

ATTACHMENTS

BRIEFING SESSION

23 JANUARY 2018

Attachment No. 1:

- Town of Bassendean Development Bonds Policy
- Draft Town of Bassendean Development Bonds Policy

Attachment No. 2:

- (Undated) WALGA Third Party Appeal Rights in Planning Discussion Paper (considered by Council at its Ordinary Meeting held 27 June 2017);
- Officer Report titled "Third Party Appeal Rights in Planning – WALGA Discussion Paper) considered by Council at its meeting held 27 June 2017;
- Extract of Minutes from June 2017 Council Meeting; and
- Letter from WALGA dated 1 December 2017 titled "Consultation with Members – Third Party Appeal Rights in Planning" and accompanying report titled "Outcomes of Consultation – Third Party Appeal Rights in Planning".

Attachment No. 3:

WAPC DC Policy 2.2 – Residential Subdivision - October 2017

Attachment No. 4

- Line marking drawing for Hamilton Street and Whitfield Street on-street parking.
- June 2016, Transcore Parking Inventory summary for the Bassendean Activity Centre Precinct.

Attachment No. 5

- Verge Treatment and Maintenance Policy;
- Permissible Verge Treatment Information Sheet;
- Activities on Thoroughfares and Trading in Thoroughfares and Public Place Local Law 2010;
- Proposed new Verge Maintenance Policy – Draft only
- Proposed new Verge Treatment Policy – Draft only

Attachment No. 6:

Letter from Sport and Recreation WA

Letter from the Town of Bassendean to Sport and Recreation WA.

Attachment No. 7

Amended Policies (with track Changes)

- Policy 6.6 - Gifts to Departing Councillors
- Policy 6.8 - Notices of Motion
- Policy 6.9 - Publications by Individual Councillors
- Policy 6.16 – Investment
- Public Comment – Review of Policies

Attachment No. 8:

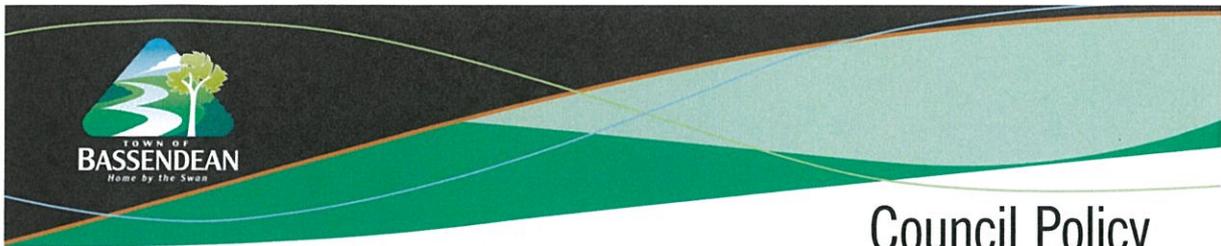
- Legal Opinion from McLeods Barrister & Solicitors.
- Policy 6.7 - Electronic Recording of Council Meetings.

Attachment No. 9:

Quarterly Report P/E 31 December 2017

Confidential Reports and Confidential Attachments x 3

ATTACHMENT NO. 1



Council Policy

1.16 Development Bonds Policy - Compliance With Conditions of Planning Consent

Policy

It is the Council's intention to require a bond as a condition of development approval to be lodged with the Council prior to the issue of a building permit.

The bond is required to ensure that landscaping, reticulation, construction of parking areas, screen walls and any other associated works are completed to the satisfaction of the Council.

A bond is acceptable in the form of cash or a bank guarantee. Interest is not payable on these funds.

Application of Policy

This policy applies to all developments where Council has granted planning consent subject to conditions, requiring that landscaping, reticulation, construction of parking areas, screen walls and any other associated works are completed to the satisfaction of the Council.

This policy does not apply to developments involving the erection of a single house or additions to a single house.

RELATIONSHIP TO LOCAL PLANNING SCHEME NO 10

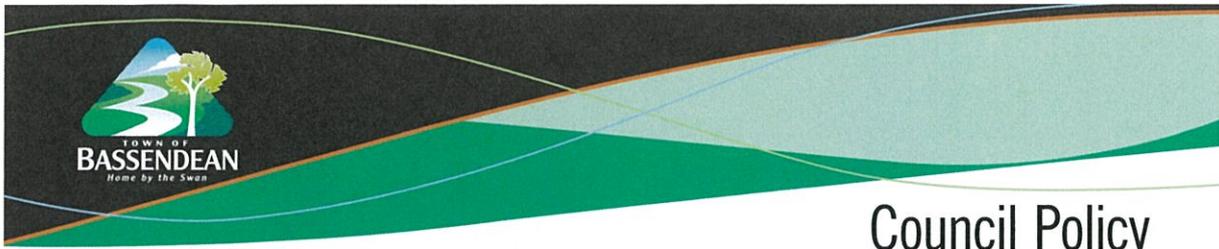
This policy complements Local Planning Scheme No 10. The Scheme contains the following clauses relating to occupation of buildings:

Clause 5.1 states that any development of land is to comply with the provisions of the Scheme.

Clause 5.7.2.1 states a person shall not develop or use land or erect, use or adapt any building for use for the purpose indicated in Table 1 of the Scheme, unless car parking spaces of the numbers specified in Table 2 are provided and such spaces are constructed, marked and maintained in accordance with the provisions of the Scheme

Clause 5.7.2.3 states classification certificates for any buildings or structures requiring such certificates shall be issued only after all parking and loading facilities have been completed in accordance with the Scheme;

Clause 11,4 states a person must not:



Council Policy

- (a) contravene or fail to comply with the provisions of the Scheme;
- (b) use any land or commence or continue to carry out any development within the Scheme area:
 - (i) otherwise than in accordance with the Scheme;
 - (ii) unless all approvals required by the Scheme have been granted and issued;
 - (iii) otherwise than in accordance with any conditions imposed upon the grant and the issue of any approval required by the Scheme; and
 - (iv) otherwise than in accordance with any standards laid down and any requirements prescribed by the Scheme or determined by the local government under the Scheme with respect to that building or that use.

Under the Planning and Development Act a person who fails to comply with the provisions of a Local Planning Scheme is guilty of an offence and is liable for a penalty of up to \$200,000 and a daily penalty of \$25,000.

POLICY OBJECTIVES

To ensure that a high standard of amenity is achieved within the Town of Bassendean.

To ensure that the provisions of the Town of Bassendean Local Planning Scheme No 10 are complied with.

To ensure that all conditions of planning consent and all works necessary to complete a development are carried out prior to occupation of a building.

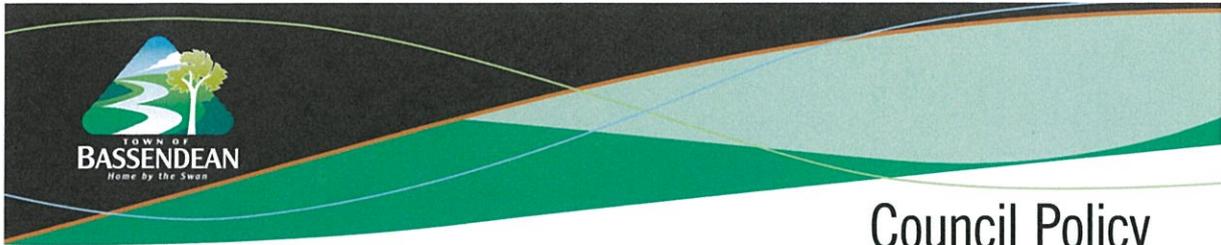
REQUIREMENTS FOR RESIDENTIAL DEVELOPMENT

Group dwelling additions to existing single dwellings to form grouped dwelling sites

Subject to the following clause, where planning consent is granted for a Grouped Dwelling addition to an existing single house to form 2 or more Grouped Dwellings, the new dwellings shall not be occupied until the upgrading works are carried out and all of the conditions of planning consent have been complied with to the satisfaction of Council.

With the agreement of Council's Manager Development Services , the new dwelling may be occupied by the resident of the existing house, subject to a written agreement being provided that all outstanding works will be completed within 3 months of occupation of the new dwelling.

Development bonds are not required for Grouped Dwelling additions to existing single houses.



New Grouped or Multiple Dwellings

A bond of \$1000, or \$500 per dwelling unit (whichever is the greater), is required prior to the issue of a building licence.

Temporary Retention of Existing Dwelling During Construction of New Dwelling

In cases where a development proposal is contingent upon the demolition of an existing dwelling, and that dwelling is proposed to be retained until the development is complete or partially complete, a bond of \$5,000 is required prior to the issue of a building licence.

Any planning consent will be conditional upon the demolition of the existing dwelling within one month of occupation of the new dwelling.

REQUIREMENTS FOR INDUSTRIAL OR COMMERCIAL DEVELOPMENT

A bond of \$2000 or 2% (which ever is the greater) of the development value as determined by the Building Surveyor. This sum may be varied if special circumstances exist, such as the development involving significant building works.

RETURN OF DEVELOPMENT BONDS

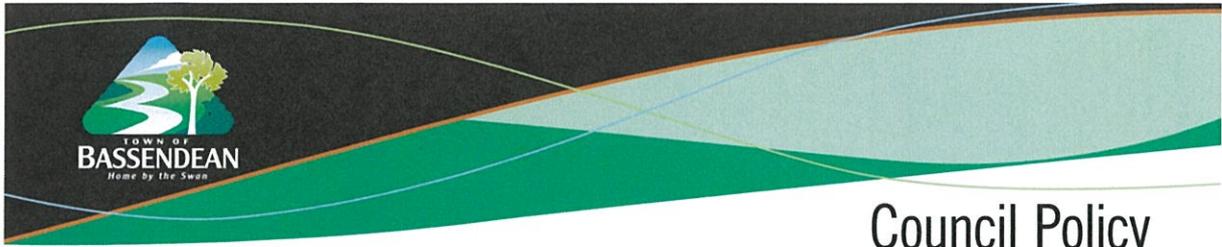
Residential Development

Monies may be returned following an inspection of the premises by Council officers indicating all development requirements have been completed to the satisfaction of the Manager Development Services.

Industrial/Commercial Development

Monies may be returned in 2 stage payments for industrial and commercial development. Upon completion of 75% of the value of the outstanding works as determined by Council's Building Surveyor, 50% of the bond money may be returned to the applicant. The remaining 50% of bond monies will be returned upon completion of the development, to the satisfaction of the Manager Development Services.

Where an applicant requests a staged return of bond monies, the applicant shall supply detailed estimates of the bonded work undertaken.



Council Policy

ENFORCEMENT

Should a building be occupied in contravention of the Local Planning Scheme No.10, and the provisions of this policy, the Council will undertake enforcement action as allowed for by the Scheme.

Where Council officers become aware that a building is being occupied in contravention of the Scheme and this policy the following procedure will generally apply.

The owner of the property will be advised verbally that the premises is being occupied in contravention of the Town Of Bassendean, Local Planning Scheme No 10 and informed of the implications of the breach of planning control.

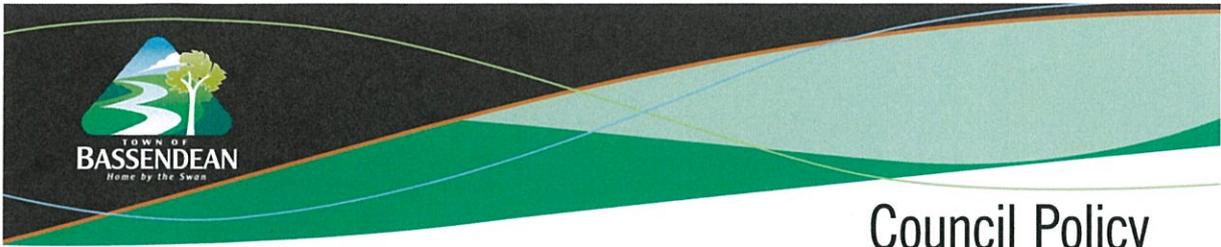
The above advice will be confirmed in writing and the owner will be instructed to advise Council in writing, how they intend to resolve the matter to the satisfaction of Council within 14 days. The letter must also specify the estimated time likely to complete the works to remove the breach of planning control.

If the owner of the property fails to indicate that the contravention to the Scheme will be addressed within a reasonable time, or fails to comply with a previous undertaking, a report on the issue will be presented to Council, which may result in legal action being pursued.

Application

Responsibility for the implementation of this policy rests with the Mayor, Councillors, Council delegates and Chief Executive Officer. The Policy is to be reviewed every three years.

<p>Policy Type: Strategic Policy</p> <p>Link to Strategic Community Plan: Town Planning and Built Environment</p>	<p>Responsible Officer: Chief Executive Officer and Manager Development Services</p> <p>Last Reviewed: March 2014 Version 2</p> <p>Next Review due by: December 2016</p>
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Council Policy

1.16 Development Bonds Policy - Compliance With Conditions of **Development Approval**

Policy

It is the Council's intention to require a bond as a condition of development approval to be lodged with the Council prior to the issue of a Building Permit.

The bond is required to ensure that **all** landscaping, reticulation, construction of parking areas, screen walls and **any** other associated works are completed to the satisfaction of the **Town**.

A bond is acceptable in the form of cash or a bank guarantee. Interest is not payable on these funds.

Application of Policy

This policy applies to all developments where Council has granted development approval subject to conditions, requiring that **all** landscaping, reticulation, construction of parking areas, screen walls and **any** other associated works are completed to the satisfaction of the **Town**.

This policy does not apply to developments involving the erection of a single house or additions/**alterations** to a single house.

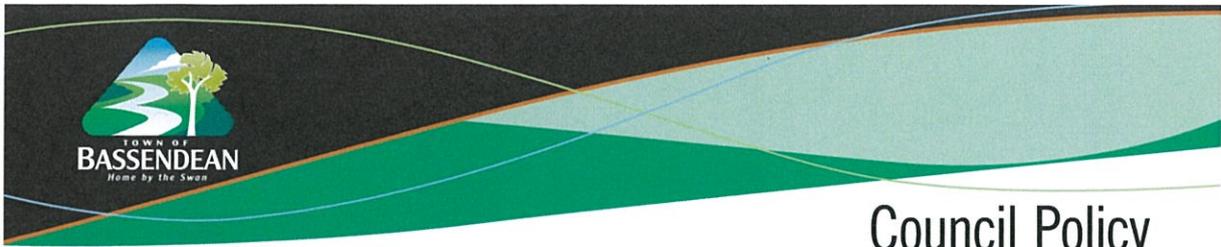
RELATIONSHIP TO LOCAL PLANNING SCHEME NO 10

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Clause 5.1 states that any development of land is to comply with the provisions of the Scheme.

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Clause 11,4 states a person must not:

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- (b) use any land or commence or continue to carry out any development within the Scheme area:
 - (i) otherwise than in accordance with the Scheme;
 - (ii) unless all approvals required by the Scheme have been granted and issued;
 - (iii) otherwise than in accordance with any conditions imposed upon the grant and the issue of any approval required by the Scheme; and
 - (iv) otherwise than in accordance with any standards laid down and any requirements prescribed by the Scheme or determined by the local government under the Scheme with respect to that building or that use.

Section 218 of the Planning and Development Act 2005 provides that a person who fails to comply with the provisions of a Local Planning Scheme is guilty of an offence and is liable for a penalty of up to \$200,000 and a daily penalty of \$25,000 for each day during which the offence continues.

POLICY OBJECTIVES

To ensure that a high standard of amenity is achieved within the Town of Bassendean.

To ensure that the provisions of the Town of Bassendean Local Planning Scheme No 10 are complied with.

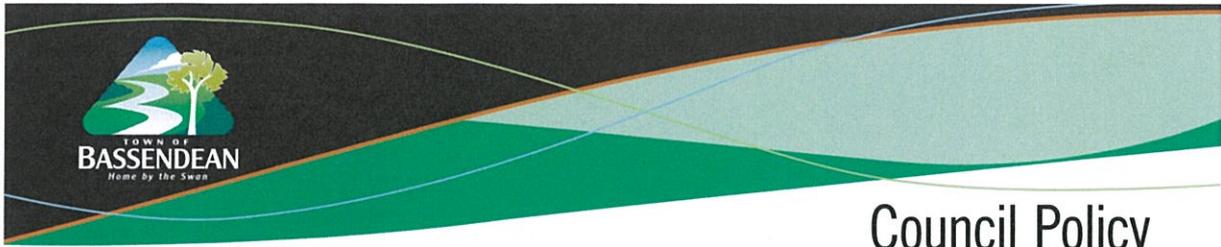
To ensure that all conditions of development approval and all works necessary to complete a development are carried out prior to occupation of a building.

REQUIREMENTS FOR RESIDENTIAL DEVELOPMENT

Grouped dwelling additions to existing single dwellings to form grouped dwelling sites

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With the agreement of Council's Manager Development Services, the new dwelling may be occupied by the resident of the existing house, subject to a written agreement being provided that all outstanding works will be completed within 3 months of occupation of the new dwelling.



Council Policy

A bond of \$2,000, or \$1,000 per dwelling unit and including the existing dwelling (whichever is the greater), is required prior to the issue of a Building Permit.

New Grouped or Multiple Dwellings

A bond of \$2,000, or \$1,000 per dwelling unit (whichever is the greater), is required prior to the issue of a Building Permit.

Temporary Retention of Existing Dwelling During Construction of New Dwelling

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Any development approval will be conditional upon the demolition of the existing dwelling within one month of occupation of the new dwelling.

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RETURN OF DEVELOPMENT BONDS

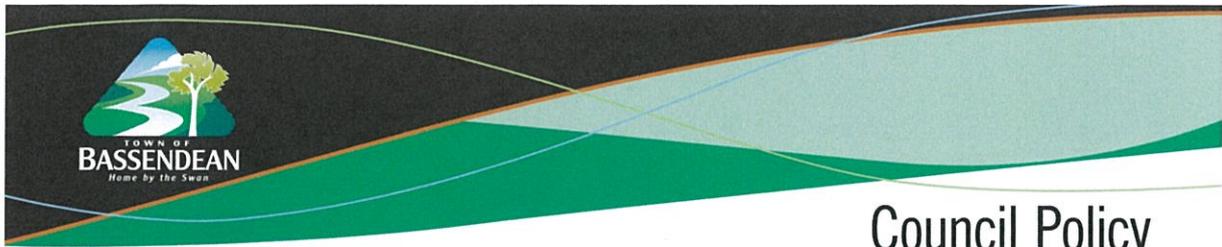
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Where an applicant requests a staged return of bond monies, the applicant shall supply detailed estimates of the bonded work undertaken.



Council Policy

ENFORCEMENT

Should a building be occupied in contravention of **the** Local Planning Scheme No.10, and the provisions of this policy, the Council will undertake enforcement action as allowed for by the Scheme.

Where Council officers become aware that a building is being occupied in contravention of the Scheme and this policy the following procedure will generally apply.

The owner of the property will be advised verbally that the premises is being occupied in contravention of the Town of Bassendean Local Planning Scheme No 10 and informed of the implications of the breach of **development approval**.

The above advice will be confirmed in writing and the owner will be instructed to advise Council in writing, how they intend to resolve the matter to the satisfaction of Council within 14 days. The letter must also specify the estimated time likely to complete the works to remove the breach of **development approval**.

If the owner of the property fails to indicate that the contravention to the Scheme will be addressed within a reasonable time, or fails to comply with a previous undertaking, a report on the issue will be presented to Council, which may result in **prosecution proceedings** being pursued.

Application

Responsibility for the implementation of this policy rests with the Mayor, Councillors, Council delegates and Chief Executive Officer. The Policy is to be reviewed every three years.

<p>Policy Type: Strategic Policy</p> <p>Responsible Officer: Chief Executive Officer and Manager Development Services</p>	<p>Link to Strategic Community Plan: Town Planning and Built Environment</p> <p>Last Reviewed: January 2018 V3</p> <p>Next Review due by: December 2020</p>
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ATTACHMENT NO. 2



Outcomes of Consultation

Third Party Appeal Rights in Planning

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1.0 In Brief

At its September 2017 meeting, State Council noted that there is increased support for the introduction of some form of Third Party Appeal Rights in Planning in Western Australia. State Council requested that:

1. Further consultation with members be undertaken on the various concerns and suggestions which were raised in response to WALGA's *Third Party Appeal Rights in Planning Discussion Paper* ([link](#)); and
2. A review of the various forms of third party appeal rights which were proposed by members to develop a preferred model.

Two workshops were held on 1 November 2017, and a webinar held on 9 November 2017. This paper will discuss the outcomes of the consultation.

2.0 Background

In December 2016, WALGA State Council resolved to undertake research on third party appeals around Australia and further consult with members regarding the current policy position. The Association prepared a discussion paper which provided background on the development of WALGA's current policy position and a review of the arguments both for and against third party appeals which was circulated to the Local Government sector for comment and feedback.

The feedback received from members was presented to State Council at its 8 September 2017 meeting, where it was resolved that (92.9/2017) -

1. *State Council notes that there is increased support for the introduction of some form of Third Party Appeal rights.*
2. *WALGA undertakes further consultation with members on Third Party Appeal Rights, including Elected Member workshops, discuss the various concerns and suggestions raised in response to the discussion paper, the form and scope of any such appeal right should include the appropriate jurisdiction including JDAPS, SAT and WAPC to determine a preferred model.*
3. *The findings to be distributed for comment and the Item then be reconsidered by State Council.*
4. *WALGA continue to advocate that an independent review of decision making within the WA planning system is required, including the roles and responsibilities of State and Local Government and other decision making agencies, Development Assessment Panels and the State Administrative Tribunal appeal process.*

3.0 Consultation

The submissions received on the discussion paper were closely divided between support for some form of Third Party Appeals and opposition to their introduction. Further, amongst the submissions in favour of Third Party Appeals, the level of support varied from limiting its application to specific circumstances, such as DAP decisions, to broad appeal rights similar to the Victorian system. The range of options and ideas presented were incredibly varied, and there was no clear consensus on the form and/or scope any such rights should take.

This feedback was collated into four options which broadly capture the range of responses in support of Third Party Appeals. These four options were then used to guide workshop discussions. The options discussed, from narrowest to most broad, are as follows:

- 1. Support the introduction of Third Party Appeal Rights for decisions made by Development Assessment Panels:** Under this system, third party appeals would be broadly similar to the New South Wales system ([link](#)) whereby appeal rights are limited to uses such as major developments where the development is high impact and possibly of state significance. This would include the ability to appeal amendments to an existing approval.
- 2. Support the introduction of Third Party Appeal Rights for decisions where discretion has been exercised under the R-Codes, Local Planning Policies and Local Planning Schemes:** Under this system, third party appeals would be broadly similar to the Tasmanian system ([link](#)) whereby third party appeals are limited to development applications where discretion has been exercised. This would include the ability to appeal an amendment to an existing approval.
- 3. Support the introduction of Third Party Appeal Right against development approvals:** Including all development application approvals made by Local Governments, JDAPs and the Perth DAP, MRA or WAPC. This would include appeal rights for affected neighbours and community groups for applications and the ability to appeal amendments to an existing approval.
- 4. Support the introduction of Third Party Appeal Rights against development approvals and/or the conditions or absence of conditions of an approval:** Under this system, third party appeals would be broadly similar to the Victorian system ([link](#)) whereby the provision of third party appeal rights cover most development applications and the use of, or lack of, any conditions being imposed. This would include the ability to appeal an amendment to an existing approval.
- 5. Other –** as a range of options were provided by members, any alternate versions to the above, or combination of the above could be proposed, including maintaining WALGA's current policy position of not supporting Third Party Appeal Rights.

It should be noted that any form of Third Party Appeals which could be introduced into the Western Australian planning system would need to include criteria that:

- Ensures that appeals are only made on valid planning grounds and are not made for commercial or vexatious reasons.
- Limits Third Party Appeals Rights to those parties which previously made a submission on that development application during the advertising period.
- Require a short window in which to appeal (for example 14 days).

The exact details of such criteria would need to be established before any system of Third Party Appeals in Planning is implemented, however the focus of the workshops was to discuss the possible scope and form any such appeal rights should take in order to determine a preferred model.

The workshops followed a 'market place' format, whereby each of the options had its own table and facilitator to guide discussion. Workshop participants circulated between tables so that they could discuss the strengths and weaknesses of each option. There was also an opportunity for participants to provide a 'fifth option' if they had a preferred model which was not captured by the four options provided. Webinar participants were presented and provided an opportunity to discuss each option, and were given the opportunity to present their own preferred models.

During the workshops, there was a general consensus on the benefits that the introduction of Third Party Appeal Rights would provide. These included:

- Greater accountability of decision-makers, including Local Government, Development Assessment Panels and the State;
- Greater transparency in the planning decision-making process;
- Improved consultation by applicants;
- Increased community confidence in the planning system and planning decisions; and
- More equity between applicants and appellants.

There was also general agreement on areas of concern should some form of Third Party Appeals be introduced. These included:

- Increased costs, in terms of both staff resources and financial requirements;
- More time required for a development to receive a planning approval in order to allow for third party appeals;
- Introduction of Third Party Appeal Rights would be counter to current efforts to streamline the planning process;
- Introduction of Third Party Appeal Rights would create uncertainty for the development industry;
- Removal of decision making power from Local Government;
- Raises community expectations which may not be met in practice;
- Creates an adversarial/litigious environment around planning decisions; and
- Introduction of Third Party Appeals does not address most of the underlying concerns regarding the current planning system.

It was also clear from the discussions that any system of Third Party Appeals would need to be carefully constructed and provide clear guidance on several issues, including:

- When and how a third party can lodge an appeal, and the types of appeals that would be supported;
- Ensuring appeals are only lodged for proper planning grounds, and not for vexatious or competitive purposes;
- Whether 'deemed-to-comply' decisions would be appealable; and
- Would third party appellants be provided some form of 'legal aid' to assist in lodging appeals, to keep the process from being cost prohibitive?

A complete list of comments for each option, as well as possible modifications and suggested 'Fifth Options' is included in **Attachment 1**.

After reviewing all of the options and discussing the advantages and disadvantages of each, participants were asked to vote for their preferred model. Voting was via secret ballot for workshop attendees and via confidential messaging for webinar participants. Participants were also asked to indicate whether they were Elected Members or Officers, so that the results could be captured separately.

3.1 Voting and Preferred Model

In total, 30 votes were cast by participants, 27 by officers and three by Elected Members.

A breakdown of the votes are as follows:

- **Option 1** = 9 votes
- **Option 2** = 6 votes
- **Option 3** = 3 votes (includes 2 Elected Member votes)
- **Option 4** = 1 vote (includes 1 Elected Member vote)
- **Option 5** = 11 votes

It must be noted that although Option 5 received the most votes, this option allowed members to provide their own Third Party Appeal Rights model. Subsequently, of the 11 votes for Option 5, six of these votes were in support of no Third Party Appeal Rights of any kind, while the remaining five votes were each for differing versions of Third Party Appeal rights which those participants supported.

As such, the option which received the greatest level of clear support was Option 1 in support of the introduction of Third Party Appeal Rights for decisions made by Development Assessment Panels. A summary of the most common remarks, both for and against, is provided below (for a complete list see Attachment 1).

Option 1: Third Party Appeal Rights for decisions made by Development Assessment Panels

For	Against
Local Government would be able to appeal a DAP decision and defend the merits of their policies and enforceability of their conditions.	Will still require increased staff and resources.
Addresses community concerns that decisions are being made 'removed' from the local community, leading to improved community confidence in the system.	Possibility that the minister could remove Elected Members from DAPs if Local Government can appeal anyway. Possible conflict of interest for Elected Member panellists.
More transparent process with more accountable DAP members, in both decision making and condition setting.	Elected Members may be pressured to initiate an appeal, rather than the community initiating an appeal.
Could allow for appeal on conditions that may have been removed from a RAR.	Reduces certainty in the decision making process.
A good first stage approach for the introduction of Third Party Appeal Rights - could be expanded later.	Possibility for more than one person to want to appeal - how to manage multiple appeals/appellants, and determine degree of impact?
Limits appeal rights to larger, more complex applications and would filter out 'smaller' impact applications which could potentially overburden system.	Only applies to DAP determinations, does not include applications for \$2-\$10 million that are determined by Council. If applicant does not opt in to DAPs then they avoid Third Party Appeal Rights.

May rarely be used in rural areas, is almost the status quo.	Could undermine the reason for DAPs being set up originally.
Likely that more applications will be decided by Council.	Adds another layer to an already complex system.

As can be seen, Option 1 generated strong arguments both for and against the introduction of Third Party Appeal Rights, even in limited scope.

4.0 Feedback Sought and Next Steps

As noted, the purpose of the consultation was not to develop the full details and criteria by which any system of Third Party Appeal Rights in Planning would operate, but to determine a preferred model for any proposed rights.

As such, the Association is requesting that members consider the following as the preferred model for Third Party Appeal Rights in Planning in Western Australia:

Support the introduction of Third Party Appeal Rights for decisions made by Development Assessment Panels

Members are requested to advise their support or otherwise of this model of Third Party Appeal Rights by Council Resolution, to be returned to the Association no later than **15 March 2018**.

Upon receipt of the resolutions, the outcome will be reported back to State Council.

Council resolutions can be sent to the Planning and Development Team via email at planning@walga.asn.au or by mail to WALGA directly at PO Box 1544, West Perth WA 6872, Attention Planning and Development Team.

Any questions or comments can be sent to the above email or call on 9213 2000 to discussion with a member of the Team.

5.0 Attachment 1: Third Party Appeals Workshops and Webinar collected comments

Workshops attendance: 40 Attendees, 35 Local Government Officers, and 5 Elected Members, from 25 Local Government areas including:

- City of Stirling
- City of Wanneroo
- City of Vincent
- City of Subiaco
- City of Fremantle
- City of Kalamunda
- City of Cockburn
- City of Belmont
- City of Bayswater
- City of South Perth
- City of Rockingham
- City of Mandurah
- City of Joondalup
- Town of Mosman Park
- Town of Cambridge
- Town of East Fremantle
- Town of Cottesloe
- Shire Wyndham East Kimberley
- Shire of Wongan
- Shire of Beverley
- Shire of Toodyay
- Shire of Serpentine Jarrahdale
- Shire of Peppermint Grove
- Shire of Albany
- Shire of Kalgoorlie-Boulder

Option 1 Comments

Pros

- Local Government would be able to appeal a JDAP decision + can defend the merits of their policies created (developed under construction) - and enforceability of the conditions.
- Could address community concerns that decisions are made 'removed' from the local community – more influence in the process.
- Confidence in the decision making process - reinstate community confidence in the decision making process - different at each Local Government depending on the make-up/location.
- More transparent process + more accountable JDAP members, in decision making + condition setting.
- Community members can appeal decisions.
- Form 2's included in the process - ability to appeal the amendment + the conditions setting.
- More applications will come back to council.
- Legal nexus between Local Government /State policies + decision making -> TPAR would give this.
- Spread the costs between the applicants/developers/appellants/third parties.
- Could appeal on conditions that may have been removed from a RAR - (i.e. cash-in-lieu conditions removed from RAR).
- Submissions of more compliant applications /outcomes of better developments -> possible costs and time savings for developers.
- 1st stage approach for TPAR - could be expanded later.
- Community satisfaction that JDAPs' can be appealable - feeling of loss of inclusion in the process.
- Community can appeal to JDAP to enable better transparency of decisions.

- Local Government can appeal a decision (particularly when RAR is overturned + conditions).
- JDAPs - can appeal any decisions that don't align with strategic vision.
- Being limited to those complex applications/complicated issues.
- Justify the argument against the development before an appeal can be lodged - direct impact needs to be shown.
- Direct impact needs to be shown.
- Good balance.
- Appellants would have to pay for their own costs.
- Takes out the decisions that are political.
- Applications could then just go to council in the \$2-\$10 range.
- Would filter out 'smaller' impact applications which could potentially overburden system.
- May be rarely used in rural areas - almost status quo – (is it even worth having?).
- Not supportive of Third Party Appeal Rights - BUT would reluctantly support this option.

Cons

- Only DAPs - not includes \$2-10 for council determinations.
- Political only fix.
- Form 2 process back into Local Government now - so decision could then be appealed? Even if Local Government originally didn't like it. Quantitative measure for whether it is then appealable.
- Resource hungry for all involved - particularly for Local Governments.
- Not all JDAP members would be brought to SAT - only Chair.
- If Local Government supports - but the item is appealed - Local Government would be dragged in.
- Lack of certainty in the decision making process.
- Possibility for more people to be attending an appeal - how to manage? Does it become a numbers game?
- Elected Members may be pressured to put in an appeal rather than the community initiating an Appeal.
- Possibility that the minister could remove Elected Members from JDAP if Local Government can appeal anyway.
- Conflict of interest for Elected Member who sits on the panel if the Local Government appeals it.
- Conditions - in or out?
- More applications will come back to council.
- Odd paradigm to be appeal a decision - Local Government appealing JDAP when they are making a decision on their behalf.
- Could undermine the whole reason for DAPs being set up in the beginning.
- Who would prepare the appeal? Independent? Or Local Government?
- What level of strategic oversight would be included - is it local or regional benefits.
- Multiple appeals? Degrees of appeal issues.
- State or regional policy provisions/what takes precedence?
- Connection to structure planning provisions within the system - 'due regard' less weight.
- Costs unknown.
- Uncertainty for development industry.

- Advertised applications only - would JDAP then have all applications as 'advertised'? Greenfield sites/deemed to comply.
- Resources of JDAP's - who submit the appeal and manages the process?
- Could undermine the purpose of DAPs.
- Could reduce the pool of quality DAP panel members.
- Another layer to add to the system.
- Don't get many DAP applications in smaller areas.
- If applicant does not opt in to DAPs then they avoid Third Party Appeal Rights.

Modifications

- Would have to review the \$ amount? - If they opt in then all should be considered for review.
- Change new Form 2 'amendment of conditions' changes to the Regulations would be needed.
- Clarify that it's back through SAT.
- All JDAP panellists would have to be part of the appeal.
- Removal of compulsory nature of all JDAP's.
- Clarify around 'petitions' versus 'individual' vs 'interest groups'.
- Modification to what JDAP actually looks at -> review of the criteria and \$ levels-> State/regional Significance.
- RAR's to council/RAR's to have a council input.
- RAR's to include departures from policy.
- Review of DAPS/Abolish DAPs.
- Structure planning regulations.
- Clarity around the levels/type of developments.
- Renew of JDAP \$\$ types -> what should be appealable.
- Criteria for the type of appellants & JDAP consideration of whether they can appeal – possible independent panel to review before it goes to an appeal.
- Joining of appeals (relates to above). Does it impact type of applicants?
- Only ones with discretion can be appealed, - this would need to be clarified/clearly defined. Is there a threshold of discretion significance?
- Danger of including optional thresholds would be a disincentive for applicants to go to DAPs.
- Possibly modify triggers for regional areas - either dollar value lowers or have size triggers such as XXX square metres.

Option 2

Pros

- Gives ability to challenge objectivity.
- Maximise compliant applications.
- May encourage early applicant engagement with neighbours.
- Limits number of appeals, compared to other models.
- Gives better understanding within council about their decisions.
- Holds councils accountable for their use of discretion.
- Reasonable balance between applicant cost and community involvement.
- Better discussion between neighbours.
- Improve the quality of decision making – accountability of decision makers.
- One step better than the Victorian system.
- Staged approach – 'dipping toe' in to Third Party Appeals.

- Improved criticisms/content of Policy.
- Provides the community with some assurance.
- If delegation is used less – people present to council – maybe reduce number of appeals.

Cons

- Lack of clarity on what is discretion.
- Does the nature of the planning system, with its broad discretion, make this model redundant?
- Poorly framed model - But could be improved if only utilised against discretion against state & local policy.
- It's undemocratic - lesser rights than an applicant.
- It's not the Victorian model.
- Doesn't foster orderly and proper planning.
- Resource intensive - cost, delays, certainty.
- Lack of clarity around what is a discretion.
- There is a large number of discretionary decisions.
- Resource issue for council/staff resources.
- Lack of clarity around who is an affected party.
- Undermines existing discretionary mechanisms.
- Doesn't allow for appeal against incorrect assessments – would still need to go to Supreme Court.
- Too open for abuse.
- Limit creativity – is deemed provisions always the best outcome?
- Flow-on effect to tighten up discretion, leading to more prescriptive outcomes.
- Not all discretionary decisions are advertised.
- Vexatious.
- Using a planning issue to hide the real reason for appeal – appeal for non-reason.
- Could lead to officers using their delegation less, give the responsibility back to council – 'unstreamlines' Planning/leads to more political bias.
- Doesn't apply to non-LG decision makers.
- Unless the application is advertised prior to the decision being made, it is unlikely that neighbours would even know to appeal.
- Local Governments use a lot of discretion - opens a lot of applications to Third Party Appeals.
- Discretion used to manage areas with difficult landscape (e.g. slope & overlooking) and areas such as beach from development - these are always contentious and TPAR will make them very difficult to deal with.
- Opens 'run of the mill' applications to Third Party Appeals, slows the process up.
- Cost of defending decisions to the Local Government will be large.

Modifications

- A clearer framework on where it applies (advertised, in policy, LDP).
- Excludes ability to appeal on amendment.
- Application of costs - to reduce vexatious appeals.
- Limited to applications that are advertised – appeals then limited to those who were advertised to.
- Appeal limited to people who are directly affected.

- Party lodging the appeal must demonstrate that they are adversely affected – decided by SAT.
- Applicant has to defend the proposal – council can opt out?
- Independent assessment body to determine if an appeal is valid.
- Defining what a significant variation is – this is a whole other topic of discussion.
- Categories? Thresholds?
- Scope needs to be constrained – SAT should only assess the matter of discretion.

Option 3

Pros

- MRA + WAPC inclusion -> (Local Government would have some involvement) in State planning decisions with some access to decision making process.
- Community opportunity to be involved with/on WAPC/State Gov decisions.
- Limits the number of vexatious issues (compared with Option 4).
- Encourage JDAPs to give greater consideration to community value/local planning policies.
- Foster orderly and proper planning.
- Faster compliant applications (reduce time for staff) and costs.
- Local Governments made more accountable.
- MRA + WAPC and JDAP - decision makers more accountable.
- Consistent approach to "accountability". -> Both State and Local.
- Clear to the community as to what can be appealed -> every decision made rather than limited value/size?
- Should improve quality of applications
- Should improve planning processes - consultation etc., - clear strategic direction, - education of community.

Cons

- Broad in scale and range. No understanding of what the impact may be.
- Resourcing the system.
- The inclusion of amendments makes the model more complicated.
- Would require robust assessment process for determining who has Third Party Appeal Rights. Who has rights (directly affected/adjacent to?) to make submission? [formal system to determine who has third party appeal rights]
- Wonder about costs? Could have a profound impact on Local Government -> additional costs on planning + development. All costs -> substantial!
- Overlap with Building Act?
- What is the point of appealing deemed to comply?
- Not Victorian model.
- Not 'equal rights' between applicants and 3rd parties, same access to the system.
- On 'planning grounds'.
- Development uncertainty.
- Everything could go to SAT.
- Costs of going to appeal for third party
- Equity of access.

