

TOWN OF BASSENDEAN

NOTICE OF BRIEFING SESSION

A Briefing Session of the Council of the Town of Bassendean will be held on Tuesday, 20 October 2020 in the Council Chamber, 48 Old Perth Road, Bassendean, commencing at 6.00pm.

The Mayor will preside at the Briefing Session. In the absence of the Mayor, the session will be presided over by the Deputy Mayor. The Briefing Session is designed as a Question and Answer session only. No decisions by Council are made at this forum.

The Town is committed to ensuring our Council Meetings are a safe work environment, free of risks to the health and wellbeing of Elected Members, Officers and our community.

Participants are required to be respectful, courteous and have due regard for individual rights and differences. Individuals may be asked to leave should their conduct adversely affect the health and safety of others. By attending this meeting, you agree to abide by these conditions.

A G E N D A

1.0 DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

Acknowledgement of Traditional Owners

The Town of Bassendean acknowledges the past and present traditional owners of the land on which we gather to conduct this meeting, and pays its respects to their Elders, both past and present.

Audio Recording

The audio recording will commence at the times that the meetings are due to commence and finish when the Presiding Member closes or adjourns the meeting for any reason.

2.0 ATTENDANCES AND APOLOGIES

3.0 DECLARATIONS

4.0 ANNOUNCEMENTS

5.0 PUBLIC QUESTION TIME/STATEMENTS

15 minutes will be allocated for addresses by members of the public on matters contained in the agenda.

Questions and statements can be submitted prior to the Briefing Session to:

<https://www.bassendean.wa.gov.au/council/town-council/council-meetings/about-council-meetings.aspx>

If a member of the public is not present at the meeting, a response will be provided in writing outside of the meeting.

It should be noted that comments are recorded and there is no protection from legal action being taken against you, should it arise from your comments delivered at the meeting.

6.0 DEPUTATIONS

Mr Riley Murphy will be in attendance to provide a deputation and answer any questions Councillors may have with regard to Item 7.1 - Unauthorised Works – 1 (Lot 223) River Street, Bassendean.

7.0 REPORTS

Under each report, Officers will provide a brief outline of the report. Councillors will be given the opportunity to ask any questions that they may have.

| | |
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| Item No. 7.1 | Unauthorised Works – 1 (Lot 223) River Street, Bassendean |
| Property Address (if applicable) | 1 (Lot 223) River Street, Bassendean (Success Hill Lodge) |
| Landowner/Applicant (if applicable) | Michael John Murphy |
| File Ref/ROC | DABC/BDVAPPS/2011-224 |
| Previous Council Reports (if applicable) | 28 July 2020 (Res: 5/07/20) |
| Directorate | Community Planning |
| Authority/Discretion <input type="checkbox"/> <input checked="" type="checkbox"/> | |
| <input type="checkbox"/> Advocacy | When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency. |
| <input type="checkbox"/> Executive | The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets. |
| <input type="checkbox"/> Legislative | Includes adopting local laws, town planning schemes and policies. |
| <input type="checkbox"/> Review | When the Council operates as a review authority on decisions made by Officers for appeal purposes. |
| <input checked="" type="checkbox"/> Quasi-Judicial | When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building permits, applications for other permits/licences (eg under <i>Health Act</i> , <i>Dog Act</i> or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal. |
| Attachment No. 1 | Proposed Schedule of Works |

Purpose

The purpose of this report is for Council to consider action relating to unauthorised works and the maintenance and conservation of 1 (Lot 223) River Street, Bassendean (Success Hill Lodge).

Background

On 28 July 2020, Council considered action relating to unauthorised works and the maintenance and conservation of Success Hill Lodge and resolved that the matter be deferred to allow Town staff and the owner time to enter into discussions to work towards an agreed schedule of works. Council also required a report to be presented to the October Ordinary Council Meeting.

The Town has met with the owner, the details of which are contained within this report.

Proposal

For Council to consider giving a heritage conservation notice to the owner of 1 (Lot 223) River Street, Bassendean (Success Hill Lodge), to ensure the maintenance and conservation of the heritage place.

Communication and Engagement

The following outlines the correspondence between the Town and the owner since the 28 July meeting. It should be noted the Town has been liaising with both the owner and the owner's son on the matter (referred to as the owners in this report)

- On 13 August 2020, the Town met with the owner to discuss the matter and explain the statutory process regarding the requirement for a development application.
- On 14 August 2020, the owner was also advised of the information required to be submitted in conjunction with the development application in a separate email.
- On 17 August 2020, the owner requested the details of the State Heritage Office (SHO) officer who would be considering the application. The officer's details were provided, and the applicant was again requested to lodge a development application and a timeline/justification for the balance of works within the Conservation Management Strategy (CMS) dated May 2019.
- On 4 September 2020, the Town requested an update on the status of the development application.
- On 7 September 2020, the owners advised that the applicant would be lodged shortly.
- On 12 September 2020, the owners sought clarification on the exemptions section of the development application form.
- On 14 September 2020, the Town advised that the proposal was not exempt from requiring development approval as it is a heritage listed property.
- On 22 September 2020, the owners lodged a development application for the re-roofing of the heritage place and replacement of guttering and downpipes only (discussed further in this report).
- On 2 October 2020, the Town again requested details on the schedule of works/timetable for the balance of works contained within the CMS.
- On 5 October 2020, the Town met with the owners and provided advice on information to be included in the schedule of works.
- On 8 October 2020, the owners provided a schedule of works, which is detailed in this report.

Strategic Implications

Priority Area 7: Building Community Identity by Celebrating Culture and Heritage

| Direction | Potential Strategies | What Success Looks Like |
|--|--|--|
| Create a community closely connected to its history and heritage | <ul style="list-style-type: none"> • Maintain and share the historical stories of the Town of Bassendean • Ensure heritage locations and buildings of historical | <p>SHORT TERM</p> <ul style="list-style-type: none"> • Local studies collection actively accessed by the community <p>LONG TERM</p> |

| | | |
|--|--|--|
| | <p>value within the Town are recognised, cared for and utilised by the community</p> <ul style="list-style-type: none"> Implement initiatives, events and activities that focus on a range of cultural and artistic endeavours (not limited to entertainment) | <ul style="list-style-type: none"> Historical and heritage facilities are well used by the community Heritage sites and buildings are visible to locals and visitors |
|--|--|--|

Comment

Schedule of Works

A copy of the owner's proposed schedule of works is attached.

The following table is a comparison of the proposed schedule against the items identified as requiring immediate action in the CMS:

| CMS Requirement | Owner's Proposed Timeline | Owner Comment | Comment |
|--|---------------------------|---|--|
| Undertake re-roofing works to the main roof (1896 Building). Noting the work already undertaken, metal corrugated long sheets (Zincalume) should be used to match existing. | 6 months | Owners to liaise with contractors to finalise quotes as per approval given. Most of finance in place. | The applicant has obtained development approval. This is further discussed below. |
| Replace fascia and guttering to all four elevations of main roof (1896 Building). | 6 months | To be completed at same time as Task 1 by the same contractors. | The applicant has obtained development approval. This is further discussed below. |
| Undertake repairs to Dining Room west wall (externally and internally) to address issues of damp. | 6 months | Contractors not yet approached – estimate only. | Noted. |
| Undertake urgent repairs to four timber double hung windows to the Dining Room west wall where water damage is evident. New ropes and pulleys to all double hung windows. New glass where required. Prepare to paint and paint all windows. Replace hardware to match original where required. | N/A | Large and expensive task, tedious repair work. | Noted. See funding section of this report. |
| Ensure sufficient storm water drainage away from buildings. | N/A | 6 soak-wells have been installed previously. | Noted. The Town does not have details of the soak-wells or installation locations. |

| | | | |
|--|-----|---|--|
| Undertake investigation and reconstruction works to the verandah by Structural Engineer and Heritage Architect. | N/A | Engineering assessment completed previously, Heritage architect's assessment will wait until grants are available. | Noted. See funding section of this report. |
| Undertake any essential structural stabilising works to the verandah, as instructed by engineer report. | N/A | Engineer's report primarily recommends improving rainwater drainage, replacement of first floor perimeter beam and replacement of stair stringers. | Noted. Structural changes to the verandah will require development approval prior to works being undertaken. |
| Remove intrusive air vent pipes to verandah as part of reconstruction. | N/A | First requires removal or bypass of grease trap. In absence of grease trap a vent pipe will still be required, though of smaller thickness. Need to find solution with State Heritage Office. | Noted. |
| All timber in the entire place should be thoroughly investigated and fully treated for termite control. Ongoing termite control system put in place. | N/A | Updated termite inspection will be performed. Termidor has been installed throughout property and around perimeter. | Noted. The applicant has not provided a timeline for when a terminate investigation will occur. |
| Undertake any works deemed necessary in response to recommendations arising from the thorough termite investigation. | N/A | Issues will be rectified when identified. | As above. |

The medium and long term actions identified in the CMS were to occur within and beyond three years of the CMS (May 2019) respectively, and have therefore not been considered as part of this report.

