary management committee. Demonstrates an affordable membership regime and facilitates sporting or recreational activities and programs that add value to the social and community fabric of the City. Has the capacity to generate revenue through its use of the property by way of membership, bar/kitchen facilities, or activities consistent with the club/groups purpose. Considered 'Exempt Dispositions' from section 3.58 of the <i>Local Government Act 1995</i> . *Excludes state and national sporting/recreational bodies*
Tenancy Term	Lease/Licence Agreement: Minimum term of 2 years – Maximum term of 5 years
Lease Fees and Charges	<p>Annual Rent: \$1.00</p> <p>Outgoings:</p> <ul style="list-style-type: none"> • Emergency Services Levy • All utility costs related to the tenants use of the premises • Waste charges • Annual routine maintenance charges applicable to the facility (e.g. servicing of air conditioning systems, cool rooms, alarm systems and fire safety systems) <p>*Local Government Rates will not be charged by the City*</p>
Tenant Obligations	<ul style="list-style-type: none"> • Contents, public liability insurance and any other insurances associated with the tenants use of the facility • Internal and external cleaning (including annual carpet cleaning) • Consumables associated with the facility and the tenants use. • Pest control (excluding termite inspections and treatment) • Minor general maintenance of the premises such as the repair and replacement of fittings and fixtures including light globes, taps, toilets, paper towel/roll dispensers and clearing of plumbing blockages caused by the tenants use.
City Obligations	<ul style="list-style-type: none"> • Building insurance • Building structural repairs and maintenance. • Gutter cleaning • External Drainage • Servicing of all inbuilt mechanical systems, security systems and fire safety systems (routine maintenance) with the cost being born by the tenant • Repair and replacement of inbuilt mechanical systems due to failure/end of useful life (not attributed to tenant's misuse or neglect) • Annual termite inspections and treatments as required.

Category 3 – Community Child Care Centres

Criteria Locally based Not-for-Profit Community Child Care Centres with a voluntary management committee and run by either volunteers or paid workers and are incorporated under the <i>Associations Incorporation Act 1987</i> . Established to provide community services and has the capacity to generate revenue through its use of the property.	
Tenancy Term	Lease/Licence Agreement: Minimum term of 2 years – Maximum term of 5 years
Lease Fees and Charges	Annual Rent: \$1,360 plus GST and indexed annually to CPI Outgoings: <ul style="list-style-type: none"> • Emergency Services Levy • All utility costs related to the tenants use of the premises • Waste charges • Annual routine maintenance charges applicable to the facility (e.g. servicing of air conditioning systems, cool rooms, alarm systems and fire safety systems) *Local Government Rates will not be charged by the City*
Tenant Obligations	<ul style="list-style-type: none"> • Contents, public liability insurance and any other insurances associated with the tenants use of the facility • Internal and external cleaning (including annual carpet cleaning) • Consumables associated with the facility and the tenants use • Pest control (excluding termite inspections and treatment) • Minor general maintenance of the premises such as the repair and replacement of fittings and fixtures including light globes, taps, toilets, paper towel/roll dispensers and clearing of plumbing blockages caused by the tenants use.
City Obligations	<ul style="list-style-type: none"> • Building insurance • Building structural repairs and maintenance. • Gutter cleaning • External Drainage • Servicing of all inbuilt mechanical systems, security systems and fire safety systems (routine maintenance) with the cost being born by the tenant • Repair and replacement of inbuilt mechanical systems due to failure/end of useful life (not attributed to tenant's misuse or neglect) • Annual termite inspections and treatments as required

Category 4 – Large Not-for-Profit Organisations, State and National Clubs/Associations and Places of Worship

Criteria Large Not-for-Profit groups that are professional organisations with paid staff and are generally Government funded, externally funded, or generates its own revenue through membership fees, events, venue hire, services, or other means consistent with the organisations purpose.	
Tenancy Term	Lease/Licence Agreement: Minimum term of 2 years – Maximum term of 10 years
Lease Fees and Charges	Annual Rent: 40% of market valuation plus GST, or as otherwise determined by the City following an Expression of Interest Process. Outgoings: <ul style="list-style-type: none"> • Emergency Services Levy • All utility costs related to the tenants use of the premises • Waste charges • Annual routine maintenance charges applicable to the facility (e.g. servicing of air conditioning systems, cool rooms, alarm systems and fire safety systems) *Local Government Rates will not be charged by the City*
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Category 5 – Child Health Clinics

Criteria Services provided by Community Child Health Nurses which are employed by the Department of Health. Considered 'Exempt Dispositions' from section 3.58 of the <i>Local Government Act 1995</i> .	
Tenancy Term	Informal User Agreement with a maximum term of 2 years
Lease Fees and Charges	Annual Rent: \$1.00 Outgoings: <ul style="list-style-type: none"> • Emergency Services Levy • All utility costs related to the tenants use of the premises • Waste charges • Annual routine maintenance charges applicable to the facility (e.g. servicing of air conditioning systems, cool rooms, alarm systems and fire safety systems) *Local Government Rates will not be charged by the City*
Tenant Obligations	<ul style="list-style-type: none"> • Contents, public liability insurance and any other insurances associated with the tenants use of the facility • Internal and external cleaning (including annual carpet cleaning) • Consumables associated with the facility and the tenants use • Pest control (excluding termite inspections and treatment) • Minor general maintenance of the premises such as the repair and replacement of fittings and fixtures including light globes, taps, toilets, paper towel/roll dispensers and clearing of plumbing blockages caused by the tenants use.
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8.2 Strategic Budget Policy

Responsible Directorate:	Office of the Chief Executive Officer
Authority/Discretion:	Executive/Strategic Legislative
Voting Requirement:	Simple majority required
Attachments:	1. Strategic Budget Policy Proposed Changes [8.2.1 - 5 pages] 2. Strategic Budget Policy - Final Version [8.2.2 - 5 pages]
Refer:	CTFCS 16.08.2017 Item 9.3.6 OCM 12.09.2017 Item 5.3 OCM 28.01.2020 Item 10.5.2.1

SUMMARY

For Council to consider amending the Strategic Budget Policy to remove Principle 4, which relates to the adopted Reserve Funding Strategy.

COMMITTEE RECOMMENDATION TO COUNCIL (OFFICER'S RECOMMENDATION)

That Council amends the Strategic Budget Policy as contained in Attachment 2, in which Principle 4 (Reserve Funding Strategy) has been amended to read:

"1% of Rates Revenue to be transferred to the Major Capital Works Reserve annually."

Cr Catherine Ehrhardt, Deputy Mayor Moved, Cr Filomena Piffaretti, Mayor Seconded

CARRIED UNANIMOUSLY: 5/0

For: Cr Filomena Piffaretti, Mayor, Cr Catherine Ehrhardt, Deputy Mayor, Cr Lorna Clarke, Cr Josh Eveson and Cr Steven Ostaszewskyj.

Against: Nil.

BACKGROUND

At the Community, Technical, Finance and Corporate Services Committee on 16 August 2017, the Committee resolved as follows:

"That Council:

- Amends the Long-Term Financial Plan 2018-2019 - 2028-2029 to reference the following:*

*That an allocation to the Reserve Funds be made using the following calculation:
2018-2019 Year 1 = 1% of the rates;*

2019-2020 Year 2 = 1% of the rates plus 2018-2019 increase;

2020-2021 Year 3 = 1% of the rates plus 2018-2019 and 2019-2020 increases;

2021-2022 Year 4 = 1% of the rates plus 2018-2019, 2019-2020 and 2020-2021 increases;

2022-2023 Year 5 = 1% of the rates plus 2018-2019, 2019-2020, 2020-2021 and 2021-2022 increases; and

2023-2029 Year 6 and on 1% of the rates including increases from 2018-2019, 2019-2020, 2020-2021 and 2021-2022 increases."

Council endorsed the Committee resolution at the Ordinary Council Meeting on 12 September 2017, resolving as follows:

“That Council accepts the minutes of the Community, Technical, Finance and Corporate Services Committee Meeting held on Wednesday, Wednesday, 16 August 2017 which have been distributed and acknowledges the decisions made at the Committee Meeting in accordance with section 5.17 of the Local Government Act 1995, and the Committees delegation of powers and duties.”

At the Ordinary Council Meeting on 28 January 2020, Council adopted the Strategic Budget Policy. The Policy outlines a number of principles to be followed, including the following:

“Principle 4: Reserves are to be accumulated and allocated in accordance with Council resolution (OCM August 2017).”

It is noted that whilst the principle contained in the policy makes reference to the adopted Reserve Funding Strategy, it has not been adhered to by Council since its adoption in 2017.

EXTERNAL CONSULTATION

Nil.

OFFICER'S COMMENTS

There are a number of different interpretations of this Committee decision and its subsequent Council adoption. In any event, Council has not been following the intent of the resolution during the Budget adoption process since its adoption.

When recent reviews of the Long Term Financial Plan (LTFP) have taken place, officers have interpreted this decision as 1% of the total rates income for 2018/19 should be transferred to Reserve and this amount increases by 1% each year. In 2019/20, therefore the amount to be transferred to Reserve should be 2% of total rates income and so on.

It follows that in year 10, 10% of rates would be budgeted to be transferred to Reserve which would clearly be unsustainable.

In addition to the interpretation described above, there are at least two other interpretations of the Council decision and these are:

- (1) 1% of rates in 18/19 plus difference raised between years, and*
- (2) 1% of rates raised in 18/19, + 1% raised in 19/20 and so on*

In any event, since the adoption of the original decision, the intent of the original policy has not been followed when adopting annual budgets since 2018/19. For these reasons it is considered that Principle 4 of the Strategic Budget Policy is inconsistent with the original intent and should be amended.

It is therefore proposed that the Policy simply be amended.. A tracked changes copy of the proposed changes has been included at **Attachment 1**, with the proposed clean version included at **Attachment 2**.

LEGISLATIVE COMPLIANCE

Nil.

RISK ASSESSMENT

In accordance with the City's Risk Management Framework, the following options have been assessed against the City's adopted risk tolerance. Comments are provided against each of the risk categories.

Officer's Recommendation	That Council amends the Strategic Budget Policy as contained in Attachment 2, in which Principle 4 (Reserve Funding Strategy) has been amended to read: <i>"1% of Rates Revenue to be transferred to the Major Capital Works Reserve annually."</i>	
Risk Category	Adopted Risk Appetite	Risk Assessment Outcome
Strategic Direction	Moderate	Low
Reputation	Low	Low
Governance	Low	Low
Community and Stakeholder	Moderate	Low
Financial Management	Low	Low
Environmental Responsibility	Low	Low
Service Delivery	Low	Low
Organisational Health and Safety	Low	Low
Conclusion	The amendment of the reference to the Reserve Funding Strategy in the Strategic Budget Policy is considered an overall low risk, as it will ensure Council is not committed to an unsustainable reserve funding strategy.	

Option 2	That Council does not amend the Strategic Budget Policy.	
Risk Category	Adopted Risk Appetite	Risk Assessment Outcome
Strategic Direction	Moderate	Low
Reputation	Low	High
Governance	Low	Low
Community and Stakeholder	Moderate	Low
Financial Management	Low	High
Environmental Responsibility	Low	Low
Service Delivery	Low	High
Organisational Health and Safety	Low	Low
Conclusion	Should Council not amend the Strategic Budget Policy and retain the reference to the Reserve Funding Strategy as is, it is anticipated that this will pose constraints during the annual budget process as the amounts to be transferred to reserves is considered unsustainable. This will have a high risk in the areas of reputation, financial management and service delivery.	

FINANCIAL IMPLICATIONS

The removal of Principle 4 from the Strategic Budget Policy will allow Council more flexibility to transfer funds to Reserve when setting its annual budget as it will not be constrained by transferring increasingly an unsustainable amount of funds to Reserve.

STRATEGIC IMPLICATIONS

In accordance with the City of Bayswater Strategic Community Plan 2021-2031, the following applies:

Theme: Leadership and Governance

Goal L2: Plan and deliver projects and services in a sustainable way.

Work together to deliver the best outcomes for the community by managing our resources in a financially sustainable way.

CONCLUSION

Reference to the decision of Council in 2017 (however it is interpreted) the Strategic Budget Policy constrains the Council budgeting process as, if followed and rates are not increased accordingly,

there is less funding available for new and capital works. This does not prevent Council from transferring to Reserve an amount for future works as it deems necessary – it is simply not tied to a transferring a specific amount determined by a 5 year old decision.

The amendment of principle 4 of the Policy allows more flexibility to manage transfers to Reserves.

Strategic Budget Policy



Responsible Division	Corporate & Strategy
Responsible Business Unit/s	Finance
Responsible Officer	Director Corporate and Strategy
Affected Business Unit/s	All Branches
Document Ref	

Purpose

To establish clear principles and guidelines for the City of Bayswater (the City) that will deliver:

- Elected Members strategic financial management directives;
- Community engagement;
- Robust and transparent long-term financial planning;
- Intergenerational equity;
- Good stewardship of the City's assets;
- Sustainable, fully costed fees, charges for services and goods sold;
- Asset sustainability (maintenance, renewal, replacement and new);
- Prudent rates setting that reflects the community's needs and aspirations;
- Sustainability in non-rates and non-fees & charges income.

Policy Statement

The City acknowledges that it must plan for the current and future needs of the community in a socially, culturally, environmentally and financially sustainable manner. This will be achieved through Council's Strategic Community Plan (SCP), Corporate Business Plan (CBP) and operationally via Branch Plans. The City also acknowledges that the budget must be embraced by all stakeholders and with this in mind must be developed in a collaborative fashion.

The Policy is founded on the following Principles:

- Principle 1:** Recurring income must exceed recurring expenditure.
- Principle 2:** Each of the City's service delivery activities is to be cost and quality competitive whilst controlling City operating costs.
- Principle 3:** Asset renewal must have higher priority than the creation of new assets.
- Principle 4:** ~~Reserves are to be accumulated and allocated in accordance with Council resolution (OCM August 2017)~~
1% of Rates Revenue to be transferred to the Major Capital Works Reserve annually.
- Principle 5:** New income-producing opportunities are to be identified and returns on Council commercial property holdings are to be optimized.

Principle 6: The uses of debt, internal borrowing and private financing are to be considered where appropriate.

Principle 7: The Department of Local Government, Sport and Cultural Industries' key performance indicators are to be met (refer mycouncil.wa.gov.au).

Management will use its best endeavours to present the budget to Council for adoption by the end of June each year.

Scope

This Policy applies in the development of the City's budgets and to assist Council in adopting the budget.

The City acknowledges the importance of financial integrity and community engagement. Where appropriate this Policy is supported by relevant Management Procedures.

1. Annual Budgeting Strategy

In order to achieve long-term financial sustainability the City will deliver a balanced or surplus budget and achieve the key performance indicators documented on mycouncil.wa.gov.au. The budget will be produced using the principles of zero-based budgeting.

2. Participatory Budgeting

The budget will be prepared in a two-yearly participatory cycle where year one will involve full community engagement and consultation, and year two will be informed from the data collected during the year one engagement and consultation process.

3. Long-Term Financial Planning (LTFP)

The LTFP will be formulated to address the strategies and deployment objectives outlined in the City's SCP, CBP, Asset Management Strategic Plan (AMSP), Workforce Management Plan and relevant informing strategies and resourcing plans.

4. Management of City's Reserves

Cash-backed specific purpose reserve accounts will be established to help mitigate financial risk and, where appropriate, spread the financial burden. The purpose for each reserve will be documented to ensure the use of funds is transparent.

5. Capacity to Pay

Council will consider ratepayers' capacity to pay as part of budget development with influencing factors such as the prevailing economic climate being taken into account.

6. Intergenerational Equity

- (a) The City will engage with the community, State and Federal governments to ensure the full cost of infrastructure and service delivery are equitably met by all generations of ratepayers.
- (b) Intergenerational equity will be achieved through the City's LTFP and Annual Budgeting processes.

7. New Initiatives

- (a) All operational or capital projects will be evaluated against Council's SCP and AMSP, supported by the funding priority (Section 9 of this Policy).
- (b) Project proposals must be supported by a business case, including a cost-benefit analysis, risk analysis and whole-of-life costing to clearly demonstrate the fulfilment of financial policy objectives.
- (c) The City will advocate for grants and partnership opportunities and, where possible, collaborate with neighbouring councils.

8. Funding Strategy

- (a) Borrowings
 - (i) Borrowings may be considered in accordance with Council's adopted Borrowing Policy as a valid funding source for projects that contribute towards or achieve strategic goals identified in the City's SCP and have an identified source of revenue or utility.
- (b)
 - (i) The criteria for borrowing will be driven by the economic climate and the City's balance sheet capacity; and
 - (ii) Cost/benefit analysis of borrowings will be required to be undertaken alongside assessment and alignment to the City's strategic asset management plans and strategies.
- (c) Sale of Assets

Proceeds from the sale of assets (Capital Revenue) will be applied to:

 - (i) Reduce any debt associated with the asset acquisition or upgrade since the original purchase or construction;
 - (ii) Offset the cost of replacement of similar classes of assets required for the City's operations arising from identified asset sale; and/or
 - (iii) Municipal Funds or specific Cash-Backed Reserves.

Reflecting responsible financial management and stewardship, the proceeds from the sale of assets are not to be used to offset operating costs.
- (d) Levels of Service

Services levels will be assessed and reviewed to achieve the best value for money and appropriate quality.
- (e) Fees & Charges
 - (i) The City acknowledges the requirements of the National Competition Policy and ensures compliance by regularly reviewing its fees, charges and services to ensure that they do not create or have the potential to create unfair competition with the private sector.
 - (ii) The City adopts a "user-contributes" approach considering community expectation of the level of services and capacity to pay.

- (iii) Additional factors that are considered when reviewing fees and charges include:
 - I. Regulatory provisions – Sections 6.17 and 6.38 of the *Local Government Act 1995*;
 - II. Full cost of the provision of the goods and services;
 - III. Benchmarking against other Local Governments' pricing;
 - IV. Market rates;
 - V. Optimisation of return on Council commercial property;
 - VI. Perth CPI; and
 - VII. Level of the City's subsidy.
- (f) Rate Setting
 - (i) The City's rating strategy will be developed on a general rate (rate in the dollar) increase of Perth CPI and an additional amount based on meeting community service levels and expectations as identified and approved through the LTFP process;
 - (ii) Where applicable differential rates and specified area rates will be exercised by Council to meet specific community needs and to ensure fairness, consistency, transparency, efficiency and equity for the community.
- (g) Cash-in-Lieu Funding

Cash received in-lieu for public open space and car parking is to be used to fund capital projects relevant to the defined catchment.
- (h) Rates Waiver – Mertome Village

Council to consider during its annual budget deliberations the application of a rates waiver equal to the amount payable following the application of pensioner/senior discounts for all Existing Residents of Mertome, noting that Existing Residents are those residents that were in occupancy at the time of Fresh Fields Management (Mertome Village) Pty Ltd's acquisition of Mertome Village on 1 April 2019.

9. Funding Priority

- (a) The City recognises the competing demands for limited financial resources and will endeavour to allocate resources in compliance with the objectives of this Policy;
- (b) Prioritisation of funding allocation will be based on the following:
 - (i) Activities requiring compliance with new statutory obligations or standards;
 - (ii) Risk mitigation activities or projects that are required to reduce extreme or high-level risks to as far as practicable, an acceptable level;
 - (iii) Renewal, upgrade or maintenance of existing infrastructure assets as supported by the Strategic Asset Management Plans and related projects prioritisation processes;
 - (iv) Current operational funding for programs, unless the operational need for any of those programs has been superseded;
 - (v) New programs or assets as supported by the Strategic Asset Management Plans and related projects prioritisation processes; and
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Definitions

DEFINITIONS: Any definitions listed in the following table apply to this document only.

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The equitable allocation of responsibility for funding the provision and maintenance of assets and facilities throughout their useful life (more evenly spreading the financial burden against current and future ratepayers who will enjoy the benefits).

Financial Sustainability

The financial capacity to deliver the current and forecasted level of services demanded by the community.

Whole of Life Cost

Refers to the total net cost incurred when acquiring goods or services and is made up of all initial procurement costs, operating and maintenance costs, disposal costs and termination

Related Legislation

- The Local Government Act 1995;
- The Local Government (Financial Management) Regulations 1996;
- Australian Accounting Standards Board (AASB) Standards;
- Western Australian Local Government Accounting Manual;
- Department of Local Government and Communities Rating Policy Differential Rates (s.6.33) August 2013; and
- National Competition Policy.

Related Documentation:

This Policy is supported by the following policies, procedures, documents and delegations:

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2. Investment Policy
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4. Workforce Plan 2017-27
5. Strategic Community Plan
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7. Long-Term Financial Plan

Relevant Delegations

Risk Evaluation

Council Adoption	28 January 2020
Review/Modified	26 May 2022
Review/Modified	31 May 2022
Review/Modified	Insert Date

Strategic Budget Policy



Responsible Division	Corporate & Strategy
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Whole of Life Cost

Refers to the total net cost incurred when acquiring goods or services and is made up of all initial procurement costs, operating and maintenance costs, disposal costs and termination

Related Legislation

- The Local Government Act 1995;
- The Local Government (Financial Management) Regulations 1996;
- Australian Accounting Standards Board (AASB) Standards;
- Western Australian Local Government Accounting Manual;
- Department of Local Government and Communities Rating Policy Differential Rates (s.6.33) August 2013; and
- National Competition Policy.