Modifications

- Deemed to comply out.
- Clear criteria - applicable/clearly understood -> 'grounds and rights'.
- Clearer system for determining appeal rights (right to appeal decisions...).
- SAT -> would need someone to assess 'rights'/leave to appeal, - 3 member panel review?
- What about the costs? Who pays? Should you award cost against? Need to consider nature of Third party appellant.
- Education on what is 'valid planning grounds'.
- Advocacy 'legal aid'.
- Modest fee, 'to be determined'.
- Accessible/understandable/affordable - [shouldn't be free].
- Seek advice 'practitioner' [independent bureau to provide advice to appellant].
- Multiple third parties -> who takes precedence? -> how do you determine priority of appellants?
- Should be some criteria on what 'value' of development could be (rather than everything).

OPTION 4

Pros

- Gives community absolute + complete community engagement.
- *Will/'Might' get better outcome if issues surface that weren't previously considered.
- **Will' (above) improve the whole process (more considered) - circumvent approvals that shouldn't be given.
- That may go beyond those who have already made a decision.
- Considers community values & 'buy-in' to ultimate decision.
- Enables community to engage with the planning system at a level they can relate to.
- Makes developer more accountable about what is presented.
- It will hold the decision makers accountable.
- Could address the disillusionment of the community - those that don't feel they have a 'say' – not aware of process until decision has been made.
- Allows community the option to engage where comfortable.
- Assessment process will improve.
- Didactic role with the community - (they) gain understanding of process and are involved.
- Brings the 'local' into the current JDAP system. Makes JDAP accountable to the community.
- Would be positive to have a system that allows appellant to be 'heard'.
- Councillors (EM) would become better informed - be a part of the planning process (proper justification).
- Acknowledge community involvement in planning and policy development.
- Only legal nexus available to the individual (third party).
- Disengaged in the development process.
- Makes the system accountable/transparent.
- Costs = initial spike for 2 years, then it flattens out so only 'early' costs - will get more and consistent compliant DA applications.
- Leave provisions would 'weed' out the vexatious claims. Third Party Appeal Rights allows there to be equally between applicants and appellants.
- Appeal is the tail end of the process - community should be at the start.

- Provides 'balance' as some approvals are made as can't resource going to SAT.
- No confusion about what can be appealed.
- Applicant will pay more attention to application.
- Makes developer more accountable at the start with community.
- Make a decision making body more careful of their process - i.e. not risk their reputation.
- Lawyers/expert witnesses will do well.
- Merit in someone appealing when new information comes forth.
- Benefits to the community - can appeal anything - currently seen as silent.
- Allowing the community to have their say on issues for the greater good even if not overly affected.
- Encourage planners, JDAPs etc., to be more transparent - i.e. an appellant would be more aware of what to appeal.
- Bringing it in as Victorian model gets through the pain of strain - however equitable.
- Should be able to appeal against amendments (e.g. form 2) - minor amendments.

Cons

- Resources required to appeal a decision particularly conditions - would require extra staff/people.
- Has potential to frustrate 'all' development.
- Has potential to delay decisions.
- Adds cost to development.
- Planning system is already guided by community.
- Potentially flawed as only those who have already had an opportunity to contribute can appeal.
- Becomes a neighbourhood dispute or forum for stakeholder to 'vent' and address 'other' issues rather than 'planning'.
- Conditions - becomes very subjective about what is a valid or invalid appeal (justification) e.g. amenity, e.g. not to do with the structure more about the use of the structure.
- So many conditions are 'standard'.
- No option for a 'deemed to comply' examples shouldn't be able to be appealed.
- No certainty for a developer.
- Could allow appellants more 'creative' in their appeals.
- Takes power away from Local Government.
- Decisions that are made in good faith are challenged.
- Could act as a 'policing' option - a pressure to act differently - don't always have the threat of appeal hanging over head.
- Admission that the current system is flawed - more people saying that they are voiceless. Does that mean policies currently developed don't reflect?
- Higher level planning is currently strong and represents communities views - have due regard to Community.
- Application against the DA.
- All decisions would be advertised.
- Why another level of appeal for decisions - timing/costs/etc.?
- Logistics of how community would engage in the DA process.
- Additional costs to SAT as well as LG + community - What are the resources going to be needed?
- Large developers lodging appeals to edge out smaller developers - availability to \$.

- Developers likely to pass on any potential costs to the end user/quality of products/unexpected Consequences.
- Generally goes against the whole streamlining of the planning process.
- Concerns around raising expectations of community that they can change something they can't.
- If you place this much pressure at the end, does it detract from the strategic planning at the start?
- Takes away the applicants rights in some instances.
- Creates a litigious environment.
- Community is represented by council - therefore decisions by councils should not be included.
- What about non-discretionary decisions? Goes against broader strategic aims.
- Considering non-planning issues to satisfy community.
- Implications of costs/efficiencies - massive cost to the system.
- Implications of third parties appealing after the fact who haven't objected already - do they actually have a valid reason for appeal?
- How long is the review period going to be? Longer?
- Loss of certainty for applicants - approval doesn't always mean approval with appeals.
- Inequitable - e.g. affluent areas may have more \$\$ ability to initiate appeals.
- May attract the attention of large community groups. (Community involvement vs. activism).
- Reactive to the 'short term' rather than taking a positive approach early in the strategic process.
- Unrealistically raising community expectations to fully change a decision.
- What about multiple third parties?
- Who is directly affect? Direct impact?
- The case by case nature of 'carte blanche' approach.
- Concern around third parties coming up with conditions - e.g. non-planning basis.
- Contradictory to moves towards streamlining planning processes.
- From nothing to fully appealable is a stretch - massive shift.
- Elongated process currently don't support satisfaction with outcomes, i.e. tokenistic.
- Not a problem with the system, it's the perception of the system.
- Developers 'may' put up 'best of' hoping something will slip through.
- Local Government becoming too conservative.
- End up with a lot of 'deemed to comply' - doesn't always result in good planning outcomes.
- To open to abuse.
- Could stifle innovation in design.
- Creates an atmosphere of distrust in decision makers.
- Puts into question the whole consultation process.

Modifications

- Winding back - e.g. not including conditions in the appealable rights - i.e. standard planning conditions that protect amenity e.g. 'stormwater condition'.
- Require a balance between cost & community's right to appeal - this option goes too far.
- Requires the ability to award cost.
- The paper base (document trail) would remain the key.

- Local Government gets to appeal against WAPC decisions on sub-divisions that affect the locality/finances/budget.
- Any third party appellant may do so in their own right (i.e. without lawyers).
- Perhaps a combination of experts & community/individual.
- More decisions to be published to keep community more informed & transparent.
- Third part appeal parameters as long as better planning outcomes.
- Where there is a decision made? Connect the appellant & applicant with the decision maker stepping back.
- Mediation rather than appeal.
- [Triangle diagram with decision maker/applicant/appellant as points] :-
 - When decision is made in the affirmative, do not defend the decision, the applicant has to defend.
 - If successful costs are borne by the decision maker.
 - Leads to correct decisions being made in the first instance (sound).
- Decision maker needs to be able to set the parameters.
- Should be able to appeal against amendments.
- Creates even greater uncertainty, especially at the strategic level.
- Don't know how people will use TPAR - the cost/time associated are unknown - So fear of unknown and broadening scope increases uncertainty.

OPTION 5

- No Third Party Appeals but improve the existing decision making process. E.g. (below):
 - Compulsory training for decision makers in planning;
 - Better policy basis - should be included;
 - scheme provisions consistency;
 - community education in planning;
 - transport planning at State level to establish planning framework;
 - upfront consultation or draft of scheme + LP Strategies -(scheme as a community document);
 - Scheme amendments - what will it look like - honest representation.
- New Options (below)
 - Option 2 + Conditions + all agencies (decision makers).
 - Option 2 + all other planning decisions including subdivision, rezoning, structure plans, LDPs WITH the following features (below):
 - 21 days to submit to SAT appeal;
 - SAT refers to decision making to applicant, decision maker and consultation agencies;
 - 21 days to respond;
 - appeal on the papers only;
 - total time is set as per original approval;
 - SAT fresh decision.
- Option- for decisions made under delegation by council. - SAT consider reconsider by council. - Also could apply to private certifiers' discussion in the future (not 1-4).
- Option 1 + SAT decisions - Minister (bodies not elevated by community).
- Option 2 - Discretion however third party needs to demonstrate that they directly impacted and how the use of discretion impacted on the appellant.
- Improved consultation will address a lot of community concerns.

- Status Quo OR Option 1 with modified triggers for country areas.
- Would Option 1 really matter for country areas?
- SAT members would require better training on planning matters.

Parked Items

- Give LSP the force and effect of the Scheme in Development zones.
- Planning Ombudsman -> for small scale objections.
- Review of the planning system (independent).
- More education of decision makers on their role in the planning decision making process.
- Define what 'due regard' is.
- Give reasons how an alternative achieves the policy outcomes.
- Link between strategic directions (objectives) and decisions.



Third Party Appeal Rights in Planning **Discussion Paper**

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1.0 In Brief

At its December 2016 meeting, State Council requested a review of the WALGA Policy position in relation to Third Party Appeal Rights for planning decisions. The decision making environment has changed since the WALGA made its policy position in 2008, and therefore a review of the current position is warranted.

This paper provides background on the development of WALGA's current policy position and a review of the arguments both for and against third party appeals. A literature review was carried out to establish the basis of each argument.

2.0 Background

2.1 Background to WALGA Policy Position

Unlike most of the other jurisdictions in Australia, Western Australia is unique in that no Third Party Appeal Rights exist under the *Planning and Development Act 2005*, although in the past some Local Government planning schemes allowed them. The last Local Government to allow Third Party Appeals was the City of Albany, however with the introduction of the City's new local planning scheme in 2014, which removed Third Party Appeal Rights, there is no longer any Third Party Appeal Rights for planning in Western Australia.

The introduction of Third Party Appeal Rights has been considered by member Councils on several occasions over the last few decades. For instance, Third Party Appeal Rights were considered in 2001 during debate on the new planning appeal system and again the following year during the State Government's consolidation and development of the new *Planning and Development Legislation*.

In 2007, a Private Member's Bill was proposed by Dr Janet Woollard, MLA Member for Alfred Cove, which was modeled on Victoria's *Planning and Development Act 1987*. The justification for the introduction of the Bill was primarily based on Western Australia being the only state without third party appeals and failed to acknowledge that significant differences exist between the Victorian and Western Australian planning system.

At the February 2008 meeting of State Council, WALGA formed a Policy position against the introduction of Third Party Appeal Rights. The report noted that the main arguments against the proposal were:

1. The current strategic and statutory planning processes, and consideration of applications by Councils, already takes into account the views of affected parties and the community generally;
2. Third party appeals could be lodged because of vexatious or commercial interests, not because of genuine planning matters;
3. Such appeals would cause significant delays and additional costs for development, as even lodgment of an appeal would put a development on hold;

4. Additional planning appeals would place a further burden on already stretched Local Government resources. Local Governments would incur additional costs for new administrative steps in processing development applications, preparing for and responding to appeals lodged with the State Administrative Appeals Tribunal (SAT) and legal representation. This is particularly the case since the establishment of the State Administrative Tribunal which has seen planning appeals become more legalistic, costly and resource intensive for Local Governments.

Additionally, the existing State Administrative Tribunal (SAT) system was considered efficient at reconsidering the merits of planning applications and there are currently four ways in which a third party may participate in a planning matter being considered by SAT. These are:

- Being called as a witness by the respondent;
- Making a submission under section 242 of the *Planning and Development Act 2005*;
- Intervening under section 37(3) of the State Administrative Tribunal Act 2004, whereby the third party acquires rights and responsibilities as a party a party under the act; and
- Possible participation in mediation.
(SAT)

Subsequently, State Council resolved in February 2008 (326.1/2008), the following position:

That:

1. the member for Alfred Cove, Dr Janet Woollard MLA and the Minister for Planning and Development, Hon Alannah MacTiernan be advised of the inaccuracies and duplications contained in the proposed Planning and Development Amendment (Third Party Appeals) Bill 2007; and
2. as there is no justification for the proposed legislation and there are significant negative implications for Local Government, industry and the community, Local Government continues to be opposed to the introduction of third party appeal rights in Western Australia.

While the above arguments for WALGA's position remain, the decision making environment in WA has changed since the formation of the position in 2008 with changes to legislation arising from the State's planning reform 'Planning Makes it Happen: Phases 1 and 2', and the introduction of Development Assessment Panels (DAPs).

2.2 Changes to the Planning Framework

Historically Local Government in Western Australia has been the main authority tasked with decision-making for development applications, under delegation arrangements from the Western Australian Planning Commission (WAPC).

Since 2009 a number of changes have been implemented to the planning framework, directly impacting on the decision-making powers of Local Government, including:

- The establishment of the Metropolitan Redevelopment Authority (MRA);
- Changes to Structure Planning processes;
- Changes to section 76 of the *Planning and Development Act 2005* to give the Minister for Planning the power to order a Local Government to prepare or adopt an amendment to a local planning scheme;
- The introduction of Improvement Schemes and Plans; and
- The introduction of Development Assessment Panels (DAPs).
- The introduction of 'Deemed Provisions' for local planning schemes in the *Planning and Development (Local Planning Schemes) Regulations 2015*;

Given the substantial changes that have occurred within the decision-making environment in Western Australia, and the recent community concerns over the creation of the DAP system to determine development applications in place of Local Governments, it is appropriate to initiate a discussion on the possible role of Third Party Appeal Rights in the Western Australian planning system.

3.0 Current Third Party Appeal Rights in Australia

Third party appeal rights vary by state, with no common 'best practice'. Nationally, the Development Assessment Forum (DAF) a federal government advisory body, provides a Leading Practice Model, which sets out 'tracks' for different development assessment processes.

3.1 Development Assessment Forum (DAF)

The Development Assessment Forum (DAF) was formed in 1998 to bring key stakeholders together to reach agreement on ways to streamline the processes used for development approval while preserving high quality decision making. The DAF published its *Leading Practice Model for Development Assessment* in March 2005, which aims to provide a blueprint for jurisdictions to create a simpler, more effective approach to development assessment. The practice model achieves this by defining ten leading practices that a development assessment system should exhibit, and applying the ten leading practices to six development assessment pathways or tracks.

With regards to Third Party Appeal Rights, DAF's Leading Practice Model states that "*opportunities for third-party appeals should not be provided where applications are wholly assessed against objective rules and tests*", and that "*opportunities for third-party appeals may be provided in limited other cases*". In this way, the DAF model hopes to avoid unnecessary review where objective criteria has already been established by a consultative process. Elements of DAF's *Leading Practice Model for Development Assessment* are used in some jurisdictions.

3.2 Third Party Appeal Rights by State and Territory

State/Territory	Scope of Third Party Appeal Rights	Number & effects of Third Party Appeal Rights (cost, timeframes, etc.)
New South Wales	Appeal rights limited to uses such as major developments where the development is high impact and possibly of state significance ⁱ . A third party objector can bring a merit based appeal in the Land and Environmental Court against a decision to grant development consent only if the development is designated development (development listed as such in the EP & A Regulation).	Third parties have 28 days to lodge an appeal. Court cases can last several days, or weeks for complex cases.
South Australia	Appeal rights limited to 'Category 3' ⁱⁱⁱ developments. A third party who makes a written representation on a proposed Category 3 development has a right to appeal against that decision or any conditions attached to it. A person who disagrees with a decision of a relevant authority, but is a third party who has not taken the opportunity to lodge a written representation during the public comment period is not entitled to appeal.	The number of all appeals lodge with the ERD Court trends between 191-200 appeals per year, with 78% of appeals lodged withdrawn or resolved without going to a full hearing. (LGA SA 2014).
Queensland	DAF based - Appeal rights limited to 'impact assessable' ⁱⁱⁱⁱ developments. The person making the third party appeal must have lodged a 'properly made submission' with the local council within the public notification period for the development application.	No information available.
Tasmania	Broad appeal rights, but third parties can only object to a planning application if it is a 'discretionary' application, which must be advertised. To appeal the third party must have lodged a representation (objection) to an application within the 14-day advertising period, and may lodge an appeal with the tribunal within 14-days of receiving notice of the council decision.	For the 2013-2014 year 117 appeals in total were lodged under the Land Use Planning and Approvals Act (RMPAT 2014) Cost to lodge an appeal with the Resource Management and Planning Appeal Tribunal is \$350, but if appeal proceeds to full hearing, cost for lawyers and expert witnesses may be incurred (RMPAT). RMPAT has 90 days to complete an appeal (RMPAT 2014).
Northern Territory	Appeal rights limited to developments in residential zones, unless the land is adjacent to or opposite a residential zone, in limited circumstances. Third party appeal rights apply only to those persons who made submissions on a Development Application.	No information available
Australian Capital Territory	DAF based - Appeal rights limited to available for those merit or impact track ^{iv} development applications that went through the major notification process, unless exempt by regulation.	Third party appellants must lodge appeals no later than four weeks after the decision was made.

		For the 2015-2016 year 22 applications were received in total for administrative review under Planning and Development. The cost to apply for review is \$325 and cases are subject to 120 day limit (ACAT 2016)
Victoria	Broad appeal rights. Provision of third party appeal rights cover most developments in Victoria. To appeal the third party must have lodged an objection to an application within the advertising period. Anyone who may be affected can make an objection, objectors do not have to show they will be personally affected and may object on broad public interest issues. If, for good reason, a person was unable to lodge an objection, may be able to apply for a review of the decision if VCAT ^v gives permission.	For the 2014/2015 year 4% (2,292) of development applications had a review lodged with VCAT. Hurley et al (2013) found appeals from third parties accounted for 19% of VCAT cases. An objector who lodged an objection in writing must make an application for review (appeal) within 21 days of decision to grant a permit.

i – Examples include chemical factories, large-scale breweries, resource projects such as coal mines and quarries, and turf farms.

ii - In *Category 3* development applications, notice must be given to adjacent owners and occupiers as well as those considered by the relevant authority to be significantly affected by the proposed development. Also, the general public must be notified by publication of a notice in a local or state-wide newspaper.

iii – Act or local planning instruments will dictate the category of a development.

iv – Assessment tracks which are to be followed for the assessment of different kinds of development proposals include; 'merit track' for development proposals that can be assessed using rules and criteria in the code that applies to the proposals, and 'impact track' for development proposals that can be assessed using rules and criteria in the code that to the proposals, relevant environmental impact statements and the statement of strategic directions.

v- Victoria Civil and Administrative Tribunal

3.3 Western Australia State Government Position

In its 2015 report on the review of the *Planning and Development (Development Assessment Panels) Regulations 2011*, the Western Australia Legislative Council noted that the State's position on Third Party Appeal Rights was set out on 3 June 2009, by the then Minister for Child Protection, representing the Minister for Planning, who advised the Legislative Council of the Government's position on third party appeals:

The Government does not currently have any plans to introduce third party appeal rights in Western Australia.

The Government does not believe that the introduction of third party appeal rights in Western Australia is consistent with current attempts to simplify and streamline the planning approvals process. The Planning and Development Act 2005 requires public consultation in relation to the planning framework established in local and regional areas, with public consultation mandated for local and region planning scheme amendments, as well as State Planning Policies, local planning policies and structure plans. As such, the Government believes that the current planning process provides sufficient opportunity for the local community to have a say in what happens in their neighbourhoods. (p.31)

The report states that this remains the Government's policy.

3.4 Judicial Review

The ability for third parties to appeal the process behind an administrative planning decision via judicial review is open in each jurisdiction in Australia, even where merit based Third Party Appeal Rights are present. Judicial reviews are heard by a Judge in a Court of Law, and are a review of the legality of the decisions under challenge, not a review of the merits of a development. This process has a much narrower focus than a planning review, in that the question that the Court is concerned with is about the process and manner in which the decision was made, as opposed to was the decision the correct or best outcome.

To date, the recourse for an affected party in Western Australia has been to pursue the matter through the Supreme Court as a matter of Judicial Review. Over the past two years, there appears to have been an increase in the number of individuals and Councils applying for Judicial Review, most notably *Nairn v Metro-Central JDAP* where the approval of a mixed use tower was disallowed. The continual perusal of such Judicial Reviews may not be in the long term best interest of communities, as they are prohibitively expensive and is focused on the decision making process, rather than the outcome.

4.0 Arguments For and Against Third Party Appeal Rights

A literature review was conducted to establish the most common arguments both for and against third party appeals as well as examine the issues and benefits that may arise from their use. Victoria has the broadest third party appeal rights, and therefore much of the current literature examining third party appeals is focused on that state's experience.

4.1 Arguments Against Third Party Appeals

Legitimate interest and third party appeals – Many authors note that the traditional view of appeal rights holds that the only parties with a direct interest in a development application are the applicant and the responsible authority; meaning property owners are the only ones who should have the right to appeal over their land and that they should be able to use their property with minimal external interference. Therefore, Third Party Appeal Rights, if not clearly defined, may allow individuals to take part in planning decisions in which they have no direct interest. This can lead to opposition on non planning grounds, rather than because of an issue with the merit or substance of the proposal (Ellis2006) (Willey 2006) (Hurley et al 2011).

Loss of representation – This arguments states that the appeals process shifts decision making for development applications away from Local Government and therefore away from the locally elected representation. This shift may reduce accountability and transparency in the planning decisions process for the local community. A large amount of decision making power has been removed from Local Government with the introduction of DAPs. It is argued that Third Party Appeal Rights further weaken the representative nature of Local Government decision making (Ellis 2006) (Willey 2006) (Hurley et al 2011).

Current planning processes provide opportunities to participate – A strong argument against Third Party Appeal Rights is that proactive public engagement, participation and collaboration in policy formation and strategic planning is preferable as these processes focus on higher order engagement which leads to better policy and greater certainty in the process and outcome. Third party appeals tend to encourage adversarial rather than collaborative debate on planning issues. The effect of Third Party Appeal Rights may be to promote short-term decision making and could create planning outcomes that are not in the longer term interest of the community (Ellis 2006) (Willey 2006) (Hurley et al 2011) (Cook et al 2012) (Hurley et al 2013).

Not representative of the broader community- The idea of equity of access to planning decisions is often cited in the literature as a justification for third party appeal rights, however some research reviewed found that the majority of people lodging third party appeals come from a well-organised, well-connected and well-resourced segment of the community, which raises the question of how representative these objections are of the wider community's views (Ellis 2006) (Willey 2006) (Cook et al 2012) (Hurley et al 2013). For example, in their review of Third Party Appeals against multi-unit developments in Victoria, Hurley et al (2013) found that the number of objections against applications increase in more socio-economically advantaged areas, which indicates that developments in these areas are facing more organised community resistance, either by greater propensity for individuals to object, or by effective resident mobilisation (Hurley et al (2013) p.4).

Impact on the decision making process – Researchers argue that the introduction of Third Party Appeal Rights will lead to increased cost and delays, and the possibility of appeals being lodged because of vexatious or commercial interests, not because of genuine planning matters. As a result, the planning approval processes will experience delays which will create inefficiency, uncertainty, increased costs, and could ultimately act as a brake on investment and economic growth (Ellis 2006) (Willey 2006) (Hurley et al 2011).

Failure to determine/Deemed Refusal – While researching multi-unit development in Victoria, Cook et al (2012) found that as the volume of objections to a development application increases, so too does the likelihood of appeal to VCAT. Additionally, failure to determine (where council fails to render a decision within the prescribed timeframes, equivalent to deemed refusal in Western Australia) cases are strongly related to high objection numbers. Therefore, applications which receive the highest number of objections are also the applications which are most likely to be appealed, and are also most likely to be the applications which Council fails to determine. While failures to determine may be instances where the local authority is unable to process applications due to resource constraints, the results and anecdotal evidence suggest that often these cases involve the authority declining to make a decision where there is significant resident opposition (Cook et al (2012) p.39).

Turning planning into a 'numbers game' – Some researchers noted the existence of third party appeals may lead members of the community to believe that the number of objections in and of itself is a way of engaging in the planning process and prevent developments they do not support (Planning Institute of Australia (NSW Division) 2012) (Hurley et al 2013). However, in order to be considered by the responsible authority, an objection needs to be about a valid planning concern. As a result the community's expectations about how it can influence the planning system may not be met.

4.2 Arguments For Third Party Appeals

Legitimate interest – A strong argument is made that neighbouring landowners, occupiers and members of the community often have a very legitimate interest in whether development occurs and the form of that development, as any new development has impacts on existing neighbourhood character, amenity, infrastructure and property values. Equity in the development process is also important, if an applicant has rights of appeal, the argument is that a third party should also have right of appeal to maintain equity. Without Third Party Appeal Rights the wider community is removed as a stakeholder (Ellis 2006) (Willey 2006) (Trenorden 2009).

Improved participation and decision making – It is often noted that planning is a communicative process which needs to embrace the public in meaningful ways. Third party appeals would have the potential to increase avenues for public engagement with planning, and may deliver better planning decisions as an empowered public, with increased opportunities for participation, can result in improved planning outcomes. Therefore, Third Party Appeal Rights affords the combination of a broader base of input, increased debate and the ability for 'local knowledge' to inform planning approvals which can lead to improved outcomes (Morris 2005) (Ellis 2006) (Willey 2006). As an example, Willey (2006) notes that it is comparatively rare in Victoria for an objector to completely succeed in overturning a decision, but often their involvement is considered to lead to a better planning decision.

Improved consultation – Third party appeal rights may encourage developers to deal with the local community in a more engaging manner and places pressure to concede or improve design elements where appropriate and reasonable to do so (Willey 2006).

Improved transparency – Applicant appeals are a means by which decision-making can be checked and provide property owners a recourse to an independent review body as a safeguard against inconsistent decisions. An argument for Third Party Appeal Rights is that they provide the same opportunity for third parties to scrutinise and challenge decision-making, thus keeping decision-makers accountable. Additionally, Third Party Appeal Rights are purported to discourage corrupt behaviour between developers and local government (Morris 2005) (Willey 2006) (Trenorden 2009).

4.3 Competing Viewpoints

There are strong arguments both for and against third party appeals. The research notes that which side of the argument one lands on often has a great deal to do with the planning culture in which they are operating (Willey 2006) (Trenorden 2009). In Victoria, where third party appeals have become an embedded practice, most stakeholders are supportive of the practice, even while acknowledging negative aspects may be associated with them.

In contrast in places such as Western Australia where third party appeal rights are not a part of the planning culture, views tend to focus predominately on the negative aspects of Third Party Appeal Rights. For example, a concern often expressed is that allowing third party appeals would lead to a 'flood' of appeals, however evidence from Victoria shows that Third Party Appeals account for only 19% of VCAT cases (Hurley et al 2013). So while allowing Third Party Appeals would lead to an increase in appeals, the effect may be overemphasized.

In a 2009 paper, Judge Christine Trenorden, Senior Judge of the Environment, Resources & Development Court in South Australia, argued that the issue of whether Third Party Appeal Rights are necessary may be resolved by the answers to the following questions:

1. *Does the community have confidence that the policy document for a particular area sufficiently describes the desired future character, and contains a comprehensive set of objectives and principles for development in the area, relevant to the local context including the environment?*
2. *Does the community have confidence in the decision-makers to make a decision in the best interests of the community now and in the future?*
3. *Is there a transparency about the decision-making?*
4. *Is there a guarantee that the decision-makers will assess the development in the context of the desired future character, objectives and principles of development for the area (assuming the adequacy of these policy statements)?*
(Trenorden, 2009 p. 13)

The questions put forward by Judge Trenorden speak not to the capability of the decision maker to determine an application, but the “community’s confidence” in their ability. These are not necessarily the same thing. When the decision-maker is appointed by an external body, the community’s confidence in them to make a decision in the best interests of the community now and in the future is diminished. Any lack of transparency around the decision-making process further erodes confidence.

5.0 Issues to Consider

5.1 Criteria for Third Party Appeal Rights in other States

After considering the arguments for and against Third Party Appeal Rights, as well as Judge Trenorden’s questions on determining the necessity of such rights, there may be further debate on what limitations, if any, should be placed on Third Party Appeal Rights were they to be introduced. For instance, it may be that Third Party Appeals be limited to only certain types of applications involving the use of discretionary powers, or instances where the decision-maker has advertised the development. If this were to be the case, then Third Party Appeal Rights would apply to determinations made by both Local Government and DAPs.

Based on the summary of Third Party Appeals processes that exist in other jurisdictions, the primary criteria for allowing Third Party Appeal Rights include:

- Excluding vexatious or commercial interests appeals, and any appeals made on none-genuine planning matters,
- Excluding appeals by those parties who did not previously make a submission.
- Excluding appeals where an application meets ‘deem-to-comply’ requirements, and no discretion has been excised.
- Excluding appeals for some cases of minor development.
- Having a short window in which to appeal (example 14 days).

5.2 Implications for Local Government

Whilst the introduction of third party appeal rights would give the community the ability to appeal decisions made by DAPs, it would also result in the majority of appeals being lodged against decisions made by Local Government. Staff would be impacted as officers would require additional time to prepare for and attend third party appeals, which would likely have an effect on the ability of Local Government officers to complete development application assessment within the required statutory timeframes.

Additional resources would likely be required to administer, resource and potentially engage legal counsel to defend these decisions and this would most likely create an additional financial burden for Local Government. Without proper resources, such a situation could lead to delays in making planning decisions, which in turn, would create inefficiency, uncertainty, increased costs, and could ultimately act as a brake on investment and economic growth.

While limitations could be placed on the type and scope of Third Party Appeal Rights, it is likely that any system which allows Third Party Appeals would result in increased workload and cost for Local Government.

6.0 Conclusion – What is right for Western Australia?

Since WALGA formulated its policy position on Third Party Appeal Rights in 2008, there have been significant changes to the planning system, including the introduction of DAPs as the decision-making body for a range of development applications. By removing the decision-making abilities of democratically elected Local Government representatives and placing it in the hands of appointed panel members, the general public's confidence that planning decisions are being made that are in the best interests of the community has been substantially reduced. This loss of confidence coincides with increased anxiety amongst the community over the changing amenity of suburbs due to increasing density and population pressures.

Third Party Appeal Rights are a complex issue, with strong arguments both for and against their implementation. Property rights must be balanced against the community's rights of participation, and the desire for transparency and accountability in government and decision-making bodies. Local Government must also consider the likely impacts in terms of cost, resourcing and the timely delivery of services.

6.1 Feedback Sought

In order to help WALGA review its position, feedback from the Local Government planning community and Elected members is sought. In light of the information presented, and considering the possible implications for Local Government if some form of Third Party Appeal Rights were to be adopted, WALGA welcomes any feedback or comments on the topic including:

- Would you be in favour of the introduction of some form of Third Party Appeal Rights in Western Australia? Why or Why not?
- Do you feel your Council is likely to support some form of Third Party Appeal Rights?
- Any other comments relating to Third Party Appeal Rights.

Feedback can be sent to planning@walga.asn.au or on 9213 2000 to discuss with one of the Planning and Development Team.

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10.6 Third Party Appeal Rights in Planning – WALGA Discussion Paper (Ref: DABC/LEGLTN/1 - Christian Buttle, Acting Manager Development Services)

APPLICATION

To give consideration to a discussion paper prepared by the Western Australian Local Government Association (WALGA) titled “Third Party Appeal Rights in Planning”.

COUNCIL RESOLUTION/OFFICER RECOMMENDATION — ITEM 10.6

OCM – 11/06/17 MOVED Cr Pule, Seconded Cr Bridges, that in response to the invitation by WALGA to provide input into the topic of Third Party Appeals in Planning, Council advises WALGA that the Town of Bassendean supports in principle the introduction of some form of Third Party Appeal Right being introduced in Western Australia, subject to any such arrangement giving consideration to the following:

1. Excluding vexatious or commercial interest appeals, and any appeals made on none-genuine planning matters;
2. Degree of involvement (or exclusion) in the appeals by those parties who did not previously make a submission;
3. Excluding appeals where an application meets ‘deemed-to-comply’ requirements, and no discretion has been exercised;
4. Excluding appeals for some cases of minor development (to be determined); and
5. Having a short window in which to appeal (timeframe to be determined).

CARRIED UNANIMOUSLY BY EN BLOC RESOLUTION – OCM-3/06/17 5/0



1 December 2017

Our Ref: 06-06-01-0001 GC

Cr Renee McLennan
Mayor
Town of Bassendean
PO Box 87
BASSENDEAN WA 6054

Document #: ILET-13053017
Date: 01.12.2017
Officer: SUE PERKINS
File: GOVR/LREGLIA/23



Dear Mayor McLennan

CONSULTATION WITH MEMBERS – THIRD PARTY APPEAL RIGHTS IN PLANNING

Please find attached the Western Australian Local Government Association's (WALGA) report on the outcomes of consultation with members on Third Party Appeal Rights in Planning.

In December 2016, WALGA State Council resolved to undertake research on third party appeals around Australia and further consult with members regarding its current policy position. The Association prepared a discussion paper which provided background on the development of WALGA's position and a review of the arguments both for and against third party appeals which was then circulated to the Local Government sector for comment and feedback.

Feedback was presented to State Council at its 8 September 2017 meeting, where it was resolved that (92.9/2017) -

1. *State Council notes that there is increased support for the introduction of some form of Third Party Appeal rights.*
2. *WALGA undertakes further consultation with members on Third Party Appeal Rights, including Elected Member workshops, discuss the various concerns and suggestions raised in response to the discussion paper, the form and scope of any such appeal right should include the appropriate jurisdiction including JDAPS, SAT and WAPC to determine a preferred model.*
3. *The findings to be distributed for comment and the Item then be reconsidered by State Council.*
4. *WALGA continue to advocate that an independent review of decision making within the WA planning system is required, including the roles and responsibilities of State and Local Government and other decision making agencies, Development Assessment Panels and the State Administrative Tribunal appeal process.*

The submissions received on the discussion paper were collated into four options which broadly capture the range of responses in support of Third Party Appeals (see accompanying report for the complete list of options). Two workshops were held on 1 November 2017, and a webinar held on 9 November 2017 to review these options with members and determine a preferred model for any proposed rights. The workshops had 40 attendees (35 officers and 5 Elected members), representing 25 local governments. The attached report discusses the outcomes of this consultation process.

The purpose of the consultation was to determine members' preferred model for any proposed appeal rights. Based on the outcomes of the workshops, the Association is requesting that members consider the following as the preferred model for Third Party Appeal Rights in Planning in Western Australia:

Support the introduction of Third Party Appeal Rights for decisions made by Development Assessment Panels

Members are requested to advise their support or otherwise of this model of Third Party Appeal Rights by Council Resolution, to be returned to the Association no later than **15 March 2018**.

Upon receipt of the resolutions, a report will be presented to State Council for further consideration.

Council resolutions can be sent to the Planning and Development Team via email at planning@walga.asn.au or by mail to WALGA directly at PO Box 1544, West Perth WA 6872, Attention Planning and Development Team.

Any questions or comments can be sent to the above email or call on 9213 2000 to discussion with a member of the Team.

Yours sincerely



Cr Lynne Craigie
President



1 December 2017

Our Ref: 06-06-01-0001 GC

Mr Bob Jarvis
Chief Executive Officer
Town of Bassendean
PO Box 87
BASSENDEAN WA 6054

Dear Mr Jarvis,

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- 4. WALGA continue to advocate that an independent review of decision making within the WA planning system is required, including the roles and responsibilities of State and Local Government and other decision making agencies, Development Assessment Panels and the State Administrative Tribunal appeal process.*

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Any questions or comments can be sent to the above email or call on 9213 2000 to discussion with a member of the Team.

Yours sincerely



Ricky Burges
Chief Executive Officer

ATTACHMENT NO. 3



Department of Planning,
Lands and Heritage



October 2017

DC Policy 2.2

– Residential Subdivision

Development Control Policy 2.2

– Residential Subdivision

[click to follow](#)

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This document is available in alternative formats on application to Communication Services.



Background notes

1. *Development Control Policy 2.2 – Residential Subdivision* establishes the Western Australian Planning Commission (WAPC) position on residential subdivision. The policy considers *State Planning Policy 3.1 – Residential Design Codes (R-Codes)* and other relevant WAPC policies.
2. This policy complements and is to be read in conjunction with the following relevant policies and planning instruments:

State Planning Policy 3.1 – Residential Design Codes (R-Codes)

State Planning Policy 2.6 – State Coastal Planning

State Planning Policy 3.6 – Development Contributions for Infrastructure

State Planning Policy 3.7 – Planning in Bushfire Prone Areas

State Planning Policy 5.4 – Road and Rail Noise

Liveable Neighbourhoods

Development Control Policy 1.1 – Subdivision of Land - General Principles

Development Control Policy 1.3 – Strata Titles

Development Control Policy 1.7 – General Road Planning

Development Control Policy 2.3 – Public Open Space in Residential Areas

Development Control Policy 2.4 – School Sites

Development Control Policy 2.5 – Special Residential Zones

Development Control Policy 2.6 – Residential Road Planning

Government Sewerage Policy

1. Citation

This is a Development Control policy prepared under Section 14(b)(ii) of the *Planning and Development Act 2005*.

This policy is cited as *Development Control Policy 2.2 – Residential Subdivision (DC 2.2)*.

2. Introduction

This policy sets out the Western Australian Planning Commission's requirements for the subdivision of land into residential lots. It is related to the site area per dwelling standards contained in the R-Codes; and to other WAPC policies outlined in **Background notes**. It is intended that, when read together, these policies create a flexible framework for the use of statutory planning powers within which the creation of a wide range of lot and housing types is possible.

R-Codes Clause 5.1.1 C1.1 to 1.4 and Table 1 outlines minimum and average site area provisions and adjustments applied to determine the number of dwellings on a site for development proposals and are not able to be varied except for aged persons and single bedroom dwellings. Minimum, average and battle-axe lot sizes and frontages outlined in R-Codes Table 1 are applied to determine number of lots on a site for subdivision proposals and may be varied only by the WAPC as outlined in this policy and under R-Codes Clause 5.1.1 P1.2.

Historical lot size differences and application of contemporary R-Codings results in some lots not aligning with allocated R-Code minimum and average lot sizes. Lot size variation under this policy is intended to facilitate flexibility to complete subdivision of these lots as intended under the local planning framework.



The policy is not to be used to circumvent the R-Coding of land to facilitate subdivision and increased density not intended under local planning frameworks.

Nested subdivision proposals involve the inclusion of two or more original/parent lots and/or minor boundary adjustments between them to achieve the average lot size requirement.

