



AGENDA

Briefing Session

Tuesday 18 July 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>

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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, setting and amending budgets.
Legislative	Includes adopting local laws, local 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 rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include development applications, building permits, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be subject to review by the State Administrative Tribunal.
Information	For the Council/Committee to note.

1 Declaration Of Opening; Acknowledgment of Country; Acknowledgment of Visitors; Disclaimer	6
2 Attendances and Apologies	6
3 Declarations of Interest.....	6
4 Announcements	6
5 Petitions	6
6 Statements by Members of the Public.....	6
7 Public Question Time.....	6
8 Deputations.....	7
9 Reports	8
9.1 Draft Tree Canopy Action Plan 2023-2027	8
9.2 Rights of Way Dedications	12
9.3 Bassendean Local Emergency Management Committee Meeting - 14 June 2023	18
9.4 Lease Agreement with Amana Living for part of Ashfield Community Centre	20
9.5 Accounts Paid - June 2023	26
10 Confidential Business	28
11 Motions of which Previous Notice has been given	28
12 Closure	28

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 Draft Tree Canopy Action Plan 2023-2027	
Property Address	N/A
Landowner/Applicant	N/A
File Reference	ENVM/PLANNG/1
Directorate	Sustainability & Environment
Previous Reports	N/A
Authority/Discretion	Executive The substantial direction setting and oversight role of the Council.
Attachments	1. Draft Tree Canopy Action Plan 2023-2027 [9.1.1 - 29 pages]

Purpose

The purpose of this report is for Council to consider the Draft Tree Canopy Action Plan 2023-2027.

Background

The Town of Bassendean's Strategic Community Plan 2020-2030 includes a direction to *support the creation of a more green and shaded Town*, under Priority Area 2: Leading environmental sustainability.

The strategies identified in the Corporate Business Plan 2022-2026 to achieve this include:

- Create an urban forest throughout reserves, gardens and streets.
- Protect existing trees and green spaces.

Development of a Tree Canopy Action Plan is an action in the Town's Corporate Business Plan 2022 –2026, due for completion by 30 June 2023:

Develop Tree Canopy Action Plan (include provision for annual update of the retention rate of newly planted trees).

A Draft Tree Canopy Action Plan 2023-2027 (the draft Plan) has been developed (refer Attachment 1), with actions identified relating to the areas of tree protection, tree management, strategic planning, partnerships and advocacy, community awareness/ programs and monitoring and review.

Communication and Engagement

While no specific community consultation has been undertaken in development of the Draft Plan, it contains a summary of relevant community feedback received in *BassenDream Our Future* and the Markyt Community Survey.

The 2019 *BassenDream Our Future* consultation, undertaken in development of the Strategic Community Plan 2020-2030 found that our community highly values a beautiful natural environment with an abundance of vegetation, trees, green open space and connection to the Swan River.

Councillors were invited to provide feedback on the Draft Plan through the CEO Bulletin and several amendments were subsequently made (reflective of operational capacity and available budget). The key changes include:

- Legislative and Policy Framework table updated to include background on the *Planning and Development Act 2005* and WALGA's Advocacy Position 4.6 Urban Forest, adopted at State Council on 5 July 2023.
- Inclusion of an aspirational tree canopy target of 30% by 2040 under Vision/Objectives (consistent with the WALGA Advocacy Position).
- Direction 4.1 expanded to include advocacy for changes to the *Planning and Development Act 2005* so as to enable appropriate regulation of tree removal.
- New action 5.2 Develop a Trees to Residents Program (2024/25).
- New action 5.3 Provide support for debris management of trees included on the Significant Tree Register (ongoing).
- New action 5.11 Develop a Tree Planting Guideline (2024/25).