Related Documentation:

This Policy is supported by the following policies, procedures, documents and delegations:

1. Loan Borrowing Policy
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4. Workforce Plan 2017-27
5. Strategic Community Plan
6. Corporate Business Plan
7. Long-Term Financial Plan

Relevant Delegations

Risk Evaluation

Council Adoption	28 January 2020
Review/Modified	26 May 2022
Review/Modified	31 May 2022
Review/Modified	Insert Date

8.3 Bayswater Grants Program Policy

Responsible Branch:	Community Development
Responsible Directorate:	Community and Development
Authority/Discretion:	Executive/ Strategic
Voting Requirement:	Simple Majority Required
Attachments:	<ol style="list-style-type: none"> 1. Community Grants Policy [8.3.1 - 2 pages] 2. City of Bayswater Grants Program Policy Revised showing track [8.3.2 - 6 pages] 3. City of Bayswater Grants Program Policy Revised - FINAL [8.3.3 - 5 pages]
Refer:	Item 8.1: PRDC 22.02.2022 Item 10.4.7: OCM 24.08.2021 Item 10.6.1.2: OCM 24.08.2021 Item 9.1.1: CTFCS Committee 19.04.2017

CR LORNA CLARKE DECLARED A FINANCIAL INTEREST

In accordance with section 5.60A of the Local Government Act 1995, Cr Lorna Clarke declared a financial interest in this item as she has a home on the heritage list and the report mentions the Heritage Funds Policy. At 5:31pm, Cr Lorna Clarke withdrew from the meeting.

SUMMARY

For Council to adopt the revised Bayswater Grants Program Policy as revised for grant funding streams, as contained in **Attachment 3**, and rescind the City's existing Community Grants Policy.

The revised Policy will be supported by a management practice that will provide the relevant details for the grant funding streams.

The revised Bayswater Grants Program Policy has returned to the Policy Review and Development Committee with changes that are based on committee, workshop and staff feedback. The existing Policy to be replaced is **Attachment 1**. The revisions to the Policy are highlighted in **Attachment 2** showing track changes, and the final Policy recommended is in **Attachment 3** finalised for a return to the committee.

The final Policy recommended is the end result of the feedback from Councillors through the Policy Review and Development Committee on 22 February 2022, with the outcome of a procedural motion to refer the Policy to the next meeting so that further information could be provided prior to reconsidering the item. Additional feedback was provided by Councillors at a Council Workshop on 5 April 2022.

The key points of the revisions were; text amendments, queries on the grants listed in the table, co-contributions; and the wording of the resolution to identify what other policies were to be rescinded as a result of the revised policy. The Policy document has been amended accordingly.

The officer's comments and attachments refer in more detail to the revisions as recommended. Councillors have been provided with the 5 April 2022 Workshop notes as reference to the discussions.

At 5:31 pm, Cr Lorna Clarke withdrew from the meeting.

COMMITTEE RECOMMENDATION TO COUNCIL
(OFFICER'S RECOMMENDATION)

That Council:

- 1. Adopts the proposed City of Bayswater Grants Program Policy as contained in Attachment 3 to this report.**
- 2. Rescinds the Community Grants Policy.**

Cr Steven Ostaszewskyj Moved, Cr Josh Eveson Seconded

CARRIED UNANIMOUSLY: 4/0

For: *Cr Filomena Piffaretti, Mayor, Cr Catherine Ehrhardt, Deputy Mayor, Cr Josh Eveson and Cr Steven Ostaszewskyj.*

Against: *Nil.*

At 5:34pm, Ms Julie-Ann Gray withdrew from the meeting and did not return.

At 5:34 pm, Cr Lorna Clarke returned to the meeting.

BACKGROUND

At the Ordinary Council Meeting held on 24 August 2021, Council resolved as follows:

"That Council:

- 1. Notes the review currently being undertaken by Officers in relation to the Community Grants Policy;*
- 2. Notes that the Policy will be presented to the next Policy Review and Development Committee meeting with recommended changes following completion of the review;*
- 3. As part of the review, requests the City to consider the following aspects:*
 - (a) Eligibility criteria; and*
 - (b) Community Group Grants."*

In addition, at the Ordinary Council Meeting (OCM) held on 24 August 2021, Council resolved as follows:

"That Council:

- 1. Notes the information contained in Attachment 1 to this report relating to the recent review of the City's Community Grants Program.*
- 2. Endorses the following actions relating to the City's Community's Grants Program to be undertaken by 30 June 2022, as detailed in Attachment 1:*
 - (a) Council to consider a budget allocation of \$10,000 for a centralised grants management register/system as part of the mid-year 2021/22 budget review, so that it could be operational by 1 July 2022.*
 - (b) The City to further streamline the existing grant funding documentation with an aim to simplify grant application processes by 30 June 2022.*
 - (c) Council to consider ceasing KidSport top-up funding as part of the draft 2022/23 budget process, given the Department of Local Government, Sport and Cultural Industries' increase in funding for this program.*
 - (d) Council to consider additional funding of \$2,000 (to \$5,500) as part of the draft 2022/23 budget process, to expand the City's Neighbourhood Open Street Events for the*

- provision of a \$100 food voucher per street event application, until funds are exhausted.*
- (e) The 'Major Town Centre Events' funding be rebranded and renamed as 'Town Centre Events' funding, so to be all encompassing of large and small-scale events in the City's town centres.*
 - (f) The criteria for the Community Events Grant to exclude town centre event funding.*
 - (g) The Community Grants Program to be reviewed every four years in alignment with the minor review of the Strategic Community Plan to ensure that the program remains responsive and appropriate to Council and community expectations.*
 - (h) The 'Community Grants Program' be rebranded and renamed as 'Bayswater Grants Program', so to promote the program to be inclusive of all community members, including businesses, local clubs, groups, individuals and local schools.*
 - (i) The City to create a single website page for the promotion of its Community Grants Program so that it is encompassing of all 10 funding streams and provide a summary of successful funding applicants on this webpage, to increase transparency in the community.*
 - (j) Council to consider an annual budget allocation for the promotion of its Community Grants Program, and consider a budget allocation of \$10,000 as part of the draft 2022/23 budget process."*

At the Policy Review and Development Committee meeting on 22 February 2022, it was recommended:

"That Council:

- 1. Adopts the Bayswater Grants Program Policy as contained in Attachment 1 to this report.*
- 2. Rescinds the Community Grants, Major Town Centre Events and Heritage Fund Policy.*
- 3. Publishes a public notice to rescind the Heritage Fund Policy, as required under the Planning and Development (Local Planning Schemes) Regulations 2015."*

The Committee resolved that *"this item be referred to the next meeting of the Policy Review and Development Committee so that further information can be provided about the grants program prior to consideration of the item"*.

At a Councillor Workshop held on 5 April 2022, further information was provided to Councillors relevant to the text and enactment of the Bayswater Grants Program Policy, incorporating recommendations and feedback from Councillors to return to the Committee.

Feedback and recommendations included; a title text amendment to the policy document, removing reference to rescind the Heritage Fund Policy; to rescind the Major Town Centre Events Policy; and to amend text in reference to the definition of incorporated Association on page two of the Policy.

Other key points of discussion were detailed in the table where the funding eligibility requirement including co-contribution, inclusive of other relevant strategic themes, and comments from individual Councillors on suitability of funding streams to consider through the 2022/23 budget process.

Furthermore, the Major Town Centre Events Policy had been adopted as a planning policy under the City's Town Planning Scheme No.24 and its proposed rescission is being referred to the Planning and Heritage Policy Review and Development Committee and then Council in May 2022. As a result, the reference to the Major Town Centre Events Policy has been removed.

EXTERNAL CONSULTATION

The City undertook both internal and external consultation to inform the Community Grants Program Review from March until August 2021.

In June 2021, the City sent an online survey to all those who applied for Community Grants funding between 2018 and 2021. There were 190 local sporting and community groups, businesses and individuals who were invited to take part in the survey to help determine how well the Community Grants Program has met its objectives.

Applicants were asked how easy or difficult it was to apply for funding, and what would make it easier or better to apply. The external consultation process explored the following questions with regards to the Community Grants Program:

- How easy or difficult is it to apply to the City for funding within its current model?
- What would make it easier or better to apply?
- What is the community's feedback on the current funding programs offered by the City?
- What do other local governments do?

A total of 27 responded to the survey to help inform the Community Grants Program review.

OFFICER'S COMMENTS

The City currently provides grant funding to help build a vibrant, inclusive and healthy community. Funding is available to support local businesses, clubs, community groups, individuals and schools that meet specific eligibility criteria through the following 10 funding streams as listed below:

1. Better Bayswater Grant;
2. Community Events Grant;
3. Donations - Individual and Community;
4. Community Capital Requests;
5. Heritage Fund;
6. Major Town Centre Event Funding (to be renamed, 'Town Centre Events');
7. City of Bayswater Kidsport Top-up;
8. Neighbourhood Open Street Events;
9. Placemaking Seed Funding; and
10. Waterwise Verge Program.

Feedback from community consultation arising from the Community Grants Program Review 2021, indicated that the current structure of the Community Grants Program is confusing as not all funding streams are under one overarching City Policy. Currently the City has three separate funding policies listed below:

1. Major Town Centre Events Policy (2012, within City's Town Planning Scheme No. 24).
2. Community Grants Policy (2018, *inclusive of the Better Bayswater Grant, Community Events Grant, Donations and Community Capital Requests*).
3. Heritage Fund Policy (2008, within City's Town Planning Scheme No. 24).

The funding streams listed below do not sit under any City Policy:

- Neighbourhood Open Street Events.

- Placemaking Seed Funding.
- Waterwise Verge Program.
- City of Bayswater Kidsport Top-up (*funding to cease to be considered as part of the draft 2022/23 budget*).

The proposed introduction of the 'Cloth Nappy Rebate' is pending the City's Waste Authority grant funding outcome and subsequent funding allocation as part of the 2022/23 budget process.

In relation to items 2(a), (b), (f) and (i) of the 24 August 2021 OCM:

- A centralised grants management system is requested within the budget mid-year review;
- The grant application processes have been reviewed and streamlined with a quicker turnaround time;
- A new webpage has been developed with all grant information contained on the same landing page, with a full list of previous successful event grants; and
- The town centre event funding has been excluded from the Community grants program.

Additionally, in reference to the Community Grants Program Review 2021, Council endorsed that:

" ...

- (g) *The Community Grants Program to be reviewed every four years in alignment with the minor review of the Strategic Community Plan to ensure that the program remains responsive and appropriate to Council and community expectations.*
- (h) *The 'Community Grants Program' be rebranded and renamed as 'Bayswater Grants Program', so to promote the program to be inclusive of all community members, including businesses, local clubs, groups, individuals and local schools."*

The proposed City of Bayswater Grants Program Policy have been revised having regard to Councillors' recommendations and feedback which includes the following key revisions, and is contained in **Attachment 3**:

- A title text amendment to the policy document;
- Removal of a reference to rescind the Heritage Fund Policy;
- Removal of a reference to rescind the Major Town Centre Events Policy;
- Amended text in reference to the definition of Incorporated Association on page two of the Policy;
- Inclusion of an asterix detail in the table where the funding eligibility requirement included co-contribution; and
- Inclusive of other relevant strategic themes.

The proposed revised policy does not include any changes to funding streams as this may be considered as part of the 2022/23 budget process or through amendments to the revised policy table at the discretion of Council. The proposed revised policy intends to replace the existing Community Grant Policy (**Attachment 1**).

The Policy is intended to be a strategic and overarching document that interacts with a management practice that guides the operational matters and procedures relating to the grant funding streams, including such items as; the alignment to the policy, statement of commitment, purpose, eligibility criteria, assessments, conditions of grant, staff responsibilities and delegations.

To support the Policy and ensure that all the information required is available to residents and businesses it is proposed that the City's website be updated to include the relevant documents and provide additional information and clearer direction surrounding the application process.

The Policy is to be revised every four years in alignment with the minor review of the Strategic Community Plan.

LEGISLATIVE COMPLIANCE

Local Government Act 1995.

RISK ASSESSMENT

In accordance with the City's Risk Management Framework, the officer's recommendation/following options have been assessed against the City's adopted risk tolerance. Comments are provided against each of the risk categories.

Officer's Recommendation	That Council: 1. Adopts the proposed City of Bayswater Grants Program Policy as contained in <u>Attachment 3</u> to this report. 2. Rescinds the Community Grants Policy.	
Risk Category	Adopted Risk Appetite	Risk Assessment Outcome
Strategic Direction	Moderate	Low
Reputation	Low	Low
Governance	Low	Low
Community and Stakeholder	Moderate	Low
Financial Management	Low	Low
Environmental Responsibility	Low	Low
Service Delivery	Low	Low
Organisational Health and Safety	Low	Low
Conclusion	It is considered that this option will bring significant improvements to the City grant funding program, and overall assessed as a low risk to the City. This option would provide the City with; one overarching policy for all grant funding streams, respond to principles of good governance, informed and consistent decision making, consultation, and compliance of all relevant legislative and reporting requirements.	

Option 2	That Council:		
	1. Adopts the proposed City of Bayswater Grants Program Policy as contained in <u>Attachment 3</u> to this report, with the following modification(s):		
	(a) _____		
	(b) _____		
	(c) _____		
	2. Rescinds the Community Grants Policy		
Risk Category		Adopted Risk Appetite	Risk Assessment Outcome
Strategic Direction		Moderate	Dependent on the modification(s) determined by Council.
Reputation		Low	
Governance		Low	
Community and Stakeholder		Moderate	
Financial Management		Low	
Environmental Responsibility		Low	
Service Delivery		Low	
Organisational Health and Safety		Low	
Conclusion		The risks are dependent on the modification(s) /action(s) determined by Council.	

Option 3	Council endorses the continuation of the Community Grants Policy as outlined <u>Attachment 1 to this report</u>.	
Risk Category	Adopted Risk Appetite	Risk Assessment Outcome
Strategic Direction	Moderate	Moderate
Reputation	Low	Low
Governance	Low	High
Community and Stakeholder	Moderate	Moderate
Financial Management	Low	Low
Environmental Responsibility	Low	Low
Service Delivery	Low	Low
Organisational Health and Safety	Low	Low
Conclusion	This option would be inconsistent with the recommendations made in the Community Grants Review 2021. It is considered that this option would not support the principles of good governance, informed and consistent decision making, consultation and compliance.	

FINANCIAL IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

In accordance with the City of Bayswater Strategic Community Plan 2021-2031, the following applies:

- Theme: Community
- Goal C1: Create safe and inviting places for people to come together
- Goal C2: Celebrate multiculturalism, arts and culture by supporting local events and initiatives
- Goal C3: Maximise the use of the City's facilities and parks by all sections of the community
- Goal C4: Empower the community by helping them develop social connections.
- Theme: Environment and Liveability
- Goal E5: Protect and enhance the City's natural environment and biodiversity, and encourage the community to participate in its protection.

The revised City of Bayswater Grants Program Policy provides an overarching guidance to the City, and an opportunity to build capacity, develop skills and receive support from the City in response to the purpose of the community grants program.

CONCLUSION

The revised City of Bayswater Grants Program Policy is proposed to be the centralised overarching policy for the Grants Program funding streams offered by the City. The Policy is inclusive of all community members including; local businesses, clubs, groups, individuals and schools. The creation of one grant funding policy would better inform and guide Council in its consideration for future funding stream inclusions or exclusions as well as budget allocations.

COUNCIL POLICY: COMMUNITY GRANTS

POLICY OWNER: Director Finance and Corporate Services

POLICY STATEMENT: This policy states the Council's position on providing financial support to not-for-profit community groups within the context of the Strategic Community Plan.

POLICY DETAILS

To provide opportunities to partner with the community to deliver positive community outcomes which are consistent with, and complement, the City's strategic vision to ensure:

1. Grants are provided to respond to social disadvantage, protection of the natural or built environment, partnerships, community development and capacity building.
2. Grant funding is provided consistent with Council's decision-making criteria of
 - a. Strategic Direction - responds to the adopted Strategic Community Plan;
 - b. Community Views - takes into account feedback received from the community with regard to desirable outcomes or gaps in provision;
 - c. Equity - responds to the diverse needs and geographic interests of City of Bayswater residents;
 - d. Risks - takes into account the risks of supporting or not supporting proposed activities; and
 - e. Costs - the availability of City funds and other funding sources.
3. Decision making is accountable and transparent to the community.
4. Opportunities to apply/participate in grant funding are promoted widely within the City.
5. Authority will be provided to approved officers to support requests for funding within agreed decision making criteria to enable quick responses and effective implementation of funded activities.
6. Any request for grant funding over \$5000 should be referred to Council for consideration.
7. A monthly grant funding information report should be provided to Council for noting.
8. The City may develop appropriate management practices and guidelines to implement this policy.

DEFINITIONS

"Strategic Community Plan" means the ten year plan adopted by the City of Bayswater as part of the Integrated Planning and Reporting Framework which sets out strategies, aspirations and outcomes required to deliver the City's vision.

"Grant" means money provided by the City to eligible organisations in order to deliver a service, activity or event that provides benefits to residents of the City of Bayswater.

"Not-for-profit community group" means a non-commercial organisation, including a religious organisation or a sporting group, in which any profit made by the organisation goes back into the operation of that organisation and is not distributed to any of its members.



LEGISLATION AND OTHER REFERENCES

Local Government Act 1995

Management Practices will be developed as required.

Adopted by Council:	22 May 2018
Reviewed	Nil
Strategic Link	Governance and Leadership

Bayswater Grants Program Policy



Responsible Division	Community and Development
Responsible Business Unit	Community Development
Responsible Officer	Manager Community Development
Affected Business Units	Community Development Planning and Place Corporate and Strategy Project Services Sustainability, Environment and Waste
ECM Document Set ID	[ECM document set ID] - Pending draft endorsement

Purpose

The City of Bayswater Grants Program Policy aims to provide financial funding to:

1. An incorporated not-for-profit organisations/association or an auspice organisation or individual for a specific project which results in a defined community benefit. For example, inclusive of a social, sporting, cultural, environmental and/or charitable group context; and/or
2. An individual (resident) to support a specified activity must be based in City of Bayswater or primarily benefit residents and/or community of the City.

This Policy aims to establish best-practice grant-making that aligns with Council's vision and goals. The following principles provide a framework for the design of the City of Bayswater Grants Program:

- **Capacity building** - To provide an opportunity to build the skills, networks and competency amongst individuals and organisations within the City of Bayswater. This includes the development of partnerships and collaborations which will ultimately provide sustainable projects and activities within the City of Bayswater.
- **Access and equity** - To support projects and programs representing a broad range of interests and needs within the community which align to; the Access and Inclusion Plan, Reconciliation Action Plan, Local Homelessness Plan, Youth Action Plan and Age Friendly Strategy; and any other relevant City plans.
- **Governance and accountability** - To have effective and efficient grant making processes proportional to the amount of funding being applied for, and the type of project being funded. Application and acquittal requirements are relative to the size of the grant provided.
- **Probity and transparency** - To follow a clearly outlined process to assess applications according to set funding criteria. Conflicts of interest are declared and addressed throughout an assessment process.
- **Value for money** - To seek to support grants that demonstrate good value for the amount of money or level of funding that has been requested. Projects and activities should not duplicate already existing services. Funding is subject to an annual budget approval process.

Scope

This Policy intends to strategically guide the implementation of the Bayswater Grant Program which will be underpinned by a management practice for each grant funding stream that will address; purpose, scope, eligibility, assessment, funding conditions, grant conditions, marketing and promotion and review.

Definitions

For the purpose of this Policy —

Acquittal means accurately reporting on the funded activities, including all expenditure of the grant.

Auspice organisation means an incorporated organisation that applies for a grant on behalf of an unincorporated organisation, group or individual. The auspice organisation is responsible for the financial management of the grant. An auspice agreement is a legally binding contract which sets out the legal obligations of both organisations toward each other and in relation to any specific funding of other agreements.

Donation means an arrangement where a financial contribution is provided to support a specified activity to an eligible party.

Incorporated Association means an incorporated association or club is able to pursue its objects and purposes by applying for grants, opening bank accounts and holding property in its own name, while limiting the exposure of its members to personal legal liability. For example, but not limited to, a social, sporting, cultural, environmental or charitable group.

~~**Incorporated Association** means an incorporated association or club is able to pursue its objects and purposes by applying for grants, opening bank accounts and holding property in its own name, while limiting the exposure of its members to personal legal liability. For example, but not limited to, a social, sporting, cultural, environmental or charitable group.~~

An incorporated association can:

- (a) Open bank accounts
- (b) Apply for grants
- (c) Employ staff

Public Liability Insurance means insurance that protects a community organisation against its legal liability to pay:

- Compensation to third parties;
- Property damage that may occur as a result of the community organisations activities; and
- The legal costs that a community organisation may have if it needs to defend bodily injury and property damage claims made against it.

Not-for-profit organisation means an organisation registered with the Australian Charities and Not-For-Profits Commission.

Policy Statement

The City of Bayswater Grants Program is responsive to contributing towards building a strong and inclusive community, support vibrant town centres and make the City a connected, accessible and welcoming destination.