Staged or successive subdivision proposals involve the creation of one minimum sized lot under separate subdivision applications in order to obtain increased lot yield. For example, a 1,000m² site coded R40 (minimum 180m² and average 220m² lot size) yields 4 lots. Staged or successive subdivision could yield 5 lots through individual separate subdivision applications of the original lot through creation of minimum 180m² lots. 1000m²-180sqm (lot 1) = 820sqm. 820m² -180m² (lot 2) = 640m². 640m² - 180m² (lot 3) = 460m². 460m² divided by 220m² - (lot 4 & 5).

Nested and staged/successive subdivision proposals are not generally supported. Where proposed, the applicant must provide justification and information to demonstrate legitimacy. A determinable difference between existing and proposed new lots must be demonstrated. Inclusion of lot/s not resulting in substantial change, to satisfy policy criteria and/or to increase the total lot size/subdivision application area to comply with the required average lot size is not a legitimate purpose.

3. Policy objectives

- To establish a consistent and coordinated approach to the creation of residential lots throughout Western Australia.
- To adopt criteria for residential lots that will ensure each lot has a suitable level of amenity, services and access.
- To facilitate the supply of residential lots in regular shapes and size ranges that reflect the statutory provisions of local planning schemes – including the R-Codes, the availability of reticulated sewerage, electricity and water and the need for frontage to public streets for access.

4. Policy measures

4.1 General requirements

- 4.1.1 Applications for the subdivision of land into residential lots will be assessed against:
- criteria set out in clause 4.1.3
 - the context of the general subdivision requirements of *Development Control Policy 1.1 – Subdivision of Land – General Principles*
 - state and local planning frameworks, including Liveable Neighbourhoods

- water sensitive urban design (WSUD) principles.

Conditions of approval may also be imposed to ensure compliance with this policy.

- 4.1.2 If the WAPC considers that a subdivision application may affect a local government, a public authority or utility service provider, it is required under the *Planning and Development Act 2005* (as amended) to consult with, and consider the advice of the local government and any relevant public bodies and government departments before making a decision on the subdivision application.

- 4.1.3 All new residential lots will be:

- capable of development in accordance with the R-Code density assigned under the relevant local planning scheme, and any local variations that may apply under the local planning framework
- located in an area with physical characteristics suitable for subdivision (such as topography, soils, drainage, vegetation and natural features);
- located within a system of vehicle and pedestrian movement consistent with the principles of Liveable Neighbourhoods and *Development Control Policy 2.6 – Residential Road*



Planning, in terms of street hierarchy, safety, lot access and provision of cycleways and pedestrian walkways

- convenient to areas of passive and active open space in accordance with *Liveable Neighbourhoods* and *Development Control Policy 2.3 – Public Open Space*, in terms of appropriate location and configuration, and having regard for the existing and proposed distribution of open space in the immediate locality
- served by a suitable level of community services, schools, retail and other facilities and services as determined under *Liveable Neighbourhoods* and other relevant WAPC policies
- The WAPC may require lot reconfiguration to facilitate retention of significant trees and mature vegetation.
- Subdivision proposals proximate to specified road and rail transport corridors are to address the requirements in *SPP 5.4 Road and Rail Noise*.

4.2 Lot sizes

- 4.2.1 The minimum lot size and frontage requirements of the relevant R-Code form the basis for the subdivision of residential land. Lot sizes greater than the specified minimum will be considered unless, having regard for the reasons for the selection of the particular R-Code and any commitments made to service infrastructure, the uneconomic use of services or under achievement of WAPC density targets would result.
- 4.2.2 In greenfield subdivisions, the WAPC may consider subdivision applications with lot sizes for single houses below the minimum for the relevant R-Code, provided the subdivision achieves the average for the relevant R-Code.
- 4.2.3 For the purpose of calculating average lot size specified in *Table 1* or elsewhere in the R-Codes, the WAPC accepts that with many large-scale projects, subdivisions will proceed in stages, following an local structure plan for the locality or district, and that component stages may not separately comply with the average lot size requirement. In such cases, the WAPC may choose to base the required calculation upon subdivision of the entire project area provided that where a particular stage does not comply, it can be assured that subsequent stages will restore compliance, and that those stages will be completed within a reasonable period of time.

- 4.2.4 In existing residential areas, the WAPC will only consider subdivision or survey-strata applications proposing variations to lot sizes below the minimum and average site area requirements specified in R-Codes *Table 1* or elsewhere in the R-Codes for non-battle-axe configured lots, where the following criteria are met:

Variations to minimum and average lot size up to five per cent criteria

- The minimum lot size variation only applies to one lot in the subdivision.
- The variation reduces the area of that one lot by no more than five per cent of the minimum lot size specified in *Table 1* or elsewhere in the R-Codes.
- The variation in the area of that one lot reduces the average lot size of the overall subdivision by no more than five per cent of the average lot size specified in *Table 1* or elsewhere in the R-Codes.
- In considering lot size and frontage variations, the WAPC will give regard to the recommendations of the local government.
- Where a local government objects to a variation, the objection should be supported by reasons, with reference to the provisions in this policy.



- Where a local government objects to a variation and the WAPC is of the view the application should be supported, further consultation may be undertaken with the local government before the application is determined by the WAPC.

Variations to average lot size greater than five per cent criteria

- In addition to the preceding criteria, any average lot size variation greater than five per cent meets all of the following criteria:
 - a single residential coding of R10 to R35 applies to the land.
 - the site is a corner lot with frontage to two different street names or any other lot with frontage to more than one dedicated street (excluding a primary (red), other regional (blue) or any other major road, including state and federal highways, with access restrictions). Corner lots with frontage to the same street name are not generally supported, however will be considered on merit against this policy, recommendation of local government and presented to the WAPC for determination.

- all proposed lots comply with the minimum lot size and frontage requirements specified in *Table 1* of the R-Codes.
- crossovers and driveways to proposed lots are provided in accordance with Australian Standard (AS) 2890 and the R-Codes.
- any corner truncation, pedestrian access way, vehicle right of way or laneway widening is excluded from the calculation of the minimum lot size.

4.3 Single residential lots

- 4.3.1 Single residential lots are square or rectangular in shape to accommodate project housing, with preferably a greater depth than width to maximise private space, privacy, amenity and street frontage. WAPC will consider lot shapes, having regard to effective lot size, existing and prevailing lot configurations, site circumstances, solar access and streetscape.

4.4 Small residential lots

- 4.4.1 Where proposed lots of less than 260m² are narrow, irregularly shaped, present vehicular access difficulties or involve the development to proceed with boundary

walls, the WAPC may require, having regard to the views of the local government, that development approval be obtained for development on the proposed lot/s and deposited plans not be endorsed until the buildings are constructed to plate height, unless there is a local development plan adopted under an operative local planning scheme.

4.5 Battle-axe subdivision criteria

- 4.5.1 For the purpose of this section, a battle-axe lot means a green title or survey strata (without common property) lot to which access is provided by a distinct access leg of sufficient width to accommodate a driveway and the necessary public utility services, which is attached to and forms part of the lot. Effective lot area means that part of the battle-axe lot that is capable of development, and excludes the access leg and associated truncations for vehicle maneuverability.
- 4.5.2 Use of battle-axe lot configuration is not favoured. Direct street frontage or dual street and rear laneway access is the preferred configuration. Exceptions may be considered in the following circumstances:
- battle-axe legs used to provide alternative access for lots fronting major roads with access controls or public open space.



- to facilitate vehicular access to significantly sloping sites where acceptable street gradient can not be achieved.
 - Retention of existing heritage or character development.
- 4.5.3 Where opportunities exist to dedicate existing laneways and rights-of-way as public streets – both as a means of providing alternative access and a street aspect, this is a preferred lot configuration outcome.
- 4.5.4 Where local government considers battle-axe subdivisions are likely to seriously threaten the character of an established residential area that ought to be protected (for example, heritage precincts or special design control areas) density controls may be included in local planning schemes, or development controls introduced through local planning policy or local development plans to ensure that battle-axe subdivisions and development is in keeping with their surroundings. Provisions should take into account the character and built form outcome of the area.
- 4.5.5 The minimum battle-axe lot area will be as set out in clause 5.1.1 and column 4 of *Table 1* of the R-Codes. The WAPC will not permit reductions in the minimum or average lot sizes for battle-axe lots.
- 4.5.6 In locations not subject to the provisions of the R-Codes, the WAPC will normally require residential battle-axe lots to have an effective lot area of at least 850m² to overcome the sense of confinement from lack of street frontage.
- 4.5.7 A battle-axe leg should be a minimum of 4 metres in width to allow for a constructed driveway and the necessary public utility services. Where a battle-axe lot is to be created for or is of a size capable of further subdivision for grouped or multiple dwelling development, the WAPC may require the width of the leg to be increased. Driveways may be required to be constructed and drained as a condition of subdivision approval in accordance with the specification of the local government and may be bonded to facilitate future construction post dwelling construction.
- 4.5.8 In rural, rural-residential and low-density subdivisions requiring long battle-axe legs, and locations where there are particular physical or topographical constraints, the WAPC, on the advice of the local government, may require a battle-axe leg wider than 4 metres. The Guidelines for Planning in Bushfire Prone Areas specifies where battle-axe lots should be avoided.
- 4.5.9 In cases where battle-axe legs are adjoining, the WAPC may accept a reduced width of 3 metres for each leg, subject to the subdivider entering into an agreement with the local government to ensure reciprocal rights of access over adjoining battle-axe legs. The reciprocal rights should also extend into the effective lot areas to allow for a shared turning area.
- 4.5.10 Battle-axe arrangements involving more than two access legs will not be accepted unless there are exceptional circumstances to justify such an arrangement. Where more than two adjoining battle-axe legs are proposed, access should be provided by way of a constructed street.
- 4.5.11 The WAPC will not accept undersized battle-axe legs as a means of obtaining alternative street frontage and to avoid the costs of extending a water main or sewer in accordance with normal requirements.
- 4.5.12 A 3 x 3 metre truncation of 4.24 metres may be required at the point where the access leg joins the effective area of the lot, for vehicular access and maneuverability. A 1.5 x 1.5 metre truncation of 2.12 metres may be required at the point where the access leg meets the street reserve, particularly on major roads and where non visually permeable street walls and fences exist, to improve visibility for vehicles, cyclists and pedestrians. The WAPC will give particular regard to the advice of the local government on these requirements.



4.5.13 The WAPC requires proposals for the creation of battle-axe lots for residential purposes to comply with this policy. The WAPC may permit variations upon the advice of the relevant local government, public bodies and government departments, and where it is satisfied that such variations would be consistent with orderly and proper planning.

4.6 Access to residential lots

4.6.1 The creation of lots having dual street access and frontage to is not generally favoured, although exceptions may be made if the proposed lot is specifically designed for multiple or grouped dwelling development and the proposal is consistent with the operational and safety requirements of the abutting streets and relevant R-Code provisions.

4.6.2 For lots without street frontage, vehicular access should be provided in accordance with the following:

- Battle-axe lots to be provided with an access leg of 4 metres in width, with a reduced width of 3 metres, for each access leg when they adjoin.
- The R-Codes requires minimum 4 metre wide driveways, reduced to 3 metres where necessary to retain

an existing dwelling. For survey strata lots proposing a shared driveway, the driveway is shown as common property and includes the driveway, side lot boundary landscaping, passing bay/s (where required) and all lot truncations for vehicle maneuvering and sight lines. Driveways must be designed to allow vehicles to pass in opposite directions at one or more points where five or more dwellings are served by the driveway.

- Where it is proposed to retain an existing dwelling and access is not by common property, the WAPC, in considering any subdivision will generally require that:
 - there should be no eaves overhangs or other protrusions into the driveway space and no major opening in the wall adjacent to the driveway
 - there will be adequate space for the car parking required by the R-Codes, and sufficient space for safe vehicle manoeuvring.

4.7 Provision of screen fencing

4.7.1 Where lots are being created with rear or side boundaries that abut public reserves – particularly major streets to which the lots have no access – passive surveillance, amenity and user safety of those reserves is best protected by the provision of uniform visually permeable fencing along the common boundary. Arrangements for such fencing should be made at the time of subdivision. A condition of subdivision may require the subdivider to reach agreement with the local government on fencing to include such matters as specification, complementary landscaping and the timing of its provision.

4.7.2 The suitability of fences for given locations will depend on function, setting and any local planning framework requirements. If the local planning framework does not outline specific standards, the fences will be:

- substantially of solid construction to 1.2 metres in height and visually permeable to a maximum height (between 1.8 metres and 2.4 metres)
- of materials or finished treatment to give a long-lasting, aesthetic appearance, preferably with a low maintenance and graffiti reduction factor complemented with landscaping

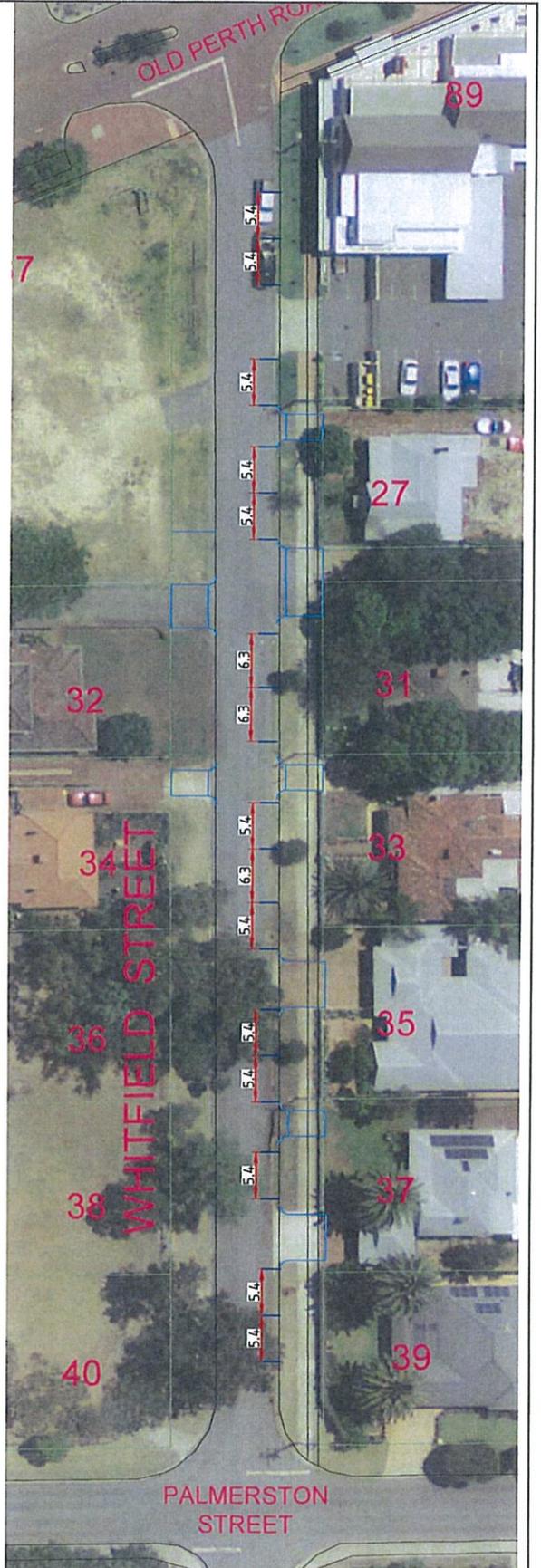
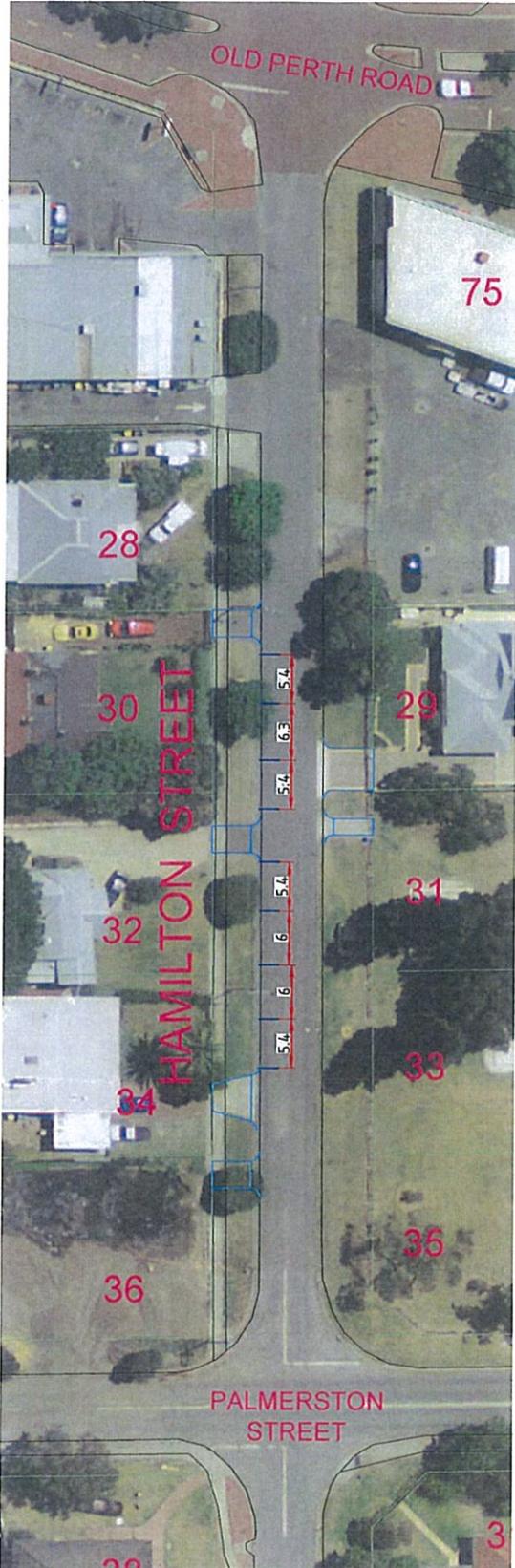


- of uniform height, design and materials with adjacent lots and of compatible design and/or materials where changes in design or height are justified due to the requirements of topography or to relieve monotony
 - of sufficient height and strength and of appropriate design where it is necessary to produce a barrier for safety and security
- 4.7.3 Where residential subdivisions include or adjoin public uses such as schools and open spaces, it is preferable to separate the residential lots and public uses by streets. Arranging parklands and schools to front streets contributes to the local streetscape, creates a safer and more secure environment and avoids the unattractive appearance of extensive back fences.

4.8 Utility service provision

- 4.8.1 The WAPC will apply the *Government Sewerage Policy* in its consideration of applications for the creation of residential lots in unsewered areas. The basis of that policy is the mandatory provision of reticulated sewerage to all new residential subdivisions, including strata titled, unless the exemptions as specified in that policy apply.
- 4.8.2 Where the WAPC is prepared to approve new residential lots without sewerage, it will need to be satisfied that an on-site effluent disposal system is provided in accordance with current policy requirements and practice.
- 4.8.3 The WAPC recognises that considerable advantages are gained in the provision of reticulated underground power in residential subdivision, including improved aesthetics, safer and more reliable power supply, greater flexibility in road design and lower maintenance costs. Therefore, as part of its consideration of applications for subdivision, the WAPC will normally require the provision of underground power to residential lots, with regard to the advice of the relevant licensed service provider.

ATTACHMENT NO. 4



	DATE	TITLE
DRAWN	NB	13/10/16
CHECKED	-	-
DESIGNED	-	-
APPROVED	-	-

HAMILTON ST AND WHITFIELD ST
PALMERSTON - OLD PERTH ROAD
ON-STREET PARKING



TOWN OF BASSENDEAN
ASSET SERVICES

48 OLD PERTH RD
BASSENDEAN WA 6054
PH: 9222 47 403 158

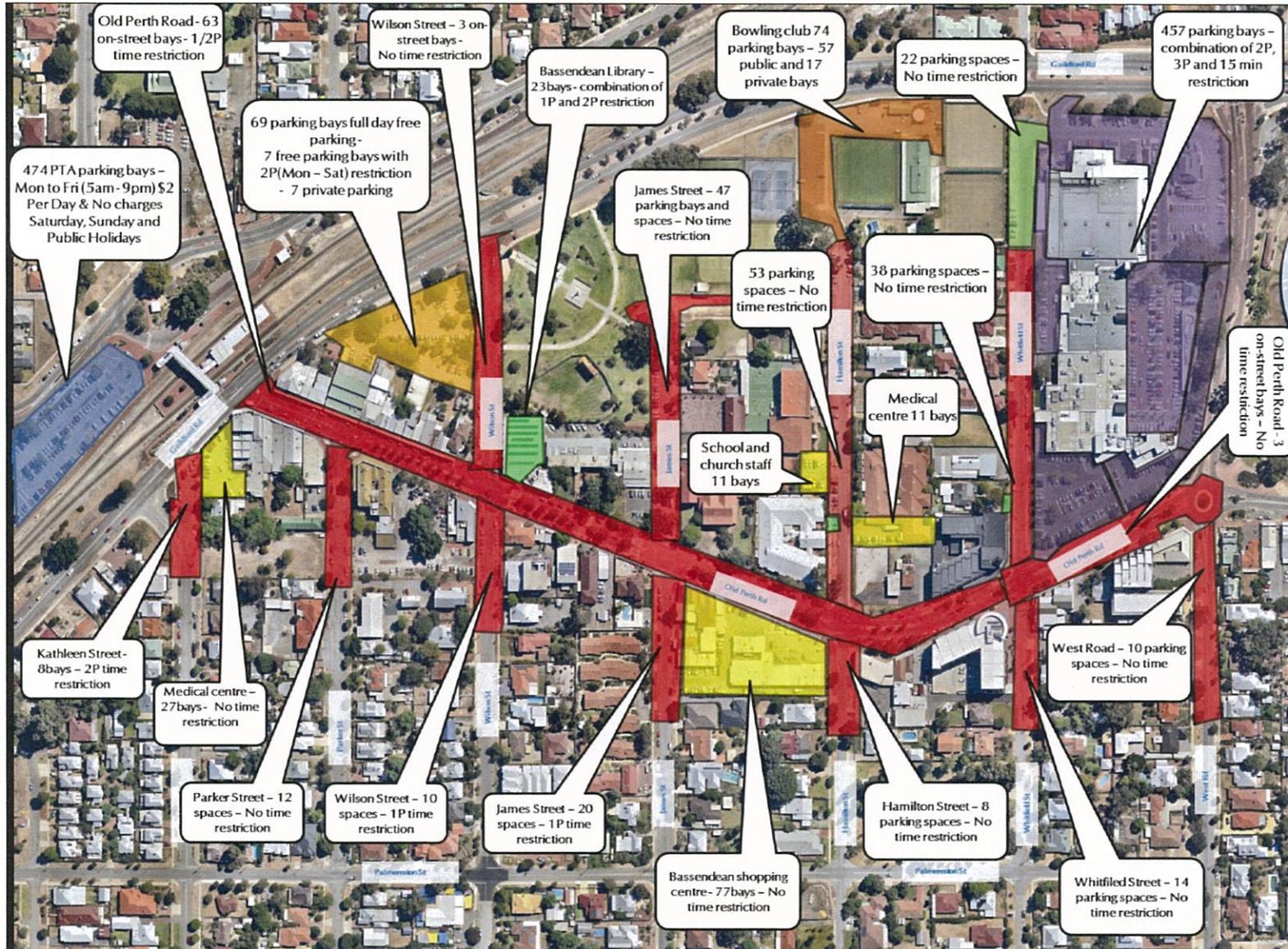
Telephone: (08) 9377 9000
Facsimile: (08) 9279 5416
Email: mail@bassendean.wa.gov.au
www.bassendean.wa.gov.au

SCALE: 1:500

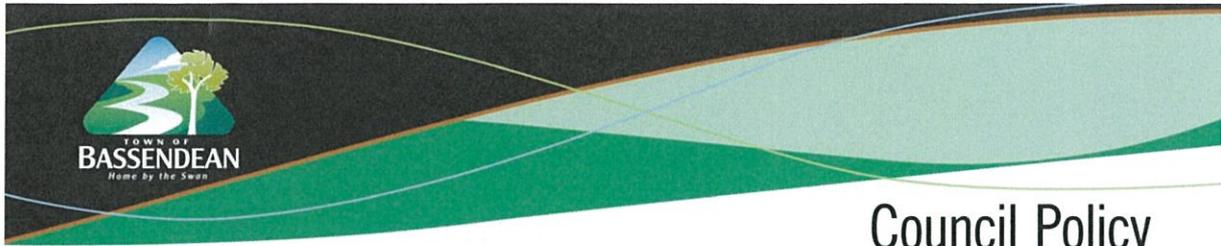
DRG NO. SHT. REV.
TOB-11-2016 . .

A3

Bassendean Activity Precinct 2016 Parking Audit - Summary of the public parking inventory



ATTACHMENT NO. 5



Council Policy

1.1 Verges Treatment and Maintenance Policy

Street verges within the Town perform important functions including the provision of space for public utility services, increased public space and the visual linking of streetscapes. In the interests of Bassendean's wellbeing into the future, the Town wishes to encourage landscaping that is waterwise, aesthetically pleasing and reflects our natural heritage.

It is acknowledged that verges form part of the public realm. Whilst Council allocates funding for the maintenance of selected verges, generally those adjacent to major or distributor roads, the Town relies on the goodwill and cooperation of adjacent land owners/occupiers for the maintenance of their verges.

Objectives

The objectives of this policy are to encourage adjacent owners/occupiers to install and maintain Permissible Verges Treatments in accordance to Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law, for the installation and management of verges that are waterwise, aesthetically pleasing, and that reflect our natural heritage.

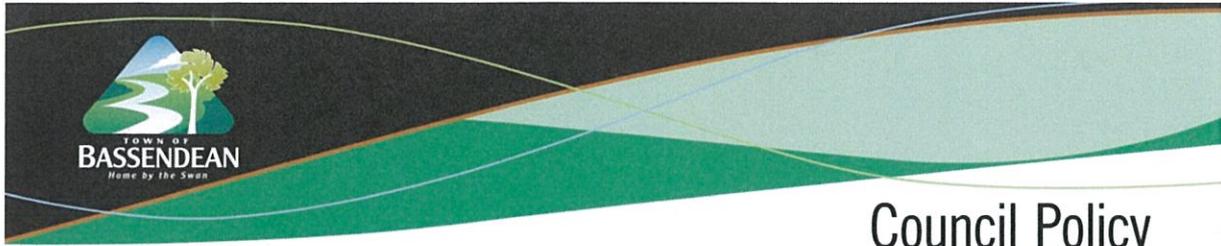
Council does not mow or slash verges adjacent to all private, commercial or industrial property on the basis that owners and residents with civic pride undertake this activity as a contribution to the amenity of the Town. This allows Council to direct its resources to priority services.

Strategy

The Town of Bassendean will achieve these objectives through the application of "Permissible Verges Treatment" guidelines (see Appendix 1) with which to assess requests to develop new or alter existing verge treatments and the development of a priority verge slashing program to reduce the grass loadings through out the year, within the allocated budget constraints.

Street verge slashing program is a grass reduction service not a lawn mowing service and will be provided within budget constraints, in accordance with the following priorities:

Priority One - Primary and District Distributor Roads – Guildford Rd, Lord St, Walter Rd East, Morley Drive (as arranged with the Shire of Swan), Collier Rd and Railway Parade, and areas required to be carried out for reasons of fire, traffic, cyclist or pedestrian safety.



Council Policy

Priority Two - Local Distributor Roads – West Rd, Ivanhoe St, Old Perth Rd, Hardy Rd, Reid St, Broadway, Northmoor Rd, Iolanthe St, Palmerston St, Shackleton St, Bridson St, Haig St and Colstoun Rd.

Priority Three - Local Roads - Scaddan St, North Rd, Bassendean Parade, Pearson St and Surrey St.

Priority Four - Verges adjacent to vacant and corner blocks, cul-de-sac heads, and closed road sections in other roads.

Note:

1. Verges adjacent to Council controlled reserves are to be mown as part of those reserves; and
2. Verges maintained by the resident are not included in the verge slashing program.

Detail

This policy applies to the portion of land between the road kerb/edge and the property boundary. The requirements of the policy exclude footpaths and crossovers.

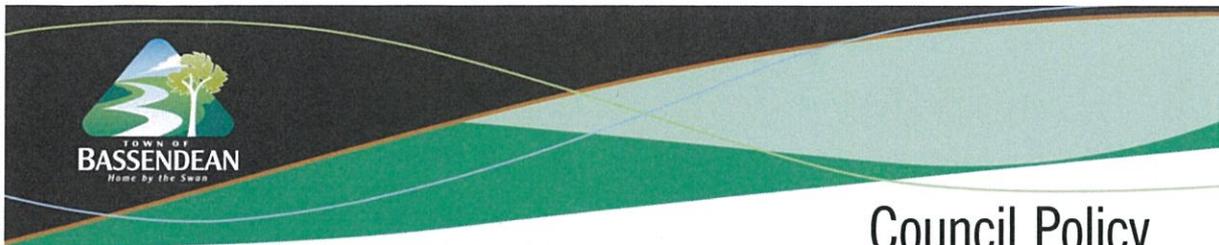
Treatments should be attractive and provide a positive enhancement to the streetscape. Street tree planting shall be in accordance to the adopted Street Tree Master Plan. Street trees remain the responsibility of the Town and are therefore, excluded from this policy.

Application

Responsibility for the implementation of this policy rests with the Mayor, Councillors, Council delegates and Chief Executive Officer. The Chief Executive Officer (CEO) has the authority to administer the requirements of this policy. The CEO has on-delegated this authority to the Manager Asset Services.

The Policy is to be reviewed every three years.

<p>Policy Type: Strategic Policy</p> <p>Link to Strategic Community Plan: Town Planning & Built Environment</p>	<p>Policy Owner: Director Operational Services</p> <p>First Adopted: OCM-12/12/11</p> <p>Last Review Date: March 2014</p> <p>Version 1</p> <p>Next Review due by: December 2016</p>
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APPENDIX 1

PERMISSIBLE VERGE TREATMENTS

Introduction

The portion of land between a property boundary and the carriageway or road is referred to as the verge. Property owners or residents of land abutting the verge may install a permissible verge treatment.

A permissible verge treatment is one that is approved by Council and subject to stringent conditions.

Waterwise management practices are encouraged for verge treatments. The Water Corporation webpage (www.watercorporation.com.au) has a range of initiatives to assist residents minimise water usage.

Permissible Verge Treatments

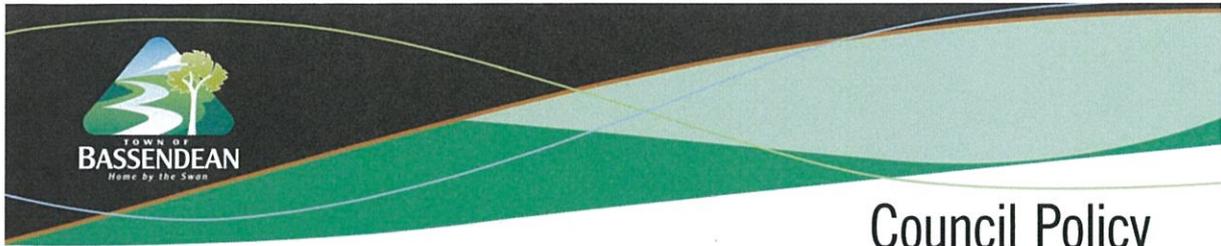
The Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2010 states:

Division 1 - General prohibitions : A person must not plant any plant except grass within 6m of an intersection

Division 3 - Permissible Verge treatments:

- (1) *An owner or occupier of land, which abuts on a verge, may on that part of the verge directly in front of her or his land install a permissible verge treatment.*
- (2) *The permissible verge treatments are:*
 - (a) *the planting and maintenance of a lawn;*
 - (b) *the planting and maintenance of a garden provided that:*
 - (i) *clear sight visibility is maintained at all times for a person using the abutting thoroughfare in the vicinity of an intersection or bend in the thoroughfare or using a driveway on land adjacent to the thoroughfare for access to or from the thoroughfare;*
 - (ii) *where there is no footpath, a pedestrian has safe and clear access of a minimum width of 2m along that part of the verge immediately adjacent to the kerb;*
 - (iii) *it does not include a wall or built structure; and*
 - (iv) *it is not of a thorny, poisonous or hazardous nature; or*
 - (c) *the installation of an acceptable material; or*
 - (d) *the installation of an acceptable material or other verge treatment in accordance with paragraph (c), and the planting and maintenance of either a lawn or a garden on the balance of the verge in accordance with paragraph (a) or (b).*

Acceptable materials	Conditional requirements
1. Composted mulch or chipper mulch material 2. Small format Permeable/ Porous Pavers	<ul style="list-style-type: none"> ➤ Street Tree Protection policy requirements are applied to ensure the long-term health of the tree ➤ To protect the tree roots, all earth works under the tree drip line shall be performed using hand tools ➤ Verge pavers shall be at least 20 per cent porous



Council Policy

Acceptable materials	Conditional requirements
3. Irrigation system 4. Grass 5. Low growing ground cover plants	<input type="checkbox"/> Storm water on verge shall be managed on site <input type="checkbox"/> Verge pavers shall not be laid within 2 metres from base of existing tree trunk <input type="checkbox"/> A minimum of 2 metre wide street tree planting bay (s) shall be provided for future street tree (s) <input type="checkbox"/> No more than one third of the verge shall be paved excluding the crossover <input type="checkbox"/> Mulch or paving once installed shall not be higher than the adjacent kerb line, footpath or crossover <input type="checkbox"/> Paving shall tolerate limited vehicle traffic <input type="checkbox"/> Below ground irrigation / pop up sprinklers

Examples of Non - Acceptable materials	Reason
1. Frangible objects such as mounds, rocks, sleepers, walls, and garden kerbs 2. Loose objects such as gravel or aggregate 3. In-situ concrete, concrete slabs, and bitumen 4. Artificial turf	<input type="checkbox"/> Frangible objects may be considered unsafe, cause damage or be used to cause damage <input type="checkbox"/> Loose objects impact upon pedestrian safety <input type="checkbox"/> Concrete & bitumen have poor water permeability and contribute to storm water flow <input type="checkbox"/> Synthetic turf may reduce soil health and contribute to the urban heat island effect by absorbing sunlight and emitting heat

Irrigation & Planting requirements

Irrigation of the verge is an acceptable material on the following condition:

- Gate valve(s) / solenoid valve(s) are located on private property
- Installation of retractable sprinkler heads, level with grass surface
- Irrigation system designed to ensure that the water is not distributed onto paved surfaces.
- Irrigation is applied in accordance to Waterwise for WA water roster requirements.

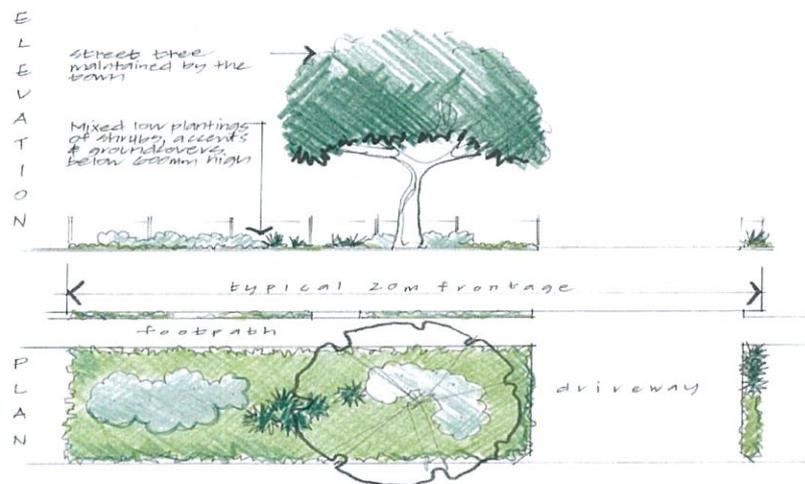
In regards to the landscaping of the verge, it is essential to provide at all times clear sight visibility for both pedestrians and vehicles. Where there is no footpath, safe and clear access shall be provided for pedestrians. No plant except grass or a similar ground cover plant is to be grown within 2 metres of a road edge and no plant except grass or a similar ground cover plant is to be within 6 metres of an intersection. Other low growing plants shall not exceed 0.75 metres in height.

The sketch landscape plan below is provided to assist the owner / occupier of the lot abutting a verge, appreciate visually the verge planting requirements. In this plan, the plants have been arranged so that grass or a similar ground cover plant covers are placed at edges and low growing plant towards the middle of the verge area.

Where street trees are growing under the overhead power lines it is essential that that the Town of Bassendean approved contractors have appropriate machinery access to carry out street tree pruning operations. Should a verge treatment proposal prevent a street tree from being maintained/ pruned or will damage an existing street tree, the application shall be refused.

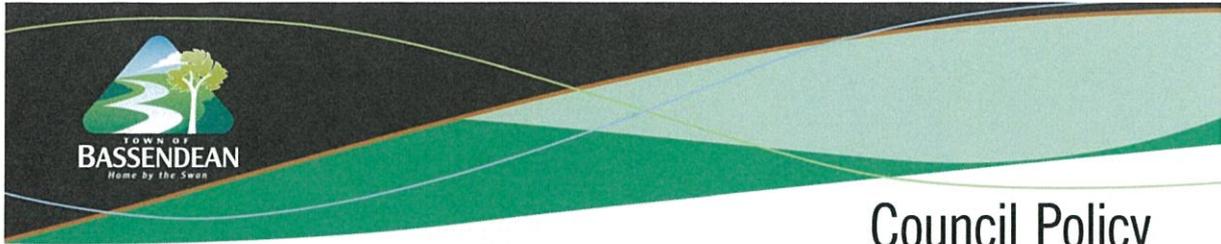
When considering landscaping a verge, the planting of endemic (local native) low growing groundcovers and shrubs are strongly encouraged. *Grow Local* native plants brochures can be obtained from the Town's Customer Service information desk. The brochure contains a range of hints and information on how to use and look after native plants

Below is an example of a verge landscaped plan



Important Information:

- Please refer to the Council adopted Verge Treatment Policy, Street Tree Protected Policy and the Crossover Policy are available for viewing on the Town of Bassendean webpage at: [www.bassendean.wa.gov.au/information & feedback/policies](http://www.bassendean.wa.gov.au/information&feedback/policies).
- Before the owner/occupier of the lot abutting a verge or contractors start to dig, plough, excavate or undertake any sub-surface activity, contact the “Dial Before You Dig” service on telephone 1100 to access indicative plans / information within 4-5 days on underground pipes and cables. Failure to take steps to avoid damage may leave you liable for costs incurred in the event of infrastructure damage.
- Local native plants will generally need to be watered for the first two summers until established. Some non-native plant species whilst ‘waterwise’ should be avoided as there is the potential for seed dispersal into natural areas. For this reason local natives are preferred



Council Policy

APPENDIX 2

VERGE TREATMENT APPLICATION FORM

Name of Applicant:
Property Address:
Email:
Telephone (Hom): (Mob):

Verge Treatment Details

Please (✓) tick to confirm the required information has been attach to the verge treatment application form.

