

TOWN OF BASSENDEAN

NOTICE OF BRIEFING SESSION

A Briefing Session of the Council of the Town of Bassendean will be held on Tuesday, 20 July 2021 in the Council Chamber, 48 Old Perth Road, Bassendean, commencing at 7.00pm.

Please note that Confidential Item No. 4.1 will be considered from 6.00pm to 7.00pm. Members of the public will not be permitted in the Chamber during this time.

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 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.

2.0 ATTENDANCES AND APOLOGIES

3.0 DECLARATIONS

4.0 CONFIDENTIAL BUSINESS

This matter is to be considered with members of the public excluded from the Chambers under Clause 5.23 (2) (e) (iii) of the Local Government Act 1995, as the report discusses the financial affairs of a person.

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| Item No. 4.1 | CEO Performance and Remuneration Review and Performance Agreement |
| Property Address (if applicable) | NA |
| Landowner/Applicant (if applicable) | NA |
| Ref | GOVN/POLCY/2 |
| Decision Type | Council |
| Directorate | Office of the Chief Executive Officer |
| 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 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. |
| Confidential Attachment No. 1 | Standards for CEO Recruitment, Performance and Termination Policy |

Mr Anthony Quahe from Civic Legal will present his report on the review of the CEO Performance at the Briefing Session. The CEO will also provide a Confidential Report on the item.

5.0 ANNOUNCEMENTS

6.0 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/forms/public-question-time/36>.

7.0 DEPUTATIONS

8.0 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.

| | |
|--|--|
| Item No. 8.1 | Disposal of Town property – 1 (Lot 50) Surrey Street, Bassendean |
| Property Address (if applicable) | 1 (Lot 50) Surrey Street, Bassendean |
| Landowner/Applicant (if applicable) | Town of Bassendean |
| File Ref/ROC | |
| Previous Council Reports (if applicable) | 25 May 2021 24 November 2020 |
| 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. |
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| Attachment No. 1 | Museum of Perth proposal |
| Confidential Attachment No. 2 | Submissions |

Purpose

The purpose of this report is for Council to consider the potential disposal of 1 (Lot 50) Surrey Street, Bassendean, which is currently owned by the Town.

Background

The Town acquired the subject site in 1988 and since that time, Council has considered matters relating to this site many times. Listed below are only those decisions that relate to the subject decision and are not to be taken as a complete record of the history of the site:

- On 24 November 2020, Council considered its options in relation to the site and resolved that it *“seeks to dispose of 1 (Lot 50) Surrey Street, Bassendean by Expression of Interest (EOI) in accordance with section 3.58(3) of the Local Government Act 1995, with the EOI process to require interested parties to demonstrate a genuine community benefit associated with their intended acquisition, which may include a public/private partnership with the Town of Bassendean and will include, heritage restoration, community access benefits and/or financial benefit”*.
- On 25 May 2021, Council considered the outcomes of the EOI process and resolved to advertise the potential disposal of the site to the Perth History Association Inc. t/a Museum of Perth; a not-for-profit organisation that chronicles the social, cultural, political and architectural history of Perth. The Museum of Perth’s EOI proposal was to restore the Residence over a number of years, by committing at least \$50,000 per year in addition to any funding that may be able to be sourced from grants or other sources. Its proposal is to ultimately use the site as a research office and exhibition space, accommodating staff, volunteers and visitors.

Communication and Engagement

The intended disposal was advertised from Friday 18 June 2021 to Monday 5 July 2021, with the basis of the intended disposal being as follows.

- Sale price: \$1 (one dollar)
- Conditions of sale: The purchaser shall enter into an agreement with the Town of Bassendean, requiring the purchaser, to the satisfaction of the Town, to (i) provide, as a minimum, community access to the Pensioner Guard Cottage on a monthly basis and (ii) undertake restoration of the existing Residence over a period of up to four years, in accordance with the staged implementation plan provided by the purchaser to the seller dated May 2021 and as contained in its expression of interest submission. The agreement is to be secured by an absolute caveat; registered upon the Certificate of Title at settlement.

The advertising was undertaken as follows.

- A Facebook post (which was shared to the 6054 Facebook page)
- Information on the Town’s website

- Mayoral announcement at the start of both the briefing session and OCM
- Media release to the local paper

In response, the Town received 71 submissions, with nine supporting the proposed disposal, 59 objecting to it and three providing comment but not clearly stating any support or objection. A schedule of submissions is contained as Appendix 1.

Of the submissions that objected to the proposal, the main key themes were:

- The preference for the site to be owned by the Town in perpetuity, and if anything, potentially leased to a third party.
- The uncertainty that would come from disposing of the site.
- The minimal financial return on the proposed sale, relative to the commercial value of the site.

These matters, and others, are discussed below.

Strategic Implications

Priority Area 4: Driving Financial Sustainability

| Direction | Potential Strategies | What Success Looks Like |
|---|--|---|
| Ensure there is sufficient, effective and sustainable use of assets | <ul style="list-style-type: none"> • Assess assets (including review of portfolio, landholdings and facility condition, use and capacity) to optimise and rationalize | <ul style="list-style-type: none"> • All Town-owned buildings increased in their utilisation • Defined position and strategy of when buildings need renewal • Consolidated infrastructure footprint • Enhanced sustainability footprint • Clear indications of whole-of-life costs |

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"> • Ensure heritage locations and buildings of historical value within the Town are recognised, cared for and utilised by the community | <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

In considering the matter, the following is relevant:

- There is no obligation for Council to proceed with the advertised disposal and it is still open to Council to pursue other options for the site.

- The vast majority (83%) of submitters objected to the proposed disposal, however, the 59 objections represents a small portion of the broader Town of Bassendean community.
- A structural assessment conducted in August 2020 found that (i) the Pensioner Guard Cottage is generally in fair condition, with only slight cracking observed and (ii) the Residence has a number of structural issues that require remediation as they pose safety issues to the extent that the building is unfit for occupancy. This relates specifically to the suspended concrete roof, ceilings and lintels. The assessment noted other structural issues that do not pose an immediate safety risk, but will require repair, including timber roof members, masonry wall cracks, mortar fretting (rising damp) and sloping timber floors.
- If Council chooses to retain the site, it will need to also determine what, if anything, it does to rectify the above issues, noting that given the heritage nature of the buildings, the costs of rectifying the matters could be significant and potentially increase over time; representing an ongoing cost for rate payers.
- Whilst a Town-owned asset, there is no clear purpose for it in terms of community amenity, particularly in its current state.
- Typically, local governments will only own land where that land genuinely delivers a benefit to the community. Whilst the site does accommodate heritage value, there is limited capability for the site, if retained by the Town, to deliver a benefit to the community beyond its heritage value.
- The Museum of Perth has advised that it is able to invest the necessary funds in the required restoration. It has recently restored the Atlas Building (\$100,000) without any concerns as to funding and has demonstrated that it currently holds \$30,000 in a bank account. It is acknowledged however that any future funding could be considered somewhat speculative.
- The proposed sale price of \$1 does not reflect the true commercial value of the land, although it does reflect the encumbrances that Council has sought to impose on any transaction, being a requirement for a genuine community benefit including heritage restoration and community access. It would be open to Council to seek to maximise the commercial return of any disposal, but that would likely involve reducing or removing any discretionary requirements.
- Council is able to impose conditions on any contract of sale so as to restrict future sale and subdivision activity. If Council wishes to dispose of the site on the basis of the November 2020 and May 2021 resolutions, it is recommended that such conditions are imposed so as to provide additional security and comfort for the community.
- Even with appropriate instruments such as a formal contract of sale (with conditions) and caveat, the disposal of the site does represent a degree of uncertainty and does come with at least some risk. That risk needs to be weighed against the relative risks and issues of other options.

Based on the above, if Council wishes to dispose of the site on the basis of the November 2020 and May 2021 resolutions, it is recommended that it resolve to dispose of the site to Museum of Perth in accordance with the terms provided in the officer recommendation.

Statutory Requirements

The *Local Government Act 1995* sets out requirements and processes for disposing of Town-owned land. The proposed disposal is an exempt disposition for the purposes of the Act on the basis that it would be to a “*charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature*” group and the members are not entitled or permitted to receive any pecuniary profit from the body’s transactions.

Financial Considerations

Any option for the future of the site involving the Town retaining the Cottage and/or the residence represents a significant renovation and maintenance cost. The preparation of a formal agreement and the lodgement of a caveat will represent a cost to the Town, in addition to the normal settlement costs associated with a land transaction.

Risk Management Implications

High. The Town-owned site accommodates two buildings; one of which has been found to be unfit for occupation and requires remedial work to rectify.

In addition, there is significant reputational risk associated with any and all of the options for the site. If Council wishes to dispose of the site on the basis of the November 2020 and May 2021 resolutions and therefore agrees to dispose of 1 (Lot 50) Surrey Street, Bassendean to the Perth History Association Inc. t/a Museum of Perth, it will be recommended that the requisite agreement contains provisions relating to on-sale and subdivision. This will mitigate Council’s reputational risk on the matter.

Officer Recommendation – Item 8.1

If Council wishes to dispose of the site on the basis of the November 2020 and May 2021 resolutions, that it:

1. Agrees to sell 1 (Lot 50) Surrey Street, Bassendean to the Perth History Association Inc. t/a Museum of Perth on the following basis:
 - Sale price: \$1 (one dollar); and
 - Condition of sale: The purchaser shall enter into a formal contract of sale with the Town of Bassendean, with terms relating to the following, and secured by an absolute caveat; registered upon the Certificate of Title at settlement:
 - the purchaser, to the satisfaction of the Town, to provide, as a minimum, community access to the Pensioner Guard Cottage on a monthly basis;

- the purchaser, to the satisfaction of the Town, to undertake restoration of the existing Residence over a period of up to four years, in accordance with the staged implementation plan provided by the purchaser to the seller dated May 2021 and as contained in its expression of interest submission;
 - if the restoration is not completed within four years (or such other time as is agreed with Council), the Town is able to purchase back the site for \$1 (one dollar);
 - the site is not permitted to be subdivided; and
2. Requests the Chief Executive Officer undertake the actions required to finalise the disposal.

Voting requirements: Simple majority

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|--|---|
| Item No. 8.2 | Proposed Tree Preservation Order |
| Property Address | 19 (Lot 43) Nurstead Avenue, Bassendean |
| Landowner/Applicant | Kayt Davies – Applicant Department of Communities - Landowner |
| Ref | TPO/2021/5 |
| 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. |
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| <input type="checkbox"/> Information | For the Council/Committee to note. |
| Attachment | Nil. |

Purpose

The purpose of this report is for Council to consider a nomination for a tree preservation order (TPO) for an Australian umbrella tree (*Schefflera actinophylla*) at 19 (Lot 43) Nurstead Avenue, Bassendean. A photograph of the tree is shown below:



The matter is required to be determined by Council as the landowner has objected to the proposed TPO.

Background

On 7 May 2021, the Town received a TPO nomination for the tree from a third party. The nomination was made on the basis of aesthetic quality, age of the tree (circa 1970's), rarity and a food source for nectar-eating fauna.

Communication and Engagement

In accordance with Clause 4.7.7.3 of Local Planning Scheme No. 10 (LPS 10), the Town gave written notice to the landowner - Department of Communities (DoC) for a period of 15 days, from 24 June 2021 to 9 July 2021.

Whilst it had no intention of removing the tree (as it does not present a risk and there are no redevelopment plans for the property), the DoC objected to the proposed TPO as it may hinder future plans for the property, and make the process of trimming or lopping the tree for safety reasons more complicated.

Whilst the DoC understood that future development would be considered public works and only regard to LPS 10 was required (as further discussed in this report), the DoC also raised concern that given multiple areas within the Department dealt with assets, the TPO could be accidentally breached.

Strategic Implications

Priority Area 2: Leading Environmental Sustainability

| Direction | Potential Strategies | What Success Looks Like |
|--|---|---|
| Conserve, protect and enhance our natural environment and biodiversity | <ul style="list-style-type: none"> Conserve, enhance and repair natural and urban areas Facilitate management of reserves by Friends groups | <p>SHORT TERM</p> <ul style="list-style-type: none"> Increased number and rate of participation of environmental volunteers <p>LONG TERM</p> <ul style="list-style-type: none"> Restoration and revegetation measures improve |
| Support the creation of a more green and shaded Town | <ul style="list-style-type: none"> Create an urban forest throughout reserves, gardens and streets Protect existing trees and green spaces | <p>SHORT TERM</p> <ul style="list-style-type: none"> Fewer trees lost during development <p>LONG TERM</p> <ul style="list-style-type: none"> Increased proportion of tree cover Reduced heat island effect |

Comment

Local Planning Scheme No. 10

Clause 4.7.7.2(i) of LPS 10 provides the local government the ability to order the preservation and maintenance of a tree via a TPO.

