



AGENDA

Briefing Session

Tuesday 18 April 2023

Notice is hereby given of the Briefing Session
to be held in the Council Chamber

Administration Building

48 Old Perth Road, Bassendean WA 6054

commencing at 6:00 pm

Meeting Information

About the Briefing Session

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 meeting is open to all members of the public, except during the consideration of matters deemed confidential in line with the Local Government Act 1995.

Recording and Live-streaming

All participation in the meeting, except for confidential business, will be audio recorded and live-streamed on the Town's website. The live stream will be archived and made available on the Town's website after the meeting.

Conduct at Briefing Sessions

The Town is committed to ensuring our Briefing Sessions are a safe work environment, free of risks to the health and wellbeing of Elected Members, Officers and our community. Any person attending is 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.

For any questions regarding the Briefing Session or any item presented in the agenda, please contact the Town of Bassendean at mail@bassendean.wa.gov.au.

Tune in to live streaming from the comfort of your own home by going to:
Town of Bassendean Council - YouTube

or if you miss it live, go to:
<https://www.youtube.com/channel/UC46mMs3D7vmHuO0ePibihhg>

Council Seating Plan



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Council Role

Each Report presented will identify what Council's Role is in the item

Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
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.
Legislative	Includes adopting local laws, town planning schemes and policies.
Review	When the Council operates as a review authority on decisions made by Officers for appeal purposes.
Quasi-Judicial	When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.
Information	For the Council/Committee to note.

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1 Declaration Of Opening; Acknowledgment of Country; Acknowledgment of Visitors; Disclaimer

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 Attendances and Apologies

3 Declarations of Interest

4 Announcements

5 Petitions

6 Statements by Members of the Public

Public statement time will be limited to two minutes per person.

Statements at a Briefing Session must relate to an item on the agenda.

Members of the public are encouraged to submit their statements in advance by completing the relevant form:

Online Form - Public Statement Time » Town of Bassendean

Please complete this form and submit it to the Town's Chief Executive Officer by no later than 12noon on the day of the meeting.

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

7 Public Question Time

15 minutes will be allocated for questions by members of the public unless the Council, by resolution, decides otherwise.

Each member of the public with a question is entitled to ask up to two questions before other members of the public will be invited to ask their questions.

Members of the public shall not address the meeting on any matter not included in the Briefing Session Agenda.

Members of the public are encouraged to submit their questions in advance by completing the relevant form:

[Online Form - Public Question Time » Town of Bassendean](#)

Please complete this form and submit it to the Town's Chief Executive Officer by no later than 12noon on the day of the meeting.

If a person asking a question is not present at the meeting, then the Mayor can choose to deal with it at the meeting or arrange a response by email.

8 Deputations

Deputation requests can be submitted prior to the Briefing Session via the online form: [Online Form - Request for Deputation » Town of Bassendean](#)

Please complete this form and submit it to the Town's Chief Executive Officer by no later than 12noon on the day of the meeting.

Further information can be found here:

[About Council Meetings » Town of Bassendean](#)

9 Reports

9.1 Living Stream Project: Second to Fourth Ave, Bassendean	
Property Address	Lots 11, 12, 39, 41 and 44 on Plan 1787, Certificate of Title Volume 802 Folio 119 (30 Second Ave, 16 & 17 Third Ave, 7 Fourth Ave, Bassendean).
Landowner/Applicant	N/A
File Reference	ENVM/MAINT/2
Department	{use-custom-field-directorate-do-not-remove}
Authority/Discretion	Executive The substantial direction setting and oversight role of the Council.
Attachments	<ol style="list-style-type: none"> 1. Living Stream- Original concept [9.1.1 - 1 page] 2. Living Stream- Latest design [9.1.2 - 1 page] 3. CONFIDENTIAL - Living Stream Draft Licence [9.1.3 - 34 pages]

Purpose

The purpose of this report is for Council to consider its position on progression of the Living Stream project, following a review of the benefits and costs/ risks associated with implementation.