- Sketch plan of proposed verge treatment attached
Specification of material planned to be utilised provided
If garden to be provided, ensure plant species proposed are clearly shown.
Reticulation plan of proposed spray or drip reticulation attached
Dial before you dig information attached
Request the Town plant and maintain a street tree.

Please Note: If above supporting information is not submitted with application, the Town will have no option but to reject application until relevant information is provided

For General Information Sheets, please refer to the Town of Bassendean web page at : www.bassendean.wa.gov.au/ for the following:

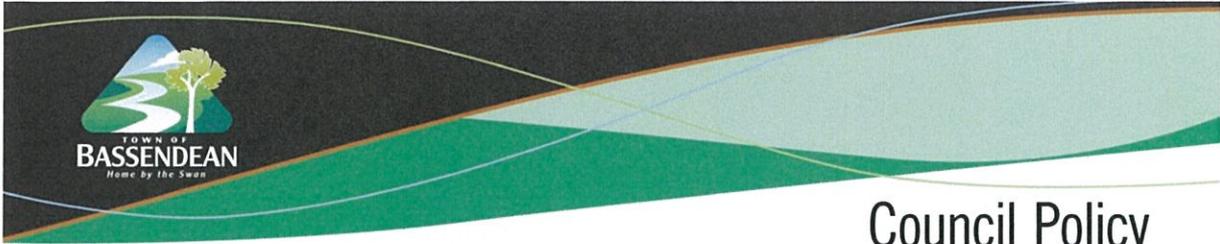
- Street Tree - Telephone 93779000 or request in writing a street tree (s) be planted
Street Tree Protection- building permit requirements.
Crossovers - constructed in accordance to Town's specifications
Availability of Mulch Free mulch during specified time frames or pay for delivery.

I/we, agree:

- to maintain the verge area in accordance to the approved permissible verge treatment in a good and tidy condition and ensure that pedestrian access will be maintained.
that service utilities on occasions will require access to the verge area to undertake underground, above ground routine work and street tree pruning operations.
that if the approved permissible verge treatment is damaged as a result of the routine work, the applicant shall reinstate the area at no cost to the Town of Bassendean.

Applicant (s) Name
Applicant/s Signature
Date:

Please note that landscaping of verge area shall not be undertaken without written approval that the application is in accordance to the Permissible Verge Treatment requirements



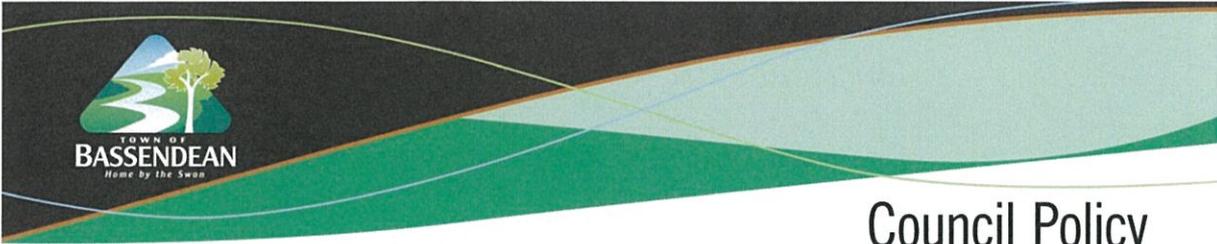
OFFICE USE ONLY

- Required Verge Treatment documentation and Plans submitted Yes No
Street Tree Protected policy considered & applied Yes No
Acceptable materials utilized Yes No
Pedestrian Access provided Yes No
Existing / Future Street Tree considered Yes No

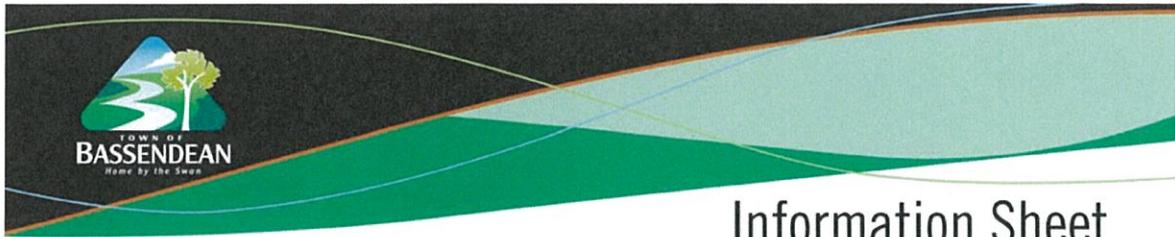
Application Approved Refused

Comments:
.....
.....

Officer Title : Date: Applicant advised Yes



Council Policy



Information Sheet

Permissible Verge Treatment

Introduction

The portion of land between a property boundary and the carriageway or road is referred to as the verge. Property owners or residents of land abutting the verge may install a permissible verge treatment.

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Waterwise management practices are encouraged for verge treatments. The Water Corporation webpage (www.watercorporation.com.au) has a range of initiatives to assist residents minimise water usage.

Permissible Verge Treatments

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 - (ii) *where there is no footpath, a pedestrian has safe and clear access of a minimum width of 2m along that part of the verge immediately adjacent to the kerb;*
 - (iii) *it does not include a wall or built structure; and*
 - (iv) *it is not of a thorny, poisonous or hazardous nature; or*
 - (c) *the installation of an acceptable material; or*
 - (d) *the installation of an acceptable material or other verge treatment in accordance with paragraph (c), and the planting and maintenance of either a lawn or a garden on the balance of the verge in accordance with paragraph (a) or (b).*

Acceptable materials	Conditional requirements
1. Composted mulch or chipper mulch material	➤ Street Tree Protection policy requirements are applied to ensure the long-term health of the tree
2. Small format Permeable/ Porous Pavers	➤ To protect the tree roots, all earth works under the tree drip line shall be performed using hand tools
3. Irrigation system	➤ Verge pavers shall be at least 20 per cent porous
4. Grass	➤ Storm water on verge shall be managed on site
5. Low growing ground cover plants	➤ Verge pavers shall not be laid within 2 metres from base of existing tree trunk
	➤ A minimum of 2 metre wide street tree planting bay (s) shall be provided for future street tree (s)
	➤ No more than one third of the verge shall be paved excluding the crossover
	➤ Mulch or paving once installed shall not be higher than the adjacent kerb line, footpath or crossover
	➤ Paving shall tolerate limited vehicle traffic
	➤ Below ground irrigation / pop up sprinklers



Information Sheet

Examples of Non - Acceptable materials	Reason
1. Frangible objects such as mounds, rocks, sleepers, walls, and garden kerbs 2. Loose objects such as gravel or aggregate 3. In-situ concrete, concrete slabs, and bitumen 4. Artificial turf	<ul style="list-style-type: none"> ➤ Frangible objects may be considered unsafe, cause damage or be used to cause damage ➤ Loose objects impact upon pedestrian safety ➤ Concrete & bitumen have poor water permeability and contribute to storm water flow ➤ Synthetic turf may reduce soil health and contribute to the urban heat island effect by absorbing sunlight and emitting heat

Irrigation & Planting requirements

Irrigation of the verge is an acceptable material on the following condition:

- Gate valve(s) / solenoid valve(s) are located on private property
- Installation of retractable sprinkler heads, level with grass surface
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- Irrigation is applied in accordance to Waterwise for WA water roster requirements.

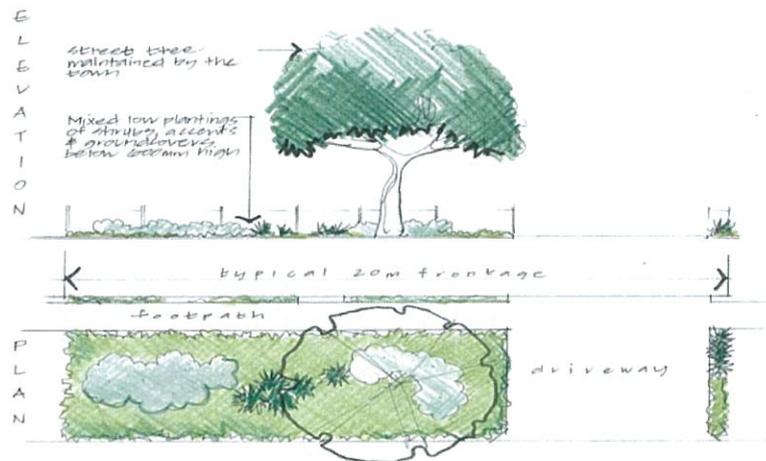
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The sketch landscape plan below is provided to assist the owner / occupier of the lot abutting a verge, appreciate visually the verge planting requirements. In this plan, the plants have been arranged so that grass or a similar ground cover plant covers are placed at edges and low growing plant towards the middle of the verge area.

Where street trees are growing under the overhead power lines it is essential that that the Town of Bassendean approved contractors have appropriate machinery access to carry out street tree pruning operations. Should a verge treatment proposal prevent a street tree from being maintained/ pruned or will damage an existing street tree, the application shall be refused.

When considering landscaping a verge, the planting of endemic (local native) low growing groundcovers and shrubs are strongly encouraged. *Grow Local* native plants brochures can be obtained from the Town's Customer Service information desk. The brochure contains a range of hints and information on how to use and look after native plants

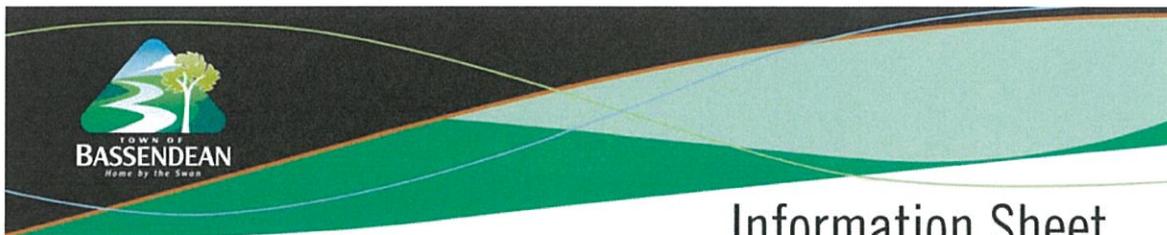
Over the page is shown an example of a verge landscaped plan



Important Information:

- Please refer to the **Verge Treatment**, **Street Tree Protection**, **Significant Tree** and the **Crossover** information sheets which are available for viewing on the Town of Bassendean web page at: www.bassendean.wa.gov.au / information & feedback/ policies
- Before the owner / occupier of the lot abutting a verge or contractors start to dig, plough, excavate or undertake any sub-surface activity, contact the "Dial Before You Dig" service on telephone 1100 to access indicative plans / information within 4-5 days on underground pipes and cables. Failure to take steps to avoid damage may leave you liable for costs incurred in the event of infrastructure damage.
- Local native plants will generally need to be watered for the first two summers until established. Some non-native plant species whilst 'waterwise' should be avoided as there is the potential for seed dispersal into natural areas. For this reason local natives are preferred.

See overleaf for Verge Treatment Permit Application Form.



Information Sheet

VERGE TREATMENT PERMIT APPLICATION FORM

Name of Applicant:
Property Address:
Email:
Telephone (Hm):(Mb):

Verge Treatment Details

Please (✓) tick to confirm the required information has been attached to the verge treatment application form.

- Sketch plan of proposed verge treatment attached
- Specification of material planned to be utilised provided
- If garden to be provided, ensure plant species proposed are clearly shown.
- Reticulation plan of proposed spray or drip reticulation attached
- Dial before you dig information attached
- Request the Town plant and maintain a street tree.

Please Note: If above supporting information is not submitted with application, the Town will have no option but to reject application until relevant information is provided

For General Information Sheets, please refer to the Town of Bassendean web page at : www.bassendean.wa.gov.au/ for the following:

- * "Significant Trees" - *guidelines for the identification, protection and management*
- * "Street Tree" – *Telephone 93779000 or request in writing a street tree (s) be planted*
- * "Street Tree Protection"- *building permit requirements.*
- * "Crossovers" – *constructed in accordance to Town's specifications*
- * "Availability of Mulch" *Free mulch during specified time frames or pay for delivery.*

I/we, agree:

- 1. to maintain the verge area in accordance to the approved permissible verge treatment in a good and tidy condition and ensure that pedestrian access will be maintained.**
- 2. that service utilities on occasions will require access to the verge area to undertake underground, above ground routine work and street tree pruning operations.**
- 3. that if the approved permissible verge treatment is damaged as a result of the routine work, the applicant shall reinstate the area at no cost to the Town of Bassendean.**

Applicant (s) Name
 Applicant/s Signature
 Date:

Please note that landscaping of verge area shall not be undertaken without written approval that the application is in accordance to the Permissible Verge Treatment requirements



Information Sheet

OFFICE USE ONLY

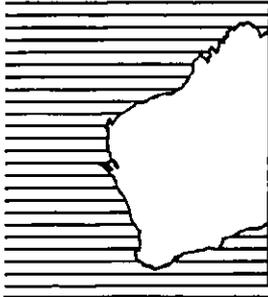
- Required Verge Treatment documentation and Plans submitted Yes No
- Street Tree Protected policy considered & applied Yes No
- Acceptable materials utilized Yes No
- Pedestrian Access provided Yes No
- Existing / Future Street Tree considered Yes No

Application Approved Refused

Comments:

.....

Officer Title : Date: Applicant advise Yes



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LOCAL GOVERNMENT ACT 1995

TOWN OF BASSENDEAN

**ACTIVITIES ON
THOROUGHFARES AND
TRADING IN
THOROUGHFARES AND
PUBLIC PLACES
LOCAL LAW 2010**

LOCAL GOVERNMENT ACT 1995

TOWN OF BASSENDEAN

ACTIVITIES ON THOROUGHFARES AND TRADING IN
THOROUGHFARES AND PUBLIC PLACES LOCAL LAW 2010

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LOCAL GOVERNMENT ACT 1995

TOWN OF BASSENDEAN

ACTIVITIES ON THOROUGHFARES AND TRADING IN
THOROUGHFARES AND PUBLIC PLACES LOCAL LAW 2010

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Town of Bassendean resolved on the 23rd November 2010 to adopt the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Town of Bassendean Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2010*.

1.2 Definitions

In this local law unless the context otherwise requires—

“**Act**” means the *Local Government Act 1995*;

“**applicant**” means a person who applies for a permit;

“**authorised person**” means a person authorised by the local government under section 9.10 of the Act to perform any of the functions of an authorised person under this local law;

“**built-up area**” has the meaning given to it in the *Road Traffic Code 2000*;

“**bulk rubbish container**” means a bin or container designed or used for holding a substantial quantity of rubbish and which is unlikely to be lifted without mechanical assistance, but does not include a bin or container used in connection with the local government's regular domestic rubbish or recycling collection service;

“**carriageway**” has the meaning given to it in the *Road Traffic Code 2000*;

“**CEO**” means the Chief Executive Officer of the local government;

“**commencement day**” means the day on which this local law comes into operation;

“**Council**” means the council of the local government;

“**crossing**” means a crossing giving access from a public thoroughfare to—

(a) private land; or

(b) a private thoroughfare serving private land;

“**district**” means the district of the local government;

“**footpath**” has the meaning given to it in the *Road Traffic Code 2000*;

“**garden**” means any part of a thoroughfare planted, developed or treated, otherwise than as a lawn, with one or more plants;

“**intersection**” has the meaning given to it in the *Road Traffic Code 2000*;

“**kerb**” includes the edge of a carriageway;

“**lawn**” means any part of a thoroughfare which—

(a) is planted, by any person, only with grass, or with a similar plant; or

(b) is planted, by the local government, with any other plant;

“**liquor**” has the meaning given to it in section 3 of the *Liquor Control Act 1988*;

“**local government**” means the Town of Bassendean;

“**local government property**” means anything except a thoroughfare—

(a) which belongs to the local government;

(b) of which the local government is the management body under the *Land Administration Act 1997*; or

(c) which is an “otherwise unvested facility” within section 3.53 of the Act;

“**lot**” has the meaning given to it in the *Planning and Development Act 2005*;

“**owner**” or “**occupier**” in relation to land does not include the local government;

- “**permissible verge treatment**” means a treatment described in clause 2.7(2), and includes any reticulation pipes and sprinklers installed for the purposes of the treatment;
- “**permit**” means a permit issued under this local law;
- “**permit holder**” means a person who holds a valid permit;
- “**person**” does not include the local government;
- “**premises**” for the purpose of the definition of “public place” in both this clause and clause 6.1, means a building or similar structure, but does not include a carpark or a similar place;
- “**public place**” includes any thoroughfare or place which the public are allowed to use, whether or not the thoroughfare or place is on private property, but does not include—
- (a) premises on private property from which trading is lawfully conducted under a written law; and
 - (b) local government property;
- “**regulations**” mean the *Local Government (Functions and General) Regulations 1996*;
- “**sign**” includes a notice, flag, mark, structure or device on which may be shown words, numbers, expressions or symbols;
- “**thoroughfare**” has the meaning given to it in the Act, but does not include a private thoroughfare which is not under the management or control of the local government;
- “**town planning scheme**” means a town planning scheme of the local government made under the *Planning and Development Act 2005*;
- “**townsite**” means the townsite of the local government which is—
- (a) constituted under section 26(2) of the *Land Administration Act 1997*; or
 - (b) referred to in clause 37 of Schedule 9.3 of the Act;
- “**vehicle**” includes—
- (a) every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise; and
 - (b) an animal being ridden or driven,
- but excludes—
- (a) a wheel-chair or any device designed for use by a physically impaired person on a footpath; and
 - (b) a pram, a stroller or a similar device; and
- “**verge**” means that part of a thoroughfare between the carriageway and the land which abuts the thoroughfare, but does not include any footpath.

1.3 Application

This local law applies throughout the district.

1.4 Repeal

(1) The *Town of Bassendean Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law* published in the *Government Gazette* on 16 August 2001 is repealed.

(2) Where a policy was made or adopted by the local government under or in relation to a local law repealed by this local law, then the policy is to be taken to no longer have any effect on and from the commencement day.

(3) The Council may resolve that notwithstanding subclause (2) specified policies continue, or are to be taken to have continued, to have effect on and from the commencement day.

PART 2—ACTIVITIES ON THOROUGHFARES AND PUBLIC PLACES

Division 1—General

2.1 General prohibitions

A person must not—

- (a) plant any plant except grass within 6m of an intersection;
- (b) damage a lawn or a garden or remove any plant or part of a plant from a lawn or a garden in a thoroughfare or public place unless—
 - (i) the person is the owner or the occupier of the lot abutting that portion of the thoroughfare and the lawn or the garden or the particular plant has not been installed or planted by the local government; or
 - (ii) the person is acting under the authority of a written law;
- (c) place, or allow to be placed or remain, on a thoroughfare or verge any thing (except water) that—
 - (i) obstructs the thoroughfare or verge; or
 - (ii) results in a hazard for any person using the thoroughfare or verge;
- (d) unless at the direction of the local government, damage, remove or interfere with any signpost, direction plate, guidepost, notice, shelter, shed, fence or any structure erected on a thoroughfare by the local government or a person acting under the authority of a written law;
- (e) play or participate in any game or sport so as to cause danger to any person or thing or impede the movement of vehicles or persons on a thoroughfare;

- (f) within a mall, arcade or veranda of a shopping centre, ride any skateboard, rollerblades, bicycles, scooters or similar device; or
- (g) remove or kill by felling, poison or any other means a tree on a verge area or thoroughfare or verge unless the person is—
 - (i) acting under authority of a permit issued by the local government; or
 - (ii) a local government employee or contractor engaged by the local government to undertake work in relation to a particular tree or trees on thoroughfares in the district or on local government property generally; or
 - (iii) acting under authority of a written law.

2.2 Activities allowed with a permit—general

- (1) A person shall not, without a permit—
- (a) dig or otherwise create a trench through or under a kerb or footpath;
 - (b) subject to Division 3 of this Part, throw, place or deposit any thing on a verge except for removal by the local government under a bulk rubbish collection, and then only during the period of time advertised in connection with that collection by the local government;
 - (c) cause any obstruction to a vehicle or a person using a thoroughfare as a thoroughfare;
 - (d) cause any obstruction to a water channel or a water course in a thoroughfare;
 - (e) throw, place or drain offensive, noxious or dangerous fluid onto a thoroughfare;
 - (f) damage a thoroughfare, kerb or footpath;
 - (g) light any fire or burn any thing on a thoroughfare other than in a stove or fireplace provided for that purpose;
 - (h) fell any tree onto a thoroughfare;
 - (i) unless installing, or in order to maintain, a permissible verge treatment—
 - (i) lay pipes under or provide taps on any verge; or
 - (ii) place or install any thing on any part of a thoroughfare, including gravel, stone, flagstone, cement, concrete slabs, blocks, bricks, pebbles, plastic sheeting, kerbing, wood chips, bark or sawdust;
 - (j) provide, erect, install or use in or on any building, structure or land abutting on a thoroughfare any hoist or other thing for use over the thoroughfare;
 - (k) on a public place use anything or do anything so as to create a nuisance;
 - (l) place or cause to be placed on a thoroughfare a bulk rubbish container;
 - (m) interfere with the soil of, or anything in a thoroughfare or take anything from a thoroughfare;
 - (n) prune or lop a tree on a verge or in a thoroughfare unless that person is—
 - (i) a local government employee or contractor engaged by the local government to undertake work in relation to a particular tree or trees on thoroughfares in the district or on local government property generally; or
 - (ii) acting under authority of a written law;
 - (o) plant or sow any seeds in a thoroughfare;
 - (p) clear or maintain in a cleared state, the surface of a thoroughfare within 1m of that person's land; or
 - (q) construct a firebreak on a thoroughfare.
- (2) The local government may exempt a person from compliance with subclause (1) on the application of that person.

2.3 No possession and consumption of liquor on thoroughfare

- (1) A person shall not consume any liquor or have in her or his possession or under her or his control any liquor on a thoroughfare unless—
- (a) that is permitted under the *Liquor Control Act 1988* or under another written law; or
 - (b) the person is doing so in accordance with a permit;
- (2) Subclause (1) does not apply where the liquor is in a sealed container.

Division 2—Vehicle Crossings

2.4 Temporary Crossings

- (1) Where it is likely that works on a lot will involve vehicles leaving a thoroughfare and entering the lot, the person responsible for the works must obtain a permit for the construction of a temporary crossing to protect the existing carriageway, kerb, drains and footpath, where—
- (a) a crossing does not exist; or
 - (b) a crossing does exist, but the nature of the vehicles and their loads is such that they are likely to cause damage to the crossing.
- (2) The "person responsible for the works" in subclause (1) is to be taken to be—
- (a) the builder named on the building licence issued under the *Local Government (Miscellaneous Provisions) Act 1960*, if one has been issued in relation to the works; or
 - (b) the registered proprietor of the lot, if no building licence has been issued under the *Local Government (Miscellaneous Provisions) Act 1960* in relation to the works.

(3) If the local government approves an application for a permit for the purpose of subclause (1), the permit is taken to be issued on the condition that until such time as the temporary crossing is removed, the permit holder shall keep the temporary crossing in good repair and in such a condition so as not to create any danger or obstruction to persons using the thoroughfare.

2.5 Removal of redundant crossing

(1) Where works on a lot will result in a crossing no longer giving access to a lot, the crossing is to be removed and the kerb, drain, footpath, verge and any other part of the thoroughfare affected by the removal are to be reinstated to the satisfaction of the local government.

(2) The local government may give written notice to the owner or occupier of a lot requiring her or him to—

- (a) remove any part of or all of a crossing which does not give access to the lot; and
- (b) reinstate the kerb, drain, footpath, verge and any other part of the thoroughfare, which may be affected by the removal,

within the period of time stated in the notice, and the owner or occupier of the lot shall comply with that notice.

Division 3—Verge Treatments

2.6 Interpretation

In this Division, unless the context otherwise requires—

“**acceptable material**” means any material which will create a hard surface, and which appears on a list of acceptable materials maintained by the local government.

2.7 Permissible verge treatments

(1) An owner or occupier of land, which abuts on a verge, may on that part of the verge directly in front of her or his land install a permissible verge treatment.

(2) The permissible verge treatments are—

- (a) the planting and maintenance of a lawn;
- (b) the planting and maintenance of a garden provided that—
 - (i) clear sight visibility is maintained at all times for a person using the abutting thoroughfare in the vicinity of an intersection or bend in the thoroughfare or using a driveway on land adjacent to the thoroughfare for access to or from the thoroughfare;
 - (ii) where there is no footpath, a pedestrian has safe and clear access of a minimum width of 2m along that part of the verge immediately adjacent to the kerb;
 - (iii) it does not include a wall or built structure; and
 - (iv) it is not of a thorny, poisonous or hazardous nature; or
- (c) the installation of an acceptable material; or
- (d) the installation of an acceptable material or other verge treatment in accordance with paragraph (c), and the planting and maintenance of either a lawn or a garden on the balance of the verge in accordance with paragraph (a) or (b).

2.8 Only permissible verge treatments to be installed

(1) A person shall not install or maintain a verge treatment that is not a permissible verge treatment.

(2) The owner and occupier of the lot abutting a verge treatment referred to in subclause (1) are each to be taken to have installed and maintained that verge treatment for the purposes of this clause and clause 2.9.

2.9 Obligations of owner or occupier

An owner or occupier who installs or maintains a permissible verge treatment must—

- (a) keep the permissible verge treatment in a good and tidy condition and ensure, where the verge treatment is a garden or lawn, that a footpath on the verge and a carriageway adjoining the verge is not obstructed by the verge treatment;
- (b) ensure the verge treatment does not cause a sight distance obstruction to any person using a footpath on the verge or a carriageway or crossing adjoining the verge or in proximity to it;
- (c) not place any obstruction on or around the verge treatment;
- (d) not disturb a footpath on the verge;
- (e) ensure that the verge treatment does not damage or obstruct a drain, manhole, gully, inspection pit, channel, kerb, or tree planted by the local government; and
- (f) ensure that any sprinklers or pipes installed to irrigate a verge treatment—
 - (i) do not protrude above the level of the lawn when not in use;
 - (ii) are not used at such times so as to cause unreasonable inconvenience to pedestrians or other persons; and
 - (iii) do not otherwise present a hazard to pedestrians or other persons.

2.10 Notice to owner or occupier

The local government may give a notice in writing to the owner or the occupier of a lot abutting on a verge to make good, within the time specified in the notice, any breach of a provision of this Division.

2.11 Transitional provision

(1) In this clause—

“**former provisions**” means one or more of the provisions on a repealed local law which permitted certain types of verge treatments; and

“**repealed local law**” means the local law that is repealed by clause 1.4. without the consent of the local government.

(2) A verge treatment which—

(a) was installed prior to the commencement day; and

(b) on the commencement day is a type of verge treatment which was permitted under and complied with the former provisions, is to be taken to be a permissible verge treatment for so long as the verge treatment remains of the same type and continues to comply with the former provisions.

2.12 Power to carry out public works on verge

Where the local government or an authority empowered to do so under a written law disturbs a verge, the local government or the authority—

(a) is not liable to compensate any person for that disturbance;

(b) may backfill with sand, if necessary, any garden or lawn; and

(c) is not liable to replace or restore any—

(i) verge treatment and, in particular, any plant or any acceptable material or other hard surface; or

(ii) sprinklers, pipes or other reticulation equipment.

*Division 4—Property Numbers***2.13 Interpretation**

In this Division, unless the context requires otherwise—

“**number**” means a number of a lot with or without an alphabetical suffix indicating the address of the lot by reference to a thoroughfare.

2.14 Assignment of numbers

The local government may assign a number to a lot in the district and may assign another number to the lot instead of that previously assigned.

*Division 5—Fencing***2.15 Public place—clause 4(1) of Division 1, Schedule 3.1 of Act**

Each of the following places are specified as a public place for the purpose of item 4(1) of Division 1 of Schedule 3.1 of the Act—

(a) a public place, as that term is defined in clause 1.2; and

(b) local government property.

*Division 6—Signs Erected by the Local Government***2.16 Signs**

(1) A local government may erect a sign on a public place specifying any conditions of use which apply to that place.

(2) A person shall comply with a sign erected under subclause (1).

(3) A condition of use specified on a sign erected under subclause (1) is to be for the purpose of giving notice of the effect of a provision of this local law.

2.17 Transitional

Where a sign erected on a public place has been erected under a local law of the local government repealed by this local law, then on and from the commencement day, it is to be taken to be a sign erected under clause 2.16 if—

(a) the sign specifies a condition of use relating to the public place which gives notice of the effect of a provision of this local law; and

(b) the condition of use specified is not inconsistent with any provision of this local law.

*Division 7—Driving on a Closed Thoroughfare***2.18 No driving on closed thoroughfare**

(1) In this clause—

“**closed thoroughfare**” means a thoroughfare wholly or partially closed under section 3.50 or 3.50A of the Act.

(2) A person shall not drive or take a vehicle on a closed thoroughfare unless—

(a) that is in accordance with any limits or exceptions specified in the order made under section 3.50 of the Act; or

(b) the person has first obtained a permit.

PART 3—ADVERTISING SIGNS ON THOROUGHFARES

*Division 1—Preliminary***3.1 Interpretation**

In this Part, unless the context otherwise requires—

- “**advertising sign**” means a sign used for the purpose of advertising a business, organisation, person, service, product or event and includes an “election sign”;
- “**direction sign**” means a sign used to provide direction to another place where an activity or event is taking place, but does not include any such sign erected or affixed by the local government or the Commissioner of Main Roads;
- “**infrequent or occasional**” means a one off or annual occurrence; and
- “**portable sign**” means a portable free standing advertising sign or direction sign which is not placed on or affixed to any natural feature, including a rock or tree, or on any structure located within a thoroughfare.

*Division 2—Permit***3.2 Portable advertising signs and portable direction signs**

(1) A person shall not—

- (a) erect or place an advertising sign or direction sign on any part of a thoroughfare without the prior approval of the local government; and
- (b) place a sign of any other description on any part of a thoroughfare.

(2) Notwithstanding subclause (1), a permit is not required in respect of a portable direction sign which complies with the following—

- (a) the sign does not exceed 500mm in height or 0.5m² in area;
- (b) the sign is placed on a thoroughfare on an infrequent or occasional basis only to direct attention to a place where an activity or event is occurring, during the hours of that activity or event;
- (c) the number of portable direction signs providing direction to the place where the activity or event is occurring shall not exceed 4 in total;
- (d) the sign shall use symbols and lettering of a sufficient size so as to be clearly legible when observed from a distance;
- (e) the content of the sign shall be limited to advertising an activity or event and providing direction to its location;
- (f) the sign shall only be placed for the duration of the activity or event to which the sign relates;
- (g) the sign shall be secured while placed so as to not become a hazard, particularly when subject to wind loads;
- (h) the sign shall not be placed on a footpath;
- (i) the sign shall not be placed within 1m of a vehicle carriageway and a carriageway will be deemed to include a parking bay; and
- (j) the sign shall not be placed in any other location where, in the opinion of the local government, the sign is likely to obstruct sight lines along a thoroughfare or cause danger to any person using the thoroughfare.

(3) Notwithstanding subclause (1), a permit is not required in respect of a portable advertising sign which complies with the following—

- (a) the sign does not exceed 1m in height or 1m² in area;
- (b) the sign shall use symbols and lettering of a sufficient size so as to be clearly legible when observed from a distance;
- (c) the content of the sign shall be limited to advertising a business, organisation, person, service, product or event;
- (d) the sign shall be the only portable advertising sign serving the building, property or business to which the sign relates (1 sign per business/property/building);
- (e) the sign shall only be placed during the business hours to which the sign relates;
- (f) the sign shall be secured while placed so as to not become a hazard, particularly when subject to wind loads;
- (g) the sign shall, in all instances, be located directly adjacent to the building, property or business to which the sign relates;
- (h) the sign shall not be placed on a footpath;
- (i) notwithstanding subclause (3)(h), the sign may be placed on a footpath if the verge adjoining the building, property or business to which the sign relates consists only of a footpath. In this instance the sign must be—
- (i) located within a trading zone or alfresco dining zone if one has been approved for the subject property; or
- (ii) where a trading zone or alfresco dining zone has not been approved for the subject property the sign must be placed such that it abuts the property's front boundary; and
- (iii) the placement of a sign on a footpath must not reduce the footpaths effective width for use by pedestrians to a distance less than 1.8m.

- (j) the sign shall not be placed within 1m of a vehicle carriageway and a carriageway will be deemed to include a parking bay;
- (k) the sign shall not be placed in any other location where, in the opinion of the local government, the sign is likely to obstruct sight lines along a thoroughfare or cause danger to any person using the thoroughfare; and
- (l) the sign owner must maintain public liability insurance cover to a level agreed to by the local government. A copy of the insurance must be provided to the Town on an annual basis, or such other time as required by the Town, as evidence that the insurance cover has been renewed.

3.3 General Discretion

- (1) Notwithstanding other sections in this local law, the local government may consent to the placement of a sign that does not comply with a requirement or standard of this local law.
- (2) In determining whether to grant its approval to the placement of any sign, the local government may consider, in addition to any other matter, whether the placement of the sign would have an adverse affect on—
 - (a) the safe or convenient use of any land; or
 - (b) the safety or convenience of any person.

PART 4—OBSTRUCTING ANIMALS, VEHICLES OR SHOPPING TROLLEYS

Division 1—Animals and Vehicles

4.1 Leaving an animal or vehicle in a public place or on local government property

- (1) A person shall not leave an animal or a vehicle, or any part of a vehicle, in a public place or on local government property so that it obstructs the use of any part of that public place or local government property, unless that person has first obtained a permit or is authorised to do so under a written law.
- (2) Subject to any other local law, a person does not contravene subclause (1) where the animal is secured or tethered for a period not exceeding 1 hour.
- (3) Subject to any other local law, a person will not contravene subclause (1) where the vehicle is left for a period not exceeding 24 hours.

4.2 Prohibitions relating to animals

- (1) In subclause (2), “owner” in relation to an animal includes—
 - (a) an owner of the animal;
 - (b) a person who has the animal in his or her possession or under his or her control; and
 - (c) the occupier of any premises where the animal is ordinarily kept or ordinarily permitted to live.
- (2) An owner of an animal shall not—
 - (a) allow the animal to enter or remain for any time on any thoroughfare except for the use of the thoroughfare as a thoroughfare and unless it is led, ridden or driven;
 - (b) allow the animal which has a contagious or infectious disease to be led, ridden or driven in a public place;
 - (c) train or race the animal on a thoroughfare; or
 - (d) subject to subclause (4), allow the animal to defecate on a thoroughfare.
- (3) An owner of a horse shall not lead, ride or drive a horse on a thoroughfare in a built-up area, unless that person does so under a permit or under the authority of a written law.
- (4) An owner of an animal does not commit an offence if the defecation is immediately removed.

4.3 Removal of vehicle or animal

An authorised person may impound an animal or vehicle left in contravention of clause 4.1

Division 2—Shopping Trolleys

4.4 Interpretation

In this Division—

“retailer” means a proprietor of a shop in respect of which shopping trolleys are provided for the use of customers of the shop; and

“shopping trolley” means a wheeled container or receptacle supplied by a retailer to enable a person to transport goods.

4.5 Shopping trolley to be marked

A retailer shall clearly mark its name or its trading name on any shopping trolley made available for the use of customers.

4.6 Person not to leave trolley in public place

A person shall not leave a shopping trolley in a public place or on local government property other than in an area set aside for the storage of shopping trolleys.

4.7 Retailer to remove abandoned trolley

(1) If a shopping trolley is found in a public place or on local government property, other than in an area set aside for the storage of shopping trolleys, the local government may advise (verbally or in writing) a retailer whose name is marked on the trolley of the location of the shopping trolley.

(2) A retailer shall remove a shopping trolley within 24 hours of being so advised under subclause (1).

4.8 Retailer taken to own trolley

In the absence of any proof to the contrary, a shopping trolley is to be taken to belong to a retailer whose name is marked on the trolley.

4.9 Impounding of abandoned trolley

An authorised person may impound a shopping trolley that is—

- (a) left on a thoroughfare, verge or local government property that is not marked in accordance with clause 4.5; or
- (b) not removed by a retailer after having been so advised under clause 4.7(2).

PART 5—TRADING IN THOROUGHFARES AND PUBLIC PLACES*Division 1—Stallholders and Traders***5.1 Interpretation**

In this Division, unless the context otherwise requires—

“public place” includes—

- (a) any thoroughfare or place which the public are allowed to use whether or not the thoroughfare or place is on private property; and
- (b) local government property, but does not include premises on private property from which trading is lawfully conducted under a written law.

“stall” means a movable or temporarily fixed structure, stand, table or vehicle in, on or from which goods or services are sold, hired or offered for sale or hire;

“stallholder” means a person in charge of a stall;

“stallholder’s permit” means a permit issued to a stallholder;

“trader” means a person who carries on trading;

“trader’s permit” means a permit issued to a trader; and

“trading” includes—

- (a) the selling or hiring of, the offering for sale or hire of or the soliciting of orders for goods or services in a public place;
- (b) displaying goods in any public place for the purpose of—
 - (i) offering them for sale or hire;
 - (ii) inviting offers for their sale or hire;
 - (iii) soliciting orders for them; or
 - (iv) carrying out any other transaction in relation to them.

5.2 Stallholder’s permit

A person shall not conduct a stall on a public place unless that person is—

- (a) the holder of a valid stallholder’s permit; or
- (b) an assistant specified in a valid stallholder’s permit.

5.3 Trader’s permit

A person shall not carry on trading unless that person is—

- (a) the holder of a valid trader’s permit; or
- (b) an assistant specified in a valid trader’s permit.

5.4 No permit required to sell newspaper

Despite any other provision of this local law, a person who sells, or offers for sale, a newspaper is not required to obtain a permit.

5.5 Conduct of stallholders and traders

(1) A stallholder while conducting a stall or a trader while trading, must—

- (a) display her or his permit in a conspicuous place on the stall, vehicle or temporary structure or, if there is no stall, vehicle or temporary structure, carry the permit with him or her while conducting a stall or trading;
- (b) not display a permit unless it is a valid permit; and
- (c) when selling goods by weight, carry and use for that purpose, scales tested and certified in accordance with the provisions of the *Trade Measurement Administration Act 2006*.

(2) A stallholder or trader must not—

- (a) deposit or store any thing or any part of a thoroughfare so as to obstruct the movement of pedestrians or vehicles;
- (b) act in an offensive manner; or

- (c) use or cause to be used any apparatus or device, including any flap or shelf, whereby the dimensions of a stall, vehicle or structure are increased beyond those specified in the permit.