Development Application

On 22 September 2020, the owner lodged a development application for the re-roofing of the heritage place and replacement of guttering and downpipes only. The application was subsequently referred to the SHO, which, on 6 October 2020, advised that it had no objection to the proposal. The Town issued the development approval that day.

It should be noted that the granting of development approval does not require the owners to undertake the works the subject of the approval. As such, it is recommended that the heritage conversation notice require the owner to undertake the approved works.

Heritage Conservation Notice

The *Planning and Development (Local Planning Schemes) Regulations 2015* provides the local government the ability to issue a heritage conservation notice. The Town's position on the matter remains unchanged from July 2020, in that the significance of the property and the likelihood that it will fall into further disrepair if the works are not undertaken warrant the issuing of a heritage conservation notice.

The written notice requiring the person to carry out specified repairs to the heritage place is required to specify a time, being at least 60 days. The Town has proposed two separate deadlines, to reflect the covered and not covered works by the existing development approval.

Funding

The landowner has previously cited the financial cost as a constraint to undertaking the work. The State Government's budget (released on 8 October 2020) included \$1,221,000 for the Heritage Grants Program. The landowner can make an application for funding to the SHO when the opportunity arises, and the Town will provide assistance in preparing an application.

Irrespective of whether grant funding is able to be obtained, it is the responsibility of the landowner to maintain the heritage place.

Statutory Requirements

Clause 13 of Schedule 2 the *Planning and Development (Local Planning Schemes) Regulations 2015* provides that Council is able to give Heritage Conservation Notices that require a landowner to carry out specified repairs to the heritage place by a specified time. It also provides that if the works are not carried out, the Town may enter the site and carry out the repairs and that the expenses incurred may be recovered via the Courts.

Under Section 222 of the *Planning and Development Act 2005*, it is an offence to undertake any development of a Heritage Place without development approval.

Financial Considerations

Should Council issue a heritage conservation notice and the landowner does not complete the works, it is open to the Town to complete the works. Whilst the Town can seek to recover costs from the owner in this respect, there would be an up-front cost to Council.

Risk Management Implications

It is open to Council to not issue a heritage conservation notice, however, the issue of the unauthorised development as well as the items requiring immediate attention in the CMS, would be unresolved.

It is also open to Council to issue the notice but with a different timeline, however, if the matter is not addressed in a timely manner, it will increase the potential for further damage as well as the extent of rectification works required.

Officer Recommendation – Item 7.1

That Council, in accordance with Clause 13(2) of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, gives the landowner of 1 (Lot 223) River Street, Bassendean (Success Hill Lodge) a Heritage Conservation Notice requiring the landowner to do the following:

1. Carry out the following in accordance with the development approval dated 6 October 2020 (Ref: 2020-117) by 8 January 2021:
 - Re-roofing to the main building;
 - Provide stormwater drainage away from the building; and
 - Replacement of the fascia and guttering of the main roof.

2. Obtain development approval for, and thereafter carry out, the following specified repairs to the heritage place in accordance with the Conservation Management Strategy (dated 17 May 2019) by 30 June 2021, specifically:
 - Repairs to the Dining Room west wall (internally and externally);
 - Repairs to the double hung windows to the Dining Room;
 - Reconstruction and stabilisation works, and removal of air vent pipes to the verandah; and
 - Investigation and treatment of time for terminate control.

Voting requirements: Simple majority

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|--|--|
| Item No. 7.2 | Draft Local Planning Policy – Home Based Businesses (Final Adoption) |
| Property Address (if applicable) | N/A |
| Landowner/Applicant (if applicable) | N/A |
| File Ref/ROC | LUAP/POLCY/25 |
| Previous Council Reports (if applicable) | 25 August 2020 (Res 08/08/20) |
| Directorate | Community Planning |
| Authority/Discretion <input type="checkbox"/> <input checked="" type="checkbox"/> | |
| <input type="checkbox"/> Advocacy | When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency. |
| <input type="checkbox"/> Executive | The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets. |
| <input checked="" type="checkbox"/> Legislative | Includes adopting local laws, town planning schemes and policies. |
| <input type="checkbox"/> Review | When the Council operates as a review authority on decisions made by Officers for appeal purposes. |
| <input type="checkbox"/> Quasi-Judicial | When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building permits, applications for other permits/licences (e.g. under <i>Health Act</i> , <i>Dog Act</i> or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal. |
| Attachment No. 2 | Draft Local Planning Policy – Home Based Businesses |

Purpose

The purpose of this report is for Council to consider adopting a new Local Planning Policy – Home Based Businesses.

Background

At its meeting on 25 August 2020, Council resolved to revoke Council Policy 1.16 - Administrative Policy for Dealing With Unregistered Home Occupations (CP 1.16) and Council Policy 3.1 - Home Based Businesses Policy (CP 3.1) and also to advertise the draft Local Planning Policy – Home Based Businesses.

Communication and Engagement

Following Council's resolution on the matter, the draft policy was advertised for public comment for a period of 30 days, being from 26 August 2020 to 25 September 2020, by way of the following:

- Advertisement in a local paper (Eastern Reporter Newspaper);
- Displayed on Your Say Bassendean; and

- Promoted on the Town’s Facebook page.

At the close of the public consultation period, two submissions were received; one in support of the draft policy and one providing comment regarding parking. This is discussed below.

Strategic Implications

Priority Area 4: Driving Financial Suitability

| | | |
|---------------------------|---|---|
| Support the local economy | <ul style="list-style-type: none"> • Prioritise infrastructure projects that generate local employment and support a circular economy • Ensure the local economy is positioned to recover from crises | <p>SHORT TERM</p> <ul style="list-style-type: none"> • Increased local employment, relative to nonlocal employment • Increased local supply-chain use, relative to non-local supply |
|---------------------------|---|---|

Comment

Parking

Comment was made that a musician was operating a home based business, with clients parking on the verge and obstructing access to a driveway. The submitter sought an amendment to the policy to prescribe penalties for unauthorised parking on private property, however, this is unnecessary as the Town’s *Parking Local Law 2019* already prohibits vehicles obstructing driveways or stopping on the verge and prescribed penalties for the offences (\$80 and \$75, respectively).

Whilst not relating to the draft Policy, the Town will monitor the subject property to ensure compliance with the Local Law.

Conclusion

The draft policy primarily seeks to provide guidance for the assessment of applications for home based businesses, having regard to the impacts the proposed business could have on the character and amenity of the surrounding residential area or nearby residents.

It is recommended that Council proceeds to adopt the draft Policy without modification.

Statutory Requirements

The *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) outline the procedure that the local government must follow after the consultation period, which is to:

"(a) review the proposed policy in the light of any submissions made; and

- (b) *resolve to:*
- (i) *proceed with the policy without modification; or*
 - (ii) *proceed with the policy with modification; or*
 - (iii) *not proceed with the policy."*

If Council proceeds with the policy, the local government is required to public a notice accordingly.

Financial Considerations

Nil.

Risk Management Implications

Low. Should Council not adopt the draft policy, no guidance is available for acceptable standards for the assessment of development applications for home based businesses.

Officer Recommendation – Item 7.2

That Council, pursuant to Clause 4(3) of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, adopts Local Planning Policy – Home Based Businesses as attached.

Voting requirements: Simple majority

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| Item No. 7.3 | Draft Amended Local Planning Policy No. 6 - Industrial Development (Final Adoption) |
| Property Address (if applicable) | N/A |
| Landowner/Applicant (if applicable) | N/A |
| File Ref/ROC | LUAP/POLCY/11 |
| Previous Council Reports (if applicable) | 25 August 2020 (Res 10/08/20) |
| Directorate | Community Planning |
| Authority/Discretion <input type="checkbox"/> <input checked="" type="checkbox"/> | |
| <input type="checkbox"/> Advocacy | When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency. |
| <input type="checkbox"/> Executive | The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets. |
| <input checked="" type="checkbox"/> Legislative | Includes adopting local laws, town planning schemes and policies. |
| <input type="checkbox"/> Review | When the Council operates as a review authority on decisions made by Officers for appeal purposes. |
| <input type="checkbox"/> Quasi-Judicial | When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building permits, applications for other permits/licences (eg under <i>Health Act, Dog Act</i> or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal. |
| Attachment No. 3 | <ul style="list-style-type: none"> • Draft Local Planning Policy No. 6 – Industrial Development • LLP 6 - Industrial Zones Development Design Guidelines |

Purpose

The purpose of this report is for Council to consider adopting draft amended Local Planning Policy No. 6 – Industrial Development.

Background

At its meeting on 25 August 2020, Council resolved to advertise the draft amended Local Planning Policy No. 6 – Industrial Development.