Background

Planning for a Living Stream project at “The Avenues” from Second Avenue to Fourth Avenue, Bassendean has been underway since 2019, with a site walkthrough held with adjacent property owners in December 2019, a community workshop in February 2020 and a draft concept released for public comment in mid-2020.

The project area is approximately 5,000m² (excluding verges). The lots are freehold land owned by the Water Corporation for stormwater drainage purposes (Brook Street Main Drain).

A plan showing the project area follows.



The following projects/ actions are included in the Town’s Corporate Business Plan 2022-2026:

- Repurpose open drain between Second and Third Avenue to create a Living Stream (Stage 1): 2022/23
- Repurpose open drain between Third and Fourth Avenue to create a Living Stream (Stage 2): 2023/24
- Review the outcomes of the living stream project to assess future works (2022/23 & 2023/24).

The Town has been working in partnership with the Water Corporation’s Drainage for Liveability team to progress the final concept (Attachment 1) to detailed design and implementation, with the aim to convert the fenced, grassed stormwater drain to a community space with improved environmental outcomes.

Since September 2021, the Town and its consultant (Urbaqua) have been regularly liaising with Water Corporation to finalise the design. While the Drainage for Liveability team has been very supportive and responsive, the collated feedback received has differed at each review stage, resulting in variations to design specifications and inclusion of new requirements. This has resulted in a design that varies from the original concept and will result in diminished project outcomes (Attachment 2).

In addition to design approval by Water Corporation, prior to commencement of works the Town is required to enter into a Licence. The Licence (Attachment 3) is a standard requirement that applies to all Water Corporation land that is upgraded by other parties and/or utilised for public recreation. Similar licences have applied for other Drainage for Liveability projects in other local government areas. The draft Licence was received in February 2022 and has been reviewed by Town staff, legal advisors and the Local Government Insurance Scheme. There are several clauses in the Licence that will present a risk to the Town, should it be accepted.

The Town's concerns regarding both the design changes and the Licence clauses/definitions of concern have been escalated on multiple occasions, including:

- Correspondence to the Water Corporation's CEO in June 2022 (and also provided the Local Member, the Hon. Dave Kelly MP);
- In a meeting between the Town and the Water Corporation's Manager, Drainage and Liveable Community and Specialist – Customer & Stakeholder on 2 August 2022; and
- In a meeting between the Mayor and the Hon. Dave Kelly MP on 18 November 2022.

While some minor changes have been accommodated, the Water Corporation has indicated it is unable to alter the aspects of key concern to the Town.

Communication and Engagement

Communication and engagement has been ongoing with the neighbouring property owners, with regards to the design. There has been no community consultation relating to the Licence.

Communication with Councillors has been ongoing, and includes:

- Project Plan Summary provided in the 11 February 2022 CEO Bulletin;
- Information on the Licence provided in the 18 February 2022 CEO Bulletin;
- Project update in the 6 May 2022 CEO Bulletin (progress of approvals/ licence);
- Update in the 1 July 2022, 5 August 2022, 18 November 2022 and 23 December 2022 CEO Bulletins; and
- Councillors attended a site meeting with neighbours and Councillor workshop on 1 November 2022 (with information distributed prior).

Strategic Implications

Priority Area 2: Leading Environmental Sustainability

- 2.4 Conserve, protect and enhance our natural environment and biodiversity
- 2.5 Value and conserve and protect our water resources and waterways
- 2.6 Support the creation of a more green and shaded Town

Comment

Design changes

The concept (Attachment 1) originally proposed a 2m wide stabilised gravel path (with 0.5m shoulder either side), decking over drainage structures with integrated seating, re-grading of the banks to create a living stream, 1.2m height fencing to prevent public access into the drainage channel and fully structured native planting (including trees) with wetland associations throughout.