Division 2—Street entertainers

5.6 Interpretation

In this Division, unless the context otherwise requires—

“**perform**” includes to play a musical instrument, sing, mime, dance, give an acrobatic or aerobic display or entertain, but does not include public speaking;

“**permit**” means a permit issued for the purpose of clause 5.7;

“**permitted area**” means the area or areas, specified in a permit, in which the permit holder may perform; and

“**permitted time**” means the time or times, specified in a permit, during which the permit holder may perform.

5.7 Permit required to perform

A person shall not perform in a public place without a permit.

5.8 Variation of permitted area and permitted time

(1) The local government may by notice in writing to a permit holder vary—

- (a) the permitted area;
- (b) the permitted time; or
- (c) both the permitted area and the permitted time,

shown on a permit.

(2) The local government may direct a permit holder to move from one permitted area to another permitted area, if more than one area is specified in a permit.

5.9 Duration of permit

A permit is valid for a period of 3 months after the date on which it is issued unless it is sooner cancelled under this local law.

5.10 Cancellation of permit

The local government may cancel a permit, if in the opinion of an authorised person—

- (a) the volume of sound caused by the permit holder in connection with the performance adversely affects the enjoyment, convenience or comfort of other persons in a public place; or
- (b) the performance otherwise constitutes a nuisance.

Division 3—Outdoor Eating Facilities on Public Places

5.11 Interpretation

In this Division—

“**facility**” means an outdoor eating facility or establishment on any part of a public place, but does not include such a facility or establishment on private land;

“**permit holder**” means the person to whom a permit has been issued for the purpose of clause 5.12; and

“**public place**” has the meaning given to it in clause 5.1.

5.12 Permit required to conduct facility

A person shall not establish or conduct a facility without a permit.

5.13 Removal of facility unlawfully conducted

Where a facility is conducted without a permit, or in contravention of a condition of a permit, any tables, chairs, umbrellas or other equipment may be removed by an authorised person and impounded in accordance with the Act.

5.14 Temporary removal of facility may be requested

(1) The permit holder for a facility is to temporarily remove the facility when requested to do so on reasonable grounds by an authorised person or a member of the Police Service or an emergency service.

(2) The permit holder may replace the facility removed under subclause (1) as soon as the person who directed her or him to remove it allows it to be replaced.

PART 6—PERMITS

Division 1—Applying for a permit

6.1 Application for permit

(1) Where a person is required to obtain a permit under this local law, that person must apply for the permit in accordance with subclause (2).

(2) An application for a permit under this local law must—

- (a) be in the form determined by the local government;
- (b) be signed by the applicant;

- (c) provide the information required by the form;
 - (d) contain other information required, for that particular type of permit, under this local law; and
 - (e) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.
- (3) The local government may require an applicant to provide additional information reasonably related to an application before determining an application for a permit.
- (4) The local government may require an applicant to give local public notice of the application for a permit.
- (5) The local government may refuse to consider an application for a permit which is not in accordance with subclause (2).

6.2 Decision on application for permit

- (1) The local government may—
- (a) approve an application for a permit unconditionally or subject to any conditions; or
 - (b) refuse to approve an application for a permit.
- (2) If the local government approves an application for a permit, it is to issue to the applicant a permit in the form determined by the local government.
- (3) If the local government refuses to approve an application for a permit, it is to give written notice of that refusal to the applicant.
- (4) Where a clause of this local law refers to conditions which may be imposed on a permit or which are to be taken to be imposed on a permit, the clause does not limit the power of the local government to impose other conditions on the permit under subclause (1)(a).
- (5) Where a clause of this local law refers to the grounds on which an application for a permit may be or is to be refused, the clause does not limit the power of the local government to refuse the application for a permit on other grounds under subclause (1)(b).

6.3 Relevant considerations in determining application for permit

- (1) In determining an application for a permit, the local government is to have regard to—
- (a) any relevant policy of the local government;
 - (b) the desirability of the proposed activity;
 - (c) the location of the proposed activity; and
 - (d) such other matters as the local government may consider to be relevant in the circumstances of the case.
- (2) The local government may refuse to approve an application for a permit on any one or more of the following grounds—
- (a) that the applicant has committed a breach of any provision of this local law or of any written law relevant to the activity in respect of which the permit is sought;
 - (b) that the applicant is not a desirable or suitable person to hold a permit; or
 - (c) such other grounds as the local government may consider to be relevant in the circumstances of the case.

Division 2—Conditions

6.4 Conditions which may be imposed on a permit

The local government may approve an application for a permit subject to conditions relating to—

- (a) the payment of a fee;
- (b) the duration and commencement of the permit;
- (c) the commencement of the permit being contingent on the happening of an event;
- (d) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;
- (e) the approval of another application for a permit which may be required by the local government under any written law;
- (f) the area of the district to which the permit applies;
- (g) where a permit is issued for an activity which will or may cause damage to a public place, the payment of a deposit or bond against such damage;
- (h) the obtaining of public risk insurance in an amount and on terms reasonably required by the local government; and
- (i) the provision of an indemnity from the permit holder indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the use of the public place by the permit holder.

6.5 Imposing conditions under a policy

(1) In this clause—

“**policy**” means a policy of the local government adopted by the Council containing conditions subject to which an application for a permit may be approved under clause 6.2(1)(a).

(2) Under clause 6.2(1)(a) the local government may approve an application subject to conditions by reference to a policy.

(3) The local government is to give a copy of the policy, or the part of the policy which is relevant to the application for a permit, with the form of permit referred to in clause 6.2(2).

(4) An application for a permit is to be taken not to have been approved subject to the conditions contained in a policy until the local government gives the permit holder a copy of the policy or the part of the policy which is relevant to the application.

(5) Sections 5.94 and 5.95 of the Act shall apply to a policy and for that purpose a policy is to be taken to be information within section 5.94(u)(i) of the Act.

6.6 Compliance with and variation of conditions

(1) Where an application for a permit has been approved subject to conditions, or where a permit is to be taken to be subject to conditions under this local law, the permit holder shall comply with each of those conditions.

(2) The local government may vary the conditions of a permit, and the permit holder shall comply with those conditions as varied.

Division 3—General

6.7 Duration of permit

A permit is valid for one year from the date on which it is issued, unless it is—

- (a) otherwise stated in this local law or in the permit; or
- (b) cancelled under clause 6.11.

6.8 Renewal of permit

(1) A permit holder may apply to the local government in writing prior to expiry of a permit for the renewal of the permit.

(2) The provisions of—

- (a) this Part; and
- (b) any other provision of this local law relevant to the permit which is to be renewed,

apply, with appropriate modifications to an application for the renewal of a permit.

6.9 Transfer of permit

(1) An application for the transfer of a valid permit is to—

- (a) be made in writing;
- (b) be signed by the permit holder and the proposed transferee of the permit;
- (c) provide such information as the local government may require to enable the application to be determined; and
- (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.

(2) The local government may approve an application for the transfer of a permit, refuse to approve it or approve it subject to any conditions.

(3) Where the local government approves an application for the transfer of a permit, the transfer may be effected by—

- (a) an endorsement on the permit signed by the CEO or an authorised person; or
- (b) issuing to the transferee a permit in the form determined by the local government.

(4) Where the local government approves an application for the transfer of a permit, it is not required to refund any part of any fee paid by the former permit holder.

6.10 Production of permit

A permit holder is to produce to an authorised person his or her permit immediately on being required to do so by that authorised person.

6.11 Cancellation of permit

(1) Subject to clause 8.1, a permit may be cancelled by the local government if the permit holder has not complied with—

- (a) a condition of the permit; or
- (b) a provision of any written law which may relate to the activity regulated by the permit.

(2) If a permit is cancelled the permit holder—

- (a) shall return the permit as soon as practicable to the local government; and
- (b) is to be taken to have forfeited any fees paid in respect of the permit.

6.12 Nominee of permit holder

Where a permit holder by reason of illness, accident or other sufficient cause is unable to comply with this local law, the local government may at the request of that permit holder authorise another person to be a nominee of the permit holder for a specified period, and this local law and the conditions of the permit apply to the nominee as if he or she was the permit holder.

PART 7—OBJECTIONS AND APPEALS**7.1 Application of Part 9 Division 1 of Act**

The provisions of Division 1 of Part 9 of the Act and regulation 33 of the Regulations apply to any local government decision.

- (a) to impose conditions on a permit;
- (b) to vary a permit; or
- (c) not to renew or cancel a permit.

PART 8—NOTICES**8.1 Notice to redirect or repair sprinkler**

Where a lawn or a garden is being watered with a sprinkler which is on the lawn or the garden, in a manner which causes or may cause an inconvenience or obstruction to any person or vehicle using a thoroughfare, the local government may give a notice to the owner or the occupier of the land abutting the lawn or the garden, requiring the owner or the occupier or both to move or alter the direction of the sprinkler or other watering equipment.

8.2 Hazardous plants

(1) Where a plant in a garden creates or may create a hazard for any person using a thoroughfare, the local government may give a notice to the owner or the occupier of the land abutting the garden to remove, cut, move or otherwise deal with that plant so as to remove the hazard;

(2) Subclause (1) does not apply where the plant was planted by the local government.

8.3 Damage to thoroughfare

Where any portion of a thoroughfare, kerb or footpath has been damaged, the local government may by notice to the person who caused the damage order the person to repair or replace that portion of the thoroughfare to the satisfaction of the local government.

8.4 Notice to remove thing unlawfully placed on thoroughfare

Where any thing is placed on a thoroughfare in contravention of this local law, the local government may by notice in writing to the owner or the occupier of the property which abuts that portion of the thoroughfare where the thing has been placed, or such other person who may be responsible for the thing being so placed, require the relevant person to remove the thing.

PART 9—ENFORCEMENT*Division 1—Notices Given Under This Local Law***9.1 Offence to fail to comply with notice**

Whenever the local government gives a notice under this local law requiring a person to do any thing, if the person fails to comply with the notice, the person commits an offence.

9.2 Local government may undertake requirements of notice

Where a person fails to comply with a notice referred to in clause 9.1, the local government may do the thing specified in the notice and recover from that person, as a debt, the costs incurred in so doing.

*Division 2—Offences and Penalties***9.3 Offences**

(1) Any person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.

(2) Any person who commits an offence under this local law is liable, upon conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

9.4 Prescribed offences

(1) An offence against a clause specified in Schedule 1 is a prescribed offence for the purposes of section 9.16(1) of the Act.

(2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 1.

(3) For the purpose of guidance only, before giving an infringement notice to a person in respect of the commission of a prescribed offence, an authorised person should be satisfied that—

- (a) commission of the prescribed offence is a relatively minor matter; and
- (b) only straightforward issues of law and fact are involved in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable.

9.5 Forms

Unless otherwise specified, for the purposes of this local law—

- (a) where a vehicle is involved in the commission of an offence, the form of the notice referred to in section 9.13 of the Act is that of Form 1 in Schedule 1 of the Regulations;
- (b) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the Regulations; and
- (c) the form of the notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the Regulations.

*First Schedule**Local Government Act 1995*

Town of Bassendean

ACTIVITIES ON THOROUGHFARES AND TRADING IN THOROUGHFARES AND
PUBLIC PLACES LOCAL LAW 2010

PRESCRIBED OFFENCES

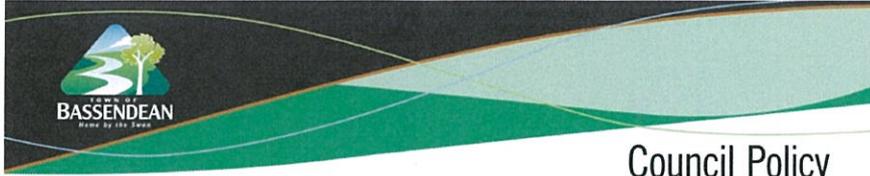
Clause	Description	Modified Penalty \$
2.1(a)	Plant of 0.75m in height on thoroughfare within 6m of intersection	125
2.1(b)	Damaging lawn or garden	125
2.1(c)	Obstructing or causing a hazard on thoroughfare or verge	200
2.1(d)	Damaging or interfering with thoroughfare structure	350
2.1(e)	Playing games so as to impede vehicles or persons on thoroughfare	125
2.1(f)	Riding of skateboard or similar device on mall or veranda of shopping centre	125
2.1(g)	Removal of tree on thoroughfare or verge	350
2.2(1)(a)	Digging a trench through a kerb or footpath without a permit	200
2.2(1)(b)	Throwing or placing anything on a verge without a permit	200
2.2(1)(c)	Causing obstruction to vehicle or person on thoroughfare without a permit	200
2.2(1)(d)	Causing obstruction to water channel on thoroughfare without a permit	250
2.2(1)(e)	Placing or draining offensive fluid on thoroughfare without a permit	250
2.2(1)(f)	Damage a thoroughfare, kerb or footpath	250
2.2(1)(g)	Lighting a fire on a thoroughfare without a permit	350
2.2(1)(h)	Felling tree onto thoroughfare without a permit	200
2.2(1)(i)	Installing pipes or stone on thoroughfare without a permit	200
2.2(1)(j)	Installing a hoist or other thing on a structure or land for use over a thoroughfare without a permit	350
2.2(1)(k)	Creating a nuisance on a thoroughfare without a permit	200
2.2(1)(l)	Placing a bulk rubbish container on a thoroughfare without a permit	200
2.2(1)(m)	Interfering with anything on a thoroughfare without a permit	200
2.2(1)(n)	Prune or lop a tree without a permit	250
2.2(1)(o)	Plant or sow any seeds on a thoroughfare without a permit	125
2.2(1)(p)	Clear the surface of a thoroughfare without a permit	200
2.2(1)(q)	Construct a firebreak on a thoroughfare without a permit	250
2.3(1)	Consumption or possession of liquor on thoroughfare	125
2.4(1)	Failure to obtain permit for temporary crossing	250
2.5(2)	Failure to comply with notice to remove crossing and reinstate kerb	350
2.8(1)	Installation of verge treatment other than permissible verge treatment	250
2.9	Failure to maintain permissible verge treatment or placement of obstruction on verge	200
2.10	Failure to comply with notice to rectify default	200
2.16(2)	Failure to comply with sign on public place	125
2.18(2)	Driving or taking a vehicle on a closed thoroughfare	350
3.2(1)	Placing advertising sign or affixing any advertisement on a thoroughfare without a permit	125
3.2(3)	The erection or placing of a portable directional sign contrary to the local law	125
4.1(1)	Animal or vehicle obstructing a public place or local government property	125
4.2(2)(a)	Animal on thoroughfare when not led, ridden or driven	125

Clause	Description	Modified Penalty \$
4.2(2)(b)	Animal on public place with infectious disease	125
4.2(2)(c)	Training or racing animal on thoroughfare in built-up area	125
4.2(2)(d)	Allow a animal to defecate on a throughfare	125
4.2(3)	Horse led, ridden or driven on thoroughfare in built-up area	125
4.6	Person leaving shopping trolley in public place other than trolley bay	125
4.7(2)	Failure to remove shopping trolley upon being advised of location	125
5.2	Conducting of stall in public place without a permit	350
5.3	Trading without a permit	350
5.5(1)(a)	Failure of stallholder or trader to display or carry permit	125
5.5(1)(b)	Stallholder or trader not displaying valid permit	125
5.5(1)(c)	Stallholder or trader not carrying certified scales when selling goods by weight	125
5.5(2)	Stallholder or trader engaged in prohibited conduct	125
5.7	Performing in a public place without a permit	125
5.8(2)	Failure of performer to move onto another area when directed	125
5.12	Establishment or conduct of outdoor eating facility without a permit	350
5.14	Failure of permit holder to remove outdoor eating facility when requested	200
6.6	Failure to comply with a condition of a permit	200
6.10	Failure to produce permit on request of authorised person	125
9.1	Failure to comply with notice given under local law	200

Dated: 16 May 2011.

The Common Seal of the Town of Bassendean was affixed by authority of a resolution of the Council in the presence of—

Cr J. R. H. GANGELL, Mayor.
Mr R. C. JARVIS, Chief Executive Officer.



Commented [AB1]:

1.1 Verge ~~Treatment and~~ Maintenance Policy

Street verges within the Town perform important functions including the provision of space for public utility services, increased public space and the visual linking of streetscapes. ~~In the interests of Bassendean's wellbeing into the future, the Town wishes to encourage landscaping that is waterwise, aesthetically pleasing and reflects our natural heritage.~~

It is acknowledged that verges form part of the public realm. Whilst Council allocates funding for the maintenance of selected verges, generally those adjacent to major or distributor roads, the Town relies on the goodwill and cooperation of adjacent land owners/occupiers for the maintenance of their verges.

Objectives

The objectives of this policy are to encourage adjacent owners/occupiers to ~~install and~~ maintain Permissible Verge Treatments in accordance to Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law, for ~~the installation and~~ management of verges that are waterwise, aesthetically pleasing, and that reflect our natural heritage.

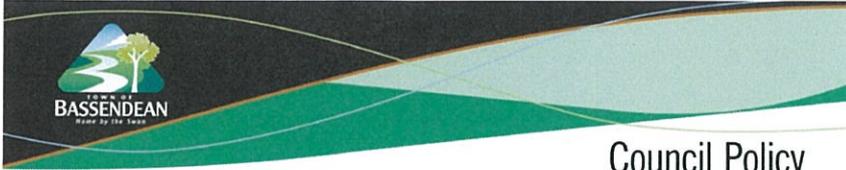
Council does not mow or slash verges adjacent to all private, commercial or industrial property on the basis that owners and residents with civic pride undertake this activity as a contribution to the amenity of the Town. This allows Council to direct its resources to priority services.

Strategy

The Town of Bassendean will achieve these objectives through ~~the application of "Permissible Verge Treatment" guidelines (see Appendix 1) with which to assess requests to develop new or alter existing verge treatments and~~ the development of a priority verge slashing program to reduce the grass loadings through out the year, within the allocated budget constraints.

Street verge slashing program is a grass reduction service not a lawn mowing service and will be provided within budget constraints, in accordance with the following priorities:

Priority One - Primary and District Distributor Roads – Guildford Rd, Lord St, Walter Rd East, Morley Drive (as arranged with the Shire of Swan), Collier Rd and Railway Parade, and areas required to be carried out for reasons of fire, traffic, cyclist or pedestrian safety.



Priority Two - Local Distributor Roads – West Rd, Ivanhoe St, Old Perth Rd, Hardy Rd, Reid St, Broadway, Northmoor Rd, Iolanthe St, Palmerston St, Shackleton St, Bridson St, Haig St and Colstoun Rd.

Priority Three - Local Roads - Scaddan St, North Rd, Bassendean Parade, Pearson St and Surrey St.

Priority Four - Verges adjacent to vacant and corner blocks, cul-de-sac heads, and closed road sections in other roads.

Note:

1. Verges adjacent to Council controlled reserves are to be mown as part of those reserves; and
2. Verges maintained by the resident are not included in the verge slashing program.

Detail

This policy applies to the portion of land between the road kerb/edge and the property boundary. The requirements of the policy exclude footpaths and crossovers.

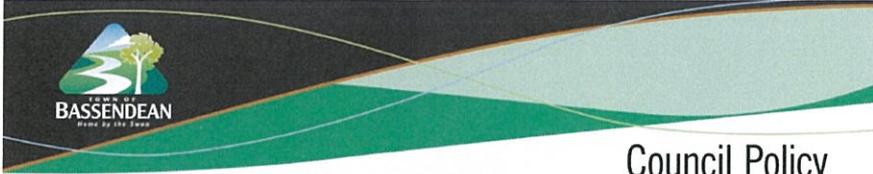
~~Treatments should be attractive and provide a positive enhancement to the streetscape. Street tree planting shall be in accordance to the adopted Street Tree Master Plan.~~ Street trees remain the responsibility of the Town and are therefore, excluded from this policy.

Application

Responsibility for the implementation of this policy rests with the Mayor, Councillors, Council delegates and Chief Executive Officer. The Chief Executive Officer (CEO) has the authority to administer the requirements of this policy. The CEO has on-delegated this authority to the Manager Asset Services.

The Policy is to be reviewed every three years.

<p>Policy Type: Strategic Policy</p> <p>Link to Strategic Community Plan: Town Planning & Built Environment</p>	<p>Policy Owner: Director Operational Services</p> <p>First Adopted: OCM-12/12/11</p> <p>Last Review Date: March 2014</p> <p>Version 1</p> <p>Next Review due by: December 2016</p>
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Council Policy

APPENDIX 1

PERMISSIBLE VERGE TREATMENTS

Introduction

The portion of land between a property boundary and the carriageway or road is referred to as the verge. Property owners or residents of land abutting the verge may install a permissible verge treatment.

A permissible verge treatment is one that is approved by Council and subject to stringent conditions.

Waterwise management practices are encouraged for verge treatments. The Water Corporation webpage (www.watercorporation.com.au) has a range of initiatives to assist residents minimise water usage.

Permissible Verge Treatments

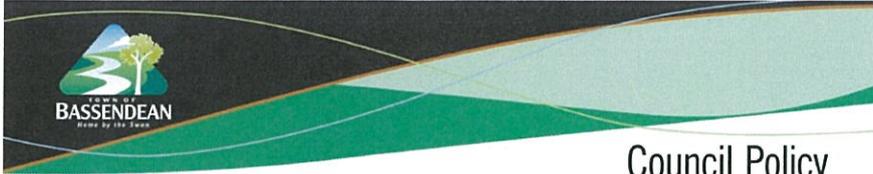
The Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2010 states:

Division 1—General prohibitions : A person must not plant any plant except grass within 6m of an intersection

Division 3—Permissible Verge treatments:

- (1) An owner or occupier of land, which abuts on a verge, may on that part of the verge directly in front of her or his land install a permissible verge treatment.
- (2) The permissible verge treatments are:
 - (a) the planting and maintenance of a lawn;
 - (b) the planting and maintenance of a garden provided that:
 - (i) clear sight visibility is maintained at all times for a person using the abutting thoroughfare in the vicinity of an intersection or bend in the thoroughfare or using a driveway on land adjacent to the thoroughfare for access to or from the thoroughfare;
 - (ii) where there is no footpath, a pedestrian has safe and clear access of a minimum width of 2m along that part of the verge immediately adjacent to the kerb;
 - (iii) it does not include a wall or built structure; and
 - (iv) it is not of a thorny, poisonous or hazardous nature; or
 - (c) the installation of an acceptable material; or
 - (d) the installation of an acceptable material or other verge treatment in accordance with paragraph (c), and the planting and maintenance of either a lawn or a garden on the balance of the verge in accordance with paragraph (a) or (b).

Acceptable materials	Conditional requirements
1. Composted mulch or chipper mulch material	➤ Street Tree Protection policy requirements are applied to ensure the long-term health of the tree
2. Small format Permeable/ Porous Pavers	➤ To protect the tree roots, all earth works under the tree drip line shall be performed using hand tools ➤ Verge pavers shall be at least 20 per cent porous



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Acceptable materials	Conditional requirements
3- Irrigation system 4- Grass 5- Low growing ground cover plants	<ul style="list-style-type: none"> — Storm water on verge shall be managed on site — Verge pavers shall not be laid within 2 metres from base of existing tree trunk — A minimum of 2 metre wide street tree planting bay (s) shall be provided for future street tree (s) — No more than one third of the verge shall be paved excluding the crossover — Mulch or paving once installed shall not be higher than the adjacent kerb line, footpath or crossover — Paving shall tolerate limited vehicle traffic — Below ground irrigation / pop up sprinklers

Examples of Non-Acceptable materials	Reason
1- Frangible objects such as mounds, rocks, sleepers, walls, and garden kerbs 2- Loose objects such as gravel or aggregate 3- In-situ concrete, concrete slabs, and bitumen 4- Artificial turf	<ul style="list-style-type: none"> — Frangible objects may be considered unsafe, cause damage or be used to cause damage — Loose objects impact upon pedestrian safety — Concrete & bitumen have poor water permeability and contribute to storm water flow — Synthetic turf may reduce soil health and contribute to the urban heat island effect by absorbing sunlight and emitting heat

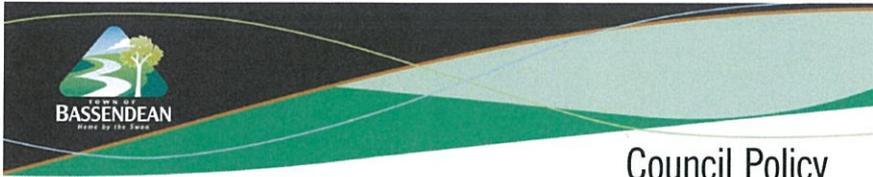
Irrigation & Planting requirements

Irrigation of the verge is an acceptable material on the following condition:

- Gate valve(s) / solenoid valve(s) are located on private property
- Installation of retractable sprinkler heads, level with grass surface
- Irrigation system designed to ensure that the water is not distributed onto paved surfaces.
- Irrigation is applied in accordance to Waterwise for WA water roster requirements.

In regards to the landscaping of the verge, it is essential to provide at all times clear sight visibility for both pedestrians and vehicles. Where there is no footpath, safe and clear access shall be provided for pedestrians. No plant except grass or a similar ground cover plant is to be grown within 2 metres of a road edge and no plant except grass or a similar ground cover plant is to be within 6 metres of an intersection. Other low growing plants shall not exceed 0.75 metres in height.

The sketch landscape plan below is provided to assist the owner / occupier of the lot abutting a verge, appreciate visually the verge planting requirements. In this plan, the plants have been arranged so that grass or a similar ground cover plant covers are placed at edges and low growing plant towards the middle of the verge area.

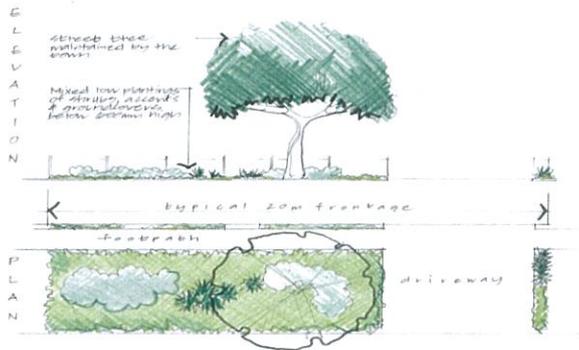


Council Policy

Where street trees are growing under the overhead power lines it is essential that the Town of Bassendean approved contractors have appropriate machinery access to carry out street tree pruning operations. Should a verge treatment proposal prevent a street tree from being maintained/ pruned or will damage an existing street tree, the application shall be refused.

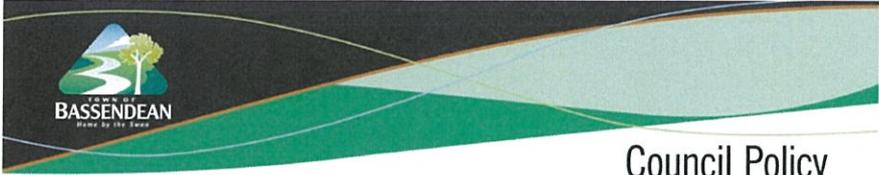
When considering landscaping a verge, the planting of endemic (local native) low growing groundcovers and shrubs are strongly encouraged. *Grow Local* native plants brochures can be obtained from the Town's Customer Service information desk. The brochure contains a range of hints and information on how to use and look after native plants

Below is an example of a verge landscaped plan



Important Information:

- Please refer to the Council adopted Verge Treatment Policy, Street Tree Protected Policy and the Crossover Policy are available for viewing on the Town of Bassendean webpage at: www.bassendean.wa.gov.au/information & feedback/policies.
- Before the owner/occupier of the lot abutting a verge or contractors start to dig, plough, excavate or undertake any sub-surface activity, contact the "Dial Before You Dig" service on telephone 1100 to access indicative plans / information within 4-5 days on underground pipes and cables. Failure to take steps to avoid damage may leave you liable for costs incurred in the event of infrastructure damage.
- Local native plants will generally need to be watered for the first two summers until established. Some non-native plant species whilst 'waterwise' should be avoided as there is the potential for seed dispersal into natural areas. For this reason local natives are preferred



APPENDIX 2

VERGE TREATMENT APPLICATION FORM

Name of Applicant:
Property Address:
Email:
Telephone (Hom):(Mob):

Verge Treatment Details

Please (✓) tick to confirm the required information has been attach to the verge treatment application form.

- Sketch plan of proposed verge treatment attached
- Specification of material planned to be utilised provided
- If garden to be provided, ensure plant species proposed are clearly shown.
- Reticulation plan of proposed spray or drip reticulation attached
- Dial before you dig information attached
- Request the Town plant and maintain a street tree.

Please Note: If above supporting information is not submitted with application, the Town will have no option but to reject application until relevant information is provided

For General Information Sheets, please refer to the Town of Bassendean web page at: www.bassendean.wa.gov.au/ for the following:

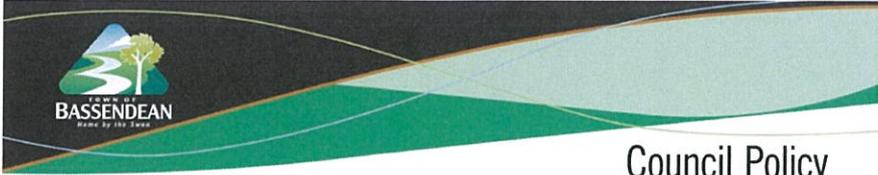
- * "Street Tree" - Telephone 93779000 or request in writing a street tree (s) be planted
* "Street Tree Protection"- building permit requirements.
* "Crossovers" - constructed in accordance to Town's specifications
* "Availability of Mulch" - Free mulch during specified time frames or pay for delivery.

I/we, agree:

- 1. to maintain the verge area in accordance to the approved permissible verge treatment in a good and tidy condition and ensure that pedestrian access will be maintained.
2. that service utilities on occasions will require access to the verge area to undertake underground, above ground routine work and street tree pruning operations.
3. that if the approved permissible verge treatment is damaged as a result of the routine work, the applicant shall reinstate the area at no cost to the Town of Bassendean.

Applicant (s) Name
Applicant/s Signature
Date:

Please note that landscaping of verge area shall not be undertaken without written approval that the application is in accordance to the Permissible Verge Treatment requirements



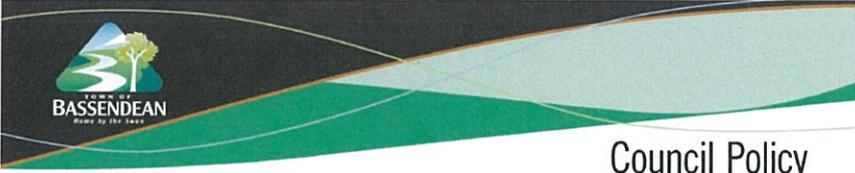
OFFICE USE ONLY

Required Verge Treatment documentation and Plans submitted Yes No
Street Tree Protected policy considered & applied Yes No
Acceptable materials utilized Yes No
Pedestrian Access provided Yes No
Existing / Future Street Tree considered Yes No

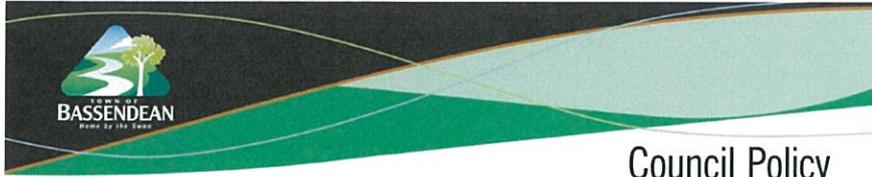
Application Approved Refused

Comments:
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Officer Title : Date: Applicant advised Yes



Council Policy



Council Policy

1.1 **Verge Treatment and Maintenance Policy**

Street verges within the Town perform important functions including the provision of space for public utility services, increased public space and the visual linking of streetscapes. In the interests of Bassendean's wellbeing into the future, the Town wishes to encourage landscaping that is waterwise, aesthetically pleasing and reflects our natural heritage.

It is acknowledged that verges form part of the public realm. Whilst Council allocates funding for the maintenance of selected verges, generally those adjacent to major or distributor roads, the Town relies on the goodwill and cooperation of adjacent land owners/occupiers for the maintenance of their verges.

Objectives

The objectives of this policy are to encourage adjacent owners/occupiers to install and maintain Permissible Verge Treatments in accordance to Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law, for the installation and management of verges that are waterwise, aesthetically pleasing, and that reflect our natural heritage.

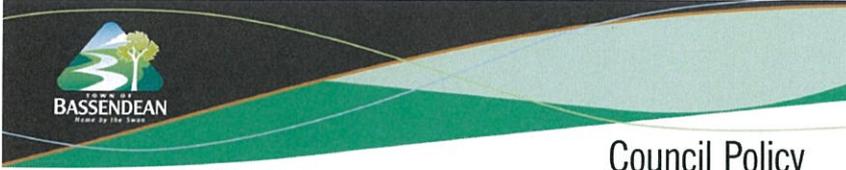
~~Council does not mow or slash verges adjacent to all private, commercial or industrial property on the basis that owners and residents with civic pride undertake this activity as a contribution to the amenity of the Town. This allows Council to direct its resources to priority services.~~

Strategy

The Town of Bassendean will achieve these objectives through the application of "Permissible Verge Treatment" ~~Guidelines~~ (see Appendix 1) with which to assess requests to develop new or alter existing verge treatments ~~and the development of a priority verge slashing program to reduce the grass loadings through out the year, within the allocated budget constraints.~~

~~Street verge slashing program is a grass reduction service not a lawn mowing service and will be provided within budget constraints, in accordance with the following priorities:~~

~~Priority One – Primary and District Distributor Roads – Guildford Rd, Lord St, Walter Rd East, Morley Drive (as arranged with the Shire of Swan), Collier Rd and Railway Parade, and areas required to be carried out for reasons of fire, traffic, cyclist or pedestrian safety.~~



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Priority Two – Local Distributor Roads – West Rd, Ivanhoe St, Old Perth Rd, Hardy Rd, Reid St, Broadway, Northmoor Rd, Iolanthe St, Palmerston St, Shackleton St, Bridson St, Haig St and Colstoun Rd.

Priority Three – Local Roads – Scaddan St, North Rd, Bassendean Parade, Pearson St and Surrey St.

Priority Four – Verges adjacent to vacant and corner blocks, cul-de-sac heads, and closed road sections in other roads.

Note:

1. Verges adjacent to Council controlled reserves are to be mown as part of those reserves; and
2. Verges maintained by the resident are not included in the verge slashing program.

Detail

This policy applies to the portion of land between the road kerb/edge and the property boundary. The requirements of the policy exclude footpaths and crossovers.

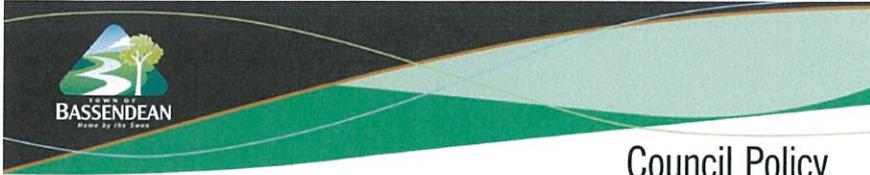
Treatments should be attractive and provide a positive enhancement to the streetscape. Street tree planting shall be in accordance to the adopted Street Tree Master Plan. Street trees remain the responsibility of the Town and are therefore, excluded from this policy.

Application

Responsibility for the implementation of this policy rests with the Mayor, Councillors, Council delegates and Chief Executive Officer. The Chief Executive Officer (CEO) has the authority to administer the requirements of this policy. The CEO has on-delegated this authority to the Manager Asset Services.

The Policy is to be reviewed every three years.

Policy Type: Strategic Policy	Policy Owner: Director Operational Services
Link to Strategic Community Plan: Town Planning & Built Environment	First Adopted: - Last Review Date: - Version 1 Next Review due by: -



APPENDIX 1

APPENDIX 1 : PRE –APPROVED PLANT SPECIES

Pre-approved Plant List (as per policy to be kept at 750mm or less)

[Conostylis candicans](#)

[Conostylis aculeata](#)

[Anigozanthus \(smaller cultivars\)](#)

[Eremophila glabra \(Kalbarri Carpet\)](#)

[Maleleuca incana nana \(Velvet Cushion\)](#)

[Myoporum parvifolium](#)

[Pimelea ferruginea](#)

[Banksia blechnifolia](#)

[Grevillea obtusifolia \(Gin Gin Gem\)](#)

[Hypocalymma angustifolium \(Coconut Ice\)](#)

[Hypocalymma robustum \(Swan River Myrtle\)](#)

[Carpobrotus virescens](#)

[Kennedia prostrata](#)

[Scaevola cultivars](#)

Herbs (Basil, Chives, Dill, Lavender, Lemon Grass, Marjoram, Mint, Parsley, Rosemary, Oregano, Tarragon, Thyme)

Other Native plant choices (as per policy to be kept at 750mm or less)

[Banksia nivea \(Honey Pot\)](#)

[Boronia crenulata \(Pink Passion\)](#)

[Brachyscome multiflora \(Swan River Daisy\)](#)

[Darwinia citriodora \(Seaspray\)s](#)

[Eremophila spp \(Winter Gold, Tar Bush\)](#)

[Revillea lanigera \(Dwarf form\)](#)

[Hibbertia racemose \(Coastal Buttercup\)](#)

[Hypocalymma strictum](#)

[Rhagodia spinescens \(Creeping Saltbush\)](#)

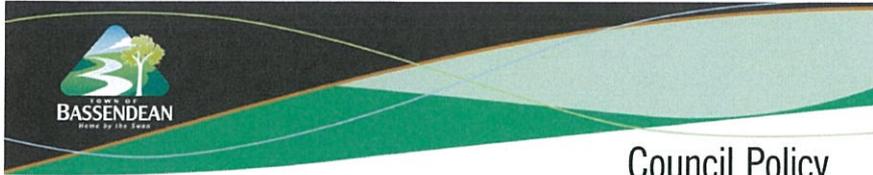
[Templetonia retusa \(Cockies Tongues\)](#)

[Templetonia smithiana](#)

[Thryptomene saxicola \(Mingenew\)](#)

[Verticordia plumose \(Pink Feather Flower\)](#)

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[Westringia fruticosa \(Native Rosemary, Variegated form\)](#)

APPENDIX 2

VERGE TREATMENT APPLICATION FORM

Name of Applicant:
Property Address:
Email:
Telephone (Hom):(Mob):

Verge Treatment Details

Please (✓) tick to confirm the required information has been attach to the verge treatment application form.

- Sketch plan of proposed verge treatment attached
- Specification of material planned to be utilised provided
- If garden to be provided, ensure plant species proposed are clearly shown.
- Reticulation plan of proposed spray or drip reticulation attached
- Dial before you dig information attached
- Request the Town plant and maintain a street tree.