Strategic Implications

Priority Area 2: Leading Environmental Sustainability

2.4 Conserve, protect and enhance our natural environment and biodiversity

2.6 Support the creation of a more green and shaded Town

Priority Area 6: Providing Visionary Leadership and Making Great Decisions

6.3 Ensure operational activities reflect the strategic focus of Council

Comment

The Town of Bassendean recognises the increasing importance of retaining trees due to their amenity, environmental and health benefits, and maximising canopy cover. A thriving urban forest assists in mitigating the impacts of the urban heat island effect, reduces air pollution, improves groundwater quality and provides important habitat for wildlife.

The Draft Plan outlines the strategic approach and actions to be taken over the next four years to protect and enhance our urban forest and green cover, on both public and private land.

The objectives of the Draft Plan are to increase the overall canopy coverage within the Town to meet an aspirational tree canopy cover target of 30% by 2040, by:

1. **Protecting** the Town's existing trees and, through available planning mechanisms, trees on private land
2. **Management** of the Town's trees to optimise resilience and canopy cover, including succession planning
3. **Strategic planting** in streetscapes, parks and reserves and on private property through planning mechanisms
4. **Partnership and advocacy opportunities** with WALGA and other Government land managers (e.g. schools, Department of Transport, Water Corporation)
5. **Community awareness and programs** to promote tree protection and establishment of tree and shrub canopy cover on private property (residential and businesses)

The aspirational tree canopy target of 30% is consistent with the WA Local Government Association's *Advocacy Position 4.6 Urban Forest*, endorsed at WALGA State Council on 5 July 2023.

The Draft Plan is an organisation-wide document, with a key contribution from three Directorates; Infrastructure, Sustainability and Environment and Community Planning as well as GIS support from Corporate Services. It will also involve the community and partnerships with stakeholders, with actions identified relating to Government land managers, lessees of Town owned properties, WALGA, industrial and residential property owners and residents.

The structure of the Draft Plan is outlined below, with the Background section providing context on defining and measuring tree canopy, changes to canopy cover over time, relationship with biodiversity corridors and the urban heat island effect, legislative and policy context, achievements to date and future changes expected to affect tree management and the retention and enhancement of tree canopy cover.

Definitions
Executive Summary
Background
Vision / Objectives
Action Plan
References

The action tables identify the direction, action, whether an action is new/ existing, cost and planned year of implementation. The majority (26) of actions in the plan are existing, with 15 new actions identified.

Statutory Requirements

The Legislative and Policy framework associated with tree protection/ canopy provision is outlined in the Draft Plan.

Financial Considerations

The estimated cost of each action is identified in the action tables in the Draft Plan. The cost of existing actions and new actions for 2023/24 has been included in the 2023/24 Annual Budget.

The cost of the proposed new actions is primarily Officer time, associated with an Urban Forest Officer position. Any design/ construction costs will be considered as part of the Long Term Financial Plan and future Annual Budgets.

Risk Management Implications

Several actions included in the Draft Plan involve managing risks associated with trees (Tree Management section), as recommended in LGIS's Tree Risk Mitigation Guide. If these actions are not implemented the risk to people and property may increase, exposing the Town to potential liability claims and reputational damage.

Other actions will prevent risks to human health/ wellbeing and the environment associated with the loss of trees and a declining canopy cover.

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 adopts the Draft Tree Canopy Action Plan 2023-2027, as attached to this report.

Voting requirements: Simple Majority

9.2 Rights of Way Dedications	
Property Address	Lot 100 on Deposited Plan 54415 and Lot 66 on Deposited Plan 2792
Landowner/Applicant	Deceased Estate(s)
File Reference	ROAD/STMNGT/4
Department	Community Planning
Previous Reports	August 2021 March 2022
Authority/Discretion	Executive The substantial direction setting and oversight role of the Council.
Attachments	1. Schedule of Submissions - draft RoW Strategy [9.2.1 - 6 pages]

Purpose

The purpose of this report is for Council to consider the following:

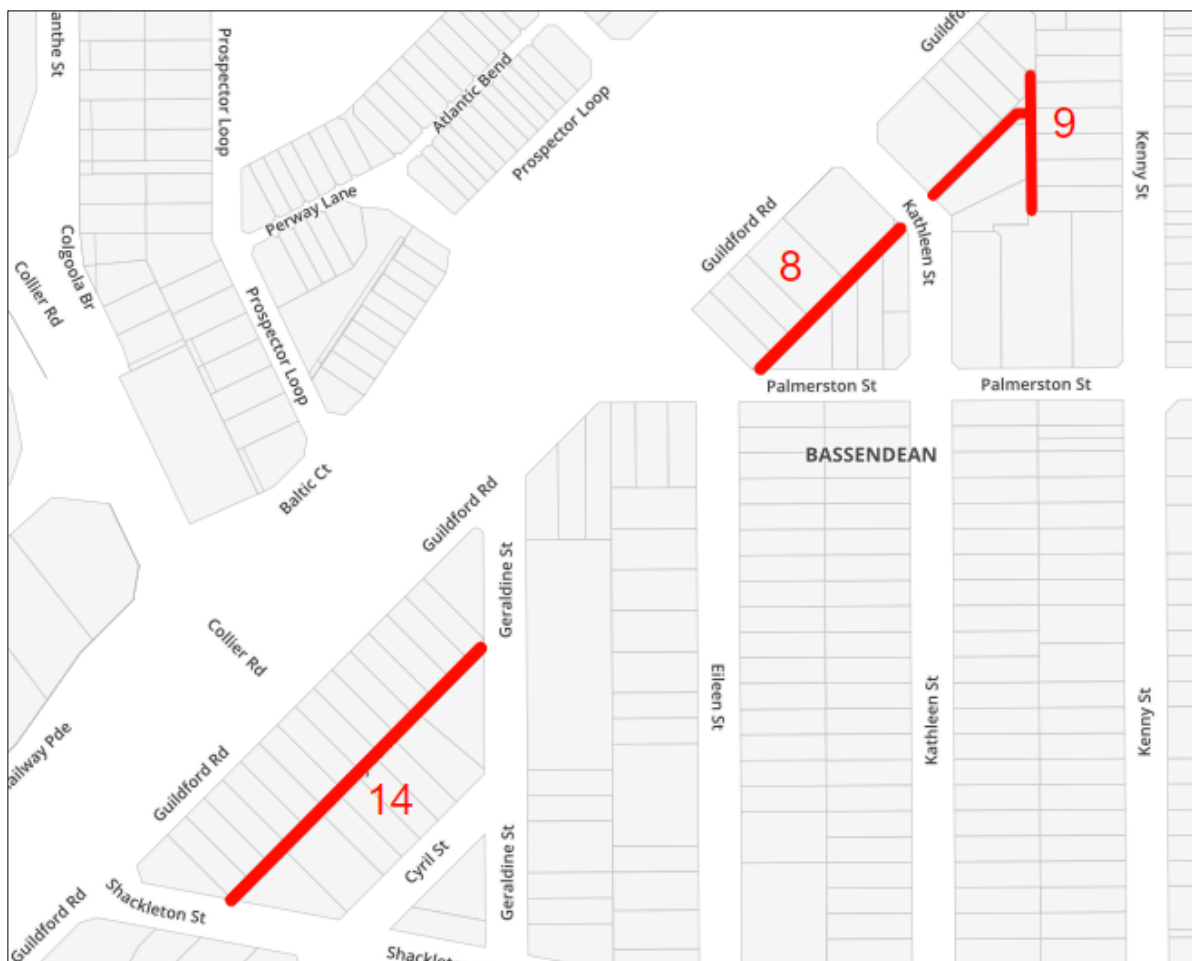
1. the dedication of the following Right of Ways (ROWs) as roads:
 - ROW 8, being Lot 100 on Deposited Plan 54415;
 - ROW 9, being Lot 100 on Deposited Plan 54415; and
 - ROW 14 (McKinlay Lane), being Lot 66 on Deposited Plan 2792;
2. the naming of both ROW 8 and ROW 9.

