

**CITY OF SUBIACO**  
**LOCAL PLANNING POLICY 3.1**

**ADDITIONS AND AMENDMENTS TO THE LOCAL HERITAGE  
SURVEY, THE HERITAGE LIST & HERITAGE AREAS**

**ADOPTION DATE:** 23 August 2011  
**REVIEW DATES:** 2 October 2014 & 9 June 2020 & 23 February 2021  
(Renumbered)

**AUTHORITY:** HERITAGE ACT 2018  
TOWN PLANNING SCHEME NO. 4  
PLANNING AND DEVELOPMENT (LOCAL PLANNING  
SCHEMES) REGULATIONS 2015

**STATUTORY BACKGROUND**

Section 103(1) of the *Heritage Act 2018* (the Act) requires a local government to prepare a survey (referred to as a Local Heritage Survey) of places in its district which in its opinion are or may become of cultural heritage significance. In preparing, reviewing or updating a Local Heritage Survey, a local government must have regard to the Guidelines for Local Heritage Surveys published under Section 105 of *the Act*.

Schedule 2 Part 3 of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* (Deemed Provisions) requires local governments to establish and maintain a Heritage List and to designate Heritage Areas, and establishes the requirements for public consultation.

*State Planning Policy 3.5 Historic Heritage Conservation* recommends measures for local governments to identify and protect heritage places and areas that are important to local communities. The City of Subiaco has adopted a Local Planning Policy 3.2 Assessment of Cultural Heritage Significance (LPP 3.2) which is referred to in and related to this policy.

Aboriginal heritage is protected by the *Aboriginal Heritage Act 1972* and the conservation of natural heritage is also protected by other legislation. Therefore, this policy does not apply to the conservation of either Aboriginal or natural heritage.

**Purpose**

- a) To ensure that Council fulfils its statutory obligations under Sections 103 and 105 of the Act and Schedule 2 Part 3 of the Deemed Provisions by setting out the procedure to be followed for the consideration of places to be added to or deleted from the Local Heritage Survey and the Heritage List, and the designation and revocation of Heritage Areas.
- b) To ensure that decisions regarding additions, removals and amendments to the Local Heritage Survey, the Heritage List and Heritage Areas follow due process and that these decisions are based on consideration of the cultural heritage significance of a place or area.

## **POLICY**

### **1.0 Clarification of terms**

#### ***Local Heritage Survey***

The Local Heritage Survey (LHS), established under the provisions of the *Act*, comprises a list of places which in the opinion of Council are, or may become, of cultural heritage significance. The LHS provides a cultural and historic record of the district and assists a local government in preparing a Heritage List or Heritage Areas under a local planning scheme. Inclusion on the LHS has no implications for the development of a property over and above the requirements that are already in place as part of the Local Planning Framework.

#### ***Heritage List***

The Heritage List is established and maintained under the provisions of Regulation 8 in Schedule 2 Part 3 of the Deemed Provisions. The Heritage List contains places which are of cultural heritage significance and deemed worthy of built heritage conservation. Inclusion on the Heritage List does have implications on the development of a property over and above the requirements that are already in place as part of the Local Planning Framework.

#### ***Heritage Areas***

Heritage Areas may be designated under the provisions of Regulation 9 of Schedule 2 Part 3 of the Deemed Provisions. Heritage areas are areas which have been assessed as having cultural heritage significance and character and, in the opinion of Council, require special planning controls to conserve and enhance the cultural heritage significance and character of the area.

When a local government designates a heritage area it must also adopt a local planning policy for that area. Inclusion in a Heritage area does have implications on the development of a property over and above the requirements that are already in place as part of a Local Planning Framework.

#### ***Level of significance***

All places included on the Local Heritage Survey and Heritage List will have an assigned level of significance in accordance with LPP 3.2.

#### ***Cultural heritage significance***

For the purposes of this policy the cultural heritage significance of a place has the same meaning as in the *Act*. LPP 3.2 outlines how cultural heritage values are assessed by the City of Subiaco.

#### ***Other terms and definitions***

All terms and definitions related to heritage used in this policy are based on the terms used in The Burra Charter 1999 – the Australian ICOMOS Charter for Places of Cultural Significance.

