

**TOWN OF BASSENDEAN**  
**NOTICE OF MEETING OF THE**  
**MUNICIPAL HERITAGE INVENTORY REVIEW**  
**COMMITTEE**

Dear Committee Member

A meeting of the Municipal Heritage Inventory Review Committee will be held in the Council Chamber, 48 Old Perth Road, Bassendean, on Tuesday 6 June 2017 commencing at 6.00pm.

Mr Simon Stewert-Dawkins  
**ACTING CHIEF EXECUTIVE OFFICER**

2 June 2017

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**A G E N D A**

**1.0**                    **DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS**

**Acknowledgement of Traditional Owners**

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

**2.0**                    **ATTENDANCES, APOLOGIES AND APPLICATIONS FOR LEAVE OF ABSENCE**

**3.0**                    **DEPUTATIONS**

#### **4.0 CONFIRMATION OF MINUTES**

##### **4.1 Minutes of the Meetings held on 9 August 2016**

###### **OFFICER RECOMMENDATION – ITEM 4.1**

That the minutes of the meeting held on 9 August 2016 be confirmed as a true record.

#### **5.0 ANNOUNCEMENTS BY THE PRESIDING PERSON WITHOUT DISCUSSION**

#### **6.0 DECLARATIONS OF INTEREST**

#### **7.0 BUSINESS DEFERRED FROM PREVIOUS MEETING**

#### **8.0 REPORTS**

##### **8.1 Proposed adoption of the Town of Bassendean Municipal Heritage Inventory 2017 (Ref DABC/LIAIS/2 Timothy Roberts, Planning Officer)**

###### **APPLICATION**

The purpose of this report is for the Municipal Heritage Inventory Review Committee to consider the comments received, as a result of advertising the draft Municipal Heritage Inventory (MHI) and to provide a recommendation to Council.

###### **ATTACHMENTS**

**Attachment No. 1** - Schedule of submissions – Place Record No. 105: Kenny Street Precinct 2; and

**Attachment No. 2** - Schedule of submissions – Remainder of Town.

###### **BACKGROUND**

At its meeting held in August last year, Council adopted the Draft MHI for the purposes of community consultation and specified a minimum advertising period of 42 days, be allowed for the receipt of submissions. Council also resolved that on the completion of the consultation period, the outcomes be referred back to Council for consideration and final adoption.

## COMMUNICATION & ENGAGEMENT

The draft Municipal Heritage Inventory was advertised through the Bassendean Briefings, the Town's web site and by direct mail out to each of the property owners affected by the draft MHI. General advertising occurred between 20 February and 3 April 2017, with individual owners being given until 15 April 2017 to respond.

The following is a summary of the responses to the advertising:

- Kenny Street Precinct No.2 (Place Record No. 105) - 14 written submission of objection.
- Category 1 Listings: 1 written submission of support.
- Category 2 Listings: 21 written submissions of objection and 4 written submissions of support.
- Category 3 Listings: 9 written submissions of objection and 4 written submissions of support
- Category 4 Listings: 6 written submissions of objection and 2 written submissions of support

## STRATEGIC IMPLICATIONS

Under the recently adopted Strategic Community Plan 2017 – 2027, Council has adopted a Strategy of strengthening and promoting Bassendean's unique character and heritage under Strategic priority 3 Built Environment

## COMMENT

This report has been structured so as to provide detailed commentary on the Kenny Street precinct within the body of the report while the detailed commentary in relation to the submissions on the remainder of the listings (Category 1 through to Category 4 listings) is provided within **Attachment 2 – Schedule of Submissions – Remainder of Town.**

## KENNY STREET PRECINCT

At the request of the residents of Kenny Street, in his role as presiding member of the Municipal Heritage Inventory (MHI) review committee, Councillor Bridges met with concerned property owners on Wednesday March 15 at 7pm. Resultant from this meeting, Councillor Bridges moved the following notice of motion at the March Ordinary Council Meeting:

*that Council supports the resolution of the meeting of property owners from Kenny Street held in Council Offices on 15 March, 2017, who state that there is no sound basis for classifying the section of Kenny Street (between Palmerton and Shackleton/Bridson Streets) as a Category 2 heritage*

*precinct. The meeting participants call on Council to withdraw its proposal to assign the classification of “heritage precinct” to this part of Kenny Street.*

The following background information was provided as part of this notice of motion:

*“Eleven owners of residential properties in Kenny Street between Palmerston Street to Shackleton/Bridson Streets, received correspondence outlining that their properties had “been assigned a proposed management category of 3” in the Town of Bassendean Municipal Heritage Inventory (or alternatively: Town of Bassendean Municipal Inventory Review as both descriptions are used interchangeably, and incorrectly, in the correspondence). These eleven, along with all other property owners in Kenny Street from numbers 38 to 85, also received another piece of correspondence, which stated, “your property falls within a heritage precinct.” Both items of correspondence were dated 13 February 2017. Recipients of these letters attended a meeting on 15 March 2017, which was chaired by Councillor Bridges. This meeting was not called by any Council staff or elected members: it was organised by concerned residents.*