Background

Private Rights-of-Way (ROWs) are a result of the balance of title from a subdivision held in private ownership over which adjacent owners may have an implied right of access under Section 167A of the *Transfer of Land Act 1893*. They are separate parcels of land which were generally created in subdivisions around the turn of the century to facilitate sanitary collections from the rear of properties prior to the installation of reticulated sewerage. Many are still registered in the name of the original subdivider, often a deceased person or defunct company.

Site Description

The subject ROWs are all deceased estates and are located as follows.



Communication and Engagement

Prior to Council adoption, the draft ROW Strategy (which proposed the retention of the subject ROWs) was advertised for 40 days, which included letters to owners of occupier properties abutting ROWs. A summary of the relevant submissions is contained below, with a schedule of the submissions provided as an attachment.

No.	ROW Location	Support	Object	Comment
8	Lot 100: bounded by Kathleen Street (east), Palmerston Street (south) and Guildford Road (west)	0	1	0
9	Lot 100: bounded by Guildford Road (north), Kenny Street (east), Palmerston Street (south) and Kathleen Street (west)	0	0	3
14	Lot 66: bounded by Guildford Road (north), Geraldine Street (east), Cyril Street (south) and Kenny Street (west)	1	0	0

Strategic Implications

Priority Area 6: Providing Visionary Leadership and Making Great Decisions
 6.3 Ensure operational activities reflect the strategic focus of Council

Comment

Right of Way Strategy

On 22 March 2022, Council resolved to adopt its ROW strategy, which made recommendations on each right of way within the Town, including the retention and dedication of some ROW's as public roads. The adopted Strategy recommends that ROWs 8, 9 and 14 be retained.

Ownership

Section 56 of the *Land Administration Act 1997* provides for the local government to request to the Minister for Lands to dedicate land as a road, if the public has had uninterrupted use for a period of not less than 10 years, and that land is described in a plan or survey.

Unless the land is already held in freehold by the local government, before making such a request, the local government must take all reasonable steps to give notice of that request to the holder of the freehold land.

The Town has obtained probate records confirming the status of ROW 8, ROW 9 and ROW 14 are held in deceased estates, which the DPLH has previously confirmed as sufficient to meet the requirements of the Act.

Request to Dedicate Land

Regulation 8 of the *Land Administration Regulations 1998* sets out the information that is required to be included in the request to the minister to justify why the dedication should be made. This includes information to support the land has had uninterrupted use of not less than 10 years, who has had access to use the land, and details of the construction of the ROW. This is detailed for each ROW in the table below:

Description	Uninterrupted Use (at least 10 years)	Access to abutting properties	Details of Construction
ROW 8 being lot 100 on Deposited Plan 54415 (Deceased Estate)	The ROW has been constructed for a period greater than 10 years, as evidenced through aerial imagery. In the last 10 years, the ROW has not been obstructed to prevent vehicle access.	The ROW provides primary vehicle access to six adjoining residential sites, and secondary vehicle access to a number of others, including a commercial workshop (motor vehicle repair). There has been nothing to prohibit any member of the public traversing or utilising the ROW.	The ROW is a 5m wide, bituminised, sealed road with partial kerbing.