The latest design for Stage 1 is shown in Attachment 2. The design elements required by Water Corporation that differ from the concept and diminish project outcomes include:

- Path width of 4 metres in total (2m path, 1m flat shoulder either side; to be planted with sacrificial vegetation);
- Machinery pads required for Water Corporation maintenance of drainage structures (concrete hardstand area of 12m x 4m at each end of the site); resulting in loss of the Second Avenue hedge and removal of proposed seating.
- Reduction in area that can be revegetated due to the above requirements. It is now unlikely that trees can be established, due to further reduction in suitable planting locations at sufficient distance from the underground sewer;
- Screen on the outlet (visual impact); and
- Guardrails around the inlet (double fencing/ visual impact).

The Water Corporation’s position is that both the 4m path width and machinery pads are required, the former to provide safe vehicular access along the full length of the site. Following the November 2022 meeting between the Mayor and the local member, Water Corporation indicated it was reviewing whether access around the structures (inlet and outlet) could potentially be delivered through sacrificial vegetation/ limestone pads, however could not commit to this option.

The Water Corporation’s most recent responses to each of the Town’s concerns are as follows:

Concern	Response
Width of access path	A maintenance access path for vehicles is required. This path requires 4m of flat ground. Part or all of this path can be planted with sacrificial vegetation, however Water Corporation requires that it does not lose the ability to have vehicular access for the full length of the site.
Machinery pads	Water Corporation requires maintenance machinery pads at the inlet and outlet of the drain to ensure that it is able to respond to emergency incidents such as blockages and flood events. Water Corporation is currently reviewing if sacrificial vegetation or limestone pads could be delivered as alternative design options, however cannot commit to this option at this stage. If required, Water Corporation will complete this work prior to the Town’s work commencing.

Guardrails on the existing structures	Although the public will not be able to access the drain headwalls, handrails are a safety standard to protect all maintainers, including the Town of Bassendean and their contractors. These handrails are visible at other Drainage for Liveability projects e.g., Wharf Street Basin and are a safety requirement for all drainage site upgrades.
Grates over the outlets	Water Corporation is further reviewing the requirement for these grates, however at this stage they are considered a public safety requirement due to the removal of the site fence. Water Corporation will install these screens prior to the start of project works.
Reduction in area that can be revegetated, and requirement to remove the hedge on Second Ave due to above requirements. It is now unlikely that trees can be established, due to further reduction in suitable planting locations at sufficient distance from the underground sewer	<ul style="list-style-type: none"> o Water Corporation currently spends approximately \$7m annually in dealing with roots within its pipe systems. o Vitreous Clay (VC) pipes are the most susceptible pipe type to root intrusion. o Water Corporation therefore has a requirement that no tree be planted in close proximity to the VC sewer pipe that runs parallel to the drain. o Water Corporation also requires that no trees be planted within 4m of shared boundary fences, as they can provide an access point onto private property. o These requirements are consistent with the published Water Corporation standards for working near its assets and consistent with the requirements for all Drainage for Liveability projects. o Other tall vegetation can be planted in these areas.

Licence requirements

The draft Licence (Attachment 3) contains indemnification and liability clauses that present a risk to the Town, if accepted. The Licence requires the Town to indemnify Water Corporation for any Losses it may experience (including if caused by any member of the public accessing the site). Based on legal advice, the Town has suggested alternative “hold harmless” clauses, which Water Corporation advises cannot be accepted.

It is not possible to obtain insurance for indemnities and/or indemnity clauses in a contract. As a result, any costs arising would need to be sourced from municipal funds. Such costs are potentially unlimited and this is considered to impose an unacceptable risk to the Town.

Alternative land management arrangements to a licence have been investigated, however Water Corporation previously advised these are not possible. These include a lease, transfer of the land in fee simple to Town of Bassendean or establishment of a management order / maintenance agreement (with option for an easement for Water Corporation infrastructure).

In December 2022 Water Corporation indicated purchase of the land by the Town could be considered, however, is its least preferred option. If that were the case, a maintenance agreement with similar liability clauses will still need to be executed between the Town and Water Corporation and therefore the Town's concerns would remain.

Cost / benefit review

Given the above issues, it is prudent to re-evaluate the benefits and costs / risks associated with implementation, prior to proceeding. These are summarised below.