Communication and Engagement

Following Council's resolution on the matter, the draft Policy was advertised for public comment for a period of 30 days, being from 26 August 2020 to 25 September 2020, by way of the following:

- Advertisement in a local paper (Eastern Reporter Newspaper);
- Displayed on Your Say Bassendean; and

- Promoted on the Town’s Facebook page.

No submissions were received.

Strategic Implications

Priority Area 4: Driving Financial Suitability

| | | |
|---------------------------|---|---|
| Support the local economy | <ul style="list-style-type: none"> • Prioritise infrastructure projects that generate local employment and support a circular economy • Ensure the local economy is positioned to recover from crises | <p>SHORT TERM</p> <ul style="list-style-type: none"> • Increased local employment, relative to nonlocal employment • Increased local supply-chain use, relative to non-local supply |
|---------------------------|---|---|

Comment

Whilst no submissions were received, the draft amended policy has been further reviewed and it is considered appropriate to not require development approval for solar panels in the industrial area. As such, it is recommended that a new provision be included in the draft policy to this effect. It should be noted that solar panels will still be required to obtain a building permit.

The draft policy will ensure a higher standard of built form and design, improve the streetscape by virtue of additional landscaping provisions and result in a coordinated approach to development.

It is therefore recommended that Council proceeds to adopt the draft Policy as amended.

Statutory Requirements

The *Planning and Development (Local Planning Schemes) Regulations 2015* outline the procedure that the local government must follow after the consultation period, which is to:

- "(a) review the proposed policy in the light of any submissions made; and
- (b) resolve to:
 - (i) proceed with the policy without modification; or
 - (ii) proceed with the policy with modification; or
 - (iii) not proceed with the policy."

If Council proceeds with the policy, the local government is required to publish a notice accordingly.

Financial Considerations

Nil.

Risk Management Implications

Low. Should Council not adopt the draft policy, the Town will revert back to the existing policy, the provisions of which are not considered sufficient to provide guidance on the assessment of a variety of design elements typical of industrial development. Should Council not adopt the draft policy and revoke the existing policy, no criteria will be provided for the assessment of industrial development, which could result in poor development outcomes.

Officer Recommendation – Item 7.3

That Council, pursuant to Clause 4(3) of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, adopts the draft Local Planning Policy No. 6 – Industrial Development (as amended following advertising) as contained in the attachment.

Voting requirements: Simple majority

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| Item No. 7.4 | Proposed Outdoor Eating Facility (Parklet) |
| Property Address | Old Perth Road reserve (abutting 22 (Lot 351) Old Perth Road, Bassendean) |
| Landowner/Applicant | Drew Mimmo |
| File Ref/ROC | COMDEV/POLCY/1 |
| Previous Council Reports (if applicable) | N/A |
| Directorate | Community Planning |
| Authority/Discretion <input type="checkbox"/> <input checked="" type="checkbox"/> | |
| <input type="checkbox"/> Advocacy | When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency. |
| <input type="checkbox"/> Executive | The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets. |
| <input type="checkbox"/> Legislative | Includes adopting local laws, town planning schemes and policies. |
| <input type="checkbox"/> Review | When the Council operates as a review authority on decisions made by Officers for appeal purposes. |
| <input checked="" type="checkbox"/> Quasi-Judicial | When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building permits, applications for other permits/licences (eg under <i>Health Act</i> , <i>Dog Act</i> or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal. |
| Attachment No. 4 | <ul style="list-style-type: none"> • Parklet Elevation • Parklet Plan |

Purpose

The purpose of this report is for Council to consider issuing a permit under the *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2010* (Local Law) for an Outdoor Eating Facility (parklet) on Old Perth Road, Bassendean, abutting 22 Old Perth Road, Bassendean (O2 Café).

Proposal

The applicant is seeking a permit to use a loading bay on Old Perth Road to accommodate a proposed 'parklet'.

A 'parklet' is a small public park or space set into the existing streetscape that can be used by any member of the public and is not for the exclusive use the adjacent business.

Details of the proposal include:

- The use of timber, corten planters which will be filled with edible plants/fruit;

- Decking to the road surface to delineate the space. The decking will be raised 5mm from the pavement surface to allow stormwater to flow underneath into the existing drain located within the bay;
- Six tables (with a maximum of four people per table) and open bench seating on one end. An additional two tables are proposed underneath the bi-fold café windows;
- Three market umbrellas will cover the parklet, branding the O2 Café logo and the Town’s postcode (6054); and
- A self-contained fire pit/water fountain on the eastern end of the bay which will alternate depending on the season.

Plans pertaining to the proposal are attached.

The applicant has also advised that they are prepared to obtain \$20 million public liability insurance.

Communication and Engagement

Nil, however, the applicant has advised that they have undertaken informal engagement with adjacent businesses which are supportive of the proposal.

Strategic Implications

Priority Area 1: Strengthening and Connecting our Community

| Direction | Potential Strategies | What Success Looks Like |
|-----------------------------------|---|--|
| Facilitating community connection | <ul style="list-style-type: none"> • Prioritise projects that bring people together and strengthen community connectedness | <ul style="list-style-type: none"> • Increased participation rates in volunteering, community activities and events |

Priority Area 3: Creating a Vibrant Town and Precincts

| Direction | Potential Strategies | What Success Looks Like |
|-----------------------------------|--|---|
| Support the town centre to thrive | <ul style="list-style-type: none"> • Advocate for economic growth of our Bassendean town centre • Engage potential government and private sector development partners to realise opportunities within the Town of Bassendean | <p>LONG TERM</p> <ul style="list-style-type: none"> • Increased number of developments within the town centre • Increased population within the Town • Improved retention of existing businesses • Increased number and retention of new businesses • Increased local employment |

Priority Area 4: Driving Financial Suitability

| Direction | Potential Strategies | What Success Looks Like |
|---------------------------|--|-------------------------|
| Support the local economy | <ul style="list-style-type: none"> • Prioritise infrastructure projects that generate | SHORT TERM |

| | | |
|--|--|---|
| | <p>local employment and support a circular economy</p> <ul style="list-style-type: none"> • Ensure the local economy is positioned to recover from crises | <ul style="list-style-type: none"> • Increased local employment, relative to nonlocal employment • Increased local supply-chain use, relative to non-local supply |
|--|--|---|

Comment

Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2010 (Local Law)

Under the Local Law and *Local Government Property Local Law 2001*, the Town may issue a permit to allow certain activities to occur in public streets and on Town reserves.

The proposal complies with the requirements of the Local Law with the exception of the following:

| Requirement | Comment |
|--|--|
| 2.2 Activities allowed with a permit — general | |
| A person shall not, without a permit - (c) cause any obstruction to a vehicle or a person using a thoroughfare as a thoroughfare | The nature of parklets is such that they obstruct the thoroughfare, which was not contemplated during the drafting of the Local Law. Pedestrian and vehicle movement will remain unobstructed on the footpath and carriageway on Old Perth Road. |
| (o) plant or sow any seeds in a thoroughfare | The applicant is proposing planter boxes with edible plants/fruit. The planter boxes are within 6m of the intersection of Old Perth Road and Parker Street. Given the planter boxes will not be within the vehicle carriageway and will therefore not obstruct the flow of traffic through the intersection, this variation is acceptable. |
| 2.3 No possession and consumption of liquor on thoroughfare | |
| (1) A person shall not consume any liquor or have in her or his possession or under her or his control any liquor on a thoroughfare unless — | Whilst the applicant has not proposed the consumption of alcohol as part of this proposal, a separate application for a liquor license for the service of alcohol within the parklet will be required from the Department of Racing, Gaming and Liquor. |

| | |
|---|--|
| <p>(a) that is permitted under the Liquor Control Act 1988 or under another written law; or</p> <p>(b) the person is doing so in accordance with a permit</p> | |
| <p>2.7 Permissible verge treatments</p> | |
| <p>(b) (iii) the planting and maintenance of a garden provided that it does not include a wall or built structure</p> | <p>The proposal includes planter boxes, which are considered a structure. See comments on 2.2 above.</p> |

Relevant Considerations in Determining an Application for a Permit

In consider an application for a permit under the Local Law, the local government is required to have regard to the following:

| Requirement | Comment |
|--|---|
| <p>Any relevant policy of the local government</p> | <p>Whilst Council does have an existing Policy relating to Outdoor Eating Facilities On public Places (CP 3.2), it does not relate specifically to 'parklets'. As such, Council is required to consider the application on its merits have regard to the requirements of the Local Law.</p> |
| <p>The location of the proposed activity</p> | <p>In considering the appropriateness of the location, the following is relevant:</p> <ul style="list-style-type: none"> • Old Perth Road is a low speed environment (40km/hr) • Given no right turn is available from Guildford Road, there is low frequency of vehicle movements on this portion of Old Perth Road. • The proposed parklet is located within an existing loading bay. There are existing loading bays located directly on Old Perth Road which are available to service abutting businesses. • An Australia Post box is located adjacent the loading bay. The applicant has advised that the abutting car parking bay is used by Australian Post staff to access the post box. As the proposed parklet is wholly contained within the loading bay, it will not obstruct access to the adjacent car parking bay and Australia Post box. Adjacent bays are available for the use of Australia Post staff if required. |

| | |
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| | Based on the above, the proposed location of the parklet is acceptable from a traffic and access perspective. |
| Such other matters as the local government may consider to be relevant in the circumstances of the case | The Town considers the economic impacts associated with the Covid-19 pandemic to be a relevant consideration in this instance. Whilst each application is considered on its merits having regard to the requirements of the Local Law, the Town considers that this proposal will assist the business and nearby traders, and will therefore contribute towards economic recovery. |

Duration of Permit

Permits issued under the Local Law are only valid for one year from the date on which it is issued, unless otherwise stated in the permit or if the permit is cancelled by the local government.

