

10.14 Proposed Tree Street Heritage Area – Outcomes of Public Consultation (listed as 10.1.9 in the agenda)

File Ref:	COB/100
Applicant/Proponent:	Heritage Advisory Committee
Responsible Officer:	Lacey Brown, Strategic Planning Officer (Heritage)
Responsible Manager:	Barbara Macaulay, Manager Planning and Building
Executive:	Dave Russell, Acting Director Sustainable Development
Authority/Discretion	<input type="checkbox"/> Advocacy <input type="checkbox"/> Quasi-Judicial <input type="checkbox"/> Executive/Strategic <input type="checkbox"/> Information Purposes <input checked="" type="checkbox"/> Legislative
Attachments:	Appendix 10.1.9-A – Schedule of Submissions Appendix 10.1.9-B – Draft Local Planning Policy 4.3

Summary

Following Council’s decision on 27 June 2023 to proceed to advertising of the proposed Tree Streets Heritage Area and associated draft Local Planning Policy 4.3, the public consultation has now been completed. Consideration of the submissions received during the public consultation period has been completed and was presented to the Heritage Advisory Council for their review and recommendation. Based on the submissions and strong opposition to the proposal, it is recommended that Council do not proceed with the designation of the heritage area and associated local planning policy.

Executive and Heritage Advisory Committee Recommendation

That Council:

1. Note the Schedule of Submissions following public consultation of the proposed Tree Street Heritage Area and associated draft Local Planning Policy 4.3 (Appendix 10.1.9-A);
2. Not proceed with the proposal of the Tree Streets Heritage Area designation and associated Local Planning Policy 4.3 (Appendix 10.1.9-B);
3. Advise the property owners/occupiers in writing of the Council decision.

Voting Requirement: Simple Majority

Strategic Relevance

Pillar	Place
Aspiration	An integrated, vibrant and well planned City.
Outcome 7	A community with high-quality urban design and housing diversity.
Objective 7.1	Promote responsible planning and development.
Objective 7.2	Grow recognition and respect for local history and heritage.

Regional Impact Statement

Heritage is important for the community and has environmental, economic and social benefits as a resource for present and future generations. The City of Bunbury recognises the importance of identifying, assessing and managing heritage places within its local government area to align with contemporary community values.

Background

The deemed provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the deemed provisions) identify that a heritage area should be designated 'if, in the opinion of the local government, special planning control is needed to conserve and enhance the cultural heritage significance and character of an area...'. A separate local planning policy (LPP) is required for each heritage area designated under the local planning scheme. The requirements of such an LPP are detailed in Clause 9(2), Schedule 2 of the deemed provisions.

In 2004, the City of Bunbury commissioned an investigation into the cultural heritage significance of the Tree Street Area. The initial investigation was undertaken by Considine and Griffiths Architects with Historian Robin Chinnery. During the 2004 analysis of the proposed Tree Street Heritage Area, the study area included Karri Street, Jarrah Street, Banksia Street, Stockley Road, Beach Road and included a section of Tuart Street from Sampson Road to Beach Road. There were opposing views from the community and extensive consultation through the formation of a working group. The finalisation of a heritage area did not proceed due to the lack of consensus. Recent demolitions and new built form have triggered further consideration of this area as part of the Local Heritage Survey (LHS) review.

The City of Bunbury Local Housing Strategy (2021) investigated, amongst other matters, appropriate infill areas. The proposed Tree Streets Heritage Area is in a location close to the CBD and schools that would normally trigger higher density investigations. However, given the character and cluster of heritage listings in this area, it was an action of the Strategy to investigate the Tree Streets potential as a heritage area in the first instance (Action 8).

In December 2021, the City engaged heritage professionals, Stephen Carrick Architects, to undertake heritage assessments of priority locations across the City. The HAC and members of the public had previously identified the CBD and the 'Tree Streets' (HAC recommendation August 2021). The project team included a heritage architect and historian. Consideration of previous work (Considine and Griffiths, 2004), street surveys and desktop research informed the assessment as previously reported to Council in January 2023. The assessment was based on the DPLH 2022 Guidelines for Heritage Areas (draft) and set out –

- a) a map showing the boundaries of the heritage area;
- b) a statement about the heritage significance of the area;
- c) a record of places of heritage significance in the heritage area.