Where a local government makes an order for the preservation and maintenance of a tree, LPS 10 requires the local government to have regard to:

- aesthetic quality;
- historical association;
- rarity; and
- any other characteristics which make the tree worthy of preservation.

In this instance, the Town did not engage an independent arborist to assess the nominated tree on the basis that an arborist would typically provide advice on the health of the tree. The Town has assessed the tree and confirms the tree is in sound health.

The Town has also formed the view that the tree has aesthetic quality and provides a local food source for fauna and as such, is appropriate to consider for a TPO based on LPS 10 criteria.

Future Development

The subject site is currently zoned Residential R25 and has subdivision/development potential for two lots/dwellings. The site is proposed to be zoned Residential R60 under draft Local Planning Scheme No. 11, meaning the site would have subdivision/development potential for six lots/dwellings, or a three-storey multiple dwelling complex.

Any proposed subdivision/development of the subject site by DoC would be considered public works in accordance with the *Public Works Act 1902*. Whilst development approval would be required under the Metropolitan Region Scheme, public works are exempt from requiring approval under the Local Planning Scheme.

Whilst the DoC is required to have regard to the Local Planning Scheme, applications for development approval by the DoC are not determined by the local government, and any such application is only referred to the Town for comment, prior to a decision being made by the DoC or the Western Australian Planning Commission (WAPC).

The Town consistently seeks the retention of mature vegetation in its advice on development proposals to the DoC, however, the DoC and WAPC are not obliged to comply with the Town's advice.

Given the statutory head of power for TPOs is the Local Planning Scheme, despite resolving to make a TPO, the tree would have no statutory protection should the DoC choose to subdivide/develop the site and remove the tree.

Despite this, the recently amended State Planning Policy 7.3 – Residential Design Codes – Volume 1, requires one tree per dwelling with a minimum planting area of 2m x 2m. State Planning Policy 7.3 – Residential Design Codes – Volume 2 – Apartments, also requires deep soil zones for planting and encourages the retention of mature trees.

As such, it would be opportune for the DoC to retain the tree to fulfil the requirements of the R-Codes where either grouped or multiple dwellings are proposed.

Conclusion

The Town acknowledges the future development potential of the subject site, which, if developed by the DoC, could result in the removal of the tree despite a TPO being made.

Notwithstanding, the tree meets the criteria for a TPO and should the TPO be made, the Town would include this advice when responding to the DoC on any proposed development.

Statutory Requirements

Planning and Development Act 2005

Section 6 of the *Planning and Development Act 2005* provides the following with respect to public works:

- “(1) Subject to subsections (2) to (4), nothing in this Act interferes with the right of the Crown, or the Governor, or a public authority, or a local government:*
- (a) to undertake, construct or provide any public work; and*
 - (b) to take land for the purposes of that public work.*
- (2) Rights referred to in subsection (1) are to be exercised having due regard to:*
- (a) the purpose and intent of any planning scheme that has effect in the locality where, and at the time when, the right is exercised; and*
 - (b) the orderly and proper planning, and the preservation of the amenity, of that locality at that time; and*
 - (c) any advice provided by the responsible authority in the course of the consultation required under subsection (3) in respect of the exercise of the right.*
- (3) At the time when a proposal for any public work, or for the taking of land for a public work, is being formulated, the responsible authority is to be consulted as to whether the undertaking, construction or provision of, or the taking of land for, the public work will be consistent with the matters referred to in subsection (2)(a) and (b).”*

Local Planning Scheme No. 10

In accordance with clause 4.7.7.6 of LPS 10, the local government is to record, in a Registry of Tree Preservation Orders, a list of the trees subject to orders under this section.

Financial Considerations

Nil.

Risk Management Implications

Nil.

Officer Recommendation – Item 8.2

That Council makes a Tree Preservation Order for an Australian umbrella tree (*Schefflera actinophylla*) at 19 (Lot 43) Nurstead Avenue, Bassendean.

Voting requirements: Simple majority

| | |
|---|---|
| Item No. 8.3 | Joint Development Assessment Panel Application - Tavern (Additions and Alterations to Bassendean Hotel) - Amendment |
| Property Address | Lot 5 (No.17) & Lot 6 (No. 23) Old Perth Road, Bassendean |
| Landowner/Applicant | Bassendean Hotel Holdings Pty Ltd |
| Ref | DABC/DBVAPPS/2021-022/1 |
| 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. |
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| <input type="checkbox"/> Information | For the Council/Committee to note. |
| Attachment No. 2 | Responsible Authority Report |

Purpose

The purpose of this report is for Council to provide a recommendation to the Metro Inner-North Joint Development Assessment Panel (JDAP) for a proposed amendment to the existing development approval for a Tavern (Additions and Alterations to Bassendean Hotel).

Background

On 13 April 2021, the Metro Inner-North JDAP approved an application for a Tavern (Additions and Alterations to Bassendean Hotel).

On 25 May 2021, Council resolved to make Tree Preservation Orders for the eastern most Lemon Scented Gum (*Corymbia citriodora*) (Tree 1) and two Hill's Weeping Fig Trees (Tree 5 and 6) located at Lot 6 (No. 23) Old Perth Road, Bassendean.

Proposal

The proposal involves amending the existing development approval by:

- Amending the area of the tree protection zones and construction methods of the proposed tree protection barriers; and
- Increasing the number of car parking bays from 75 to 81.

Communication and Engagement

Nil.

Strategic Implications

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 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 |

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 value within the Town are recognised, cared for and utilised by the community Implement initiatives, events and activities that focus on a range of cultural and artistic endeavours (not limited to entertainment) | <p>SHORT TERM</p> <ul style="list-style-type: none"> Local studies collection actively accessed by the community <p>LONG TERM</p> <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

The Town's assessment of the application and the resultant recommendation are contained within the RAR.

Statutory Requirements

Regulation 17 of the *Planning and Development (Development Assessment Panels) Regulations 2011* allows an owner of land in respect of which a development approval has been granted by a JDAP to apply to do any or all of the following:

- “(a) to amend the approval so as to extend the period within which any development approved must be substantially commenced under regulation 16A(2);*
- (b) to amend or delete any condition to which the approval is subject;*
- (c) to amend an aspect of the development approved which, if amended, would not substantially change the development approved;*
- (d) to cancel the approval.”*

The decision maker is required to approve (with or without conditions) or refuse the application.

Financial Considerations

Nil.

Risk Management Implications

Nil.

Officer Recommendation – Item 8.3

That Council endorses the Officer Recommendation contained within the attached Responsible Authority Report on the basis that the proposed development is consistent with LPS 10 and relevant local planning policies, with the exception of those requirements that have previously been adequately addressed via conditions.

Voting requirements: Simple majority

| | |
|--|--|
| Item No. 8.4 | Existing Carport and Patio - 50 (Lot 585) Faulkner Way, Eden Hill |
| Property Address | 50 (Lot 585) Faulkner Way, Eden Hill |
| Landowner/Applicant | Landowner: Jarryd Antcliff and Hayley Sluchniak Applicant: Paramount Patios |
| File Ref | DABC/BDVAPP/2021-088 |
| 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. |
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| <input type="checkbox"/> Information | For the Council/Committee to note. |
| Attachment No. 3 | Development Plans Photographs of Structures |

Purpose

The purpose of this report is for Council to consider an application for development approval for an existing carport and patio at 50 (Lot 585) Faulkner Way, Eden Hill. The matter is referred to Council for determination as it is outside the authority delegated to staff due to an objection being received during the consultation period, and as the applicant has elected the matter be determined by Council.

Background

Site Description

The subject site is a freehold lot zoned Residential R17.5 with an area of 866m². The site contains a single house with various patio and outbuilding additions, including those the subject of this report. The site is located on the corner of Faulkner Way and Cothill Court, with vehicle access via Cothill Court.

Existing Unauthorised Development

In 2019 and 2020, the Town issued two building permits for two patios at the subject site, as follows:

- A patio on the eastern boundary was approved with a 1.5m setback to the secondary street (Cothill Court); and

- The patio on the southern boundary was approved with a 1.8m side (southern) setback and a 1.5m rear (western) setback. The patio was open on all sides, with no enclosed portions.

Given the proposed structures were compliant with the deemed-to-comply requirements of State Planning Policy 7.3 – Residential Design Codes (R-Codes), no development approval was required.

On 15 April 2021, the Town received a complaint in relation to the development at the premises. Upon investigation, including a site visit with the landowner, it was determined that the structures were not built in accordance with the approved building permits and were constructed such that they were not exempt from the requirement to obtain a development approval.

On 24 May 2021, an application for development approval was lodged.

Proposal

The application involves the retention of:

- A 14.3m long x 5.05m wide flat-roofed carport on the southern portion of the site to the rear of the dwelling, with informal access from Cothill Court. The carport is 3.5m high, constructed with metal columns and metal sheet paneling, and partially enclosed on the sides. The carport is used for the storage of a boat; and
- A 10.07m long x 5.10m wide patio, located along the eastern boundary of the site. It is 2.4m high and constructed with metal columns and sheet metal roofing.

A copy of the development plans and photographs are attached.

Communication and Engagement

The development application plans were referred to owners and occupiers of affected properties for a period of 14 days (being from 4 June 2021 to 19 June 2021). At the close of the submission period, one submission was received; an objection based on the perceived industrial scale/look of the proposal.

To address the concerns of the submitter and the non-compliance with the R-Codes, the Town met with the landowner on 6 July 2021 to discuss how the application could be modified, including removing the side panelling of sheet metal on the carport within the first section of the carport closest to Cothill Court, and matching the roof colour of the patio to that of the dwelling.

Ultimately, the applicant and landowner have requested to have the application determined by Council in its current form.

Strategic Implications

Priority Area 1: Strengthening and Connecting our Community

| Direction | Potential Strategies | What Success Looks Like |
|---|---|---|
| Fostering a culture of collaboration and trust between the organisation and community | <ul style="list-style-type: none"> Provide opportunity to listen and involve our community in decisions that affect them | <ul style="list-style-type: none"> Greater community support for decision making |

Comment

Local Planning Scheme No. 10 (LPS 10)

The subject site is zoned Residential R17.5 under LPS 10. A Single House is a “P” use within the Residential zone, meaning the use is permitted by the Scheme providing the use complies with the relevant development standards and the requirements of the Scheme.

State Planning Policy 7.3 – Residential Design Codes Volume 1

The R-Codes include ‘deemed-to-comply’ Criteria (prefixed by “C”) and Design Principles (prefixed by “P”). Applications not complying with the deemed-to-comply criteria can be assessed against relevant design principles.

The subject proposal complies with all relevant deemed-to-comply provisions of the R-Codes with the exception of those detailed in the table below.

| R-Code and Policy Provision | Assessment/Comment |
|--|---|
| 5.1.2 – Street Setback | |
| C2.2 Buildings set back from the secondary street boundary in accordance with Table 1. Table 1 requires a 1.5m setback. | The proposed carport is setback 1.0m to secondary street. As the proposal does not comply with the deemed-to-comply criteria, assessment against the design principles is required. |
| P2.1 Buildings set back from street boundaries an appropriate distance to ensure they: <ul style="list-style-type: none"> - contribute to, and are consistent with, an established streetscape; - provide adequate privacy and open space for dwellings; - accommodate site planning requirements such as parking, landscape and utilities; and - allow safety clearances for easements for essential service corridors. | The existing streetscape is characterised by expansive verge areas and dwellings generally setback 6.0m from the primary street. The subject structures are inconsistent with the established streetscape for the following reasons: <ul style="list-style-type: none"> - The structures are located within the secondary street setback area and are therefore inconsistent with the open character of the streetscape. - The scale and form of the carport is considered unsympathetic to the residential character of the streetscape. |

| | |
|--|---|
| <p>P2.2 Buildings mass and form that:</p> <ul style="list-style-type: none"> - uses design features to affect the size and scale of the building; - uses appropriate minor projections that do not detract from the character of the streetscape; - minimises the proportion of the façade at ground level taken up by building services, vehicle entries and parking supply, blank walls, servicing infrastructure access and meters and the like; and - positively contributes to the prevailing or future development context and streetscape as outlined in the local planning framework. | <p>In considering the principle, the following is relevant:</p> <ul style="list-style-type: none"> - The design of the structures is inconsistent with the existing dwelling via colouring and use of sheet metal. The sheet metal panels on the upper portions of the carport contribute to its building bulk, - The structures encroach into the secondary street setback area and are not considered minor projections. - The carport, if approved, will require a crossover and driveway to be constructed and therefore the development contributes to vehicle entries and parking areas; |
| <p>5.1.3 – Lot Boundary Setback</p> | |
| <p>C3.1 Buildings are setback in accordance with the following provisions, subject to any additional measures in other elements of the R-Codes:</p> <ul style="list-style-type: none"> i. buildings set back from lot boundaries in accordance with Table 1, Tables 2a and 2b (refer to Figure Series 3 and 4). | <p>The carport is setback 0.5m to the rear (southern) boundary in lieu of the 1.5m required.</p> <p>As the proposal does not comply with the deemed-to-comply criteria, assessment against the design principles is required.</p> |
| <p>P3.1 Buildings set back from lot boundaries or adjacent buildings on the same lot so as to:</p> <ul style="list-style-type: none"> - reduce impacts of building bulk on adjoining properties; - provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and - minimise the extent of overlooking and resultant loss of privacy on adjoining properties. | <p>In considering the principles, the following is relevant:</p> <ul style="list-style-type: none"> - The sheet metal panels on the upper portions of the carport contribute to its building bulk; - Whilst the extent of overshadowing meets the deemed-to-comply criteria, the carport structure contributes to the overshadowing of the adjacent property at 3 Cothill Court. |

Built Form and Character Study

The Built Form and Character Study provides guidance on shaping Bassendean's future built environment. It catalogues the characteristics of buildings and places that are most valued and should be reflected in future development.