**Table 1 – Summary of City of Subiaco generated heritage listing regime**

**(does not include World, National or State Registration or National Trust listing)**

|  | <b>Local Heritage Survey (LHS)</b>  | <b>Heritage List</b>  | <b>Heritage Areas</b>   |
|--|---|---|---|
| Statutory Legislation                                  | Heritage Act 2018   | Planning and Development (Local Planning Schemes) Regulations 2015  | Planning and Development (Local Planning Schemes) Regulations 2015  |
| Applies to   | Places  | Places  | Areas   |
| Direct statutory planning implications of inclusion    | None  | <ol style="list-style-type: none"> <li>1. Possible variation of development requirements and standards of Local Planning Scheme.</li> <li>2. Different levels of development permitted without approval.</li> <li>3. Council obliged to consider conservation of the place in determining development applications.</li> </ol>              | <ol style="list-style-type: none"> <li>1. Possible variation of site or development requirements and standards of Local Planning Scheme.</li> <li>2. Different levels of development permitted without approval.</li> <li>3. Subject to local planning policy adopted by Council for the area.</li> <li>4. Council obliged to consider conservation of the area in determining development applications.</li> </ol> |
| Indirect statutory planning implications for inclusion | <ol style="list-style-type: none"> <li>1. Identifies and records places of cultural heritage significance.</li> <li>2. Assists in making and implementing decisions in harmony with heritage values</li> <li>3. Assists in informing the development of the Heritage List and identifying potential heritage areas</li> </ol>   |   |   |
| Requirements and process of amendment                  | <ol style="list-style-type: none"> <li>1. Consultation is to be consistent with any relevant policy adopted by the local government.</li> <li>2. Reviews and updates of the LHS require formal adoption by Council.</li> <li>3. Administrative updates that do not involve a change to the classification or statement of significance for a place do not require a resolution of Council.</li> <li>4. The timing for a general review of the LHS should be consistent with major reviews of the Local</li> </ol> | <ol style="list-style-type: none"> <li>1. There is a requirement to consult with the owner and occupier of the place and any other stakeholders seen as necessary.</li> <li>2. Places are entered on the Heritage List by a resolution of Council.</li> <li>3. The Heritage List can only be amended by a resolution of Council.</li> </ol> | <ol style="list-style-type: none"> <li>1. There is a requirement to consult with the owners and occupiers of the land within the area.</li> <li>2. Heritage Areas are designated by a resolution of Council.</li> <li>3. Heritage Areas can only be amended by a resolution of Council.</li> <li>4. There is a requirement to adopt a local planning policy for each Heritage Area.</li> </ol>                      |

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|--|--|--|--|
|  | Planning Strategy or Strategic Community Plan. |  |  |
|--|--|--|--|

**Note: this table is a summary only and to the extent it is inconsistent with any part of the text of the policy, the text of the policy shall prevail.**

## **2.0 Procedure for the Local Heritage Survey (LHS)**

Places are included in, or removed from the LHS on the basis of cultural heritage significance and in accordance with the standard heritage assessment criteria outlined in LPP 3.2.

Any place that is listed on the State Register of Heritage Places and/or the Heritage List will automatically be referred to Council for inclusion on the LHS.

### **2.1 Reviews of the Local Heritage Survey**

In accordance with its statutory obligations, Council will from time to time review and assess places for inclusion in or removal from the LHS. A major review of the LHS will generally be undertaken at intervals consistent with a major review of the Local Planning Strategy or the Strategic Community Plan, while minor or area specific reviews of the LHS are undertaken as required or requested.

When undertaking major reviews of the LHS the City will both:

- a. Call for nominations from the general public; and
- b. Undertake a survey in order to review the places already adopted on the LHS and to identify any further places for potential inclusion.

### **2.2 Updates to the Local Heritage Survey**

Administrative updates to the LHS that do not alter the classification and/or statements of significance for places can be undertaken without a resolution of Council.

Amendments or revisions to the LHS to the extent that alter the classification of a place or the statement of significance require a resolution of Council.

### **2.3 Removal from the Local Heritage Survey**

Any person, association or organisation may nominate a place for removal from the LHS. Places will only be removed from the LHS if it can be demonstrated that their previous assessment of cultural heritage significance was erroneous or that they have subsequently lost their significance.

Where the Council is to consider the removal of a place from the LHS, if that place is also included in the Heritage List, consideration of its removal from the Heritage List will be undertaken concurrently.

In some cases a place may have unintentionally been added incorrectly to the LHS. Where such an error can be clearly identified and verified, the entry may be removed by a resolution of the Council without a review of the heritage assessment and without prior public consultation.

### **2.4 Nominations for inclusion on the Local Heritage Survey**

Any person, association or organisation may nominate a place for inclusion in the LHS outside of an official review. The nomination is to be in writing and made on the LHS Nomination Form attached to this policy.

## **2.5 Initial assessment**

Any place nominated for inclusion in the LHS shall in the first instance be assessed by City officers, with appropriate qualifications, to consider the cultural heritage significance of the place.

Where a nominated place is identified as not having any cultural heritage significance after the preliminary consideration, Council will be informed and no further action will be undertaken.

