



AGENDA

Briefing Session

Tuesday 16 May 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.

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<https://www.youtube.com/channel/UC46mMs3D7vmHuO0ePibihhg>

Council Seating Plan



Minute Secretary



Manager Governance and Strategy

Matthew Monkhouse



Chief Executive Officer

Cameron Woods



Mayor

Cr Kathryn Hamilton

E: crhamilton@bassendean.wa.gov.au

Director of Corporate Services
Paul White



Director Community Planning

Luke Gibson



Executive Manager Infrastructure

Phillip Adams



Executive Manager Sustainability and Environment

Nicole Davey



Cr Emily Wilding
E: crwilding@bassendean.wa.gov.au



Cr Hilary MacWilliam
E: crmacwilliam@bassendean.wa.gov.

Cr Tallan Ames
E: crames@bassendean.wa.gov.au



Cr Renee McIennan
E: crmcIennan@bassendean.wa.gov.

Cr Jennie Carter
E: crcarte r@basse ndean. wa .gov.



Cr Paul Poliwka
E: crpoliwka@bassendean.wa.gov.

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.

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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 Community Transport Service	
Property Address	N/A
Landowner/Applicant	N/A
File Reference	COMS/REPRTNG/3
Department	Community Planning
Previous Reports	22 November 2022 13 December 2022 28 March 2023 18 April 2023
Authority/Discretion	Executive The substantial direction setting and oversight role of the Council.
Attachments	1. Letter from 55 Plus [9.1.1 - 1 page] 2. Minutes of Special Meeting of Electors of 18 April 2023 [9.1.2 - 7 pages]

Purpose

The purpose of this report is for Council to consider the future of the Community Transport Service (CTS).

Background

The CTS has been operating since 1984 and was originally formed as a courtesy service to seniors with limited transport to medical appointments and shopping; with users having the option of providing a small cash donation. The service was overseen by a Town employee and run by a team of volunteer drivers and administration. Users were required to be ambulant, living independently and with capacity to make decisions of their own needs and are required to get in and out of the vehicle without assistance and attend their appointments unaided.

The CTS clients were residents (predominantly seniors) and included some users of the Commonwealth Home Support Program (CHSP), which helps older Australians access entry-level support services to live independently and safely at home.

Once the mobility of CTS clients deteriorated, they were referred to the Town's (former) Seniors and Disability Services (SDS) team to transition them to My Aged Care (MAC) for a more supported transport service with certified care workers.

Transport provided through SDS was available to MAC-approved clients and provided assisted transport to appointments. Costs associated with this transport were based on the kilometer rate, typically averaged at approximately \$8 - \$10 each way.

A shopper bus also collected five to 10 clients from their homes for trips to the Bassendean Shopping Centre, as well as general group outings on Tuesdays. These services were all delivered by SDS via MAC.

On 24 November 2020, Council resolved to cease the provision of Home Support Services and to transition those functions to a suitable provider. In considering the matter, Council acknowledged that government policy has shifted to greater consumer choice in the receipt of aged care services, with more flexible funding options and ease of transfer between providers placing a premium on competitiveness in the marketplace. With a significant market now existing, there was little benefit to the consumer for local government to play a role in meeting the needs of the consumer through direct provision of aged care services. This change was formalised on 30 June 2022, when the Town's Home Support Services were ceased, with Amana Living being appointed by the Federal Department of Health to take over the provision of the CHSP services.

The considerations that applied to the cessation of Home Support Services and considered equally applicable to the CTS, with clients able to obtain other transport services from public transport and other more well-resourced, specialist aged care service providers for those who require supported services, including (but not limited to) Amana Living.

In March 2022, the *Work Health and Safety Act 2020* (WHS Act) came into effect, which introduced new obligations to provide a safe and healthy workplace. The Town is considered a 'person conducting a business or undertaking' (PCBU) and has a primary duty of care to ensure the health and safety of their workers (including volunteers) and others who may be affected by the carrying out of work.

This means, where reasonably practicable, PCBUs take action to eliminate risks to health and safety. If this is not reasonably practicable, the Town is required to make sure those risks are minimised as far as is reasonably practicable. This includes reviewing the strategic, structural, policy and resourcing decisions involved in running the Town's existing services. Importantly, the WHS Act includes a new offence of industrial manslaughter, with substantial penalties for PCBUs where a WHS duty causes the death of an individual, in circumstances where the PCBU knew the conduct could cause death or serious harm.

In light of changes to WHS legislation, the Town undertook a review of the CTS in respect to potential risks and financial costs associated with identified risk mitigation measures.

In December 2022, Council considered the issue of the CTS and resolved that it:

- “1. Notes that the Town community transport service will be discontinued on 23 December 2022; and
2. Requests the CEO engage with the committee of the 55 plus volunteers to investigate the potential for the organisation to establish a community transport service.”

In response to the risks, in late December 2022, the Town discontinued the service.

On 9 January 2023 and in accordance with the above Council resolution, Town staff met with members of Bassendean 55plus. The Town explained to the group what the service involves and invited it to submit a proposal for establishing the service. Town staff recommended that the group obtain legal advice about its duties as PCBU, if it were to operate the service.

On 17 January 2023, the group advised that it decided that the risks and responsibility of taking on the service is not something it was able to commit to, and therefore, it would not be submitting an offer to take over the service (Attachment 1).

On 28 March 2023, Council was presented with a request for a Special Meeting of Electors and a Petition, both relating to the CTS. In addition and at the same meeting, Council resolved to adopt a Public Health Plan and in doing so, did not seek to provide for the reinstatement of a CTS.

On 18 April 2023, and in response to the March 2023 request, a Special Electors Meeting was held. At that meeting, the electors present resolved as follows:

“That the Town of Bassendean reinstate and run the volunteer transport service within the Town of Bassendean”;

and

“That the Council/Administration proactively and constructively assist in the establishment of a new community transport service.”

A copy of the meeting minutes is contained as Attachment 2.

Communication and Engagement

Since November 2022, the Town has been contacting users of the service to assist in transitional arrangements. For those who requested assistance, staff have provided information for registering with MAC and service providers who can take on new clients. A letter was sent to all the service users with contact details if they should require any further assistance.

Strategic Implications

Priority Area 1: Strengthening and Connecting our Community

1.3 Treating people equitably with access to programs and services, regardless of advantage or ability

1.7 Facilitating community connection

Priority Area 4: Driving Financial Suitability

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

Priority Area 5: Facilitating People-Centred Services

5.1 Ensure community members know where and how to access services

Priority Area 6: Providing Visionary Leadership and Making Great Decisions

6.1 Make brave decisions in line with a risk appetite

6.3 Ensure operational activities reflect the strategic focus of Council

In considering the direction provided within the Council adopted Strategic Community Plan, the following is relevant:

- The Town has acted equitably and considered the needs of the broader community and offers other programs and services which facilitate community connection.
- The cessation of the CTS meets the strategic objective relating to financial sustainability.
- Staff have worked with users of this service and have identified other service providers and options. On this basis the cessation of this service has been managed and complies with the strategic objective relating to ensuring *“community members know where and how to access services”*

Based on the above, the recommendation aligns with Council’s adopted strategic direction.

Comment

Former Service

At the time of discontinuance, the (former) CTS offered transport to residents using one vehicle for daily transports, and two vehicles on Thursdays to accommodate a shopping shuttle. The service was used by 44 Town residents who contributed a donation of their choice (per return trip), with the same clients using the service regularly.

The cost of providing the former service (excluding value of staff time) is as follows:

Expenditure (without staffing costs)	
Vehicle Operating Costs (two vehicles; one owned and one leased) <i>Note: the lease on the Kia Carnival has since expired and the vehicle has been returned to the fleet company</i>	\$20,000
Volunteer Costs (\$10 per day meal vouchers, meeting refreshments, uniforms, training including first aid based on 16 volunteers)	\$ 8,000
Total	\$28,000
Income	
Donations (based on typical range of donations received annually - \$3,000 to \$6,000)	\$ 4,500
Net Operating Cost (per annum)	\$23,500

In recent years, the service has been used by approximately 90 people each year, for appropriately 1,150 total trips. The net cost to the Town to provide the service was approximately \$23,500 per year, equating to approximately \$260 per person and \$20 per trip.

Risk Assessment

Details of the previous risk assessment were presented to Council's November 2022 and December 2022 meetings. It must be acknowledged that the risk (and therefore the cost) of a new service would be a direct function of the intended scope of the service and would be impacted by the following (among other things):

- Whether it runs within the Town only or allows travel beyond the district;
- Whether it would require users to be ambulatory;
- Whether it would be limited to aged users; and
- Whether drivers would be expected to provide manual handling / practical assistance.

Alternative Transport Options

Taxi Users' Subsidy Scheme

The Taxi Users' Subsidy Scheme (TUSS) is a subsidy available to eligible people with disabilities travelling in taxis and taxi cars under the provisions of the *Taxi Act 1994* and *Transport Coordination Act 1966*. Carers can travel with the person using the taxi service.

To be eligible for TUSS a person must demonstrate to the Director General of the Department of Transport (through an authorised officer) that they:

- Are a permanent resident in Western Australia;
- Have a disability that will always prevent them using conventional public transport (being a mobility disability and/or a vision disability and/or a cognitive or intellectual disability); and
- Are over 10 years of age, or less than 10 years of age and they use a wheelchair.

My Aged Care

Government funding is currently available through MAC for seniors who require access to transport and provide a specialised service with the ability to monitor client's future needs.

The Federal Government offers transport services via MAC. The service can be provided through the Commonwealth Home Support Program (CHSP) or as part of a Home Care Package (HCP). These transport services are provided locally through Amana Living. The cost of the service is \$6 for trips of less than 30km and \$12 for trips of over 30km. In addition, there is a shopper bus service which comes at a cost of \$3 each way (\$6 return trip).

St John's Community Transport

This service operates with the Perth metropolitan area and is the most comparable for the former CTS, although it must be acknowledged that the St John's organisation specialises in patient transport.

The service can be used to travel to community centres and medical appointments, by booking the service at least 24 hours before. This service is for ambulant passengers (with or without passenger carers) who are able to get in and out of a sedan vehicle, without requiring assistance or en route medical assistance. A companion service is also offered whereby drivers will wait before, during and after appointments.

In most situations, transport is provided as an individual service however, there may be occasions where passengers are asked to share with others who are travelling to close destinations. Drivers are trained in first aid and vehicles are equipped with first aid supplies, an automated external defibrillator, GPS tracker and a fire extinguisher. The cost of the service is \$20 each way for trips of less than 8km and \$35 each way for trips of over 8km. In addition, there is a fee of \$50 per 2.5 hours of a St John's companion.

Universal Access – Department of Transport

For clients of the service that are still able to drive, information on Universal Access for community members including people with disability, seniors, parents with prams and young children is available on the Department of Transport's website.

The Town is able to assist users of the service in accessing the above options should Council resolve to discontinue the service.

Local Government Services

The Town has identified other local governments providing a similar community transport service including:

Local Government	Overview
Band 1	
City of Swan	Club (Group Socialisation) vehicles are drivers by staff, with other transport services (medical appointments, shopping, socialisation etc.) delivered by volunteer drivers. The City has recently reviewed its service and will continue operating a CTS, however, it is important to note that similar to other local governments, the City only provides services to eligible people from government funded programs (CHSP/MAC and NDIS).
City of Stirling	Volunteer drivers use their own vehicles and City's vehicles, with volunteers onboarded and inducted, thereafter deployed to MAC's Community Transport Department where they receive more training specific to aged care. Volunteers only transport mobile seniors.
City of Joondalup	Two vehicles are used once weekly to pick residents up from their homes and transport them to social activities (and not medical or personal appointments), driven by volunteers.
City of Wanneroo	Two vehicles are used by volunteers once weekly to pick residents up from their homes and transport them to the Seniors Centre and not medical or personal appointments.
Band 2	
City of Bayswater	The City has two buses available for hire by the community, driven by volunteer bus drivers. Not-for-profit community groups, clubs or schools that have their primary base of operation within the City can hire a bus for no fee, up to a maximum of eight times per financial year. All bus hirers are required to pay for fuel. Volunteer bus drivers are not trained or permitted to administer any medicines or perform medical tasks. Volunteer bus drivers and staff are only permitted to provide basic assistance (i.e. excludes assistance with mobility). To ensure equitable use, bus hire booking requests are to be made not more than three months in advance.
City of Nedlands	Community transport provided to CHSP/MAC supported seniors only.
City of Vincent	Pre-paid taxi vouchers of up to \$100 for individuals and \$150 for couples (per year).
Band 3 (same as the Town of Bassendean)	
Town of East Fremantle	Community transport provided to CHSP/MAC supported seniors only.

Based on the above, it is evident that generally, only larger local governments with greater resources provide such a service and where services are provided, they are only available to CHSP/MAC seniors (following assessment), similar to the Town's previous involvement in Seniors and Disability Services.