The subject site is located within Character Area 1, which is defined by open front gardens, large lawn and verge spaces. The front setbacks to properties are approximately 5.0-6.0m and the average width of lot fronts is 19.5m. The following are identified as 'threats' to the character of the area:

- Loss of open streetscape setting by introducing high and solid front fence styles;
- Car parking structures that obscure views of dwellings; and
- Boundary to boundary development.

To address the above threats, the Study recommends the following relevant in respect to future development:

- Maintaining consistent building line front and side setbacks to retain the existing streetscape rhythms;
- Avoiding car parking structures that dominate the streetscape and dwelling;
- Maximising areas of soft landscaping and discouraging large areas of hard landscaping; and
- Ensuring that new development and additions respect the predominant scale of the Character Area.

The existing development is considered to be inconsistent with the character of the area as defined within the Study and will result in inconsistent building lines, additional car parking structures that dominate both the streetscape and the dwelling and a reduction in soft landscaping areas within the verge to accommodate vehicle access.

In respect to vehicle access, should Council approve the structures, the landowner will be required to obtain approval for a second crossover, which could potentially be supported in this instance given the site is located on a corner.

Local Planning Policy No. 12 – Developments within the Street Setback Area (LPP 12)

The purpose of LPP 12 is to provide criteria for development within the street setback area to ensure such development is complementary and compatible with existing development and to enhance and preserve streetscapes within the Town.

Where development is located within the street setback area, structures are required to be complementary to the dwelling in terms of design, colours, materials and roof pitch. Structures are also required to be as unobtrusive as possible and not dominate the streetscape.

The carport and patio do not comply with LPP 12 for the following reasons:

- In relation to the carport, the side sheet metal panels contribute to building bulk, and the design and materiality of the structure is industrial in nature, dominates the streetscape and adversely impacts the amenity of the street setback. In addition, the design of the structure is not compatible with the dwelling given its flat sheet metal roofing in lieu of pitched tiles.
- In relation to the patio, whilst the design and pitch of the structure (being a gabled roof) is similar to the existing dwelling, the white sheet metal is inconsistent with the dark grey roofing of the dwelling.

Other Structures

The development application was lodged in response to compliance action being undertaken by the Town. In assessing the application, the Town identified various other structures (patios connected to the southern edge of the dwelling and an outbuilding) which have also been erected without approval. The landowner will be required to lodge an application for a Building Permit, and potentially, an application for development approval. Those applications will be considered separately.

Conclusion

The proposed development is considered to have a detrimental impact on the amenity and character of the existing streetscape and is inconsistent with the built form of the dwelling. The development fails to meet the relevant design principles listed prescribed within the R-Code and the requirements of LPP 12. It is therefore recommended that Council refuses the application.

Statutory Requirements

In accordance with Clause 68(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, Council is required to determine the application by:

- “(a) granting development approval without conditions; or*
- (b) granting development approval with conditions; or*
- (c) refusing to grant development approval.”*

If Council resolves to refuse the application, the Town will take action to ensure that the subject structures are removed.

Financial Considerations

Nil.

Risk Management Implications

Should Council refuse the proposal, the applicant may seek to appeal to the State Administrative Tribunal.

Officer Recommendation – Item 8.4

That Council refuses the application for development approval for an existing carport and patio at 50 (Lot 585) Faulkner Way, Eden Hill, for the following reasons:

1. The proposal does not comply with State Planning Policy 7.3 – Residential Design Codes, with respect to secondary street setback and lot boundary setback requirements;
2. The proposal does not comply with Local Planning Policy No. 12 – Developments within the Street Setback Area, as the design, colours, material and roof pitch of the development is inconsistent with the dwelling; and
3. The proposal detrimentally impacts the amenity of the locality as it is inconsistent with the character of the existing and desired streetscape, as prescribed within the Town of Bassendean Built Form and Character Study.

Voting requirements: Simple Majority

| | |
|---|---|
| Item No. 8.5 | Purchase of Lot 304 Kenny Street |
| Property Address (if applicable) | Lot 304 Kenny Street, Bassendean |
| Landowner/Applicant (if applicable) | Lorraine Jean & Wade Lance Burton |
| File Ref | DABC/BDVAPPS/345-20 |
| 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 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 permit, 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. |
| <input type="checkbox"/> Information | For the Council/Committee to note. |
| Attachment | Nil. |

Purpose

That Council considers purchasing Lot 304 Kenny Street, Bassendean.

Background

On 25 May 2021, Council resolved to waive rates for the subject site for the period from 1 April 2021 to 30 June 2021. The site has an area of 80m² and accommodates a Town footpath.



Since that time, Town staff have discussed with the landowner the acquisition of the land. The land is largely undevelopable given it has no zoning, and the costs associated with obtaining a formal valuation would likely be greater than the actual value of the land. The Town therefore investigated any similar parcels of land to determine an appropriate value. Based on a recent valuation for Lot 211 Carnegie Road, Bassendean, (which, due to various constraints, is effectively undevelopable and therefore was valued at \$30/m²), the Town offered the landowner \$2,400.

The landowner accepted the offer, and the consent of Council is now required to proceed with the purchase of the land.

Communication and Engagement

The Town has liaised with the landowner throughout the assessment of the subdivision application and as part of the recent offer for the subject land.

Strategic Implications

Priority Area 6: Providing Visionary Leadership and Making Great Decisions

| Direction | Potential Strategies | What Success Looks Like |
|---|---|---|
| Make brave decisions in line with a risk appetite | <ul style="list-style-type: none"> • Early identification of potential risks / issues/opportunities • Embed opportunity cost considerations | SHORT TERM <ul style="list-style-type: none"> • Defensible decision making that is based on the identification of opportunities and benefits as well as negative impacts |

Comment

Purchase

The Town is required to acquire the lot to enable the ultimate finalisation of Town Planning Scheme No. 4A (TPS 4A). It is therefore recommended that Council agrees to purchase Lot 304 Kenny Street on Deposited Plan 417198 for \$2,400.

Waiver Approval Commencement Date

Council previously waived the rates from the date the lot was created (17 May 2021) for the 2020/21 financial year.

Given the landowner is acting in good faith to resolve the matter, it is recommended that Council waive the rates for the 2021/22 financial year.

Statutory Requirements

Local Government Act 1995
Land Administration Act 1997

Financial Considerations

The cost of purchasing the land can be met through the Town's adopted budget (TPS4A expense account).

If the rates waiver is approved, the Town will forgo a portion of the minimum payment for 2021/22 financial year (\$1,106), with the actual amount based on the date of settlement.

Risk Management Implications

TPS 4A refers to the acquisition of this land for a PAW. If the Town does not purchase this land, the Town will be unable to finalise TPS 4A.

Officer Recommendation – Item 8.5

That Council:

1. Purchases Lot 304 Kenny Street, Bassendean, on Deposited Plan 417198 for \$2,400.
2. Waives rates for Lot 304 Kenny Street, Bassendean, on Deposited Plan 417198, for the 2021/22 financial year, in accordance with Section 6.47 of the *Local Government Act 1995*.

Voting requirements: Absolute majority

| | |
|--|---|
| Item No. 8.6 | Proposed Change of Use to Use Not Listed (Function Centre & Creative Space) |
| Property Address (if applicable) | Lot 7 (Unit 7, No. 15) Dyer Road, Bassendean |
| Landowner/Applicant (if applicable) | Quincunx Pty Ltd/Blank Canvas Quarter |
| Ref | 2021-083 |
| 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 & 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 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. 4 | Location Plan Development Plans Applicant's Cover Letter |

Purpose

The purpose of this report is for Council to consider an application for development approval for a change of use to a Use Not Listed (Function Centre & Creative Space) within Lot 7 (Unit 7, No. 15) Dyer Road, Bassendean.

The matter is being referred to Council for determination as it is outside the authority delegated to staff due to the nature of the application being a Use Not Listed under Local Planning Scheme No. 10 (LPS 10).

Background

The subject site is a strata unit located within an existing industrial complex. The subject premises is bound by Collier Road, Dyer Road and McDonald Crescent, with access limited to the site from Dyer Road and McDonald Crescent. A location plan follows:



Proposal

The application is for a Use Not Listed (Function Centre & Creative Space), with the intention of creating a space that can be used for the following activities:

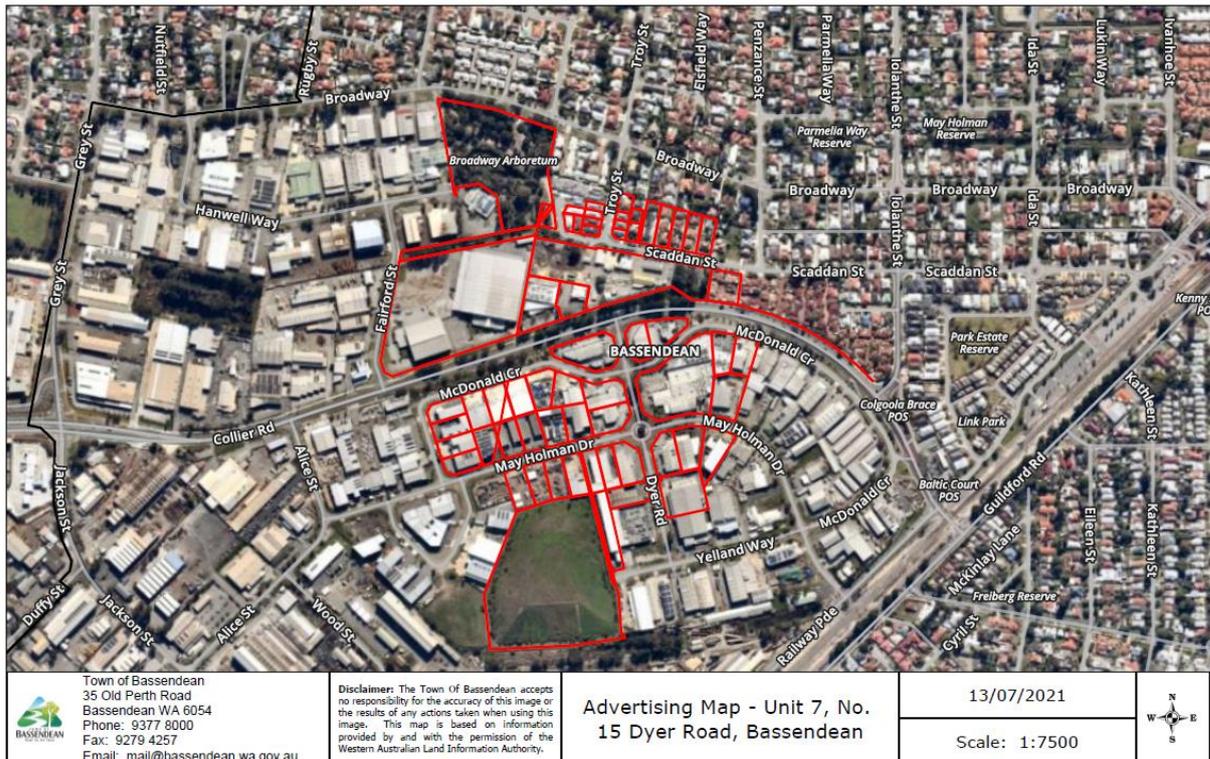
- The hosting of workshops, such as macramé, candle making, makeup, health & wellness and business workshops;
- Office space for hire;
- Studio space for content creators and photographers;
- Podcast recording area; and
- Function space for people to hold events such as mothers groups, business networking events, and hens and bucks parties.