The Town considers the one year validity of the permit to be an appropriate timeframe, as this will enable the Town to review the operation of the parklet on the expiry of the permit, and recommend any modifications to the structure if necessary.

Council Policy 2.15 – Single Use Plastics & Balloons (CP 2.15)

CP 2.15 provides the requirements and obligations for the sale and use of single-use plastics on Town-managed land. The policy does not apply to alfresco dining and given the proposal is an outdoor eating facility, a condition requiring compliance with the CP 2.15 has not been included.

Conclusion

Alfresco dining and parklets can be used by local businesses to enhance the dining experience and create interest and activation of a space. The proposed location of the parklet is not considered to cause obstructions to vehicle sight lines or safety to pedestrians, and adjacent loading bays are available to service businesses. Noting the acceptability of the location and in light of the Covid-19 pandemic, the Town considers it appropriate to issue the permit to assist local businesses to aid in economic recovery.

Statutory Requirements

Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2010

Financial Considerations

There is no fee prescribed for parklets. Council also removed the fee associated with outdoor eating facility permits when adopting the 2020-21 fees and charges to assist in economic recovery and to encourage activation.

Conditions requiring the applicant to maintain the space and to ensure no damage occurs to the Town's infrastructure are recommended, to ensure there are no additional costs to the Town as a result of the 'parklet'.

Risk Management Implications

A condition requiring the applicant to obtain public liability insurance is recommended, to ensure the Town is not legally responsible for personal injury to a third party or damage to the Town's property as a result of the 'parklet'.

Officer Recommendation – Item 7.4

That Council, pursuant to Clause 6.2 of the *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2010*, issue a permit for a parklet on Old Perth Road abutting 22 (Lot 351) Old Perth Road, Bassendean (O2 Café) subject to the following conditions:

1. This permit is issued for the use of the loading bay as denoted on the attached plan only;
2. The applicant must hold a current Public Liability Insurance Policy with indemnity of not less than \$20,000,000. If requested, the Applicant is to provide a Certificate of Currency to the Town of Bassendean prior to the construction activity commencing;
3. The applicant does not have exclusive or uninterrupted use of the area. The parklet must be publicly available at all times;
4. The road and footpath pavement areas must be kept clean and free of litter at all times;
5. The applicant must ensure that no damage or obstruction is caused to a manhole, inspection pit, fire hydrant, water, gas, electrical or communications infrastructure, drainage or other service, within the location of parklet;
6. All furniture shall be durable, waterproof, rustproof and weather resistant, be maintained in good condition and be designed so that corners and fastenings do not create potential hazards for patrons and pedestrians;
7. Umbrellas shall be maintained to a high standard and securely anchored in accordance with *Australian Standard AS1170.2-2002 – Structural Design Actions – Wind Actions* and/or any recommendations provide by the manufacturer;

8. Alcohol consumption shall only be permitted where the necessary approvals have been obtained from the Department of Racing, Gaming and Liquor; and
9. Smoking is not permitted within the facility. The permit holder is required to provide appropriate non-smoking signage to ensure compliance.

Voting requirements: Simple majority

| | |
|---|--|
| Item No. 7.5 | Adoption of Town of Bassendean Corporate Business Plan |
| Property Address (if applicable) | N/A |
| Landowner/Applicant (if applicable) | N/A |
| Ref | CORM/PLOCY/1 |
| Directorate | Chief Executive |
| Authority/Discretion | <input type="checkbox"/> <input checked="" type="checkbox"/> |
| <input type="checkbox"/> Advocacy | When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency. |
| <input type="checkbox"/> Executive | The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets. |
| <input checked="" type="checkbox"/> Legislative | Includes adopting local laws, town planning schemes & policies. |
| <input type="checkbox"/> Review | When the Council operates as a review authority on decisions made by Officers for appeal purposes. |
| <input type="checkbox"/> Quasi-Judicial | When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal. |
| <input type="checkbox"/> Information | For the Council/Committee to note. |
| Attachment No. 5 | Draft Corporate Business Plan 2020-2024 |

Purpose

The purpose of this report is for Council to consider and adopt the *Town of Bassendean Corporate Business Plan 2020 – 2024 (CBP)*.

Background

The *Local Government (Administration) Regulations 1996* requires each local government to adopt a Strategic Community Plan and a Corporate Business Plan. The Town's Strategic Community Plan 2020-2030 was adopted at the Ordinary Council Meeting held July 2020.

The Corporate Business Plan is used as the local government's internal business planning tool that translates Council priorities from the Strategic Community Plan into operational outcomes. In its entirety, it details the services, operations and projects a local government will deliver over a defined period.

Figure 1.1



Reference: <https://www.dlgsc.wa.gov.au/integrated-planning-and-reporting>

With the adoption of the new Strategic Community Plan 2020-2030 by Council, the existing Corporate Business Plan no longer aligns with the strategic direction of the district. As such, it was identified that a new Corporate Business Plan would be required. To this end, the Corporate Executive Committee, comprised of the Executive Team at the Town, conducted workshop sessions throughout August and September to develop a new Corporate Business Plan that would align with the key strategic priority areas as contained in the Strategic Community Plan. A draft Corporate Business Plan was finalised in late September 2020.

Proposal

Council is required to adopt the Town of Bassendean *Corporate Business Plan 2020 – 2024* (CBP) by absolute majority in accordance with s. 5.56 of the *Local Government Act 1995*.

Communication and Engagement

The Corporate Business Plan is informed by the Strategic Community Plan. It reflects the strategic priorities that were identified as part of the BassenDream consultation process and feedback from the MARKYT Community Scorecard workshops. The Corporate Business Plan aligns the forward four year operational priorities to the strategic priority areas within the Strategic Community Plan.

The Corporate Business Plan was developed in-house by the Corporate Executive Committee. A number of workshops were held during August and September 2020 with members of the Executive Team to facilitate the creation of the Plan. A final draft was distributed to Councillors via the CEO Bulletin on 2 October for comment.

Strategic Implications

Priority Area 6: Providing visionary leadership and making great decisions

| Direction | Potential Strategies | What Success Looks Like |
|--|---|--|
| Ensure operational activities reflect the strategic focus of Council | <ul style="list-style-type: none"> • Ensure clear communication and flow of information from decision makers to operational staff • Implement a framework on decision making that identifies delegated authority for different levels of decision | SHORT TERM <ul style="list-style-type: none"> • Efficient and effective Council meetings • Outcomes-focused decision making (not process-focused) • More delegated authority to CEO on appropriate items to enable Council to focus on strategy |

Comment

The Corporate Business Plan represents the Town's four year delivery plan, which gives effect to its first four years of the 10 year Strategic Community Plan. It outlines the projects/actions and day to day service delivery of the Town.

The Corporate Business plan contains the key projects agreed upon by Council. These projects have been resourced through the budgetary process as achievable in the forthcoming years.

The CBP informs the annual budget for the Town. The annual budget is based on the projected financial costings of the related years of the CBP, with the opportunity to review this during the financial year.

Reporting is a significant component in the CBP, as it is important for the Town to be able to measure, monitor and report on the progress of the projects and actions contained in the CBP. A quarterly report will be provided to Council that measures the performance of each project/action contained in the CBP.

The CBP will inform the creation of business unit plans within each Directorate and the development of individual performance plans with every staff member.

Under regulation 19DA(4) of the *Local Government (Administration) Regulations 1996* a corporate business plan is to be reviewed annually. This will ensure alignment with any financial or strategic impacts that may require amendment to the plan.

Statutory Requirements

All local governments are required to produce a plan for the future under section 5.56 of the *Local Government Act 1995*. The *Local Government (Administration) Regulations 1996*, regulation 19DA establishes the requirements for a corporate business plan.

In accordance with regulation 19DA, the voting requirement for adoption, or modification, of a Corporate Business Plan is an absolute majority of Council.

Financial Considerations

There are no direct costs associated with the creation of the Corporate Business Plan.

The Corporate Business Plan for Year 1 aligns with the Annual Budget process. The projects contained within the Corporate Business Plan for years 2 – 4 will provide a reference point for the local government in its annual budget process and input into the creation of the 10 year financial plan.