Strategic Budget Policy

On 26 April 2023, Council resolved to adopt the draft Strategic Budget Policy. Relevant clauses of the Policy are as follows:

- 5.4.1 *Services levels provided by the Town will be continuously improved through regular assessment and review, to provide for the most appropriate allocation of resources, considering best value for money, efficiency and effectiveness, and appropriate quality standards.*
- 5.5.2 *The Town adopts a "user-contributes" approach considering community service level expectations and the users' capacity to pay.*
- 6.2 *Prioritisation of funding allocation will be based on the following hierarchy:*
- a) *Risk mitigation activities or projects that are required to reduce extreme or high level risks to, as far as practicable, an acceptable level;*
 - b) *Activities requiring compliance with statutory obligations or standards;*
 - c) *Renewal, upgrade, or maintenance of existing infrastructure assets as supported by AMPs and related project prioritisation processes;*
 - d) *Current operational funding for programs, unless the operational need for any of those programmes has been superseded;*
 - e) *Maintenance of adequate financial reserves – both operational and strategic to meet current and future (planned) needs;*
 - f) *New programmes or assets as supported by AMPs and other strategic plans and related project prioritisation processes; and*
 - g) *Discretionary projects or activities driven by community desire with due consideration to desired service levels or amenities provided.*

With regard to Clause 6.2, the CTS falls within category "g", being the lowest priority within the Council adopted policy.

Options

The following options are available to Council:

1. Do not fund the risk mitigation measures. Refer existing clients to alternative transport options as outlined above. Skills of existing volunteers would be reviewed and reallocated to other community tasks.

2. Fund risk mitigation measures in the 2023/24 budget; allowing the recommencement of a CTS, noting that the scope of the service will have a direct impact on the cost of the service.
 - 2a. Reinstatement of the original service, but with the risk mitigation measures. To provide a two-vehicle service, the Town would need to procure a second vehicle.
 - 2b. Provide a de-scoped service with a risk and cost mitigation approach being adopted, with one example of a descoped service being as follows.
 - Comprised of one vehicle only (currently the Town-owned Hyundai TQ Bus, but this will require replacement in due course, which if transitioned to a lease arrangement, would represent an ongoing, annual cost);
 - The service runs only within the Town of Bassendean;
 - It requires users to be ambulatory and provide confirmation of fitness for travel from a medical practitioner;
 - Drivers would not be permitted to provide manual handling / practical assistance; and
 - Limited to health care card holders.

For either sub-option, a reinstated service should include annual reviews with KPI's relating to minimum accepted usage. In any event, reinstatement of a service (irrespective of which sub-options) is not recommended due to the financial implications, as well as the fact that it represents a discretionary service and there is no market failure in terms of local transport options.

Statutory Requirements

In accordance with Section 17 of the *Work Health and Safety Act 2020*, the Town has a duty to

- (a) eliminate risks to health and safety, so far as is reasonably practicable; and
- (b) if it is not reasonably practicable to eliminate risks to health and safety, minimise those risks so far as is reasonably practicable.

The *Disability Discrimination Act 1992* makes it unlawful to discriminate against a person, in many areas of public life, including getting or using services and accessing public places, because of their disability. It extends to disabilities that people have had in the past and potential future disabilities, as well as disabilities that people are assumed to have. It should be noted that Council's adopted Strategic Community Plan recognises the need to treat people equitably with access to programs and services, regardless of advantage or ability.

Financial Considerations

In considering the financial impact of reestablishing a CTS, Council is to have due regard to the Council-adopted Strategic Budget Policy.

The net operating cost to provide the (former) CTS was \$23,500 per annum.

Implementation of risk mitigation measures will incur additional costs which, for option 2a, contribute to a total cost of \$74,000 per annum (excluding staff costs and an initial one-off cost of approximately \$16,000). In considering the matter, the following is relevant:

- Such an expense represents approximately 0.5% of rates revenue for the Town;
- The estimated annual cost of the service to the Town would be approximately \$820 per user or \$64 per trip; and
- To ensure that the net cost did not exceed \$23,500 to the Town (being the net cost of the former service), users would need to pay approximately \$44 per trip (assuming a total of 1,150 trips per annum). This compared unfavorably to other well-resourced non-for-profit providers that receive Commonwealth funding and are able to leverage from economies of scale.

For option 2b, the total cost is estimated to be approximately \$12,500 per annum (excluding staff costs and an initial one-off cost of approximately \$5,400). In terms of a cost comparison, whilst this version of the service represents a lower cost than the former service, it is considered likely that it would generate fewer users / trips, across which to amortise the costs. It is therefore quite possible that a descoped service would also compare unfavorably to other, similar services.

Risk Management Implications

Reinstating the former service without implementing risk mitigation measures will expose the Town to an unacceptable level of risk and may result in breaches of the WHS Act. This is not an option available to Council.

Reinstating the former service with the required risk mitigation measures (and bearing the associated costs) represents a financial risk for the Town and Council in that, unless it was delivered on a cost-recovery basis, it will need to be subsidised by the broader community.

Not reinstating the former service represents a reputation risk however, this can be mitigated by the Town continuing to assist in transitioning users to appropriate providers as referenced in the report.

Declaration of Conflicts of Interest

An Author or Approving Officer is declaring an impartiality interest, insofar as the Chief Executive Officer is considered a PCBU for the purposes of the WHS Act. The Act includes a new offence of industrial manslaughter, with substantial penalties for PCBUs where a WHS duty causes the death of an individual, in circumstances where the PCBU knew the conduct could cause death or serious harm.

Officer Recommendation – Item 9.1

That Council:

1. Receives the minutes from the Special Meeting of Electors held on 18 April 2023;
2. Confirms that it does not intend to fund the recommencement of the Community Transport Service; and
3. Notes that the Town will assist in transitional arrangements for clients and volunteers seeking alternative transport support or volunteering opportunities, respectively.

Voting requirements: Simple Majority

9.2 Town Centre (Area 2) Parking Review	
Property Address	N/A
Landowner/Applicant	N/A
File Reference	LAW/REPRTNG/3
Directorate	Community Planning
Previous Reports	23 November 2021
Authority/Discretion	Legislative Includes adopting local laws, local planning schemes & policies.
Attachments	1. Schedule of Submissions [9.2.1 - 41 pages] 2. Survey [9.2.2 - 1 page]

Purpose

The purpose of this report is for Council to consider the parking restrictions within the Bassendean Town Centre and surrounds (Parking Area 2).

Background

Previous Council Consideration

On 23 November 2021, Council resolved to make various modifications to parking restrictions in the vicinity of Bassendean Oval (Parking Area 1). Line-marking in accordance with the restrictions made has since been completed.

Current Review

From late 2022, the Town has been undertaking an audit of parking signage and restrictions of all thoroughfares located within Parking Area 2; being the area bounded by Guildford Road, West Road and Palmerston Street as detailed on the following map.



The audit included:

- Compilation of observational evidence from the Town's Ranger Services as to the use and occupancy of car parking bays;
- Site inspections (including parking counts);
- A review of any existing complaints, comments, and requests received from the community related to parking within Parking Area 2.

The audit identified that in some locations, existing parking restrictions or provisions are either no longer meeting the needs of the community or should be amended. Some areas are experiencing street parking with a low turnover rate of vehicles, obstruction of accessways and intersections and reports of increased difficulty in accessing thoroughfares due to an increase in street parking and/or the manner in which street parking is utilised.

Proposal

Based on the results of the audit, survey and internal reviews, it is proposed that the following amended parking control measures be formally advertised for community feedback, prior to subsequent Council consideration.

Hamilton Street

- Corner of Old Perth Road– 'No Stopping' yellow edge line markings to show the prohibited corner parking areas as per the Parking Local Law.

Whitfield Street

- Corner of Old Perth Road – 'No Stopping' yellow edge line markings to show the prohibited corner parking areas as per the Parking Local Law.
- Corner of Old Perth Road northwestern side – 'No Stopping' yellow edge line in front of the unit complex at 80 Old Perth Road up to and including the 'Organikids Child Care Centre' at 30 Whitfield Street.
- Corner Old Perth Road southeastern side – 'No Stopping' from the corner to the end of the first tree embayment to highlight 'No Stopping' on the corner and entrance to Whitfield Street.
- Remove the existing 'Motorcycle Only' bays outside 89 Old Perth Road and replace them with a street tree, so as to mirror the northern side of the crossover.

Old Perth Road - Senior Citizens car park

Removal of the existing 'Seniors Centre Parking Only' sign.

A plan of the proposed line marking changes follows.



Communication and Engagement

The Town sought preliminary feedback from landowner/occupiers within Parking Area 2 between 14 September 2022 and 14 October 2022. Feedback was sought via a letter which provided a link to an electronic survey. The survey was broad and provided an opportunity for submitters to report/advise of any issues they experience within the target area and suggest resolutions.

In response, the Town received 56 responses received; 11 responses indicated that they have no parking concerns within their road or Parking Area 2 more broadly, and two which requested that no further changes were made. All of the remaining 43 submissions conveyed concerns and/or suggested some parking changes.

A copy of the survey and schedule of submissions is attached.

Strategic Implications

Priority Area 1: Strengthening and Connecting our Community

1.1 Fostering a culture of collaboration and trust between the organisation and community

Comment

Parking Occupancy

In addition to the preliminary consultation detailed above, as part of the audit conducted by the Town, parking occupancy counts were undertaken over a period of seven days, with counts taken at 9am, 12 noon, and 5pm. The counts were divided by street name and included both marked and unmarked on-street bays, as well as known public car parks within the area.

The results of the audit have been summarised in the below table.

Location	Available Bays	Av. Weekday Occupancy	Av. Weekend Occupancy
Palmerston Street	20	1.33%	3.33%
Kathleen Street	14	1.43%	1.19%
Kenny Street	50	50.4%	29.67%
Parker Street	40	50.3%	53.33%
Wilson Street	91	47.84%	24.36%
Bassendean Library Carpark	18	81.11%	25.93%
James Street	57	57.08%	47.37%
Hamilton Street	85	25.65%	26.67%
Whitfield Street	79	48.44%	23.00%
Old Perth Road	75	50.76%	28.89%
West Road	29	4.14%	10.92%

The results of the audit revealed that apart from the Bassendean Library Carpark, which had a weekday average occupancy of 81.1%, all other parking areas had an occupancy rate of less than 60%. Most parking areas had an occupancy rate of 50% or less on weekdays. The occupancy rates further decreased on the weekend, with only two parking counts having an occupancy rate greater than 40%, being Parker Street (53.3%) and James Street (47.37%).

The audit suggests that occupancy rates of vehicle parking bays within the area are low and there is an abundance of on street parking available in the area.

Locational assessment

Hamilton Street

The issues raised in Hamilton Street mostly centre around breaches of the Parking Local Law, particularly in relation to the intersection with Old Perth Road and further along Hamilton Street, extending in both directions. The other main issue was vehicles parking along the verge of Palmerston Square Reserve and the potential impact of vehicles blocking line of sight for pedestrians.

With regards to the intersection, it is considered that installing 'No Stopping' yellow edge lines at the four corners will clearly delineate where vehicles are prohibited from parking and therefore alleviate many of the issues being experienced.

With regards to the verge at Palmerston Square Reserve, it is sufficient to allow parking and provides a convenient location for parents to park close to the playground. One submission requested converting the verge parking area to embayed parking, however, this is not considered suitable as it will require extensive infrastructure works not currently scoped or funded and will not address the issue of driver behaviour and potential conflict with pedestrians utilising the Reserve.

Whitfield Street

Submissions received in regard to Whitfield Street also focused on breaches of the Parking Local Law, such as parking on the corners of the Old Perth Road intersection and blocking driveways.

One submission requested the removal of street parking altogether to eliminate conflict between parked vehicles, vehicles accessing/egressing properties and delivery trucks servicing the commercial properties.

Six submissions indicated that there are issues outside the units at 80 Old Perth Road, with vehicles often parking in such a way that blocks access to the apartment parking. There is also reported conflict with due to the influx of vehicles at drop-off and pick-up times for the Child Care Centre (30 Whitfield Street) and delivery trucks servicing the Shopping Centre at peak delivery times. This section of Whitfield Street has been converted into a 'Safe Active Street' in order to allow the space to be shared between all road users. As part of the conversion, street parking was reduced and physical barriers, such as trees, were installed in the road to reduce the flow of traffic.

Feedback was also provided regarding the existing 'Motorcycle Only' bays next to the rear parking area of 89 Old Perth Road. These bays are regularly reported to be misused by trucks and other large vehicles servicing the nearby apartment complex commercial businesses.

In response, it is recommended that 'No Stopping' yellow edge lines be installed at all four corners of this intersection and up to and including the Child Care Centre on the northwestern side. This will give drivers clear instruction as to where parking is prohibited and will alleviate many of the reported issues. It is further recommended that the existing 'Motorcycle Only' bays outside 89 Old Perth Road be removed and replaced with a street tree, so as to mirror the northern side of the crossover.

Palmerston Street

Submissions received for Palmerston Street indicate that there are differing issues being experienced along this road. Submissions called for eliminating all street parking, installing embayed parking and also permitting more street parking. Reasons given were in relation to traffic flow, intersections and pedestrian conflicts.

Parking along Palmerston Street is not a common occurrence, as demonstrated in the parking count. There are a small number of parking restrictions along Palmerston Street in relation to the crest of a hill and verge outside the units at 13 Palmerston Street and the side verge at 33 Parker Street.