The application is proposed to operate in the following manner:

- Anticipated Hours: 8am to 5pm – Monday to Thursday;
8am to midnight - Friday and Saturday; and
Sunday evening events (no specific times);
- Anticipated Attendance: Large events (held after general business hours) standing only – a maximum of 100 people;
Seated events – a maximum of 50 people; and
Workshops – a maximum of 20 people.

Communication and Engagement

The *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) define applications for a Use Not Listed as a complex development application. The Regulations require complex applications to be advertised for a minimum of 28 days, including a sign on site and letters to landowners and occupiers within 200m of the subject premises. The application was advertised in that manner from the 24 June 2021 to the 23 July 2021. A consultation plan follows.



During the advertising period, the Town received a total of two submissions on the proposal, of which only one was an objection. The objection pertained to concerns regarding noise, and in particularly noise after 10.00pm when larger events are held. This is discussed further within the report.

Strategic Implications

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

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 | SHORT TERM <ul style="list-style-type: none"> • Openness and transparency of decision making • Enhanced staff morale • Staff have appropriate strategic direction |

| | | |
|--|---|---|
| | <ul style="list-style-type: none"> • Create an organisational culture of performance, innovation and excellence • Develop shared values between Council, administration and the community | <ul style="list-style-type: none"> • Agreement on the link between projects and Strategic Community Plan • General alignment regarding values |
|--|---|---|

Comment

Local Planning Scheme No. 10

Land Use Classification and Permissibility

The subject site is zoned General Industry under LPS 10.

Whilst individual aspects of the proposed development could be seen to meet aspects of specific land use definitions within LPS 10, the nature of the proposal is such that each aspect may only be on a temporary or short term basis.

As such, and given the proposal includes a range of educational, social and recreational activities and services, the Town considered the proposal a Use Not Listed for the purposes of assessment under LPS 10.

Clause 3.4.2 of LPS 10 states:

“If a person proposes to carry out on land any use that is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the type, class or genus of activity of any other use category the local government may:

- a) *determine that the use is consistent with the objectives of the particular zone and is therefore permitted;*
- b) *determine that the use may be consistent with the objectives of the particular zone and thereafter follow the advertising procedures of clause 67 of the deemed provisions in considering an application for development approval; or*
- c) *determine that the use is not consistent with the objectives of the particular zone and is therefore not permitted.”*

The objectives of the General Industry Zone, as defined by LPS 10 are summarised as follows:

- To provide for a broad range of industrial uses (excluding noxious or hazardous industry);
- To accommodate a range of manufacturing and associated activities which will not detrimentally affect the amenity of nearby land;
- To achieve safety and efficiency in traffic circulation;
- To provide for appropriate car parking and landscaping;
- To preclude the storage of unsightly goods from public view; and
- To ensure that the development conforms with the Local Planning Strategy and relevant Local Planning Policy.

Whilst the proposed land use activities are not industrial in nature, nor necessarily associated with industrial activities, there are aspects of the proposal where the use could be considered consistent with the objectives of the general industry zone, such as:

- The activities will not detrimentally affect the amenity of the adjoining properties or their ability to function as an industrial site;
- The activities will not involve the storage of unsightly goods;
- Traffic associated with the proposed development will not have an adverse impact on the surrounding road network, traffic safety or traffic circulation; and
- Car parking associated with the site is considered to be acceptable (further detail is provided with regard to this matter under the subsequent car parking section of the report).

Based on the above, it was considered that the use “may” be consistent with the objectives of the zone, and the proposal was advertised accordingly.

Development Standards - Car Parking

The following table details LPS 10 car parking requirements across the broader site.

| Use Class | LPS 10 Requirement | Bays Required |
|----------------------------------|---|--|
| Unit 1 – Warehouse | 1 per 100m ² of gross floor area (warehouse) | 3 bays 262m ² /100 = 3 |
| Unit 2 – Warehouse | 1 per 100m ² of gross floor area (warehouse) | 3 bays 258m ² /20 = 12.9 |
| Unit 3 – Private Recreation | 1 per 20m ² of NLA area & 1 bay per staff member (Private Recreation) | 13 bays 216m ² /20 = 10.8 1 staff member (2010-158) |
| Unit 4 – Warehouse | 1 per 100m ² of gross floor area (warehouse) | 3 bays 214m ² /100 = 2.14 |
| Unit 5 – Warehouse | 1 per 100m ² of gross floor area (warehouse) | 3 bays 220m ² /100 = 2.2 |
| Unit 6 – Lunch Bar | 1 per 20m ² of gross floor area (lunch bar) | 7 bays 136m ² /20 = 6.8 |
| Unit 7 - Proposed Use Not Listed | 1 per 4 people the development is designed to accommodate | 25 bays (100 person capacity) |
| Unit 8 - Warehouse | 1 per 100m ² of gross floor area (warehouse) | 2 bays 115m ² /100 = 1.15 |
| Unit 9 – Warehouse | 1 per 100m ² of gross floor area (warehouse) | 2 bays 128m ² /100 = 1.28 |
| Total | Required | 61 bays Required |
| | Provided | 37 bays Provided |
| | Shortfall | 24 bay Shortfall |

As detailed above, the proposal results in a 24 vehicle bay shortfall across the site.

In considering this matter, Local Planning Policy No. 8 – Car Parking and End-of-Trip Facilities provides for variations to the car parking standards having regard to the following:

(a) the nature of the proposed development

The proposed development includes a variety of activities ranging from small scale office type uses, to group workshops and larger events. To ensure the appropriate on-site management of parking for the activities, a condition requiring a Parking Management Plan is recommended to ensure the ongoing parking management of the site.

(b) the number of employees likely to be employed onsite

The application only includes two permanent employees, effectively being the hosts of the venue. There is sufficient parking onsite to support the two permanent employees. However, given the range of activities that could occur and short term nature of activities on site, the number of persons onsite, will vary and therefore the amount of bays that would otherwise specifically be considered for staff has been included in considering the broader car parking requirements.

(c) the anticipated demand for parking

Given the varied nature of activities occurring at the site, the demand for parking will vary based on the specific activity occurring. The seated events and workshops will generate a maximum of 20 and 50 patrons respectively, and larger events of to 100 patrons.

In considering the anticipated demand and availability of parking, the following is relevant:

- The nature of the larger events held outside of nominal hours (hens and bucks parties) are likely to require alternative methods of transport (such as ride share) due to likely alcohol consumption and as such, there will be little car parking demand;
- Larger events are to be held outside of business hours and are unlikely to conflict with the other units;
- Whilst seated and workshop events are proposed during business hours, with the exception of the existing private recreation, the majority of uses on the site are Warehouses which are unlikely to generate significant actual demand for car parking. This is reaffirmed by a review of historical aerial photographs for the site, which show bays predominantly vacant.
- The subject premises is located with 880m of the Ashfield Railway Station and 990m of the Bassendean Railway Station. Whilst outside the nominal 800m walkable catchment, the stations are still considered within close enough proximity to leverage off this transport method as a viable alternative method.

(d) the orderly and proper planning of the locality.

The subject site is an industrial area with a wide variety of industrial and commercial land uses with varying car parking requirements.

To ensure the orderly and proper planning of the locality is not compromised, the Town has taken into consideration the safety of pedestrians or motorists, street trees or service infrastructure and the availability of off-street parking. The Town is satisfied that:

- There is adequate access to the site, acknowledging the proximity to arterial roads and the three crossovers which service the site;
- The design of the car parking is such that it will provide safe vehicle maneuverability and sight lines; and
- Sufficient on-street parking is available directly adjoining the site on McDonald Crescent to service the proposed development surrounding businesses.

On this basis, the Town supports the proposed car parking shortfall subject to a Parking Management Plan.

Planning and Development (Local Planning Schemes) Regulations 2015

The deemed provisions of the *Planning and Development (Local Planning Scheme Regulations) 2015* (Regulations) include matters which the local government is to have due regard to when considering an application for development approval. The relevant considerations are discussed below.

Compatibility of Development

Clause 67(m) of the Regulations requires the assessment of the proposed developments compatibility with the surrounding locality and potential impacts. The development is considered to be compatible with the surrounding locality for the following reasons:

- The proposed development is setback approximately 150m to the nearest residential property, which ameliorates any potential amenity impacts;
- There is scope for the subject premises to be used by nearby industrial sites for the purpose of networking opportunities, seminars, or workshops of an industrial nature, positively contributing to the industrial precinct;
- There are no proposed works associated with the application, which limits any impacts on the fabric of the locality as further within this report; and
- Support of the development is considered as encouraging and facilitating new investment opportunities to build the capacity of local employment opportunities within the district.

Access, Egress & Traffic

Clause 67(s)(i)-(ii) and Clause 67(t) of the Regulations requires the assessment of the proposed access and egress to the site, inclusive of vehicle parking and traffic generation for the development. The access, egress arrangements and proposed traffic have been considered to be acceptable for the following reasons:

- The subject premises has three accesses to the site; one from Dyer Road and two from McDonald Crescent;
- The internal layout of the site is considered to be sufficient to enable vehicle movements throughout the site, inclusive of waste vehicles;
- The development abuts Collier Road (a major arterial road), and the Town is satisfied that the volume of traffic generated as a result of the proposed development is within the capacity of the surrounding road network to accommodate; and
- Whilst the development will result in a shortfall in vehicle parking onsite, the shortfall can be supported for the reasons outlined in this report.

Waste Management

The applicant is proposing to use the existing bins on site for waste collection, and engage the services of private contractors should this become insufficient.

Given the nature of the operation and the potential of the proposal to impact on the capacity of bins servicing other businesses within the strata complex, the Town recommends that a Waste Management Plan be prepared to further refine the details of waste management in accordance with the Western Australian Local Government Association Waste Plan Guidelines for best practice. This has been recommended as a condition of approval.

Event Management

Whilst not proposed as part of the application, the nature of the activities on-site may involve the preparation of food and the consumption of alcohol. The applicant will be required to comply with the Food Standards Code, *Food Safety Standards* and obtain a license from the Department of Racing, Gaming and Liquor in accordance with the *Liquor Control Act 1988* if required.

A condition requiring an Event Management Plan is recommended to ensure contact details are available and management arrangements are in place, particularly for the larger events.

The development and operation of the premises is also required to comply with the *Health (Public Buildings) Regulations 1992*, including matters relating to emergency exits and sanitation facilities. Should the proposed development be approved, a separate application shall be made to the Town in this respect.

Noise

The development will be required to comply with the *Environmental Protection (Noise) Regulations 1997* (Noise Regulations) at all times.

Whilst the Town is satisfied that noise generated from the seated and workshop events are unlikely to result in noise impacts to surrounding premises, the larger scale events have the potential to generate noise that may not comply with the requirements of the Noise Regulations by virtue of amplified sound.

To ensure residential properties north east of the development are not adversely affected, a condition requiring amplified noise to cease by 10:00pm to ensure compliance with the Noise Regulations is recommended.

Should the applicant provide a pre and post acoustic report demonstrating activities comply with the Noise Regulations, the Town could consider removal of such a condition.

Conclusion

Whilst the land use is not industrial in nature, it is considered that the development, in part, meets the objectives of the industrial zone, and the criteria in which the use not listed must be assessed against. It is for these reasons, the Town believes the application can be conditionally supported.

Statutory Requirements

In accordance with Clause 68(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, Council is required to determine the application by:

- (a) granting development approval without conditions; or
- (b) granting development approval with conditions; or
- (c) refusing to grant development approval.

If the applicant is aggrieved with the decision of the Local Government, a right of appeal may exist in accordance with Part 5 of the *Planning and Development Act 2005* with the State Administrative Tribunal.

Financial Considerations

Nil.

Risk Management Implications

Low, however, should Council refuse the application, the applicant may appeal to the State Administrative Tribunal.

Officer Recommendation – Item 8.6

That Council approves the application for development approval for the proposed change of use for a Use Not Listed (Function Centre and Creative Space) at lot 7 (Unit 7, No. 15) Dyer Road, Bassendean, subject to the following conditions:

1. Prior to the commencement of the development, a Waste Management Plan is to be submitted and approved to the satisfaction of the Town of Bassendean. The Waste Management Plan shall address matters included in the Western Australian Local Government Association's Commercial Waste Guidelines, including additional information on, but not necessarily limited to, the following:
 - (i) Measures to be implemented for the purpose of minimizing the delivery of waste to landfill, including the onsite separation of materials for recycling;
 - (ii) A detailed plan of the bin storage area;
 - (iii) the volume and the type of waste to be placed in the bins, including a waste generation calculation; and
 - (iv) Details of intended method of collection, including arrangements for a private contractor.