## **2.6 External assessment**

Where a nominated place is identified as potentially having cultural heritage significance after the preliminary consideration by City Officers, a heritage assessment in accordance with LPP 3.2 will be undertaken by an external qualified heritage specialist. Public consultation shall be undertaken in accordance with section 2.7 of this policy prior to a report being prepared for consideration by the Council.

## **2.7 Public consultation**

Any proposed additions, removals or amendments to the LHS are undertaken with public consultation.

Submissions shall be invited from the owner/s and occupier/s of the place. The invitation to make a submission will be made in writing and include information on the heritage significance/values of the place and access to any report obtained pursuant to section 2.6 of this policy.

In addition, submissions from the public shall be invited through public advertising of the proposal with information of the heritage significance/values of the place and access to any report obtained pursuant to section 2.6 of this policy being provided via the City's website.

The submission period will not be less than twenty one (21) days.

## **2.8 Matters to which Council will have regard**

In considering the inclusion or removal of a place from the LHS Council will have regard to the matters listed in section 5.0 of this policy.

## **3.0 Procedure for the Heritage List**

In accordance with its statutory obligations, Council has established and will maintain a Heritage List to identify places that are of cultural heritage significance and worthy of built heritage conservation.

The LHS and other heritage studies will be used to identify potential additional inclusions to the Heritage List.

## **3.1 Inclusions on the Heritage List**

Places are considered for inclusion on the Heritage List on the basis of their cultural heritage significance and worthiness for built heritage conservation, in accordance with the standard heritage assessment criteria outlined in LPP 3.2.

Following amendments to the LHS, Council will consider whether any of the places included in or removed from the LHS should also be considered for inclusion in or removal from the Heritage List.

Places that are listed on the State Register of Heritage Places will be automatically referred to Council for consideration for inclusion on the Heritage List.

Places identified as being of exceptional significance (Level 1) or considerable significance (Level 2) will be automatically referred to Council for consideration for inclusion in the Heritage List in recognition of their cultural heritage significance and worthiness for built heritage conservation to the City.

Places identified as being of some significance (level 3) will be referred to Council for consideration for inclusion in the Heritage List upon the receipt of a written request from the owner of that property.

Places to be considered for inclusion in the Heritage List will also be considered for inclusion on the LHS and Council may advertise and consider these listings concurrently.

### **3.2 Nominations from the public**

Any person, association or organisation may also nominate a place for inclusion in the Heritage List. The nomination is to be in writing using the Heritage List Nomination Form attached to this policy with the written endorsement of the property owner.

Any place nominated for inclusion on the Heritage List shall in the first instance be assessed by City officers, with appropriate qualifications, to consider the cultural heritage significance and worthiness for built heritage conservation of the place.

Where a nominated place is identified as not having any cultural heritage significance after the preliminary consideration, Council will be informed and no further action will be undertaken.

### **3.3 External assessment**

Where after preliminary consideration by City Officers a nominated place is identified as potentially having cultural heritage significance a heritage assessment in accordance with LPP 3.2 will be obtained from an external qualified heritage specialist and the City shall then proceed as set out in section 3.6 of this policy prior to a report and recommendation being prepared for consideration by the Council.

### **3.4 Removal from the Heritage List**

Places will only be removed from the Heritage List if it can be demonstrated that their previous assessment of cultural heritage significance and worthiness of built heritage conservation was erroneous or that they have subsequently lost their significance.

A place will not be removed from the Heritage List solely on the grounds that similar examples are already included; that it is not in its original state; or that it is in a poor condition.

### **3.5 Modifications to the Heritage List**

Any modification to an entry on the Heritage List can only be undertaken by a resolution of Council and must follow the consultation requirements in section 3.6 of this policy.

### **3.6 Public consultation**

Having determined which places are to be considered for inclusion in or removal from the Heritage List or which entry on the Heritage List is to be modified, the City will comply with Regulation 8(3)(a), undertake the consultation requirements outlined in Regulation 8(3)(b) in the Deemed Provisions and pursuant to Regulation 8(3)(c) invite public submissions in respect of the matter.

The period for consultation under Regulations 8(3)(b) and (c) shall be no less than twenty eight (28) days.

### **3.7 Matters to which Council will have regard**

In considering the inclusion or removal of a place on the Heritage List or the modification of an entry on the Heritage List Council will have regard to the matters listed in section 5.0 of this policy.

## **4.0 Procedure for Heritage Areas**

### **4.1 Identification and nomination of heritage areas**

The LHS and other heritage studies are or will be used to identify potential heritage areas that require special planning control to conserve and enhance the cultural heritage significance and character of an area.

The Council, any person, association or organisation may also nominate a streetscape, area and/or precinct for consideration as a heritage area that requires special planning control to conserve and enhance the cultural heritage significance and character of the area.

A nomination by anyone other than the Council is to be in writing and made on the Heritage Area Nomination Form attached to this policy.