<p>ROW 9</p> <p>being lot 100 on Deposited Plan 54415 (Deceased Estate)</p>	<p>The ROW has been constructed for a period greater than 10 years, as evidenced through aerial imagery. In the last 10 years, the ROW has not been obstructed to prevent vehicle access.</p>	<p>The ROW provides vehicle access to 10 residential sites.</p> <p>It is noted that 16 – 24 Kenny Street, Bassendean do not form part of the original certificate of title of ROW 9, they do not have lawful access to the ROW. Whilst they do not have lawful access, the occupants of the properties have used the ROW for the purpose of providing vehicle access for a period greater than 10 years; as evidenced through aerial imagery.</p> <p>No. 14 Kenny Street, Bassendean is also not shown on the original certificate of title of ROW 9. In 2019, the owner of 14 Kenny Street obtained a Supreme Court order recognising the legal right to access the lane (reference: CIV/1324/2019). As part of that process, the owner demonstrated they had access for a period greater than 10 years.</p>	<p>The ROW is a 5m wide, bituminised, sealed road with kerbing.</p>
<p>ROW 14</p> <p>McKinlay Lane (Deceased Estate), being Lot 66 on Deposited Plan 2792</p>	<p>The ROW has been constructed for a period greater than 10 years, as evidenced through aerial imagery. The ROW already has a road number and is recognised with a road name (McKinlay Lane), however it is yet to be formally dedicated as a road.</p>	<p>The ROW provides primary vehicle access to 15 adjoining residential dwellings. There has been nothing to prohibit any member of the public traversing or utilising the ROW.</p>	<p>The ROW is a 5m wide, bituminised, sealed road with partial kerbing.</p>

Based on the above, it is considered that the criteria to request the Minister dedicate each parcel of land as a road has been satisfactorily met.

Naming of the ROWs

Section 26 of the *Land Administration Act 1997* provides the authority for the Minister for Lands to officially name roads, with Landgate acting on the Minister’s behalf to undertake the administrative responsibilities, including the development of policies and procedures required for formal approval of road names.

A decision of Council is required as part of the legislative process for the application of road names, prior to consultation on the name.

Landgate's '*Policies and Standards for Geographical Naming in Western Australia*' document guides the naming of roads in the state, with the relevant requirements listed below.

Requirement	Guidance
Language and Spelling	Uses single language form Easy to pronounce, spell and write Not discriminatory, derogatory, or inappropriate
Commemorative Names	A commemorative name applied to around should use the surname of a person posthumously Name can be a historical figure of the area. It is an appropriate name to be applied for the district.
Ensuring names are not duplicated	The same name road name (regardless of suffix used) cannot be used within 10km.
Consultation	Any proposal requesting the naming of an approved name or new naming proposal considered to be of significance to the immediate or extended community must include evidence of consultation with the community. Local governments must ensure that the level and form of consultation undertaken reflects the significance of the naming proposal.
Road Types	As the Rights of Way are generally rear loaded, the following types would be most appropriate: Alley – Narrow roadway in towns Lane – Narrow country or city roadway

Based on the above, the following names are considered appropriate, however, it is open to Council to suggest different names.

ROW No.	Road Name / Type	Justification
8.	Woods Lane	Mervyn Woods was recognised as a Freeperson of the Town in 1986.
9.	Horgan Lane	Kathleen Kenny (nee Horgan) was the wife of Daniel Kenny and whom Kathleen Street is named after. The ROW is bounded by Kathleen Street and will provide access to Kenny Street properties.

Statutory Requirements

Section 56 of the *Land Administration Act 1997* provides that a local government may request the Minister dedicate any private road within the district as Crown land. Regulation 8 of the *Land Administration Regulations 1998* sets out the process for preparing and delivering a request under section 56(2)(a) of the Act to the minister.

In accordance with Section 26(2)(c) of the *Transfer of Land Act 1997*, the Minister may name any road or road reserve.

Financial Considerations

Should the Minister authorise the request, the ongoing maintenance of the land (including maintaining the road surface) will be the responsibility of the Town and will need to be addressed in future asset management plans and associated annual budgets.

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 9.2

That Council:

1. Authorises a request being made to the Minister for Lands, pursuant to section 56 of the *Land Administration Act 1997*, to dedicate ROW 8, 9, and 14 as roads.
2. Notes that the Town will undertake public consultation on the proposal to name ROW 8 as 'Woods Lane and ROW 9 as 'Horgan Lane'.