No additional restrictions or amendments are proposed for Palmerston Street.

James Street

Issues reported and also identified by officers for James Street relate to the configuration of the intersection with Palmerston Street, specifically with consideration to the Stop sign, driver behaviour and the proximity of parking bays to the intersection. This will be resolved separately via a Main Roads' grant.

One submission contended that vehicles often stay all day in the parking bays which reduces the availability for residents and guests. As per the parking count, occupancy rates of the bays on James Street indicate that further restrictions are not required. This is particularly the case given that the most relevant control measure would be timed parking, which would impact the residents and their guests more so than attendees of the Café and other businesses in the area.

Parker Street and Wilson Street

Many of the issues raised regarding Parker Street and Wilson Street can be directly attributed to both the trial closure of the east-bound lane of Old Perth Road and the re-opening of the Bassendean Hotel. Both of these events attracted a higher than usual number of vehicles which used the street for parking during the survey period. Issues included a higher volume of street parking, reducing availability for residents, and potential breaches of the Parking Local Law (i.e. blocking driveways). Other issues reported were in regard to perceived sight line reductions, the length of time vehicles were parked, driver behaviour impacting pedestrians/road users and other police related issues. Many of these issues can either be dealt with under the existing Parking Local Law or are not within the capacity of the Town to action.

Parking is considered within the capacity of the road network to accommodate and therefore no additional restrictions or amendments are proposed for Parker and Wilson Streets at this time, the Town will continue to monitor this situation. Since the re-opening of Old Perth Road and with the Bassendean Hotel settling into a more consistent patronage, many of the issues reported may have been alleviated.

Kenny Street

This section of Kenny Street is subject to reported issues of vehicles parking all day in association with the Bassendean Railway Station. Options for this location would be. Many submissions called for timed parking and/or permit parking, so as to reduce the instances of all-day parking.

Timed parking provides for the installation of signed restrictions that limit how long vehicles may park in the restricted location and permit parking provides for permits to be issued to eligible persons entitling them to park within a prescribed area.

This location would benefit from the installation of some form of restriction, however, both options would impact residents in the form of potential infringement and would also require additional staff resources, as follows:

	Timed restrictions	Resident parking permits
Systems required		Requires the adoption of a process for persons to apply for, and be granted, a Permit.
Capital cost	Installation and maintenance of signage infrastructure	
Inspection regime / staff resources	Two observations are required to measure how long a vehicle has been parked before a potential breach can be determined.	Single observation to determine if a breach has occurred.
Impact on residents	Would also potentially penalise residents and their guests, as it would apply to all users.	

Some submissions requested both timed parking and permits to allow residents to park contrary to the time restrictions. It should be noted that these control measures cannot be implemented in the same location as permits will not allow permit holders to park against signed restrictions or other provisions of the Parking Local Law.

Further consultation is required at this location to determine the needs and preferences of the residents in respect to the two options presented.

Old Perth Road

Old Perth Road was not regularly identified as requiring amendments to the parking control measures. However, anecdotally and due to previous issues arising, consideration must be given to the current usage of the Senior’s and Community Centre car park located at 50 Old Perth Road.

This car park is predominantly used by Centre attendees during booking times, however, it is also used by parent associated with St Michaels School's, Town staff and the general public on an ad-hoc basis throughout the day. There is a sign at the entrance stating 'Seniors Centre Parking Only', however, this is a general request of the community and not an enforceable restriction. This creates conflict between Centre attendees and other users of the car park which often results in altercations between users, which may in turn require Town intervention.

The most effective options for amending the parking in this location are limited to either removal of the sign (leaving the usage of the car park as it currently exists, but with reduced confusion), or installing timed restrictions. The latter option would impact Centre users most and, as set out earlier in the report, would also add a financial burden on the Town through infrastructure, monitoring, enforcement and administration.

The recommendation is to remove the sign, thereby eliminating the confusion and resulting conflict with users.

West Road

Limited feedback was received in relation to West Road, however, the issues raised relate to the recently installed 'No Stopping' yellow edge lines. Comments received (i) related to particular, infrequent, scenarios that can be addressed at the time, depending on the circumstances of the situation or (ii) requested that the yellow lines be replaced with signed restrictions.

As the restrictions have already been installed following community consultation, amendments are not recommended at this time.

Kathleen Street

No feedback was received in regard to this location and no amendments have been identified as being required at this time.

Proposed Consultation

If supported by Council, the Town intends to write to any directly affected landowners, residents and tenants, seeking feedback on the proposed changes to the parking within Parking Area 2.

Paid Parking

Paid parking is a parking control mechanism that can be used to manage parking where bays are in high demand and generate revenue. As in the report, the parking occupancy rates within Parking Area 2 are low and, on average, less than 50% of on street bays are occupied.

As such, the introduction of paid parking at this point in time is not warranted. The introduction of paid parking in the area will discourage visitors to the area and have an economic impact on local businesses. In addition to this, there would be an initial outlay in providing the required infrastructure which has not been appropriately scoped or funded.

Statutory Requirements

Clause 1.9 of the *Parking Local Law 2019* states that Council is able to prohibit or regulate the stopping or parking of any vehicle within the district.

Financial Considerations

Costs of the community consultation can be met in the 2022/23 Financial Budget.

Costs and other associated financial impacts of any parking control measure changes will be available once targeted community consultation has been carried out and any resulting amendments are proposed.

Risk Management Implications

If the final proposed amendments are not implemented, there is a risk that parking issues will continue to occur in the identified locations, affecting residents.

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 the Town to undertake targeted consultation with affected occupants and owners of properties impacted by the following proposed changes to existing parking control measures:
 - Hamilton Street – ‘No Stopping’ yellow edge lines at intersection with Old Perth Road (all corners);
 - Whitfield Street – ‘No Stopping’ yellow edge lines at intersection with Old Perth Road (all corners);
 - Whitfield Street - northwestern corner of Old Perth Road – ‘No Stopping’ yellow edge line in front of the unit complex at 80 Old Perth Road up to and including the ‘Organikids Child Care Centre’ at 30 Whitfield Street;

- Whitfield Street - southeastern corner of Old Perth Road – ‘No Stopping’ from the corner to the end of the first tree embayment;
 - Whitfield Street - Remove the existing ‘Motorcycle Only’ bays outside 89 Old Perth Road and replace them with a street tree, so as to mirror the northern side of the crossover;
 - Old Perth Road – removal of existing signage at Senior’s Centre carpark;
2. authorises the Town to undertake targeted consultation with affected occupants and owners of properties on Kenny Street, so as to inform future decisions regarding the potential installation of timed or permit parking restrictions.

Voting requirements: Simple Majority

9.3 Proposed Tavern and Use Not Listed (Microbrewery)	
Property Address	73-75 (Lot 145) Old Perth Road, Bassendean
Landowner	Lorena Rossi and Alia Nikoloski
Applicant	Harley Dykstra Planning and Survey Solutions
File Reference	2022-129 (A4307)
Directorate	Community Planning
Previous Reports	N/A
Authority/Discretion	<p>Quasi-Judicial</p> <p>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.</p>
Attachments	<ol style="list-style-type: none"> 1. Application Package [9.3.1 - 99 pages] 2. Schedule of Submissions [9.3.2 - 109 pages]

Purpose

The purpose of this report is for Council to consider an application for development approval for a proposed Tavern and Use Not Listed (Microbrewery) at Lot 145 (No. 73-75) Old Perth 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 that is not listed within the Zoning Table under Local Planning Scheme No. 10 (LPS10).

Background

Site Description and Planning Framework

The subject site has an area of 1,085m², is located 470m from the Bassendean train station and is surrounded by mixed use and residential land uses. The subject site is zoned Town Centre under the Town's Local Planning Scheme No. 10 (LPS 10), proposed to be zoned 'Mixed Use' under draft Local Planning Scheme No. 11 (LPS 11) and is identified for 3 – 5 storey mixed-use under the Council-adopted Town Centre Masterplan.

A location plan follows:



Proposal

A summary of the application is as follows:

- A 332m² bar, lounge, children's play area and brewing area, a 500m² outdoor area, and a 37m² staff office.
- The predominant land use is the Tavern (serving alcohol), which will be supported by an incidental partial brewing process (fermentation and conditioning).
- The proposal excludes the core industrial brewing processes such as bulk storage and removal of wort / unfermented beer (which generates the most waste and odour). These functions will occur off-site at an existing industrial brewing facility. Onsite brewing processes are proposed to occur between 8:00am and midday, Monday to Friday. Details about the brewing process are included as an appendix to the applicant's information.
- The tavern is proposed to have a maximum occupancy of 300 and be open from midday to 10:00pm, Sunday to Thursday and from midday to midnight on Friday and Saturday.
- The proposal includes provision of two onsite food truck parking bays, in lieu of an onsite kitchen for the provision of food.
- The provision of seven on-site car parking bays which will be utilised by staff.
- The application involves modifications to the façade of the existing structure including change of colour and installation of new windows, roofed patio, ablution facilities, and installation of a carport over onsite vehicle parking bays.

- The application was supported by an Acoustic Report, which has recommended an acoustic barrier (noise wall) along the southern and western side of the rear outdoor area to mitigate impacts of noise on neighboring residential properties, this is included in the proposal.

It is noted that the application contemplates an alfresco area within the Old Perth Road road reserve verge, however, this is a separate matter that requires subsequent consideration pursuant to the *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law* and Council's adopted *Alfresco Dining, Public Trading and Displays Policy*.

Communication and Engagement

The *Planning and Development (Local Planning Schemes) Regulations 2015* define an application for a Use Not Listed as a complex development application and requires it 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 14 December 2022 to 20 January 2023.

At the close of the submission period, the Town received 603 submissions; 524 supporting the proposal and 79 objecting to the proposal. A schedule of submissions is provided as an attachment.

The concerns raised in the objections related to parking, noise, odour, waste management, anti-social behavior, proximity to sensitive land uses and potential amenity impacts. These matters are discussed further within the report.

Strategic Implications

Priority Area 3: Creating a Vibrant Town and Precincts

3.1 Support the town centre to thrive

Comment

Local Planning Scheme No. 10 (LPS 10)

Land Use Classification and Permissibility

The subject site is zoned Town Centre under LPS 10.

The Tavern land use is an 'A' use which means that the use is not permitted unless the local government has exercised its discretion by granting development approval after giving special notice in accordance with clause 64 of the deemed provisions.

A microbrewery is a use that is not listed within the Zoning Table 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 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 therefore 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 Town Centre Zone, as defined by LPS 10 are:

- “a) to promote, facilitate and strengthen the town centre zone as the principal focus of the district in terms of shopping, professional, administrative, cultural, entertainment and other business activities;*
- b) To recognise the unique and specific function of each precinct within the town centre in terms of:*
 - (i) traditional main street pedestrian based commercial retail, west of Wilson Street.*
 - (ii) civic, drive-by commercial and town centre living uses between Wilson Street and Whitfield Street; and*
 - (iii) car based retail in the Bassendean Village Shopping Centre;*
- c) to accommodate a diversity of commercial, cultural and residential facilities;*
- d) to encourage the integration of existing and proposed facilities within the zone so as to promote ease of pedestrian movement and the sharing of infrastructure as well as to retain the opportunity for any future expansion of the area;*
- e) to achieve safety and efficiency in traffic circulation;*
- f) to ensure that buildings, ancillary structures and advertising are of high quality and achieve an architectural theme contributing to the uniqueness of the townscape;*
- g) to provide sheltered places for pedestrians and shade to car parking areas;*
- h) to preclude the storage of bulky and unsightly goods from public view;*
- i) to provide landscaping appropriate to the scale of development; and*
- j) to ensure that development conforms with the Local Planning Strategy and the principles of any Local Planning Policy adopted by the Council.”*

The proposed land use, if appropriately managed can strengthen the town centre as the principal focus of the district in terms of cultural and entertainment activities.

It was therefore determined that it “may” be consistent with the objectives of the zone.

Development Standards – Car Parking

The following table details LPS 10 car parking requirements.

Use Class	LPS 10 Car Parking Standards	Assessment
Tavern	1 space for every 3m ² of bar and public area	Bar: 240m ² = 80 bays
		Childrens Play Area: 42m ² = 14 bays
		Rear Outdoor Area: 550m ² = 183 bays
Total Required		277 bays required
Total Provided		7 bays (270 bay shortfall)

As detailed above, the proposal results in a 270-vehicle bay shortfall when assessed against the standards prescribed in LPS 10. Submissions raised concerns regarding the shortfall of vehicle parking and that no onsite patron parking has been provided.

In considering this matter, Local Planning Policy No. 8 – Car Parking and End-of-Trip Facilities (LPP 8) provides for variations to the car parking standards having regard to nature of the proposed development, the number of employees likely to be employed onsite and the anticipated demand for parking and the orderly and proper planning for the locality. LPP 8 stipulates that a Tavern land use is to provide 1 bay for every 3m² of bar area, reducing the required number of bays 80 bays; resulting in a 73 bay shortfall relative to the adopted LPP.