The City of Bayswater Grants Program funding streams are summarised below:

No.	Funding Stream	Summary	No. of Rounds per Financial Year
1	Better Bayswater Grant	Projects or programs that increase the capacity of organisations to improve community wellbeing. This considers the alignment to; the City's Access and Inclusion Plan, Reconciliation Action Plan, Local Homelessness Strategy, Youth Action Plan, Age Friendly Strategy; and any other relevant plans.	2
2	Community Events Grant	Events that are not located within a town/activity centre, and are open to the public and encourage increased activation and connection within the City of Bayswater area.	2
3	Donations – individual and community	<u>Individuals:</u> To support local residents who reside in the City aged between 12 and 25 years selected from their State sporting association or national body with travel or accommodation costs to participate at the local, national or international level. <u>Community groups:</u> To support groups, local schools, clubs or not-for-profit organisations to deliver new services and resources that increase community participation or wellbeing.	Open all year round
4	Community Capital Requests	To support established community not-for-profit organisations based and operating within the City of Bayswater to improve facilities and infrastructure.	1
5	Town Centre Events*	Events and activities which attract people to the City of Bayswater town/activity centres.	2
6	Neighbourhood Open Street Events	Small scale events held on street verges with less than 50 people with support through public liability insurance, traffic management control diagram provisions, signage and food voucher.	Open all year round
7	Place-Making Seed Funding	Community-led place activation initiatives that align with priorities within the relevant Place Activation Plans.	1
8	Waterwise Verge Program	A rebate for residents to create their own native verge plantings to support the Water Corporation's 'Waterwise Greening Scheme.'	Open all year round
9	Cloth Nappy Rebate	The City offers a Cloth Nappy Rebate, with a 50 per cent rebate of up to \$100 for the purchase of modern cloth nappies for a maximum of 150 households.	Open all year round
No.	Funding Stream	Summary	No. of Rounds per Financial Year
1	<u>Better Bayswater Grant**</u>	<u>Projects or programs that increase the capacity of organisations to improve community wellbeing (alignment with the City's Access and Inclusion Plan, Reconciliation Action Plan, Local Homelessness Strategy, Youth Action Plan, Age Friendly Strategy and any other relevant plans).</u>	<u>2</u>

No.	Funding Stream	Summary	No. of Rounds per Financial Year
<u>2</u>	<u>Community Events Grant</u>	<u>Events that are not located within a town/activity centre, and are open to the public and encourage increased activation and connection within the City of Bayswater area.</u>	<u>2</u>
<u>3</u>	<u>Donations</u>	<u>Individuals: To support local residents who reside in the City aged between 12 and 25 years selected from their State sporting association or national body with travel or accommodation costs to participate at the local, national or international level. Community groups: To support groups, local schools, clubs or not-for-profit organisations to deliver new services and resources that increase community participation or wellbeing.</u>	<u>Open all year round</u>
<u>4</u>	<u>Community Capital Requests**</u>	<u>To support established community not-for-profit organisations based and operating within the City of Bayswater to improve facilities and infrastructure.</u>	<u>1</u>
<u>5</u>	<u>Heritage Fund**</u>	<u>To assist with the maintenance, conservation and improvement of heritage buildings contained within the City's Heritage List for residential or non-residential properties.</u>	<u>Open all year round</u>
<u>6</u>	<u>Town Centre Events*</u>	<u>Events and activities which attract people to the City of Bayswater town/activity centres.</u>	<u>2</u>
<u>7</u>	<u>Neighbourhood Open Street Events</u>	<u>Small scale events held on street verges with less than 50 people with support through public liability insurance, traffic management control diagram provisions, signage and food voucher.</u>	<u>Open all year round</u>
<u>8</u>	<u>Place Making Seed Funding</u>	<u>Community-led place activation initiatives that align with priorities within the relevant Place Activation Plans.</u>	<u>1</u>
<u>9</u>	<u>Waterwise Verge Garden</u>	<u>A rebate for residents to create their own native verge plantings to support the Water Corporation's 'Waterwise Greening Scheme.'</u>	<u>Open all year round</u>
<u>10</u>	<u>Cloth Nappy Rebate**</u>	<u>The City offers a Cloth Nappy Rebate, with a 50 per cent rebate of up to \$100 for the purchase of modern cloth nappies for a maximum of 150 households.</u>	<u>Open all year round</u>

Note: * The Major Town Centre Event Funding is renamed the Town Centre Events.

Note: ** The funding eligibility requirement is matched funding.

Related Legislation

- *Local Government Act 1995 (WA);*
- *State Records Act 2000; and*
- *Freedom of Information Act 1992.*

Related Documentation

- *City of Bayswater Policy Framework;*

- *City of Bayswater Strategic Community Plan;*
- *Delegations Register;*
- *Access and Inclusion Plan;*
- *Reconciliation Action Plan;*
- *Local Homelessness Strategy;*
- *Youth Action Plan;*
- *Age Friendly Strategy;*
- *Community Recreation Plan;*
- *Play Space Strategy;*
- *Heritage Fund Policy (2008)*
- *Major Town Centre Events Policy (2012)*
- *Community Facility Lease and License Policy; and*
- *Sponsorship of Assets, Services and Activities Policy.*

Document details

Relevant delegations Simple Majority required.

Risk evaluation Low

Strategic link	<p><u>In accordance with the City of Bayswater Strategic Community Plan 2021-2031, the following applies:</u></p> <p><u>Theme:</u> <u>Community</u></p> <p><u>Goal C1:</u> <u>Create safe and inviting places for people to come together.</u></p> <p><u>Goal C2:</u> <u>Celebrate multiculturalism, arts and culture by supporting local events and initiatives</u></p> <p><u>Goal C3:</u> <u>Maximise the use of the City's facilities and parks by all sections of the community</u></p> <p><u>Goal C4:</u> <u>Empower the community by helping them develop social connections.</u></p> <p><u>Theme:</u> <u>Environment and Liveability</u></p> <p><u>Goal E5:</u> <u>Protect and enhance the City's natural environment and biodiversity, and encourage the community to participate in its protection.</u></p> <p><u>In accordance with the City of Bayswater Strategic Community Plan 2021-2031, the following applies:</u></p> <p><u>Theme:</u> <u>Community</u></p> <p><u>Goal C2:</u> <u>Celebrate multiculturalism, arts and culture by supporting local events and initiatives.</u></p>
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~~Goal C4: Empower the community by helping them develop social connections.~~

Council adoption	[date]	Resolution	[Item no.]
Next review due	(four years as per OCM 24/082021)		
Reviewed/modified	[date]	Resolution	[Item no.]
Revision details	[revision no] [description]		



City of Bayswater Grants Program Policy

Responsible Division	Community and Development
Responsible Business Unit	Community Development
Responsible Officer	Manager Community Development
Affected Business Units	Community Development Planning and Place Corporate and Strategy Project Services Sustainability, Environment and Waste
ECM Document Set ID	[ECM document set ID] - Pending draft endorsement

Purpose

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This Policy aims to establish best-practice grant-making that aligns with Council's vision and goals.

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- **Governance and accountability** - To have effective and efficient grant making processes proportional to the amount of funding being applied for, and the type of project being funded. Application and acquittal requirements are relative to the size of the grant provided.
- **Probity and transparency** - To follow a clearly outlined process to assess applications according to set funding criteria. Conflicts of interest are declared and addressed throughout an assessment process.
- **Value for money** - To seek to support grants that demonstrate good value for the amount of money or level of funding that has been requested. Projects and activities should not duplicate already existing services. Funding is subject to an annual budget approval process.

Scope

This Policy intends to strategically guide the implementation of the Bayswater Grant Program which will be underpinned by a management practice for each grant funding stream that will address; purpose, scope, eligibility, assessment, funding conditions, grant conditions, marketing and promotion and review.

Definitions

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Donation means an arrangement where a financial contribution is provided to support a specified activity to an eligible party.

Incorporated Association means an incorporated association or club is able to pursue its objects and purposes by applying for grants, opening bank accounts and holding property in its own name, while limiting the exposure of its members to personal legal liability. For example, but not limited to, a social, sporting, cultural, environmental or charitable group.

An incorporated association can:

- (a) Open bank accounts
- (b) Apply for grants
- (c) Employ staff

Public Liability Insurance means insurance that protects a community organisation against its legal liability to pay:

- Compensation to third parties;
- Property damage that may occur as a result of the community organisations activities; and
- The legal costs that a community organisation may have if it needs to defend bodily injury and property damage claims made against it.

Not-for-profit organisation means an organisation registered with the Australian Charities and Not-For-Profits Commission.

Policy Statement

The City of Bayswater Grants Program is responsive to contributing towards building a strong and inclusive community, support vibrant town centres and make the City a connected, accessible and welcoming destination.

The City of Bayswater Grants Program funding streams are summarised below:

No.	Funding Stream	Summary	No. of Rounds per Financial Year
1	Better Bayswater Grant**	Projects or programs that increase the capacity of organisations to improve community wellbeing (alignment with the City's Access and Inclusion Plan, Reconciliation Action Plan, Local Homelessness Strategy, Youth Action Plan, Age Friendly Strategy and any other relevant plans).	2
2	Community Events Grant	Events that are not located within a town/activity centre, and are open to the public and encourage increased activation and connection within the City of Bayswater area.	2
3	Donations	<u>Individuals:</u> To support local residents who reside in the City aged between 12 and 25 years selected from their State sporting association or national body with travel or accommodation costs to participate at the local, national or international level. <u>Community groups:</u> To support groups, local schools, clubs or not-for-profit organisations to deliver new services and resources that increase community participation or wellbeing.	Open all year round
4	Community Capital Requests**	To support established community not-for-profit organisations based and operating within the City of Bayswater to improve facilities and infrastructure.	1
5	Heritage Fund**	To assist with the maintenance, conservation and improvement of heritage buildings contained within the City's Heritage List for residential or non-residential properties.	Open all year round
6	Town Centre Events*	Events and activities which attract people to the City of Bayswater town/activity centres.	2
7	Neighbourhood Open Street Events	Small scale events held on street verges with less than 50 people with support through public liability insurance, traffic management control diagram provisions, signage and food voucher.	Open all year round
8	Place Making Seed Funding	Community-led place activation initiatives that align with priorities within the relevant Place Activation Plans.	1
9	Waterwise Verge Garden	A rebate for residents to create their own native verge plantings to support the Water Corporation's 'Waterwise Greening Scheme.'	Open all year round
10	Cloth Nappy Rebate**	The City offers a Cloth Nappy Rebate, with a 50 per cent rebate of up to \$100 for the purchase of modern cloth nappies for a maximum of 150 households.	Open all year round

Note: * The Major Town Centre Event Funding is renamed the Town Centre Events.

Note: ** The funding eligibility requirement is matched funding.

Related Legislation

- *Local Government Act 1995 (WA);*
- *State Records Act 2000; and*
- *Freedom of Information Act 1992.*

Related Documentation

- *City of Bayswater Policy Framework;*
- *City of Bayswater Strategic Community Plan;*
- *Delegations Register;*
- *Access and Inclusion Plan;*
- *Reconciliation Action Plan;*
- *Local Homelessness Strategy;*
- *Youth Action Plan;*
- *Age Friendly Strategy;*
- *Community Recreation Plan;*
- *Play Space Strategy;*
- *Heritage Fund Policy (2008)*
- *Major Town Centre Events Policy (2012)*
- *Community Facility Lease and License Policy; and*
- *Sponsorship of Assets, Services and Activities Policy.*

Document details

Relevant delegations Simple Majority required.

Risk evaluation Low

Strategic link In accordance with the City of Bayswater Strategic Community Plan 2021-2031, the following applies:

Theme: Community

Goal C1: Create safe and inviting places for people to come together.

Goal C2: Celebrate multiculturalism, arts and culture by supporting local events and initiatives

Goal C3: Maximise the use of the City's facilities and parks by all sections of the community

Goal C4: Empower the community by helping them develop social connections.

Theme: Environment and Liveability

Goal E5: Protect and enhance the City's natural environment and biodiversity, and encourage the community to participate in its protection.

Council adoption	[date]	Resolution	[Item no.]
Next review due	(four years as per OCM 24/082021)		
Reviewed/modified	[date]	Resolution	[Item no.]
Revision details	[revision no] [description]		

8.4 Revised Urban Trees Policy

Responsible Branch:	Parks & Gardens
Responsible Directorate:	Works & Infrastructure
Authority/Discretion:	Review
Voting Requirement:	Simple Majority Required
Attachments:	<ol style="list-style-type: none"> 1. Urban Trees Policy [8.4.1 - 4 pages] 2. Revision of Urban Trees Policy 2022 [8.4.2 - 4 pages] 3. Tree Pruning Guideline for Residents [8.4.3 - 3 pages] 4. Letter of Advice to City of Bayswater [8.4.4 - 9 pages] 5. FINAL Revised of Urban Trees Policy 2022 [8.4.5 - 4 pages] 6. Committee Amendments to Urban Trees Policy 2022 [8.4.6 - 4 pages]
Refer:	Item 10.6.2.9: OCM 07.12.2021 Item 10.5.2.1: OCM 09.04.2019

SUMMARY

For Council to consider the proposed amendments to the Urban Trees Policy based on the feedback received from the Councillor workshop held on 29 March 2022 and subsequent Councillor feedback period.

OFFICER'S RECOMMENDATION

That Council endorses the draft *Urban Trees Policy* as outlined in Attachment 2.

ADDITIONAL INFORMATION

The Officer's Recommendation for the Revised Urban Trees Policy report currently recommends that Council endorses the draft *Urban Trees Policy* as outlined in Attachment 2. Given that Attachment 2 shows tracked changes, a clean copy of the policy which incorporates the tracked changes has been included as Attachment 5.

RECOMMENDATION IMPLICATIONS

In light of the above, the officer's recommendation has been amended as follows:

OFFICER'S RECOMMENDATION

That Council endorses the draft *Urban Trees Policy* as contained in Attachment 5.

Cr Catherine Ehrhardt withdrew from the meeting at 6:09pm and returned at 6:11pm.

COMMITTEE RECOMMENDATION TO COUNCIL

That Council endorses the draft *Urban Trees Policy* as contained in Attachment 5 with the following amendments, as shown in new Attachment 6:

1. The name of the Policy be changed to "*Urban Tree Planting and Maintenance Policy*".
2. The word "*planted,*" be inserted between the words "*be*" and "*maintained*" in the "*Purpose*" section.
3. In the "*Policy Statement*" section and "*Tree Planting*" subsection, the words "*which includes requests from residents*" in the first paragraph be replaced with "*This program includes new tree planting in areas such as parks, road verges, medians, roundabouts, reserves and natural areas. Residents are also able to order a verge tree for planting in front of their property*"

4. Remove **"Trees on Private Land and Street Verges Policy"** from the **"Related Documentation"** Section to correct a typing error where it was listed in duplicate.
5. Add **"Urban Forest Strategy"** to the **"Related Documentation"** Section.

Cr Filomena Piffaretti, Mayor Moved, Cr Catherine Ehrhardt, Deputy Mayor Seconded

CARRIED: 4/1

For: Cr Filomena Piffaretti, Mayor, Cr Catherine Ehrhardt, Deputy Mayor, Cr Josh Eveson and Cr Steven Ostaszewskyj.

Against: Cr Lorna Clarke.

REASON FOR CHANGE

The Committee recommends minor amendments to the Policy to ensure it reads clearly and to highlight its alignment with the Urban Forest Strategy.

At 6:33pm Cr Elli Petersen-Pik withdrew from the meeting and did not return

BACKGROUND

At the Ordinary Council Meeting held on 7 December 2021, Council made the following resolution in regards to the Urban Trees Policy (Policy):

"That Council:

1. *Amends the Urban Trees Policy as outlined in Attachment 3 to this report and as further amended in new Attachment 4;*
2. *Notes that a review of the City's Crossover Policy and Trees on Private Land and Street Verges Policy is required to align those policies with the amended Urban Trees Policy;*
3. *Requests the Chief Executive Officer to bring a report to the next meeting of the Policy Review and Development Committee for further consideration of amendments to the remaining policies; and*
4. *Requests the Chief Executive Officer to prepare a report investigating residents' ability to undertake minor maintenance on trees on the verges abutting their property."*

The above resolution resulted in the current version as per **Attachment 1** to this report. This version of the Policy has been in use by the City since adoption at the December Ordinary Council Meeting.

At the Ordinary Council Meeting held on 25 March 2022, Council made a further resolution that impacts on the Policy:

"That this item be referred to a Councillor workshop together with the Urban Tree Policy to allow more information to be provided about the two policies so they may be considered in detail."

The "item" referred to in the above resolution is the Trees on Private Land and Street Verges Policy, which was also being reviewed due to its close association with the Urban Trees Policy.

The Councillor workshop was held on the 29 March 2022. The workshop included detailed analysis and discussion of the City's current canopy cover and the interventions that may be required in order to achieve the City's canopy target of 20%. The workshop also explored the following:

- Current tree management issues being faced by Council;
- Fundamental principles of tree management;
- General misconceptions around tree management;

- Application of the City's Thoroughfares Local Law and the Australian Standard (AS 4371-2007);
- Criteria of the current *Urban Trees Policy*;
- Benefits of trees in the urban environment;
- Current and suggested approaches to tree management;
- Various tree management examples and scenarios currently being experienced that are at odds with strategic goals and or community expectations;
- Implications of pruning on canopy cover;
- Residents being permitted to undertake minor tree pruning (which addresses Limb 4 of the Council Resolution from the 7 December 2022 Ordinary Council Meeting);
- Tree vandalism; and
- Tree planting.

The information presented at the workshop and the feedback received during the workshop was collected and made available on the City's Document Hub via a memorandum dated 4 April 2022 titled "Councillor Workshop 29 March 2022 – Urban Forest Strategy; Urban Trees Policy; Trees on Private Land and Street Verges Policy."

The memorandum provided the following timetable for the review of the Policy:

ACTION	DATE	COMMENTS
Councillor Information Workshop	29 March 2022	
Councillors to provide comments on their proposed changes to current Urban Trees Policy	19 April 2022	
Draft amended <i>Urban Trees Policy</i> and <i>Trees on Private Land and Street Verges Policy</i> presented to Policy Review & Development Committee	24 May 2022*	
Recommendations from the Committee meeting are presented to Ordinary Council Meeting	June 2022	Recommendation to advertise the policies for public comments
Advertising seeking public comments	July 2022	Minimum 21-day period
Draft amended <i>Urban Trees Policy</i> and <i>Trees on Private Land and Street Verges Policy</i> presented to Policy Review & Development Committee	August 2022	Present findings of public consultation
Draft policies presented to Ordinary Council Meeting	September 2022	Presented for final adoption

* **Important Note:** The Policy Review and Development Committee meeting originally scheduled for the 24 May 2022 has been rescheduled to the 31 May 2022.

The memorandum sought further comments from Councillors on both policies by 19 April 2022, and this period was further extended to the 22 April 2022. This comment period allowed Councillors to further consider the information presented at the workshop and to provide individual comments. This was also important for the several Councillors that were unable to attend the workshop.

Councillor feedback has been collated and used to inform the revision of the Policy. Accordingly, a revised draft of the Urban Tree Policy is provided to the Committee for consideration.

EXTERNAL CONSULTATION

No consultation has occurred with the public or other agencies on this matter. However, it was proposed that there will be a public consultation period of 21 days to ascertain the community's position on this matter. The issue of public consultation was first raised during public question time at the Ordinary Council Meeting of 22 March 2022 where a member of the public requested that the community be consulted if any further changes to the Urban Trees Policy were considered by Council. The need for public consultation was discussed at the workshop and it was agreed that a period of no less than 21 days would be appropriate. Subsequently, the consultation stage was added to the delivery timetable for the revision of the Policy.

As the workshop dealt with two policies – the Urban Tree Policy and the Trees on Private Land and Street Verges Policy – the timetable prepared following the workshop covered both policies. It should be noted that the Trees on Private Land and Street Verges Policy is a Planning Policy, therefore it will need to be advertised as a statutory requirement. The Urban Trees Policy is a Council Policy and there is no statutory requirement for it to be advertised for public comment. It is therefore suggested that the Committee recommend to Council that Council adopts the Policy as presented without advertising. This is so that the Policy can go into effect immediately after the June 2022 Ordinary Council Meeting with no further delays, and will have the benefit of increasing the number of verge trees that will be planted during this current tree planting season.

OFFICER'S COMMENTS

The feedback received during the workshop and subsequent Councillor feedback period after the workshop indicated a general desire to include more flexibility in the Policy, however, there was also some feedback received that the Policy should not be changed or reverted back to the previous version (prior to December 2021).

The following Councillor feedback (summarised) was used by Officers to revise the Policy:

- The policy to be more flexible in the following ways, while managing risks:
 - Doesn't damage canopy targets;
 - Encourage people to look after their own verge trees. Allow residents to undertake minor / low risk pruning at standing level using manual tools only, e.g. secateurs to lift dragging branches on footpaths, affecting line of sight etc; and
 - Add discretionary powers for officers.
- Encourage residents to take more ownership of tree pruning.
- Investigate risk management if allowing residents to prune their own trees.
- Guidelines to be produced on percentages for under-pruning, especially for sightline, footpath and road clearances.
- People want to look after trees, but aren't allowed to touch them. When they get too big, they request removal.
- Information for residents about what makes trees more manageable to live with.
- City officers have responsibility when discussing tree issues with residents.
- Provide an information brochure with responsibilities, who to contact, important information etc. sent to all residents.
- Need more clarification around "To reduce tree size or height" in policy.
- Common sense approach to tree pruning/removal.