Following receipt of a heritage area nomination the nominees will be immediately informed of the general timeframe required to process the nomination and will be provided with regular updates on the progress of the nomination.

### **4.2 Preliminary assessment**

Heritage areas identified through the LHS or by nomination shall in the first instance be assessed by City officers, with appropriate qualifications, to identify the cultural heritage significance and character of the area. This assessment shall involve a site visit and a review of the information in the LHS, any previous heritage assessments that may have been undertaken, any heritage studies in place and any other listings or relevant information.

Should the City officers' preliminary assessment reveal that an area is likely to meet the threshold to be appropriately designated as a heritage area under the Deemed Provisions, the area will be included in the City's formal assessment program.

The formal assessment of areas included in the assessment program will be prioritised according to the City officers' views as to the level of potential negative consequence of potential development in and around the area and then by reference to the intactness of the area identified during the preliminary assessment.

#### **4.2.1 If City officers considers area not likely to have enough cultural heritage significance and character**

Where an area is identified as not having any cultural heritage significance after the preliminary assessment Council will be informed of the outcomes of the assessment via the Matters For Information report and advised that no further action will be undertaken.

#### **4.2.2 If City officers considers area likely to have enough cultural heritage significance and character**

Where after a preliminary assessment City officers consider an area may have sufficient cultural heritage significance and character to justify designation as a heritage area a survey of property owners and residents of the area will be undertaken to determine if heritage is something that is valued by local residents. Where the majority of respondents to the survey (>50%) indicate that they value the heritage of the area, a comprehensive assessment of the heritage and character values of the area, together with a recommendation as to whether the area warrants designation as a heritage area, will be undertaken by an external heritage consultant in accordance with LPP 3.2.

Where the majority of respondents to the survey (<50%) indicate that they do not value the heritage values of the area a report will be prepared for consideration by Council. The Council may, in their consideration of the report, determine to proceed or not proceed with a formal assessment of the area.

#### **4.2.3 Public consultation**

Before determining whether an area should be designated a heritage area, or whether an existing heritage area should be amended, the City of Subiaco will follow the statutory consultation requirements of Regulations 9(3) and (4) of the Deemed Provisions but will extend the time period set by Regulation 9(5) to allow not less than twenty eight (28) days for public submissions to be made.

In the case of a proposed heritage area, Council must first receive a report advising on the extent of the proposed heritage area and the reasons for considering the area. If the Council wishes to proceed with considering the designation of the proposed heritage area, public consultation will be undertaken in accordance with the Deemed Provisions, and any further consultation/engagement deemed necessary.



Following the conclusion of the consultation period, Council will have regard to the matters listed in section 5.0 of this policy before determining whether or not to designate the area as a heritage area or amend the heritage area.

#### **4.3 Modification to or revocation of a heritage area**

A heritage area will only be modified or revoked if it can be demonstrated that the assessment of cultural heritage significance for the area was erroneous or that the area has subsequently lost its significance.

The contributory significance of individual places within a heritage area will only be amended if it can be demonstrated that the assessment of cultural heritage significance for the individual place was erroneous.

The modification or revocation of a heritage area will follow the process set out in Regulation 9 of the Deemed Provisions.

#### **5.0 Matters to which Council will have regard**

In considering the inclusion or removal of a place from the LHS and Heritage List and/or the designation of Heritage Areas, or any amendments regarding a heritage listed place or heritage area, the Council will have regard to:

- a) Any submissions received during the public consultation period, with particular regard to be given to the submissions of property owner/s of the place or in the area
- b) Any heritage assessment report and/or other heritage studies relating to the place or area;
- c) Any advice received from the Heritage Council of Western Australia; and
- d) Any other matter it considers necessary.

#### **6.0 Council determination**

The decision to include or remove places on the LHS, the Heritage List or to amend the LHS or Heritage List or to designate a Heritage Area can only be made by a resolution of Council in accordance with the provisions of the Act and the Deemed Provisions.

Following the heritage assessment and consultation procedures outlined above, the Council may, depending on the circumstances of each case:

- a) include, not include or remove a place on the LHS;
- b) amend the existing LHS place entry;
- c) declare or refuse to declare a place as significant and worthy of built heritage conservation for recording in the Heritage List;
- d) designate or not designate an area to be a Heritage Area;
- e) include or amend an existing entry in the Heritage List;
- f) amend a Heritage Area; and/or
- g) remove a place from the Heritage List or revoke a Heritage Area.

The property owner, occupier and all parties who made a written submission on the proposal before Council will be notified in writing of the meeting at which Council will consider the proposal and will also be notified in writing of the Council's determination. The Heritage

Council of Western Australia will be notified of any resolutions regarding the LHS, Heritage List or Heritage Areas.