In considering this matter, the following is relevant:

- Whilst the maximum capacity is 300 people (based on the public building regulations and the number of toilets), the subject property is not expected to always operate at this maximum capacity.
- The predominant tavern land use includes the sale of alcohol and it is considered appropriate to limit the supply of available car parking bays to encourage the use of alternative transport methods such as public transport and ride sharing.
- The development is near the Bassendean Train Station, which the site has a safe pedestrian path directly to the station via the Old Perth Road pedestrian footpath.
- The number of bays is expected to adequately cater for the expected number of staff.
- In support of the application the application included a Parking Study, which suggests that the proposed development is not expected to result in an undue impact on the availability of parking for other current or future land uses and should not constitute an impediment to development approval.

- The Town recently undertook an audit of car parking within the Town Centre and determined that within the area bound by Palmerston Street, Guildford Road and West Road, there are 558 publicly available bays. The audit, undertaken over a seven-day period, suggested that the bays have an occupancy rate of less than 50%.
- The Town does not have a WAPC-approved Payment in Lieu of Parking Plan and further, has no plan to provide additional car parking nearby.
- In June 2022, Council resolved to support a proposal for the Bassendean Hotel which involved a 51-bay shortfall relative to LPP 8.
- It is Council's adopted strategic direction to "*support the town centre to thrive*". This may involve, from time to time, adopting a flexible approach to development standards.
- In March 2023, the Department of Planning, Lands and Heritage developed and released draft interim guidance to provide consistent car parking requirements for non-residential land uses in Perth and Peel. This was to support any immediate local government review of car parking rates under their respective local planning frameworks. The project originated from the 2019 Action Plan for Planning Reform, which incorporated various actions aimed at making planning systems more consistent and efficient, including developing consistent car parking requirements in commercial and mixed-use centres. The draft guidance provides minimum and maximum car parking rates which can be applied to non-residential uses in the abovementioned areas/zones.

The draft interim guidance recommends, that within precincts and activity centres nominated through SPP 4.2 within the Perth and Peel region at a district centre level or higher, a flat ratio of non-residential car parking be established on the basis of (i) a minimum provision of one bay per 100m² of Floor Area (as defined in the Building Code) and a maximum of one bay per 25m² of Floor Area .

In the case of the subject proposal, the draft interim guidance recommends the provision of at least six bays and no more than 21 bays.

Based on the above, the proposed car parking provision is considered acceptable, subject to a condition being imposed requiring compliance with the relevant Australian Standards.

Notwithstanding this, it would be open to Council to (i) refuse the application on the basis of insufficient parking or (ii) impose a condition restricting the maximum occupancy of the development to reduce the impact on parking demand.

Development Standards - Lighting

Clause 4.7.9 of LPS states that “No person shall erect, install or maintain any floodlighting, spotlight or other forms of lighting for any purpose, unless the emission of light from such devices is oriented or controlled so as not to interfere with the amenity of any adjacent residential zone nor cause traffic hazard in the nearby street system.”

The applicant has submitted a draft lighting plan, which indicates that there will be no lighting directed on to adjoining properties. The Town is satisfied that lighting emitted from the business will not detrimentally impact the amenity of the locality.

Should the use of exterior lights or the emission or reflection of light create a nuisance, it would be open to the Town to undertake enforcement action in accordance with the Town’s *Animals, Environment, Nuisance and Pests Local Law 2019*.

Local Planning Policy No. 1 – Bassendean Town Centre Strategy and Guidelines (LPP 1)

The purpose of LPP 1 is to provide a vision and objectives for development within the Bassendean Town Centre. The proposal complies with the requirements of LPP 1 (or can otherwise be made to comply via conditions) with the exception of the following:

Requirement	Comment
Crossovers should be limited to one crossover (3 – 6m wide) per development site. Crossovers should match footpath colour.	The proposal seeks to retain the use of the two existing crossovers to Hamilton Street. Whilst a variation to the Policy, it is acknowledged that (i) the proposal is effectively a change of use within existing premises (as opposed to a comprehensive redevelopment of the site) and (ii) one of the crossovers will be used by food trucks and commercial service vehicles only. The existing crossovers are in poor condition and do not satisfy the Town’s current specifications. If the application is approved, it is recommended that a condition be imposed requiring the crossovers to be upgraded to the Town’s current specifications.
Glazed shopfronts are required in retail and commercial buildings. Old Perth Road Facades should have a minimum of 80% clear glazed area at ground level.	The required glazing has not been achieved. This variation is considered acceptable on the basis that the proposal is effectively a change of use within existing premises (as opposed to a comprehensive redevelopment of the site). The applicant is also seeking to improve the interaction with the streetscape by replacing the current blocked out areas with clear glazing on both the Old Perth Road and Hamilton Street frontages.

<p>Blank walls should be avoided</p>	<p>The application involves the provision of acoustic barriers (noise walls) fronting Hamilton Street and the car parking area, with both walls being visible from the public realm.</p> <p>The application does not include specific details as to the proposed finish of the walls and therefore, if the application is approved, it will be recommended that a condition be imposed requiring the submission of appropriate details that seek to add visual interest to the walls. This may include, but not necessarily be limited to, the provision of landscaping and/or a mural.</p>
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Local Planning Policy No. 15 – Public Art (LPP 15)

The development has an estimated cost of \$2 million, and as such, LPP 15 is not applicable.

Local Planning Policy No. 16 – Advertising and Signage (LPP 16)

Submissions raised concerns with regards to roof signage.

Whilst the perspective drawings indicate the application proposes roof signage, there are no specific details of this within the application that include signage dimensions or branding. As such, it is recommended that signage is excluded from an approval and is required to be a separate application for the Town’s consideration. A condition has been recommended to this effect.

Matters to be considered

Clause 67 of the deemed provisions of the *Planning and Development (Local Planning Scheme Regulations) 2015* sets out matters which the local government is to have due regard to when considering an application for development approval. The relevant considerations are discussed below.

Local Planning Strategy

The vision of the Local Planning Strategy is to ensure that the Town is home to active mixed-use centers based around existing transport nodes, and includes the aspiration to advocate for economic growth of the Bassendean Town Centre.

The subject premises is currently vacant and derelict offering no economic benefits for, or activation of, the Town Centre. The proposal seeks to revitalise and activate the vacant commercial building. If the application was not supported, it is likely the subject property would remain derelict and vacant, which fails to align with the vision prescribed within the Town’s Local Planning Strategy.

Access, Egress and Traffic

Submissions received raised concerns with regards to impact surrounding road network because of the additional traffic and the impact as a result of the shortfall in vehicle parking.

In support of the application the proponent provided a Transport Impact Assessment (TIA), which analyses the potential impact of the proposed development on the level of service of the surrounding road network because of any increased traffic. The TIA concluded that the surrounding road network will maintain a satisfactory level of service and no upgrades or modifications to the surrounding network are required.

Noise

Submissions raised concerns with regards to noise levels from the brewing operation, patrons, and vehicles.

In support of the application the proponent has provided a Noise Impact Assessment, to demonstrate that the application can always comply with the *Environmental Protection (Noise) Regulations 1997*, subject to the implementation of the following mitigation measures:

- The installation of a 3.84m high noise barrier above the ground level being installed surrounding the rear outdoor area. The barrier will need to have a minimum surface density of 14kg/m².
- Food trucks are provided with both power and water to ensure no generator or pump noise emanate from the area.
- The installation of a carport over the vehicle parking area to mitigate noise associated with the opening and closing of car doors.
- The outdoor and alfresco areas are to be vacated at or before 10:00pm each night.

The Town is satisfied that the development can maintain compliance with the Noise Regulations. With the exception of the proposed music within the rear outdoor area. Until such time as a revised Noise Impact Assessment is prepared that satisfactorily addresses the concern, music within that area is not supported. Should the application be approved, it is recommended that a suitable condition be imposed accordingly.

Should the application be approved, it is recommended that a condition be imposed requiring the preparation of a ground-proofing report to confirm compliance. This report would include monitoring of the operation to ensure the development complies with the Noise Regulations or whether additional mitigation measures are required.

Waste Management

The applicant has confirmed that all microbrewery by-products are returned to their industrial site located in Malaga for recycle/reuse. As a result, minimal waste is expected from the processes associated with any onsite 'brewing'. In relation to the tavern operation, it is expected beverages will be served in re-useable glasses that will be washed within the designated bar area.

In relation to general waste produced from the business, the predicted volume of waste is not yet known, however the main sources of waste are expected from food trucks and local food businesses. The volume of waste generated will simply impact how regular waste is required to be collected. Waste will be stored in a bin store area which is to be enclosed on all sides to prevent any impacts from odour. It will be collected once or twice per week or on an as-needs basis (if more is required).

Should the application be approved by Council, it is recommended that a condition be imposed requiring the preparation of a detailed waste management plan, and that the bin store area shall be provided with an industrial floor waste, with a hose cock to enable both bins and bin storage area to be washed out.

Should waste become an issue and bins overflow or cause offensive odours, it would be open to the Town to undertake enforcement action in accordance with the *Waste Local Law 2019*.

Odour

Submissions raised concerns with regards to potential odour issues caused by the brewing operations. As mentioned previously in the report a majority of the brewing process will be occurring offsite (including the storing of the spent grain), with only the final fermenting processes occurring onsite in sealed tanks. Any transfer of beer in the brewing process utilises automatic and sealed systems to ensure odour is not an issue. Details regarding the brewing processes are attached to Council report. The Town undertook a site inspection of both the proponent's industrial facility and an existing licensed venue (where the final fermentation processes was occurring) and is satisfied that odour risks associated with the brewing process are low.

Compatibility of Development

Clauses 67(m), (n) and (x) requires consideration of the proposed development's compatibility within the surrounding locality, the potential impacts to the locality and the amenity within the proposals setting and the potential impact on the community and local businesses.

Submissions raised concerns about the compatibility of the development due to the scale and intensity of the development, anti-social behavior, the appropriateness of the proposal near the existing primary school, aged care facilities and residential development and potential amenity impacts. In considering this matter, the following is relevant:

- The subject property is zoned 'Town Centre' under the Town's Local Planning Scheme No. 10, with the objectives of the zone to be the principal focus of the district in terms of cultural and entertainment activities. A tavern land use is consistent with this objective.
- The nearby residential lots, whilst currently low density, are located within the defined Bassendean Town Centre (a District-level centre), and in some cases, abut land zoned for commercial and mixed use purposes. Such residential land is proposed to be upcoded to Residential 60 as part of draft LPS 11. As such, it must be reasonably expected that the subject location will accommodate increased intensity of activity in the future.
- The application does not involve a permanent kitchen, with the proponent intending for the tavern to leverage off and support existing local food businesses and allowing patrons to order from these businesses and consume the food onsite at the venue. Specific details relating to this aspect of the operation have not yet been finalised (including how food delivery to the venue would operate etc.), however, if implemented successfully the proposal can benefit other businesses within the Town.
- The proposal also includes two designated food truck bays, which will include power and wastewater connection facilities onsite for the provision of food. The provision of power and wastewater facilities for the food trucks will limit potential amenity impacts as there would be no need for generators/pumps.
- The proximity of licensed venues and potentially sensitive land uses is regulated under the *Liquor Control Act 1988* which is administered by the Department of Local Government, Sport and Cultural Industries (DLGSCI). Under the Act, the premises will be required to obtain a liquor license from the DLGSCI. As part of this process, the DLGSCI will determine if granting the license will be in the public interest, and if whom the license is issued to, is fit and proper to have a license.
- Before obtaining the license the applicant will need to demonstrate to DLGSCI that there are appropriate measures in place to ensure that the sale of liquor and or the behavior of patrons at the venue will not cause unduly offensive, annoying or disturbing behavior inconvenient to persons who reside or work in the vicinity, or to persons in or making their way to or from a place of public worship, hospital or school. This will require the development of appropriate venue management plans.
- Anti-social behavior is a policing matter, and may impact the operator's liquor license, which can be revoked by DLGSCI if the venue fails to prevent unduly offensive, disturbing, or annoying behaviour.

Potential impacts associated with parking, traffic, noise, lighting, waste management, and odor are discussed in previous sections of this report. Based on the above, if the venue is appropriately managed, it is considered that it could exist without unduly impacting the amenity of the local area.

Conclusion

The development, if managed appropriately, will be consistent with the objectives of the Town Centre zone, and will promote aid in promoting the Town Centre as the principle cultural and entertainment focus of the district. On this basis, the Town therefore recommends that the application be approved subject to conditions.

Statutory Requirements

In accordance with Clause 68(2) of the Regulations, Council is required to determine the application by granting development approval (with or without conditions) or refusing to grant development approval.

Financial Considerations

Nil.

Risk Management Implications

Should Council refuse the application or impose conditions that aggrieve the applicant, the applicant may seek to have the decision reviewed by the State Administrative Tribunal. Further, such an approach represents a reputational risk in that it could be viewed as contrary to Council's adopted strategic direction of "*supporting the town centre to thrive*". It could also be viewed as inconsistent with Council's previous decisions relating to the implementation of differential rates for vacant land, which was pursued with the intent of incentivising landowners to activate vacant and unused land.

Should Council approve the application, some in the community will be aggrieved by such a significant departure from the established parking requirements and by allowing an active land use within close proximity to existing residential dwellings.