Please Note: If above supporting information is not submitted with application, the Town will have no option but to reject application until relevant information is provided

[Please refer to the Permissible Verge Treatment Guidelines for a step by step method to creating a waterwise verge garden.](#)

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For General Information Sheets, please refer to the Town of Bassendean web page at : www.bassendean.wa.gov.au/ for the following:

- * "Street Tree" – Telephone 93779000 or request in writing a street tree (s) beplanted
- * "Street Tree Protection"- building permit requirements.
- * "Crossovers" – constructed in accordance to Town's specifications
- * "Availability of Mulch" Free mulch during specified time frames or pay for delivery.

I/we, agree:

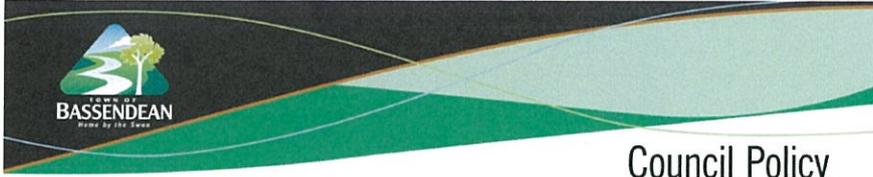
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2. that service utilities on occasions will require access to the verge area to undertake underground, above ground routine work and street tree pruning operations.
3. that if the approved permissible verge treatment is damaged as a result of the routine work, the applicant shall reinstate the area at no cost to the Town of Bassendean.

Applicant (s) Name

Applicant/s Signature

Date:

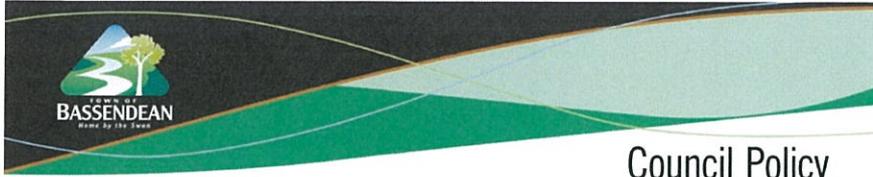
Please note that landscaping of verge area shall not be undertaken without written approval that



*the application is in accordance to the Permissible Verge Treatment
[requirementsGuidelines.](#)*

Please provide below a plan/sketch of the proposed verge treatment:

A large, empty rectangular box with a thin black border, intended for the applicant to provide a plan or sketch of the proposed verge treatment.



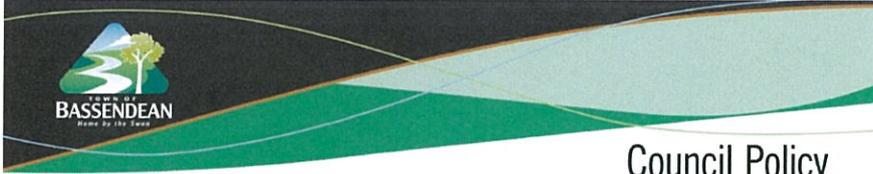
OFFICE USE ONLY

- Required Verge Treatment documentation and Plans submitted Yes No
- Street Tree Protected policy considered & applied Yes No
- Acceptable materials utilized Yes No
- Pedestrian Access provided Yes No
- Existing / Future Street Tree considered Yes No

Application Approved Refused

Comments:
.....
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Officer Title : Date: Applicant advised Yes



PERMISSIBLE VERGE TREATMENT GUIDELINESS

Let's keep our verges safe, waterwise and beautiful!

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Introduction

The portion of land between a property boundary and the carriageway or road is referred to as the verge. Property owners or residents of land abutting the verge may install a permissible verge treatment.

A permissible verge treatment is one that is approved by Council and subject to stringent conditions.

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The choice of what to do with your verge is yours, provided it meets the Town's requirements and all verge landscaping treatments are approved.

Waterwise management practices are encouraged for verge treatments. The Water Corporation webpage (www.watercorporation.com.au) has a range of initiatives to assist residents minimise water usage.

Why turn your verge into a waterwise garden?

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Beyond providing safety for pedestrians, access to the property and a place for utilities such as electricity, gas, water and street lights, verges provide an opportunity to enhance the urban landscape. Street verges are an important part of the Town's management of stormwater, urban heat and public space. Verges also provide habitat and wildlife corridors as well as an aesthetically pleasing streetscape when maintained.

The Town of Bassendean hopes to encourage residents to enhance their adjacent verge into safe, waterwise and beautiful verges for the community and natural ecosystem.

Traditional verges require regular irrigation to maintain water-greedy lawns and a lack of tree canopy increases the risk of heat-related illness through the urban heat island effect. The transformation of a verge into a waterwise garden can reduce the Town's residential water consumption, improve local water quality, reduce electricity costs, support biodiversity and provide an appealing street frontage. A waterwise garden generally requires less maintenance than a traditional verge once established with occasional weeding, pruning and mulching.

Who is responsible for your verge?

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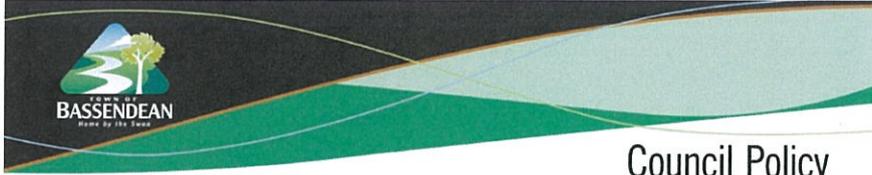
The property owners or residents of the property are responsible for the maintenance of their adjacent verge and any treatments they wish to implement.

The Town of Bassendean is responsible for the planting, removal and maintenance of all street trees (any tree that is located on a property verge). The Town is also responsible for approving verge treatment applications.

Where do I start?

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Please ensure you read the entire guidelines before beginning verge treatment works to ensure



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[you are fully aware of what is required during each step.](#)

[Download the Verge Treatment Application Form which is part of the Permissible Verge Treatments information sheet from the Town of Bassendean's website \(www.Bassendean.wa.gov.au/documents/information-sheets\).](#)

[Please submit the form and obtain approval prior to beginning any works.](#)

Permissible Verge Treatments *What is and is not allowed on my verge?*

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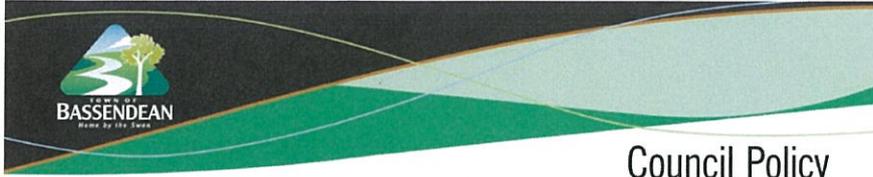
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 - (a) *the planting and maintenance of a lawn;*
 - (b) *the planting and maintenance of a garden provided that:*
 - (i) *clear sight visibility is maintained at all times for a person using the abutting thoroughfare in the vicinity of an intersection or bend in the thoroughfare or using a driveway on land adjacent to the thoroughfare for access to or from the thoroughfare;*
 - (ii) *where there is no footpath, a pedestrian has safe and clear access of a minimum width of 2m along that part of the verge immediately adjacent to the kerb;*
 - (iii) *it does not include a wall or built structure; and*
 - (iv) *it is not of a thorny, poisonous or hazardous nature; or*
 - (c) *the installation of an acceptable material; or*
 - (d) *the installation of an acceptable material or other verge treatment in accordance with paragraph (c), and the planting and maintenance of either a lawn or a garden on the balance of the verge in accordance with paragraph (a) or (b).*

Acceptable materials	Conditional requirements
1. Composted mulch or chipper mulch material 2. Small format Permeable/ Porous Pavers	<ul style="list-style-type: none"> ➤ Street Tree Protection policy requirements are applied to ensure the long-term health of the tree ➤ To protect the tree roots, all earth works under the tree drip line shall be performed using hand tools ➤ Verge pavers shall be at least 20 per cent porous



Acceptable materials	Conditional requirements
3. Irrigation system 4. Grass 5. Low growing ground cover plants	<input type="checkbox"/> Storm water on verge shall be managed on site <input type="checkbox"/> Verge pavers shall not be laid within 2 metres from base of existing tree trunk <input type="checkbox"/> A minimum of 2 metre wide street tree planting bay (s) shall be provided for future street tree (s) <input type="checkbox"/> No more than one third of the verge shall be paved excluding the crossover <input type="checkbox"/> Mulch or paving once installed shall not be higher than the adjacent kerb line, footpath or crossover <input type="checkbox"/> Paving shall tolerate limited vehicle traffic <input type="checkbox"/> Below ground irrigation / pop up sprinklers

Examples of Non - Acceptable materials	Reason
1. Frangible objects such as mounds, rocks, sleepers, walls, and garden kerbs 2. Loose objects such as gravel or aggregate 3. In-situ concrete, concrete slabs, and bitumen 4. Artificial turf	<input type="checkbox"/> Frangible objects may be considered unsafe, cause damage or be used to cause damage <input type="checkbox"/> Loose objects impact upon pedestrian safety <input type="checkbox"/> Concrete & bitumen have poor water permeability and contribute to storm water flow <input type="checkbox"/> Synthetic turf may reduce soil health and contribute to the urban heat island effect by absorbing sunlight and emitting heat

Irrigation & Planting requirements

Irrigation of the verge is an acceptable material on the following condition:

- Gate value(s) / solenoid value(s) are located on private property
- Installation of retractable sprinkler heads, level with grass surface
- Irrigation system designed to ensure that the water is not distributed onto paved surfaces.
- Irrigation is applied in accordance to Waterwise for WA water roster requirements.

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In regards to the landscaping of the verge, it is essential to provide at all times clear sight visibility for both pedestrians and vehicles. Where there is no footpath, safe and clear access shall be provided for pedestrians. No plant except grass or a similar ground cover plant is to be grown within 2 metres of a road edge and no plant except grass or a similar ground cover plant is to be within 6 metres of an intersection. Other low growing plants shall not exceed 0.75 metres in height.

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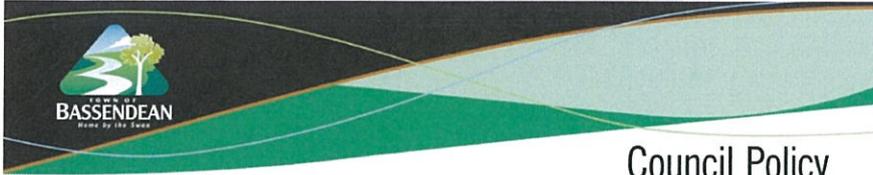
Where street trees are growing under the overhead power lines it is essential that that the Town of Bassendean approved contractors have appropriate machinery access to carry out street tree pruning operations. Should a verge treatment proposal prevent a street tree from being maintained/ pruned or will damage an existing street tree, the application shall be refused.

How do I create my own waterwise verge?

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STEP 1: MEASURE YOUR VERGE

Measure and map out your current verge dimensions with a measuring tape (both width and length). Make sure to note important existing aspects such as the footpath, street trees, or any public utilities (electricity pillars/domes, water meters, power poles, etc.). Take a picture of your



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verge for reference and to compare later.

STEP 2: BE INSPIRED AND PREPARED

Once you have your verge dimensions and map, research what sort of treatments you would like on your verge.

You can speak to your local nursery OR you may want to research yourself from sources such as:

- [Water Corporation – 'A step by step guide to creating a waterwise verge'](#)
- [Garden workshops and information – Beyond Gardens' 'Waterwise Verge Makeover Program', the Water Corporation's 'Waterwise Irrigation Workshop', the River Guardians' 'Your Garden with Josh Byrne' and 'Great Gardens' by The Forever Project.](#)

[Plan to begin your verge treatment during late autumn or early winter to utilise the winter rains and prevent plant death that is more likely in the summer months. This time also is when the Town usually has it's 'Plants-to-Residents' program which runs annually in autumn.](#)

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[Keep in mind that you may have to apply for a watering exemption from Water Corporation while establishing your new waterwise verge garden. This will allow an increase in water consumption just for the period of establishment, which will decrease again once your plants are established, in keeping with the lower water requirements of your new verge.](#)

<https://www.watercorporation.com.au/save-water/watering-days/exemptions>

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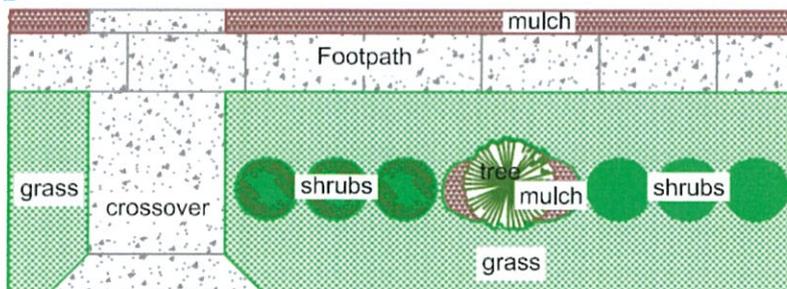
[During the planning phase, contact Dial Before You Dig \(<https://www.1100.com.au/>\), to avoid any potential conflicts with or damage to public utility services.](#)

STEP 3: START DESIGNING

Now that you have seen some waterwise verge garden options, design your own using the [Verge Treatment Application Form](#) provided by the Town. Use your verge dimensions and create a sketch of your preferred verge garden style, labelling all features as you go. Include [types of plants, garden style, general layout and room for your bins to be placed on the verge for rubbish pick up](#) (this may be a small paved area, low groundcover or grass).

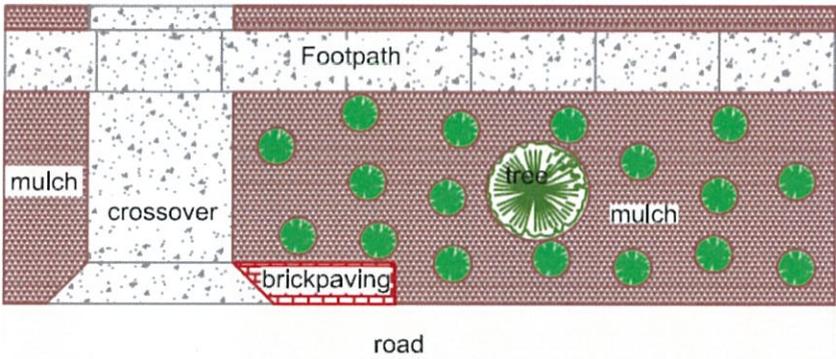
[The sketch landscape plan verge design examples below are provided to assist the owner / occupier of the lot abutting a verge, appreciate visually the verge planting requirements. In this plan, the plants have been arranged so that grass or a similar ground-cover plant covers are placed at edges and low growing plant towards the middle of the verge area.](#)

1

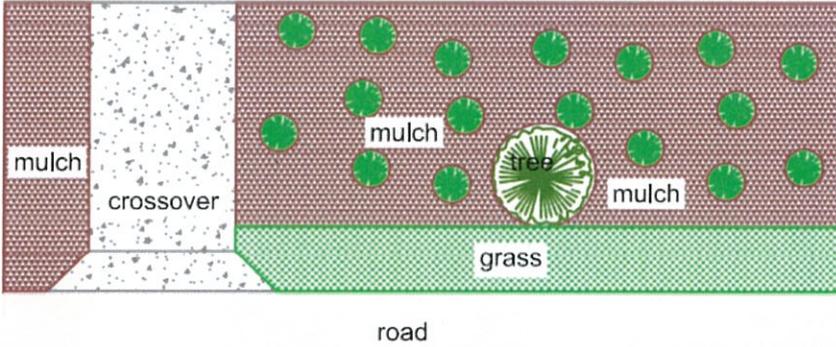


road

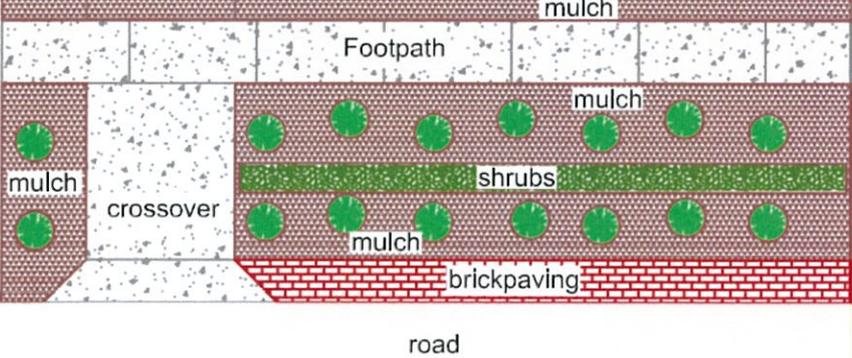
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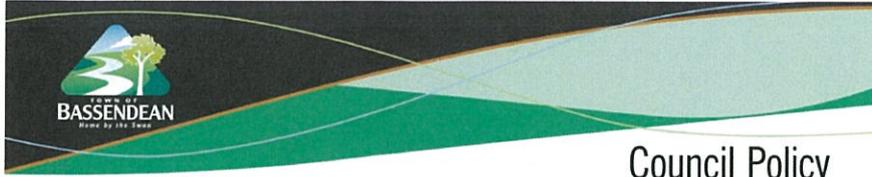


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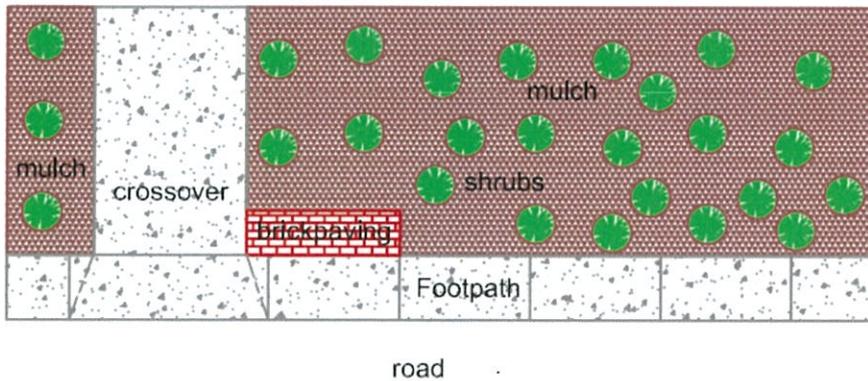


4





5



Selecting Plants

When choosing which plants would be most suitable, there are a number of resources available. Local native plants are recommended in the Town of Bassendean. Some non-native plant species whilst waterwise should be avoided as there is the potential for seed dispersal into natural areas. For this reason, natives are preferred. The Town of Bassendean developed a Pre-approved Plant List, which can be found as Appendix 1 to this guidelines.

Edible plants are also permitted on the verge; please note the herbs/vegetables planted on the verge will be for everyone to share, as they will be planted on a public space. Please see Appendix 1 for the list of pre-approved plants.

Water Corporation has developed a waterwise plant search (<https://watercorporation.com.au/save-water/waterwise-plants-search>) which you can search by postcode, key word or plant name, and a waterwise plant directory (<https://watercorporation.com.au/save-water/waterwise-plants-search/plants-directory>) where you can search for the best plants for your needs, using filters such as location, height, colours and garden style.

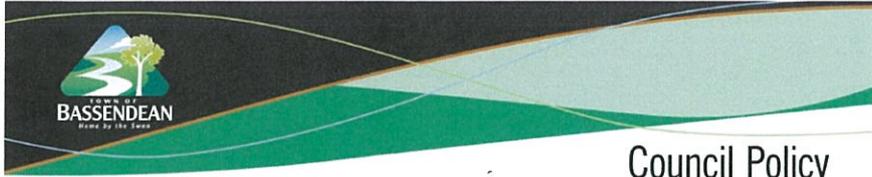
Your local plant nursery will also have recommendations of native plants suitable for your location and garden design.

Remember to ensure that your plants can be maintained to a maximum height of 0.75 m and that they are not thorny, poisonous or hazardous.

Requesting a Street Tree

Trees offer essential services to the community by providing shade, reducing local temperatures, acting as wind breaks, aiding biodiversity and reducing storm water run-off. They also add aesthetic appeal to your property, reduce energy consumption and contribute to a beautiful streetscape.

Residents are not permitted to plant their own street tree and must request one from the Town whom select the preferred species based off the Town's Street Tree Master Plan. Refer to the Street Tree Master Plan to see what tree species is planned for your street (<http://www.bassendean.wa.gov.au/documents/open-space-plans>).



To request a street tree, contact the Town's Parks and Gardens Supervisor on 9377 9000. The Town carries out its street tree planting program in July/August each year, although additional time will be required to process a new street tree request. See the Town's Street Tree Information Sheet for further details ([http://www.bassendean.wa.gov.au/Profiles/bassendean/Assets/ClientData/Document-Centre/Information Sheets/Information Sheet 5 - Street Tree.pdf](http://www.bassendean.wa.gov.au/Profiles/bassendean/Assets/ClientData/Document-Centre/Information%20Sheets/Information%20Sheet%205%20-%20Street%20Tree.pdf)).

A street tree can also be requested on the Town's Verge Treatment Application Form.

Waterwise Lawn Varieties

If you are replacing your old verge grass with a new waterwise variety, Water Corporation has a list of WA suitable, drought tolerant varieties that you can choose from and information about establishing a new lawn (<https://www.watercorporation.com.au/save-water/in-the-garden/establishing-a-new-lawn>).

STEP 4: SUBMIT YOUR PLANS

Submit your Verge Treatment Application Form (with your detailed sketch) to the Town of Bassendean and await approval before starting any treatments on your verge.

Once you have approval, you can get started!

STEP 5: PREPARE YOUR VERGE

Always look out for Waterwise Approved or Smart Approved WaterMark products when purchasing gardening products such as plants, sprinklers and soil wetting agents. These certify the products as being water efficient.

The Town offers residents free mulch as part of its tree recycling program. The mulch is free for pick up during specified time frames, pending availability, or can be delivered to your property for a service fee. See the 'Availability of Mulch' information sheet on the Town's website for further information.



STEP 6: MAINTAINING YOUR NEW VERGE

Once waterwise plant species are established, which can take up to two summers, they should only require occasional hand watering, pruning and mulch.

In line with the Town's Verge Treatment and Maintenance Policy, plants must be maintained to a maximum height of 0.75 m. Therefore, plants may need pruning to adhere to this standard. Also remember to ensure that there is clear and safe access for pedestrians, and clear visibility and line of sight for cyclists and motorists.

If a street tree requires any maintenance, contact the Town's Parks and Gardens Supervisor on 9377 9000 or visit the Town of Bassendean website for further instructions.

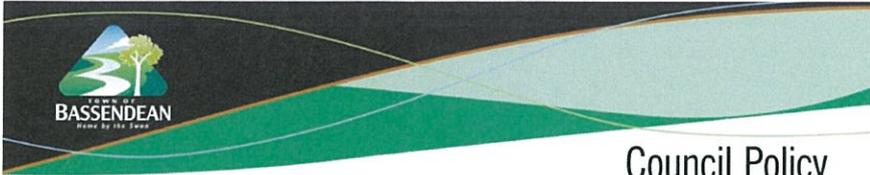
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Irrigation & Planting requirements

Irrigation of the verge is an acceptable material on the following condition:

- Gate valve(s) / solenoid valve(s) are located on private property
- Installation of retractable sprinkler heads, level with grass surface

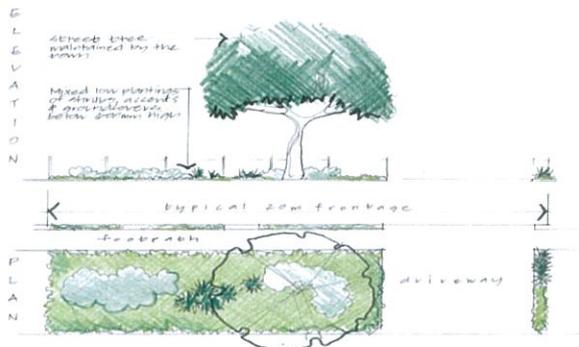


Council Policy

- Irrigation system designed to ensure that the water is not distributed onto paved surfaces.
- Irrigation is applied in accordance to Waterwise for WA water roster requirements.

In regards to the landscaping of the verge, it is essential to provide at all times clear sight visibility for both pedestrians and vehicles. Where there is no footpath, safe and clear access shall be provided for pedestrians. No plant except grass or a similar ground cover plant is to be grown within 2 metres of a road edge and no plant except grass or a similar ground cover plant is to be within 6 metres of an intersection. Other low growing plants shall not exceed 0.75 metres in height.

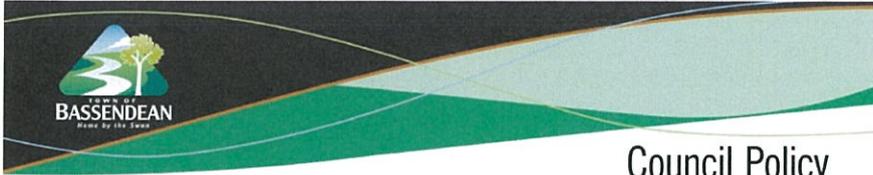
The sketch landscape plan below is provided to assist the owner / occupier of the lot abutting a verge, appreciate visually the verge planting requirements. In this plan, the plants have been arranged so that grass or a similar ground cover plant covers are placed at edges and low growing plant towards the middle of the verge area.



When considering landscaping a verge, the planting of endemic (local native) low growing groundcovers and shrubs are strongly encouraged. *Grow Local* native plants brochures can be obtained from the Town's Customer Service information desk. The brochure contains a range of hints and information on how to use and look after native plants. Below is an example of a verge landscaped.

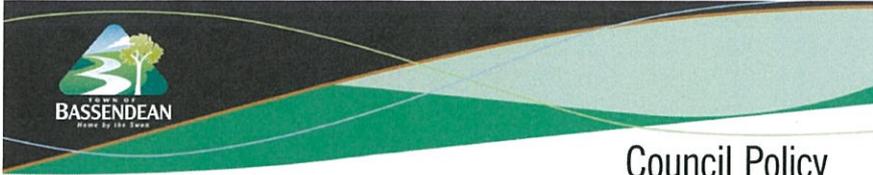
Important Information:

- Please refer to the Council adopted Verge Treatment Policy, Street Tree Protection Policy and the Crossover Policy are available for viewing on the Town of Bassendean webpage at: [www.bassendean.wa.gov.au/information & feedback/policies](http://www.bassendean.wa.gov.au/information%20&%20feedback/policies).
- Before the owner/occupier of the lot abutting a verge or contractors start to dig, plough, excavate or undertake any sub-surface activity, contact the "Dial Before You Dig" service on telephone 1100 to access indicative plans / information within 4-5 days on underground pipes and cables. Failure to take steps to avoid damage may leave you liable for costs incurred in the event of infrastructure damage.
- Local native plants will generally need to be watered for the first two summers until



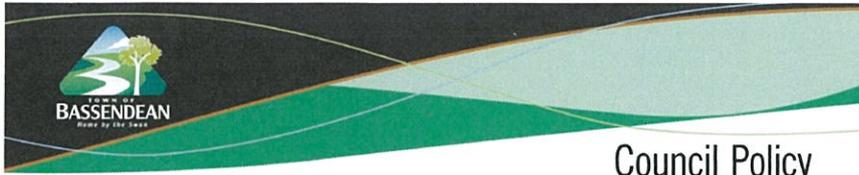
Council Policy

established. Some non-native plant species whilst 'waterwise' should be avoided as there is the potential for seed dispersal into natural areas. For this reason local natives are preferred.



Council Policy

Where street trees are growing under the overhead power lines it is essential that that the Town of Bassendean approved contractors have appropriate machinery access to carry out street tree pruning operations. Should a verge treatment proposal prevent a street tree from being maintained/ pruned or will damage an existing street tree, the application shall be



Council Policy

ATTACHMENT NO. 6



Department of
**Local Government, Sport
and Cultural Industries**

Our ref SR/2017/683
Enquiries Clint Klymovich
Phone 9492 9721
Email Clint.klymovich@dlgsc.wa.gov.au

Town of Bassendean Council
Town of Bassendean
PO Box 87
BASSENDEAN WA 6934

Dear Mayor McLennan, Councillors and Mr Jarvis

STATE FOOTBALL CENTRE

In 2016, the former Department of Sport and Recreation, now Sport and Recreation (WA), a division of the Department of Local Government, Sport and Cultural Industries undertook a business case to identify the requirements and potential location for a State Football Centre in Western Australia.

As part of the 2016 business case process, Ashfield Reserve was identified as a potential location with the support of the Town of Bassendean.

Sport and Recreation (WA) are currently revisiting the 2016 business case to review the scope, staging options and business objectives as well as potential locations. Since the completion of the 2016 business case we note there has been a change in Council and as part of revisiting the business case process we are interested to understand the current position of the Town.

We plan to finalise the business case early in 2018, therefore we request your consideration of this request in a timely manner. A business case precedes any funding decision by government so it is important to note that the State Football Centre is currently unfunded and a timeframe for development has not been identified.

Should you wish to discuss this further, please contact Clint Klymovich A/Senior Facilities Consultant, Sport and Recreation (WA) on 9492 9721 or email clint.klymovich@dlgsc.wa.gov.au.

Yours sincerely

Clayton White
Acting Manager Facilities Development

19 December 2017

246 Vincent Street Leederville Western Australia 6007
PO Box 329 Leederville Western Australia 6903
Telephone 08 9492 9700 Email info@dlgsc.wa.gov.au
Web www.dlgsc.wa.gov.au



Our ref: OLET-7198818
File ref: COMDEV/LIAIS/4
Your ref: SR/2017/683

Mr Clayton White
Acting Manager Facilities Development
Department of Local Government, Sport &
Cultural Industries
PO Box 329
LEEDERVILLE WA 6903

Dear Mr White

STATE FOOTBALL CENTRE

Thank you for the update you provided on the status of the State Football Centre project in your letter dated 19 December 2017. You indicated in your correspondence that there is an intention for a business case to be finalised early in 2018 and that you would be interested in knowing the current position of the Town on this project.

As you would be aware, this project was considered at a Special Meeting of Council in May 2016. The Council resolution (SCM-1/5/16) at the time gave support for Ashfield Reserve being shortlisted for consideration as a potential site for the State Football Centre with a number of non-negotiable conditions. One of these conditions was that a community engagement process be maintained throughout the project and the preplanning information and plans be released to the public and all further project development be transparent. However, despite this, in January 2017 the former Premier announced that the Ashfield site had been selected and presented plans for the site without there having been any further consultation or communication with Council or the community. This was disappointing and, not unexpectedly, has generated significant angst from residents in the local area in relation to this project.

Although Council previously gave support for the Ashfield site there has since been a local government election which has resulted in a distinctly different composition to the Town's Council. It definitely cannot be assumed that the new Council will support this project and therefore the matter will be on the agenda for Council's consideration at its meeting on 30 January.

/2..

2.

I would suggest that any further consideration of this site would require a start from scratch approach and significant consultation with the community. I would also add that rejection by the public and therefore the Council is a very real possibility given the previous reaction to the proposal. Acknowledging this, if the Department still wants to pursue Ashfield as a potential site, a commitment to meaningful community engagement and a demonstration of openness and transparency in the process would be required.

Furthermore, the Town was somewhat surprised to be informed that this project is still live given that it was an election promise by the previous government and that the Department advised that there was no budget for the project at the time. It would be appreciated if you could advise if the new minister has given approval for this project to proceed.

Kind regards,

A handwritten signature in black ink, appearing to read 'Renee McLennan', written in a cursive style.

Cr. Renee McLennan
Mayor

cc email: Clint Klymovich (clint.klymovich@dlgsc.wa.gov.au)

Salvatore Siciliano

From: Clint Klymovich <Clint.Klymovich@dlgsc.wa.gov.au>
Sent: Wednesday, 10 January 2018 2:23 PM
To: crmcclennan@bassendean.wa.gov.au; Bob Jarvis
Cc: Clayton White
Subject: IEM-13183218 - RE: Town of Bassendean - State Football Centre

Dear Mayor McLennan and Bob,
Thank you for your correspondence relating to Ashfield Reserve as a potential location for a State Football Centre.

The current government has made no commitment to a State Football Centre and/or a location for this type of facility. However, the new Minister for Sport and Recreation has given direction to the department to develop a new business case for a State Football Centre, including revisiting the scope, staging options, business objectives and potential locations including new sites and the sites identified in the original business case. A business case precedes any financial commitment from government and will inform government in the decision making process on whether to proceed with a State Football Centre in the future.

As you are aware the previous Liberal-National Government made an election commitment to the State Football Centre at the Ashfield location. We understand the Town's position that the former Premier's public announcement, before the Town could be further consulted, created some angst in the community. This announcement was not in the department's control.

The advice we receive following the 30 January Council meeting will enable Ashfield Reserve to either be further considered (and what conditions that may entail) or alternatively close out Ashfield as no longer a potential option within the business case.

I trust this assists the council in consideration of this subject.

Should you wish to discuss this further, please contact me on 9492 9721.

Kind regards

Clint

From: Sue Perkins [mailto:SPerkins@bassendean.wa.gov.au]
Sent: Monday, 8 January 2018 9:33 AM
To: Clint Klymovich <Clint.Klymovich@dlgsc.wa.gov.au>
Subject: Town of Bassendean - State Football Centre

Good morning Clint

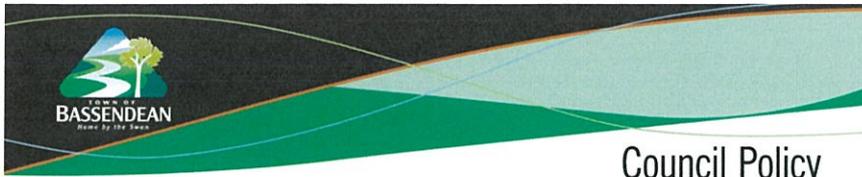
Please find attached a copy of a letter addressed to Mr Clayton White from our Mayor, Cr Renee McLennan.

If you require any further information, please phone Mr Bob Jarvis on 9377 8004.

Kind regards

Sue Perkins
Executive Assistant to the CEO

ATTACHMENT NO. 7



Council Policy

6.6 Gifts to Departing Councillors

Objective

To establish a standard for Council recognition of the services of a retiring Councillor.

Strategy

On retirement a plaque with an inscription is to be presented to each Councillor who completes any term of office at the expiry of that term for which he or she is elected.

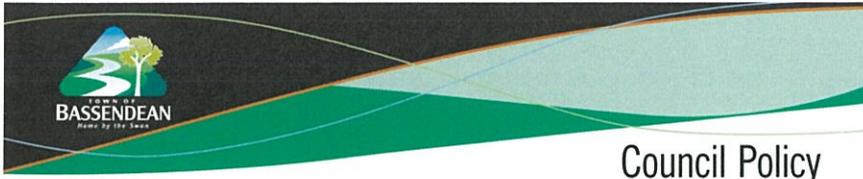
~~On retirement a plaque with an inscription and a gift with a value of up to \$350 is to be presented to each Councillor for continuous service of two terms of office.~~

~~On retirement a plaque with an inscription and a gift with a value of up to \$500 is to be presented to each Councillor for continuous service of 3 or more terms of office.~~

Application

Responsibility for the implementation of this policy rests with the Mayor and Chief Executive Officer. The Policy is to be reviewed every three years.

<p>Policy Type: Strategic Policy</p> <p>Link to Strategic Community Plan: Leadership and Governance</p>	<p>Responsible Officer: Chief Executive Officer and Director Corporate Services</p> <p>Last Review Date: January 2018April 2014 Version 2</p> <p>Next Review due by: January 2021May 2020</p>
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Council Policy

6.8 Notices of Motions

Objective

To establish standard procedures for dealing with Notices of Motion and any written report provided by a Councillor to support a Notice of Motion.

Strategy

The Standing Orders provide (in part) that "A Member may bring forward business in the form of a written motion to the Chief Executive Officer at least 7 clear working days before the meeting at which it is to be moved". When a Notice of Motion is delivered to the CEO in accordance with the Standing Orders, the CEO shall in the first instance discuss the proposed motion with the Councillor to assess if it is required, and if so place the motion on the agenda for the next available Council meeting.

The CEO will determine if an Officer comment will accompany the Notice of motion on the Agenda

The Notice of Motion will be considered under Motions of Which Previous Notice Has Been Given.

When a Notice of Motion is proposed and presented, a reasonable amount of supportive background information, including but not limited to drawings and/or pictures submitted by Councillors, be included with the Notice of Motion.

~~The maximum printed size of the motion and background material be limited to an A4 page document. Such supportive background information is not to be part of the body of the motion, unless so included.~~

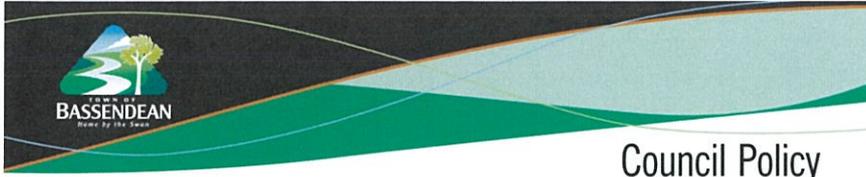
If a motion proceeds, Council will decide if a report is to be prepared and allocate a priority/or timeline taking into account officer workloads.

Notices of Motion for Consideration at the Following Meeting may be given at a meeting of Council, provided they are given in writing to the Presiding Member.

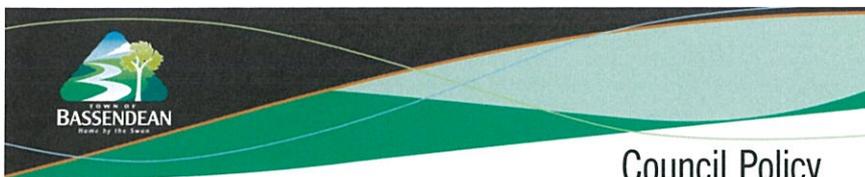
This policy does not apply to Notices of Motion to revoke a previous decision of the Council, as the procedure for dealing with such Notices is detailed in the Local Government Act and Standing Orders.

Application

Responsibility for the implementation of this policy rests with the Mayor, Councillors and Chief Executive Officer. The Policy is to be reviewed every three years.



Policy Type: Strategic Policy	Responsible Officer: Chief Executive Officer
Link to Strategic Community Plan: Leadership and Governance	Last Review Date: April 2014 January 2018 Version 2
	Next Review due by: January 2021 May 2020



Council Policy

6.9 Publications by Individual Councillors

Objective

Council recognises the right of an individual Councillor to hold an opinion that is different from that of the majority of the Council. Council also recognises that any Councillor has a right to publish information.

The objective of this policy is to ensure that any document, which can be construed as being an official Council publication, contains accurate information that represents Council's corporate stance on any given issue.

The policy also aims to ensure that where an individual Councillor, or Councillors, has a contrary opinion to Council's corporate stance, the publication clearly identifies this to be the case. The overriding objective is to ensure that public confidence is not lost in the Town of Bassendean or local government in general.