Voting requirements: Simple Majority

9.3 Bassendean Local Emergency Management Committee Meeting - 14 June 2023	
File Reference	GOVN/CCLMEET/12
Department	Community Planning
Previous Reports	Nil.
Authority/Discretion	Executive The substantial direction setting and oversight role of the Council.
Attachments	<ol style="list-style-type: none"> 1. BLEMC Meeting Minutes - 14 June 2023 [9.3.1 - 7 pages] 2. Draft amended Local Emergency Management Arrangements [9.3.2 - 36 pages] 3. Draft amended Local Recovery Plan [9.3.3 - 50 pages]

Purpose

The purpose of this report is for Council to receive the minutes of the Bassendean Local Emergency Management Committee Meeting held on 14 June 2023.

Strategic Implications

Priority Area 6: Providing Visionary Leadership and Making Great Decisions
6.3 Ensure operational activities reflect the strategic focus of Council

Comment

The Committee discussed the following items at the meeting.

- Draft amended Local Emergency Management Arrangements and Local Recovery Plan
- Agency Member Reports (Round Table)
- BLEMC Management Review

Statutory Requirements

Under sections 38 - 40 of the Emergency Management Act 2005, local governments are required to establish and carry out the functions of a Local Emergency Management Committee, which includes coordinating the development and submission of documents in accordance with legislative and policy requirements including an Annual Report, Annual Business Plan and maintenance of Local Emergency Management Arrangements.

Financial Considerations

Nil.

Risk Management Implications

Failure to adopt the draft amended Local Emergency Management Arrangements and draft amended Local Recovery Plan represents an operational risk associated with the Town's management of any emergency recovery efforts in the future.

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.

Committee Recommendation – Item 9.3

That Council:

1. receives the minutes of the Bassendean Local Emergency Management Committee meeting of 14 June 2023.
2. endorses the draft amended Local Emergency Management Arrangements and draft amended Local Recovery Plan, as attached to this report.

Voting requirements: Simple Majority

9.4 Lease Agreement with Amana Living for part of Ashfield Community Centre	
Property Address	2 Colstoun Rd, Ashfield
Landowner/Applicant	Town of Bassendean
File Reference	LEGL/AGMT/216
Directorate	Corporate Services
Previous Reports	
Authority/Discretion	Executive The substantial direction setting and oversight role of the Council.
Attachments	<ol style="list-style-type: none"> 1. CONFIDENTIAL REDACTED - Amana Living Draft Lease [9.4.1 - 44 pages] 2. CONFIDENTIAL REDACTED - Council Report - SDS - OCM [9.4.2 - 13 pages] 3. CONFIDENTIAL REDACTED - Transition out Plan [9.4.3 - 15 pages] 4. CONFIDENTIAL REDACTED - Management Order [9.4.4 - 3 pages]

Purpose

The purpose of this report is for Council to consider a draft Lease Agreement with Amana Living Incorporated (**Amana Living**) for part of the Ashfield Community Centre, situated at 2 Colstoun Road, Ashfield, being the “day centre” and an adjacent office.

Background

The proposed lease agreement is on favourable terms for Amana Living, consistent with Amana Living being considered a not-for-profit organisation for the purposes of the Town’s Community Leasing Framework, with the annual lease premium being equivalent to 10% of GRV, plus payment of other expenses associated with the operation of the premises based on the day centre portion of the premises and an adjacent office representing 35% of the building.

The proposal for a lease agreement on favourable terms for Amana Living is consistent with two previous (confidential) decisions by Council:

- In November 2020, Council considered a confidential report and endorsed the officer recommendation to divest from the provision of home support services for seniors, at the expiration of the Commonwealth Home Support Program (CHSP) funding agreement on 30 June 2022; and

- In September 2021, Council endorsed various plans for the divestment, including the “Transition Out Plan” for provision to the Commonwealth Department of Health.

A copy of the confidential report to Council in November 2020, and a copy of the Transition Out Plan, are attached.

In making the decision to divest in November 2020, Council was keen to ensure continued service provision to seniors, and expressed the view that the new provider should be a not-for-profit provider operating in the industry in and around the Town. This was later reflected in the Transition Out Plan as follows:

Council is of the view that the service provider should be a not-for-profit service provider, operating in the industry, in and around the Town of Bassendean. The Town has a long history of working with not-for-profit organisations in delivering outcomes for the Town of Bassendean community. Fostering a strong not-for-profit and community-based sector to deliver outcomes for the community is a key theme of the Town’s current Strategic Community Plan.