Risk Management Implications

The current Corporate Business Plan was created under the old Strategic Community Plan. It no longer aligns with the strategic direction or community aspiration of the district. As such it is important that the Town adopts a Corporate Business Plan that reflects the strategic priorities as contained in the new Strategic Community Plan. Failure to align the Corporate Business Plan with the strategic priorities and the community aspirations, will lead to a disjoint between the long-term objectives of the community and the business outcomes of the local government. Alignment of the two documents will lead to a fully integrated approach to the business of the local government and fulfilment of the needs and aspirations of the community.

Officer Recommendation – Item 7.5

That Council adopts the Town of Bassendean *Corporate Business Plan 2020-2024* as attached.

Voting requirements: Absolute majority

| | |
|---|---|
| Item No. 7.6 | Adoption of Delegations Register |
| Property Address (if applicable) | N/A |
| Landowner/Applicant (if applicable) | N/A |
| File Ref/ROC | GOVN/CCLMEET/06 |
| Previous Council Reports (if applicable) | |
| Directorate | Chief Executive |
| Authority/Discretion | |
| <input type="checkbox"/> Advocacy | When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency. |
| <input type="checkbox"/> Executive | The substantial direction setting and oversight role of the Council. e.g. adopting plans, reports and strategies, accepting tenders, setting and amending budgets. |
| <input checked="" type="checkbox"/> Legislative | Includes adopting local laws, town planning schemes and policies. |
| <input type="checkbox"/> Review | When the Council operates as a review authority on decisions made by Officers for appeal purposes. |
| <input type="checkbox"/> Quasi-Judicial | When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under <i>Health Act</i> , <i>Dog Act</i> or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal. |
| Attachment No. 6 | <ul style="list-style-type: none"> • Delegations Register dated October 2020 • Delegations to be revoked |

Purpose

The purpose of this report is for Council to consider adoption of the reviewed and amended Delegations Register dated October 2020 and deletion of redundant delegations to meet the Town's requirements for efficient and effective decision making and to comply with the *Local Government Act 1995*.

Background

Sections 5.18 and 5.46(2) of the *Local Government Act 1995* (the Act) require the Council to review delegations made under the *Local Government Act 1995* to Committees and the Chief Executive Officer at least once in each financial year.

Similarly, delegations made under the *Cat Act 2011* and *Dog Act 1976* are also required to be reviewed by the delegator at least once each financial year.

The *Building Act 2011*, *Bush Fires Act 1954* and *Food Act 2008* do not prescribe review requirements however periodic review of delegations is considered good practice to ensure continued relevance and compliance.

The Town's Delegation Register was last reviewed by Council at its meeting held on 23 October 2018.

The Delegations Register was not provided to Council for formal review in the 2018/2019 financial year due to Administration conducting an extensive 'ground-up' review of the register to ensure that the delegations met the needs of the local government and the community.

The lack of a formal review in the 2018/2019 financial year was reported in the 2019 Annual Compliance Audit adopted by Council at its meeting held on 24 March 2020.

The administrative review found that the delegations register did not meet the current needs of the organisation and that many of the delegations were no longer relevant or were in need of amendment. As a result the register has been rewritten with the aim that the Town's Delegations reflect contemporary drafting and substantially improved governance practices. In preparing the revised delegations the following has been considered:

- The Town's scope of decision making requirements to identify decisions that are routine and sufficiently guided by legislation, Council Policy and / or strategy;
- The needs and expectations of the Community for effective and efficient decision making;
- The statutory decision making powers and associated statutory conditions and limitations on what can be delegated as prescribed in each piece of relevant legislation; and
- The Western Australian Local Government Association's (WALGA) template delegations register to ensure consistency with legislative compliance and sector practice.

Council considered a draft version of the Register of Delegations at a Councillors' Workshop on 11 August 2020.

Outcomes of this workshop and further analysis of the Town's statutory obligations and decision-making requirements have been incorporated into the further updated version of the Delegations Register dated October 2020 and provided as Attachment 1 to this report.

Section 5.42 of the *Local Government Act 1995* provides that it is the CEO's function to determine the –

- Delegation of any function assigned to the CEO under the Act; and
- To Sub-delegate (where permitted) any power that has been delegated by Council to the CEO.

In order to facilitate clarification and avoid any potential confusion as to the Council's decision-making role, the Delegations Register dated October 2020 does not include the CEO's determination of CEO delegations and sub-delegations.

This ensures the CEO’s decisions on CEO delegations and sub-delegations can be made after and subject to any further adjustments that might be determined by Council when considering this report and the proposed Delegations.

The CEO’s delegations and sub-delegations will be inserted in the Register after the Council has adopted the Delegation Register dated October 2020, which will be published on the Town’s website to enable public access and to support transparency of decision-making.

Proposal

That Council consider and adopt the proposed Delegations Register dated October 2020 as detailed in Attachment 1.

Communication and Engagement

The Delegations Register underwent extensive review and rewrite during 2019 and 2020. Consultation was conducted with the Executive and officers who act under a delegation. In August 2020, the Delegations Register was presented to Council at a workshop for consideration and review. In September 2020 a meeting was conducted with WALGA to consider the Delegations contained within the Delegations Register.

This consultation and analysis of the Town’s decision-making requirements and associated statutory obligations has resulted in additional amendments being made to the Delegations Register, since the August 2020 Council Member Workshop. Details of the scope of change have been included in the table provided in the ‘Comments’ section of this report.

A copy of the amended draft Delegations Register with the mark-up was sent to Councillors under cover of the CEO Bulletin on 9 October 2020 for further comment.

Strategic Implications

Priority Area 6: Providing Visionary Leadership and Making Great Decisions

| Direction | Potential Strategies | What Success Looks Like |
|---|---|--|
| Reinforce a culture of collaboration, trust and demarcation between Council, administration and the community | <ul style="list-style-type: none"> • Build understanding and support for the vision and Strategic Community Plan • Demonstrate clear connections between the Strategic Community Plan, project and business as-usual services and operations • Create an organisational culture of performance, innovation and excellence • Develop shared values between Council, administration and the community | <p>SHORT TERM</p> <ul style="list-style-type: none"> • Openness and transparency of decision making • Enhanced staff morale • Staff have appropriate strategic direction • Agreement on the link between projects and Strategic Community Plan <p>General alignment regarding values</p> |

| | | |
|--|--|---|
| Foster an environment of innovation and leadership | <ul style="list-style-type: none"> • Foster an environment of innovation, where people are encouraged to contribute • Foster leadership: harness the talent of individuals • Recognise and reward innovation and leadership | <p>SHORT TERM</p> <ul style="list-style-type: none"> • Councillors and staff feel empowered to make appropriate decisions • Professional development for staff and councillors • Inductions to professional networks <p>LONG TERM</p> <ul style="list-style-type: none"> • Recognition of excellence by other organisations |
|--|--|---|

Comment

Key differences in the format of the proposed Delegation Register dated October 2020, include –

- Each instrument of delegation within the Register now has a consistent format aligned with the WALGA Template / industry standard. The format now consistently specifies the head of power that allows delegation to occur, the specified powers to be delegated and provisions for Council to impose conditions or limitations on the exercise of the delegation; and
- ‘General delegations’ that purport to delegate ‘all powers and duties’ under an Act have been replaced with individual instruments of delegation that convey specific powers provided within each piece of legislation. This ensures that the Council, CEO and community have clear understanding of the scope of authority and types of decisions that may occur under each delegation.

The following table compares the Town’s 2018/19 Delegations Register and the proposed 2020/21 Delegation Register as detailed in Attachment 1 –

| Comparative Delegation No. / Title | | Review Outcome |
|--|---|---|
| Proposed 2020/21 Register <i>(Refer Attach No.1)</i> | 2018/19 Register <i>(Refer Attach No.2)</i> | |
| Local Government Act 1995 | | |
| 1.1.1 Audit and Governance Committee | Nil. | NEW delegation allows for the Committee to undertake its function in a timely and efficient manner. |
| 1.2.1 Appoint Authorised persons | Nil. | NEW delegations – addresses gaps in the delegation arrangements. |
| 1.2.2 Powers of Entry | | |
| 1.2.3 Declare Vehicle is Abandoned Vehicle Wreck | | |
| 1.2.5 Close Thoroughfare | | |
| 1.2.6 Obstruction of Footpaths and Thoroughfares | | |
| 1.2.7 Public Thoroughfare – Dangerous Excavations | | |