Should Council impose a condition that serves to reduce the maximum occupancy of the venue by placing an arbitrary limitation on the proposal, it may compromise the implementation of any approval, resulting in the retention of the derelict building.

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 approves the application for development approval for the proposed Tavern and Use Not Listed (Microbrewery) at 73 – 75 (Lot 145) Old Perth Road, Bassendean, subject to the following conditions:

1. Prior to or in conjunction with an application for a Building Permit, the applicant is to submit a Landscape Plan, to the satisfaction of the Town of Bassendean. The following details are to be included:
 - (i) Landscaping of the site (including within the rear outdoor area) incorporating details of proposed trees, shrubs, ground cover, any lawn areas to be planted.
 - (ii) Details of the proposed watering system to ensure the establishment of species and their survival during the hot, dry summer months.

Prior to the occupation of the development, the landscaping and irrigation of the development site and protective barriers to the retained trees are to be installed in accordance with the approved Landscape Plan and thereafter maintained to the satisfaction of the Town of Bassendean.

2. Prior to or in conjunction with an application for a Building Permit, the applicant is to submit a Waste Management Plan, 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) The volume and the type of waste to be placed in the bins, including a waste generation calculation; and
 - (ii) Details of intended method of collection (by private contractor) and frequency of collection; and
 - (iii) A detailed plan of the bin storage area, including the provision of a 1.8-metre-high minimum wall with a self-closing gate, a 75mm thick concrete floor (minimum) grading to a 100mm industrial floor waste, a hose cock to enable both bins and bin storage area to be washed out and internal walls that are cement rendered (solid and impervious) to enable easy cleaning.

Prior to the occupation of the development, all works are to be carried out in accordance with the Waste Management Plan to the satisfaction of the Town of Bassendean. The works are to be thereafter maintained and the Waste Management Plan implemented, for the duration of the development.

4. Prior to or in conjunction with an application for a Building Permit, the applicant is to submit details as to the treatment and finish of the public facing surfaces of the proposed noise walls, to the satisfaction of the Town of Bassendean.

5. Prior to the occupation of the development, vehicle parking, maneuvering and circulation areas shall be designed, constructed, sealed, drained, line-marked and kerbed in accordance with:
 - (i) Australia/New Zealand Standard AS/NZS 2890.1:2004, Parking Facilities, Part 1: Off-street car parking;
 - (ii) Town of Bassendean engineering requirements and design guidelines.

The carparking is to be maintained to the satisfaction of the Town of Bassendean for the duration of the development.

6. Prior to the occupation of the development, the existing vehicle crossovers shall be upgraded to be in accordance with the Town of Bassendean's crossover specifications. Separate approval is to be obtained from the Town of Bassendean's Asset Services for the crossovers.
7. Within 60 days from the commencement of the operation, the applicant is to submit a revised Acoustic Report, to the satisfaction of the Town of Bassendean, that demonstrates that the development is compliant with the *Environmental Protection (Noise) Regulations 1997*. The report is required to include noise monitoring from the operation (both brewing and tavern process) to confirm onsite levels.
8. Entries and window frontages facing Old Perth Road and Hamilton Street must not be covered, closed or screened off (including by means of dark tinting, shutters, curtains, blinds, roller doors or similar), to ensure that a commercial, interactive frontage is available to the development from Old Perth Road, for the duration of the development.
9. Prior to the occupation of the development, the applicant is to submit a Venue Management Plan to the satisfaction of the Town of Bassendean. The venue management plan shall include, but not necessarily be limited to the following:
 - (i) Details and management of the proposed food delivery service and food trucks.
 - (ii) Management of the alfresco dining/seating within the Old Perth Road, road reserve and ensuring clear pedestrian paths are maintained.
 - (iii) Designation and control of smoking areas.
 - (iv) Management of anti-social behavior and access and egress to the property.
 - (v) The loading and/or unloading of vehicles.
 - (vi) How guests will be removed from the rear outdoor area prior to 10pm.

The venue shall operate in accordance with the approved management plan to the satisfaction of the Town of Bassendean.

10. The rear outdoor area shall not be used after 10pm and shall not accommodate music at any time.
11. Signage shall be subject of a separate application.
12. The use of the Old Perth Road road reserve as an alfresco area is the subject of a separate application under the *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law* and the *Alfresco Dining, Public Trading and Displays Policy*.

Voting requirements: Simple Majority

9.4 Use Not Listed (Short Stay Accommodation) - 52 (Lot 1) Broadway, Bassendean	
Property Address	52 (Lot 1) Broadway, Bassendean
Landowner/Applicant	Tristan Rogue
File Reference	2023-015
Directorate	Community Planning
Previous Reports	N/A
Authority/Discretion	<p>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.</p>
Attachments	<ol style="list-style-type: none"> 1. Application Cover Letter [9.4.1 - 5 pages] 2. Proposed Management Plan and Code of Conduct [9.4.2 - 13 pages] 3. Schedule of Submissions [9.4.3 - 7 pages]

Purpose

The purpose of this report is for Council to consider an application for a Use Not Listed (Short Stay Accommodation) at 52 (Lot 1) Broadway, 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 that is not listed within the Zoning Table under Local Planning Scheme No. 10 (LPS 10).

Background

Site Location

The subject site has an area of 511m², is zoned Residential R20 under LPS 10 and currently contains a single dwelling. The site is surrounded by low and medium density residential development.

The site is located approximately 536m from Bassendean Railway Station and 595m to the edge of the Town Centre (Old Perth Road).

A location plan follows:



Proposal

The applicant is seeking approval for a single house to be used for the purpose of short stay accommodation. The applicant has submitted a management plan and a code of conduct in support of the proposal. Details of the proposal are as follows:

- The accommodation will be used by a maximum of six people between the hours of 10:00pm and 7:00am. No unauthorised guests are permitted on the property at any time without written approval from the host.
- The check in time is from 2:00pm, check out is by 10:00am.
- The property is equipped with a noise monitoring devise that will notify the owner through a phone alert if the noise level exceeds a certain level.
- The property manager will be available 24/7 and should a complaint or violation of the code of conduct occur, the manager will be able to address the concern.
- Parties, gatherings or events will not permitted. Should they occur, it will result in the immediate eviction of the guest(s).
- A 'Guest Handbook' will be provided to guests, this includes information on security, parking, waste, contact information and the code of conduct.
- Designated 'quiet hours' between 10:00pm and 8:00am.
- Pets may be considered at the property and is accessed on a case-by-case scenario.
- Two vehicle parking bays are available. Verge and street parking is prohibited.

- The management plan and code of conduct addresses waste management to ensure waste will not be an issue.

Communication and Engagement

The application was advertised between 8 March 2023 and 5 April 2023 in the following manner:

- A sign, detailing information of the proposal, was erected on the subject site;
- A publicly available copy of the application on the Town's website; and
- Letters to occupiers and owners within a 200m radius of the subject site

At the close of the submission period, eight submissions were received; five in support of the proposal, one which raised no objection and two which raised an objection. A schedule of submissions is attached, with the relevant planning issues being raised being the variation to locational criteria, impacts on the sense of local community and the performance of the management plan.

These matters are discussed in the report.

Strategic Implications

Priority Area 4: Driving Financial Suitability

4.3 Support the local economy

Priority Area 6: Providing Visionary Leadership and Making Great Decisions

6.4 Reinforce a culture of collaboration, trust and demarcation between Council, administration, and the community

Comment

Local Planning Scheme No. 10

The subject site is zoned Residential R20 under LPS 10. Short Stay Accommodation is a use that is not listed within the Zoning Table 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 be determined as falling within the type, class, or genus of activity of any 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 Residential Zone, as defined by LPS 10 are:

- “(a) To maintain lifelong or long-time residents as an integral component of the Bassendean community;*
- (b) To continue and increase the attraction for young families to reside and raise their families in the Bassendean community;*
- (c) To recognize the role of Bassendean as a middle metropolitan area that is well placed to contribute meaningfully to sustainable urban development for the Perth region, and therefore facilitate the planned gradual increase in population growth in a manner that provides net environmental, social, and economic benefit;*
- (d) To make provision for housing types that respond to the demands of an ageing population and declining occupancy rates;*
- (e) To limit non-residential activities to those of which the predominant function is to service the local residential neighbourhood and for self-employment or creative activities, provided such activities have no detrimental effect on the residential amenity;*
- (f) To ensure that the density of development takes cognizance of the availability of the reticulated sewerage, the effluent disposal characteristics of the land and other environmental factors; and*
- (g) To ensure that subdivision and development comply with the Local Planning Strategy and the principles of any Local Planning Policy adopted by the Council.”*

As the proposed use is a quasi-commercial land use that, if the use is not appropriately managed, it may result in adverse impacts on the residential amenity of the immediate area. If the use is appropriately managed it was determined that it “may” be consistent with the objectives of the zone.

Local Planning Strategy and Draft Local Planning Scheme No. 11 (LPS 11)

Section 4.3.3 (Tourism) of the Town's adopted Local Planning Strategy identifies that that the district has multiple attributes of tourism value and recognises the opportunity to consider increasing tourist accommodation within the Town, including short term accommodation. Tourism has also been identified as a planning opportunity by including new short term accommodation land uses within the draft LPS 11. Draft LPS 11 proposes that a 'Holiday Home' is listed as an 'A' use within the residential zone, meaning that it can be approved.

Local Planning Policy No. 18 – Short Stay Accommodation (LPP 18)

LPP 18 provides guidance for the appropriate siting and management of Short Stay Accommodation to protect the amenity of the surrounding locality. The proposal complies with the Policy, with the exception that it not located "*within an 400m walk from a centre or railway station and/or a 200m walk from a recognised high frequency bus route.*" The site is located 536m from the nearest railway station (Bassendean Railway Station), 595m from the Bassendean Town Centre and, whilst 80m from the nearest bus stop, it is not a high frequency bus route.

Notwithstanding, the site is within an 800m walkable catchment, which is accepted as an appropriate walking distance threshold throughout the planning frameworks in Western Australia. With compliance with other aspects of LPP, the additional approximately 136m required to reach the Bassendean Railway Station and Bassendean Town Centre is considered acceptable.

Local Planning Policy No. 8 – Car Parking and End of Trip Facilities (LPP 8)

The 'Holiday Home' land use (a comparable land use by definition), as contained within LPP 8, designates a minimum car parking requirement of two bays. The site has space for two spaces to park in the driveway in a tandem arrangement, as such the proposal complies with car parking requirements of LPP 8.

Furthermore, the management plan states parking on the verge or street is prohibited.

Amenity considerations and compatibility with surrounding area

Clause 67(n) of the *Planning and Development (Local Planning Schemes) Regulations 2015* requires the local government to have regard to amenity considerations (including environmental, character and social impacts) as well as the compatibility of the proposal with its setting.

In considering this, the following is relevant:

- The subject property is in close proximity to low and medium density residential development.

- The use of the site for Short Stay Accommodation is a quasi-commercial use that is best suited to areas closer to public transport and centres, the subject site is within 800m of both the Bassendean railway station and Town Centre.
- There is no evidence to suggest that short term residents do not contribute to community connection. Such residents can still contribute socially and economically to the community, albeit on a short-term basis.
- The management plan includes several means to address noise and potential impacts on residential amenity, including:
 - Prohibiting parties, functions, events, or similar activities.
 - The property is equipped with a noise monitoring devices, allowing the property owner to minimise the risk of parties and excessive noise.
 - 'Quiet Hours' designated between 10.00pm and 8.00am.
 - Any breach of the Code of Conduct, the property manager or landowner would give a verbal warning and explain the requirements to the resident(s) either in person or via phone. Any further breaches would result in immediate termination of the stay.
 - The property manager/landowner has a complaints management procedure, with complaints to be attended to within 30 minutes of being received.

In accordance with LPP 18 Council may impose a condition requiring the contact details of the owner/manager to be prominently displayed at the front of the property. Should the application be approved, a standard condition would be recommended to this affect, as well as a condition requiring the management plan to be amended to reference to the use of the swimming pool.

Based on the above, it is considered that the risk of amenity impacts to surrounding landowners and occupiers is low, where the management plan is followed correctly. The Town suggests that the performance of the accommodation is monitored for a set period to evaluate the effectiveness of the management plan.

Other Matters

Submissions raised concern in relation to the use of a dwelling for short term accommodation on the basis that it is an undesirable use in the current rental market. In this instance, the applicant seeks approval for Short Stay Accommodation only, and not for permanent residential accommodation.

In making a quasi-judicial decision, Council is obligated to determine the application on its individual merits, having regard for genuine planning considerations.

Whilst Council could refuse the application on planning grounds, this does not necessarily mean that the landowner will then choose to lease the property. This is a matter beyond the remit of local governments. It is an obligation of Council to consider the application on its merits and decide whether the use is or is not acceptable. Decision making should not extend to passing judgement on whether another use (such as permanent residential accommodation) would be more desirable.

Conclusion

Whilst the land use, if not managed appropriately, has the potential to result in adverse impacts to nearby residents, the Town acknowledges that a management plan has been proposed to mitigate these. As such, a temporary approval is recommended to enable the Town to monitor the performance of the accommodation over that period.