Benefits:

- Increased open space of 2,000m² for Stage 1 and 3,000m² for Stage 2 (approximately half of which will be physically accessible). Nearby existing Public Open Space includes Fourth Avenue POS (170m), Anzac Terrace Reserve (225m) and Fifth Avenue POS (265m);
- Additional pedestrian linkages connecting Second Ave to Third Ave (Stage 1) and Third Ave to Fourth Ave (Stage 2). The closest alternative connections are at Anzac Tce and Railway Pde; and
- Increased biodiversity through planting of local, native species, increased habitat and potential water quality improvement outcomes (noting that frogs are currently present and limited trees can be established).

Costs/ Risks:

- Replacement of grass with impermeable hard stand/ hard surface material that is likely to contribute to the urban heat island effect;
- Unknown and potentially unlimited financial costs and reputational risks if the environmental liability and third party indemnification clauses of the Licence are triggered;
- Reduced aesthetics/ amenity in location of drainage structures due to guardrails; and
- Initial construction costs and ongoing financial and resource requirements for maintenance, management of site issues and asset renewal/ replacement.

Due to the significance of the costs/risks identified above (particularly the first two), it is recommended that the Living Stream project does not proceed.

Statutory Requirements

In accordance with the Town's Execution of Documents Council Policy, a licence is a Category 1A document and requires a specific resolution of Council to enter into.

Financial Considerations

The estimated cost to finalise the Stage 1 designs is \$8,400 which will need to be re- budgeted in 2023/24 as the unspent funds for this financial year were re-allocated as part of the mid-year Budget Review.

The estimated cost to the Town to implement Stage 1 is \$180,000, with the Water Corporation to organise and fund installation of the drainage structures.

This was previously allocated in the 2022/23 Annual Budget however identified for carry forward to 2023/24 in the mid-year Budget Review.

If entered into, the Licence will commit the Town to the ongoing maintenance and management of the Living Stream from Second Avenue to Third Avenue, Bassendean at the Town's cost. The licence period is for 10 years and can be extended. Should the Licence be discontinued, the Town may be required to remove all infrastructure installed as part of the project, with public access no longer permitted.

The cost of general maintenance for Stage 1 is estimated at \$9,000 in year 1, and approximately \$2,500 per year thereafter. This is based primarily on vegetation maintenance and excludes asset renewal / replacement costs or management of other site issues.

Should any environmental liability or indemnification clauses be triggered as per the Licence, the financial impact is unknown and could potentially be significant. Any Water Corporation losses claimed are uninsurable and would need to be funded through municipal funds.

Risk Management Implications

High, as set out in the report.

Declaration of Conflicts of Interest

All officers involved in the preparation of this report have considered and determined that they do not have a conflict of interest in the matter.

Officer Recommendation – Item 9.1

That Council:

1. Authorises the Administration to arrange a meeting between the Town of Bassendean Mayor and CEO and the Minister for Water and the Water Corporation’s CEO, seeking changes to the design requirements that diminish project outcomes and indemnification and liability clauses in the draft License, that present an unacceptable risk to the Town; and
2. In the event that the required design changes and indemnification and liability clauses cannot be agreed, Council approves the discontinuation of the Living Stream project and requests the Administration communicate the outcome to the adjacent property owners/occupants and wider community..

Voting requirements: Simple Majority

9.2 Strategic Budget Policy	
Property Address	N/A
Landowner/Applicant	N/A
File Reference	FINM/POLCY/2
Directorate	Corporate Services
Previous Reports	
Authority/Discretion	Legislative Includes adopting local laws, town planning schemes & policies.
Attachments	<ol style="list-style-type: none"> 1. Draft Budget Policy [9.2.1 - 5 pages] 2. Financial Sustainability Policy [9.2.2 - 3 pages]

Purpose

The purpose of this report is for Council to consider adoption of a new Strategic Budget Policy for the Town, and to revoke the Town's existing Financial Sustainability Policy.