The Bunbury Council resolved on 31 January 2023 (Decision 009/23) to support the proposal of a designated heritage area and require the preparation of a local planning policy and an engagement plan. Further on 27 June 2023 (Decision 110/23) Council resolved to proceed to advertise the proposal and draft local planning policy for a period of 42 days (later extended to 56 days in total). A public information session was held on 8 August 2023 and a further Public Information Session on the consultation outcomes was held on 15 March 2024.

Council Policy Compliance

Not applicable.

Legislative Compliance

The following legislation and statutory planning instruments of the State and Local Planning Framework are applicable:

Legislation

- *Heritage Act 2018*
- *Planning and Development Act 2005*
- *Planning and Development (Local Planning Schemes) Regulations 2015*
- The Burra Charter

State Planning Framework

- Guidelines for Local Heritage Surveys 2019
- Guidelines for Establishing a Heritage List 2021
- Statement of Planning Policy 3.5 Historic Heritage Conservation

Local Planning Framework

- City of Bunbury Local Planning Strategy
- City of Bunbury Local Planning Scheme No.8 (LPS8)
- Local Planning Policy 6.1 – Heritage Conservation and Development
- Local Planning Policy 6.2 – Heritage Listing, Assessment and Concessions

Officer Comments

The proposed heritage area and associated local planning policy

The criteria in the draft Local Planning Policy 4.3 (LPP) (Appendix 10.1.9-B) are based on the assessment conducted by Stephen Carrick Architects and best heritage practice. LPP's contain design guidelines that demonstrate how the values of a heritage area can be retained. They are based on performance criteria and design solutions to reinforce the heritage streetscapes and conserve and retain significant housing stock. The aim is to guide development without detracting from the values of the area.

Demolition of places of little or no significance may be considered but any new builds will need to respond to the design guidelines in the LPP. Design review is an important approach to determine whether the required performance criteria have been achieved. The City provides a free Heritage Advisory Service to assist with design review of proposals.

Another key consideration is that new buildings in heritage areas should not replicate or mimic existing buildings in design, appearance and materials. This provides a more honest or identifiable response to architecture and demonstrates that buildings do not have to look 'old' to respond to their setting and surroundings.

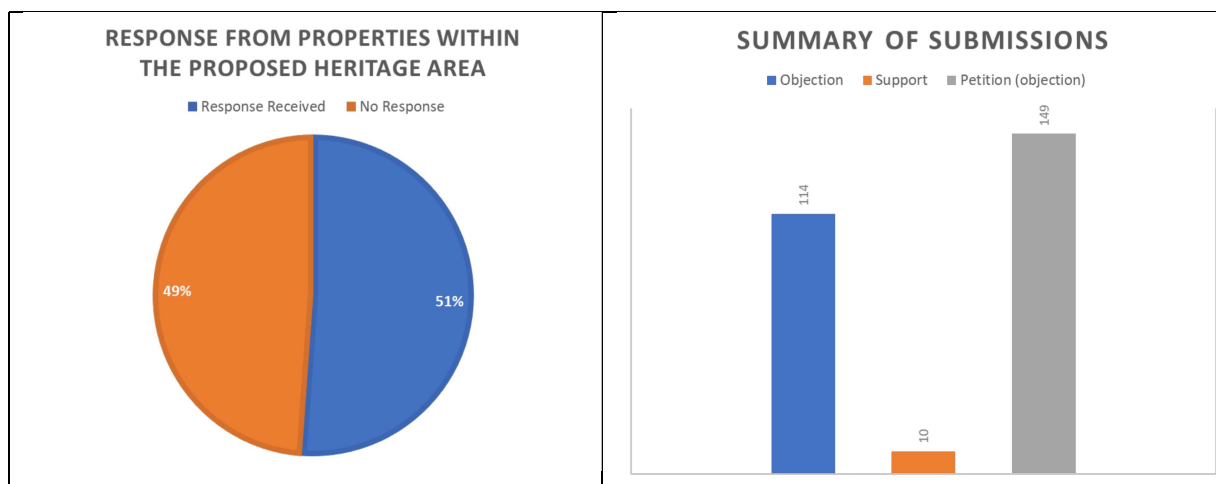
These objectives were explained in the Frequently Asked Questions (FAQ) sheets and Public Information Session of 8 August 2023.