Recognising that the provision of some services may be less profitable or attractive to service providers, like group-based social support and transport, the following commitment was included in the Transition Out Plan:

The Town understands that the Commonwealth reforms seek to provide greater competition and choice in the market and this diversity of service providers is seen as being beneficial to our residents. In some areas of the aged care market however, less competition exists and providers may require assistance to build their capacity and ability to operate efficiently and effectively. This is especially required for capital intensive services such as Group Based Social Support (currently run from the Town’s Ashfield Community Centre) and Transport Services (currently operated with Town owned fleet and a combination of paid staff, volunteers and Shofer services). The Town is seeking to negotiate the implementation of partnership options such as low-cost tenancies and use of Town assets such as accessible vehicles with an appropriate incoming provider to ensure residents have continued access to a comparable range of services and to safeguard service sustainability into the future.

The first of this two-pronged approach to assist the incoming service provider is to be achieved through the proposed lease agreement with Amana Living. The second has been implemented, with the transition of two buses formerly owned by the Town to Amana Living free of charge, to assist Amana Living continue to provide transport services to clients. The buses were previously purchased with State government funding under the former state-based HACC program.

In terms of the proposed lease agreement, favourable lease terms were specifically mentioned in the Transition Out Plan:

Originally joint funded by the Town of Bassendean, Lotterywest and the Western Australian Department of Health, the Ashfield Community Centre is considered an important piece of social capital and it is vital that the Centre continues to operate in a comparable manner to current practice. The Town is therefore seeking to enter into suitable arrangements (i.e. low cost tenancy arrangements) with the incoming provider to ensure the ongoing use of this facility. To ensure continuity of care for clients it is preferable for the incoming provider to have a commitment to offering a comparable range of activities and outings including prepared meals and to consider recruiting from the Town's current staff and volunteers.

Importantly, Amana Living has occupied the subject portions of the Ashfield Community Centre since 1 July 2022, under a Regular Hire Agreement with the Town, and has provided group-based social support services from the centre on Mondays to Thursdays during that time.

Community Leasing Framework and Management Order

Council adopted a Property Management Policy supported by a Community Leasing Framework, in August 2021. The policy provides guidance for leasing under two broad categories: Community leasing and Commercial leasing, with the Framework providing greater specificity for community leases.

Under the policy, the leasing arrangements with Amana Living could be considered a community lease or a commercial lease; it can fit under either category. In proposing a lease agreement under the Community Leasing Framework, the following factors are relevant:

- Council's expressed desire to assist the incoming provider to continue the operation of the day centre at Ashfield, reflected in the Transition Out Plan; and
- The Memorial over the land.

The Ashfield site is on Crown Land, with a Management Order in favour of the Town to use the reserve 'for the purpose of community purposes'. Importantly, the Management Order did not give the Town the power to lease the premises or any part thereof.

On 20 June 2022, the Town made application to the Department of Planning, Lands and Heritage (DPLH) for amendment to the Management Order to include the power to lease the premises, for the purpose of facilitating a lease agreement with Amana Living. DPLH completed their part on 10 October 2022, and forwarded the file to

Landgate. The new Management Order was granted on 5 April 2023, granting a power to lease to the Town 'for the designated purpose'; the designated purpose being 'Community Purposes'. A copy of the Management Order is attached.

The effect of the Management Order is that the Town is unable to lease the premises or any part thereof for commercial purposes.

Proposal

That Council, subject to consent by the Minister for Lands, enter into the Lease Agreement with Amana Living attached to this report, for the day centre and an adjacent office forming part of the Ashfield Community Centre, situated at 2 Colstoun Road, Ashfield.

Communication and Engagement

The Town sought legal advice in the preparation of the lease agreement.