*Attendees at the meeting held 15 March 2017 at Bassendean Council Offices, unanimously criticised the Bassendean Municipal Heritage Inventory process for its total lack of consultation with Kenny Street stakeholders and its failure to provide clear criteria for the selection and classification of “places”. Residents are concerned that the effect of Kenny Street being classified as a “Category 2” precinct will be that any dwelling in the precinct may also be classified as a Category 2 heritage place. There are concerns that such a classification could result in a significant loss of property values, increased levels of development restrictions and a diminished opportunity to realise the full development potential of property.*

*Meeting participants also expressed concern at the apparent arbitrary nature of selecting Kenny Street as a heritage precinct, while other comparable neighbourhoods were not similarly designated for heritage classification. An example of the lack of consistency in the assignment of the Category levels is highlighted for us, the residents of Kenny Street (#38 to #85) who have been told that their “property falls within a heritage precinct”.*

*Of the 46 houses in this section, only 11 have “been assigned a proposed management category of 3” (one other house in the group was ‘assigned’ as a Category 4), while the adjacent Wilson Street which has NOT been assigned ‘precinct’ designation, has 13 Category 3 properties.*

*It was unclear to the meeting participants, how the consultants advising on the proposed Kenny Street precinct arrived at their recommended precinct classification: 34 houses in this proposed ‘precinct’ (which contains a total of 46) are not considered to have any Heritage value at all and that only 11 are assigned a Category 3 that there are no Category 2 or Category 1 properties and the highest Category is defined as having only “some” heritage significance.*

*While the meeting participants all expressed a strong interest in the protection of the assets of our Town, none were convinced that the classification of Kenny Street as an isolated Category 2 heritage precinct would achieve the objectives of conserving cultural values and local amenity in the Town of Bassendean. I do not believe that a single ribbon “precinct” which allows up to, and including, R60 for properties backing onto the houses in Kenny Street, will provide the desired protection. There already appears to be no protection of the ‘street scape’, as one house has recently been demolished in an apparent anticipation of the precinct decision.*

*The meeting participants do not accept that there is a sound basis for classifying the section of Kenny Street (between Palmerton and Shackleton/Bridson Streets) as a Category 2 heritage precinct. The meeting participants call on Council to withdraw its proposal to assign the classification of “heritage precinct” to this part of Kenny Street.”*

In response to Cr Bridges’ Notice of Motion, the following Officer Comment was provided to the March 2017 Ordinary Council meeting for consideration:

*The notice of motion is premature in that the MHI is still currently out for public consultation, which will finish on April 15<sup>th</sup> 2017. The MHI was last updated in 2006 where owners were given the option to opt in/opt out from inclusion within the MHI. It is important to note that the MHI is an information only resource and is used to guide strategic heritage planning as well as the ‘Heritage List’ under Local Planning Scheme No. 10. This will be subject to a separate review in the near future and property owners again being given the opportunity to make comment. Inclusion within a MHI does not afford a property or precinct ‘statutory protection’.*

*Additionally, the opt in/opt out model is not an approach supported by the State Heritage Office and subsequently the Town lost control of many of its heritage places from allowing the opt in/opt out approach as part of the 2006 review. Inclusion/exclusion within a MHI should be based solely on the significance to the Bassendean community and not strong opposition to any listings.*

*It should also be noted that not all recipients of these letters attended the meeting on 15 March 2017 as suggested. Many property owners within the Kenny Street precinct have been supportive of the proposed inclusion within the MHI. Inclusion within the MHI is a community exercise and any review assesses all places within the existing MHI, new places nominated by the community as well as any other additional places recommended by the consultants or the review committee. These places are then assessed against criteria designated by the State Heritage Office including condition, integrity, authenticity, rarity and representativeness. The results of this are then summarised with each property assigned a management category to designate future heritage planning and creation of the Heritage List under Local Planning Scheme No. 10. The review of the MHI was first advertised requesting new nominations for inclusion in March 2015.*