The development must be carried out in accordance with the approved Waste Management Plan and maintained at all times, for the duration of development.

2. Prior to the commencement of the development, an Event Management Plan is to be submitted and approved to the satisfaction of the Town of Bassendean. The Event Management Plan shall address matters including but not necessarily limited to, the following:
 - (i) A telephone number or numbers and an email address or addresses to be maintained through which a complaint concerning the development may be made at any time;
 - (ii) Details as to how complaints will be responded to and addressed;
 - (iii) Details as to how patrons will be made aware of and comply with relevant legislative requirements, including the requirements of the *Liquor Control Act 1988*, *Food Act 2008* and Environmental Protection (Noise) Regulations 1997; and
 - (iv) Incident management, including emergency management and first aid.

The development must be carried out in accordance with the approved Event Management Plan at all times, to the satisfaction of the Town of Bassendean.

3. Prior to the commencement of the development, a Parking Management Plan is to be submitted and approved to the satisfaction of the Town of Bassendean. Car parking management shall be undertaken in accordance with the approved Parking Management Plan at all times to the satisfaction of the Town of Bassendean.

4. Unless otherwise demonstrated by a suitability qualified Acoustic Consultant that the development on-site will comply with the *Environmental Protection (Noise) Regulations 1997* at all times, amplified sound shall cease from the site by 10:00pm.
5. The loading and/or unloading of vehicles is to occur on-site and in a manner that does not interfere with the parking of vehicles in the car park. All car parking bays in the car park are to be made available at all times for the parking of vehicles by visitors and employees.
6. Car parking bays and areas designated for landscaping shall not be used for the storage, display or selling of any goods or vehicles.

Voting requirements: Simple majority

| | |
|---|--|
| Item No. 8.7 | Fencing Local Law 2013 – Periodic Review |
| Property Address | N/A |
| Landowner/Applicant | N/A |
| File Ref | LAWE/LOCLWS/2 |
| 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</i> , <i>Dog Act</i> 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 | Fencing Local Law 2013 |

Purpose

The purpose of this report is for Council to note the periodic review of the *Fencing Local Law 2013* following public consultation.

Background

On 26 November 2013, Council adopted the *Fencing Local Law 2013*. The Local Law prescribes requirements relating to fences, including:

- Maintenance of fences;
- Defining a sufficient fence; and
- Prescribing offences and penalties.

On 27 April 2021, Council resolved to undertake the periodic review of the Local Law. The local law was not amended as it was considered fit for purpose.

Communication and Engagement

In accordance with Council's resolution and Section 3.12 of the *Local Government Act 1995*, the Town gave notice of its intention to undertake the periodic review of the Local Law and invited submissions for a period of 51 days, being from 5 May 2021 to 25 June 2021. Notice was by way of the following:

- Advertisement in a local paper (Eastern Reporter Newspaper on 13 May 2021);

- Copies of the local law were made available for inspection at the Town's Customer Service Centre and Bassendean Library;
- Displayed on the Town's website; and
- Promoted on the Town's Facebook page.

No submissions were received.

Strategic Implications

Priority Area 1: Strengthening and Connecting our Community

| Direction | Potential Strategies | What Success Looks Like |
|---|---|---|
| Fostering a culture of collaboration and trust between the organisation and community | <ul style="list-style-type: none"> • Provide opportunity to listen and involve our community in decisions that affect them | <ul style="list-style-type: none"> • Greater community support for decision making |

Priority Area 6: Providing Visionary Leadership and Making Great Decisions

| Direction | Potential Strategies | What Success Looks Like |
|--|---|--|
| Make brave decisions in line with a risk appetite | <ul style="list-style-type: none"> • Early identification of potential risks / issues/opportunities • Embed opportunity cost considerations | <p>SHORT TERM</p> <ul style="list-style-type: none"> • Efficient and effective Council meetings • Defensible decision making that is based on the identification of opportunities and benefits as well as negative impacts <p>LONG TERM</p> <ul style="list-style-type: none"> • Examples of being first adopters |
| Ensure major decision making is informed by community feedback | <ul style="list-style-type: none"> • Ensure community engagement processes are implemented in major strategic projects | <ul style="list-style-type: none"> • Ensure community engagement processes are implemented in major strategic projects |

Comment

Whilst the *Dividing Fences Act 1961* largely deals with fences, it does not define what constitutes a sufficient fence. As such, the Local Law is required to remain in place to ensure minimum standards for fencing are provided. For this reason, it is not proposed to revoke the local law.

No amendments are proposed to the local law, as it is considered fit for purpose. Inserting design requirements were not considered warranted as these are largely dealt with by State Planning Policy 7.3 – Residential Design Codes, or relevant local planning policies.

As no amendments were proposed and no submissions were received, it is recommended that Council approves the review of the local law and notes that the next review is scheduled for 2029.

Statutory Requirements

Section 3.16 of the *Local Government Act 1995* requires that all of the local laws of local governments must be reviewed within an eight year period after their commencement to determine if they should remain unchanged or be repealed or amended.

Financial Considerations

The cost of the newspaper advertisement was \$473.37, which was met through the Town's 2020/21 operational budget.

Risk Management Implications

Failure to undertake the periodic review of the local law would constitute a breach of the *Local Government Act 1995*.

Officer Recommendation – Item 8.7

That Council approves the review of the Fencing Local Law, with the next review to be scheduled for 2029.

Voting requirements: Absolute Majority

| | |
|---|--|
| Item No. 8.8 | Draft Local Heritage Survey |
| Property Address | N/A |
| Landowner/Applicant | N/A |
| File Ref | LUAP/REGSTN/3 |
| 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 (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 | Existing Municipal Heritage Inventory Draft Local Heritage Survey |

Purpose

The purpose of this report is for Council to consider endorsing the draft Local Heritage Survey (LHS) for the purposes of advertising.

Background

The *Heritage Act 2018* requires each local government to prepare a LHS (previously known as a Municipal Heritage Inventory) to identify and record places that are, or that might become, of cultural heritage significance. The document assists the Town in making decisions that impact heritage places and supports the creation of a heritage list or heritage areas, which provide for statutory protection of places under the local planning scheme.

There are three types of updates and reviews to an LHS:

- *Administrative updates*: minor corrections and addition of file notes or other information for future consideration.
- *Place-specific reviews*: addition or more substantial amendment of a heritage assessment of an individual place.
- *General review*: open process inviting community participation to produce a new version or edition of the LHS.

The Town's LHS was last reviewed in 2017. The Heritage Council's '*Guidelines for Local Heritage Surveys*' recommend general reviews occur every 5-8 years for local governments with ongoing urban development, or coinciding with the major review of a strategic community plan or local planning strategy, which is currently occurring.

The Town commenced its review in January 2021. Consistent with the Guidelines, the scope of review included:

- Review of the Historical Overview of the LHS covering Aboriginal History of the district, Early Colonial and Late Colonial History, the pre WW1 period, pre WWII period and the Post Second World War period;
- Review of the Thematic Framework for the LHS;
- Review of current heritage places and nomination of new heritage places to inform the draft LHS;
- Review of existing management categories; and
- Review of the requirements for the layout of place forms for heritage places.

The Town's review of the existing LHS and draft LHS form the basis of this report.

Communication and Engagement

Councillors have previously been advised, via the 12 March 2021 CEO Bulletin, of the Town's intention to undertake a review of the LHS, and publicly call for nominations.

The Town invited nominations from the community for places to be assessed for their local heritage significance. Nominations were invited for a period of 29 days between 15 April and 14 May 2021 by way of display on the Town's website, social media (16 April 2021) and advertisement in the Eastern Reporter newspaper (15 April 2021).

In response, no nominations were received.

Strategic Implications

Priority Area 6: Providing Visionary Leadership and Making Great Decisions

| Direction | Potential Strategies | What Success Looks Like |
|--|---|---|
| Ensure major decision making is informed by community feedback | <ul style="list-style-type: none"> • Ensure community engagement processes are implemented in major strategic projects | <ul style="list-style-type: none"> • Ensure community engagement processes are implemented in major strategic projects |

Priority Area 7: Building Community Identify 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 | <p>SHORT TERM</p> <ul style="list-style-type: none"> • Local studies collection actively accessed by the community |

| | | |
|--|--|---|
| | <ul style="list-style-type: none"> • Ensure heritage locations and buildings of historical value within the Town are recognised, cared for and utilised by the community • Implement initiatives, events and activities that focus on a range of cultural and artistic endeavours (not limited to entertainment) | <p>LONG TERM</p> <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

Heritage Places

Under the *Heritage Act 2018*, “place” means:

“a defined or readily identifiable area of land and may include any of the following things that are in, on or over the land:

- (a) *archaeological remains;*
- (b) *buildings, structures, other built forms, and their surrounds;*
- (c) *equipment, furniture, fittings and other objects (whether fixed or not) that are historically or physically associated or connected with the land;*
- (d) *gardens and man-made parks or sites;*
- (e) *a tree or group of trees (whether planted or naturally occurring) in, or adjacent to, a man-made setting.”*

Management Categories

The Guidelines provide four management categories which determine a places level of heritage significance as follows:

| Category | Level of Significance | Description | Desired Outcome |
|----------|------------------------------|---|--|
| 1 | Exceptional Significance | Essential to the heritage of the locality. Rare or outstanding example. Recommended for inclusion on the State Register of Heritage Places. | The place should be retained and conserved unless there is no feasible and prudent alternative to doing otherwise. Any alterations or extensions should reinforce the significance of the place, and be in accordance with a Conservation Plan (if one exists for the place) |
| 2 | Considerable Significance | Very important to the heritage of the locality. High degree of integrity/authenticity | Conservation of the place is highly desirable. Any alterations or extensions should reinforce the significance of the place. |
| 3 | Some / Moderate Significance | Contributes to the heritage of the locality. Has some altered or modified elements, not necessarily | Conservation of the place is desirable. Any alterations or extensions should reinforce the significance of the place, |

| | | | |
|---|---------------------|--|---|
| | | detracting from the overall significance of the item. | and original fabric should be retained wherever feasible. |
| 4 | Little significance | Contributes to the understanding of the history of the Town of Bassendean. | Photographically record prior to major development or demolition. Recognise and interpret the site if possible. |

Each place within the draft LHS has been allocated a management category based on its level of significance.

Proposed Modifications to LHS

As part of the review, the following general modifications have been made to the draft LHS:

- Updated photographs of heritage places;
- Corrections to factual and grammatical errors; and
- Revised formatting to meet the Guidelines.

In addition to the above, the following place specific modifications have occurred:

| Place | Modification |
|--|---|
| Place No. 2 – Holmehouse, 16 Anstey Road, Bassendean (category 1) | The physical description has been updated to provide reference to the lot, acknowledging the parent lot has since been subdivided (2020). |
| Fmr. Place No. 3 – House, 6 Anzac Terrace, Bassendean (Category 3) | The structure has been demolished; therefore, the place number has been removed from the list (2020). |
| Place No. 19 (20 fmr) – House, 15 Barton Parade, Bassendean (Category 3) | The physical description has been updated to include reference to a garage addition (2020). |
| Place No. 36 (37 fmr) - House, 7 Daylesford Road, Bassendean (Category 1) | The physical description has been updated to include reference to a garage addition (2018). |
| Place No. 41 (42 fmr) – House, 14 Devon Road, Bassendean (Category 3) | The physical description has been updated to include reference to additions and alterations made to the dwelling (2020). |
| Place No. 45 (46 fmr) – House, 21 Devon Road, Bassendean (Category 3) | The physical description has been updated to include reference to additions and alterations made to the dwelling (2017). |
| Place No. 73 (74 fmr) – House, 6 Ivanhoe Street, Bassendean (Category 3) | The physical description has been updated to include reference to the four outbuildings constructed on the eastern boundary (2018), and the new building and driveway extension that occurred (2020). |
| Place No. 89 (90 fmr) – House, 24 James Street, Bassendean (Category 3) | The physical description has been updated to include reference to the significant additions to the rear of the existing bungalow and addition of a carport (2016). |
| Place No. 94 (95 fmr) - House, 14 Kathleen Street, Bassendean (Category 3) | The physical description has been updated to reference the change in roofing material (2018). |