| Comparative Delegation No. / Title | | Review Outcome |
|--|---|---|
| Proposed 2020/21 Register <i>(Refer Attach No.1)</i> | 2018/19 Register <i>(Refer Attach No.2)</i> | |
| 1.2.8 Crossing – Construction, Repair and Removal | | |
| 1.2.9 Private Works on, over or under Public Places | | |
| 1.2.10 Give Notice to prevent damage to Local Government Property from Wind Erosion and Sand Drift | | |
| 1.2.11 Expressions of Interest for Goods and Services | | |
| 1.2.12 Tenders for Goods and Services | 3.4 Contracts and Tenders Approval | Redrafted to include all relevant decision making functions under the Regulations. |
| 1.2.13 Disposing of Property | 3.5 Disposal of Property Listed in the Annual Budget | Redrafted to include all relevant decision making functions (excluding disposal of land). |
| 1.2.14 Payments from the Municipal or Trust Fund | 3.1 The Power to Make Payments | Redrafted to new format. |
| 1.2.15 Defer, Grant Discounts, Waive or Write Off Debts. | Nil. | NEW delegation – addresses gaps in the delegation arrangements. |
| 1.2.16 Power to Invest and Manage Investments | 3.6 Local Government Master Lending Agreement | Redrafted to new format. |
| | 3.7 Investment of Surplus Funds | |
| 1.2.17 Rate Record Amendment | Nil. | NEW delegations – addresses gaps in the delegation arrangements. |
| 1.2.18 Agreement as to Payment of Rates and Service Charges | 3.2 Special Arrangements for Financial Hardship | Proposed delegation 1.2.18 - Similar to the current delegation in the function delegated and the objective of the delegation. |
| 1.2.19 Determine Due Date for Rates or Service Charges | | |
| 1.2.20 Recovery of Rates or Service Charges | | |
| 1.2.21 Recovery of Rates Debts – Require Lessee to Pay Rent | Nil. | NEW delegations – addresses gaps in the delegation arrangements. |
| 1.2.22 Recovery of Rates Debts – Actions to Take Possession of the Land | | |
| 1.2.23 Rate Record Objections | | |

| | | |
|---|---|--|
| 1.2.24 Administration of Local Laws | 8.1 Powers under the Local Laws | Similar to the current delegation in the function delegated and the objective of the delegation. The format has been updated. The delegation will require more robust consideration to determine the precise functions to be delegated under each local law in upcoming reviews. For present purposes, the delegation as drafted is sufficient to ensure that the day to day operations under the local law may be carried out by officers. A further review of the delegation will be undertaken during the 21/22 review. |
| 1.2.25 Disposal of Sick or injured animals | Nil. | NEW delegation – addresses gaps in the delegation arrangements. |
| 1.2.26 Compensation for Damage incurred when performing executive functions | Nil. | NEW delegation – addresses gaps in the delegation arrangements. |
| 1.2.27 Management of vested land and unvested facilities | Nil. | NEW delegation – addresses gaps in the delegation arrangements. |
| Building Act 2011 | | |
| 2.1.1 Grant a Building Permit | 5.3 Approve or Refuse Building Permits | Redrafted to new format |
| 2.1.2 Demolition Permits | 5.4 Approve or Refuse Demolition Permits | Redrafted and functions consolidated to new format |
| | 5.5 Refuse Building or Demolition Permits where there appears to be an error in the documents or information provided in the applications | |
| 2.1.3 Occupancy Permits or Building Approval Certificates | 5.6 Approve, modify or refuse Occupancy Permits or Building Approval Certificates | Redrafted and functions consolidated to new format |
| | 5.7 Approve or refuse an application to extend the validity of an occupancy permit or building approval certificate | |
| 2.1.4 Designate Employees as Authorised Persons | 5.8 Appoint authorised persons for the purposes of the Building Act 2011 | Redrafted to new format |
| 2.1.5 Building Orders | 5.9 Issue Building Orders in relation to building work, demolition work and/or an existing building or structure | Redrafted and functions consolidated to new format |
| | 5.10 Withdraw Building Orders in relation to building work, demolition work and/or an existing building or structure | |
| 2.1.6 Inspection and Copies of Building Records | Nil. | NEW delegation – addresses gaps in the delegation arrangements. |

| | | |
|---|--|---|
| 2.1.7 Referrals and Issuing Certificates | | |
| 2.1.8 Private Pool Barrier – Alternative Performance Solution | 5.2 Compliance of Privately Owned Swimming Pools | Redrafted to new format and to be accurate to the statutory function. |
| 2.1.9 Smoke Alarms – Alternative Solutions | Nil. | NEW delegation – addresses gaps in the delegation arrangements. |
| Bush Fires Act 1954 | | |
| 3.1.1 Make Request to FES Commissioner – Control of Fires | 7.5 Powers Under the <i>Bush Fires Act 1954</i> | NEW delegations to replace a 'general delegation', providing an accountable, transparent and legally sound approach to the delegation of specific decision making powers. |
| 3.1.2 Prohibited Burning Times - Vary | | |
| 3.1.3 Prohibited Burning Times – Control Activities | | |
| 3.1.4 Restricted Burning Times – Vary and Control Activities | | |
| 3.1.5 Control of Operations Likely to Create Bush Fire Danger | | |
| 3.1.6 Burning Garden Refuse / Open Air Fires | | |
| 3.1.7 Firebreaks | | |
| 3.1.8 Appoint Bush Fire Control Officer/s and Fire Weather Officer | | |
| 3.1.9 Control and Extinguishment of Bush Fires | | |
| 3.1.10 Recovery of Expenses Incurred through Contraventions of this Act | | |
| 3.1.11 Prosecution of Offences | | |
| 3.1.12 Alternative Procedure – Infringement Notices | | |
| 3.1.13 Withdrawal of Infringement Notices | | |
| Cat Act 2011 | | |
| 4.1.1 Cat Registrations | 7.3 Powers Under the <i>Cat Act 2011</i> | NEW delegations replace a 'general delegation', providing an accountable, transparent and legally sound approach to the delegation of specific decision making powers. |
| 4.1.2 Cat Control Notices | | |
| 4.1.3 Approval to Breed Cats | | |
| 4.1.4 Appoint Authorised Persons | | |
| 4.1.5 Recovery of Costs – Destruction of Cats | Nil. | NEW delegation – addresses gap in the delegation arrangements. |
| 4.1.6 Applications to Keep Additional Cats | 7.3 Powers Under the <i>Cat Act 2011</i> | NEW delegations to replace a 'general delegation', providing an accountable, transparent and legally sound approach to the delegation of specific decision making powers. |
| 4.1.7 Reduce or Waiver Registration Fee | | |

| Dog Act 1976 | | |
|---|--|---|
| 5.1.1 Part Payment of Sterilisation Costs / Directions to Veterinary Surgeons | 7.1 Powers Under the <i>Dog Act 1976, Dog Regulations 2013</i> & the Dogs' Local Law | NEW delegations to replace a 'general delegation', providing an accountable, transparent and legally sound approach to the delegation of specific decision making powers. |
| 5.1.2 Refuse or Cancel Registration | | |
| 5.1.3 Appoint Authorised Persons (Registration Officers) | | |
| 5.1.4 Recovery of Moneys Due Under this Act | | |
| 5.1.5 Dispose of or Sell Dogs Liable to be Destroyed | | |
| 5.1.6 Declare Dangerous Dog | | |
| 5.1.7 Dangerous Dog Declared or Seized – Deal with Objections and Determine when to Revoke | | |
| 5.1.8 Deal with Objection to Notice to Revoke Dangerous Dog Declaration or Destruction Notice | | |
| 5.1.9 Determine Recoverable Expenses for Dangerous Dog Declaration | | |
| Food Act 2008 | | |
| 6.1.1 Determine Compensation | Nil. | NEW delegations – addresses gaps in the delegation arrangements. |
| 6.1.2 Prohibition Orders | | |
| 6.1.3 Food Business Registrations | | |
| 6.1.4 Appoint Authorised Officers and Designated Officers | 6.2 Authorised Officers under the <i>Food Act 2008</i> | Redrafted to new format |
| 6.1.5 Debt Recovery and Prosecutions | Nil. | NEW delegations – addresses gaps in the delegation arrangements. |
| 6.1.6 Food Businesses List – Public Access | | |
| Graffiti Vandalism Act 2016 | | |
| 7.1.1 Give Notice Requiring Obliteration of Graffiti | 7.4 Powers Under the <i>Graffiti Vandalism Act 2016</i> | NEW delegations to replace a 'general delegation', providing an accountable, transparent and legally sound approach to the delegation of specific decision-making powers. |
| 7.1.2 Notices – Deal with Objections and Give Effect to Notices | | |
| 7.1.3 Obliterate Graffiti on Private Property | | |
| 7.1.4 Powers of Entry | | |
| Public Health Act 2016 | | |
| 8.1.1 Designate Authorised Officers | 6.4 <i>Public Health Act 2016</i> | Redrafted to new format |
| 8.1.2 Enforcement Agency Reports to the Chief Health Officer | Nil. | NEW delegation – addresses gap in the delegation arrangements. |

| | | |
|---|--|---|
| 8.1.3 Determine Compensation for seized items | Nil. | NEW delegation – addresses gap in the delegation arrangements. |
| 8.1.4 Commence Proceedings | Nil. | NEW delegation – addresses gap in the delegation arrangements. |
| Health (Asbestos Regulations) 1992 | | |
| 9.1.1 Appoint Authorised Officer or Approved Officer | Nil. | NEW delegation – addresses gap in the delegation arrangements. |
| Planning and Development Act 2005 | | |
| 10.1.1 Illegal Development | | NEW delegations to replace a 'general delegation', providing an accountable, transparent and legally sound approach to the delegation of specific decision making powers. |
| 10.1.2 Issue Written Notice – proposed road or waterways, drawings etc required | | Amended to align with the standard delegation as contained in the WALGA template. |
| 10.1.3 Deemed Provisions for Local Planning Scheme | 4.2 Delegation of Powers under Local Planning Scheme No 10 | Amended to align with the standard delegation as contained in the WALGA template. |
| 10.1.4 Other Matters | | Amended to align with the standard delegation as contained in the WALGA template. |
| Statutory Delegations and Authorisations to Local Government from State Government | | |
| 11. The Register includes the Statutory Delegations and Authorisations to Local Government from State Government in order to ensure that all delegations are located in the one register. | Nil. | Include all delegations in the one register. |