Outcomes of the Public Consultation

At the close of the public consultation period, the following submissions were received:

- 114 submissions (16 outside of area) of objection;
- 10 submissions (1 outside of area) of support; and
- A petition with 149 signatories.

Approximately 51% of properties within the proposed heritage area submitted some form of response (submission/petition signatory). Of these submissions, 94% did not support the proposal.



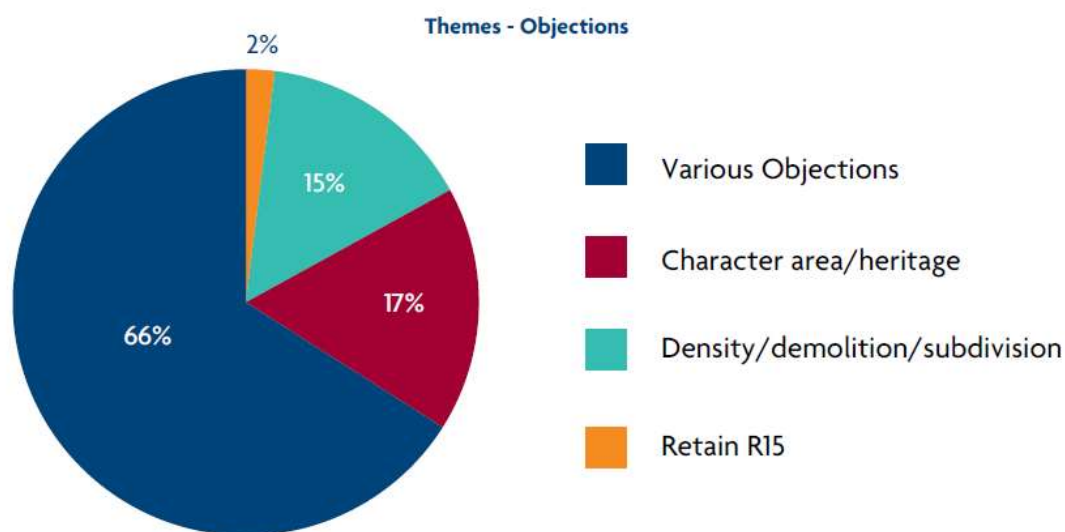
Themes of Public Consultation

Objection

The grounds of objection from the submissions were varied, with the key themes including:

- retaining the status quo of the area
- pursuing a character area
- redevelopment of the area through demolition, density increase and/or subdivision.

The petition was against the proposed local planning policy, however sought for the City to engage in a more extensive dialogue with owners/residents to investigate options that could preserve the integrity of the Tree Streets area and respect the character, while supporting the longer-term owners.



In addition to the key themes addressed above, some of the matters raised in the objections included:

- Residents are doing a good job of self-managing the character to date with no need for intervention.
- There is very little erosion of character (low numbers of demolition or unsympathetic development).
- No heritage area, rather individual heritage listings.
- Concerns regarding associated costs with a heritage area, including insurance premiums, maintenance and repair of an old house, devaluation of property, bureaucratic red tape of development applications.

- The local planning policy should not address internal works, gardens or require like-for-like materials (noting hardwood timber, such as jarrah, not easily available and expensive).
- Old houses are not energy efficient and cannot achieve this without double glazing, insulation, solar panels etc.
- Belief that the heritage assessment survey was flawed.
- Concerns relating to the boundary of the proposed heritage area, such as it being too large and should not include mixed-use section on Beach Road, Wattle Street or Sampson Road.
- Social and well-being impacts of the heritage area and local planning policy, such as stress, anxiety, financial burden, uncertainty.
- No adequate compensation.