- Main reason residents don't want street trees is because they're not allowed to prune themselves.
- Do not agree with providing gutter cleaning/extra bin for aged/people with a disability, instead of requesting City to prune.

Some Councillors also provided marked up copies of the Policy showing their proposed changes. Some of these changes were also used by Officers, some with further adjustments being made.

The revised Policy is provided as **Attachment 2**. Note that the changes made to the Policy are shown as tracked changes.

The changes made to the Policy are discussed further here under each of the headings contained in the Policy.

General

It was added that residents can also care for trees on the verge adjacent to their property in accordance with the conditions of the Policy.

Tree Planting

The Policy previously stated that the City will undertake all activities required to establish new trees and provide ongoing maintenance with the prior approval of the property owner. This has been expanded and amended in the revised Policy to elaborate between new trees (where none existed previously) and replacement trees.

The revised Policy states that new trees will be planted under the annual tree planting program unless requested otherwise by the adjoining property owner. Therefore, property owners will still have the opportunity to not have a tree being planted on their verge.

In regards to replacement trees, the revised Policy states that the City will endeavour to plant a tree for each tree that has been removed from the verge. There is no opportunity to opt-out in this case. This change is suggested on the grounds that if there was a tree on the verge previously then a replacement tree should be reinstated on the verge. However, where it is not possible to plant on the same verge, the City will plant the replacement tree in a suitable location as near as possible to the original location. It should be noted that the use of the word "endeavour" is in recognition that there will always be cases where a replacement will not work out - in this case, the City will plant in a different location that is as close as possible to the original location.

In both situations the adjacent property owner will have the opportunity to discuss with the City the tree species and the positioning of the tree on the verge.

These changes were made in response to the low uptake of new trees and replacement trees by adjoining property owners.

Tree Pruning

The reference to the Australian Standard for Pruning of Amenity Trees (AS 4371-2007) has been removed from the revised Policy. Although the reference to the Australian Standard has been removed from the Policy, its application to the City's pruning activities is still necessary from a risk minimisation and liability mitigation point of view. It is reasonable to expect Officers to apply all relevant Australian Standards to their tasks and duties as a normal part of doing business in their relative field. Therefore, it is not necessary to mention this Australian Standard, or any other applicable Australian Standard in the Policy.

Other changes to this section of the Policy include:

- Include pruning to maintain clearances to street lights. This has been added to ensure that pruning is undertaken to maintain effective street lighting in the City, thus ensuring that all public areas are kept safe for all road users and pedestrians.

This change will effectively result in street lights having priority over trees. It should be noted that where excessive pruning is necessary, the City will explore other opportunities such as relocating street lighting. In most cases, such decisions will be determined through a business case (i.e. the cost of ongoing pruning versus one-off relocation capital expense).

- Include maintaining visibility of street name signage, directional signage, advanced warning and regulatory traffic signs. This pruning is necessary to ensure the safety and convenience of all road users.
- Remove that pruning will not be undertaken for overshadowing of buildings, property and/or solar panels, unless it can be proved it is impacting the performance of the solar panels.

This section of the Policy has a significant inclusion that allows property owners to be able to request the pruning of trees abutting their private property that would otherwise not qualify for pruning under the specific conditions listed in the Policy. This request would then be determined by the Director Works & Infrastructure for discretionary pruning. The Policy states that, if authorisation is given by the Director, the property owner requesting the pruning will be required to pay for the pruning costs incurred by the City. It further states that pensioners are exempt from the requirement to pay for the cost of pruning trees abutting their private property.

This addition to the Policy provides greater flexibility in what services the City can offer in regards to pruning outside of what is outlined in the Policy. It is expected that this change will reduce the number of tree pruning requests being tabled at Ordinary Council Meetings for consideration.

The definition of a pensioner has been added to the Definitions section of the Policy. It defines a pensioner as a person who receives a full pension. Therefore, someone receiving a part pension will not qualify for a free discretionary pruning service from the City. It should be noted that there are approximately 5,200 properties owned by pensioners within the City, which could result in significant requests for discretionary pruning.

To deliver the discretionary pruning service, the City will need to implement the following processes:

- The development and implementation of guidelines to guide fair and consistent decision-making regardless of changes to management at the City. This will ensure that ad-hoc decision-making does not occur and decisions are transparent and defensible if challenged.
- Creation of additional databases and inspection regimes to keep track of the various arrangements with individual property owners, and to also ensure the integrity of the initial intent of the arrangements remain intact.

This section of the Policy also includes a new addition that allows residents to undertake minor pruning of trees located on verge areas abutting their property in accordance with the City's Tree Pruning Guideline for Residents.

Feedback received from Councillors indicated a desire to include some flexibility for residents to undertake minor pruning of trees located on verges abutting their property. It is believed that this could assist the City in maintaining clearances from pathways and sightlines, and may encourage greater retention of trees and further requests for verge tree planting.

Allowing residents to undertake pruning of trees may result in the City having to accept a certain level of risk in regards to work health and safety, as the City would be allowing residents to undertake works on land and tree assets that are normally the responsibility of the City. In exercising due diligence, City officers sought advice from LGIS (the City's insurers) regarding the City's public liability should residents be formally permitted to undertake tree pruning activities, and their advice was that the City would be best to seek legal advice regarding the risk of allowing residents to undertake tree pruning on City owned verge trees.

The legal advice provided by the City's lawyers conveyed that, while some pruning could be considered minor in nature and therefore low risk, the low risk would be amplified by the number of residents that could possibly undertake minor pruning throughout any given period. The legal advice provided to the City has been included as **Attachment 4** of this report.

In order to manage the risks associated with allowing residents to undertake verge tree pruning, the City has developed draft guidelines for this purpose, titled "Tree Pruning Guideline for Residents". Tree pruning activities undertaken by residents shall be managed through the guidelines. A copy of the draft Guidelines is provided in **Attachment 3** to this report. It should be noted that the Policy refers to the Guidelines only – this is due to the Guidelines being an operational document as well as allowing the Guidelines to be continually developed without the need to seek Committee or Council approval each time an improvement is made.

Tree Removal

This section has been amended by removing the reasons why tree removal is not undertaken. This amendment has been made due to the reasons for removal being sufficient for determination of tree removals under this section.

Tree Vandalism

This section has been amended based on Councillor feedback that some of the measures were considered unnecessary, costly to execute and in some cases, did not achieve the intent of the measures.

The Policy has been amended by removing reference to the installation of a tree vandalism sign and the painting of dead trees. The installation of vandalism signage to highlight acts of tree vandalism was viewed as a strong deterrent to those that would consider undertaking such acts, as the installation of signage would generally progress whether the perpetrators were identified or not, and therefore serve as a warning of the consequences of such acts. However, there were instances where the signage reflected unfairly on residents that were not involved in the tree removal (e.g. a new tenant in a residence that was being targeted by some members of the community).

Tree vandalism can be dealt with through the City's Thoroughfares Local Law, which can be used to issue penalties as well as issuing notices to offenders to repair or replace damages done to the tree. Part 13 of the City's Thoroughfares Local Law states:

"13.1 Notice to repair damage to thoroughfare

Where any portion of a thoroughfare has been damaged, the local government may by notice to the person who caused the damage order the person to repair or replace that portion of the thoroughfare to the satisfaction of the local government."

It should be noted that reference to any portion of a thoroughfare includes all infrastructure, assets and vegetation on the thoroughfare. Therefore, this clause applies to trees.

Through this clause, the City would be able to seek, from the person or company responsible, monetary compensation equal to the amenity value of the tree (i.e. Helliwell valuation), plus the

cost of removing the existing tree, if required, and the cost of arranging provision of a replacement tree(s) and three years' maintenance if required. However, the limitations of this approach would be that the perpetrator would have to be caught undertaking the act of vandalism for the City to commence the issuing of a notice. Also, notices can be challenged by those that receive them, and if they choose not to comply the City will have to recover costs through legal proceedings which carries its own risks.

This section of the Policy has included a provision for the City to plant a replacement tree plus an additional new tree on the same verge where a tree has been removed as a consequence of vandalism. This includes trees that have been removed directly as an act of vandalism or had to be removed by the City as a consequence of the damage caused through vandalism. It is proposed that the City may seek compensation for the cost of removing the existing tree if required, and the cost of arranging provision of replacements trees and three years' maintenance. The use of the word "may" is on the understanding that, in some cases, the perpetrator may not be able to be identified. Regardless of obtaining compensation, the City will still undertake the planting and maintenance of the replacement trees.

LEGISLATIVE COMPLIANCE

Not applicable.

RISK ASSESSMENT

In accordance with the City's Risk Management Framework, the officer's recommendation and other options have been assessed against the City's adopted risk tolerance. Comments are provided against each of the risk categories.

Officer's Recommendation	That Council adopts the <i>Urban Trees Policy</i> as outlined in <u>Attachment 2</u> to this report.	
Risk Category	Adopted Risk Appetite	Risk Assessment Outcome
Strategic Direction	Moderate	Moderate
Reputation	Low	Moderate
Governance	Low	Low
Community and Stakeholder	Moderate	Moderate
Financial Management	Low	Low
Environmental Responsibility	Low	Low
Service Delivery	Low	Low
Organisational Health and Safety	Low	Low
Conclusion	This option recommends the adoption of the policy as presented by Officers without any further consultation. Risk is increased due to the fact that the policy is not put to public consultation and is not afforded the opportunity for feedback. The Policy can be implemented immediately after the June Council Meeting.	

Option 2	That Council:	
	<ol style="list-style-type: none"> 1. Endorses the draft <i>Urban Trees Policy</i> as outlined in <u>Attachment 2</u> for public consultation for a period of no less than 21 days. 2. Requests the Chief Executive Officer to bring a report to the next meeting of the Policy Review and Development Committee for further consideration of amendments once the public consultation period has concluded. 	
Risk Category	Adopted Risk Appetite	Risk Assessment Outcome
Strategic Direction	Moderate	Moderate
Reputation	Low	Moderate
Governance	Low	Low
Community and Stakeholder	Moderate	Moderate
Financial Management	Low	Low
Environmental Responsibility	Low	Low
Service Delivery	Low	Moderate

Organisational Health and Safety	Low	Low
Conclusion	This option provides a considered approach to amending policy in relation to all areas of tree management ensuring the City provides for a modern approach to urban tree management, including the consideration of regulatory compliance obligations, overarching duty of care and maximising the outcomes for tree health and wellbeing of the community. This option allows community consultation prior to finalising the policy. There is risk that the community consultation will divide the community and complicate the matter. It will delay implementation.	

Option 3	That Council: <ol style="list-style-type: none"> Endorses the draft <i>Urban Trees Policy</i> as outlined in Attachment 2 for public consultation for a period of no less than 21 days, with the following changes: <ol style="list-style-type: none"> Requests the Chief Executive Officer to bring a report to the next meeting of the Policy Review and Development Committee for further consideration of amendments once the public consultation period has concluded. 	
Risk Category	Adopted Risk Appetite	Risk Assessment Outcome
Strategic Direction	Moderate	Moderate
Reputation	Low	Moderate
Governance	Low	Low
Community and Stakeholder	Moderate	Moderate
Financial Management	Low	Low
Environmental Responsibility	Low	Low
Service Delivery	Low	Moderate
Organisational Health and Safety	Low	Low
Conclusion	This option provides the Committee the opportunity to make further changes to the Policy. This option also allows community consultation prior to finalising the policy. Risks could potentially be greater depending on the changes made by the Committee. There is risk that the community consultation will divide the community and complicate the matter. It will delay implementation.	

Option 4	That Council does not amend the existing <i>Urban Trees Policy</i>.	
Risk Category	Adopted Risk Appetite	Risk Assessment Outcome
Strategic Direction	Moderate	Moderate
Reputation	Low	Moderate
Governance	Low	Low
Community and Stakeholder	Moderate	Moderate
Financial Management	Low	Low
Environmental Responsibility	Low	Moderate
Service Delivery	Low	Moderate
Organisational Health and Safety	Low	Low

Conclusion	<p>By not amending the existing policy the City will not keep abreast of changes to industry standards and community expectations.</p> <p>Officers are aware of some issues relating to the interpretation of the current policy. If amendments are not made then these issues are expected to continue.</p>
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FINANCIAL IMPLICATIONS

Not applicable for the purposes of this report, however there may be financial implications to decisions made by Council as identified in the report that will be highlighted in the report tabled at the PRDC meeting of 23 August 2022.

STRATEGIC IMPLICATIONS

This policy provides guidance on how trees will be maintained and cared for on City managed land to sustain the long-term benefits provided by individual trees and the wider tree population in support of the objectives of the City's Urban Forest Strategy.

In accordance with the City of Bayswater Strategic Community Plan 2021-2031, the following applies:

- Theme: Community
- Goal C3: Maximise the use of the City's facilities and parks by all sections of the community.
- Theme: Environment and Liveability
- Goal E2: Remain focused on greening the City's suburbs and streetscapes and increasing the tree canopy.
- Goal E4: Lessen the City's Impact on the environment through its buildings, infrastructure, services and targets, such as zero emissions by 2040, and empower the community to live sustainably.
- Goal E5: Protect and enhance the City's natural environment and biodiversity, and encourage the community to participate in its protection.
- Theme: Leadership and Governance
- Goal L1: Engage the community in a meaningful way.
Provide opportunities for the community to have their say and consider their views when making decisions.
- Goal L4: Communicate in a clear and transparent way.
Provide the community with useful information about Council's policies, services and events and advise the community of engagement outcomes.

CONCLUSION

Amending the Policy in relation to all areas of tree management ensures the City provides a considered and modern approach to urban tree management, including the consideration of regulatory compliance obligations, overarching duty of care and maximising the outcomes for tree planting, tree health and wellbeing of the community.

Urban Trees Policy



Responsible Division Works and Infrastructure

Responsible Business Unit/s Parks and Gardens

Responsible Officer Manager Parks and Gardens

Affected Business Unit/s All Business Units

Document Ref 4129251

PURPOSE

This policy provides guidance on how trees will be maintained and cared for on City-managed land.

POLICY STATEMENT

General

All trees irrespective of who planted them and which have at least 50% of their base located within City managed land will be maintained and cared for by the City.

Tree Planting

The City will undertake the planting of trees on City-managed land under its annual tree planting program which includes requests from residents. The City will determine the species and select the location of the tree in consideration of site conditions, infrastructure, utility services, sight lines and other constraints. Generally, one tree will be planted per property, while properties with larger or corner frontages may receive more. The City will undertake all activities required to establish new trees and provide ongoing maintenance, with the prior approval of the property owner.

Tree Pruning

Pruning may be undertaken to improve the form of a tree, reduce an assessed risk, or improve stability.

All pruning will be in accordance with the Australian Standard for Pruning of Amenity Trees (AS 4371 – 2007).

Generally, pruning services are provided to:

- maintain required clearances from power lines, utilities and other infrastructure.
- maintain appropriate clearances for sightlines, and accessibility for road and footpath users.
- reduce risk of harm.
- remove or reduce hazardous dead wood.
- correct structural defects in natural growth or form (remedial pruning).
- re-establish tree after damage (restoration pruning).
- optimise form and branch structure in a juvenile tree (formative pruning).

- clear significant overhanging influence from private buildings.

Pruning is not undertaken for the following reasons:

- To improve views.
- To reduce tree size or height.
- Personal health concerns.
- To discourage the presence of animals or insects.
- Clearance for advertising signage.
- Overshadowing of buildings, property and/or solar panels, unless it can be proved it is impacting the performance of the solar panels.

The City may determine occasions where specialist pruning that falls outside these criteria is required to maintain the health of a tree.

Tree Removal

Tree removal may be undertaken when:

- a tree is dead.
- an unacceptable level of risk exists within the tree's structure that remedial techniques cannot rectify.
- the tree is suffering from a disease where remedial techniques will not prevent further spread of the disease, and the removal will be of benefit to other trees around it.
- the tree is causing significant damage to infrastructure, and modification to the infrastructure or tree is impractical, and suitable documented evidence to support this is provided by a qualified professional.
- there is an imminent safety risk to people, property and/or infrastructure.
- the removal is approved under a crossover approval granted by the City. Such removal may be subject to conditions of the crossover approval granted in accordance with the City's crossovers policy.
- the removal is approved under a subdivision approval granted by the Western Australian Planning Commission or development approval granted by the City. Such removal may be subject to conditions in accordance with those approvals.

Tree removal is not undertaken for the following reasons:

- Tree species, form, size, shape or location is not the personal preference of the resident.
- The tree is considered an inconvenience for proposed or current construction works.
- The tree is interfering with views.
- Overshadowing of buildings, property and/or solar panels.
- The tree drops natural debris such as leaves, flowers, fruit and bark.

Where a tree is removed, the City will endeavour to plant a replacement tree of a suitable species as practicably close to the removed tree as part of its annual tree planting program.

Where a tree is approved for removal for a subdivision, development and/or for works undertaken for a utility provider or other authority, then the City will seek compensation for the amenity (Helliwell) valuation of the tree, plus the cost of removing the existing tree, if Council is required to remove it.

Tree Vandalism

Where vandalism of trees occurs, the City after an investigation, may authorise the following actions:

- Issuing of infringement notice with a penalty.
- Where the tree is less than 2m tall and/or fewer than four trees are vandalised, the City will install a tree vandalism sign of 0.6m x 1.2m for a period of 2 years.
- Where the tree is greater than 2m tall and/or more than three trees are vandalised, the City will install a tree vandalism sign of 3m x 3m for a period of 2 years.
- Painting of dead trees in bright colour to highlight their demise.
- Write to affected residents in the vicinity of the tree(s) advising of the City's actions in response to the vandalism.

A sign can be removed prior to the two-year period if a resident or group of residents applies to the City to replace the vandalised trees (of a similar size and species) at a 2:1 ratio at their own cost.

In addition to the above, if the damage or vandalism has occurred as a direct result of development activities without prior approval, the City may seek from the person or company responsible compensation for the amenity (Helliwell) valuation of the tree, plus the cost of removing the existing tree if required, and the cost of arranging provision of a replacement tree(s) and three years' maintenance if required.

Definitions

City-managed trees – Trees located in road reserves, reserves and on land vested in, or otherwise managed by the City, and includes Grass Trees (*Xanthorrhoea* species) and Zamia Palms (*Macrozamia* species).

Tree vandalism – Subjecting a tree to intentional harm, including unauthorised pruning, poisoning, removal, and physical or chemical damage.

Unauthorised pruning - Pruning activities conducted by any persons other than authorised City employees or authorised contractors.

Related Legislation

- *Local Government (Miscellaneous Provisions) Act 1995*
- *Environmental Protections Act 1986*
- *Thoroughfares Local Law 2020*
- *Section 444 of Criminal Code WA*
- Department of Mines, Industry Regulation and Safety - Guidelines for the management of vegetation near power lines.

Related Documentation

- *Trees on Private Land and Street Verges Policy*
- *Private Trees Policy*
- *Crossovers Policy*

- *Australian Standard for Amenity Pruning (AS 4373-2007)*
- *City of Bayswater Tree Planting Guideline*

Relevant Delegations	EF-D04 Notices requiring certain things to be done EF-D08 Reserves under the Control of Local Government
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Risk Evaluation

Council Adoption	9 April 2019
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Review/Modified	7 December 2021
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Urban Trees Policy



Responsible Division	Works and Infrastructure
Responsible Business Unit/s	Parks and Gardens
Responsible Officer	Manager Parks and Gardens
Affected Business Unit/s	All Business Units
Document Ref	4129251

PURPOSE

This policy provides guidance on how trees will be maintained and cared for on City-managed land.

POLICY STATEMENT

General

All trees irrespective of who planted them and which have at least 50% of their base located within City managed land will be maintained and cared for by the City.

[Residents can also care for trees on the verge adjacent to their property in accordance with the conditions of this Policy.](#)

Tree Planting

The City will undertake the planting of trees on City-managed land under its annual tree planting program which includes requests from residents. [The City will determine the species and select the location of the tree in consideration of site conditions, infrastructure, utility services, sight lines and other constraints. Property owners will be given the opportunity to discuss the species selection and positioning of the tree on the verge. The City will undertake all activities required to establish new trees and provide ongoing maintenance.](#)

[New Trees – Where a new tree is proposed for a verge that is not a replacement tree, the City will plant the tree unless requested otherwise by the adjacent property owner. Generally, one tree will be planted per verge abutting private property, while properties with larger or corner frontages may receive more. The City will determine the species and select the location of the tree in consideration of site conditions, infrastructure, utility services, sight lines and other constraints. Generally, one tree will be planted per verge abutting private property, while properties with larger or corner frontages may receive more. The City will undertake all activities required to establish new trees and provide ongoing maintenance.](#)

[Replacement Trees – If a new tree is proposed for a verge, with the prior approval of the property owner, The City will endeavour to plant a new tree for each tree that has been removed from residential verges under this policy on the same verge. Where it is not possible to plant a replacement tree on the same verge, the City will plant the new tree in a suitable location as near as possible to the original location.](#)

Tree Pruning

Pruning may be undertaken to improve the form or health of a tree, and or to remove or reduce an assessed risk, ~~or improve stability.~~

~~All pruning will be in accordance with the Australian Standard for Pruning of Amenity Trees (AS 4371 – 2007).~~

Generally, pruning services will be authorised and provided by the City ~~are provided~~ to:

- maintain required clearances from power lines, street lights, utilities and other infrastructure.
- ~~maintain appropriate clearances for sightlines, and accessibility for driveways, roads and footpaths users.~~
- maintain visibility of street name signage, directional signage, advanced warning and regulatory traffic signs.
- remove or reduce risk of harm.
- remove or reduce hazardous dead wood.
- correct structural defects in natural growth or form (remedial pruning).
- re-establish tree after damage (restoration pruning).
- optimise form and branch structure in a juvenile tree (formative pruning).
- clear ~~significant~~ overhanging influence from private buildings.