*The document currently being advertised is the culmination of this process in conjunction with recommendations from the MHI review committee made up of both members of the community and councillors. The letter sent to each property owner within the proposed Kenny Street precinct was done with the intention to seek comment on the proposed draft. The objective of this was to increase transparency and to ensure a well-informed and thorough review process. The letters sent during this consultation process were not notifying owners that their property was listed; it was seeking comment on the proposed listing. The consultation undertaken was notification on the Town's website and via Bassendean Briefings, weekly Facebook posts and letters sent to each property owner. An officer was made available by both phone and in person at the customer service centre at 35 Old Perth Road. The suggested total lack of consultation with Kenny Street stakeholder is therefore not correct. The information provided in conjunction with the letters to each affected property owner is the preferred management categories and desired outcomes by the State Heritage Office. An information sheet of frequently asked questions as well as the Place Record Form was provided in conjunction with each letter as well as details of how to access further information. The suggested failure to provide clear criteria for the selection and classification of "places" is therefore similarly incorrect.*

*Loss to property value is not a valid planning consideration. The information sheet provided in conjunction with the letters to property owners informed owners that where existing development potential had not yet been achieved, the Town has made a commitment to approving density variations that allow development potential to be achieved where the existing dwelling is retained.*

*Development restrictions, design guidelines and the like cannot be quantified until the MHI and Heritage List and any precincts have been adopted by Council. Development constraints for any precinct will be in relation to new developments within the street. Development controls are already in place for fencing and development within the front street setback. Development controls and streetscape provisions can be applied to an identified precinct regardless of inclusion within the MHI or Heritage List. Individual places within the precinct cannot be upgraded to a category two management category, as it is considered they would not meet the criteria.*

*Category 1 places are reserved for State Heritage listed places. Category 2 places are reserved for places considered to hold considerable significance to the community however outside of the scope for State listing. It is uncommon for residential houses to meet these criteria unless they are associated with a famous person or have historic associations. The level of authenticity and integrity of these properties are also required to be high. Inclusion within the MHI is garnered by the results of a community consultation process where community members are invited to nominate places. This is done in conjunction with the review of all places within the existing 2006 MHI as well as recommendations from the MHI Review Committee members.*

*It was considered by the MHI Review Committee that whilst these individual places did not meet the criteria for a management category two, collectively the precinct held a higher level of significance and therefore met the criteria of a management category two. It is not a matter that the remaining 34 houses within the precinct were not considered to hold any heritage value at all; it is merely that they were not individually nominated. It was on this basis that the draft MHI was progressed. It is important to note that Wilson, Parker and Kathleen Streets were also earmarked for identification as a precinct under the next MHI review. These were identified too late in the process of the current review and had therefore been not been included.*

*The concerned owners within the Kenny Street precinct are aware that the vacant lot was not made vacant in anticipation of the heritage listing. The previous dwelling on the site was demolished in response to resident concerns regarding perceived anti-social behaviour at this property combined with the dwelling being unfit for human habitation. This demolition has no bearing on inclusion of Kenny Street as a precinct within the MHI.*

*The Kenny Street precinct was initially proposed for inclusion within the MHI resultant from community consultation calling for new nominations. The consultants assessed the nomination and assigned the precinct a management category of three. When the draft version was presented to the MHI review committee for comment and recommendation, it was considered that all precincts should be assigned a management category of two. It was on this basis that the draft version was modified prior to public advertising of the document. It is premature to support this notice of motion to remove the Kenny Street precinct from the MHI prior to completion of public advertising period. Additionally, upon receipt of submissions from property owners in line with the consultant's original recommended management category for the precinct, it will be the officer's recommendation that the Kenny Street precinct be changed from a Category two to a Category three. It is therefore not appropriate for Council to consider a notice of motion to remove the precinct from the MHI. Council should be mindful of due process as well as the precedent this may have for other submissions received that oppose their properties inclusion within the MHI."*

Cr Bridges' Notice of Motion presented to the March 2017 Ordinary Council Meeting, lapsed for want of a seconder, however, Council (OCM – 36/03/17) resolved

*MOVED Cr Bridges, Seconded Cr Gangell, that this matter be referred to the Municipal Heritage Inventory Review Committee for consideration.*

CARRIED UNANIMOUSLY 6/0

Therefore, in conjunction with all other submissions, it is appropriate for the MHI Review Committee makes a determination on how to proceed with the Kenny Street Precinct.

## OFFICER COMMENT

The submissions made by the residents of Kenny Street Precinct 2 (Attachment 1) are noted. The main point of contention amongst the residents seems to be the idea of a heritage precinct being confined to a small representation of weatherboard homes.

The heritage significance of Kenny Street cannot be disputed. The Kenny Street Precinct was proposed for inclusion within the MHI as a direct result from the findings of the bus tour. The consultants initially proposed a management category 3 be assigned to the precinct. At a subsequent MHI review committee meeting, the committee resolved that all precincts be assigned a category two in order to apply stricter development controls for each precinct.

It appears that the intent of listing Kenny Street as a precinct was misinterpreted by the consultants as the Committee also recommended other adjacent streets be nominated for inclusion such as Eileen, James, Wilson, Kathleen and Parker. All of these streets hold similar heritage value to the community yet were somehow missed from the draft MHI that went out for public consultation. As the confines of the heritage precinct was not properly quantified, it can be argued that the intent and designation of the management category 2 is not appropriate.