Background

The Town is currently developing a new Long-Term Financial Plan (LTFP) in conjunction with the Annual Budget for 2023/24. The LTFP is to be developed from the ground up, informed by relevant Town strategies and plans, with input from Councillors, to become a fundamental guiding document for the Town's long-term corporate planning and annual budgeting processes.

In setting out the parameters for development of the LTFP and annual budgets, a Council-adopted Strategic Budget Policy will establish clear principles and guidelines for Council and the administration for responsible stewardship of the Town's assets.

Proposal

That Council adopts the draft Strategic Budget Policy attached to this report and revokes the Town's Financial Sustainability Policy.

Communication and Engagement

A draft Strategic Budget Policy was provided to Councillors via the CEO Bulletin on 3 March 2023, prior to discussion at a workshop with Councillors on 7 March 2023. Councillors were requested to provide feedback on the draft Strategic Budget Policy by 24 March 2023. No feedback having been received, the draft Strategic Budget Policy is hereby submitted to Council for adoption.

Councillors will note inclusion of a new clause 4.3, inserted to provide greater clarity when making decisions for projects spanning multiple financial years.

Strategic Implications

Priority Area 4: Driving Financial Suitability

4.1 Ensure there is sufficient, effective and sustainable use of assets

Comment

The Strategic Budget Policy will provide guidance to:

- Council in terms of responsible and accountable budget decision-making by enshrining the concept of intergenerational equity and specifying a funding priority or hierarchy for funding activities and projects;
- The community in terms of what to expect from Council decision-making about rate setting, fees and charges, building capacity through Reserve growth, borrowing and disposal of unused assets, to appropriately spread the burden between current and future residents of the Town; and
- Administration through express linkages with informing strategies and plans and guidelines regarding funding strategy, including rate-setting.

The Strategic Budget Policy will enhance the capacity of the Town to appropriately budget for long-term projects and more effectively integrate annual budgets with the LTFP.

Importantly, in setting a funding allocation hierarchy, priority will be given to funding risk mitigation activities in the first instance, followed by activities required to ensure compliance with statutory and regulatory obligations. The hierarchy also prioritises maintenance of existing assets and current operational priorities, and maintenance of adequate financial reserves, over new programs or assets and discretionary activities.

Preparation of the draft Strategic Budget Policy encompassed a review of the existing Financial Sustainability Policy. The content of the Financial Sustainability Policy is either covered in the draft Strategic Budget Policy, or not relevant or required to be embedded in a Council Policy. Accordingly, it is proposed that the Financial Sustainability Policy be revoked.

Statutory Requirements

Local Government Act 1995, section 1.3(3) states:

In carrying out its functions a local government is to use its best endeavours to meet the needs of current and future generations through an integration of environmental protection, social advancement and economic prosperity.

Financial Considerations

While there are no direct financial considerations associated with adopting the Strategic Budgeting Policy, the policy is expected to lead to improved strategic and operational budgeting practices and improved linkages with the integrated planning and reporting framework.

Risk Management Implications

Financial Risk
High

It is incumbent on the Town to plan and budget appropriately, having regard to long-term financial sustainability, providing responsible stewardship of the Town's assets to facilitate ongoing provision of services for the community now and into the future. Implementation of the proposed Strategic Budget Policy will assist the Town minimise the risks posed by inadequate financial planning and budgeting.

Declaration of Conflicts of Interest

All officers involved in the preparation of this report have considered and determined that they do not have a conflict of interest in the matter.

Officer Recommendation – Item 9.2

That Council:

1. Adopts the draft Strategic Budget Policy, attached to this report; and
2. Revokes the Financial Sustainability Policy.

Voting requirements:

- 1. Simple Majority**
- 2. Absolute Majority**

9.3 Draft Amended Council Policy - Community Funding	
Property Address	N/A
Landowner/Applicant	N/A
File Reference	TBA
Directorate	Community Planning
Previous Reports	24 August 2021 28 February 2023
Authority/Discretion	Legislative Includes adopting local laws, town planning schemes & policies.
Attachments	1. Draft Policy - Community Funding [9.3.1 - 6 pages]

Purpose

The purpose of this report is for Council to consider amending Council Policy – Community Funding.