Property owners may request pruning of trees abutting their private property. Unless the requested pruning is for the reasons listed above, authorisation of the request will be at the discretion of the Director Works and Infrastructure. If authorisation is given, the property owner requesting the pruning will be required to pay for the pruning costs incurred by the City. Pensioners are exempt from the requirement to pay for the cost of pruning trees abutting their private property.

Residents are authorised to undertake minor pruning of trees located on verge areas abutting their property in accordance with the City's Tree Pruning Guideline for Residents.

Pruning is not undertaken for the following reasons:

- ~~— To improve views.~~
- ~~— To reduce tree size or height.~~
- ~~— Personal health concerns.~~
- To discourage the presence of animals or insects.
- Clearance for advertising and business signage.
- ~~— Overshadowing of buildings, property and/or solar panels, unless it can be proved it is impacting the performance of the solar panels.~~

~~The City may determine occasions where specialist pruning that falls outside these criteria is required to maintain the health of a tree.~~

Tree Removal

Tree removal may only be undertaken when:

- a tree is dead.
- an unacceptable level of risk exists within the tree's structure that remedial techniques cannot rectify.
- the tree is suffering from a disease where remedial techniques will not prevent further spread of the disease, and the removal will be of benefit to other trees around it.
- the tree is causing significant damage to infrastructure, and modification to the infrastructure or tree is impractical, and suitable documented evidence to support this is provided by a qualified professional.
- there is an imminent safety risk to people, property and/or infrastructure.
- the removal is approved under a crossover approval granted by the City. Such removal may be subject to conditions of the crossover approval granted in accordance with the City's crossovers policy.
- the removal is approved under a subdivision approval granted by the Western Australian Planning Commission ~~or development approval granted by the City~~. Such removal may be subject to conditions in accordance with those approvals.

~~Tree removal is not undertaken for the following reasons:~~

- ~~• Tree species, form, size, shape or location is not the personal preference of the resident.~~
- ~~• The tree is considered an inconvenience for proposed or current construction works.~~
- ~~• The tree is interfering with views.~~
- ~~• Overshadowing of buildings, property and/or solar panels.~~
- ~~• The tree drops natural debris such as leaves, flowers, fruit and bark.~~

Where a tree is removed, the City will ~~endeavour to~~ plant a replacement tree of a suitable species as practicably close to the location of the removed tree as part of its annual tree planting program. Where a tree is approved for removal for a subdivision, development and/or for works undertaken for a utility provider or other authority, then the City will seek compensation for the amenity (Helliwell) valuation of the tree, plus the cost of removing the existing tree, if Council is required to remove it.

Tree Vandalism

Where vandalism of trees occurs, the City after an investigation, may authorise the following actions:

- Issuing of an infringement notice with a penalty in accordance with the City's Local Laws to those who have been identified responsible for the damage;
- Where the vandalism involves the removal of a tree, or results in the need for tree removal as a consequence of the vandalism, the City will plant a replacement tree plus an additional new tree on the same verge. The City will seek compensation for the cost of removing the existing tree if required, and the cost of arranging provision of two trees and three years' maintenance.
- ~~• Where the tree is less than 2m tall and/or fewer than four trees are vandalised, the City will install a tree vandalism sign of 0.6m x 1.2m for a period of 2 years.~~
- ~~• Where the tree is greater than 2m tall and/or more than three trees are vandalised, the City will install a tree vandalism sign of 3m x 3m for a period of 2 years.~~
- ~~• Painting of dead trees in bright colour to highlight their demise.~~
- Write to affected residents in the vicinity of the tree(s) advising of the City's actions in response to the vandalism.

~~A sign can be removed prior to the two-year period if a resident or group of residents applies to the City to replace the vandalised trees (of a similar size and species) at a 2:1 ratio at their own cost.~~

In addition to the above, if the damage or vandalism has occurred as a direct result of development activities without prior approval, the City ~~may~~ will seek from the person or company responsible

compensation for the amenity (Helliwell) valuation of the tree, plus the cost of removing the existing tree if required, and the cost of arranging provision of a replacement tree(s) and three years' maintenance if required.

Definitions

City-managed trees – Trees located in road reserves, reserves and on land vested in, or otherwise managed by the City, and includes Grass Trees (*Xanthorrhoea* species) and Zamia Palms (*Macrozamia* species).

Pensioner – A person who receives a full pension.

Tree vandalism – Subjecting a tree to intentional harm, including unauthorised pruning, poisoning, removal, and physical or chemical damage.

Unauthorised pruning - Pruning activities conducted by any persons other than authorised City employees or authorised contractors, or pruning undertaken by residents contrary to the City's Tree Pruning Guideline.

Related Legislation

- *Local Government (Miscellaneous Provisions) Act 1995*
- *Environmental Protections Act 1986*
- *Thoroughfares Local Law 2020*
- *Section 444 of Criminal Code WA*
- *Department of Mines, Industry Regulation and Safety - Guidelines for the management of vegetation near power lines.*

Related Documentation

- *Trees on Private Land and Street Verges Policy*
- *Trees on Private Land and Street Verges Trees Policy*
- *Crossovers Policy*
- *Australian Standard for Amenity Pruning (AS 4373-2007)*
- *City of Bayswater Tree Planting Guideline*
- *City of Bayswater Tree Pruning Guideline for Residents*

Relevant Delegations	EF-D04 Notices requiring certain things to be done EF-D08 Reserves under the Control of Local Government
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Risk Evaluation

Council Adoption	9 April 2019
Review/Modified	7 December 2021



Tree Pruning Guideline for Residents

Responsible Division Works and Infrastructure

Responsible Business Unit/s Parks and Gardens

Responsible Officer Manager Parks and Gardens

Affected Business Unit/s Parks and Gardens

Document Ref

PURPOSE

This guideline provides guidance to residents on how to care for trees located on verges abutting their property, which are under the care, control and management of the City of Bayswater (the City).

General Prohibitions

Residents may not undertake pruning on:

- Trees growing under power lines.
- Juvenile trees (less than three years old), identified by being staked and surrounded by a mulch bowl or green well.
- Parts of trees that are overhanging roads.
- Trees that are diseased, declining or dead.

- Tree roots.

- The City will undertake all necessary maintenance in regards to the above. Residents are urged to contact the City to discuss any maintenance that may be required.

Tree Pruning

Residents are authorised to undertake minor pruning of trees on the verge directly abutting their property in accordance with the following conditions:

- Only tree material less than 3cm in diameter may be pruned.
- Pruning is undertaken with due care and consideration for the ongoing health, growth and longevity of the tree.
- The resident adheres to the provided guidelines, and other recommendations and advice as provided by the City.
- Pruning cuts are to be precise and executed in such a way as to not cause unnecessary damage or injury to the tree.
- Only hand-held manual garden pruning tools fit for the purposes of tree pruning may be used.

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- Pole pruners, and extension or telescopic tools may not be used.
- Petrol or electric powered tools, machinery or equipment may not be used.
- Only minor pruning conducted while standing on ground level can be undertaken.
- Ladders, items, materials or other devices which raise the resident above ground level must not be used.
- Tools are sharp and are thoroughly cleaned before use.
- Green waste from pruning activities are collected and disposed of or composted by the resident.
- No more than 5% reduction in the diameter of the reachable canopy can be removed in a 12 month period.
- Personal protective equipment suited to the task must be worn.
- The resident is to consider taking and storing photos prior to and after minor pruning works in the instance evidence is required of the pruning undertaken.

Tree Watering

Residents are encouraged to provide additional water to trees between October and April according to the following rates:

30 to 50 litres per week for juvenile trees

70 to 100 litres per week for mature trees

100 to 150 litres per week for trees adjacent to development sites.

[Type here]

[Type here]

Related Legislation

- xxxx

Related Documentation

- xxxx

Council Adoption

Review/Modified

[Type here]



Our Ref

SW:SM:BAYS:48762

Your Ref

10 February 2022

Alex Barker
Technical Officer
City of Bayswater
PO Box 467
BAYSWATER WA 6943

By email: alex.barker@bayswater.wa.gov.au

Dear Alex

Tree maintenance conducted by residents

Thank you for your instructions to provide services in accordance with our quote dated 12 January 2022.

You have requested advice regarding the liability of the City of Bayswater (**City**) under the *Work Health and Safety Act 2020 (WHS Act)*, if it were to permit residents to undertake tree maintenance or pruning activities on trees located on City managed land.

Background

It is the current practice that the City's employees and authorised contractors undertake all tree maintenance activities on trees located on City managed land. These activities are undertaken as a part of programmed works and following requests from ratepayers in certain circumstances.

The City employs qualified arborists and from time to time will also engage the services of specialist contractors to ensure that the tree maintenance activities are performed in a manner that ensures the safety of workers and other people.

The City's arborists and specialist contractors are trained, qualified and experienced in hazard identification, risk mitigation and safe work methods in relation to tree maintenance. The nature of the work undertaken often involves working at height, and the use of chainsaws and other hazardous plant and equipment.

The City recently undertook a review of the 'Urban Tree Policy', leading to a revised Policy being endorsed by Council at the 7 December 2021 Ordinary Council Meeting (**7 December OCM**).

The Policy review identified an inconsistency between the Urban Tree Policy and the Activities in Thoroughfares and Public Places and Trading Local Law 2020.



McLEODS
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Tree maintenance conducted by residents*McLeods*

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The inconsistencies were noted in the comments by officers within the draft revised Urban Tree Policy identified as Attachment 10.6.2.9.3 of the Minutes of the 7 December OCM.

Officers understand that the net effect of the inconsistency results in the permissibility of City residents to conduct tree maintenance on trees that are located upon City managed land, which is abutting their residence.

The City recognises that permitting such work to be undertaken by residents, may lead to liability under the new WHS Act, due for implementation in March 2022.

Accordingly, the City requires advice regarding its liability under the forthcoming WHS Act, arising from any decision to allow residents to undertake minor tree maintenance on trees located on City managed land.

Provisions of the WHS Act

To provide context and convenience, I have set out the provisions of the WHS Act below, relevant to this advice.

Please note that the City, as a body corporate, is defined as the Person Conducting the Business or Undertaking (PCBU) for the purposes of the WHS Act, and the application of the duties therein.

WHS duties cannot be transferred or waived

No duty under the WHS Act can be transferred¹ or contracted, either formally or informally, to another person.

Section 272 of the WHS Act states:

‘Any agreement or contract that purports to exclude, limit or modify the operation of this Act or any duty owed under this Act or to transfer to another person any duty owed under this Act is of no effect.’

The primary duty of care

The primary duty of care is the overarching duty of care owed by a PCBU (in the present case, the City), to ensure the health and safety of workers and other people, so far as is reasonably practicable, pursuant to section 19 of the WHS Act.

¹ Section 14 of the WHS Act.

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Tree maintenance conducted by residents

Section 19 states:

‘19. Primary duty of care

- (1) A person conducting a business or undertaking must ensure, so far as is reasonably practicable, the health and safety of —
 - (a) workers engaged, or caused to be engaged, by the person; and
 - (b) workers whose activities in carrying out work are influenced or directed by the person,while the workers are at work in the business or undertaking.
- (2) A person conducting a business or undertaking must ensure, so far as is reasonably practicable, that the health and safety of other persons is not put at risk from work carried out as part of the conduct of the business or undertaking.
- (3) Without limiting subsections (1) and (2), a person conducting a business or undertaking must ensure, so far as is reasonably practicable —
 - (a) the provision and maintenance of a work environment without risks to health and safety; and
 - (b) the provision and maintenance of safe plant and structures; and
 - (c) the provision and maintenance of safe systems of work; and
 - (d) the safe use, handling and storage of plant, structures and substances; and
 - (e) the provision of adequate facilities for the welfare at work of workers in carrying out work for the business or undertaking, including ensuring access to those facilities; and
 - (f) the provision of any information, training, instruction or supervision that is necessary to protect all persons from risks to their health and safety arising from work carried out as part of the conduct of the business or undertaking; and

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Tree maintenance conducted by residents

- (g) that the health of workers and the conditions at the workplace are monitored for the purpose of preventing illness or injury of workers arising from the conduct of the business or undertaking.

...’

(Underlining added for emphasis).

Reasonably practicable

The underlined portion of the extract above highlights the standard of the care required by the City when discharging its primary duty under section 19, as being ‘so far as is reasonably practicable’.

That is, the City must take such measures as are reasonably practicable at the time, to eliminate or mitigate risks to the health and safety of workers or other people.

The definition of reasonably practicable in section 18 of the WHS Act establishes an objective test, which is applied to ascertain whether the City is meeting the standard of care in relation to its duties.

Section 18 states:

‘18. What is reasonably practicable in ensuring health and safety

In this Act –

reasonably practicable, in relation to a duty to ensure health and safety, means that which is, or was at a particular time, reasonably able to be done in relation to ensuring health and safety, taking into account and weighing up all relevant matters including –

- (a) the likelihood of the hazard or risk concerned occurring; and
- (b) the degree of harm that might result from the hazard or the risk; and
- (c) what the person concerned knows, or ought reasonably to know, about –
 - (i) the hazard or the risk; and
 - (ii) ways of eliminating or minimising the risk; and
- (d) the availability and suitability of ways to eliminate or minimise the risk; and

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Tree maintenance conducted by residents

- (e) after assessing the extent of the risk and available ways of eliminating or minimising the risk, the cost associated with available ways of eliminating or minimising the risk, including whether the cost is grossly disproportionate to the risk.’

(Underlining added for emphasis).

Volunteers

Section 4 of the WHS Act defines a volunteer as ‘...a person who is acting on a voluntary basis (irrespective of whether the person receives out of pocket expenses)’.

In the present case, a resident who is undertaking tree maintenance would be doing so in their capacity as a volunteer for the City.

Workers

Section 7 of the WHS Act contains a broad definition of a worker, as set out below:

‘7. Meaning of worker

- (1) a person is a worker if the person carries out work in any capacity for a person conducting a business or undertaking, including work as –
 - (a) an employee; or
 - (b) a contractor or subcontractor; or
 - ...
 - (h) a volunteer; ...’.

(Underlining added for emphasis).

Please note that volunteers fall within the definition of a worker under section 7(1)(h) set out above.

Accordingly, residents who conduct tree maintenance on City managed land are considered workers for the purposes of the WHS Act.

Advice

Any resident of the City who conducts tree maintenance on City managed land, is defined as a worker for the purposes of the WHS Act.

This remains the case regardless of whether the tree maintenance is of a minor or substantial nature.

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Tree maintenance conducted by residents*McLeods*

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Therefore, the City has the primary duty of care under section 19 of the WHS Act, to ensure the health and safety of residents conducting tree maintenance, so far as is reasonably practicable.

To comply with its duty under section 19 of the WHS Act, the City must ensure so far as is reasonably practicable, that the residents are provided with:

- a work environment that is without risks to health and safety; and
- safe plant² and structures; and
- safe systems of work such as procedures; and
- a way to safely use and store plant, structures and substances; and
- any information, training, instruction or supervision that is necessary to protect all persons from risks to their health and safety arising from the work carried out.

The standard of the City's primary duty of care is, to do all that is reasonably practicable in the circumstances.

The definition of 'reasonably practicable' is set out above under the heading 'Provisions of the WHS Act', and is contained within section 18 of the WHS Act.

To ascertain whether it has discharged its duty to the required standard, section 18 states that the City must consider 'all matters' including 'what the person [City] concerned knows, or ought reasonably to know', about the hazards and the way they may be eliminated or mitigated.

When assessing the City's level of knowledge about the risks associated with undertaking tree maintenance, regard must be given to the fact that the City employs expert arborists.

That is, the City must discharge its duty to ensure the health and the safety of workers, to the standard of any other employer who, in similar circumstances, also has access to the expert advice of arborists when undertaking tree maintenance activities.

The hazards arising from tree maintenance activities

Although I do not hold myself out to be an expert in the field of tree maintenance, I have set out examples below of some of the hazards of tree maintenance that are known to me as a generalist WHS specialist.

These hazards include but are not limited to:

- (a) the use of hazardous plant such as hand saws and powered chainsaws;
- (b) falls from height, such as ladders and platforms;

² Section 4 of the WHS Act defines Plant as including '(a) any machinery, equipment, appliance, container, implement and tool; and (b) any component of any of those things; and (c) anything fitted or connected to any of those things;

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- (c) people being struck by moving objects, such as falling branches;
- (d) the unknown level of training, skill and experience of the resident performing the work;
- (e) instruction or guidance provided to the resident performing the work;
- (f) supervision of the work being conducted by the resident; and
- (g) control over the techniques and methods used by the resident conducting the work.

Please note: The above list is illustrative only. An arborist with expertise in the field of tree maintenance, such as those employed by the City, will possess a significantly greater knowledge of the associated hazards, along with the ways of elimination or mitigation.

To discharge its duty under section 19 of the WHS Act, the City would be required to eliminate or mitigate hazards such as those listed above, so far as is reasonably practicable.

Failure by the City to eliminate or mitigate so far as is reasonably practicable, at least those hazards listed above, amounts to a breach of its duties under the WHS Act.

Recent prosecution

In December 2021, the Camden Council in New South Wales (NSW) was successfully prosecuted in the New South Wales District Court for a breach of its duty to ensure the health and safety of volunteers.

Workplace health and safety in New South Wales is also regulated by a Work Health and Safety Act (**WHS Act NSW**), based on the Safe Work Australia Harmonised Work Health and Safety Bill, in terms that are substantially the same as Western Australia's imminent WHS Act.

In that case, the volunteers were members of the local 'Men's Shed', who were assisting to install irrigation at a council management park.

Unfortunately, during the course of installing the irrigation, one of the Men's Shed volunteers was struck by an irrigation pipe and suffered fatal injuries.

Following an investigation by SafeWork NSW, the Camden Council was successfully prosecuted for a breach of its obligations under section 19 of the WHS Act NSW, for failing to ensure the health and safety of the volunteers.³

³ SafeWork NSW v Camden Council [2021] NSWDC 709

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In that case, the Judge found that the Camden Council failed to⁴:

1. ensure that a risk assessment was conducted for the irrigation work being performed by volunteers;
2. ensure that the activities of the volunteers were being monitored by the Council;
3. ensure that the Council provided and implemented safe work practices with regard to the volunteers and the work being undertaken;
4. ensure that the volunteers were suitably qualified and experienced;
5. provide adequate information, instruction and training to the volunteers; and
6. provide adequate supervision to volunteers.

Ultimately, the Council received a \$1,000,000 penalty, which was then reduced to \$750,000 for an early guilty plea.

It is critical to note for the purposes of this advice, that the activities proposed by the City in allowing residents to conduct tree maintenance, would be likely to involve the participation of a significantly larger number of volunteers than those in the Camden Council case above.

The level of liability faced by the City in the present matter would be significantly larger than that faced by the Camden Council in the above matter.

Penalties under the WHS Act

The penalties applicable to the City as a body corporate, for a breach of its duties under section 19 of the WHS Act range from:

- (a) a fine of up to \$570,000 for a failure to comply with the duty, in the absence of any incident illness or injury;

to –

- (b) a fine of up to \$10m for an offence of industrial manslaughter.

The elements of the offence of industrial manslaughter are set out in section 30A of the WHS Act in the following terms:

1. the conduct of the PCBU who owes a duty under the WHS Act, caused the death of an individual; and
2. The PCBU's conduct constituted a breach of its duty under the WHS Act; and

⁴ SafeWork NSW v Camden Council [2021] NSWDC 709 [Paragraph 41]

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3. The PCBU engaged in its conduct:

- (a) knowing that the conduct was likely to cause death or serious injury;
- (b) acted in disregard of that likelihood.

Based on the City's knowledge regarding the high level of risk associated with tree maintenance activities, in the event of the fatality of a resident who is conducting tree maintenance, the risk of the City's prosecution for an offence of industrial manslaughter should not be underestimated.

Personal liability of 'Officers' under the WHS Act

Although we have been instructed to advise on the City's liability under the WHS Act, we would be remiss if we failed to at least highlight the potential personal liability of the City's 'officers'⁵.

In the event of a fatal injury being suffered by a resident conducting tree maintenance it is not inconceivable that an officer may be personally liable for the offence of industrial manslaughter. There is a risk that an officer may be prosecuted for the offence.

The liability for prosecution arises from the fact that the City's 'officers' would be considered to have the knowledge that the uncontrolled performance of tree maintenance activities is likely to result in serious injury or death.