Strategy

The Mayor and Chief Executive Officer shall approve any publication that purports to represent the corporate view of Council prior to release. It is recognised that the Local Government Act 1995 specifically empowers the Mayor and the Chief Executive Officer to speak on behalf of the Council.

Should an individual Councillor or group of Councillors wish to release a document that expresses an opinion that does not represent that of the Council then the publication shall clearly and prominently state this to be the case.

At all times documents shall be clear, unambiguous and accurate in terms of facts used. Where statements are presented as facts the source of the facts shall be acknowledged.

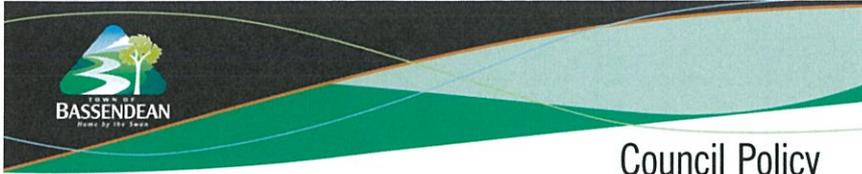
The document shall not reflect adversely on Council as a body corporate, an individual Councillor, an officer of Council, a member of the public or any other organisation.

Guidelines for Councillor Publications

All publications shall be duly authorised in accordance with the Local Government Act Electoral Provisions as though the publication were an election publication.

Publications shall not commit the Council to actions or obligations, which the Council as a body must decide.

All material distributed by a Councillor which seeks feedback from residents shall be directed to the private address of the Councillor unless authorised by the Chief Executive Officer to have responses forwarded to the Council Administration Office.



Council Policy

To ensure that there are no defamatory or libellous statements in the publications, Councillors shall provide a copy of any publication to the Chief Executive Officer, prior to distribution of the publication for review and retention as a Council record.

To exercise caution in using Social Media to ensure that in their communications they do not act contrary to the General Principles and Ethical Standards, or breach the Code of Conduct requirements.

The misuse of information, or confidential information, gained as a council member or committee member, employee to cause detriment to the Town or another person or to gain directly or indirectly an advantage for another person, applies to communications by Social Media as well and could result in prosecution under Section 5.93 of the Local Government Act 1995 which carries penalties of \$10,000 or imprisonment for 2 years.

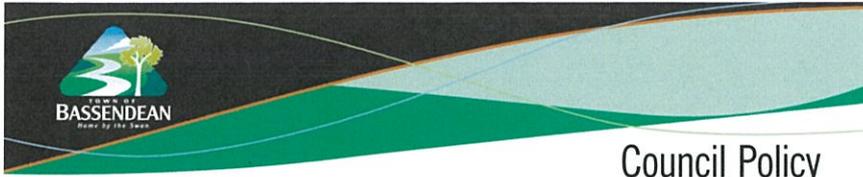
Application

This policy has no effect to any publication associated with an election, which is covered by the Local Government Act.

This policy applies to all other publications including, but not limited to, printed material, newspaper, radio and television publications, social media and verbal presentations to community groups or meetings.

Responsibility for the implementation of this policy rest with the Mayor, Councillors and Chief Executive Officer. The Policy is to be reviewed every three years.

<p>Policy Type: Strategic Policy</p>	<p>Responsible Officer: Chief Executive Officer and Director Corporate Services</p>
<p>Link to Strategic Community Plan: Good Leadership and Governance</p>	<p>Last Review Date: April 2014 January 2018 Version 2</p> <p>Next Review due by: May 2020 January 2018</p>



6.16 Investment Policy

Objective

To invest funds to ensure the maximisation of returns with due consideration of the associated risks, whilst protecting the initial capital investment and future cash flows.

While exercising the power to invest, consideration is to be given to the preservation of capital, liquidity, and the return of investment.

Investments are to be made in accordance with legislative requirements of the Local Government Act and the associated Regulations.

- Preservation of capital is the principal objective of the investment portfolio. Investments are to be undertaken and in a manner that ensures security and safeguard the Town's Investment Portfolio. This includes managing credit and interest rate risk within identified thresholds and parameters.
- The investment portfolio will ensure there is sufficient liquidity to meet all reasonably anticipated cash flow requirements, as and when they fall due, without incurring significant costs due to the unanticipated sale of an investment.
- The investment is expected to achieve a yield that takes into account the Council's risk tolerance. Any additional return target set by Council will also consider the risk limitation and prudent investment principles.
- Preference will be given to invest in financial institutions who do not invest in or finance the fossil fuel industry.

The Town will not make investments in companies that derive any revenues in the following areas of activity:

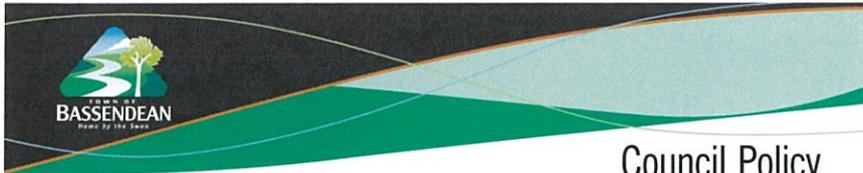
a) Controversial weapons: Companies involved in the manufacture and/or production of controversial weapons such as land mines, cluster bombs and nuclear weapons;

b) Tobacco: Companies involved in the manufacture and/or production of tobacco products.

The Town will not make investments in companies that derive 10% or more of their revenues in the following areas of activity:

a) Armaments: Companies involved in the manufacture and/or production of armaments;

b) Gambling: Companies involved in the manufacture and/or production of gambling machines and services and/or ownership of outlets housing these machines;



c) Old growth logging: Companies involved in the logging of old growth forests.

d) Uranium Mining/Nuclear: companies involved in uranium mining and production of nuclear energy

The Town has determined that the Fund will not make investments in companies that derive 1/3 (one-third) or more of their revenues in high carbon sensitive activities.

Legislative Requirements

All investments are to comply with the following:

- Local Government Act (WA) 1995 (As Amended as at November 2015)
- Trustees Act (WA)1962 (As amended as at the 16 January 2013)
- Local Government (Financial Management) Regulations 1996 (As amended as at June 2013)

Delegation of Authority

Authority for implementation of the Investment Policy is delegated by Council to the Chief Executive Officer (CEO) in accordance with the Local Government Act 1995. (*Section 6.14 of the Local Government Act 1995 & Section 19 of the Local Government (Financial Management) Regulations 1996*).

Ethics and Conflicts of Interest

In accordance with the Town's Code of Conduct, Officers shall refrain from personal activities that would conflict with the proper execution and management of Council's investment portfolio. All disclosures are to be in accordance with the Town's Code of Conduct.

A local government officer must act with the care, prudence, skill and diligence that a prudent person acting in like capacity under similar circumstances would act.

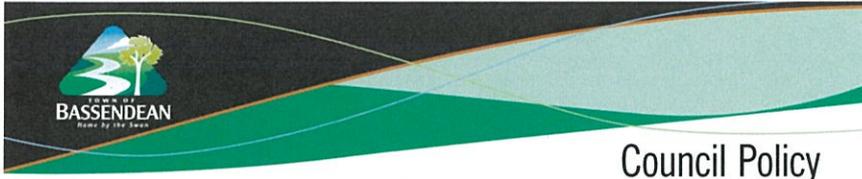
Authorised Institution Investments

This policy authorises investment of the Town's funds, including surplus funds, with an Authorised Deposit-taking Institution as defined in the *Banking Act 1959* (Commonwealth) section 5.

Investments are limited in accordance with the requirements of the Local Government Act (Financial Management) Regulations 19C which provides:

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19C. Investment of money — Restrictions on Act S6.14(2)(a)

(1) *In this regulation —*

authorised institution means —

- (a) *an authorised deposit-taking institution as defined in the Banking Act 1959 (Commonwealth) section 5; or*
- (b) *the Western Australian Treasury Corporation established by the Western Australian Treasury Corporation Act 1986;*

foreign currency means a currency except the currency of Australia.

(2) *When investing money under section 6.14(1), a local government may not do any of the following —*

- (a) *deposit with an institution except an authorised institution;*
- (b) *deposit for a fixed term of more than 12 months;*
- (c) *invest in bonds that are not guaranteed by the Commonwealth Government, or a State or Territory government;*
- (d) *invest in bonds with a term to maturity of more than 3 years;*
- (e) *invest in a foreign currency.*

Overall Portfolio Limits

To control the Credit quality on the entire portfolio, a global credit framework will apply to limit the percentage of the portfolio exposed to any particular rating category as outlined below.

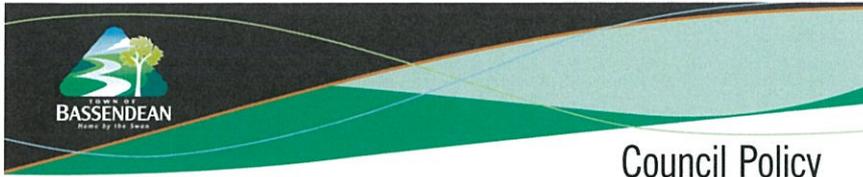
The maximum available limits in each category are as follows:

S & P Short Term Rating	Direct Investment Maximum %
A-1	100%
A-2	60%

Counterparty Credit Limit

All investments made on behalf of the Town of Bassendean will comply where applicable, with the credit guidelines based on the S&P ratings for each institution. Exposure to an individual institution will be restricted, where applicable, by their S&P rating so that single entity exposure is limited, as detailed in the table below:

S & P Short Term Rating	Direct Investment Maximum %
A-1	50%
A-2	30%



Investment Advisor

The Town may appoint an investment advisor who must be licensed by the Australian Securities and Investment Commission. The advisor must be an independent person who has no actual or potential conflict of interest in relation to investment products being recommended in accordance with the terms and conditions of this policy.

Reporting and Review

A monthly report will be provided to Council in support of the monthly statement of activity. The report will detail the investment portfolio in terms of performance, percentage exposure of total portfolio and maturity date.

Documentary evidence must be held for each investment and details thereof maintained in an Investment Register.

For audit purposes, certificates must be obtained from the financial institutions confirming the amounts of investments held on the Council's behalf as at 30 June each year and reconciled to the Investment Register.

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GLOSSARY OF TERMS

Local Government Act 1995

Section 6.14 of the Local Government Act 1995 provides that "subject to regulations, money held in the municipal fund or the trust fund of a local government that is not, for the time being, required by a local government for any other purpose may be invested in accordance with "Part III of the Trustees Act 1962" (Trustees Act)"

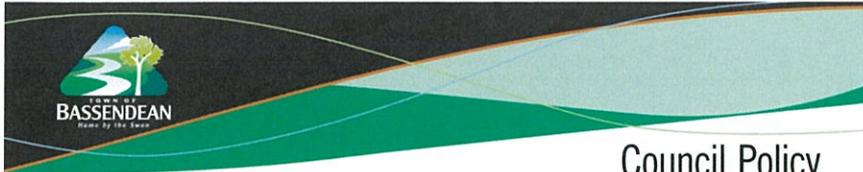
Local Government (Financial Management) Regulations 1996

Regulation 19 of the Local Government (Financial Management) Regulations 1996 states a local government is to "establish and document internal control; procedures to be followed by employees to ensure control over investments"

Regulation 19C provides for the definition of the authorised institution, and the limitation of the investment funds.

Regulation 28 and 49 prescribe the disclosure requirements for investment in the Annual Budget and Annual Financial Report respectively. Additional disclosure requirements are also provided under the Australian Accounting Standards.

As part of the reporting requirement under Regulation 34 Financial Activity Statement Report, each local government is to include in its monthly statement of



Council Policy

financial activity any supporting information considered relevant by the local government. This should include a monthly investment summary to ensure the performance of the investment portfolio is in accordance with anticipated returns and complies with the investment policy.

Preservation of Capital

Preservation of capital refers to an investment strategy with the primary goal of preventing losses in an investment portfolio's total value.

Prudent Person Rule

Investments will be managed with the care, diligence and skill that a prudent person will exercise. Delegated Officers are to manage the Investment Portfolio to safeguard the portfolios in accordance with the spirit of this investment policy, and not for speculative purposes.

Trustees Act 1962

Section 17 of the Trustees Act 1962, states "a trustee may, unless expressly prohibited by the instrument creating the trust -

- (a) invest trust funds in any form of investment; and
- (b) at any time, vary an investment or realise an investment of trust funds and reinvest money resulting from the realisation on any form of investment".

INVESTMENT DEFINITIONS

Authorised institution means —

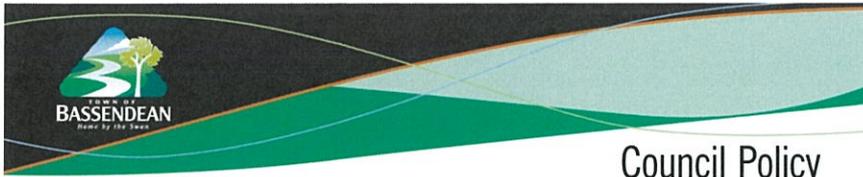
- (a) an authorised deposit-taking institution as defined in the *Banking Act 1959* (Commonwealth) section 5; or
- (b) the Western Australian Treasury Corporation established by the *Western Australian Treasury Corporation Act 1986*;

Foreign currency means a currency except the currency of Australia.

Reference – Local Government Act (Financial Management) Regulations

Bonds

Bonds are financial securities issued by the Commonwealth, State or Territory government authorities as a means of raising funds. These securities are restricted to maturity of less than 3 years.



Security investments

Security investments (also known as 'negotiable certificates of deposit' or 'bills of exchange' accepted or endorsed by Australian banks) are 'discount securities' because they are sold at a discount to their face value. The difference between the purchase price (amount invested) and the face value (amount at maturity) represents the interest earned.

Term deposit

A Term Deposit is an investment where the interest rate is guaranteed not to change for the whole of the nominated term. It provides the security of knowing that interest income is protected from fluctuations in investment markets.

S&P Credit Ratings

S&P stands for Standard and Poors, which is a globally accredited professional organisation that provides analytical services. An S&P credit rating is an opinion of the general creditworthiness of an obligor with respect to particular debt security or other financial obligation based on relevant risk factors.

Credit ratings are based, in varying degrees, on the following considerations:

- Likelihood of payment;
- Nature and provisions of the obligation; and
- Protection afforded by, and relative position of, the obligation in the event of bankruptcy, reorganization or other laws affecting creditors' rights.

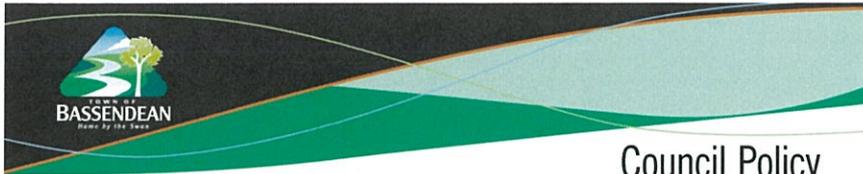
The issue rating definitions are expressed in terms of default risk.

S&P Short Term Credit Rating A-1

This is the highest short term category used by S&P. The institutions capacity to meet its financial commitment on the obligation is strong. Within this category, certain obligations are designated with a plus sign (+). This indicates that the obligor's capacity to meet its financial commitment on these obligations is extremely strong.

S&P Short Term Credit Rating A-2

A short term obligation rated A-2 is somewhat more susceptible to the adverse effects of changes in circumstances and economic conditions than obligations in higher rating categories. However, the institutions capacity to meet its financial commitment on the obligation is satisfactory.



Application

Responsibility for the implementation of this policy rest with the Mayor, Councillors, Council delegates and Chief Executive Officer. The Policy is to be reviewed every three years or as required in the event of legislative changes.

Policy Type: Strategic Policy	Responsible Officer: Chief Executive Officer
Link to Strategic Community Plan: Leadership and Governance	Delegated Authority: Director Corporate Services Manager Corporate Services
	Last Review Date: March 2016
	Next Review due by: March 2019

PUBLIC COMMENT – REVIEW OF LEADERSHIP AND GOVERNANCE POLICIES

Policy 6.3 Council Protocols

Respondent	Comment	Officer Response
1	<p>With regard to the extract below, I suggest the wording is revised to reflect the authority of Councillors (under policy 6.9) to voice their own opinion which in some cases may be a dissenting view.</p> <p>The Presiding Member and members of Council committees are to refrain from speaking publicly on behalf of the committee or Council, or to issue any form of written material purporting to speak on behalf of the committee or Council without the prior approval of the Mayor.</p>	<p>Policy 6.9 states (in part) The policy also aims to ensure that where an individual Councillor, or Councillors, has a contrary opinion to Council’s corporate stance, the publication clearly identifies this to be the case. The overriding objective is to ensure that public confidence is not lost in the Town of Bassendean or local government in general. Policy 6.9 does not conflict with Policy 6.3 and provides clarity for Council Members whether they are part of a Committee or Council.</p>

Policy 6.6 Gifts to Departing Councillors

Respondent	Comment	Officer Response
2	<p>End gifts for departing Councillors Policy 6.6: Public service is its own reward and Councillors are already compensated for the work they do on behalf of our Town. Councillors do not require an additional gift beyond this compensation. I recommend the removal of the Gifts for Departing Councillors policy.</p>	<p>This provision of gifts to Councillors policy is to recognise the service given to the community by outgoing Councillors and is at the discretion of the Council. The remuneration for Councillors is provided for attending a meeting and IT facilities. This currently equates to \$19,500 per year.</p>

Respondent	Comment	Officer Response
3	<p>With reference to the extract below, it would be helpful to clarify what is the official record of a Council meeting as it has been noted on many occasions that comments clearly audible on the recording have been omitted from the minutes. Ratepayers are currently able to obtain a copy of recordings (often by download) whereas the policy suggest this may no longer be possible and ratepayers will have to go to the Library to listen to the tape and not be able to take a copy. If this change is intended, I believe it fails to comply with (the old?) policy 6.12, "Communication & Consultation, Community & Stakeholders"</p> <p>With the exception of those matters discussed behind closed doors in accordance with Clause 27 of the Standing Orders, copies of electronic recordings of meetings, where taken, shall be made available to the public and include a disclaimer that advises the public that the recordings are not the official record of a Council meeting and Council cannot guarantee the accuracy or the quality of this recording and it cannot be assumed to be a complete record of proceedings.</p> <p>Members of the public shall not make copies of recordings or any part thereof without the approval of the Council or tamper with them so as to produce a false record.</p> <p>Members of the public may listen to a recording at the Council Library free of charge. Two working day's notice is to be given by members of the public who wish to listen to the recording at the Library.</p>	<p>The Official record of the meeting is the Minutes of the Meeting which are required to be confirmed by Council. The recording of the meeting is to assist the Minute Taker with the Minutes. They are not an official record of the meeting as the Council cannot guarantee that all conversations are accurate and audible. Further the minutes are not a verbatim version of the meeting.</p>
4	<p>Live stream and provide a video archive of public Council meetings to improve transparency and public access to Council decision making.</p> <p>Policy 6.7: The proposed policy for the electronic recording of Council meetings is inadequate. We need to improve the transparency of our Town's decision making processes by making them as widely and readily available to our community as is available to those community members who can attend our Town's proceedings in person. I recommend that the policy be amended to include provision for the live streaming of Ordinary and Special Council Meetings, and Council Briefings, including Public Question Time and Deputations and that these live streams be available via our Town's webpage. I also recommend that the policy include provision for these recorded live streams be archived on our Town's web page and include bookmarked links to individual agenda items. I recommend that the policy also include a provision for a sign to be prominently displayed at each recorded session notifying attendees that the meeting will be live streamed; and that the Mayor or Presiding Member make an announcement at the start of every meeting, drawing attention to the fact that session will be live streamed</p>	<p>The Official record of the meeting is the Minutes of the Meeting which are required to be confirmed by Council.</p> <p>The policy can be reviewed at the time Council resolves to invest in live streaming of Council meetings.</p>

Policy 6.8 Notices of Motion

Respondent	Comment	Officer Response
5	<p>Remove unnecessary restrictions on Councillors' Notices of Motion Policy 6.8: The policy arbitrarily limits a Councillor's notice of motion and background material to the maximum printed size of an A4 page document. This size restriction unnecessarily fetters the freedom of elected Councillors to represent our community and I recommend that this limitation be removed from the policy.</p>	<p>Council resolved (OCM2 – 13/08/09) that:</p> <ol style="list-style-type: none"> 1. When a Notice of Motion is proposed and presented, a reasonable amount of supportive background information, including but not limited to drawings and/or pictures submitted by Councillors, be included with the Notice of Motion; 2. The maximum printed size of the motion and background material be limited to an A4 page document; and 3. Such supportive background information is not to be part of the body of the motion, unless so included. <p>To remove the limit of a single A4 pages for background information would require a revocation motion.</p>

Policy 6.9 Publications by Individual Councillors

Respondent	Comment	Officer Response
6	<p>I support the objective of the policy in making it clear that any opinion offered by a Councillor does not reflect the opinion of Council or the Town (which can only be expressed by the Mayor – or the CEO with the Mayor’s permission). The requirement for any comment by a Councillor to be vetted by the CEO seems to contradict the spirit of the policy. It also fails to detail how any difference of opinion between the CEO and a Councillor is resolved, i.e. it is akin to the Director of a company having to ask the CEO to ok something she or he publishes. The policy also suggests that any Councillor who has their own website would have to continually obtain approval from the CEO. Overall, I believe the requirement for the CEO to vet comments is inappropriate, i.e. it should be left to Councillors to ensure their own compliance.</p> <p>6.9 Publications by Individual Councillors</p> <p>Objective</p> <p>Council recognises the right of an individual Councillor to hold an opinion that is different from that of the majority of the Council. Council also recognises that any Councillor has a right to publish information.</p> <p>The objective of this policy is to ensure that any document, which can be construed as being an official Council publication, contains accurate information that represents Council’s corporate stance on any given issue.</p> <p>The policy also aims to ensure that where an individual Councillor, or Councillors, has a contrary opinion to Council’s corporate stance, the publication clearly identifies this to be the case. The overriding objective is to ensure that public confidence is not lost in the Town of Bassendean or local government in general.</p> <p>To ensure that there are no defamatory or libellous statements in the publications, Councillors shall provide a copy of any publication to the Chief Executive Officer, prior to distribution of the publication for review and retention as a Council record.</p>	<p>The policy puts the onus on individual Councillors to provide a copy of their proposed publications to the CEO for vetting for inappropriate allegations or comments to avoid possible litigation action against the Town.</p> <p>The Code of Conduct for Councillors, Committee Members and Employees includes provisions for use of social media.</p>

7	<p>Remove unnecessary and possibly unlawful restrictions from Individual Councillor's publications to our community</p> <p>Policy 6.9: The policy about publications by individual Councillors contains elements of overreach that unnecessarily, and possibly unlawfully, restrict the freedom of political expression of individual Councillors.</p> <p>The proposed requirement that Councillors provide a copy of any publication to the CEO for review prior to distribution is overreach. Unless the CEO intends to seek legal advice on each publication, then there is little hope of him or her ensuring that there are no defamatory or libellous statements in the publications as the policy intends. Such a determination can only be found by the Courts on the evidence.</p> <p>The suggestion that the application of the policy require social media and verbal presentations to community groups be provided to the CEO prior to publication is as unfeasible as it is unnecessary, and I assume is an unintended consequence of sloppy drafting rather than a legitimate aspiration.</p> <p>Any attempts to fetter the communication of Councillors is likely to be found to be in breach of the implied Constitutional freedom of political communication which has been held by the High Court to extend to all matters of public affairs and public discussions, including those of local authorities. As such, I recommend that the requirement to submit publications to the CEO be removed from the policy.</p>	See Comments above
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Policy 6.14 Purchasing Policy

Respondent	Comment	Officer Response
8	<p>With reference to the extract below, the policy seems confused. Its title suggests it explains the difference between a RTF and a RFQ which is not a policy but a definition and any policy on the topic should explain when each approach must be used – which it also fails to do. I suggest a revision of the policy to clearly define each term and then detail where each must be used.</p> <p>6.14 Purchasing Policy</p> <p>Objective – difference between RFT RFQ</p>	<p>The words “ difference between RFT RFQ” were inadvertently left on the page and will be deleted.</p>

Respondent	Comment	Officer Response
9	<p>The wording in this “policy” indicates it is an outline of a piece of work that will be done in the future, e.g. “The framework will include...” rather than detailing how an existing “system of work” (procedure) must be adhered to. If this is the case, then I suggest the risk management framework is developed first and then the policy written detailing how it must be applied.</p> <p>Strategy</p> <p>The Town of Bassendean is committed to managing risk and will do so by maintaining a Risk Management framework in accordance with the Risk Management Standard AS/NZS 31000:2009. The framework will include systems to identify, evaluate, treat, monitor, review and report risks. Regulation 17 of the Local Government Act (Audit) Regulations 1996 provides for a review of the Risk Management of the organisation every 2 years.</p> <p>Policy Aims</p> <ul style="list-style-type: none"> • To implement Risk Management across the Council in accordance with the Standard AS/NZS 31000:2009 ; and • To develop a risk management plan which is owned and managed by the Town of Bassendean staff and is aligned to the strategic planning process and the achievement of the Town’s vision and values. 	<p>The words “will include” means “is required to include” in current and future risk management reports</p> <p>It is a requirement to review the risk management framework at least every two years.</p> <p>The Policy refers to the requirements of the Act pertaining to the review.</p>

Policy 6.16 Investment Policy

Respondent	Comment	Officer Response
10	<p>With reference to the extract below, it appears the intent of this policy is to pursue an investment strategy that has some ethical base? If this is the case, then it appears to be very narrow to only exclude investments in institutions who have fossil fuel investments in their portfolio and it would add clarity if the ethical base received a short explanation, e.g. to avoid investing in any activity which harms the environment, people or violates personal beliefs? The application of the principles noted in my example would lead to excluding investments in tobacco, alcohol, some forestry, condoms, some fishing and some agriculture. Please will you consider revising the policy to be explicit on the ethical basis and to be more consistent in applying it.</p> <ul style="list-style-type: none"> • Preference will be given to invest in financial institutions who do not invest in or finance the fossil fuel industry. 	<p>The policy was reviewed by Council in March 2016 following the changes to the Finance Regulations. The policy complies with these requirements and no further review is required.</p>
11	<p>Ensure our Town's investments are prudent and ethical</p> <p>Policy 6.16: The Investment policy states that 'preference' will be given to invest in institutions that do not invest in or finance the fossil fuel industry. The policy is otherwise silent on other forms of investment activity that are also be ethically questionable. Other organisations, like Local Government Super for example, do not invest in companies that derive any revenue from:</p> <ul style="list-style-type: none"> • Controversial weapons – including the manufacture and/or production of controversial weapons such as land mines, cluster bombs and nuclear weapons. • Tobacco – including the manufacture and/or production of tobacco products. Nor do they invest in companies that derive 10% or more of their revenue from: • Armaments – including the manufacture and/or production of armaments. • Gambling – including the manufacture and/or production of gambling machines and services and/or ownership of outlets housing these machines. • Old growth logging. <p>I recommend that the Policy be amended to make it clear that, in addition to avoiding investments in the fossil fuel industry, Town monies will not be invested in companies involved in the manufacture of land mines, cluster bombs, nuclear weapons, uranium mining, nuclear reactors, tobacco products, gambling machines and services, and the destruction of old growth forests. I also recommend that it is prudent that the policy prohibit leveraged investments, or the borrowing of money to invest in another type of investment.</p>	<p>Organisations the Town will not invest with was reviewed in March 2016 and the policy reflects the current position of Council.</p>

Policy 6.17 Chief Executive Officer and Executive Officers Employment Policy

Respondent	Comment	Officer Response
12	<p>The wording in the extract below suggests the CEO can set executive salaries (based on guidelines set by Council). I suggest revising the policy to state that the CEO can recommend executive salaries to Council for approval.</p> <p><u>Setting Executive Salaries</u></p> <p>It is Council policy that guidelines are provided for the CEO in setting executive salaries to ensure that executive salaries are fair and reasonable, are competitive with local governments of a similar size and complexity and are financially sustainable in the context of the Town's rate base.</p>	<p>Under the Act (Section 5.36 (3)), Council employs the CEO and any other designated Senior Officer. In the Town's case, only the CEO and Director Strategic Planning are designated Senior Officers. The CEO employs all other staff and sets the conditions of their employment.</p>

Policy 6.18 Employment Related Benefits with the Town of Bassendean Policy

Respondent	Comment	Officer Response
13	<p>The wording below is “clunky” and may be better expressed as something like, “Employees are free to choose their superannuation fund”?</p> <p>Employees’ contributions are unlimited to a superannuation fund of choice.</p>	<p>The words used in the policy provide sufficient clarity to staff and Council.</p>

Policy 6.20 Councillor Contact with Administration Policy

Respondent	Comment	Officer Response
14	I suggest including a "whistle blower" provision in this policy with the intent it enables Town staff to make direct contact with a Councillor in the event they would like to draw attention to inappropriate behaviour of more senior Town staff.	The purpose of this policy is to ensure that Councillors are aware of their responsibilities and to ensure that there is no direction given to Staff by Individual Councillors. It also assists Staff to understand the communications between Staff and Councillors. Whistle Blowers provision and disclosure of public interest are included in the Code of Conduct for Councillors. Committee Members and Employees

Respondent	Comment	Officer Response
15	<p>There is no mention in this policy that the cost of procuring and managing the Town's assets should be minimised. The inclusion of this requirement would also make it consistent with policy 6.13.</p> <p>6.22 Asset Management Policy</p> <p>Objective</p> <p>The Policy provides clear direction in the provision and management of all Council's assets. It seeks to ensure that assets support Council's strategic vision and objectives, deliver sustainable service outcomes and are provided at appropriate levels of service for present and future stakeholders.</p>	<p>The maintenance and upgrade of Assets is governed by the level of service accepted by the Community and it could not be said that the procuring and managing of assets should be minimised, This is also governed by the amount of depreciation expense that is attributed to each asset dependent on its age.</p>

Policy 6.23 Councillor's Contact with Developers Policy

Respondent	Comment	Officer Response
16	<p>This is a very important policy and I have no comment on its wording but it raises the question of compliance by yourself (Mayor) and other Councillors who have met with Developers on many occasions such as during the failed LandCorp development of the Oval & BIC Reserves, the Soccer West development of the Ashfield Reserve and meeting with Hawaii over the development of the shopping centre and parking provisions. Please will you clarify the intent and application of this policy.</p>	<p>The objective of the policy is to “provide guidance on the recording of prescribed contact between Council Members and developers” . This was adopted in March 2014 to ensure that there is no conflict of interest and impartiality when Council is considering an application from a developer. It should be noted that the Mayor attended and chaired the Bassendean Activity Centre meetings at the direction of Council. Councillors on the Project Steering Group were also there at the direction of Council.</p>
17	<p>Make records of prescribed Councillor contact with Developers available to our community in a more timely and transparent way Policy 6.23: The Councillors’ Contact with Developers Policy is long overdue and broadly replicates the City of Vincent’s policy which has been in place since June 2015. I welcome the inclusion of this policy, but recommend increasing the timeliness of this much-needed transparency measure. If Councillors are to be required to provide notification of instances of Prescribed Contact within seven days of the contact, then the Town Administration should make this information available to our community in a similarly timely way. I recommend that Point 4 under the scope section be amended to require the CEO to update the public register within seven days of being notified by a Councillor of Prescribed Contact with a Councillor, rather than being updated monthly as is stated in the draft Policy Manual for Public Review.</p>	<p>The “Contact with Developers register” is available on the Town of Bassendean website.</p>

ATTACHMENT NO. 8

Local Government Update

Proposed recording and live streaming of local government council and committee meetings

By Denis McLeod, Partner, McLeods

The issue: proposed recording of council meetings

In Western Australia there has been a long running debate on the question of whether Council meetings should be streamed live online, with the recordings being made available to electors by uploading to the local government's website as soon as practical, and maintained online as an archive.

After more than 40 years as a lawyer acting for and against local governments, I have formed the firm view that any recording of Council and committee meetings should be used for the purpose of confirming the correctness of the Minutes of meetings, but should not be otherwise published. The Minutes should then remain available as the public record of the meetings.

The article that follows provides an explanation of that view. As a starting point, my view is premised on acceptance of the proposition that local government is a worthwhile institution that should be preserved and encouraged, and not presented with obstacles calculated to discourage the participation of well intentioned men and women of good sense. Perhaps not all Council members are in that category, but my proposition is that the significant majority who are, should not be discouraged from participating.

The Westminster System of Government

Discussion of the meeting recording and live streaming issue should start with recognition of the basic principles of the Westminster System of government, which apply to the WA State Government, and which focus principally on the three distinct branches of government, being:

- 1 **Parliament:** which makes laws to facilitate government. Under s.2(2) of the *Constitution Act 1889 (WA) (Constitution Act)*, the Parliament in WA consists of the Monarchy, Legislative Assembly and Legislative Council.
- 2 **Executive:** which administers the government in accordance with the laws. (The Cabinet is the effective part of the Executive, which is subject to the strict conventions of Cabinet confidentiality and solidarity).
- 3 **The Courts and Tribunals:** which interpret the laws and apply them to resolve disputes. (S.54 of the Constitution Act ensures the independence of Supreme Court judges, which generalises to all the States' judicial persons and tribunals).

Not only are those three branches of government intended in principle to function separately, but they are in fact administered separately.

There has been a long running debate on the question of whether Council meetings should be streamed live online, with the recordings being made available to electors

Local Government within the Westminster System

Although Local Government operates within the Westminster System, there are critical features and differences, including the following, that go some way to explain why Council meetings should not be streamed live online, etc, as some critics propose:

- 1 The Council of a local government may perform in any given meeting the role of all three branches of government:
 - (a) Legislative function of Council:

Council makes and amends the local government's laws including:

 - local laws; and
 - planning schemes.
 - (b) Executive functions of Council:

Council performs the same function for its district as State Cabinet performs for the State.
 - (c) Judicial functions of Council:

Council makes quasi-judicial decisions, such as determining applications for planning approval. In doing that a Council is expected to act like a Court or tribunal by complying as far as possible with principles of judicial fairness. A difference here is that unlike Courts and tribunals, a Council's deliberations are required to be in public, and determined by majority vote, which requirements impose special rigors on Council members who are:

 - part-time in their Council role;
 - essentially untrained in legal and judicial process and principles; and
 - subject to popular election and re-election (unlike judges and tribunal members).
- 2 Council acting as the Executive branch of local government makes decisions on policies and strategies of government and on contract and financial issues like the Cabinet in the State Government, but in stark contrast its deliberations are required to be in public, and Councils do not have the protection of Cabinet confidentiality and solidarity.
- 3 So far as Councils' quasi-judicial functions are concerned, Council members are expected to explain, discuss and debate their opinions as they evolve, in public meetings, and their decisions are made by majority vote in open ballot. This is in stark contrast to the privacy and confidentiality of judicial and tribunal members' deliberations towards reaching a decision.
- 4 Unlike all members of the judiciary in Australia, Council members are popularly elected, and must be prepared to defend their public decisions to their electors at the four-yearly Council elections. A decision properly made consistent with planning and legal principle may nevertheless be very unpopular with the electors. Council members who act properly, but contrary to the wishes of the electors, have a burden of explanation to electors going beyond the requirement of judges and Tribunal members to give reasons for their decisions, and they don't have to be concerned about electoral consequences of their decisions.



- 5 Council members are subject to very strict laws on financial interest, and impartiality interest, which by comparison are only very loosely and weakly applied to members of Parliament. State political parties can receive very substantial and regular donations from lobby and pressure groups which would result in serious penalties in the case of local government Council members.
- 6 Council members do not enjoy the protection of absolute privilege from actions for defamation for what is said in their meetings, in stark contrast with the protection of absolute privilege enjoyed by members of Parliament for what is said in their sessions.

The above comments demonstrate that the fundamental features of the local government system necessarily expose it already to a high level of public scrutiny that makes it a very difficult process to participate in, and to function effectively.

Comparison of Council Executive functions with State Government Executive functions

The Council in its role as the Executive must discuss matters critical to good government, in open Council, where similar issues dealt with by the State Government Executive would be discussed and decided strictly behind closed doors, and the proceedings would be protected by the conventions of Cabinet confidentiality and solidarity. For a Council to have those essentially confidential discussions streamed online, etc as the critics propose, would make the process all the more onerous and complex for the Council. Consider what the reaction of the Premier and Cabinet Ministers would be if the public insisted Cabinet meetings be open to the public, much less streamed online.

The professional politicians in State Government are not required to cope with that. Yet the current debate would expose the part-time, non-professional, essentially unpaid Council members, to that rigour. That doesn't seem reasonable or fair.

Comparison of Council quasi-judicial functions with Courts and tribunals

The unreasonableness and unfairness is even clearer when it comes to Council's quasi-judicial functions, which apply whenever the Council is deciding on planning and building applications, and applications for a wide range of other licences, permits and approvals. Council members are expected then to perform their functions in a judicially correct way. Yet unlike all Courts and tribunals, Council members are required to discuss their thinking in public, which goes a long way beyond the normal requirement that judges give reasons for their decisions. Of course Councils must give reasons for their decisions, as judges must, but consider what the reaction of judges and tribunal members would be if the public insisted that judges and tribunals conduct in public their deliberations and the steps in their consideration of a case, much less produce a transcript of their confidential deliberations.

The highly trained lawyers and other professionals who serve as judges and tribunal members are not required to cope with that. Yet the current debate would expose the part-time, non-professional, essentially unpaid Council members to that rigour. That doesn't seem reasonable or fair.

Council's legislative function

There may presently be some argument for a Council's legislative function to be held in public, and perhaps, unlike Parliament, streamed online, etc. The fact that Council members are not protected from defamation action by absolute privilege is probably a strong enough argument against that, and it is certainly an adequate argument against streaming of debate online, etc.



Consider then the contrast with the position of members of Parliament. Many of them do not speak on any issue in Parliament from month to month. And when they do wish to speak on legislation, they generally have much time to prepare their speeches, and they generally have research assistants available, and can prepare speeches for weeks in advance. By comparison, Council members attend ordinary Council meetings once or twice each month, and also special meetings and committee meetings, and from time to time electors and public meetings. At any of those meetings many issues could arise calling for discussion and debate by the Council members. At an ordinary Council meeting, there may be dozens of matters before the Council which call for debate and a vote by Council members.

Is it reasonable to suggest then to the Council members that every word they utter in the process of deliberations will be recorded and streamed online, and recordings made available to any member of the public who might decide to put their every word under microscopic scrutiny. Not even well prepared professionals or legal experts could reasonably be expected to withstand that kind of scrutiny, without the potential for regular embarrassment, and criticism and perhaps recrimination and Court action.