Statutory Requirements

In accordance with Clause 68(2) of the Regulations, 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.

Financial Considerations

Nil.

Risk Management Implications

The acceptability of which is heavily reliant on the proper implementation of the management plan. The risks associated with approving such an application will be reduced by imposition of a condition to limit the approval to a period of 12 months.

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

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 approves the application for development approval of a Use Not Listed (Short Stay Accommodation) at 52 (Lot 1) Broadway, Bassendean, subject to the following conditions:

1. The approval is valid for a period of 12 months only from the date of the approval. The applicant will be required to lodge a subsequent application to extend to the term of the approval and in determining such an application, the Town would have regard to the performance of the accommodation over the previous period. If the Town is not satisfied of the previous performance, the application may not be supported;
2. Prior to the commencement of the use, the submitted management plan is to be amended so as to include details of the management of the swimming pool, to the satisfaction of the Town;
3. The use must be undertaken in accordance with the management plan (as amended by condition 2 above) at all times, to the satisfaction of the Town;
4. No more than six persons who do not compromise a single family are permitted to be on the property between the hours of 10:00pm and 7:00am;
5. A register of all persons occupying the Short Stay Accommodation is required to be kept and shall be open to inspection on demand by the Town; and
6. The contact details of the owner/manager must be prominently displayed at the front of the property to the satisfaction of the Town.

Voting requirements: Simple Majority

9.5 Use Not Listed (Short Stay Accommodation) - Units 1 - 8, 63 (Lot 1) Third Avenue, Bassendean	
Property Address	Units 1 – 8, No. 63 Third Avenue, Bassendean
Landowner/Applicant	63 Third Avenue Bassendean PTY LTD, Khaled and Lauren Baghdadi, Kirsten Van Kwawegen and Deserted Island PTY LTD
File Reference	2022-094
Directorate	Community Planning
Previous Reports	November 2022
Authority/Discretion	<p>Quasi-Judicial</p> <p>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.</p>
Attachments	<ol style="list-style-type: none"> 1. Revised Management Plan [9.5.1 - 22 pages] 2. Application Justification [9.5.2 - 56 pages] 3. Schedule of Submissions [9.5.3 - 7 pages]

Purpose

The purpose of this report is for Council to reconsider its decision to refuse an application for a Use Not Listed (Short Stay Accommodation) at Units 1 – 8, No. 63 Third Avenue, Bassendean, as directed by the State Administrative Tribunal (SAT).

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 that is not listed within the Zoning Table under Local Planning Scheme No. 10 (LPS 10). Further, Council considered the application previously.

Background

Site History

On 22 November 2023, Council considered an application for development approval for a Use Not Listed (Short Stay Accommodation) at Units 1 – 8, No. 63 Third Avenue, Bassendean and resolved to refuse the application for the following reasons:

- “1. The proposal does not comply with the location criteria contained in Local Planning Policy – Short Stay Accommodation and a variation is not supported as the proposed use may result in an accumulation of adverse impacts at a scale that may detrimentally affect the amenity of the local area in a manner that would not reasonably be expected in an existing low-density, residential context; and
2. The application is inconsistent with the requirements of orderly and proper planning.”

On 13 December 2023, the Town received notice that the owner(s) had referred the application to the SAT for review. Following mediation, and the submission of further information, the Town was directed by the SAT to have Council reconsider its previous decision.

Site Location

The subject site is 954m² lot zoned Residential R20/R40. The site contains eight multiple dwellings that have been developed at the R40 density code. The subject premises are bound by low and medium density detached or semi-detached residential development. The site is located approximately 733m from the Success Hill Railway Station, 960m from the Bassendean Railway Station, 800m from the Bassendean Town Centre (south of Guildford Road) and 500m from the commercial development on Walter Road East, Bassendean.



Proposal

The applicant is seeking approval for all eight multiple dwellings to be used as Short Stay Accommodation. Details of the original application are as follows:

- A maximum of four adult guests or a family of four members per unit at any one time (maximum of 32 guests across all units at any one time).
- No parties, gatherings or events are permitted.
- House rules state that no excessive noise is permitted between 10:00pm and 7:00am Monday to Saturday, and 10:00pm to 9:00am on Sundays and public holidays.
- Check in is from 3:00pm to 8:30pm; check out is from 8:00am to 11:00am.
- Three Managers have been listed in the management plan. The Manager(s) is responsible for complaints management.
- A register of complaints will be kept and available to the Town's staff upon request.
- Adjoining properties will be provided with a copy of the code of conduct, the complaints management procedure and contact details of the Manager(s).
- Guest parking will be contained within the premises. No verge parking is permitted.
- No visitors other than guests booked to stay at the premises are permitted without approval from the Manager(s).
- A minimum of five nights stay is required, with a maximum stay of 90 days.
- 'Minut' monitors are located within each property which monitor noise, temperature, number of persons at the premises, motion, and humidity. These devices will be utilised for compliance matters.
- An on-site register of occupants will be maintained. Maintenance of the property will be managed by the landowner(s).
- Should noise complaints be received by the Manager(s) from nearby landowners, a private security company can be utilised to address concerns.

As part of the SAT mediation process, the application has since been revised. Specific changes to the original application are as follows.

- Noise monitoring devices have been fitted in each apartment. The devices include live noise monitoring capabilities and a notification system for when noise exceeds 85 decibels for a period of 10 minutes. The device cannot be changed or tampered with by guests without the onsite manager being notified. This is to ensure any noise that impacts can be dealt with in a reasonable time and manner to ensure noise is not creating a nuisance to nearby landowners/occupiers.

- The installation of 24/7 CCTV monitoring devices which monitor all communal areas, entrances to apartments including the security gates and pathways outside of the complex. This is to ensure onsite managers can ensure the number of guests in each apartment is being adhered to, and aid in the management of any potential amenity issues onsite.
- The submission of details relating to the proposed access to the property (via keypads and keys).
- The provision of a guest guide, which is provided to guests and supplies information in relation to:
 - Local restaurant and shopping opportunities
 - Local parks and recreation services
 - Local events and attractions to support local community and business.
 - House policies and guidelines.
 - Direction information to the Bassendean Train Station and Town Centre (15-minute walking distance); and
 - Directional information to the nearest bus stop and links to bus timetables for the applicable bus stop.
- Updated Waste Management Plan information to refer to the three bin FOGO (Food Organics Garden Organics) system.
- The submission of information on the economic benefits of short stay accommodation.
- Amending the management plan to remove reference to the swimming pool, on the basis that the property does not have a pool.
- Confirmation that Unit 4 is owner-occupied and that the owner-occupier currently has no intention to lease the unit for short term accommodation. Further, the proposal provides that the subject owner-occupier will contact the managers directly should there be any issues or disturbances on site.

Communication and Engagement

The amended application was advertised between the 22 March 2023 and the 19 April 2023 in the following manner:

- A sign was erected on the subject site;
- Letters were sent to the owners and occupiers within a 200m radius of the proposed development; and
- A copy of the application was available for review on the Town's website.

At the close of the submission period, eight submissions were received being six objections and two submissions of support. It is important to note that the adjoining property advised they did not object to the proposal and advised they have not experienced any amenity impacts as a result of the existing short stay accommodation.

A schedule of submissions is attached, with the relevant planning issues being raised being residential amenity, traffic, parking and waste management.

These matters are discussed in the report.

Strategic Implications

Priority Area 4: Driving Financial Suitability
4.3 Support the local economy.

Priority Area 6: Providing Visionary Leadership and Making Great Decisions
6.4 Reinforce a culture of collaboration, trust and demarcation between Council, administration and the community.

Comment

Local Planning Scheme No. 10

The subject site is zoned Residential R20/40 under Local Planning Scheme No.10 (LPS10). Short Stay Accommodation is a use that is not listed within the Zoning Table under LPS10.

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 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 Residential Zone, as defined by LPS10 are:

- “(a) To maintain lifelong or long-time residents as an integral component of the Bassendean community;*
- (b) To continue and increase the attraction for young families to reside and raise their families in the Bassendean community;*
- (c) To recognise the role of Bassendean as a middle metropolitan area that is well placed to contribute meaningfully to sustainable urban development for the Perth Region, and therefore facilitate the planned gradual increase in population growth in a manner that provides net environmental, social and economic benefit;*
- (d) To make provision for housing types that respond to the demands of an ageing population and declining occupancy rates;*
- (e) To limit non-residential activities to those of which the predominant function is to service the local residential neighborhood and for self-employment or creative activities, provided such activities have no detrimental effect on the residential amenity.”*

As the proposed use is a quasi-commercial land use, if the use is not appropriately managed, it may result in adverse impacts on the residential amenity of the immediate area. If the use is appropriately managed it was determined that it “may” be consistent with the objectives of the zone.

Local Planning Strategy and Draft Local Planning Scheme No. 11 (LPS 11)

Section 4.3.3 (Tourism) of the Town’s adopted Local Planning Strategy identifies that that the district has multiple attributes of tourism value and recognises the opportunity to consider increasing tourist accommodation within the Town, including short term accommodation. Tourism has also been identified as a planning opportunity by including new short term accommodation land uses within the draft LPS 11. Draft LPS 11 proposes that a ‘Holiday Home’ is listed as an ‘A’ use within the residential zone, meaning that it can be approved.

Local Planning Policy No. 18 – Short Stay Accommodation (LPP 18)

LPP 18 provides guidance for the appropriate siting and management of Short Stay Accommodation to protect the amenity of the surrounding locality. The proposal complies with the Policy, with the exception of the following.

Assessment Criteria	Proposal
The site is located within a 400m walk from a centre or railway station and/or a 200m walk from a recognised high frequency bus route.	Not compliant. The site is located 733m from the nearest railway station, 800m from the Bassendean Town Centre and 500m from the Walter Road East commercial area.
The site has direct access to a constructed road that has two exit routes (i.e., excluding situations where sole access to the premises is provided from a cul-de-sac, right of way or battle-axe access leg).	Not compliant. The site is located at the end of Third Avenue, which is a cul-de-sac head. Whilst the site adjoins Walter Road East, there is no vehicle access to the site for Walter Road East.
Short stay accommodation in strata and community title developments will only be supported where: (i) The strata company or community corporation has consented to the application; and (ii) The short stay can operate without reliance on shared facilities.	Partially compliant. Whilst all landowners have consented to the application, the nature of a multiple dwelling development is such that it relies on shared facilities (i.e., gated entry, communal bin store and visitor car parking bays).
The operation of the proposed use shall minimise adverse issues, particularly amenity impacts on surrounding residential and other land uses.	This is discussed further within the report.
All car parking associated must be wholly contained on the same site as the short stay accommodation. Strata and community title developments must not rely on the use of visitor car parking bays.	Not compliant. There is a shortfall of three car parking bays on site to service the proposed development as further discussed in this report.

Whilst the proposal does not comply with all the requirements of the LPP 18, the variations are not considered problematic in that the amended management plan will ensure the use is able to operate within a low-density residential location, without unduly impacting the local amenity. This is discussed further within the report.

Local Planning Policy No. 8 – Car Parking and End of Trip Facilities

The ‘Holiday Home’ land use (a comparable land use by definition), as contained within LPP 8, designates a minimum car parking requirement of two bays per unit. On this basis 16 bays are required. There are 13 bays (including two visitor bays onsite) resulting in a three-bay shortfall. In considering this matter the following is relevant:

- The original multiple dwelling application was assessed against a former version of State Planning Policy 7.3 – Residential Design Codes. If assessed against the current requirements, given the site's proximity to the Success Hill Railway Station, only 10 car parking bays would be required (one per dwelling and two visitor bays). The 13 bays provided on site are a surplus to what would otherwise be required if the premises were used as multiple dwellings.

- The management plan details that guests are not to park on the verge outside the property, and compliance with the Town's *Parking Local Law 2019* is otherwise required for on-street parking. The Local Law does not prohibit street parking in this area.
- The Local Law prohibits the parking of detached trailers (including camper trailers) in the road reserve. It is noted that this has occurred in the past because of the short stay accommodation. It is therefore recommended that the management plan and code of conduct be updated to reflect this requirement. In any event, the Tow will take undertake enforcement action in accordance with the *Parking Local Law 2019*.

Based on the above, the car parking arrangements are considered adequate subject to compliance with the management plan (as amended).

Amenity Considerations

Clause 67(n) of the *Planning and Development (Local Planning Schemes) Regulations 2015* requires the local government to have regard to amenity considerations (including environmental, character and social impacts) as well as the compatibility of the proposal with its setting. These matters were raised in numerous submissions.

In considering these issues, the following is relevant:

- The subject property is in close proximity to low and medium density residential development and adjoins a other regional road (Walter Road East).
- The area is proposed to be 'down coded' to the base code R20 under draft Local Planning Scheme No. 11, resulting in a continuation of prevailing low-density development.
- The use of the site for Short Stay Accommodation is a quasi-commercial use that is best suited to areas closer to public transport and centre, the subject site is within 800m of both the Success Hill Railway Station and Bassendean Town Centre, 800m is accepted as an appropriate walking distance threshold throughout the planning frameworks Western Australia.
- The traffic associated with the proposed development is within the capacity of the existing road network to accommodate and comparable to if the development were to operate as a multiple dwelling, residential development.
- It is reasonable expectation that visitors and short-term occupants may use the premises and outdoor living area (including balconies) at a greater frequency and for extended periods of time than long term residents. This may result in unacceptable levels of noise and/or higher intensity of land use that would be expected when dwellings are being used on a permanent basis by owners or tenants.