If, despite the knowledge of the risk, the officers neglect to ensure that the City takes reasonably practicable steps to eliminate or mitigate the risk, and allow the undertaking of the activities, they may satisfy the elements of the offence of industrial manslaughter under section 30A(3) of the WHS Act.

The penalty for an officer as an individual for the offence of industrial manslaughter is, 'imprisonment for 20 years and a fine of \$5,000,000'.

Yours sincerely



Contact: Scott Wade
Direct line: 9424 6247
Email: swade@mcleods.com.au
Partner responsible: Denis McLeod

⁵ An 'officer' is defined under section 5 of the WHS Act as 'Officer' of a local government for the purposes of the WHS Act section 5(3) of the WHS Act defines an 'Officer' of a local government as 'a person who makes, or participates in making, decisions that effect the whole, or a substantial part, of the business or undertaking of a [local government]...' In the circumstances officers of the City of Bayswater would at least include the Chief Executive Officer and the City's Directors. Elected members are excluded from the definition of an officer.

Urban Trees Policy



Responsible Division	Works and Infrastructure
Responsible Business Unit/s	Parks and Gardens
Responsible Officer	Manager Parks and Gardens
Affected Business Unit/s	All Business Units
Document Ref	4129251

PURPOSE

This policy provides guidance on how trees will be maintained and cared for on City-managed land.

POLICY STATEMENT

General

All trees irrespective of who planted them and which have at least 50% of their base located within City managed land will be maintained and cared for by the City.

Residents can also care for trees on the verge adjacent to their property in accordance with the conditions of this Policy.

Tree Planting

The City will undertake the planting of trees on City-managed land under its annual tree planting program which includes requests from residents. The City will determine the species and select the location of the tree in consideration of site conditions, infrastructure, utility services, sight lines and other constraints. Property owners will be given the opportunity to discuss the species selection and positioning of the tree on the verge. The City will undertake all activities required to establish new trees and provide ongoing maintenance.

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

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

Tree Pruning

Pruning may be undertaken to improve the form or health of a tree, and or to remove or reduce an assessed risk.

Generally, pruning services will be provided by the City to:

- maintain required clearances from power lines, street lights, utilities and other infrastructure.
- maintain appropriate clearances for sightlines, and accessibility for driveways, roads and footpaths.
- maintain visibility of street name signage, directional signage, advanced warning and regulatory traffic signs.
- remove or reduce risk of harm.
- remove or reduce hazardous dead wood.
- correct structural defects in natural growth or form (remedial pruning).
- re-establish tree after damage (restoration pruning).
- optimise form and branch structure in a juvenile tree (formative pruning).
- clear overhanging influence from private buildings.

Property owners may request pruning of trees abutting their private property. Unless the requested pruning is for the reasons listed above, authorisation of the request will be at the discretion of the Director Works and Infrastructure. If authorisation is given, the property owner requesting the pruning will be required to pay for the pruning costs incurred by the City. Pensioners are exempt from the requirement to pay for the cost of pruning trees abutting their private property.

Residents are authorised to undertake minor pruning of trees located on verge areas abutting their property in accordance with the City's Tree Pruning Guideline for Residents.

Pruning is not undertaken for the following reasons:

- To improve views.
- To discourage the presence of animals or insects.
- Clearance for advertising and business signage.

Tree Removal

Tree removal may only be undertaken when:

- a tree is dead.
- an unacceptable level of risk exists within the tree's structure that remedial techniques cannot rectify.
- the tree is suffering from a disease where remedial techniques will not prevent further spread of the disease, and the removal will be of benefit to other trees around it.
- the tree is causing significant damage to infrastructure, and modification to the infrastructure or tree is impractical, and suitable documented evidence to support this is provided by a qualified professional.
- there is an imminent safety risk to people, property and/or infrastructure.
- the removal is approved under a crossover approval granted by the City. Such removal may be subject to conditions of the crossover approval granted in accordance with the City's crossovers policy.
- the removal is approved under a subdivision approval granted by the Western Australian Planning Commission. Such removal may be subject to conditions in accordance with those approvals.

Where a tree is removed, the City will plant a replacement tree of a suitable species as practicably close to the location of the removed tree as part of its annual tree planting program. Where a tree is approved

for removal for a subdivision, development and/or for works undertaken for a utility provider or other authority, then the City will seek compensation for the amenity (Helliwell) valuation of the tree, plus the cost of removing the existing tree, if Council is required to remove it.

Tree Vandalism

Where vandalism of trees occurs, the City after an investigation, may authorise the following actions:

- Issuing of an infringement notice with a penalty in accordance with the City's Local Laws to those who have been identified responsible for the damage;
- Where the vandalism involves the removal of a tree, or results in the need for tree removal as a consequence of the vandalism, the City will plant a replacement tree plus an additional new tree on the same verge. The City will seek compensation for the cost of removing the existing tree if required, and the cost of arranging provision of two trees and three years' maintenance.
- Write to affected residents in the vicinity of the tree(s) advising of the City's actions in response to the vandalism.

In addition to the above, if the damage or vandalism has occurred as a direct result of development activities without prior approval, the City will seek from the person or company responsible compensation for the amenity (Helliwell) valuation of the tree, plus the cost of removing the existing tree if required, and the cost of arranging provision of a replacement tree(s) and three years' maintenance if required.

Definitions

City-managed trees – Trees located in road reserves, reserves and on land vested in, or otherwise managed by the City, and includes Grass Trees (*Xanthorrhoea* species) and Zamia Palms (*Macrozamia* species).

Pensioner – A person who receives a full pension.

Tree vandalism – Subjecting a tree to intentional harm, including unauthorised pruning, poisoning, removal, and physical or chemical damage.

Unauthorised pruning - Pruning activities conducted by any persons other than authorised City employees or authorised contractors, or pruning undertaken by residents contrary to the City's Tree Pruning Guideline.

Related Legislation

- *Local Government (Miscellaneous Provisions) Act 1995*
- *Environmental Protections Act 1986*
- *Thoroughfares Local Law 2020*
- *Section 444 of Criminal Code WA*
- *Department of Mines, Industry Regulation and Safety - Guidelines for the management of vegetation near power lines.*

Related Documentation

- *Trees on Private Land and Street Verges Policy*
- *Trees on Private Land and Street Verges Policy*
- *Crossovers Policy*
- *City of Bayswater Tree Planting Guideline*
- *City of Bayswater Tree Pruning Guideline for Residents*

Relevant Delegations	EF-D04 Notices requiring certain things to be done EF-D08 Reserves under the Control of Local Government
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Risk Evaluation

Council Adoption

Review/Modified

City of
Bayswater

Urban Trees ~~Policy~~ Planting and Maintenance Policy



Responsible Division	Works and Infrastructure
Responsible Business Unit/s	Parks and Gardens
Responsible Officer	Manager Parks and Gardens
Affected Business Unit/s	All Business Units
Document Ref	4129251

PURPOSE

This policy provides guidance on how trees will be planted, maintained and cared for on City-managed land.

POLICY STATEMENT

General

All trees irrespective of who planted them and which have at least 50% of their base located within City managed land will be maintained and cared for by the City.

Residents can also care for trees on the verge adjacent to their property in accordance with the conditions of this Policy.

Tree Planting

The City will undertake the planting of trees on City-managed land under its annual tree planting program ~~which includes requests from residents~~. This program includes new tree planting in areas such as parks, road verges, medians, roundabouts, reserves and natural areas. Residents are also able to order a verge tree for planting in front of their property. The City will determine the species and select the location of the tree in consideration of site conditions, infrastructure, utility services, sight lines and other constraints. Property owners will be given the opportunity to discuss the species selection and positioning of the tree on the verge. The City will undertake all activities required to establish new trees and provide ongoing maintenance.

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

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

Tree Pruning

Pruning may be undertaken to improve the form or health of a tree, and or to remove or reduce an

assessed risk.

Generally, pruning services will be provided by the City to:

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- maintain appropriate clearances for sightlines, and accessibility for driveways, roads and footpaths.
- maintain visibility of street name signage, directional signage, advanced warning and regulatory traffic signs.
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- the tree is causing significant damage to infrastructure, and modification to the infrastructure or tree is impractical, and suitable documented evidence to support this is provided by a qualified professional.
- there is an imminent safety risk to people, property and/or infrastructure.
- the removal is approved under a crossover approval granted by the City. Such removal may be subject to conditions of the crossover approval granted in accordance with the City's crossovers policy.
- the removal is approved under a subdivision approval granted by the Western Australian Planning Commission. Such removal may be subject to conditions in accordance with those approvals.

Where a tree is removed, the City will plant a replacement tree of a suitable species as practicably close to the location of the removed tree as part of its annual tree planting program. Where a tree is approved for removal for a subdivision, development and/or for works undertaken for a utility provider or other authority, then the City will seek compensation for the amenity (Helliwell) valuation of the tree, plus the cost of removing the existing tree, if Council is required to remove it.

Tree Vandalism

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- Write to affected residents in the vicinity of the tree(s) advising of the City's actions in response to the vandalism.

In addition to the above, if the damage or vandalism has occurred as a direct result of development activities without prior approval, the City will seek from the person or company responsible compensation for the amenity (Helliwell) valuation of the tree, plus the cost of removing the existing tree if required, and the cost of arranging provision of a replacement tree(s) and three years' maintenance if required.

Definitions

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- *Department of Mines, Industry Regulation and Safety - Guidelines for the management of vegetation near power lines.*

Related Documentation

- *Trees on Private Land and Street Verges Policy*
- ~~*Trees on Private Land and Street Verges Policy*~~
- *Crossovers Policy*
- *City of Bayswater Tree Planting Guideline*
- ~~*City of Bayswater Tree Pruning Guideline for Residents*~~

- [*Urban Forest Strategy*](#)

Relevant Delegations**EF-D04 Notices requiring certain things to be done****EF-D08 Reserves under the Control of Local Government**

Risk Evaluation

Council Adoption

Review/Modified

8.5 Trees On Private Land And Street Verges Policy

Responsible Branch:	Development and Place
Responsible Directorate:	Community and Development
Authority/Discretion:	Legislative
Voting Requirement:	Simple Majority Required
Attachments:	<ol style="list-style-type: none"> Existing Trees on Private Land and Street Verges Policy [8.5.1 - 5 pages] Track Changes for Trees on Private Land Street Verges Policy [8.5.2 - 6 pages] Proposed Trees on Private Land and Street Verges Policy [8.5.3 - 5 pages] Committee Amendments to Proposed Trees on Private Land and Str [8.5.4 - 5 pages]
Refer:	Item 13.1.1: OMC 22.03.2022 Item 10.6.2.9: OCM 07.12.2021 Item 13.1.1: OCM 22.09.2020 Item 9.5: PDSC 12.06.2018 Item 9.2.2: CTFCSC 15.05.2018 Item 9.1.7: PDSC 23.01.2018 Item 9.1.16: PDSC 15.08.2017 Item 9.2.5: CTFCSC 19.07.2017 Item 9.1.7: PDSC 18.07.2017 Item 12.2.10: OCM 23.02.2016

SUMMARY

Council consideration is sought in relation to the proposed modifications to the City's existing local planning policy relating to trees on private land and street verges.

The existing policy provides guidance on trees which are to be planted or proposed to be removed and replaced on private land and within the street verges of the City, as part of a development application and/or subdivision application. The purpose of the policy is to outline the requirements for providing, maintaining, protecting and removing trees on private land and within the street verge. The policy emphasises that the removal of trees is to be avoided unless absolutely necessary.

It has been determined that the policy is still necessary, due to the need to provide guidance on providing, removing and replacing trees within the City. The policy also aids in reducing red tape, as the policy has been amended to align with the changes to the Urban Trees Policy.1.

The proposed modified policy will improve readability and futureproof it insofar as possible.

OFFICER'S RECOMMENDATION

That Council adopts for public advertising the modified trees on Private Land and Street Verges Policy as contained in **Attachment 3** to this report.

COMMITTEE RECOMMENDATION TO COUNCIL

That Council adopts for public advertising the proposed modified Trees on Private Land and Street Verges Policy as contained in **Attachment 3** to this report with the following amendment, as shown in new **Attachment 4**:

Part 2 of the "*Requirement for Trees on Street Verges*" section be changed to:

"A tree may be removed for development and/or for works undertaken for a utility provider or other authority which requires development approval, excluding State Government major projects. When this occurs the City of Bayswater will seek compensation from the utility provider or other authority for the amenity (Helliwell) valuation of the tree, plus the cost of removing the existing tree, and the cost of arranging provision of a replacement tree(s) and three years' maintenance."

Cr Catherine Ehrhardt, Deputy Mayor Moved, Cr Filomena Piffaretti, Mayor Seconded

CARRIED: 4/1

For: Cr Filomena Piffaretti, Mayor, Cr Catherine Ehrhardt, Deputy Mayor, Cr Josh Eveson and Cr Steven Ostaszewskyj.

Against: Cr Lorna Clarke.

REASON FOR CHANGE

The Committee changed the officer's recommendation to ensure it was clear that the City would be seeking compensation from the utility provider or other authority in the situation where a tree was removed for works undertaken under a development approval for that authority.

BACKGROUND

The City has a large number of local planning policies, to guide better development within the City. City officers are undertaking an ongoing review of the existing local planning policies, in order to improve the City's policy framework and reduce the red tape associated with development applications.

The Trees on Private Land and Street Verges Policy was modified on 22 September 2020, however this only related to a minor amendment and to update the format and branding of the document. Prior to this, the last detailed review of the Trees on Private Land and Street Verges Policy occurred in 2017, and the updated policy was adopted by Council on 12 June 2018.

Council at its Ordinary Meeting held on 7 December 2021, considered amendments to the City's Urban Tree Policy. Council resolved as follows:

"That Council:

- 1. Amends the Urban Trees Policy as outlined in Attachment 3 to this report and as further amended in new Attachment 4;*
- 2. Notes that a review of the City's Crossover Policy and Trees on Private Land and Street Verges Policy is required to align those policies with the amended Urban Trees Policy;*
- 3. Requests the Chief Executive Officer to bring a report to the next meeting of the Policy Review and Development Committee for further consideration of amendments to the remaining policies; and*
- 4. Requests the Chief Executive Officer to prepare a report investigating residents' ability to undertake minor maintenance on trees on the verges abutting their property."*

In accordance with the above, the need for a policy to provide guidance on providing, removing and replacing trees within the City remains current. However, it requires some changes to align with the modifications to the Urban Trees Policy.

Council at its Ordinary Meeting held 22 March 2022, considered the proposed modified policy for advertising. Council resolved as follows:

"That this item be referred to a Councillor workshop together with the Urban Tree Policy to allow more information to be provided about the two policies so they may be considered in detail."

The Trees on Private Land and Street Verges Policy was considered by Council at a Councillor workshop and Councillors were provided with an opportunity to comment on the policies discussed. As no specific comments were provided in relation to the Trees on Private Land and Street Verges Policy, and none of the changes to the Urban Tree Policy necessitated an update to the policy, there have been no further modifications made.

Typically, the policy would be presented to the Planning and Heritage Policy Review and Development Committee (PHPRDC) for consideration however in view of a previous Council resolution stipulating that the policy is to be considered by the Policy Review and Development Committee (PRDC), and the policy to be considered together with the Urban Tree Policy, it has been progressed to the PRDC rather than the PHRDC at this time.

EXTERNAL CONSULTATION

In the event that Council adopts the proposed modified Trees on Private Land and Street Verges Policy for the purpose of advertising for public comment, the policy will be advertised in accordance with the requirements of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* for at least 21 days by way of:

- Notification being published in the local newspaper(s);
- Information being placed on the City's engagement website; and
- Hard copies of the draft modified policy being made available for inspection at the City of Bayswater Civic Centre and the City's libraries.

OFFICER'S COMMENTS

The City's current Trees on Private Land and Street Verges Policy outlines the number of trees required and the provisions for planting, removing and replacing trees on private land and within street verges within the City, as part of a development application. It is considered that the proposed modified Trees on Private Land and Street Verges Policy will provide greater clarity on what the City will consider through the amended provisions as it aligns with the updated Urban Tree Policy. The purpose of the policy has been updated to stipulate that it is in place to ensure landowners are aware of their obligations, to increase the tree canopy within the City, and improve the neighbourhood amenity, character and sense of place.

The proposed modified Trees on Private Land and Street Verges Policy, as contained in **Attachment 3** to this report, updates the existing policy in accordance with the current City of Bayswater policy format. The policy has also been updated to remove and replace specific provisions to align with the updated Urban Tree Policy.

The modified purpose and requirements are aligned with the intent of the existing policy, with adjustments to the wording to improve readability, update the document and futureproof it insofar as possible. A summary of the key changes made to each section of the policy are summarised below.

Requirements for Trees on Private Property

The existing policy includes requirements for trees on private property. The draft modified policy updates this section to include a requirement relating to the protection of trees, in accordance with AS4970.2009 'Protection of Trees on Development Sites'.

Other provisions in this section have been updated through minor adjustments to the wording to improve the readability of the provisions.

Requirements for Trees for State Government Major Projects and Subdivision Application

A new section has been included in the policy which outlines the requirements for trees for developments which are State Government major projects. The provisions formalise the City's requirement for State Government major projects which propose the removal of a tree worthy of retention to be subject to a tree replacement ratio of five replacement trees per tree removed. Additionally, a provision has been included in relation to subdivision applications which outlines that the City in its referral response will request a condition(s) for any trees to be retained on any decision issued by the determining authority (Western Australian Planning Commission).

Requirements for Trees on Street Verges

The existing policy includes requirements for trees located within the street verge. The draft modified policy updates this section to expand the reasons for when a street tree can be removed, to align with the provisions of the updated Urban Tree Policy. The additional provisions allow for a tree to be removed if there is an imminent safety risk or a crossover approval has been granted.

Additionally, a provision has been included which outlines that where a tree is removed for a development and/or for works undertaken for a utility provider or other authority which requires development approval, then the City will seek compensation for the amenity (Helliwell) valuation of the tree, plus the cost of removing the existing tree, and the cost of arranging provision of a replacement tree(s) and three years maintenance.

Other provisions in this section have been updated through minor adjustments to the wording to improve the readability of the provisions.

Tree Maintenance and Replacement

The existing policy includes requirements for tree maintenance and replacement. The draft modified policy updates this section to include a requirement for all retained and new trees on the site and on the street verge to be adequately maintained and kept in good health in accordance with AS4970.2009 'Protection of Trees on Development Sites'.

LEGISLATIVE COMPLIANCE

Schedule 2, Part 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* sets out the procedure for amending a local planning policy, including the requirement to give local public notice of a decision to amend a local planning policy, unless, in the opinion of the local government, the amendment is a minor amendment.

RISK ASSESSMENT

In accordance with the City's Risk Management Framework, the officer's recommendation/ following options have been assessed against the City's adopted risk tolerance. Comments are provided against each of the risk categories.

Officer's Recommendation	That Council adopts for public advertising the proposed modified Trees on Private Land and Street Verges Policy as contained in <u>Attachment 3</u> to this report.	
Risk Category	Adopted Risk Appetite	Risk Assessment Outcome
Strategic Direction	Moderate	Low
Reputation	Low	Low
Governance	Low	Low
Community and Stakeholder	Moderate	Low
Financial Management	Low	Low
Environmental Responsibility	Low	Low
Service Delivery	Low	Low
Organisational Health and Safety	Low	Low
Conclusion	It is considered that this option has a low risk as it is consistent with the existing policy and aligns with the updated Urban Tree Policy. The draft modified policy	

	also aids in reducing red tape, as there will be consistent provisions relating to trees being planted and/or removed.
--	--

Option 2	That Council adopts for public advertising the proposed modified Trees on Private Land and Street Verges Policy as contained in <u>Attachment 3</u> to this report, with the following modification(s):		
	(a) _____		
	(b) _____		
	(c) _____		
Risk Category	Adopted Risk Appetite	Risk Assessment Outcome	
Strategic Direction	Moderate	Dependent on the other modification(s) determined by Council.	
Reputation	Low		
Governance	Low		
Community and Stakeholder	Moderate		
Financial Management	Low		
Environmental Responsibility	Low		
Service Delivery	Low		
Organisational Health and Safety	Low		
Conclusion	It is considered that the risks of this option are dependent on the other modification(s) determined by Council.		

Option 3	That Council does not adopt for public advertising the proposed modified Trees on Private Land and Street Verges Policy as contained in <u>Attachment 3</u> to this report.	
Risk Category	Adopted Risk Appetite	Risk Assessment Outcome
Strategic Direction	Moderate	Moderate
Reputation	Low	Low
Governance	Low	Low
Community and Stakeholder	Moderate	Moderate
Financial Management	Low	Low
Environmental Responsibility	Low	Low
Service Delivery	Low	Moderate
Organisational Health and Safety	Low	Low
Conclusion	It is considered that this option has a moderate risk to the City's strategic direction as the policy requires updating to be in line with the City's Urban Tree Policy. There is a moderate service delivery risk as the existing policy would result in there being different provisions applicable for the removal and replacement of trees across the City's business units and consequently increasing red tape. It is also considered that there is moderate community and stakeholder risk due to there being uncertainties in relation to the applicable provisions that the City would consistently apply to a development.	