| | |
|---|---|
| Place No. 99 (100 fmr) – House, 36 Kathleen street, Bassendean (category 3) | The physical description has been updated to include reference to additions and alterations that occurred at the rear of the dwelling (2020). |
| Place No. 101 (102 fmr) – House, 47 Kathleen Street, Bassendean (Category 3) | The physical description has been updated to include reference to additions and alterations at the rear of the dwelling (2020). |
| Place No. 103 (104 fmr)– House, No. 14 Kenny Street, Bassendean (Category 3) | The physical description has been updated to include reference to additions and alterations that occurred onsite (2019). |
| Place No. 107 (108 fmr) – House, No. 20 Kenny Street, Bassendean (Category 2) | The physical description has been updated to include reference to a patio developed at the rear of the dwelling (2019). |
| Place No. 122 (123 fmr) – House, No. 98 Kenny Street, Bassendean (Category 3) | The physical description has been updated to include reference to additions and alterations at the rear of the property (2019). |
| Fmr. Place No. 135 – House, 35 Maidos Street, Bassendean (Category 3) | A demolition permit has been issued, therefore, the place number has been removed from the list (2021). |
| Place No. 149 (151 fmr) – House, 32 North Road, Bassendean (Category 3) | The history and the physical description has been updated to make reference to restoration works that were conducted (2020). |
| Place No. 160 (162 fmr) – Commercial Precinct, 1-42 Old Perth Road (Category 2) | The history and the physical description has been updated to make reference to the façade modification (rendered to exposed red brick) (2021). |
| Place No. 161 (163 fmr) – Bassendean Hotel, 25 Old Perth Road Bassendean (Category 2) | The history has been updated to reflect the approved additions to the hotel (2021). |
| Place No. 179 (181 fmr) – House, No. 27 Parker Street, Bassendean (Category 3) | The physical description has been updated to include the carport and shed additions to the existing dwelling (2020). |
| Place No. 183 (185 fmr) – House, No. 80 Parker Street, Bassendean (Category 3) | The physical description has been updated to include additions and alterations at the rear of the property (2018). |
| Place No. 191 (193 fmr) – House, 6 Prowse Street, Bassendean (Category 3) | The physical description has been updated to include reference a carport addition. The additions erected match the materials and pitch of the existing dwelling (2020). |
| Place No. 192 (194 fmr) – House, 32 Railway Parade, Bassendean (Category 3) | The physical description updated to refer to patio addition to the northern side of the dwelling (2020). |
| Place No. 202 (204 fmr) – Success Hill Lodge, 1 River Street, Bassendean (Category 1) | The history has been updated to reflect the development approval for re-roofing works (2021). |
| Place No. 250 (252 fmr) – House, 150 West Road, Bassendean (Category 3) | The physical description has been updated to refer to additions and new carport which have been developed onsite (2019). |
| Place No. 265 (267 fmr) – House, No. 88 Whitfield Street, Bassendean (Category 3) | The physical description has been updated to include reference to the steel gable patio developed at the rear of the premises (2018). |

| | |
|---|--|
| Place No. 271 (273 fmr) – Anglican Rectory (fmr) - House, 4 Wilson Street Bassendean (Category 2) | The physical description has been updated to make reference to the additions to the dwelling (2020). |
|---|--|

Consultation

Whilst there is no statutory requirement to undertake further consultation, it is recommended that Council adopt the LHS for the purposes of advertising. In this regard, it is intended that consultation be undertaken in the following manner:

- Notifying in writing each owner and occupier of places where the place record is new or changed;
- Displaying on the Town's website and social media;
- Static displays at the Library and Customer Services; and
- Advertising in a newspaper circulating the district.

Following public consultation, the matter will be presented to Council, to enable the draft LHS to be formally considered for final adoption.

Conclusion

The review of the LHS will ensure it remains relevant and current. The existing LHS has been reviewed to ensure heritage listings are consistent with the Guidelines and place records have been updated to accurately reflect changes to existing heritage places. It is therefore recommended that Council adopts the draft LHS for the purposes of advertising.

Statutory Requirements

In accordance with Part 8 of the *Heritage Act 2018*, a local government must prepare a survey of places in its district that in its opinion are, or may become, of cultural heritage significance.

Financial Considerations

The cost of consultation will be funded from the Development and Place operational budget.

Risk Management Implications

If Council does not endorse the draft LHS for public advertising, the existing framework will remain unchanged, and will not be an accurate reflection of the Town's heritage, nor meet the requirements of the Guidelines.

Officer Recommendation – Item 8.8

That Council endorses the draft Local Heritage Survey, as contained as an attachment to this report, for the purpose of advertising for public comment.

Voting requirements: Simple Majority

| | |
|---|--|
| Item No. 8.9 | Licence Agreement - Telethon Community Cinemas |
| Property Address (if applicable) | N/A |
| Landowner/Applicant (if applicable) | N/A |
| File Ref | LEGL/AGMT/161 |
| 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 (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. |
| <input type="checkbox"/> Information | For the Council/Committee to note. |
| Attachment No. 7 | Licence Agreement P/E 21 March 2021 |

Purpose

The purpose of this report is for Council to consider approving a new licence agreement for Movies by Burswood Inc. for the staging of the Telethon Community Cinemas at BIC Reserve, Bassendean.

Background

In May 2018, Council approved a new licence agreement for the staging of the Cinemas on BIC Reserve for two cinema seasons (1 December 2018 to 31 March 2020), with an option for a further cinema season (1 December 2020 to 31 March 2021).

In the lead up to the 2020/21 cinema season, the Cinema proponent advised that due to Covid-19 and changes to sponsorship agreements that previously provided for cinema infrastructure, the Cinemas required a three year commitment (2020/2021 to 2022/2023) to allow for an amortisation of expenditure.

The Town agreed to a further three years of cinema screenings on BIC Reserve and Council approval included the requisite budget item in the 2020/21 annual budget so as to allow for cinema screenings to be staged from December 2020 to March 2021.

To facilitate the staging of Cinemas for the remaining 2021/2022 and 2022/2023 cinema seasons, a new licence agreement is required, which is the subject of this report.

Communication and Engagement

The Town has maintained regular communications with the Cinemas in the lead up to and during the cinema season, as well as discussing routine matters for the staging of cinema screenings over the next two years.

Strategic Implications

Priority Area 1: Strengthening and Connecting our Community

| Direction | Potential Strategies | What Success Looks Like |
|---|--|--|
| Establishing partnerships with the community that build capacity, connection and sense of belonging | <ul style="list-style-type: none"> Identify community members and organisations with the capacity to deliver projects and programs Build capacity of community groups to deliver social return on investment Identify and deliver community funding Foster volunteering to provide services for our community and to build connections Build capacity of volunteers to deliver programs and services with limited input from the Town | <ul style="list-style-type: none"> Increased percentage of services delivered by community groups compared to the Town Increased social return on investment using an agreed approach Increased volunteer participation rates Town staff hours result in greater return for time in volunteer management |
| 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 |

Comment

Previous Licence

The current agreement requires the Town to:

- Provide access to toilets, power and water for the cinema season, at no cost to the licensee;
- Clean the Licensed area, surrounds and toilets; and,
- Irrigate, maintain, and mow the Licensed area and care for the Licensed Area surrounds, including removing rubbish between movie screenings.

It is noted that the Town has provided additional promotion for the Cinemas at no cost with high profile positioning within the Town's online platforms. The Town is recognised as a "Principal Partner" on the Cinema's website.

Proposed Licence

It is proposed that the new licence be similar to the previous licence, but incorporate the following changes:

- The licence be for a two year period, commencing 1 December 2021 and expiring 31 March 2023 with a mutual option for a further 12 months;
- A mutual non-disparagement clause to ensure good conduct between both parties; and
- A formalised requirement for the Town to be acknowledged in all communications and promotions.

Free screenings

The Town has typically facilitated free screenings during the cinema season, which is regulated by a ticketing system whereby people have to book free tickets on-line. This has resulted in situations whereby a screening may be fully booked but the actual attendance is significantly less. Based on Councillor feedback, the Town will explore other options to ensure maximum attendance at the free screenings.

Additional Screenings

Current screenings run from Wednesday to Sunday each week. Upon request by the Cinemas, the Town is exploring the possibility of allowing additional screenings on a Monday night during school holidays, so as to increase the financial viability of staging the Cinemas. Any additional screenings on a Monday night will be dependent on the Bassendean Community Hall and Committee Room being free of bookings, due to the noise generated by cinema screenings.

Statutory Requirements

Under the *Land Administration Act 1997*, the Minister for Lands is required to approve any licence affecting Crown land.

Financial Considerations

The cost of preparing a formal licence has typically be borne by the Town. If the Town again bears the costs, it will represent a cost of approximately \$2,000. It is open to Council to impose all or part of that cost on the licensee.

If Council agree to approve a new licence agreement, it will be necessary to allocate \$13,000 in the 2021/2022 and 2022/23 budgets to adequately service the staging of the Cinemas.

Risk Management Implications

Given that staging the Cinemas for the next two years is along the same terms and conditions as in previous years, the risk of approving a new licence agreement is low.

Not approving a new licence agreement after having already communicated to the Cinemas that the Town agreed in 2020 to a further 3 years, would represent a reputational risk.

Officer Recommendation – Item 8.9

That subject to the Minister for Lands granting consent to the Agreement, Council authorises the Town enter into a new Licence Agreement for Movies by Burswood Bassendean, based on the previous licence but with the following additional terms:

1. The licence be for a two year period, commencing 1 December 2021 and expiring 31 March 2023 with a mutual option for a further 12 months;
2. A mutual non-disparagement clause to ensure good conduct between both parties; and
3. A formalised requirement for the Town to be acknowledged in all communications and promotions.

Voting requirements: Absolute Majority

| | |
|---|--|
| Item No. 8.10 | Draft amended Local Planning Policy No. 12 – Developments within the Street Setback Area |
| Property Address (if applicable) | N/A |
| Landowner/Applicant (if applicable) | N/A |
| File Ref | LUAP/POLCY/17 |
| Directorate | N/A |
| 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</i> , <i>Dog Act</i> or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal. |
| Attachment No. 8 | Existing Local Planning Policy 12 – Development within the Street Setback Area Draft Local Planning Policy 12 – Residential Development and Fences |

Purpose

The purpose of this report is for Council to consider amending Local Planning Policy No. 12 – Development within the Street Setback Area (LPP 12), for the purposes of advertising.

Background

Existing Local Planning Policy

Local Planning Policy No. 12 – Development within the Street Setback Area was adopted by Council in April 2010 and has never been reviewed. The policy provides some criteria for residential development (primarily carports) within the street setback area, which expand on the requirements of State Planning Policy 7.3 – Residential Design Codes (R-Codes).

State Planning Policy 7.3 – Residential Design Codes

The R-Codes set out the basis of design and assessment for single houses, grouped dwellings and multiple dwellings (less than R40) in Western Australia. Generally, single houses and structures such as patios or carports that meet deemed-to-comply provisions do not require development approval.

On 2 July 2021, a number of amendments to some of the deemed-to-comply provisions and design principles were gazetted as part of the ‘interim review’. The focus of the interim review was on:

- Addressing provisions that commonly trigger development applications for single houses and additions to single houses, where there is little or no value in undertaking this additional layer of assessment;
- Simplifying provisions to enable more consistent interpretation and streamlined assessment; and
- Amending provisions to address common design and development issues that have led to some local governments adopting supplementary local planning policies to address those issues (such as average boundary wall heights and setbacks of garages).

Based on the above, it is considered appropriate to now review LPP 12.

Proposal

The Town is seeking to amend LPP 12 to include and augment additional R-Code provisions. Given these inclusions relate to matters outside of the street setback area, it is appropriate to rename the policy. A copy of this draft policy is attached. Details of the draft policy are discussed in the following sections.

Communication and Engagement

The draft amended Policy was provided to Councillors via the CEO bulletin of 25 June 2021. No responses were received.

Strategic Implications

Priority Area 1: Strengthening and Connecting our Community

| Direction | Potential Strategies | What Success Looks Like |
|---|---|---|
| Fostering a culture of collaboration and trust between the organisation and community | <ul style="list-style-type: none"> • Provide opportunity to listen and involve our community in decisions that affect them | <ul style="list-style-type: none"> • Greater community support for decision making |

Comment

Policy Scope

Part 7.3 of the R-Codes sets out the scope of local planning policies that may contain provisions that amend or replace the ‘deemed-to-comply’ provisions set out in the R-Codes. The draft amended policy provides alternate deemed-to-comply provisions which vary and/or expand on the provisions contained within the R-Codes.

It must be noted that the following design elements proposed to be augmented by the draft policy cannot be varied without the prior approval of the Western Australian Planning Commission (WAPC):

- Ancillary Dwellings;
- Outdoor Living Area Setbacks; and
- Outbuilding Setbacks.