- The management plan (amended following mediation) includes several means to address noise and potential impacts on residential amenity, including:
 - Prohibiting parties, events, gatherings, functions, or similar activities.
 - Prohibiting 'offensive' noise and stating that such noise may result in immediate termination, eviction, loss of security deposit and bonds.
 - Prohibiting visitors or guests other than those booked to stay at the premises.
 - Guests being required to report complaints from neighbors to the Manager(s) as well as the Manager(s) details being made available to adjacent properties to raise any concerns.
 - Quiet hours after 10:00pm and 7:00am, a maximum of four persons per unit are permitted on the property during this period.
 - Noise monitoring devices have been fitted in each apartment. The devices include live noise monitoring capabilities and a notification system for when noise exceeds 85 decibels for a period of 10 minutes. The device cannot be modified or tampered with by guests without the onsite manager being notified.
 - The installation of 24/7 CCTV monitoring devices which monitor all communal areas, entrances to apartments including the security gates and pathways outside of the complex. This is to ensure onsite managers can ensure the number of guests in each apartment is being adhered to, and aid in the management of any potential amenity issues onsite.
- Currently, Unit 4 is owner-occupied and the owner currently has no short-term intention to lease the unit for short term accommodation. The owner can immediately contact the property managers directly should there be any issues or disturbances onsite. It is acknowledged however that this aspect cannot be guaranteed in perpetuity.

Based on the above, it is considered that the risk of amenity impacts to surrounding landowners is low, where the management plan is followed correctly. The Town suggests that the performance of the accommodation is monitored for a set period to evaluate the effectiveness of the management plan.

The policy states that in approving an application for development approval, the Town may impose a condition that involves a time limitation for up to 12 months. In that instance, the applicant may lodge a subsequent application to extend to the term of the approval and in determining such an application, the Town would have regard to the performance of the accommodation over the period. If the Town is not satisfied with the previous performance, the application may not be supported.

Waste Management

The issue of waste management was raised in a submission and Clause 67(u)(iii) of the Regulations requires the local government to have regard to the availability and adequacy for the development in relation to collection of waste

The management plan has been updated to reflect the FOGO three bin system and includes procedures for waste management, which includes using the Town's waste services and ensuring the manager(s) monitor bin placement and removal of bins from the verge following collection.

Notwithstanding, it is open to the Town to undertake enforcement action in accordance with the *Waste Local Law 2019* should bins overflow or cause offensive odours.

The Town is therefore satisfied that if the management plan is adhered to, the means for waste management is appropriate.

Site History

Clause 67(w) of the Regulations provides that the history of the site can be considered. The operation is existing and has operated without approvals for almost five years, during which no formal complaints to the Town have been made to date.

A review of the occupants of the premises through the online booking platform details that on average over 100 guests have previously stayed in each unit at the premises. Given the lack of formal complaints, the management of the development has generally limited any adverse impacts on the amenity of the locality. This is reaffirmed through the submission originating from the adjoining property at 41 Walter Road East, Bassendean (submission 7 within the schedule of submissions), with the submitter advising that they have had not experienced any amenity impacts as a result of the short stay accommodation.

The Town is therefore satisfied, that based on site history, there is evidence to suggest that the management plan is being adhered to and the risk of amenity impacts to surrounding properties is low and any impacts would be comparable if the site operated as a standard residential 8-unit apartment complex.

Other Matters

Submissions raised concern in relation to the use of a dwelling for short term accommodation on the basis that it is an undesirable use in the current rental market. In this instance, the applicant seeks approval for Short Stay Accommodation only, and not for permanent residential accommodation.

In making a quasi-judicial decision, Council is obligated to determine the application on its individual merits, having regard for genuine planning considerations. Whilst Council could refuse the application on planning grounds, this does not necessarily mean that the landowner will then choose to lease the property. This is a matter beyond the remit of local governments. It is an obligation of Council to consider the application on its merits and decide whether the use is or is not acceptable. Decision making should not extend to passing judgement on whether another use (such as permanent residential accommodation) would be more desirable.

Conclusion

Whilst the land use, if not managed appropriately, has the potential to result in adverse impacts on nearby residents, the site has operated for over 4 years with no formal complaints raised with the Town regarding the operation of the proposal. The Town acknowledges that the revised information includes a detailed management plan, which includes noise monitoring and CCTV devices to help mitigate any amenity impacts, be it from individual units or an accumulative impact on the surrounding locality. On this basis, temporary approval is recommended to enable the Town to further monitor the performance of the accommodation over the specified period.

Statutory Requirements

In accordance with Section 31 of the *State Administrative Tribunal Act 2004*, upon being invited by the Tribunal to reconsider the decision, the decision-maker shall:

- (a) affirm the original decision (refusal); or
- (b) vary the original decision; or
- (c) Set aside the decision and substitute its new decision (approval, with or without conditions).

Financial Considerations

See below.

Risk Management Implications

The acceptability of which is heavily reliant on the proper implementation of the management plan. The risks associated with approving such an application will be reduced by imposition of a condition to limit the approval to a period of 12 months.

If Council resolves to affirm the original decision (refusal), it may result in the application progressing to a full hearing at the SAT. Given that the officer's recommendation is to conditionally support the application, the Town would be required to engage an external planning consultant to defend Council's position. The cost of this to the Town is unknown, but it would be expected to cost up to \$15,000.

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, pursuant to Section 31(2)(c) of the *State Administrative Tribunal Act 2004* sets aside its original decision of 22 November 2022 and approves the application for development approval for a Use Not Listed (Short Stay Accommodation) at Units 1 – 8, 63 Third Avenue, Bassendean subject to the following conditions:

1. The approval is valid for a period of 12 months only from the date of approval. The applicant will be required to lodge a subsequent application to extend to the term of approval and in determining such an application, the Town would have regard to the performance of the accommodation over the previous period. If the Town is not satisfied with the previous performance, the application may not be supported.
2. Within 60 days of the approval, the submitted management plan is to be amended so as to state that unattached trailers (including camper trailers) are not permitted within the road reserve, to the satisfaction of the Town.
3. The use must be undertaken in accordance with the management plan (as amended by condition 2 above) at all times, to the satisfaction of the Town.
4. No more than four persons are permitted to be at each unit between the hours of 10:00pm and 7:00am.
5. A register of all persons occupying the short stay accommodation is required to be kept and shall be open to inspection on demand by the Town.
6. The contact details of the owner/managers must be prominently displayed at the front of the property as viewed from the street to the satisfaction of the Town.

Voting requirements: Simple Majority

9.6 Excision of a portion of Reserve 21150 (BIC Reserve)	
Property Address	Portion of Reserve 21150 (BIC Reserve)
Landowner/Applicant	Crown land
File Reference	N/A
Department	Community Planning
Previous Reports	23 November 2021 21 December 2021 28 June 2022 26 July 2022
Authority/Discretion	Executive The substantial direction setting and oversight role of the Council.
Attachments	Nil

Purpose

The purpose of this report is for Council to consider requesting that the Minister for Lands amend the boundary of Reserve 21150 (BIC Reserve).

Background

Reserve 21150 (BIC Reserve) is a Crown Reserve managed by the Town, and accommodates a variety of uses and functions. A location plan follows.



The broader reserve includes a 1,000m² (approx.) area of land that is currently occupied by a Child Health facility, identified in orange as follows.



The existing building on site is currently occupied by the Child and Adolescent Health Service of the Department of Health, but that occupation is not supported by a formal lease arrangement.

In November 2021 (and after an 18 month, three-phase, community consultation process), Council adopted the Town Centre Masterplan, which identified the subject portion of the site as being appropriate for 3 - 5 storey development.

At that same meeting, but with respect to a different item, Council resolved that it *“requests the CEO explore other opportunities for the future incorporation of social housing into developments within the town centre on sites under Government control...”*

In December 2021, Council adopted a Land Asset Strategy, with one of the recommendations being that the Town continue to advocate to the State Government that it redevelop the subject portion of the site in accordance with the Town Centre Masterplan.

On 7 February 2023, the Local Planning Strategy was considered by the SPC, where it was endorsed subject to modifications. That Strategy recommends (amongst other things) that land within the Bassendean Town Centre be applied with a District Centre zoning.

The Town is currently advertising draft LPS 11 for public consultation. That draft Scheme provides for the subject portion of the site to be zoned as District Centre. That advertising will conclude in July 2023.

Communication and Engagement

As demonstrated by the *BassenDream our Future* engagement process, the consultation associated with the Town Centre Masterplan and the results of the 2020 and 2022 Catalyse Community Surveys, it is clear that the community strongly supports greater vibrancy and activity within the Bassendean Town Centre.

Town staff have had discussion with staff from the Department of Health, advising of the likelihood that the premises will need to be vacated in the near future.

Strategic Implications

Priority Area 3: Creating a Vibrant Town and Precincts

3.1 Support the town centre to thrive

3.2 Increase the residential population close to centres and train stations

Priority Area 4: Driving Financial Suitability

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

Comment

In accordance with the adopted Land Asset Strategy, Council's strategic intent is for the State Government to redevelop the site in accordance with the Town Centre Masterplan.

A necessary step in the process is to request that the Minister amend the boundary of the Reserve so as to effectively excise the subject portion from BIC Reserve.

In considering the proposal, the following is relevant:

- Council, in November 2021, stated its desire to facilitate the provision of social housing on State Government-controlled development sites within the town centre.
- In early May 2023, the State Government announced a \$511 million allocation in the 2023/24 Budget, the bulk of which will be spent on hundreds of new social housing homes.
- The prospect of redevelopment within, and rejuvenation of, the town centre is strongly supported by the local community.
- The site is zoned Urban under the Metropolitan Region Scheme and is proposed under draft LPS 11 (which is currently being advertised) to be zoned District Centre.
- The adopted Town Centre Masterplan contemplates redevelopment of the site, for residential purposes.
- The subject action is specifically contemplated by both the Council-adopted Town Centre Masterplan and the Council-adopted Land Asset Strategy.

Based on the above, it is recommended that Council request that the Minister for Lands amends the boundary of the Reserve so as to effectively excise the subject portion from BIC Reserve.

Statutory Requirements

Section 51 of the *Land Administration Act 1997* provides that the Minister may amend the boundaries of a reserve.

Financial Considerations

Excision of the subject portion of the site from the broader reserve will relieve the Town from the ongoing asset management responsibilities of the structure on site.

Future redevelopment of the site for residential purposes will generate rates income for the Town.

Risk Management Implications

If Council does not support the proposal, it will compromise the implementation of the Council-adopted Town Centre Masterplan. In addition, it will present a reputational risk to Council in terms of its support for the State Government's housing and public transport agendas as well as its own strategic directions.

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 9.6

That Council:

1. authorises a request being made to the Minister for Lands to amend the boundary of the Reserve so as to effectively excise the subject portion from BIC Reserve so as to facilitate future residential development; and
2. notes that the Town will seek to assist the Department of Health in securing an alternative facility for its Child and Adolescent Health Services function.

Voting requirements: Simple Majority

9.7 Draft Unreasonable Customer Conduct Policy	
Property Address	N/A
Landowner/Applicant	N/A
File Reference	GOVR/POLCY/1
Directorate	Office of the CEO
Previous Reports	N/A
Authority/Discretion	Legislative Includes adopting local laws, local planning schemes & policies.
Attachments	1. Draft Unreasonable Customer Conduct Policy [9.7.1 - 4 pages]

Purpose

The purpose of this report is for Council to consider the adoption of the Unreasonable Customer Conduct Policy.

Background

The Town, at times, deals with customers who may be unreasonable in their requests and communication. These can include, but are not limited to:

- large volumes of correspondence;
- repeated questions about the same topic to which an answer has already been provided;
- communication which has no relevance to the services provided by a Local Government;
- are aggressive complainants;
- are rude, abusive, and harassing complainants;
- cannot be satisfied despite the best efforts of the Town;
- constantly raise the same issue with different staff; and/or
- make unreasonable demands on the Town where resources are substantially and unreasonably diverted away from its other functions or unfairly allocated (compared to other customers).

Currently, staff manage these customers in an ad hoc and inefficient manner.

Applying a policy will provide guidance to how the Town administration, under the discretion of the Chief Executive Officer (CEO), manages these customers.

The Town has been, and is currently, managing a number of customers whom take a considerable and disproportionate amount of staff resources.

This diverts staff from their general duties and reduces their ability to provide effective service to other customers. It is the Town's position that these customers are unlikely to ever be satisfied or that the Town will ever be able to reach a resolution.

In these extreme circumstances the Town, under the discretion of the CEO as outlined in the draft Policy, is seeking to be able to take considered, justified and reasonable steps to reduce the administrative burden that it is currently managing.

Proposal

That Council adopt the draft Unreasonable Customer Conduct Policy.