FINANCIAL IMPLICATIONS

The following financial implications are applicable:

Item 1: Advertise the proposed modified policy

Asset Category: N/A **Source of Funds:** Municipal

LTFP Impacts: Not itemised in the LTFP

Notes: Nil.

ITEM NO.	CAPITAL / UPFRONT COSTS (\$)	ONGOING COSTS (\$)		INCOME (\$)	ASSET LIFE (YEARS)	WHOLE OF LIFE COSTS (\$)	CURRENT BUDGET (\$)
		MATERIALS & CONTRACT	STAFFING				
1	\$600	-	-	-	-	-	\$14,000

STRATEGIC IMPLICATIONS

In accordance with the City of Bayswater Strategic Community Plan 2021-2031, the following applies:

Theme: Environment and Liveability

Goal E1: Maintain the identity and heritage of our neighbourhoods while supporting an increase in high quality density around transport nodes.

It is considered that the proposed draft modified Trees on Private Land and Street Verges Policy will ensure that local character and/or amenity of an area is maintained, whilst communicating the provisions in a clear and simple manner.

CONCLUSION

The proposed draft modified policy is considered to be consistent with the City's updated policy format, incorporates various improvements and clarifies provisions to enhance its ease of use and effectiveness. In light of this, it is recommended that the proposed modified Trees on Private Land and Street Verges local planning policy is adopted by Council for public advertising.

Trees on Private Land and Street Verges Policy



Responsible Division	Planning and Development Services
Responsible Business Unit/s	Planning Services
Responsible Officer	
Affected Business Unit/s	

Purpose

To outline the requirements for providing, maintaining, protecting and removing trees on private land and the street verge during the development of land or residential subdivision in the City of Bayswater.

To emphasize that the removal of trees is to be avoided unless absolutely necessary.

Objectives

To:

1. Assist with achieving the City of Bayswater's objective to increase tree canopy coverage to 20% by the year 2025 by increasing tree canopy coverage on private and public land.
2. Mitigate the urban heat island effect, reduce air pollution, improve groundwater quality and contribute to wildlife habitats, biodiversity and ecological corridors.
3. Assist with community comfort through shade and the reduction of glare, provide neighbourhood amenity, character and sense of place, and provide visual screening and privacy.
4. Provide a diverse range of tree sizes and species to enhance visual interest and to assist with providing a more resilient urban forest.
5. Prevent tree diseases and excessive shade through the adequate separation of trees, facilitate diversity in the age, size and species of trees throughout the City of Bayswater, and to encourage the retention of 'trees worthy of retention' and the planting of 'large trees'.

Introduction

The City of Bayswater's Urban Forestry Strategy indicates that canopy tree coverage is approximately 13.2%. The City has made an aspirational commitment to increase canopy coverage to 20% by the year 2025 in order to increase the level of benefits derived from having trees within the urban environment.

A significant proportion of trees in the urban area are being lost due to infill development, which if no intervention is undertaken, will have significant impacts on the community and urban areas

Definitions

Tree growth zone - An exclusion zone around a tree, which assists in the protection, growth and ongoing health of a tree.

At and below ground level, the tree growth zone is to comprise soil and other water permeable materials that aid in the health and growth of the tree.

A trafficable water permeable surface can encroach within the tree growth zone of new trees; provided that suitable provision is made to prevent ground compaction and tree root damage. If trafficable water permeable surfaces are proposed within the tree growth zone a report by a 'suitably qualified landscape architect' or suitably qualified currently practising arborist, at the expense of the applicant, is required detailing requirements to ensure tree roots will not be compacted or damaged.

Tree worthy of retention - Existing trees on private property that:

- (a) are considered by the City of Bayswater to be healthy specimens with ongoing viability; and
- (b) are considered by the City of Bayswater to be species that are not included on an applicable weed register or are an unsuitable tree species; and
- (c) are at least 3m in height; and/or
- (d) have a trunk with a diameter of at least 100mm at 1m from the ground; and/or
- (e) have two or more trunks and the aggregate of their individual diameter at 1m above ground is at least 200mm; and/or
- (f) have a canopy with a diameter of at least 3m.

The City of Bayswater may require an arborist report to be prepared by a suitably qualified currently practising arborist, at the expense of the applicant, to verify if a tree is considered worthy of retention.

Standard tree - A species of tree that has the potential to grow to at least 4m in height and has a minimum size of at least 35 litres when planted.

Large tree - A species of tree that has the potential to grow to at least 12m in height and has a minimum size of at least 35 litres when planted.

Hard surface - Any surface that does not readily allow for drainage and the penetration and attaching of anchoring tree roots.

Suitably qualified landscape architect - A landscape architect currently registered with the Australian Institute of Landscape Architects or a similar association.

Scope

1. The requirements in this policy apply to all development where the approximate cost of the proposed development is:
 - (a) \$100,000 or more for residential developments; and
 - (b) \$200,000 or more for non-residential and mixed use developments, excluding those involving only a change of use or internal works.

2. Any development that does not meet the thresholds specified in Clause 1 is to still have consideration for the objectives and some provisions contained in this policy, at the discretion of the City of Bayswater.
3. In relation to all residential subdivisions, the requirements for trees on private property in this policy apply where additional lots are proposed and an existing dwelling is proposed to be retained.

Requirements

Requirements for Trees on Private Property

1. 'Standard trees' are to be provided at a rate of one tree for every 350m² of site area (rounded to the nearest whole number). At least one 'standard tree' is to be provided on each site.
2. The total number of trees required in Clause 1 may be reduced by one, for each 'tree worthy of retention' that is retained or relocated elsewhere on the site, or 'large tree' that is provided. Where a 'tree worthy of retention' is proposed to be retained or relocated on the site and it is a 'large tree', the total number of trees required in Clause 1 may be reduced by two.
3. A 'tree growth zone' is required around the entire base of all new trees or existing trees that are to be retained on the site, measured at:
 - (a) a minimum radius of 2m for a 'standard tree'; and
 - (b) a minimum radius of 3.5m for a 'large tree'.
4. No structure is to encroach within the 'tree growth zone', above or below ground level. The 'tree growth zone' is to be contained completely on the site, except for 'trees worthy of retention'.
5. If the 'tree growth zone' is situated on top of a 'hard surface', a report by a suitably qualified currently practicing consulting arborist is required, at the expense of the applicant, confirming that the design of the 'tree growth zone' is appropriate to allow the tree to grow to maturity, to the satisfaction of the City of Bayswater.
6. The trunks of all proposed new trees are to be adequately separated from the trunks other trees, to the satisfaction of the City of Bayswater.
7. The trunks of all trees are to be located outside of any required minimum outdoor living area dimensions required in the Residential Design Codes, except for the trunks of 'trees worthy of retention' when they are retained.
8. In relation to open air car parking areas in non-residential developments, 'standard trees' that provide shade cover are to be provided at a minimum rate of 1 tree per 4 bays. The number of trees required in Clause 1 can be used to provide the shade trees.
9. A 'tree worthy of retention' may only be relocated elsewhere on the site or on the adjacent street verge, where a report by a suitably qualified currently practicing consulting arborist is provided detailing the new location of the tree and how the tree will be kept in good health prior to, during and after the relocation, to the satisfaction of the City of Bayswater..

Requirements for Trees on Street Verges

1. Trees on the street verge are to be retained, unless in the opinion of the City of Bayswater:
 - (a) The tree is dead;
 - (b) Where an unacceptable level of risk exists within the tree's structure and remedial techniques cannot rectify;
 - (c) The tree is suffering from a disease where remedial techniques will not prevent further spread of the disease, and the removal will be of benefit to other trees around it;
 - d) The tree is causing significant damage to infrastructure and suitable documented evidence is provided by a suitably qualified currently practising arborist, at the expense of the applicant; and/or
 - e) To facilitate the placement of a permanent vehicle access crossing as a last resort, where there is no other viable option.
2. In the event that the removal of a tree on the street verge is warranted and has been approved by the City of Bayswater in accordance with Clause 1, the land owner or developer may be responsible for:
 - a) The removal of the tree, including engaging a qualified contractor and any costs or claims that may arise from the removal of the tree; and
 - b) The payment of a fee in accordance with the City of Bayswater's fees and charges for the loss of the tree's visual, physical, environmental and ecological amenity value. The Helliwell System is to be used to determine the tree's visual, physical, environmental and ecological amenity value, to the satisfaction of the City of Bayswater. The fee will be used by the City of Bayswater to plant additional trees in the same suburb as the subject development site.
3. If no street trees exist or a street tree is to be removed with regard to Clause 1, at least one new 'standard tree' is to be provided, by the land owner or developer, on the verge adjacent to the site, where space is available, to the satisfaction of the City of Bayswater.
4. In addition to Clause 3, the City of Bayswater may require additional trees to be provided, where space is available, to the satisfaction of the City of Bayswater.
5. A minimum 2m setback is to be provided from the edge of any street tree trunk, and any crossover/driveway and the trunks of all proposed new trees are to be adequately separated from the trunks of other trees, to the satisfaction of the City of Bayswater.

Alternative Design Solution

An alternative design solution that varies any of the requirements contained in this policy will only be considered in exceptional circumstances, where the alternative is consistent with the objectives of the policy and is justified in a report prepared by a 'suitably qualified landscape architect', to the satisfaction of the City of Bayswater.

Tree Maintenance and Replacement

1. All new trees on the site and on the street verge are to be planted and watered (via reticulation or other similar method) for the first two summers by the land owner or developer, to the satisfaction of the City of Bayswater.
2. All retained and new trees on the site and on the street verge are to be adequately maintained and kept in good health. In the event that a tree is in poor health and needs to be removed, it is to be replaced with an adequate replacement tree by the owner or developer, to the satisfaction of the City of Bayswater.

Information to be Submitted with a Development and Subdivision Applications

Plans for all development and subdivision applications that are subject to this policy are to indicate:

1. The location and species of all trees proposed to be retained that are 'trees worthy of retention' on the site and all existing trees within the street verge that may be impacted by the proposed development or subdivision;
2. The location of all proposed new trees on the site and on the street verge;
3. The location of all proposed 'tree growth zones'; and
4. Additional elevations may be required, to the satisfaction of the City of Bayswater, indicating the potential size and canopy spread of all retained or proposed trees on the site and on the street verge at maturity in relation to any existing or proposed structures or any retained or proposed trees.

Related Legislation

Policy is adopted under the City of Bayswater's town planning schemes, in accordance with Schedule 2, Clause 4 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Related Documentation

Nil

Relevant Delegations	
Council Adoption	12 June 2018
Reviewed / Modified	22 September 2020
Reviewed / Modified	
Reviewed / Modified	

Trees on Private Land and Street Verges Policy



Responsible Division	Planning and Development Services Community and Development
Responsible Business Unit/s	Planning Services Development and Place
Responsible Officer	Manager Development and Place
Affected Business Unit/s	Development and Place

Purpose

To outline the requirements for providing, maintaining, protecting and removing trees on private land and **within** the street verge. **These requirements outline obligations applicable to the landowner associated with** during the development of land or residential subdivision in the City of Bayswater.

~~To emphasize that the removal of trees is to be avoided unless absolutely necessary.~~

To increase the tree canopy and improve the neighbourhood amenity, character and sense of place.

Objectives

To:

1. Assist with achieving the City of Bayswater's objective to increase **the** tree canopy coverage to **20% by the year 2025** by **implementing controls that will promote the protection of trees** increasing tree canopy coverage on private and public land.
2. Mitigate the urban heat island effect, reduce air pollution, improve groundwater quality and contribute to wildlife habitats, biodiversity and ecological corridors.
3. Assist with community comfort through **the provision of shade**, and the reduction of glare, provide **improved** neighbourhood amenity, character and sense of place, and provide visual screening and privacy.
4. Provide a diverse range of tree sizes and species to enhance visual interest and to assist with providing a more resilient urban forest.
5. **Mitigate** Prevent tree diseases and excessive shade through the adequate separation of trees, facilitate diversity in the age, size and species of trees throughout the City of Bayswater, and to encourage the retention of 'trees worthy of retention' and the planting of 'large trees'.

Introduction

The City of Bayswater's ~~Urban Forestry Strategy~~ indicates that **tree** canopy ~~tree~~ coverage is approximately 13.2% **14.5% based on the light detection and ranging calculation undertaken in 2021**. The City has made an aspirational commitment to increase canopy coverage to 20% by the year 2025 in order to increase the ~~level of~~ benefits derived from having trees within the urban environment.

~~A significant proportion of Trees in the urban areas~~ **are** being lost due to infill development **and this can have**, which if no intervention is undertaken, will have significant impacts on the community and **the respective** urban areas.

Definitions

Tree growth zone - An exclusion zone around a tree, which assists in the protection, growth and ongoing health of a tree.

At and below ground level, the tree growth zone is to comprise soil and other water permeable materials that aid in the health and growth of the tree.

A trafficable water permeable surface can encroach within the tree growth zone of new trees; provided that suitable provision is made to prevent ground compaction and tree root damage. If trafficable water permeable surfaces are proposed within the tree growth zone a report by a 'suitably qualified landscape architect' or a suitably qualified and currently practising arborist, at the expense of the applicant, is required detailing requirements to ensure tree roots will not be compacted or damaged.

Tree worthy of retention - Existing trees on private property that:

- (a) are considered by the City of Bayswater to be healthy specimens with ongoing viability; and
- (b) are considered by the City of Bayswater to be species that are not included on an applicable weed register or are an unsuitable tree species; and
- (c) are at least 3m in height; and/or
- (d) have a trunk with a diameter of at least 100mm at 1m from the ground; and/or
- (e) have two or more trunks and the aggregate of their individual diameter at 1m above ground is at least 200mm; and/or
- (f) have a canopy with a diameter of at least 3m.

The City of Bayswater may require an arborist report to be prepared by a suitably qualified and currently practising arborist, at the expense of the applicant, to verify if a tree is considered worthy of retention.

Standard tree - A species of tree that has the potential to grow to at least 4m in height and has a minimum size of at least 35 litres when planted.

Large tree - A species of tree that has the potential to grow to at least 12m in height and has a minimum size of at least 35 litres when planted.

Hard surface - Any surface that does not readily allow for drainage, and the penetration and attaching of anchoring tree roots.

Suitably qualified landscape architect - A landscape architect currently registered with the Australian Institute of Landscape Architects or a similar association.

Scope

1. The requirements in this policy apply to all development applications, where the approximate cost of the proposed development is:
 - (a) \$100,000 or more for residential developments; and

- (b) \$200,000 or more for non-residential and mixed use developments, excluding those involving only a change of use or internal works.
- 2. Any development that does not meet the thresholds specified in Clause 1, **including State Government major projects and subdivision applications**, is to ~~still~~ have consideration ~~for~~ of the objectives and ~~some~~ provisions contained in this policy, at the discretion of the City of Bayswater.

Requirements

Requirements for Trees on Private Property

1. 'Standard trees' are to be provided at a rate of one tree for every 350m² of site area (rounded to the nearest whole number). ~~At least~~ **with a minimum of** one 'standard tree' is to be provided on each site **which is less than 350m² in area**.
2. The total number of **'standard trees'** required in Clause 1 may be reduced by one, for each 'tree worthy of retention' that is retained or relocated elsewhere on the site, or **for each** 'large tree' that is provided. Where a 'tree worthy of retention' is proposed to be retained or relocated on the site and it is a 'large tree', the total number of trees required in Clause 1 may be reduced by two.
3. **A tree which is being retained is to be protected while development occurs in accordance with AS4970.2009 'Protection of Trees on Development Sites'.**
4. A 'tree growth zone' is required around the entire base of all new trees or existing trees that are to be retained on the site, ~~measured at~~ **as follows**:
 - (a) a minimum radius of 2m for a 'standard tree'; and
 - (b) a minimum radius of 3.5m for a 'large tree'.
5. No structure is to encroach within the 'tree growth zone', above or below ground level. The 'tree growth zone' is to be contained completely on the site, except for 'trees worthy of retention'.
6. If the 'tree growth zone' is situated on top of a 'hard surface', a report by a suitably qualified **and** currently practising consulting arborist is required, at the expense of the applicant. **The arborist report is to demonstrate** ~~confirming~~ that the design of the 'tree growth zone' ~~is appropriate to allow~~ **will provide sufficient space for** the tree to grow to maturity, to the satisfaction of the City of Bayswater.
7. The trunks of all proposed new trees are to be adequately separated from the trunks **of** other trees, to the satisfaction of the City of Bayswater.
8. The trunks of all trees are to be located outside of any required minimum outdoor living area dimensions required ~~in~~ **under** the Residential Design Codes, except for the trunks of 'trees worthy of retention' when they are retained.
9. In relation to open air car parking areas in non-residential **and mixed use** developments, 'standard trees' that provide shade cover are to be provided at a minimum rate of 1 tree per 4 bays. The number of trees required in Clause 1 can be used to provide the shade trees.
10. A 'tree worthy of retention' may only be relocated elsewhere on the site or on the adjacent street verge, where a report by a suitably qualified **and** currently practising consulting arborist is provided, **at the expense of the applicant**. **The arborist report is to** ~~detailing~~ the new location of the tree and **demonstrate** how the tree will be kept in good health prior to, during and after the relocation, to the satisfaction of the City of Bayswater.

If a 'tree worthy of retention' dies as a direct consequence of development works, within one year of the development being completed, or the tree being relocated, the landowner will be liable to replace the tree, to the satisfaction of the City of Bayswater.

Requirements for Trees for State Government Major Projects and Subdivision Applications

1. State Government major projects involving the removal of a tree worthy of retention on City controlled land will be subject to a tree replacement ratio of five replacement trees per tree removed.
2. In relation to all residential subdivisions, the City of Bayswater in its referral response will request condition(s) for trees worthy of retention to be retained on any decision made by the determining authority.
3. Clauses 3 to 10 under 'Requirement for Trees on Private Property' are applicable to all State Government major projects and subdivision applications.

Requirements for Trees on Street Verges

1. Trees on the street verge are to be retained, unless in the opinion of the City of Bayswater:
 - (a) The tree is dead;
 - (b) Where **There is** an unacceptable level of risk **that** exists within the tree's structure and remedial techniques cannot rectify;
 - (c) The tree is suffering from a disease where remedial techniques will not prevent further spread of the disease, and the removal will be of benefit to other trees around it;
 - (d) The tree is causing significant damage to infrastructure, **and modification to the infrastructure or tree is impractical**, and suitable documented evidence **to support this** is provided by a suitably qualified **and** currently practising arborist; **and/or**
 - (e) **To facilitate the placement of a permanent vehicle access crossing as a last resort, where there is no other viable option.**
 - (f) **There is an imminent safety risk to people, property and/or infrastructure; and/or**
 - (g) **The removal is approved under a crossover approval granted by the City of Bayswater. Such removal may be subject to conditions of the crossover approval granted in accordance with the City of Bayswater crossovers policy.**
2. ~~In the event that the removal of a tree on the street verge is warranted and has been approved by the City of Bayswater in accordance with Clause 1, the land owner or developer may be responsible for:~~
 - (a) ~~The removal of the tree, including engaging a qualified contractor and any costs or claims that may arise from the removal of the tree; and~~
 - (b) ~~The payment of a fee in accordance with the City of Bayswater's fees and charges for the loss of the tree's visual, physical, environmental and ecological amenity value. The Helliwell System is to be used to determine the tree's visual, physical, environmental and ecological amenity value, to the satisfaction of the City of Bayswater. The fee will be used by the City of Bayswater to plant additional trees in the same suburb as the subject development site.~~

3. ~~If no street trees exist or a street tree is to be removed with regard to Clause 1, at least one new 'standard tree' is to be provided, by the land owner or developer, on the verge adjacent to the site, where space is available, to the satisfaction of the City of Bayswater.~~
4. ~~Where a tree is removed for development and/or for works undertaken for a utility provider or other authority which requires development approval, excluding State Government major projects, then the City of Bayswater will seek compensation for the amenity (Helliwell) valuation of the tree, plus the cost of removing the existing tree, and the cost of arranging provision of a replacement tree(s) and three years' maintenance.~~
5. ~~In addition to Clause 3, the City of Bayswater may require Additional trees~~ **may be required** ~~to be provided, where space is available, to the satisfaction of the City of Bayswater.~~
6. A minimum 2m setback is to be provided from the edge of any street tree trunk, and any crossover/driveway. ~~and The trunks of all proposed new trees are to be adequately separated from the trunks of other trees, to the satisfaction of the City of Bayswater.~~

Alternative Design Solution

An alternative design solution that varies any of the requirements contained in this policy will only be considered in exceptional circumstances, ~~where~~ **Written justification is to be provided by a 'suitably qualified landscape architect' or 'consulting arborist', demonstrating that** the alternative design is consistent with the objectives of the policy ~~and is justified in a report prepared by a 'suitably qualified landscape architect', to the satisfaction of the City of Bayswater.~~

Tree Maintenance and Replacement

1. All new trees on a site and on the street verge are to be planted and watered (via reticulation or other similar method) for the first two summers by the land owner ~~or developer~~, to the satisfaction of the City of Bayswater.
2. In the event that a tree is in poor health and needs to be removed, it is to be replaced with an adequate replacement tree by the owner or developer, to the satisfaction of the City of Bayswater.
3. **All retained and new trees on the site and on the street verge are to be adequately maintained and kept in good health in accordance with AS4970.2009 'Protection of Trees on Development Sites'.**

Information to be Submitted with a Development and Subdivision Applications

Plans for all development and subdivision applications that are subject to this policy are to indicate:

1. The location and species of all trees proposed to be retained that are 'trees worthy of retention' on the site and all existing trees within the street verge that may be impacted by the proposed development or subdivision;
2. The location of all proposed new trees on the site and on the street verge;
3. The location of all proposed 'tree growth zones'; and
4. Additional elevations may be required, to the satisfaction of the City of Bayswater, indicating the potential size and canopy spread of all retained or proposed trees on the site and on the street

verge, at maturity in relation to any existing or proposed structures or any retained or proposed trees.