Background

The Community Funding Policy was adopted in August 2021.

In February 2023, Council resolved to adopt the Mid-Year Review of the 2022/23 budget, including a \$20,000 allocation to fund a CCTV rebate program. To facilitate the implementation of that program, it is necessary to review the above Policy.

Communication and Engagement

The draft amended policy was distributed to Councillors via the 31 March 2023 CEO Bulletin, with no comments received.

Strategic Implications

Priority Area 1: Strengthening and Connecting our Community

1.2 Establishing partnerships with the community that build capacity, connection and sense of belonging

Comment

The Policy has been reviewed to provide for rebates and subsidies for goods and services where specifically identified within a formal Town-driven and Council-funded program, with such funding to be subject to specific eligibility requirements for that program.

Statutory Requirements

Section 2.7(2)(b) of the Local Government Act 1995 provides Council with the power to determine policies.

Financial Considerations

There are no financial implications associated with adopting the draft amended Policy.

More broadly, implementation of the Policy is contingent on the allocation of funds for the purpose of community funding.

Risk Management Implications

Low.

Declaration of Conflicts of Interest

All officers involved in the preparation of this report have considered and determined that they do not have a conflict of interest in the matter.

Officer Recommendation – Item 9.3

That Council amends the existing Council Policy – Community Funding, as contained in the attachment to this report.

Voting requirements: Simple Majority

9.4 Accounts Paid March 2023	
Property Address	N/A
Landowner/Applicant	N/A
File Reference	FINM/CREDTS/4
Department	Corporate Services
Previous Reports	N/A
Authority/Discretion	Legislative Includes adopting local laws, town planning schemes & policies.
Attachments	1. Accounts Paid - March 2023 [9.4.1 - 18 pages]

Purpose

The purpose of this report is for Council to receive the list of payments for March 2023.

Background

Payments made during March 2023 are presented to Council, showing the date, payee, amount and description in respect of each payment for goods and services received.

Proposal

For Council to receive the list of payments for March 2023.

Communication and Engagement

Nil.

Strategic Implications

Priority Area 4: Driving Financial Suitability

4.1 Ensure there is sufficient, effective and sustainable use of assets

Comment

Nil.

Statutory Requirements

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

Financial Considerations

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

Risk Management Implications

Financial Risk
Low

The Town has adequate controls in place to mitigate external and internal risks in accounts payable.

As an extra measure, the Town uses EftSure to independently check bank account details of key suppliers paid by the Town.

Declaration of Conflicts of Interest

All officers involved in the preparation of this report have considered and determined that they do not have a conflict of interest in the matter.

Officer Recommendation – Item 9.4

That Council receives the list of payments for March 2023.

Voting requirements: Simple Majority

10 Confidential Business

10.1 Expression of Interest - 35 (Lot 178) Old Perth Road, Bassendean	
Property Address	35 (Lot 178) Old Perth Road, Bassendean
Landowner/Applicant	Town of Bassendean
File Reference	COUP/TENDNG/10
Directorate	Community Planning
Previous Reports	29 July 2021 21 December 2021 28 June 2022 28 February 2023
Authority/Discretion	Executive The substantial direction setting and oversight role of the Council.

Purpose

The purpose of this report is for Council to consider the outcomes of a recent Expression of Interest (EOI) process undertaken in relation to the potential disposal of 35 (Lot 178) Old Perth Road, Bassendean, which is currently owned by the Town.

This matter is to be considered with members of the public excluded from the Chamber under Clause 5.232(c) of the Local Government Act as the officer report discusses a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting.

11 Motions of which Previous Notice has been given

12 Closure

The next Ordinary Council meeting will be held on Wednesday 26 April 2023 commencing at 6pm.

The next Briefing Session will be held on Tuesday 16 May 2023 commencing at 6pm.