Communication and Engagement

The Town has previously sought advice and information from other Local Governments who have similar issues and formal policies or procedures in place to deal with customers deemed unreasonable or vexatious.

Strategic Implications

Not Applicable

Comment

The Town must make sure there is fair and equitable access to services for all the community. Currently a small number of customers are taking up a disproportionate amount of time and resources of the Town. To ensure effective and efficient use of Town resources, a policy is required to manage those who are unreasonable in their demands on the Town.

Due to an increase in unreasonable or vexatious concerns, the Town has drafted a Policy to reduce the administrative burden on staff. It has been determined that this burden is no longer acceptable to the Town and further measures of responding to customers needs to be adopted.

The policy has been drafted with regard to the Ombudsman of Western Australia's guidelines for Dealing with Unreasonable Complainant Conduct. Part of this guidance is to ensure an agencies policies and procedures are adequate. This draft policy aims to, in part, achieve this.

Policies dealing with customers who may be determined as being unreasonable and/or vexatious are not uncommon amongst other Local Governments. The Town therefore views the draft policy as a reasonable and necessary step to take.

Statutory Requirements

Nil

Financial Considerations

The adoption of the policy will not have any financial consideration other than administrative time contacting those who may ultimately be determined as being an unreasonable customer by the CEO.

Risk Management Implications

Failure to adopt an Unreasonable Customer Conduct Policy may result in the continued management of customers deemed to be unreasonable in an inconsistent and inefficient manner.

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 9.7

That Council adopts the draft Unreasonable Customer Conduct Policy attached to report.

Voting requirements: Simple Majority

9.8 Children's Services - Daily Fee for Wind in the Willows Early Education Centres for 2023/24	
Property Address	28-30 Wilson St, Bassendean 2 Colstoun Rd, Ashfield
Landowner/Applicant	Town of Bassendean (Management Order)
File Reference	FINM/FEECHAG/2
Directorate	Corporate Services
Previous Reports	
Authority/Discretion	Executive The substantial direction setting and oversight role of the Council.
Attachments	Nil

Purpose

The purpose of this report is for Council to adopt the daily fee for Wind in the Willows Bassendean Early Childhood Education and Wind in the Willows Ashfield Early Childhood Education for 2023/24.

Background

Council adopted the current daily fee for Wind in the Willows of \$127 at the Ordinary Council Meeting on 24 May 2022.

While Council will consider the Town's fees and charges for all services and facilities as part of the 2023/24 draft Annual Budget, adoption of the 2023/24 fee for Wind in the Willows in advance of the Annual Budget will allow reasonable notice to be provided to families, prior to the new fees taking effect on 1 July 2023.

The Manager Children's Services and Manager Finance and Customer Service, in preparing for the 2022/23 Annual Budget, have examined expected revenue and expenditure for both Wind in the Willows Early Education Centres and proposed the daily fee be increased by 7 per cent to \$136.

Proposal

The Council adopt a daily fee of \$136 for Wind in the Willows Bassendean Early Childhood Education and Wind in the Willows Ashfield Early Childhood Education for 2023/24.

Communication and Engagement

The Town surveyed the current fees for early childhood education services in Bassendean and some nearby areas and found current daily fees range from \$100 to \$142.50. The average cost is \$120 per day. Some or all centres may increase fees from 1 July 2023, or at other times during the year.

The Town will write to all families using the Wind in the Willows services to advise of the increase in the daily fee for 2023/24.

Strategic Implications

Priority Area 1: Strengthening and Connecting our Community

1.3 Treating people equitably with access to programs and services, regardless of advantage or ability

Comment

The National Quality Framework (NQF) was introduced in 2012 to improve education and care across long day care, family day care, preschool/kindergarten, and outside school hours care services. The NQF provides a national approach to regulation, assessment and quality improvement for early childhood education and care and is administered by the Australian Children's Education and Care Authority. The NQF includes the National Quality Standard (NQS), which sets a high national benchmark for early childhood education and care and outside school hours care services in Australia.

Services are assessed and rated against the NQS and given a rating for each of the seven quality areas and an overall rating based on these results. Both Wind in the Willows services are rated as 'exceeding' the NQS, with the Bassendean service undergoing assessment in early-2023.

Under the NQF, services are required to base their educational program on an approved learning framework. This should focus on addressing the developmental needs, interests and experiences of each child, while taking into account individual differences. Wind in the Willows' services are based on 'Belonging, Being and Becoming: The Early Years Learning Framework for Australia (EYLF)'. The EYLF forms the foundation for ensuring that children in all early childhood education and care settings experience quality teaching and learning.

Wind in the Willows staff are Educators, who are all Certificate III or Diploma qualified (or working towards), with a qualified Teacher to oversee development and implementation of the curriculum. Wind in the Willows is dedicated to quality education and care programs that strive to exceed the NQS, operating with high ratios of qualified Educators who have a strong commitment to performing above the standards.

Some key principles of the programs at Wind in the Willows include a connectedness to nature, respect for diversity and reconciliation, environmental responsibility and active citizenship.

Wind in the Willows continues to experience strong demand for both services and operates at high utilisation, with a wait list for certain days of the week at both centres.

Statutory Requirements

Section 6.16 of the *Local Government Act 1995* governs the imposition of fees and charges and states:

(1) A local government may impose* and recover a fee or charge for any goods or service it provides or proposes to provide, other than a service for which a service charge is imposed.

* *Absolute majority required.*

(2) A fee or charge may be imposed for the following —

(a) providing the use of, or allowing admission to, any property or facility wholly or partly owned, controlled, managed or maintained by the local government;

(b) supplying a service or carrying out work at the request of a person;

(c) subject to section 5.94, providing information from local government records;

(d) receiving an application for approval, granting an approval, making an inspection and issuing a licence, permit, authorisation or certificate;

(e) supplying goods;

(f) such other service as may be prescribed.

(3) Fees and charges are to be imposed when adopting the annual budget but may be —

(a) imposed* during a financial year;

and (b) amended* from time to time during a financial year.

* *Absolute majority required.*

Financial Considerations

The proposed fee has been set at the level required to allow the Town to continue to provide quality activities and programs. Setting the fee in advance will ensure there is no delay in implementing the fee, providing reasonable notice to families.

Risk Management Implications

Financial Risk

Low

The Town's Wind in the Willows services are funded through user fees and the child care subsidy. The Town operates a Reserve account to absorb year-to-year fluctuations in revenue/expenditure.

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 9.8

That Council adopt a daily fee of \$136 for Wind in the Willows Bassendean Early Childhood Education and Wind in the Willows Ashfield Early Childhood Education for 2023/24.

Voting requirements: Absolute Majority

9.9 Contract Variation - RFQ 07/2022 Security Monitoring and Maintenance of Security Equipment	
File Reference	PLES/TENDNG/61
Directorate	Corporate Services
Previous Reports	Not Applicable
Authority/Discretion	Executive The substantial direction setting and oversight role of the Council.
Attachments	1. CONFIDENTIAL - RFQ 07 2022 Comparative Schedule for variation [9.9.1 - 1 page]

Purpose

The purpose of this report is for Council to consider a contract variation request for RFQ 07/2022 security monitoring and maintenance of security equipment.

Background

Following a formal RFQ process, the Town awarded the contract for RFQ 07/2022 security monitoring and maintenance of security equipment to Casa Security Pty Ltd on 12 December 2022, for a period of three years.

The contractor has submitted a contract variation request to vary the security guard callout response rates (both normal hours and after hours).

Strategic Implications

Priority Area 4: Driving Financial Suitability

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

Comment

CASA Security Pty Ltd engaged a sub-contractor to provide the security guard call out response service. The sub-contractor ceased business and the contractor needed to engage another company to provide the security guard callout response.

The proposed variation represents a 14.2% increase to the total contract price over a three-year period based on historical usage data used to estimate the value of the contract. The proposed variation is lower than the initial variation sought by the contractor, following negotiation with the contractor by the Town.

CASA Security Pty Ltd's offer would still have been cheapest of the responses to RFQ 07/2022 if the contract had been awarded based on the proposed higher callout rates.

Statutory Requirements

A Local Government can vary a contract in accordance with clause 21A of Part 4 of the Local Government (Functions and General) Regulations 1996 (“the Regulations”) where the variation is necessary in order for the goods or services to be supplied and does not change the scope of the contract.

The Regulations apply to contracts above the tender threshold of \$250,000. The total value of this contract is below that threshold and covered by the Town’s Purchasing Policy. Consequently, the Town’s Chief Executive Officer and/or Director Corporate Services have the authority to approve this contract variation. Nevertheless, it was considered appropriate to bring this for decision by Council, given the quantum of the variation in percentage terms, and Council’s demonstrated interest in contract variations generally.

Financial Considerations

The proposed variation calculation is regarded as commercial in confidence and is included in the attached confidential spreadsheet.

The cost of the contract is still within budget and will be included in the Town’s operating budgets for each year of the contract.

The Town will shortly liaise with user groups with a view to recouping the cost of security call outs from user groups where those user groups were responsible for the call out.

Risk Management Implications

Should the variation not be approved by Council, there is a risk that the contractor will decline to provide services to the Town, leaving the Town without a security guard call out response service.

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 9.9

That Council approves the contract variation request for RFQ 07/2022 security monitoring and maintenance of security equipment submitted by CASA Security Pty Ltd and accepts the new price for the security guard callout response rates (both normal hours and after hours) effective from 1 June 2023.

Voting requirements: Simple Majority

9.10 RFT 02/2023 Supply and Installation of a Bore at Ashfield Reserve	
Property Address	Colstoun Road, Ashfield
Landowner/Applicant	Town of Bassendean
File Reference	PARE/TENDNG/85
Directorate	Corporate Services
Previous Reports	Not applicable
Authority/Discretion	Executive The substantial direction setting and oversight role of the Council.
Attachments	1. CONFIDENTIAL - Evaluation Report [9.10.1 - 7 pages]

Purpose

The purpose of this report is for Council to consider a summary of tender submissions received for RFT 02/2023 Supply and Installation of a Bore at Ashfield Reserve. All offers were considered non-compliant by the tender evaluation panel, and it is recommended that Council decline all offers.

Background

The Town has a requirement to engage a contractor for the supply and installation of a new bore and decommissioning of an old bore at Ashfield Reserve. The Town does not have the internal resources to undertake the required works and as such requires an appropriate external contractor.

Proposal

It is proposed that Council decline all offers received for tender RFT 02/2023 Supply and Installation of a Bore at Ashfield Reserve.

Communication and Engagement

The Request was advertised in The West Australian Newspaper and the Town's website on Wednesday, 5 April 2023 and closed at 11.00am (AWST) on Thursday, 27 April 2023.

Strategic Implications

Priority Area 4: Driving Financial Suitability

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

Comment

The Town received two offers from one Tenderer for this RFT:

- Western Irrigation Pty Ltd (Conforming Offer); and
- Western Irrigation Pty Ltd (Alternative Offer).

The Evaluation Panel for this tender comprised three members with the appropriate technical expertise and experience. The Panel carried out the assessment of the submissions in a fair and equitable manner.

Both offers were assessed as non-compliant, for the following reasons:

- Western Irrigation Pty Ltd (Conforming Offer) failed to:
 - Provide any response to one of the compliance criteria, being Clause 3.2.10 (OSH) of the RFT;
 - Submit the mandatory OSH Questionnaire and OSH documentation; and
 - Provide a response to two (out of three) qualitative criteria – ‘demonstrated experience’ and ‘demonstrated understanding of the requirements’.
- Western Irrigation Pty Ltd (Alternative Offer) does not conform to the requirements of Clause 2.14 of the RFT as it was not a complete proposal, did not describe how it departs from the requirements set out in the RFT and how it differs from the Conforming Offer, including any pricing differences.

As the offers were considered non-compliant, they were not considered further.

Statutory Requirements

A public tender was advertised, opened and evaluated in accordance with clauses 11(1) and 18(4) of Part 4 of the *Local Government (Functions and General) Regulations 1996* (the **Regulations**), where tenders are required to be publicly invited if the consideration under a contract is, or is estimated to be, more, or worth more, than \$250,000.

Regulation 18(5) of the Regulations provides that a local government may decline to accept any tender.

Financial Considerations

The budget for this project will be included as a carry-forward for the draft 2023/24 annual budget.

Risk Management Implications

Financial Risk

Low

The risk associated with the decision before Council, being to decline all offers, is low; that decision being consistent with the requirements of the Town's Purchasing Policy and Procurement Framework.

Nevertheless, this outcome for the tender process will delay the works and result in a requirement for further irrigation of the reserve using scheme water after winter.

Should Council decline all offers as recommended, it will be necessary to re-tender for the work. The administration proposes to be proactive in that regard, to identify potential suppliers, and to inform the market that the work is being re-tendered to encourage an improved response to the tender.

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 9.10

That Council declines all offers for RFT 02/2023 Supply and Installation of a Bore at Ashfield Reserve.

Voting requirements: Simple Majority

10 Confidential Business

11 Motions of which Previous Notice has been given

12 Closure

The next Ordinary Council meeting will be held on Tuesday, 23 May 2023, commencing at 6pm.

The next Briefing Session will be held on Tuesday 20 June 2023 commencing at 6pm.