In seeking the WAPC's approval, the Town is required to demonstrate that any variation to the deemed-to-comply provision:

- Is warranted due to a specific need related to that particular locality or region;
- Is consistent with the objectives and design principles of the R-Codes Volume 1; and
- Can be properly implemented and audited by the decision-maker as part of the ongoing building approval process.

The specific policy provisions are further discussed below.

Street Setbacks

The existing policy addresses design criteria for carports and garages within the street setback area only. The draft policy expands on this to refer to all buildings, ensuring patios, verandahs and equivalent structures are permitted a reduced setback where the development is behind the primary street setback and meets height and length criteria. This will allow for incidental structures such as patios to be built up to secondary street setbacks thereby making more effective use of the space without unreasonably impacting the streetscape (due primarily to the district's generally wide road reserves).

Setbacks of Carports

LPP 12 outlines basic requirements for design materials and finishes of carports within the front setback. The draft policy seeks varies the R-Codes and the existing policy in requiring:

- The carport roof pitch, colours and materials to be the same as the dwelling, unless otherwise approved by the Town;
- Support columns shall be constructed of materials so as to match the dwelling, unless other approved by the Town;
- Carports to be a minimum of 1.0m from a secondary street in lieu of the required 1.5m by the Residential Design Codes; and
- Lean-to and gable metal deck carports are only supported where they are located behind the street setback and/or are to the side of the existing dwelling on the lot.

Street Walls, Fences and Gates

The current policy does not provide criteria relating to street walls, fences and gates, and other than material and height for boundary fences, design criteria for fences is not contained within the Town's *Fencing Local Law 2013*.

The inclusion of design criteria for street walls, fences and gates in the local planning policy will ensure the amenity of the streetscape is protected, as follows:

- Fences shall not exceed a maximum height of 1.8m. Where the fence is erected over a retaining wall, the height shall be measured at the base of the retaining wall. This provision will provide clarity on where fence height is measured;
- Fences along the front boundary within the primary setback area shall not be constructed of fibre cement or metal sheeting. Sheet metal fencing to secondary street setbacks shall have capped protruding edges; and
- Gates within the street setback area shall be visually permeable and not obstruct the public realm.

Outdoor Living Areas

The draft policy seeks to include variations to the deemed-to-comply criteria of the R-Codes for Outdoor Living Areas in the following manner:

- Retain the requirement for direct accessibility to Outdoor Living Areas from a primary living space within the dwelling, except where an existing dwelling is being retained as part of a subdivision and the existing dwelling is required to be upgraded in accordance with the R-Codes.

The layout of many subdivisions within the Town is such that the existing dwelling is retained, and a lot created behind the dwelling. Where this occurs, the WAPC requires the existing dwelling to be upgraded to comply with the current R-Code requirements.

The internal layout of many of the heritage and character dwellings within the district is not conducive to the Outdoor Living Area being directly accessible from a living area within the dwelling. Varying this provision will ensure that the existing dwelling will not require substantial modification to the external façade or internal layout to provide doors directly opening to the Outdoor Living Area. This will in turn assist in retaining the character and original fabric of the dwelling.

- Where located within the street setback area, Outdoor Living Areas are demarcated via the use of paving and fencing to the satisfaction of the Town.

For the same reasons as above, the layout of many subdivisions within the Town is such that the existing dwelling is retained with there being little opportunity for the Outdoor Living Area to be behind the street setback line, given the normally generous front setbacks of the original dwelling.

The provision will ensure the provision of a designated Outdoor Living Area which is clearly delineated from the balance of open space on the site.

Outbuildings

The draft policy adds additional requirements to the R-Codes and the existing policy with respect to the colour, pitch and materials of outbuildings within the street setback area and to ensure they are located behind or to the side of the existing dwelling.

This inclusion will ensure outbuildings located within the street setback area do not detract from the amenity of the streetscape.

Ancillary Dwellings

Provisions relating to ancillary dwellings have been incorporated into the draft policy to provide more flexibility to landowners in respect to the size of the dwelling. Modifications to the deemed-to-comply requirements of the R-Codes as they relate to ancillary dwellings include:

- Increasing the maximum plot ratio area from 70m² to 100m².

The draft local planning strategy recommends the Town investigate alternative forms of housing. Whilst ancillary dwellings would be suitable for this purpose, the feedback is that the current 70m² max is too small to enable this to be a viable housing alternative. In the majority of submitted applications, applicants seek a variation to the plot ratio to increase the size, which is often sited on larger blocks and supported given they meet the design principles.

Ancillary dwellings are not permitted on grouped dwelling sites. As such, they would only be located on existing freehold lots (typically larger with big backyards).

- Removing the need for parking to be provided for ancillary dwellings.

This has been removed as a majority of the district is within location A (within 800m of a train station) and therefore not required to provide any additional parking for ancillary dwellings. The proposed change will make this consistent across the entire district.

In addition, many of the older dwellings within the district of Bassendean also have insufficient area to provide additional car parking that also meets the vehicle manoeuvrability requirements, or, if they did, the car parking would inappropriately dominate the streetscape.

- Removing the need for ancillary dwellings to match the colour, roof pitch and materials of the house on the same lot if the ancillary dwelling is not visible from the street.

Given the age of housing stock in the Town, it is often cost prohibitive for landowners to match the materials of the existing dwelling on site. Removing this requirement where the ancillary dwelling is not visible from the street will retain ancillary dwellings as a financially viable alternative housing option whilst having no impact on the amenity of the streetscape.

Conclusion

The draft policy is considered to provide more flexibility for residential development and certainty on fences. The provisions and design requirements that will assist in preserving and enhancing the character of the existing streetscape. It is therefore recommended that Council adopt the draft policy for the purposes of advertising.

Statutory Requirements

If the local government resolves to amend a local planning policy the local government must advertise the proposed policy. If Council resolves to proceed, the draft amended policy will be made available on the Town's website and in Town's Customer Service Centre and Library. The Town will also write to the WAPC seeking formal support for the draft policy.

Financial Considerations

Nil.

Risk Management Implications

Low. Should Council not adopt the draft policy, the provisions of the R-Codes will prevail.

Officer Recommendation – Item 8.10

That Council pursuant to Clause 5(1) of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, advertises the draft amended Local Planning Policy No. 12 – Residential Development and Fences.

Voting requirements: Simple Majority

| | |
|--|---|
| Item No. 8.11 | FOGO in Schools |
| Directorate | Environment and Sustainability |
| File Ref | WSTMNGT/SVPROVN/3 |
| 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 licences, applications for other permits/licenses (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

For Council to consider providing FOGO services to schools within the Town at no charge.

Background

The Town successfully introduced FOGO in August 2020 and has continued to encourage residents to improve their waste sorting to maximize use of the FOGO and recycling bin before the red lidded general waste bin. Establishing FOGO sorting behaviour as standard behaviour requires the service to be available in most locations where waste is generated including homes, businesses and schools. FOGO is not currently collected from any of the schools within the Town as GOGO is not catered for in their waste services Common Use Agreements (CUAs)

CUAs are contract panels established by the Department of Finance to aggregate purchasing of goods and services across State Government departments including schools. Where a CUA exists, the services must be procured using the CUA for departments, including schools. The *Local Government Regulations 1996* also enables Local Governments to access these goods and services on CUAs in a similar manner to the WALGA Panel Contracts.

As FOGO is relatively recent development in Western Australia, and as such it is not yet included in the current CUA for waste services. Department of Finance routinely updates CUAs and FOGO is likely to be included in any subsequent CUA, though it is unclear when this will occur.

As FOGO collections are not included in waste services CUA, an opportunity exists for schools to either:

- Contract directly with CUA suppliers to provide the service; or
- Access the service from local governments at no cost.

The Department of Finance has advised that FOGO can only be provided by local governments where the service is provided at no cost to the school.

Officers have been engaging with schools to embed FOGO and wider waste education into the curriculum and school culture. Most schools currently have two bins only and varying levels of compliance with the Australia Standard for lid colours. Provision of FOGO bins and the adoption of Australian Standard lid colours further normalises the three bin FOGO system.

Private schools do not have the same requirements to utilise CUA goods and services that state schools do and can contract with any service provider for waste services. The Town can charge private schools for providing this services if it chooses. Officers are recommending against charging private schools for FOGO as they are unlikely to transition to a FOGO service where costs are incurred.

Proposal

That up to six FOGO bins are provided to schools within the Town of Bassendean at no cost until FOGO is available via the CUA.

Strategic Implications

| Direction | Potential Strategies | What Success Looks Like |
|--|--|---|
| Demonstrate strong leadership in waste reduction and carbon neutrality | Initiate and drive innovative waste management practices | <p>SHORT TERM</p> <ul style="list-style-type: none"> • State Government targets are met • Waste generation is reduced by 10% per capita <p>LONG TERM</p> <ul style="list-style-type: none"> • 70% of waste is diverted from landfill by 2030 |

Comment

Creating a uniform bin system between home, business and schools reduces confusion when transitioning for sorting waste at home and sorting waste at schools. It also means that when FOGO education is delivered in schools, the three bin FOGO system is the service that the students are using while at school.

Statutory Requirements

Local Government Act 1995 – s. 5.42 that refers to delegating some powers and duties to the CEO.

5.42. Delegation of some powers and duties to CEO

- (1) *A local government may delegate* to the CEO the exercise of any of its powers or the discharge of any of its duties under —*
(a) this Act other than those referred to in section 5.43; or
(b) the Planning and Development Act 2005 section 214(2), (3) or (5).

** Absolute majority required.*

- (2) *A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation*

Financial Considerations

The cost of providing up to six FOGO bins per school is \$6,720 in total per annum in lost income from FOGO charges based on charges for the 2021/22 financial year. This is the total charge to provide the bins to all 7 schools in the district.

Officer Recommendation – Item 8.11

That Council delegates to the CEO, the authority to waive \$6,720 to provide up to six FOGO service charges for the 2021/22 period.

Voting requirements: Absolute majority

| | |
|--|---|
| Item No. 8.12 | Traffic Management Request for Railway Parade. |
| Property Address (if applicable) | N/A |
| Landowner/Applicant (if applicable) | N/A |
| File Ref/ROC | ROAD/STMNGT/1 |
| Previous Council Reports (if applicable) | N/A |
| Directorate | Infrastructure |
| 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</i> , <i>Dog Act</i> or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal. |
| Attachment No. 9 | Policy No. 1.2 - Traffic Management Treatment Policy & Guidelines Option 1 – Rubber Speed Cushions Option 2 - Asphalt Speed Plateau |

Purpose

The purpose of this report is for Council to consider undertaking community consultation (consistent with Policy No. 1.2 – Traffic Management Treatment Policy & Guidelines), for the implementation of local area traffic management treatment on Railway Parade between Lord Street and Second Avenue, Bassendean.

Background

The Town received a complaint about vehicle speed along Railway Parade between Lord Street and Second Avenue and a request to investigate the issue.

Officers investigated the complaint in line with the Town Planning and Built Environment Policy No. 1.2 – Traffic Management Treatment Policy & Guidelines.

Communication and Engagement

If Council supports the need for traffic management treatment on this section of road, the affected property owners as described in the Policy “*An affected property owner is one that is located within the street section or sections to have treatments (i.e. between intersecting streets)*” will be consulted.

The consultation area for this engagement will include all property owners on Railway Parade between Lord Street and First Avenue and Fifth Avenue up to cul-de-sac head north of Railway Parade (as it is the only access to these properties).

Property owners will be provided with the proposed plan indicating the treatment and locations (as per attachment - Option 1) accompanied with a covering letter outlining the purpose of the treatment to reduce traffic speeds. Additionally, a FAQ sheet will be provided allowing owners to make an informed decision. Owners will be asked to indicate their support or not for the proposed plan and provided their response via reply paid envelope. The consultation period will be open for 14 days.

Strategic Implications

Priority Area 1: Strengthening and Connecting our Community

| | | |
|--|---|---|
| Creating an environment where people feel welcome and safe | <ul style="list-style-type: none"> • Create public spaces and transport routes that encourage people to linger, interact and enjoy (including evening use) • Encourage the adoption of a collective responsibility towards safety | <ul style="list-style-type: none"> • Increased use of public transport by different demographics • Increased active transport by different demographics • Reduced antisocial incidents |
|--|---|---|

Comment

The Town’s adopted Town Planning and Built Environment Policy No. 1.2 – Traffic Management Treatment Policy & Guidelines, outlines the parameters that must be met in order for the Town to investigate suitable traffic management treatments.

To assess the reported speeding issue, traffic data was collected from 24 February to 16 March 2021 at two locations along Railway Parade between Lord Street and Second Avenue. Railway Parade is a 50Km/hr local distributor road.

