

This written submission by the City of Melville Residents and Ratepayers Association (MRRA) is in response to the Director Planning's, Mr Peter Varelis, report on item U24/51 Deferral of Consideration – CP-114 Compliance & Enforcement Policy Review as included in the [Agenda for the October 15 OMC](#) (attached).

**The MRRA asks Council to reject the Responsible Officer's Recommendation to defer consideration of a revised Compliance and Enforcement Policy and direct the CEO to ensure Council's February 2024 resolution, in response to the November 2023 Petition, is complied with this year.**

Alternatively, Elected Members could simply allow the Officer's Recommendation to simply lapse.

The Director Planning has stated the deferral from November 2024 date resolved by Council in February 2024 (8 months ago), to June 2025 (7 month deferral) is necessary due to:

- *"The Environmental Health & Compliance service area has recently undergone a review. As a result of some of the changes, further time is required to enable the review of CP-114 Compliance and Enforcement Policy."*
- *"Additionally, a number of local laws are currently under review or preparation which may impact on the final policy to be presented."*

It is the MRRA's view the reasons for deferral lack merit :

1. The February 2024 OMC minutes (attached) show Council specifically resolved the November deadline to give the CEO, Ms Gail Bowman, 8+ months to complete the review initially prompted by the Petition accepted by Council at the November 2023 OMC. What the City is now recommending is contrary to Council's express resolution and would result in the residents' Petition taking over 18 months to bring back to Council. Thus, the late request for a further 7 months to comply with Council's express resolution seems excessive.
2. The CEO has had many months to ensure adequate resources are in place to execute Council's motion.
3. The Planning directorate's further re-organization should not impact on Council's CP-114, rather Council's policy would inform any organizational changes. That is, the Planning directorate should be structured and resourced to ensure Council's policies are properly executed. Council's existing 5-page CP-114 policy (attached) makes no material reference to any organizational roles.
4. The [Minutes of Council's August OMC provides](#) Council's schedule for review of the City's local laws on page 43, shows that the local laws to be reviewed in 2024/2025 are Cats, Fencing (major review, draft complete), Thoroughfares, Property, and Health (major review, started drafting).

The CEO's CP24/187 Schedule for Review of Local Laws noted that *"the City's fencing, thoroughfares, property and health local laws have not been amended for many years, it is anticipated that there will be significant work required to review and amend these local laws in the 2024 and 2025 years to bring them to modern day standards and ensure they meet the City's needs."* The CEO also noted that *"A number of reviews have still been scheduled for 2025, the next election year, as the team responsible does have additional resourcing during the 2024-2025 financial year to assist it with catching up on its local laws."*

The MRRA is concerned that it appears the [Fencing Local Law](#) has not been reviewed since 2011 and, more alarmingly, that the [Health Local Law](#) has not been reviewed since 1997.

CP-114 policy is applicable to legislation and local laws such as the Local Government Act 1995, Building Act 2011, Bush Fires Act 1954, Caravan Parks and Camping Grounds Act 1995, Cat Act 2011, Control of Vehicles (Off-road Areas) Act 1978, Criminal Procedure Act 2004, Dog Act 1976, Environmental Protection Act 1986, Food Act 2008, Graffiti Vandalism Act 2016, Health (Miscellaneous Provisions) Act 1911, Litter Act 1979, Planning and Development Act 2005, Public Health Act 2016 Parking Local Laws, Meeting Procedures Local Laws, and other subsidiary legislation local laws

The MRRA would have thought the CEO would be the most appropriate officer to be responsible for the CP-114 review given the importance of the policy and the applicability across the various directorates, Community Development, Environment and Infrastructure and Planning.

The MRRA is of the view CP-114 can be substantially improved this year as initially resolved by Council, and it can then be further improved if necessary post the review of the Cats, Fencing, Property, Thoroughfares and Health local law reviews if completed next year.

The MRRA suggests Elected Members review the MRRA's [November 2023](#) and [February 2024](#) written submissions in relation to Council's Compliance and Enforcement Policy. The resident exemplified in these submissions, the same resident that put forward the Petition that gave rise to this CP-114 review, still has not had their complaints and allegations of unauthorized encroachments and non-compliance with City issued building approvals resolved.

**The MRRA also asks Council to:**

1. Ensure the community is properly and diligently engaged in the CP-114 review, ahead of a revised CP-114 being put to Council for a decision at a public meeting.
2. Any revised CP-114 policy ensures and provides:
  - a. A mechanism to enable residents dissatisfied with the Administration's handling of complaints, including a lack of action about non-compliances, to be formally reviewed by Council.
  - b. The authority for decisions referenced in the policy are independent or open to independent review.
  - c. A mediation process precedes any prosecution or third-party interference.
  - d. A beneficial outcome is defined and measurement of achievement of that benefit dictates continuation of the enforcement process and actions.
  - e. Council Advisory Committee is establishment to oversee the performance and policy application.
  - f. A specific reference to the WA Work Health and Safety Act is included under Policy Scope para 3, as being an Act of higher importance.

**Background**

Persistent unresolved non-compliances, for which the City has jurisdiction to deal with, have significant potential to adversely impact the resident health, safety, psychosocial wellbeing, and local amenity. There are many examples of resident dissatisfaction with the way City officers have dealt with complaints about non-compliances, or requests for enforcement action.

CP-114 was first put in place in July 2021 after the commencement of Ms Weirs community-initiated investigation into the City, and after significant lobbying from the community, including the MRRA. Elected Members should recall recommendation 13 of the [2021 Weir investigation report](#) called for further improvements to CP-114. It is noted that the following has been added to the City's March 2024 status update on that item:

*"Reference is made to Officer recommendation and Council Resolution (UP24/31) – Ordinary Council Meeting, 20 February 2024 that the Council:*

1. *Request the Chief Executive Officer prepare Compliance Matrices to guide the operational implementation for all compliance related services; and*
2. *Request a review of CP-114 - Compliance and Enforcement Policy be undertaken to incorporate the Compliance Matrices; and*
3. *Request a briefing at an Elected Member Engagement Session and that the review be completed and presented for consideration no later than the November 2024 Ordinary Meeting of Council."*

Despite the community's continued lobbying, and community engagement being a cornerstone of local government, the community's voice has not yet been engaged and nor has the community's voice been comprehensively nor substantively heard and heeded by the City or Council in respect to construction and promulgation of this CP-114 policy.

Whilst the current CP-114 policy is a significant improvement on Council's previous lack of direction to City officers, there is still nothing included in the CP-114 policy to ensure the policy has capacity to measure achievement of the purported desirable outcomes, effective Council oversight, engagement and review of decisions taken under delegated authority by City officers. The general structure of wording of the CP-114 policy still elicits oppression in the absence of concerted direction to community outcome benefits. These are significant short comings in the MRRA's opinion.

**Attachments:**

1. October 2024 OMC Item U24/51 Deferral of Consideration CP-114 Compliance & Enforcement Policy
2. February 2024 OMC Minutes Item UP/31 Response to Petition – CP-114 Compliance & Enforcement Policy Review, [with on-line audio available from 1:38:30 mark](#).
3. City of Melville existing CP-114 Compliance and Enforcement Policy