Support

The grounds of support were in recognition that this proposal was a mechanism to retain and conserve heritage places, reduce demolition, conserve mature trees and facilitate new development. A number of amendments to the local planning policy were recommended to address greater flexibility with regards to materials, acceptable solutions and maintenance. It was recognised that there were broader community benefits in having a heritage area that would leave an architectural legacy for current and future generations.

Responses to key themes

The majority of objections did not want to enforce a statutory protection of places within the proposed heritage area. A full schedule of submissions is provided at Appendix 1. The key issues identified in the submissions are set out below:

Issue Raised	Officer Comments
Concerns with demolitions occurring in the area	It is noted that there have been a number of demolitions within the area in recent years. The City has limited controls as to the design of the new build, apart from Residential Design Code and Local Planning Scheme compliance. The only mechanism available to the City to prevent demolitions of a single house is through a heritage listing/heritage area designation.
Concerns that residents are not able to demolish	<p>The submissions and discussion at the public information sessions indicate that there is portion of the community that do want to demolish and redevelop (push for increased density to facilitate subdivision). It is considered that future demolitions may have impacts on the existing character of the area.</p> <p>Through the draft local planning policy, demolition of properties which have been identified as having 'little or no significance' can be supported. Partial demolition of high or moderate properties may also be considered if removing detracting additions.</p>
Economic impacts of proposal	Officers do not consider economic matters as part of the heritage area designation process. However submitters concerns regarding property valuations, insurance premium increases and maintenance costs are included in the full schedule of submissions for Council's consideration.
Energy efficiency of older homes	It is noted that a range of energy efficiency measures can be incorporated into older houses such as insulation and solar panels. There are best practice heritage principles as to where and how these measures are incorporated into the heritage building so to not impact negatively on the streetscape or the cultural heritage value.
Concerns regarding initial	The heritage assessment undertaken was based on approved

heritage assessment	guidelines from the Heritage Council of WA and was conducted by an experienced heritage practitioner. For heritage areas, it is acceptable to base levels of significance on a street survey, with more detailed assessments and consultation being generally associated with individual heritage listing proposals.
Concerns with the impact of living in a designated heritage area and future development	<p>The intent of a heritage area is not to stop development but to ensure that it is carried out in a sympathetic manner whilst retaining the values of a heritage place. It is recognised that some change is often required to ensure homes provide a comfortable and contemporary living standard. Sympathetic modern extensions are possible.</p> <p>The criteria that is considered in determining the significance of an area mean places can be significant for reasons other than age and grandeur. Places of different ages, modest and grand, plain and beautiful alike form part of history and heritage.</p>
Concerns regarding the heritage area boundaries	Determining heritage area boundaries is challenging and the heritage consultant acknowledged this, however advised that the first response is to usually incorporate roads and reserves as boundaries. This approach was utilised to determine the boundaries for this proposal. Matters raised in consultation would have been given further consideration in determining the boundaries.
Concerns regarding draft local planning policy	The content of local planning policies for heritage areas should be based on best practice heritage standards, however may be as comprehensive or limited in scope as decided by the Council. The content of the draft policy is often guided by consultation and feedback from the community. It is noted that the City received positive feedback from the Department of Planning, Lands and Heritage (Heritage Services) on the content of the draft local planning policy.

The key message from the submissions is that property owners/occupiers overwhelmingly object to the proposal of the heritage area and associated local planning policy. It is noted that the objections are for different reasons, with some being conflicting in their future vision for the area. This may need to be addressed through place-making or community driven-initiatives that establish what the future should look like for this community.

Research has been undertaken with other local governments that adopted a community-driven approach for character areas or heritage areas. These local governments required residents to take an active role in what they deemed significant or worth protecting, with residents nominating a street/area for consideration as a character or heritage area. These local governments require at least 40% of the property owners within that area to support the proposal. If this level of support was achieved then the local government would investigate the proposal in accordance with approved Heritage Council of WA guidelines and local government policy to see if there was merit in proceeding with the proposal.