The following table outlines the reason for the recommended deletion of delegations included in the Town's Delegation Register dated 23 October 2018 –

| 2018/19 Register Delegation No / Title | Reason for recommended deletion: |
|--|--|
| 1.1 Inconsistency with Street Amenity 1.2 Failure to comply with a notice | Authority to issue notices for the purposes of s.3.25 of the Local Government Act and take subsequent actions under s.3.26 are prescribed as an authorisation under s.3.24 and therefore cannot be delegated. |
| 1.3 Permission to extend leased buildings | The determination of works proposed for the Town's leased building assets is dealt with under the terms of the lease agreement and is within the function of the CEO to implement in accordance with the CEO's Functions under s.5.41(c) and (d) of the <i>Local Government Act 1995</i> . |
| 1.5 Reimbursement of travel expenses | The CEO Functions under s.5.41(c) and (d) apply enabling Council Member reimbursements to be administered in accordance with requirements specified in s.5.98 of the Act, Admin. Reg.32, the Salaries and Allowances Tribunal Determination and Council Policy. |

| 2018/19 Register Delegation No / Title | Reason for recommended deletion: |
|---|---|
| 1.6 Approval of future requests for donations from the WA Special Children's Christmas Party Appeal 1.9 Donations, sponsorships and grants | No relevant legislative head of power and therefore not suitable for/ capable of delegation. The current Council Policy is being reviewed and prescribes criteria for making donations that the CEO can then implement in accordance with s.5.41(c). Donations that are outside the scope of the Policy would then be referred to Council for decision. |
| 1.7 Circuses without exotic animals | A permit to use a reserve or facility is determined under the <i>Town of Bassendean Local Government Property Local Law</i> . Council Policy may be the appropriate instrument to inform permit conditions. |
| 1.8 Unauthorised signs located within street thoroughfares | The authority to issue infringements under the <i>Town of Bassendean Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law</i> is assigned to authorised persons. Therefore not suitable / capable of delegation. |
| 1.10 Use of the common seal | Section 9.49A of the <i>Local Government Act 1995</i> allows for the CEO to either affix the common seal to a document where authorised by the local government; or to be an authorised officer to sign documents on behalf of the local government under an authorisation. An authorisation has been prepared for Council consideration and forms an attachment to the report. |
| 2.1 Occupation of land – State Emergency Service | The Agreement has been entered into and the terms of the agreement govern the relationship between the parties. This specific delegation is no longer required. Future disposal of property matters may be considered under Proposed Delegation 1.2.13 Disposing of Property. |
| 2.2 Extension of contract – Old Perth Road Markets Management Agreement | These delegations have expired and are no longer required. Future contract extensions may be determined under Proposed Delegation 1.2.13 Tenders for Goods and Services (refer Item 15 under 'Functions' heading). |
| 2.3 Extension of Contract – Supply, Cart and Install Asphalt – Minor and Major Works | |
| 2.4 Extension of Contract – provision of plumbing and gas services | |
| 2.5 Extension of Contract – provision of turf maintenance at Bassendean Oval, Ashfield Reserve and Jubilee Reserve | |
| 2.6 Recycling and Waste Services for the Town of Bassendean | |
| 2.7 Request for continuation of current access arrangements – Maidos Street Laneway, Ashfield | The delegation has expired and is no longer required. Future disposal of property matters may be considered under Proposed Delegation 1.2.13 Disposing of Property. |

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| 2.8 Extension for the term of use of the Bassendean Seniors' & Community Care Kitchen for the community kitchen pilot program | The matter is before Council for determination and the terms of the delegation to enter into an agreement have been exercised. The delegation has expired and is no longer relevant. |
| 3.3 Approval of Credit Cards | Financial Management Regulation 5 prescribes the duty of the CEO to implement systems and procedures for financial management purposes including the incurring of liabilities through Credit Cards. This is therefore a CEO function under the Act and delegation does not apply. |
| 4.1 Advice to the Western Australian Planning Commission | Repeal. |
| 4.2 Delegation of Powers under Local Planning Scheme No 10 | Repeal current DA 4.2 and replace with proposed delegation 11.3. |
| 4.3 Power to make comment on Department of Housing & Works' Planning Proposals | Repeal. |
| 4.4 Dealing with requests from owners of land to pay in lieu of setting aside land for open space onsite (Cash-in-lieu payments) | Repeal. |
| 4.5 Strata Titles | The head of power to delegate under the <i>Strata Titles Act 1985</i> has been deleted. A delegation to a local government from the WAPC dated March 2020 has replaced the delegation. |
| 5.11 Prosecution for Offences Committed under the <i>Building Act 2011</i> | The function of commencing prosecutions is assigned in the Building Act to a 'person authorised' and cannot be delegated. The authorisation of persons for the purposes of this Act is delegated under proposed delegation 2.1.4 Designate Employees as Authorised Persons". |
| 6.1 Functions under the <i>Health (Miscellaneous Provisions) Act 1911</i> (As amended) | <p>No powers of delegation are provided under the Health (Misc Prov) Act however s.26 provides that a Local Government may appoint a person as its deputy i.e. appointment by resolution.</p> <p>It is suggested that a Council Policy provide this appointment so that such appointments can be regularly reviewed and managed through the Policy Review process.</p> |
| 6.3 Authorised Officers under section 11 of the <i>Caravan Parks and Camping Grounds Regulations 1997</i> | <p>No power of delegation provided under the Caravan Parks and Camping Grounds Act and Regulations, therefore not suitable for / capable of delegation.</p> <p>Amendments to the <i>Local Government Act 1995</i> and consequential amendments to this Act, expected to be proclaimed late in 2020, will mean this function is assigned to the CEO.</p> |
| 7.2 Applications to keep more than two dogs on a property | The Dogs Local Law refers to the number of dogs that the local government allows per owner. Any determination to keep more than the determined number is to be referred to Council for consideration. Repeal current DA 7.2. |
| 1.10 Executing Documents | The current DA is improperly constructed. The CEO has the power to sign and seal documents on behalf of the local government under s. 9.49A(2) and (3) of the Act. The Act allows for the CEO to be authorised to execute documents under s. 9.49A(4). Such authorisation can be provided in a Council Policy that provides the principles |

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| | and criteria by which the CEO (and other employees) may determine their authority to execute documents and when a Council resolution is required before a document is executed. |
| 13.1 Speaking on Behalf of the Council | s.2.8 provides authority to the Mayor to speak on behalf of the Local Government and s.5.41(f) enables the Mayor to “agree” to the CEO speaking on behalf of the Local Government. The Act vests the power in the Mayor and therefore it is not a matter to be determined by the Council. The current DA may be replaced with a written agreement from the Mayor to the CEO in order for the CEO to speak on behalf of the local government. |

Statutory Requirements

Local Government Act 1995 – section 5.42 – 5.46.
Local Government (Administration) Regulations 1996 – Reg.19
Building Act 2011 – section 127
Bush Fires Act 1954 – sections 18 and 48
Cat Act 2011 – sections 44- 47
Dog Act 1976 – sections 10AA – 10AB
Food Act 2008 – section 118

Financial Considerations

Nil.

Risk Management Implications

Comprehensive and strategically aligned delegations are an essential component of good governance in ensuring efficiency of decision-making and timeliness of the functions of the local government. A failure to make adequate provision for delegated authority to the CEO may lead to inefficiencies and undue delay of service provision to the detriment of the community.

Assurance is provided to Council via the three line of defence –

1. The first line of defence is formed by managers and staff through their collective knowledge, skills, information and authority to operate relevant policies and procedures.
2. The second line of defence provides oversight via those who specialise in compliance or management of risk including monitoring the effectiveness of functions performed by those managing the first line.

3. The third line of defence is provided by internal audit. It provides an evaluation on the effectiveness of governance, risk management and internal control to the Council and senior management via the Audit and Governance Committee. It also provides assurance to sector regulators and external auditors that appropriate controls and processes are in place and are operating effectively.