The Town engaged with representatives from Amana Living who have advised that Amana Living is prepared to enter into the lease agreement attached to this report.

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

Priority Area 4: Driving Financial Sustainability

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

4.2 Ensure community facilities are accessible to and well utilised by a diverse range of community members

Comment

The proposed lease agreement is consistent with the Town's Community Leasing Framework. In that regard, the annual lease premium is equivalent to 10% of the GRV for 35% of the building, Amana Living is liable for 35% of all operating costs for the building and is responsible for the maintenance in accordance with Appendix 3 of the Community leasing Framework, except garden maintenance for which they will reimburse the Town.

The proposed term of the lease agreement is from the date of commencement to 30 June 2025, reflecting a three-year occupancy period from the date of divestment on 1 July 2022.

A copy of the proposed lease agreement is attached.

The Town has sought the consent of the Minister for Lands for the proposed lease agreement and is awaiting a response.

Statutory Requirements

Section 3.58 of the *Local Government Act 1995* (the **Act**) governs the disposition of property, with disposal defined to include a lease. In general terms, and subject to exceptions and conditions, a local government must dispose of property to the highest bidder at public option or to the most acceptable tender under a public tender process. Otherwise, the local government must give local public notice of the proposed disposal.

Section 3.58(5) outlines exceptions to the requirements of section 3.58, including a disposition excluded by Regulations. Regulation 30 of the Local Government (Functions and General) Regulations 1996 (the **Regulations**) provides that a disposition of land is exempt if:

(2)(b) the land is disposed of to a body, whether incorporated or not —

- (i) the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and
- (ii) the members of which are not entitled or permitted to receive any pecuniary profit from the body's transactions.

Amana Living is a not-for-profit entity registered with the Australian Charities and Not-for-Profits Commission, and its governing document prohibits the transfer of income or property to its Members.

Consequently, the proposed lease to Amana Living is an exempt disposition under Regulation 30(2)(b) of the Regulations, and the Town is not required to comply with the requirements of section 3.58 of the Act.

Financial Considerations

The expected payments by Amana Living to the Town under the proposed lease agreement were summarised in the CEO Bulletin issued to Councillors on 30 June 2023.

Risk Management Implications

Financial Risk
Low

The proposed lease agreement presents minimal risk for the Town. Legal advice has been taken in its preparation and the proposed lease agreement is consistent with the Town's Community Leasing Framework. Amana Living has used the premises for the last 12 months under a Regular Hire Agreement with the Town.

While the financial return to the Town under the proposed lease agreement is not significant, the Town is unable to lease the premises on commercial terms under the Management Order. Further, the Town currently has no other plans for the site, which is likely to remain vacant for the lease period in the absence of the proposed lease agreement.

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, subject to consent by the Minister for Lands, enter into the Lease Agreement with Amana Living attached to this report, for the day centre and an adjacent office forming part of the Ashfield Community Centre, situated at 2 Colstoun Road, Ashfield.

Voting requirements: Simple Majority

9.5 Accounts Paid - June 2023	
Property Address	N/A
Landowner/Applicant	N/A
File Reference	FINM/CREDTS/4
Directorate	Corporate Services
Previous Reports	
Authority/Discretion	Legislative Includes adopting local laws, local planning schemes & policies.
Attachments	1. Consolidated Payments Report June 2023 [9.5.1 - 16 pages]

Purpose

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

Background

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.

Communication and Engagement

Nil.

Strategic Implications

Priority Area 4: Driving Financial Suitability

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

4.3 Support the local economy

Comment

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

Statutory Requirements

Local Government (Financial Management) Regulations 1996

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 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 9.5

That Council receives the list of payments for June 2023.

Voting requirements: Simple Majority

10 Confidential Business

11 Motions of which Previous Notice has been given

12 Closure

The next Briefing Session will be held on Tuesday 15 August 2023 commencing at 6pm.

The next Ordinary Council meeting will be held on Tuesday 25 July 2023 commencing at 6pm.