Related Legislation

This policy is adopted under **all Local Planning Schemes in force within** the City of Bayswater, ~~its town planning schemes~~, in accordance with Schedule 2, **Part 2**, ~~Clause 4~~ of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Related Documentation

Nil

Relevant Delegations	
Council Adoption	12 June 2018
Reviewed / Modified	22 September 2020
Reviewed / Modified	
Reviewed / Modified	



Trees on Private Land and Street Verges Policy

Responsible Division	Community and Development
Responsible Business Unit/s	Development and Place
Responsible Officer	Manager Development and Place
Affected Business Unit/s	Development and Place

Purpose

To outline the requirements for providing, maintaining, protecting and removing trees on private land and within the street verge. These requirements outline obligations applicable to the landowner associated with the development of land in the City of Bayswater.

To increase the tree canopy and improve the neighbourhood amenity, character and sense of place.

Objectives

To:

1. Assist with achieving the City of Bayswater's objective to increase the tree canopy coverage by implementing controls that will promote the protection of trees on private and public land.
2. Mitigate the urban heat island effect, reduce air pollution, improve groundwater quality and contribute to wildlife habitats, biodiversity and ecological corridors.
3. Assist with community comfort through the provision of shade, reduction of glare, improved neighbourhood amenity, character and sense of place, and provide visual screening and privacy.
4. Provide a diverse range of tree sizes and species to enhance visual interest and to assist with providing a more resilient urban forest.
5. Mitigate tree diseases and excessive shade through the adequate separation of trees, facilitate diversity in the age, size and species of trees throughout the City of Bayswater, and to encourage the retention of 'trees worthy of retention' and the planting of 'large trees'.

Introduction

The City of Bayswater's tree canopy coverage is approximately 14.5% based on the light detection and ranging calculation undertaken in 2021. The City has made an aspirational commitment to increase canopy coverage to 20% by the year 2025 in order to increase the benefits derived from having trees within the urban environment.

Trees in urban areas are being lost due to infill development and this can have significant impacts on the community and the respective urban areas.

Definitions

Tree growth zone - An exclusion zone around a tree, which assists in the protection, growth and ongoing health of a tree.

At and below ground level, the tree growth zone is to comprise soil and other water permeable materials that aid in the health and growth of the tree.

A trafficable water permeable surface can encroach within the tree growth zone of new trees; provided that suitable provision is made to prevent ground compaction and tree root damage. If trafficable water permeable surfaces are proposed within the tree growth zone a report by a 'suitably qualified landscape architect' or a suitably qualified and currently practising arborist, at the expense of the applicant, is required detailing requirements to ensure tree roots will not be compacted or damaged.

Tree worthy of retention - Existing trees that:

- (a) are considered by the City of Bayswater to be healthy specimens with ongoing viability; and
- (b) are considered by the City of Bayswater to be species that are not included on an applicable weed register or are an unsuitable tree species; and
- (c) are at least 3m in height; and/or
- (d) have a trunk with a diameter of at least 100mm at 1m from the ground; and/or
- (e) have two or more trunks and the aggregate of their individual diameter at 1m above ground is at least 200mm; and/or
- (f) have a canopy with a diameter of at least 3m.

The City of Bayswater may require an arborist report to be prepared by a suitably qualified and currently practising arborist, at the expense of the applicant, to verify if a tree is considered worthy of retention.

Standard tree - A species of tree that has the potential to grow to at least 4m in height and has a minimum size of at least 35 litres when planted.

Large tree - A species of tree that has the potential to grow to at least 12m in height and has a minimum size of at least 35 litres when planted.

Hard surface - Any surface that does not readily allow for drainage, and the penetration and attaching of anchoring tree roots.

Suitably qualified landscape architect - A landscape architect currently registered with the Australian Institute of Landscape Architects or a similar association.

Scope

1. The requirements in this policy apply to all development applications where the approximate cost of the development is:
 - (a) \$100,000 or more for residential development; and
 - (b) \$200,000 or more for non-residential and mixed use development, excluding those involving only a change of use or internal works.
2. Any development that does not meet the thresholds specified in Clause 1, including State Government major projects and subdivision applications, is to have consideration of the objectives and provisions contained in this policy, at the discretion of the City of Bayswater.

Requirements

Requirements for Trees on Private Property

1. 'Standard trees' are to be provided at a rate of one tree for every 350m² of site area (rounded to the nearest whole number), with a minimum of one 'standard tree' to be provided on each site which is less than 350m² in area.
2. The total number of 'standard trees' required in Clause 1 may be reduced by one, for each 'tree worthy of retention' that is retained or relocated elsewhere on the site, or for each 'large tree' that is provided. Where a 'tree worthy of retention' is proposed to be retained or relocated on the site and it is a 'large tree', the total number of trees required in Clause 1 may be reduced by two.
3. A tree which is being retained is to be protected while development occurs in accordance with AS4970.2009 'Protection of Trees on Development Sites'.
4. A 'tree growth zone' is required around the entire base of all new trees or existing trees that are to be retained on the site, as follows:
 - (a) a minimum radius of 2m for a 'standard tree'; and
 - (b) a minimum radius of 3.5m for a 'large tree'.
5. No structure is to encroach within the 'tree growth zone', above or below ground level. The 'tree growth zone' is to be contained completely on the site, except for 'trees worthy of retention'.
6. If the 'tree growth zone' is situated on top of a 'hard surface', a report by a suitably qualified and currently practising consulting arborist is required, at the expense of the applicant. The arborist report is to demonstrate that the design of the 'tree growth zone' will provide sufficient space for the tree to grow to maturity, to the satisfaction of the City of Bayswater.
7. The trunks of all proposed new trees are to be adequately separated from the trunks of other trees, to the satisfaction of the City of Bayswater.
8. The trunks of all trees are to be located outside of any required minimum outdoor living area dimensions required under the Residential Design Codes, except for the trunks of 'trees worthy of retention' when they are retained.
9. In relation to open air car parking areas in non-residential and mixed use developments, 'standard trees' that provide shade cover are to be provided at a minimum rate of 1 tree per 4 bays. The number of trees required in Clause 1 can be used to provide the shade trees.
10. A 'tree worthy of retention' may only be relocated elsewhere on the site or on the adjacent street verge, where a report by a suitably qualified and currently practising consulting arborist is provided, at the expense of the applicant. The arborist report is to detail the new location of the tree and demonstrate how the tree will be kept in good health prior to, during and after the relocation, to the satisfaction of the City of Bayswater.

If a 'tree worthy of retention' dies as a direct consequence of development works, within one year of the development being completed, or the tree being relocated, the landowner will be liable to replace the tree, to the satisfaction of the City.

Requirements for Trees for State Government Major Projects and Subdivision Applications

1. State Government major projects involving the removal of a tree worthy of retention on City controlled land will be subject to a tree replacement ratio of 5 replacement trees per tree removed.

2. In relation to all residential subdivisions, the City of Bayswater in its referral response will request condition(s) for trees worthy of retention to be retained on any decision.
3. Clauses 3 to 10 under 'Requirement for Trees on Private Property' are applicable to all State Government major projects and subdivision applications.

Requirements for Trees on Street Verges

1. Trees on the street verge are to be retained, unless in the opinion of the City of Bayswater:
 - (a) The tree is dead;
 - (b) There is an unacceptable level of risk that exists within the tree's structure and remedial techniques cannot rectify;
 - (c) The tree is suffering from a disease where remedial techniques will not prevent further spread of the disease, and the removal will be of benefit to other trees around it;
 - (d) The tree is causing significant damage to infrastructure, and modification to the infrastructure or tree is impractical, and suitable documented evidence to support this is provided by a suitably qualified and currently practising arborist;
 - (e) There is an imminent safety risk to people, property and/or infrastructure; and/or
 - (f) The removal is approved under a crossover approval granted by the City of Bayswater. Such removal may be subject to conditions of the crossover approval granted in accordance with the City of Bayswater crossovers policy.
2. Where a tree is removed for development and/or for works undertaken for a utility provider or other authority which requires development approval, excluding State Government major projects, then the City of Bayswater will seek compensation for the amenity (Helliwell) valuation of the tree, plus the cost of removing the existing tree, and the cost of arranging provision of a replacement tree(s) and three years' maintenance.
3. Additional trees may be required to be provided, where space is available, to the satisfaction of the City of Bayswater.
4. A minimum 2m setback is to be provided from the edge of any street tree trunk, and any crossover/driveway. The trunks of all proposed new trees are to be adequately separated from the trunks of other trees, to the satisfaction of the City of Bayswater.

Alternative Design Solution

An alternative design solution that varies any of the requirements contained in this policy will only be considered in exceptional circumstances. Written justification is to be provided by a 'suitably qualified landscape architect' or 'consulting arborist', demonstrating that the alternative design is consistent with the objectives of the policy, to the satisfaction of the City of Bayswater.

Tree Maintenance and Replacement

1. All new trees on a site and on the street verge are to be planted and watered (via reticulation or other similar method) for the first two summers by the land owner, to the satisfaction of the City of Bayswater.
2. In the event that a tree is in poor health and needs to be removed, it is to be replaced with an adequate replacement tree by the owner or developer, to the satisfaction of the City of Bayswater.

3. All retained and new trees on the site and on the street verge are to be adequately maintained and kept in good health in accordance with AS4970.2009 'Protection of Trees on Development Sites'.

Information to be Submitted with Development and Subdivision Applications

Plans for all development and subdivision applications that are subject to this policy are to indicate:

1. The location and species of all trees proposed to be retained that are 'trees worthy of retention' on the site and all existing trees within the street verge that may be impacted by the proposed development or subdivision;
2. The location of all proposed new trees on the site and on the street verge;
3. The location of all proposed 'tree growth zones'; and
4. Additional elevations may be required, to the satisfaction of the City of Bayswater, indicating the potential size and canopy spread of all retained or proposed trees on the site and on the street verge, at maturity in relation to any existing or proposed structures or any retained or proposed trees.

Related legislation

This policy is adopted under all Local Planning Schemes in force within the City of Bayswater, in accordance with Schedule 2, Part 2, of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Related Documentation

Nil.

Relevant Delegations	
Council Adoption	12 June 2018
Reviewed / Modified	22 September 2020
Reviewed / Modified	
Reviewed / Modified	



Trees on Private Land and Street Verges Policy

Responsible Division	Community and Development
Responsible Business Unit/s	Development and Place
Responsible Officer	Manager Development and Place
Affected Business Unit/s	Development and Place

Purpose

To outline the requirements for providing, maintaining, protecting and removing trees on private land and within the street verge. These requirements outline obligations applicable to the landowner associated with the development of land in the City of Bayswater.

To increase the tree canopy and improve the neighbourhood amenity, character and sense of place.

Objectives

To:

1. Assist with achieving the City of Bayswater's objective to increase the tree canopy coverage by implementing controls that will promote the protection of trees on private and public land.
2. Mitigate the urban heat island effect, reduce air pollution, improve groundwater quality and contribute to wildlife habitats, biodiversity and ecological corridors.
3. Assist with community comfort through the provision of shade, reduction of glare, improved neighbourhood amenity, character and sense of place, and provide visual screening and privacy.
4. Provide a diverse range of tree sizes and species to enhance visual interest and to assist with providing a more resilient urban forest.
5. Mitigate tree diseases and excessive shade through the adequate separation of trees, facilitate diversity in the age, size and species of trees throughout the City of Bayswater, and to encourage the retention of 'trees worthy of retention' and the planting of 'large trees'.

Introduction

The City of Bayswater's tree canopy coverage is approximately 14.5% based on the light detection and ranging calculation undertaken in 2021. The City has made an aspirational commitment to increase canopy coverage to 20% by the year 2025 in order to increase the benefits derived from having trees within the urban environment.

Trees in urban areas are being lost due to infill development and this can have significant impacts on the community and the respective urban areas.

Definitions

Tree growth zone - An exclusion zone around a tree, which assists in the protection, growth and ongoing health of a tree.

At and below ground level, the tree growth zone is to comprise soil and other water permeable materials that aid in the health and growth of the tree.

A trafficable water permeable surface can encroach within the tree growth zone of new trees; provided that suitable provision is made to prevent ground compaction and tree root damage. If trafficable water permeable surfaces are proposed within the tree growth zone a report by a 'suitably qualified landscape architect' or a suitably qualified and currently practising arborist, at the expense of the applicant, is required detailing requirements to ensure tree roots will not be compacted or damaged.

Tree worthy of retention - Existing trees that:

- (a) are considered by the City of Bayswater to be healthy specimens with ongoing viability; and
- (b) are considered by the City of Bayswater to be species that are not included on an applicable weed register or are an unsuitable tree species; and
- (c) are at least 3m in height; and/or
- (d) have a trunk with a diameter of at least 100mm at 1m from the ground; and/or
- (e) have two or more trunks and the aggregate of their individual diameter at 1m above ground is at least 200mm; and/or
- (f) have a canopy with a diameter of at least 3m.

The City of Bayswater may require an arborist report to be prepared by a suitably qualified and currently practising arborist, at the expense of the applicant, to verify if a tree is considered worthy of retention.

Standard tree - A species of tree that has the potential to grow to at least 4m in height and has a minimum size of at least 35 litres when planted.

Large tree - A species of tree that has the potential to grow to at least 12m in height and has a minimum size of at least 35 litres when planted.

Hard surface - Any surface that does not readily allow for drainage, and the penetration and attaching of anchoring tree roots.

Suitably qualified landscape architect - A landscape architect currently registered with the Australian Institute of Landscape Architects or a similar association.

Scope

1. The requirements in this policy apply to all development applications where the approximate cost of the development is:
 - (a) \$100,000 or more for residential development; and
 - (b) \$200,000 or more for non-residential and mixed use development, excluding those involving only a change of use or internal works.
2. Any development that does not meet the thresholds specified in Clause 1, including State Government major projects and subdivision applications, is to have consideration of the objectives and provisions contained in this policy, at the discretion of the City of Bayswater.

Requirements

Requirements for Trees on Private Property

1. 'Standard trees' are to be provided at a rate of one tree for every 350m² of site area (rounded to the nearest whole number), with a minimum of one 'standard tree' to be provided on each site which is less than 350m² in area.
2. The total number of 'standard trees' required in Clause 1 may be reduced by one, for each 'tree worthy of retention' that is retained or relocated elsewhere on the site, or for each 'large tree' that is provided. Where a 'tree worthy of retention' is proposed to be retained or relocated on the site and it is a 'large tree', the total number of trees required in Clause 1 may be reduced by two.
3. A tree which is being retained is to be protected while development occurs in accordance with AS4970.2009 'Protection of Trees on Development Sites'.
4. A 'tree growth zone' is required around the entire base of all new trees or existing trees that are to be retained on the site, as follows:
 - (a) a minimum radius of 2m for a 'standard tree'; and
 - (b) a minimum radius of 3.5m for a 'large tree'.
5. No structure is to encroach within the 'tree growth zone', above or below ground level. The 'tree growth zone' is to be contained completely on the site, except for 'trees worthy of retention'.
6. If the 'tree growth zone' is situated on top of a 'hard surface', a report by a suitably qualified and currently practising consulting arborist is required, at the expense of the applicant. The arborist report is to demonstrate that the design of the 'tree growth zone' will provide sufficient space for the tree to grow to maturity, to the satisfaction of the City of Bayswater.
7. The trunks of all proposed new trees are to be adequately separated from the trunks of other trees, to the satisfaction of the City of Bayswater.
8. The trunks of all trees are to be located outside of any required minimum outdoor living area dimensions required under the Residential Design Codes, except for the trunks of 'trees worthy of retention' when they are retained.
9. In relation to open air car parking areas in non-residential and mixed use developments, 'standard trees' that provide shade cover are to be provided at a minimum rate of 1 tree per 4 bays. The number of trees required in Clause 1 can be used to provide the shade trees.
10. A 'tree worthy of retention' may only be relocated elsewhere on the site or on the adjacent street verge, where a report by a suitably qualified and currently practising consulting arborist is provided, at the expense of the applicant. The arborist report is to detail the new location of the tree and demonstrate how the tree will be kept in good health prior to, during and after the relocation, to the satisfaction of the City of Bayswater.

If a 'tree worthy of retention' dies as a direct consequence of development works, within one year of the development being completed, or the tree being relocated, the landowner will be liable to replace the tree, to the satisfaction of the City.

Requirements for Trees for State Government Major Projects and Subdivision Applications

1. State Government major projects involving the removal of a tree worthy of retention on City controlled land will be subject to a tree replacement ratio of 5 replacement trees per tree removed.

2. In relation to all residential subdivisions, the City of Bayswater in its referral response will request condition(s) for trees worthy of retention to be retained on any decision.
3. Clauses 3 to 10 under 'Requirement for Trees on Private Property' are applicable to all State Government major projects and subdivision applications.

Requirements for Trees on Street Verges

1. Trees on the street verge are to be retained, unless in the opinion of the City of Bayswater:
 - (a) The tree is dead;
 - (b) There is an unacceptable level of risk that exists within the tree's structure and remedial techniques cannot rectify;
 - (c) The tree is suffering from a disease where remedial techniques will not prevent further spread of the disease, and the removal will be of benefit to other trees around it;
 - (d) The tree is causing significant damage to infrastructure, and modification to the infrastructure or tree is impractical, and suitable documented evidence to support this is provided by a suitably qualified and currently practising arborist;
 - (e) There is an imminent safety risk to people, property and/or infrastructure; and/or
 - (f) The removal is approved under a crossover approval granted by the City of Bayswater. Such removal may be subject to conditions of the crossover approval granted in accordance with the City of Bayswater crossovers policy.
2. ~~Where a~~ tree ~~is~~ may be removed for development and/or for works undertaken for a utility provider or other authority which requires development approval, excluding State Government major projects. ~~When this occurs, then~~ the City of Bayswater will seek compensation ~~from the utility provider or other authority~~ for the amenity (Helliwell) valuation of the tree, plus the cost of removing the existing tree, and the cost of arranging provision of a replacement tree(s) and three years' maintenance.
3. Additional trees may be required to be provided, where space is available, to the satisfaction of the City of Bayswater.
4. A minimum 2m setback is to be provided from the edge of any street tree trunk, and any crossover/driveway. The trunks of all proposed new trees are to be adequately separated from the trunks of other trees, to the satisfaction of the City of Bayswater.

Alternative Design Solution

An alternative design solution that varies any of the requirements contained in this policy will only be considered in exceptional circumstances. Written justification is to be provided by a 'suitably qualified landscape architect' or 'consulting arborist', demonstrating that the alternative design is consistent with the objectives of the policy, to the satisfaction of the City of Bayswater.

Tree Maintenance and Replacement

1. All new trees on a site and on the street verge are to be planted and watered (via reticulation or other similar method) for the first two summers by the land owner, to the satisfaction of the City of Bayswater.
2. In the event that a tree is in poor health and needs to be removed, it is to be replaced with an adequate replacement tree by the owner or developer, to the satisfaction of the City of Bayswater.

3. All retained and new trees on the site and on the street verge are to be adequately maintained and kept in good health in accordance with AS4970.2009 'Protection of Trees on Development Sites'.

Information to be Submitted with Development and Subdivision Applications

Plans for all development and subdivision applications that are subject to this policy are to indicate:

1. The location and species of all trees proposed to be retained that are 'trees worthy of retention' on the site and all existing trees within the street verge that may be impacted by the proposed development or subdivision;
2. The location of all proposed new trees on the site and on the street verge;
3. The location of all proposed 'tree growth zones'; and
4. Additional elevations may be required, to the satisfaction of the City of Bayswater, indicating the potential size and canopy spread of all retained or proposed trees on the site and on the street verge, at maturity in relation to any existing or proposed structures or any retained or proposed trees.

Related legislation

This policy is adopted under all Local Planning Schemes in force within the City of Bayswater, in accordance with Schedule 2, Part 2, of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Related Documentation

Nil.

Relevant Delegations	
Council Adoption	12 June 2018
Reviewed / Modified	22 September 2020
Reviewed / Modified	
Reviewed / Modified	

9 PREVIOUS MATTERS DEALT WITH NOT ON THE AGENDA

Reconciliation arising from past meetings:

Nil.

10 GENERAL BUSINESS

Nil.

11 CONFIDENTIAL ITEMS

11.1 Confidential Items

Nil.

12 NEXT MEETING

The next meeting of the Policy Review and Development Committee will take place in the Committee Room, at the City of Bayswater Civic Centre, on a date and time to be confirmed.

13 CLOSURE

There being no further business to discuss, the Chairperson, Cr Josh Eveson, declared the meeting closed at 6:49pm.