Officer Recommendation – Item 7.6

That Council:

1. NOTES completion by Council as the Delegator, of the 2020/21 annual statutory review of the Delegations Register, in accordance with s.5.18 and s. 5.46 of the *Local Government Act 1995*, s.47(2) of the *Cat Act 2011* and s.10AB of the *Dog Act 1976*;
2. REVOKES, by ABSOLUTE MAJORITY, the delegations as detailed in Attachment No.2, under the *Local Government Act 1995*, *Cat Act 2011*, *Dog Act 1976* and *Graffiti Vandalism Act 2016*;
3. REVOKES delegations as detailed in Attachment No.2, under the *Building Act 2011*, *Bush Fires Act 1954*, *Food Act 2008* and *Public Health Act 2015*;
4. APPROVES, by ABSOLUTE MAJORITY, the delegations, inclusive of amendments as detailed in Attachment No.1 - Delegation Register October 2020, in accordance with s.5.17 and 5.42 of the *Local Government Act 1995*, s.44 of the *Cat Act 2011*, s.10AA of the *Dog Act 1976* and s.16 of the *Graffiti Vandalism Act 2016*; and
5. APPROVES the delegations, inclusive of amendments and as detailed in Attachment No.1 -Delegation Register October 2020, in accordance with s.127 of the *Building Act 2011*, s.48 of the *Bush Fires Act 1954*, s.118 of the *Food Act 2008* and s.21 of the *Public Health Act 2016*:

Voting requirements: Absolute majority

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| Item No. 7.7 | Accounts Paid – September 2020 |
| File Ref/ROC | FINM/CREDTS/4 |
| Directorate | Corporate Services |
| Authority/Discretion <input checked="" type="checkbox"/> <input type="checkbox"/> | |
| <input type="checkbox"/> Advocacy | When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency. |
| <input type="checkbox"/> Executive | The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets. |
| <input checked="" type="checkbox"/> Legislative | Includes adopting local laws, town planning schemes and policies. |
| <input type="checkbox"/> Review | When the Council operates as a review authority on decisions made by Officers for appeal purposes. |
| <input type="checkbox"/> Quasi-Judicial | When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under <i>Health Act, Dog Act</i> or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal. |
| Attachment No. 7 | List of Payments |

Purpose

The purpose of this report is for Council to receive the list of payments for September 2020.

Background

Payments made during September 2020 are presented to Council, showing the date, payee, amount and description in respect of each payment for goods and services received.

Proposal

For Council to receive the List of Payments for September 2020.

Communication and Engagement

Nil.

Strategic Implications

Priority Area 6: Providing visionary leadership and making great decisions

| Direction | Potential Strategies | What Success Looks Like |
|--|---|--|
| Reinforce a culture of collaboration, trust and demarcation between Council, | <ul style="list-style-type: none"> Build understanding and support for the vision and Strategic Community Plan | SHORT TERM <ul style="list-style-type: none"> Openness and transparency of decision making Enhanced staff morale |

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| administration and the community | <ul style="list-style-type: none"> • Demonstrate clear connections between the Strategic Community Plan, project and business as-usual services and operations • Create an organisational culture of performance, innovation and excellence • Develop shared values between Council, administration and the community | <ul style="list-style-type: none"> • Staff have appropriate strategic direction • Agreement on the link between projects and Strategic Community Plan • General alignment regarding values |
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Comment

Nil.

Statutory Requirements

The Local Government (Financial Management) Regulations 1996, Regulation 13, requires a list of accounts paid by the CEO each month to be presented to Council at the next ordinary meeting of Council after the list is prepared.

Financial Considerations

All payments are authorised prior to disbursement in accordance with the Town’s Purchasing Policy, Procurement Guidelines and allocated budgets.

Risk Management Implications

Nil.

Officer Recommendation – Item 7.7

That Council receive the list of payments for September 2020.

Voting requirements: Simple majority

8.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

8.1 Cr Wilson – Provision of a 360 Litre Recycling Bin

“That the CEO prepare a report for Council outlining the cost and contractual implications for the Town providing a 360 litre recycling bin in the range of bin options provided to our community from the start of the 2020/21 financial year.”

OFFICER COMMENT

The Town is required to develop a Waste Plan to align its waste planning processes with the State Government’s Waste and Resource Recovery Strategy 2030.

As such in the coming months, Officers from the Town will be holding a Council workshop to seek further direction from Council of their strategic direction to provide future waste services. It would be expected that a review of the existing waste and recycling service options would be considered in its totality as part of the lead up or as an action in the strategy process.

The current recycling bin supply and servicing is delivered via a contract held by SUEZ which expires on 30 June 2022. It would be expected that officers would be able to provide approximate (*only*) cost and contractual implications of varying this contract to include a 360-litre recycling bin at a future Council workshop. This is scheduled for December 2020.

8.2 Cr Hamilton – Recognition of the late Tina Klein

“That Council:

Formally recognises the achievements of the late Tina Klein by:

- 1. Authorising the CEO to investigate and implement potential planting/dedication of a tree in a prominent location to occur during the next winter planting season; and*
- 2. Requests staff to select a tree variety that has potential to grow into a stately and prominent specimen offering decades of shaded amenity for future generations;*
- 3. Write to the family of the late Tina Klein to ascertain their wishes in respect to points 1 and 2 of this Motion.”*

Background:

Sadly, Wouterina (Tina) Klein (nee Huisman) OAM JP passed away recently and the Council and staff provide their sincere condolences to her husband, Jan and family.

Tina was born in 1930 in the Eastern Netherlands. Tina and Jan moved to Australia in 1954 and to Eden Hill in 1973.

Tina was a Councillor from 1986, serving as Deputy Mayor for 8 years and as Mayor from 2003 to 2009, making a valuable contribution to the Town. Tina was honoured by the Lions Club in 2005 for her commitment to the community.

Tina was further honoured with an Order of Australia medal in 2010 for services to local government and the community of Bassendean and awarded a Life Membership to the Bassendean Senior Citizens Association in 2011. Tina was inducted in the Western Australian Women's Hall of Fame in 2011.

A transcript and oral history interview is available on the Bassendean Memorial Library website.

OFFICER COMMENT

This can be addressed as part of next year's tree planting program.

9.0 CONFIDENTIAL BUSINESS

It should be noted that that the audio will be turned off whilst confidential items are being discussed.

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| Item No. 9.1 | Waiver of rates levied on the property - 3/335 Collier Road, Bassendean |
| Property Address (if applicable) | 3/335 Collier Rd, Bassendean |
| Landowner/Applicant (if applicable) | Cadomoon Pty Ltd |
| File Ref/ROC | |
| Previous Council Reports (if applicable) | Not applicable |
| Directorate | Corporate Services |
| Authority/Discretion <input type="checkbox"/> <input checked="" type="checkbox"/> | |
| <input type="checkbox"/> Advocacy | When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency. |
| <input type="checkbox"/> Executive | The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets. |
| <input checked="" type="checkbox"/> Legislative | Includes adopting local laws, town planning schemes and policies. |
| <input type="checkbox"/> Review | When the Council operates as a review authority on decisions made by Officers for appeal purposes. |
| <input type="checkbox"/> Quasi-Judicial | When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under <i>Health Act, Dog Act</i> or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal. |
| Attachment No. | Nil |

This matter is to be considered with members of the public excluded from the Chamber under Clause 5.23 (2) (b) of the Local Government Act 1995, as the officer report discusses information of a personal nature.

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| Item No. 9.2 | Purchase of 27 (Lot 100) Hyland Street, Bassendean |
| Property Address (if applicable) | 27 (Lot 100) Hyland Street, Bassendean |
| Landowner/Applicant (if applicable) | Herbert Super Pty Ltd |
| File Ref/ROC | A2435 |
| Previous Council Reports (if applicable) | 17 December 2019 |
| Directorate | Community Planning |
| Authority/Discretion <input type="checkbox"/> <input checked="" type="checkbox"/> | |
| <input type="checkbox"/> Advocacy | When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency. |
| <input checked="" type="checkbox"/> Executive | The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets. |
| <input type="checkbox"/> Legislative | Includes adopting local laws, town planning schemes and policies. |
| <input type="checkbox"/> Review | When the Council operates as a review authority on decisions made by Officers for appeal purposes. |
| <input type="checkbox"/> Quasi-Judicial | When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building permits, applications for other permits/licences (e.g. under <i>Health Act</i> , <i>Dog Act</i> or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal. |
| Attachment | Nil |

Purpose

This matter is to be considered with members of the public excluded from the Chambers under Clause 5.23 (2) (c) of the Local Government Act 1995, as the report discusses a contract which may be entered into, by the local government and which relates to a matter to be discussed at the meeting.

10.0 CLOSURE

The next Briefings Session will be held on Tuesday 17 November 2020, commencing at 6.00pm.