The options moving forward are that the Kenny Street Precinct be reduced to a category 3 in line with the consultant's initial recommendation. The implications of this would be no statutory protection or additional development constraints (including demolition) from inclusion within the MHI. The listing would be merely for identification purposes only.

The original intent of identifying Kenny Street and the surrounding streets as an area of (generally) undisturbed heritage value was to create design guidelines directing any new development to be sympathetic to the existing streetscape. The only current development controls are the provisions of Local Planning Policy No. 12: Development within the front setback that requires carports and the like to be sympathetic to the existing dwelling. The notion of creating a heritage precinct and the respective design guidelines should also consider works to existing dwellings with respect to façade, materials, streetscape and fencing. Inclusion within the MHI would not afford the precinct this.

A heritage area/precinct can always be created and subject to design guidelines and development constraints without inclusion within the MHI or Heritage List. A more detailed review of Kenny Street and the surrounding streets is required in order to capture a wider range of properties.

A precinct should be defined by all properties that meet the targeted heritage values rather than a small representation of these places as currently proposed.

Inclusion of the Kenny Street precinct is not consistent with the committee's intention of designating a heritage area and desire for the creation of design guidelines. A more appropriate action moving forward is that the Kenny Street Precinct be removed from the MHI in its entirety and a recommendation made to engage consultants for the purposes of identifying a greater area and to create appropriate design guidelines.

### REMAINDER OF SUBMISSIONS

The schedule of submissions for the remainder of the Town are included under **Attachment 2** of this report. An officer recommendation has been provided against each submission. It is recommended that the officer recommendation against each submission be upheld.

The minutes of this meeting will to be referred to the June 2017 Ordinary Council Meeting for consideration. The outcomes of this meeting will then be referred to the consultants for final amendment of the document. The final version of the document will then to be presented to the July Ordinary Council Meeting for further consideration, with a recommendation for adoption.

### STATUTORY REQUIREMENTS

#### **Heritage Act of Western Australian 1990**

Under section 45 of the Heritage Act of Western Australia, there is a requirement for local governments to compile and maintain an inventory of buildings within its district which in its opinion are, or may become, of cultural heritage significance. The inventory required under the Act shall be updated annually and reviewed every four years after compilation.

Local Government is obliged to provide the State Heritage Council with a copy of this Inventory and ensure that the Inventory is compiled with proper public consultation.

#### **State Planning Policy 3.5 Historic Heritage Conservation**

Local governments should identify places of local significance through the compilation and review of local government inventories, in accordance with the assessment criteria and other relevant guidelines published by the Heritage Council. The local government inventory is a survey that may be used to identify places for inclusion in heritage areas and a heritage list under the local planning scheme. The inventory does not have statutory force and effect in terms of planning controls.

A heritage list is established pursuant to a local planning scheme and should be compiled having regard to the places identified in the inventory. A local government may elect to include all of those places in its heritage list, or may include a smaller sub-set of places. The inclusion or exclusion of places from a heritage list should be based on their degree of historic heritage significance, supported by the findings in the inventory, irrespective of whether they are privately or publicly owned.

### **Town of Bassendean Local Planning Scheme No. 10**

The local government is to establish and maintain a Heritage List to identify those places within the Scheme area which are of cultural heritage significance and worthy of conservation under the provisions of the Scheme. In the preparation of the Heritage List, the local government is to have regard to the Municipal Heritage Inventory prepared by the local government under section 45 of the Heritage of Western Australia Act 1990 and include on the Heritage List the entries on the Municipal Heritage Inventory it considers to be appropriate.

In considering a proposal to include a place on the Municipal Heritage Inventory and Heritage List the local government is to notify the owner and occupier of the place and provide them with a copy of the place record form and the reasons for the proposed entry.

### **FINANCIAL CONSIDERATIONS**

Nil.

### **OFFICER RECOMMENDATION — ITEM 8.1**

That:

1. Place Record No. 104 Kenny Street Precinct 1 and Place Record No. 105 Kenny Street Precinct 2 be removed from the draft Municipal Heritage Inventory;
2. The notion of a heritage area or areas be further considered as part of (or in parallel with) the current review of the Local Planning Strategy; and
3. The Committee endorses the other recommendations of the Planning Officer as contained in Attachment 2 to this report.

**Voting requirements: Simple Majority**

**9.0                      MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

**10.0                    ANNOUNCEMENTS OF NOTICES OF MOTION FOR THE  
**NEXT MEETING****

**11.0                    CONFIDENTIAL BUSINESS**

**12.0                    CLOSURE**

The next meeting date is to be determined.