The parameters that are of significance, as described by the policy, is the 85% speed and the total number of vehicles per day (VPD). The table below summarises these parameters for the two locations.

| | Location 1 (house #38) | Location 2 (house #38) |
|------------------|---------------------------|---------------------------|
| 85% Speed (Km/h) | 54.9 | 61.7 |
| Vehicles Per Day | 3027 | 2841 |

Due to the 85% speed at location 2 and the VPD for both locations, the Policy dictates *“options for addressing the particular issues will be prepared and referred to Council for consideration and priority over existing traffic management projects awaiting funding, before consultation with affected property owners and residents takes place.”*

Railway Parade runs east/west between Lord Street and the Bassendean Train Station/bus terminal. This section of road is used to access the bus station by Trans Perth bus services 340. The road reserve accommodates the paved road, principal shared path and the landscaped tree lined verge to the south and grassed and footpath verge to the north.

Staff considered a variety of potential traffic management treatment options to address the speed issue on Railway Parade. Due to the narrow available road reserve between the principal shared path, trees and property boundary/footpath, a horizontal type treatment, such as blister islands, are not considered viable for this location. However, vertical type treatments, such as speed plateaus, are considered suitable.

Two treatment options are presented as suitable for this location.

Option 1 – Rubber Speed Cushions

The rubber bolt down speed cushions are similar to the treatment on Anzac Terrace between Lord Street and Second Avenue. Refer to attachment for more information

Option 2 - Asphalt speed plateau

The asphalt speed plateau is similar to the speed plateaus installed on approaching roads to Whitfield Street as part of the Whitfield Safe Active Street Project. Refer to attachment for more information.

Option 1 is recommended, as the road is a bus route and it allows buses to straddle the rubber speed cushions to ensure the service is not disturbed by the treatments. Additionally, the same treatment is used on an adjacent road to the north, Anzac Terrace, which would maintain the same design features within this area of the Town, allowing drivers to easily identify the treatment and what to expect.

Should Council agree to consult with affected property owners, the policy describes the mechanism for installing the treatment as:

“Where Council supports the need for further consideration of traffic management, and consultation on the nominated option(s) is undertaken, prior to a traffic management treatment project being considered for funding the results of where Council supports the need the consultation process will require to show at least 60% of all affected property owners in favour of the proposed treatment(s) and no more than 30% against.”

Should a treatment be installed, it will be installed in conjunction with the scheduled roadworks along Railway Parade in 2021/22 financial year.

Statutory Requirements

Nil.

Financial Considerations

Option 1 - \$30,000 or Option 2 - \$60,000.

Risk Management Implications

Low

Officer Recommendation – Item 8.12

That Council:

1. Endorses the commencement of consultation with the affected property owners on Option 1 to install Rubber Speed Cushions on Railway Parade between Lord Street and Second Avenue, Bassendean; and
2. Notes that based on favourable results of the consultation with affected property owners, rubber speed cushions be installed in Railway Parade, Bassendean.

Voting requirements: Simple majority

| | |
|--|---|
| Item No. 8.13 | Review of Delegations Register |
| Property Address (if applicable) | N/A |
| Landowner/Applicant (if applicable) | N/A |
| File Ref/ROC | GOV/CCLMEET/06 |
| Previous Council Reports (if applicable) | 27 October 2020 |
| 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 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. 10 | Delegations Register |

Purpose

The purpose of this report is for Council to review the delegations to the Audit and Governance Committee, the Complaints Committee, and to the Chief Executive Officer under s. 5.46(2) of the *Local Government Act 1995*.

Background

The Local Government Act 1995 requires that all delegations must be reviewed by the delegator at least once every financial year. The Delegations Register was adopted by Council in October 2020. In light of the upcoming election in October and the preceding caretaker period, the review has been brought forward.

Proposal

That Council reviews its delegations to the Audit and Governance Committee, Complaints Committee, and to the Chief Executive Officer in accordance with section 5.46(2) of the Local Government Act 1995; and makes the amendments to the Delegations of Authority as contained in Attachment 1 and in accordance with section 5.42 of the Local Government Act 1995.

Communication and Engagement

All business units have been consulted regarding the delegation review through their Director or Executive Manager. The Corporate Management Committee was sent a copy of the Delegations Register on 18 June 2021 and requested to comment on the delegations relevant to their operations.

Councillors were provided with a copy of the consolidated Delegations Register (inclusive of proposed amendments) through the CEO Bulletin dated 2 July 2021. Councillors were asked to provide comment on the Delegations Register. No comments were received.

Strategic Implications

Priority Area 6: Providing Visionary Leadership and Making Great Decisions

| | | |
|--|---|---|
| <p>Reinforce a culture of collaboration, trust and demarcation between Council, administration and the community</p> | <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 • General alignment regarding values |
| <p>Foster an environment of innovation and leadership</p> | <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

The review of the duties to be performed, conditions and legislation of the current delegations has been undertaken in accordance with section 5.46(2) of the *Local Government Act 1995*.

A marked up copy of the Delegations Register has been attached to this report (Attachment 1). This attachment contains the proposed amendments to be made to the delegations contained within the Delegations Register. These amendments have been highlighted in red throughout the document.

It is proposed that delegation 1.2.23 – Administration of Local Laws be amended to place a condition on the delegation to prevent approval for circus' with exotic animals.

Amendments that have been made subsequent to Council adoption of the Delegations Register in 2020, have also been included in the Delegations Register. These have been marked in blue. The first set of amendments did not require any action from Council. These delegations referred to –

- 1.2.1 – Appoint Authorised Persons;
- 4.1.4 – *Cat Act 2011* – Appoint Authorised Persons; and
- 5.13 – *Dog Act 1976* – Appoint Authorised Persons.

These delegations were deleted by an amendment to the statutory framework in November 2020. The amendment to the legislation meant that the delegations were no longer valid.

Three further delegations were made separately by Council between June 2020 and June 2021 and these have subsequently included in the Register. These refer to:

- 1. 1.1.2 – Complaints Committee;
- 2. 1.2.27 – Authority to waive or grant concessions pursuant to Compassionate Waste Services Guidelines; and
- 3. 1.2.28 – Authority to make tree preservation orders in prescribed circumstances.

The review was undertaken to determine the appropriateness of the delegations and whether any further delegations were necessary to the Chief Executive Officer to ensure the efficiency of decision-making.

Statutory Requirements

Local Government Act 1995 – s. 5.42 – s. 5.46
Local Government (Administration) Regulations 1996 – reg. 19

5.46. Register of, and records relevant to, delegations to CEO and employees

- (1) The CEO is to keep a register of the delegations made under this Division to the CEO and to employees.
- (2) At least once every financial year, delegations made under this Division are to be reviewed by the delegator.
- (3) A person to whom a power or duty is delegated under this Act is to keep records in accordance with regulations in relation to the exercise of the power or the discharge of the duty.

Financial Considerations

Nil. Where there is ineffective use of delegation powers this may result in additional financial cost to the Town, through additional administrative resources required to refer minor decisions to Council, and potential financial cost to Customers from slower decision-making.

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. The Annual Review of the Delegations Register ensures that delegations are appropriate and relevant to achieving the objective of efficient decision-making. Failure by the delegator to review the delegations made, would place the Town in breach of its statutory obligation, but also could lead to the maintenance of unnecessary delegations or inefficiencies in decision-making.

Officer Recommendation – Item 8.13

That Council:

1. in accordance with Section 5.46(2) of the Local Government Act 1995, reviews its delegations to the Audit and Governance Committee, Complaints Committee, and those delegations to the Chief Executive Officer; and
2. in accordance with Section 5.42(1) of the Local Government Act 1995, adopts the amended delegations of authority to the Chief Executive Officer as provided in the attachment to this report.

Voting requirements: Absolute majority

| | |
|--|---|
| Item No. 8.14 | Audit and Governance Committee Meeting held on 9 June 2021 |
| Property Address (if applicable) | N/A |
| Landowner/Applicant (if applicable) | N/A |
| File Ref/ROC | GOVN/CCLMEET/18 |
| Previous Council Reports (if 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 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 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. 11 | Minutes of the Audit and Governance Committee meeting held on 9 June 2021 |
| Confidential Attachment No. 3 | Audit Risk Register Report on Settlement of Legal Dispute |

Purpose

The purpose of this report is for Council to receive the report on the meeting of the Audit and Governance Committee held on 9 June 2021.

Background

The Town's Audit and Governance Committee meets at least four times each year in carrying out its functions under the Instrument of Appointment and Delegation (the Instrument). The Instrument specifies the authority, objectives and responsibilities of the Committee and governs its membership and meeting requirements.

Proposal

For Council to receive the report on the meeting of the Audit and Governance Committee held on 9 June 2021.

Communication and Engagement

To ensure openness, accountability and integrity, Council has appointed three community representatives to be members of the Audit and Governance Committee.

Strategic Implications

Priority Area 6: Providing Visionary Leadership and Making Great Decisions

| | | |
|--|---|--|
| <p>Make brave decisions in line with a risk appetite</p> | <ul style="list-style-type: none"> • Early identification of potential risks / issues/opportunities • Embed opportunity cost considerations | <p>SHORT TERM</p> <ul style="list-style-type: none"> • Efficient and effective Council meetings • Defensible decision making that is based on the identification of opportunities and benefits as well as negative impacts <p>LONG TERM</p> <ul style="list-style-type: none"> • Examples of being first adopters |
|--|---|--|

Comment

The Committee considered the following items:

Audit Risk Register

The Audit Risk Register presents a summary of the audit risks and recommendations made in recent internal and external audit reports relating to the Town and provides an update on actions taken or proposed to address the identified risks.

The Audit Risk Register is updated and tabled at each meeting of the Committee.

While the Audit Risk Register was discussed in general terms in public, the Register was presented to the Committee as a confidential attachment.

Payment of Superannuation on Annual Leave Loading

The *Superannuation Guarantee (Administration) Act 1992 (Cth)* was amended in 2008 to change the earnings base for the purpose of calculating superannuation guarantee payments. For present purposes, this means annual leave loading became subject to compulsory superannuation payments, from 1 July 2009.

The Town's enterprise software, SynergySoft was not configured to reflect this change until 2019 and the Town had not included annual leave loading for the purpose of calculating compulsory superannuation payments for its employees during the intervening period.

The Town made a voluntary disclosure to the Australian Taxation Office (ATO) in late-2019 and on 6 March 2020, the ATO announced a general superannuation amnesty, allowing employers to disclose and pay previously unpaid superannuation for quarters from 1 July 1992 to 31 March 2018, without incurring penalties that would otherwise apply.

The Town lodged 35 amended quarterly returns for the period covered by the amnesty and a further three quarterly returns for the period between the end of the amnesty and January 2019, when the Town corrected the error.

The Town has paid all amounts due to the ATO in respect of the amended quarterly superannuation returns, totalling \$126,522. It is the responsibility of the ATO to make the additional superannuation payments into employees' superannuation funds.

Street Sweeping Contract – Settlement of Legal Dispute

This matter was considered with members of the public excluded from the Chamber under Clause 5.23 (2) (d) of the *Local Government Act 1995*, as the officer report (see attached) discussed legal advice obtained.

Statutory Requirements

Regulation 16 of the *Local Government (Audit) Regulations 1996* specifies the functions of the Audit and Governance Committee.

Financial Considerations

Implementation of some audit recommendations may require additional funds and will be the subject of separate budget submissions as and when required. The Town's Purchasing Policy and Procurement Guidelines will govern any required engagements.

Risk Management Implications

The Audit and Governance Committee considered risks captured in the Town's Audit Risk Register. If improvement opportunities relating to the identified risks are not progressed, the risks may not be adequately mitigated.

Officer Recommendation – Item 8.14

That Council receives the report on the Audit and Governance Committee meeting held on 9 June 2021.

Voting requirements: Simple majority

9.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

10.0 CONFIDENTIAL BUSINESS

| | |
|--|---|
| Item No. 10.1 | Verge Collection and Baywaste |
| Directorate | Environment and Sustainability |
| File Ref | WSTMNGT/SVPROVN/3 |
| 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 licences, applications for other permits/licenses (e.g. under <i>Health Act, Dog Act</i> or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal. |
| Confidential Attachment No. 4 | SUEZ On Demand Bulk Waste Proposal |

Purpose

For Council to consider how residents dispose of bulky items with scheduled collections and tip passes.

This matter is to be considered with members of the public excluded from the Chambers under Clause 5.23 (2) (e) (iii) of the Local Government Act 1995, as the report discusses the financial affairs of a person.

11.0 CLOSURE

The next Briefings Session will be held on Tuesday 17 August 2021, commencing at 6.00pm.