It was also raised at the Public Information Session on 15 March 2024 that the planning framework is not static and that the City may be directed from other levels of government or lobby groups to review planning controls. Further background on this includes that there are no plans by the City to review residential density coding in the Tree Streets area in the immediate or short term – noting that the City's Local Housing Strategy demonstrated sufficient capacity (through development of vacant land and residential infill) to meet the City's forecasted housing needs well into the foreseeable future. Notwithstanding, revisiting density coding at a citywide scale can be expected

as part of a broader assessment of housing supply and demand that will inform Scheme and Local Planning Strategy review prior to 2028. The State will have oversight and responsibility for determining and endorsing the outcomes of this review. Acknowledging the State's current heightened efforts to stimulate new housing opportunity and development wherever possible, it is plausible that well serviced, centrally located lower density housing areas (such as the Tree Streets area) will become the focus of increased attention at the time of the review and assessment.

This report was presented to the Heritage Advisory Committee on 10 April 2024 where it was resolved to recommend to Council as per the Executive Recommendation.

Analysis of Financial and Budget Implications

If Council does not proceed with the proposal, there would be no financial or budget implications.

If Council is to proceed with the proposal, additional places included within a heritage area could result in an increase of rate concession applications. The area proposed includes 302 properties of varying significance. Historically the take up of rate concessions is generally quite low, however this could have future budget implications. Rate concessions, subject to eligibility, may be 30% or a maximum of \$1000/year, whichever is the lesser.

Any rate concessions would be considered in accordance with the City of Bunbury Local Planning Policy 6.2 Heritage Listing, Assessment and Concessions.

Community Consultation

The proposal was publicly advertised to all property owners and occupiers within the area as per legislative requirements outlined under the *Planning and Development (Local Planning Schemes) Regulations 2015* for a period of 56 days. Feedback was being sought on the proposal of a heritage area, the proposed boundary, the levels of contribution and the design criteria as detailed within the LPP.

Throughout the advertising period, City Officers were available for 1 on 1 meetings to discuss the proposal. Two public information sessions have been held regarding the proposal, with the first being held on the 8 August 2023 during the consultation period and one on the 15 March 2024 to discuss the outcomes of the consultation.

Councillor/Officer Consultation

A Council Briefing was held on 9 May 2023 in which the intent of a heritage area and LPP were discussed. Councillors were also invited to attend the Public Information Sessions. Consultation has also occurred at an officer level with the Development Coordination Unit and City Planning. Associated policy implications have been discussed with officers across the Infrastructure, and former Sustainable Communities and Strategy and Organisational Performance Directorates. The Western Australian Planning Commission (WAPC) was also consulted on any variations sought against the State Planning Policy 7.3 - Residential Design Codes and DLP (Heritage Services) commended the City on the local planning policy content which was reflective of best practice.

Applicant Consultation

Not applicable.

Timeline: Council Decision Implementation

Immediate.

Outcome of Meeting 14 May 2024

Cr Andrew left the Chamber at 5:35pm

Andrew Cooke delivered a deputation in relation to this item.

The recommendation (as written) was moved by Cr Steck and seconded by Cr Turner.

The Mayor put the motion to the vote, and it was adopted to become the Council's decision on the matter.

Council Decision 083/24

That Council:

- 1. Note the Schedule of Submissions following public consultation of the proposed Tree Street Heritage Area and associated draft Local Planning Policy 4.3 (Appendix 10.1.9-A);**
- 2. Not proceed with the proposal of the Tree Streets Heritage Area designation and associated Local Planning Policy 4.3 (Appendix 10.1.9-B);**
- 3. Advise the property owners/occupiers in writing of the Council decision.**

CARRIED

9 votes "for" / 1 vote "against"

Mayor Miguel and Councillors Brown, Ghasseb, Kozisek, Quain, Ramesh, Steck, Steele and Turner voted "for"

Councillor Smith voted "against"

Cr Andrew rejoined the meeting at 5:46pm.