Likely consequences of recording or live streaming of Council meetings

A possible effect of introducing that kind of scrutiny would be that the detailed thinking and reasoning of Council members would go underground. Rather than giving the benefit of their deliberations to the members of the public who care to attend a meeting, they may make their decisions for their own private reasons, and not attempt to explain or discuss those reasons in the public forum. That would be dramatically bad for the system of open local government. Another consequence would be to force Councils to do all their effective work, and to carry on their real debate, in non-formal Council briefing sessions or the like, which are not required to be open to the public. That could also be quite adverse for the system of open local government. More significantly, exposure to that level of scrutiny and risk is likely to function as a significant disincentive to persons interested in election to the office of councillor, which would undermine community participation in local government.

Other considerations

There are other considerations worthy of brief mention including:

- Members of the public, at Council meetings are able to speak in question time and on deputations or representations on issues arising at Council meetings. The Council has no control over their comments, but the recording and live streaming of the proceedings could result in the local government being liable in defamation for the republication of defamatory remarks, or being otherwise responsible for insulting or malicious comments.
- On listening to a recording of a Council meeting, it is often difficult to identify the person responsible for a particular comment. That is likely to lead to confusion and complications, with the local government being required to identify speakers in order to deal with complaints.
- To expect a local government to edit the recordings of meetings to guard against defamatory or otherwise hurtful comments, and to identify speakers, would place an unreasonable burden on the local government administration. There would be a further burden of work and expense in obtaining legal advice on possible defamation.
- A Council acts as a collegiate body. The views of individual Council members are for practical purposes irrelevant. The only view that counts is that expressed in a resolution of the Council. To record and stream live



the comments of individual Council members during debate has the potential to deflect attention away from the most important statement on the topic, which is the resolution passed by the Council and any reasons it identifies for its decision.

- Even newspapers would not contemplate allowing its reporters to present their views on a topic in a direct recording of their thinking processes, without the opportunity for careful independent editing and the possibility of scrutiny by the newspaper's lawyers. That applies no matter how well the reporter may have researched the topic.
- The threat of Court action for defamation can be a very disturbing prospect for a Council member whose personal and family assets may be at risk. A wealthy/powerful or vexatious complainant may press even a bad action through lengthy and expensive litigation processes, and the fact that the action may ultimately fail is little consolation to a Council member whose life for months or years may be dominated by the presence and risks of the action.
- Any member of the public interested in an issue to be considered at a Council meeting can and generally will attend the meeting. Many of those who press for recording and live streaming of the proceedings online may be more interested in targeting Council members whose views they wish to criticise, than to inform themselves on the issues.
- Those concerned about the standard of debate at Council meetings are presumably intelligent and sensitive persons. They are the very people who should offer themselves for election to that important public service. That should improve the standard of debate far more effectively than recording and live streaming of meeting proceedings, and will be of more benefit to the public.

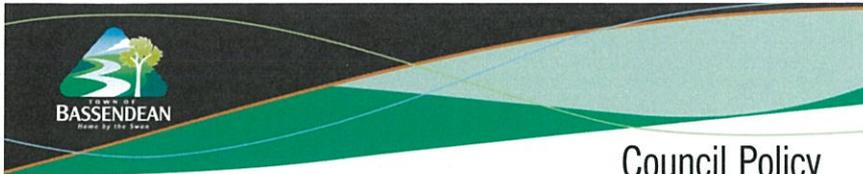
Conclusion

Those are some of the reasons for my view that Council meetings should not be streamed live online, with recordings made available to electors by uploading to the local government's website as soon as practical and maintained online as an archive. For the reasons I have discussed above, in my opinion the minutes of Council meetings should remain as the basic public record of meetings, without the additional processes of exposure and scrutiny which are being proposed by the local government critics.

I know that some local governments do record their meetings and then make the recordings available to the public on their website. That is a decision any Council can legitimately make, but it is another matter for Councils to have that regime imposed on them.

For further information in regard to the above, contact Denis McLeod on 9424 6201 or dmcleod@mcleods.com.au. The information contained in this update should not be relied upon without obtaining further detailed legal advice in the circumstances of each case.





Council Policy

6.7 Electronic Recording of Council Meetings

Objective

The objective of this Policy is to:

- Outline the manner in which Council meetings shall be recorded and broadcast;
- Ensure consistency in the availability of Council meeting minutes; and
- Provide a process in which a Councillor may question the accuracy of minutes.

Strategy

Electronic Recording and Broadcasting of Meetings

~~Meetings of Council are to be recorded electronically to assist with the preparation of minutes.~~

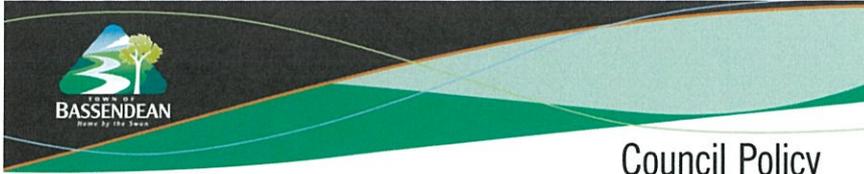
~~With the exception of those matters discussed behind closed doors in accordance with Clause 27 of the Standing Orders, copies of electronic recordings of meetings, where taken, shall be made available to the public and include a disclaimer that advises the public that the recordings are not the official record of a Council meeting and Council cannot guarantee the accuracy or the quality of this recording and it cannot be assumed to be a complete record of proceedings.~~

~~Members of the public shall not make copies of recordings or any part thereof without the approval of the Council or tamper with them so as to produce a false record.~~

~~Members of the public may listen to a recording at the Council Library free of charge. Two working day's notice is to be given by members of the public who wish to listen to the recording at the Library.~~

~~Electronic recordings shall be in the custody of the Chief Executive Officer who may make recordings available to any Councillor or Officer in the course of Council business.~~

~~Electronic recordings are to be stored for long-term storage as a State Record in accordance with the requirements of the State Records Act.~~



Council Policy

Meetings of Council are to be recorded electronically to assist with the preparation of minutes.

In accordance with Clause 6.17 Recording of Proceedings of the Standing Orders, Local Law 2011, "A Person is not to use any electronic, visual or audio recording device or instrument to record the proceedings of the Council without the permission of the presiding member. Council will record the meeting for minute taking purposes only and cannot guarantee the accuracy or the quality of this recording and it cannot be assumed to be a complete record of proceedings."

Members of the public may listen to a recording at the Council Library free of charge. Two working day's -notice is to be given by members of the public who wish to listen to the recording at the Library.

Electronic recordings shall be in the custody of the Chief Executive Officer who may make recordings available to any Councillor or Officer in the course of Council business.

Electronic recordings are to be stored for long-term storage as a State Record in accordance with the requirements of the State Records Act.

Application

Responsibility for the implementation of this policy rest with the Mayor, Councillors and Chief Executive Officer. The Policy is to be reviewed every three years.

<p>Policy Type: Strategic Policy</p> <p>Link to Strategic Community Plan: Leadership and Governance</p>	<p>Responsible Officer: Chief Executive Officer</p> <p>Last Review Date: January 2018 April 2014</p> <p>Version 32</p> <p>Next Review due by: January 2021 May 2020</p>
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ATTACHMENT NO. 9



QUARTERLY REPORT

PERIOD ENDING 31 DECEMBER 2017

Note that KPI's in the Corporate Business Plan section apply only to those outcomes listed for **commencement** in the 2017/2018 Financial Year.

KPI'S	EVIDENCE
(a) Strategic regeneration of Town Centre redevelopment	<p>Preliminary analysis of existing and future potential lot and dwelling density yields that could be achieved under current local and regional planning frameworks has been undertaken and is almost complete (see comments under the 'Second Quarter' column under Objective 3.1 of this report).</p> <p>This analysis has been applied to nominal planning precincts, including a nominal Town Centre precinct, in order to identify and designate potential future locations, areas and sites for increased dwelling density.</p> <p>It is intended for this analysis, and the spatial distribution of suggested (initial) residential density increases, to be presented to a proposed Councillors workshop/forum in February 2018 for consideration and review.</p>
(b) Responsive to Councillor enquiries	<p>The Administration attempted to provide timely and comprehensive advice and responses to Councillors. Workshops, briefings and inspection were organised during the quarter under review to provide more detailed information for Councillors to assist with decision making. These included:</p> <p><u>Inspections prior to Council meeting</u></p> <p>10th October 2017 21st November 2017 12th December 2017</p> <p><u>Councillor information Workshops</u></p> <p>31st October 2017 Strategic Planning Overview by Helen Hardcastle 7th November 2017 City Deals presentation by EMRC 21st November 2017 workshop 1 Surrey Street 12th December 2017 workshop Council Committees and Australia Day 21st December 2017 Built Form and Character Studies workshop</p>

	<p><u>New Councillor inductions</u></p> <p>26th October 2017 with Neil Douglas</p> <p>7th November 2017 with Director Operational Services and Acting Director Community Development</p> <p>14th November 2017 strategic and statutory planning</p> <p>22nd November 2017 with CEO and Director Corporate Services</p>
(c) Increased focus on bike plan and streetscapes	<p>In September 2017, the Town received the final concept plan and technical notes for the proposed Bike Boulevard along Whitfield Street from Main Roads.</p> <p>Discussions held with Main Roads about preservation of trees as part of the extension of the PSP through Success Hill, and an on-site inspection held with Councillors and Main Roads representatives was held on 10 October 2017.</p>
(d) Review Executive Team to include a Strategic Land-use Planner. Coach and mentor a new executive team for the future sustainability of the Town	<p>Director Strategic Planning has now been employed for more than 12 months. Review of structure will follow service level reviews.</p>
(e) Define KPIs together with the alignment of the Corporate Business plan in the current contract.	<p>KPI's include contract KPI's and deliverables from the Corporate Business Plan</p>
(f) provide accurate and timely advice to the Council;	<p>Provided verbal and written advice to Council and individual Councillors as requested. Provided updates on statutory and governance issues through weekly bulletins. Ensured that reports to Council are of a high standard and provided accurate and timely advice.</p>
(g) work in collaboration with the Council;	<p>Participate in workshops and briefings with councillors and respond to Councillor's requests for information and clarification</p>
(h) provide innovative and visionary leadership;	<p>Successful Youth Ryde programme continues to be expanded into other local authorities. The Town's Insurers in a meeting with the CEO have recognised the Town's performance in safety and risk management in December 2017. The Town can expect a financial dividend in 2018 as a result of its and the pool's performance in past 12 months.</p>

- (i) Maintain a work environment that facilitates the development of people and encourages them to perform at a high level;

Corporate Training & Development

The following staff corporate training and information sessions were conducted at the Town of Bassendean:

- Manual Tasks Training – 16th November 2017
- Fire Warden Refresher Training – 13th December 2017
- Basic Traffic Management training – 13th – 15th November 2017
- Slip Trips and Falls (online training) – October 2017
- Lodgement of the Inside Enterprise Agreement – 25th October 2017
- Staff Performance Appraisals – September – December 2017

Corporate Inductions

The following corporate and safety inductions were conducted by Human Resources at the Town of Bassendean:

- Corporate and Safety Induction – 6th December 2017
- Next Corporate and Safety Induction – TBA

Wellbeing Events & Initiatives

The following staff wellbeing events were conducted at the Town of Bassendean:

- Skin Scans – 1st & 9th November and 13th December 2017
- Staff Christmas Decoration Competition – December 2017
- Hep A & B Vaccinations - Ongoing
- Staff End of Year Function – 22nd December 2017
- Employee Year of Service Awards – 22nd December 2017
- Employee Birthday Cards - Ongoing
- Slow Cooker Club - Ongoing
- Employees Recognition Awards – Ongoing
- Emergency Response Drills – 14th December 2017
- Mental Health – Walk to Clear the Mind – 11th October 2017
- Audiometric Hearing Testing – 15th & 16th November 2017
- Promoted Skin Cancer Action Week – 19th – 25th November 2017

	<p><u>Wellbeing Committee</u> Town of Bassendean Wellbeing Committee formed in August 2011 and the following committee meetings have been held on:</p> <ul style="list-style-type: none"> • Tuesday, 13th December 2017 • Next Wellbeing Committee meeting TBA <p><u>OH&S Committee</u> The following OH&S Committees were held at the Town of Bassendean:</p> <ul style="list-style-type: none"> • Wednesday, 20th December 2017 • Next OH&S Meeting Wednesday, 14th February 2018 <p><u>Recruitment</u></p> <ul style="list-style-type: none"> • Home and Garden Maintenance Officer • Assistant in Home Nursing and Activities Officer x 3 • Planning Officer • Community Development Officer (Volunteers) • Library Clerk • Executive Assistant (Current) • Educator Casual x 3 • Casual Building Facilities Maintenance Officer
(j) ensure the effective and accountable application of financial and physical resources;	Internal Auditors are currently undertaking review of financial policies practices and procedures. This review should be completed by January 2018. A report on the findings will be prepared and referred to the Audit Committee. The Annual Financial Audit was completed in October 2017.
(k) develop and implements change management strategies to enhance service delivery; and	Seniors and Disability Services has undergone the most dramatic changes to service delivery and regulations and programmes for many years and the Town's services have continuously adapted to the changes and requirements of clients and funding bodies. The Town's services have passed regular audits and service evaluations and attained high levels of compliance and satisfaction.
(l) initiate the development, implementation and review of effective policies.	Governance policies largely completed during the quarter.

MEASURES OF OUR SUCCESS (THE 2017/18 OUTCOMES OPERATE AS KPI'S)

Strategic Priority 1. Social

OBJECTIVE: 1.1 - BUILD A SENSE OF PLACE AND BELONGING

Strategies <i>How we're going to do it</i>		Success Measures	Target	Projects <i>New projects that will be implemented</i>	2nd Quarter (October to December)
1.1.1	Facilitate engagement and empowerment of local communities	Community / Stakeholder Satisfaction Survey (Engagement and Participation)	Improved Community feedback (based on baseline data collected in year 1) Completion of heritage architect's plans and securing of the Lotterywest grant in Year 1	Facilitate community action driven Neighbourhood activation plans	"Localism and the Town of Bassendean" discussion paper completed and released to limited number of business owners and community members. Promotes neighbourhood activity through grass roots support for local entrepreneurs, sharing of ideas and local economy.
1.1.2	Activate neighbourhood spaces to facilitate community gathering			Develop revised Culture Plan	
1.1.3	Ensure our unique culture and history are shared and celebrated			A review of the Town's Cultural Plan continues to progress. On 6 November the project reference group met to undertake SWOT analysis of the plan and agreed to an updated timeline for the public comment period in early June with a presentation to Council in June/ July 2018. Community consultations have been scheduled for March 2018 in each of the 3 suburbs: Eden Hill – Alf Faulkner Hall – Thurs 8/15 March Bassendean – Community Hall – Sat 17 March Ashfield – CJ Artshouse – Sat 10 March (tbc). The consultant will also undertake separate discussions with community groups.	
1.1.4	Continue to support and facilitate participation in the arts, community festivals and events				

				<p>A notice will be included in the February issue of the Bassendean Briefings promoting the community consultations.</p> <p>Officers and the Consultant are presently working with a graphic designer to create branding for the review process. This will be used in promoting the consultations, survey and any other communication regarding the review. The imagery will be used to populate the draft final Cultural Plan to brief Council at a future meeting on the initial findings of the consultations – key issues and potentially some recommendations.</p>
			<p>Complete 1 Surrey Street Museum and Community Centre restoration, reconstruction and refurbishment works and implement a management plan</p>	<p>November 2017 Council (OCM – 7/11/17) resolved to:</p> <p>1. Note the RFQ 351 2017-18 Heritage Architect report associated with the project management of the consultation, design and construction process at 1 Surrey Street, Bassendean and noted the following:</p> <ul style="list-style-type: none"> a) Insufficient funding allocation; b) LotteryWest Grant Variation requirements; c) Stakeholder feedback received; d) Risks and consequences associated with the stakeholder & community consultation process, the detailed investigation and design process;

				<p>2. Does not accept any of RFQ 351 2017-18 Heritage Architect proposals submitted to project manage the consultation, design and construction process at 1 Surrey Street, Bassendean;</p> <p>3. Requests staff provide an update of all expenditure to date associated with the investigation and creation of plans for the 1 Surrey Street Project;</p> <p>4. Requests staff investigate the whole of life costs for the 1 Surrey Street Project and provide to this Council the business cases for Option 1 and Option 2c;</p> <p>5. Requests staff inform the key stakeholders that a Councillor Workshop will be held early in the New Year to consider alternative options that include the whole of life costs including any ongoing management requirements associated with future options for the use of the 1 Surrey Street heritage site.</p> <p>December (OCM – 12/12/17) Council resolved to defer any further expenditure on this project, pending the outcome of the Councillor workshop in January 2018 and request that staff provide as much information as possible on the financial aspects of the project for consideration at the Councillor workshop.</p>
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OBJECTIVE 1.2 - ENSURE ALL COMMUNITY MEMBERS HAVE THE OPPORTUNITY TO BE ACTIVE, SOCIALISE AND BE CONNECTED

Strategies <i>How we're going to do it</i>	Success Measures	Target	Projects <i>New projects that will be implemented</i>	2nd Quarter (October to December)
1.2.1 Provide accessible facilities that support leisure, learning and recreation for people of all ages.	Community / Stakeholder Satisfaction Survey (Activity and connectivity)	Improved Community feedback (based on baseline data collected in year 1)	Nature-based Playground Facilities at Sandy Beach and Mary Cres Reserve	Sandy Beach – The Town received a favourable <i>Flood Impact Assessment Study</i> in November 2017, indicating that the construction of the playground would have negligible impact on peak flood levels in the event of a flood. This favourable response then enabled Officers to conduct the community consultation phase seeking feedback from the community and stakeholders on the concept design. Feedback received on the concept design will be used to form the agenda for a community consultation meeting to answer questions about the design and any general questions by the community and stakeholders. The community consultation timelines have been amended to conclude by Friday 9 March 2018 and the Community Consultation Forum to be held on Wednesday 28 March, 6pm – 8pm. The intention is that the working group will be reconvened to consider feedback from community and the draft final design before going to a workshop with Councillors and ultimately to Council to adopt the final design of the playground hopefully at the 26 June OCM.
1.2.2 Provide life-long learning opportunities				
1.2.3 Enhance partnerships with the local Noongar people				
1.2.4 Ensure people with disabilities and those from diverse backgrounds are valued and supported to participate in community life	Volunteer Rate	Increased Volunteer Participation		

<p>1.2.5 Support our volunteers and community groups to remain empowered, dynamic and inclusive</p>				<p>Mary Crescent Reserve – tender specifications for the construction of the playground are near completion with the aim to go to tender in early 2018.</p>
			<p>Plan and build Men’s Shed facility</p>	<p>Officers have met with Lotterywest in December 2017 to progress the application that was already lodged in June 2017. At that time Lotterywest indicated that a grant of \$500,000 was being ear marked for the construction of a shed for the Bassendean Men’s Shed. Lotterywest indicated to Officers in December 2017 that the current landscape had changed with regards to a diminishing funding pool and a change of direction with a new State Government and executive leadership of Lotterywest. Lotterywest indicated to Officers that it is less likely that a grant of \$500,000 would be approved for the construction of a shed. Despite this indication from Lotterywest, Officers are continuing with providing additional information to Lotterywest to give the application every chance to be successful. Officers are also working on developing a back up plan in the event that Lotterywest either approve a reduced amount or provide no funding at all. Council will continue to be kept up to date on the project.</p>

OBJECTIVE 1.3 - PLAN FOR A HEALTHY AND SAFE COMMUNITY

Strategies <i>How we're going to do it</i>		Success Measures	Target	Projects <i>New projects that will be implemented</i>	2nd Quarter (October to December)
1.3.1 Facilitate safer neighbourhood environments	1.3.2 Promote and advocate community health and wellbeing	Community / Stakeholder Satisfaction Survey (Safety, Health and Wellbeing)	Improved Community feedback (based on baseline data collected in year 1).	Improve lighting along main pedestrian routes to public transport hubs	Consultant appointed and completing lighting review. Report to Council February 2018.
CCTV & Security lighting in Jubilee Reserve & advocate for installation in other identified crime hotspots				RFQ invited and contractor appointed to install new CCTV at Jubilee Reserve and Mary Crescent Reserve. Works commenced in December and due to be completed by end of January 2018	

OBJECTIVE 1.4 - IMPROVE LIFESTYLE CHOICES FOR THE AGED, FAMILIES AND YOUTH

Strategies <i>How we're going to do it</i>	Success Measures	Target	Projects <i>New projects that will be implemented</i>	2nd Quarter (October to December)
1.4.1 Facilitate healthy and active aging in place 1.4.2 Partner with service providers to improve / expand access to services and facilities 1.4.3 Enhance the wellbeing, and participation of our youth and children	Community / Stakeholder Satisfaction Survey (Aged, Families and Youth)	Improved Community feedback (based on baseline data collected in year 1)	Review Service delivery models for seniors including community care and Hyde Retirement Village.	Review was not undertaken but planned for next quarter. Maintained HRV and supported residents to continue to live well within the Bassendean community. The AGM was held in October and new resident committee was elected ensuring residents have an active voice and are engaged in the management of the complex. Through HACC and HCP Supported older community members to continue to live independently in their homes. SDS had its 3 yearly quality review (an independent assessment by the Australian Aged Care Quality Agency) in November against the Community Care Standards and found to be compliant across all 18 Outcomes. SDS partnered with other organisations to provide services to clients across a number of service areas.
			Review and implement Youth Plan	Review completed

Strategic Priority 2. Natural Environment

OBJECTIVE 2.1 - TO DISPLAY LEADERSHIP IN ENVIRONMENTAL SUSTAINABILITY

Strategies <i>How we're going to do it</i>	Success Measures	Targets	Projects <i>New projects that will be implemented</i>	2nd Quarter <i>(October to December)</i>
2.1.1 Strengthen environmental sustainability practices and climate change mitigation	Waste reduction ratio to population–	Reduction in waste by tonnage per annum in relation to population	Develop and implement Environmental Community Education program	School program developed for early 2018
2.1.2 Reduce waste through sustainable waste management practices	Carbon emissions (“Planet Footprint”)	Reduction in Carbon Emissions	Develop Local Planning Policies, promote and implement best practice renewable energy guidelines including sustainability initiatives	Town officers met with EMRC consultant to review of current policies and prepare draft new polices for Council consideration
2.1.3 Initiate and drive innovative Renewable Energy practices			Develop Carbon Reduction plan and as funding permits progressively implemented carbon reduction projects	In December 2017 the 2016/2017 Emissions Data Analysis report card was received which demonstrated the 7.5% reduction of total corporate emissions was achieved a year early. Therefore the Town’s a new emission reduction target has been aligned to the Australian Government’s 2030 Emissions Reduction Target to “reduce 2014/2015 corporate emissions by 26 – 28% by 2029/2030”
			Investigate a 3 bin system for general, recyclable and green/putrescible waste collection	Investigation in progress, Survey of Residents completed. Report to Council February 2018.

			Develop Local Planning Policies and Guidelines for sustainable design of buildings	In progress – initial development has occurred by investigating and researching other local government policies and guidelines that might provide models for the development of sustainable design policies and guidelines
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OBJECTIVE 2.2 - PROTECT OUR RIVER, BUSH LAND RESERVES, AND BIODIVERSITY

Strategies <i>How we're going to do it</i>		Success Measures	Targets	Projects <i>New projects that will be implemented</i>	2nd Quarter (October to December)
2.2.1	Protect and restore our biodiversity and ecosystems	Community / Stakeholder satisfaction Survey (River, Bushland and Reserves) Biodiversity and Bush Condition ("Keighery" Scale of bush condition) measurement	Improvement in community and stakeholder satisfaction survey (River, Bushland and Reserves). Achievement of an Ashfield Flats Management Plan by the end of 2018/19 financial year.	Undertake Natural Areas and River rehabilitation progressively in accordance with Department of Biodiversity, Conservation & Attractions – Best Management practices for foreshore stabilisation.	Weed mapping has been undertaken of all reserves and revegetation works completed, over summer months when tides are low minor erosion control measures to be implemented. Contracts have been awarded for the Anzac Terrace Foreshore Drainage and Foreshore Restoration works due to commence in January 2018.
2.2.2	Sustainably manage significant natural areas			Advocate with relevant partners to collaborate on protection and rehabilitation.	
2.2.3	Partner with stakeholders to actively protect, rehabilitate and enhance access to the river			Bassendean River Parks Management Committee was suspended in October 2017 due to Council elections. On 30 January 2018 Council will consider the new nominations for the 2017-2019 term of the Committee with the future meetings occurring on 6 February, 8 May, 7 August and 6 November 2018	

OBJECTIVE 2.3 - ENSURE THE TOWN'S OPEN SPACE IS ATTRACTIVE AND INVITING

Strategies <i>How we're going to do it</i>		Success Measures	Targets	Projects <i>New projects that will be implemented</i>	2nd Quarter (October to December)
2.3.1 Enhance and develop open spaces and natural areas to facilitate community use and connection.	Community / Stakeholder Satisfaction Survey (Open Space and use of Open Space)	Improvement in Community / Stakeholder Satisfaction (Open Space and use of Open Space, including community facilities, ovals and reserves)	2017 Baseline tree canopy area maintained by ensuring the public realm increases excess the private realm losses. Annual monitoring of Water Quality.	Formulate Open Space Master Plans	No works have taken place as of yet
	2.3.2 Sustainably manage ground water and facilitate the conversion of drains to living streams			Increase in Public Open Space	Sustainable water sensitive urban designs incorporated within drainage networks.
Tree Canopy Area monitoring (Private and public realms)					
	Water Quality (entering the Swan River analysed in accordance with the Australian Government National Health and Medical Research Council Guidelines)				In accordance with Council's (OCM – 17/09/16) Drainage Assessment Report future drainage works are included into the Town's Asset Management Drainage Program including incorporate water sensitive urban design. Tenders being invited for in accordance with Council (OCM11/7/16) resolution for Shackleton Street drainage swales, underground storm water storage, central traffic islands and road

				resurfacing works due to commence in February 2018
			Water Quality monitoring	Water quality monitoring has been taking place, SAP report should be provided in February 2018
			Plan and convert drains to Living Streams	<p>In May 2017 Council (OCM – 11/05/17) resolved to submit the following sites to the Water Corporation as part of the public submissions for the Drainage for Livability Program:</p> <ul style="list-style-type: none"> • 9994 (Second Avenue and Third Avenue); • 9984 (Third Avenue and Fourth Avenue); • 9982 (Reid Street, Clarke Way, Hamilton Street); • Railway Museum East Compensating Basin; • - 9983 (Iveson, Hamilton & Reid Streets); <p>The expression of Interest applications submitted to the Water Corporation. At this stage, Water Corporation still reviewing and no determinations have been made.</p>
			Develop Swan River Precinct Plan.	No action this quarter

Strategic Priority 3. Built Environment

OBJECTIVE 3.1 - PLAN FOR AN INCREASED POPULATION AND CHANGING DEMOGRAPHICS

Strategies <i>How we're going to do it</i>	Success Measure	Target	Projects <i>New projects that will be implemented</i>	2nd Quarter (October to December)
3.1.1 Facilitate diverse housing and facility choices	The number of new dwelling approvals granted by the Town against the <i>Perth Peel @ 3.5 Million</i> planning framework target for Bassendean (4,200 new dwellings by 2050)	Average of 105 dwelling approvals per annum to achieve the 2050 year target	The target requires 26.25 dwellings to be built per quarter to meet the target.	During the quarter the number of new dwellings exceeded demolitions by 13 dwellings which represents approximately 50% of the target
3.1.2 Implement sustainable design and development principles		Community Satisfaction participation engagement with and	Local Planning Strategy Review + Local Planning Scheme 10 Review	<p>Local Planning Strategy</p> <p>Consultant contracts prepared and awarded for carrying out the following tasks:</p> <p>(i) a built form and character analysis of the Bassendean local government area (LGA) – a further summary of this is provided in this column under Objective 3.3 of this report); and</p> <p>(ii) preparation of a local economic overview of the LGA – a further summary of this is provided in this column under Objective 4.1;</p> <p>Preparation and drafting of a consultant brief and contract to commission a suitable transport consultant to assist the Town in undertaking a Transport Study across the LGA also commenced this quarter and at the time of writing is being finalised for issue in early</p>
3.1.3 Plan for local neighbourhoods and their centres	The level of community engagement and participation into Local Area Planning. (input into plans and policy development)			
3.1.4 Ensure infrastructure is appropriate for service delivery				

			<p>January 2018 to select transport consultants, inviting them to quote.</p> <p>Existing and future potential lot and density yields analysis based on current LPS 10 zonings and potential zoning changes, the <i>2015 Local Planning Strategy</i> land use designations, and infill dwelling targets set out in the draft <i>Perth Peel @ 3.5 Million</i> planning framework for the Bassendean LGA has been ongoing.</p> <p>This analysis is near completion and is intended to be presented to a proposed Councillors workshop/forum in February 2018 for consideration and review.</p> <p>Local Planning Scheme 10 Review Amendment 10 to LPS 10 to bring the Scheme in line with the Planning and Development (Local Planning Schemes) Regulations is with the WAPC for endorsement.</p>
		Develop Local Planning Policies	<p>LPP 1.14 – Design Review Panel has been reviewed in line with the WAPC's <i>Design WA</i> initiative – a summary of which is provided in this column of this report under Objective 3.3</p>
		Prepare and develop Precinct/ Neighbourhood plans	<p>The preparation of precinct (or TOD) plans based around the Ashfield, Bassendean and Success Hill train stations is earmarked to commence within the first quarter of 2018.</p>

				<p>The preparation of neighbourhood plans is earmarked to occur in years 2 – 4 of the current Corporate Business Plan.</p> <p>Preliminary discussions have been held with the Mayor in respect to establishing more 'place-based' community groups (aka AshfieldCAN) within Bassendean as a vehicle for increased community engagement and input into the planning of Bassendean's neighbourhoods.</p>
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OBJECTIVE 3.2 - ENHANCE CONNECTIVITY BETWEEN PLACES AND PEOPLE

Strategies <i>How we're going to do it</i>		Success Measure	Target	Projects <i>New projects that will be implemented</i>	2nd Quarter (October to December)
3.2.1	Connect the Town through a safe and inviting walking and cycling network.	Community / Stakeholder Satisfaction Survey (roads, footpaths and cycle paths)	Improved community / stakeholders satisfaction (Roads, footpaths, Cycle paths)	Implement Bicycle Boulevards on Whitfield Street	Council (OCM – 12/11/17) approved stage two of the Whitfield Street, Bassendean Bicycle Boulevard project and to commence the community consultation period. Community consultation period planned from 22 January to 2 March 2018.
3.2.2	Advocate for improved and innovative transport access and solutions.	Community/ Stakeholder Satisfaction Survey (access to public transport both access to Town and within.)	Increased Community/ Stakeholder Satisfaction (access to public transport both access to Town and within.)		
3.2.3	Enhance the liveability of local neighbourhoods.				
3.2.4	Enhance Road Safety through Design				

OBJECTIVE 3.3 - ENHANCE THE TOWN'S APPEARANCE

Strategies <i>How we're going to do it</i>	Success Measure	Target	Projects <i>New projects that will be implemented</i>	2nd Quarter (October to December)
3.3.1 Improve amenity and the public realm 3.3.2 Strengthen and promote Bassendean's unique character and heritage 3.3.3 Implement design policies and provisions of buildings and places	Community / Stakeholder Satisfaction Survey (amenity and appearance)	Improved Community / Stakeholder Satisfaction against baseline.	Bassendean Built Form and Character Study (part of Local Planning Strategy Review)	Phase 1 of this study – an analysis of Bassendean's existing built form and character - has been completed. The outcome of this analysis was presented to Councillors at a workshop in late December 2017. This phase will inform Phase 2 of the study, which is the development of appropriate design responses to guide the design and form of Bassendean's future built environment. It is expected that this phase will be completed by late February or early March 2018 where after it will be presented to Council for consideration and authorization for release for public comment and feedback.
			Preserve Heritage buildings with protection of the Local Planning Scheme	No action this quarter.
			Winding up of Town Planning Scheme 4A.	No action this quarter.
			Establish a Design Advisory Panel	LPP 1.14 – Design Review Panel Policy has been reviewed in line with the WAPC's <i>Design WA</i> initiative applying to the establishment and operation of design review panels.

				<p>The outcomes of the WAPC's design initiatives, especially as to how they will apply to local planning, are still awaited.</p> <p>Notwithstanding, the review of LPP 1.14 has resulted in the policy being redrafted but is yet to be completed. Completion of the redrafting is considered dependent upon Council (perhaps through its Bassendean Design Committee) scoping the type/range of design matters, building typologies, and development scales it desires or considers ought to be subject to design reviews.</p> <p>It is anticipated that this matter will be considered at the inaugural meeting of the Bassendean Design Committee on 7 February 2018.</p>
			<p>Advocate for underground power and environmentally sustainable Lighting</p>	<p>In 2010, the Ashfield ratepayers supported financially contributing to Round Five of the State Underground Power program and as a result the Town's application was successful. In 2017 the Eden Hill ratepayers did not support financially contributing to the Round Six of the State Underground Power program and as a result the Town's application was not progress.</p>

				The State Government is not likely to announce Round Seven of the Underground Power program until the current works are nearing completion.
			Prepare streetscape policies for the Town	The preparation and development of these will follow the completion of Phase 2 of the aforementioned <i>Bassendean Built Form and Character Study</i> as such policies ought to be informed by the resultant draft design responses that will be developed in this phase. Phase 1 of the study included identification and assessment of a range of streetscape types.
			Finalise and implement the Municipal Heritage Inventory	The MHI has been finalised.

Strategic Priority 4. Economic

OBJECTIVE 4.1 - BUILD ECONOMIC CAPACITY

Strategies <i>How we're going to do it</i>	Success Measures	Targets	Projects <i>New projects that will be implemented</i>	2nd Quarter <i>(October to December)</i>
4.1.1 Encourage and attract new investment and increase capacity for local employment	Economic and Commercial Activity	Increase in Economic and Commercial Activity against baseline data	Develop new Economic and Commercial Activity Strategy including: - Initiate industry Cluster Analysis during this financial year	Preparation of a Local Economic Overview of the Bassendean LGA has commenced but has somewhat stalled due to issues with the release by the Australian Bureau of Statistics (ABS) of economic data from the 2016 Census.
4.1.2 Plan for and build capacity for Commercial and Industrial activities	New businesses (including home based) granted development approval by the Town.	Increased number of new businesses from baseline data	- Advocate and facilitate digital technology integration in to the Town over the four years of the plan - Place activation over the four years of the plan	Completion of the overview is expected in February 2018 (subject to the availability of the 2016 Census economic data). Place Activation is being approached under the Localism banner. Discussion Paper completed and presented to key community leaders.
4.1.3 Support and promote home based businesses			Retail Needs Assessment (part of Local Planning Strategy Review) During this financial year	The retail needs assessment is part of the compilation of the Local Economic Overview (see preceding comments in this column)
			Establish baseline data for the achievement of nominal targets during this financial year	ABR data is fully available and is being utilised and assessed.

			Investigate options and develop business case for potential future redevelopment of civic buildings during this financial year	No action this quarter.
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OBJECTIVE 4.2 - FACILITATE LOCAL BUSINESS RETENTION AND GROWTH

	Success Measures	Targets	Projects <i>New projects that will be implemented</i>	2nd Quarter <i>(October to December)</i>
4.2.1 Strengthen local business networks and partnerships	Number of local business and Stakeholder Survey (Engagement and Facilitation of local Business Networks)	Increase in engagement of local businesses.	Establish local business group of operators within the Town and those utilising the Town over the four years of the plan	Engaged with Bassendean Business Association with a view of driving Council economic development initiatives through this group.
		Increasing recognition of Bassendean branding. (Baseline to be established in year one)	Review & refresh Bassendean Means Business Brand during this financial year	RFQ for Bassendean Means Business brand refresh and website upgrade prepared and published. Five organisations invited to quote or which four responded by the closing date.
			Produce a survey for local business, to gauge their understanding and recognition of Bassendean Means Business brand over the four years of the plan	This will be part of the Brand refresh project in the next quarter.
4.2.2 Continue the activation of Bassendean Town Centre	Increase in the diversity and level of mixed uses, and increase in higher density residential dwellings	Baseline data to be established following completion and adoption of revised Local Planning Strategy and Bassendean Transit-oriented Development (TOD) plan	As per Local Planning Strategy Review + Local Planning Scheme 10 Review under Objective 3.1 during this financial year	<p>The review of the Local Planning Strategy will be completed with the data provided Preparation of a Local Economic Overview of the Bassendean LGA has commenced but has somewhat stalled due to issues with the release by the Australian Bureau of Statistics (ABS) of economic data from the 2016 Census.</p> <p>Completion of the overview is expected in February 2018 (subject to the availability of the 2016 Census economic data).</p>

<p>4.2.3 Enhance economic activity in neighbourhood centres</p>	<p>New local + neighbourhood centres</p>	<p>Baseline data to be established following completion of Retail Needs Assessment and completion and adoption of revised Local Planning Strategy and new Economic and Commercial Activity Strategy</p>	<p>As per aforementioned Retail Needs Assessment and new Economic and Commercial Activity Strategy during this financial year</p>	<p>See preceding comments in this column in respect to the compilation of the Local Economic Overview.</p>
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Strategic Priority 5. Good Governance

OBJECTIVE 5.1 - ENHANCE ORGANISATIONAL ACCOUNTABILITY

Strategies <i>How we're going to do it</i>		Success Measures	Targets	Projects <i>New projects that will be implemented</i>	2nd Quarter <i>(October to December)</i>
5.1.1	Enhance the capability of our people	Community / Stakeholder Satisfaction Survey (Governance)	Community / stakeholders improvement on Year 1 baseline (Governance)	New Elected Member Training and Community Committee member orientation	New Councillor training 26th:October 2017 with Neil Douglas 7th November 2017 with Director Operational Services and Acting Director Community Development 14th November 2017 strategic and statutory planning 22nd November 2017 with CEO and Director Corporate Services All councilors provided with training schedule from WALGA with a number of councilors taking up courses offered.
5.1.2	Ensure financial sustainability				
5.1.3	Strengthen governance, risk management and compliance	Compliance Audit	100% Statutory Compliance met.		
5.1.4	Improve efficiency and effectiveness of planning and services	Risk Management Profile	100% Risk Mitigation as determined by insurer.		
5.1.5	Ensure optimal management of assets	Financial Ratio Benchmarked.			
		Asset Ratio Benchmarked	Asset Ratios met or Improved (intermediate level)	Review the Risk Management Framework	Initial work has been undertaken by LGIS to review existing framework. It is anticipated that this will be completed by February 2018.

		Financial Ratios met or improved (intermediate level)	Continue the Internal Audit Project to ensure statutory compliance and reduction in Risk Management.	Internal Auditors will undertake & complete the programme for 2017/18. Depending when the report is completed by Moore Stephens (appointed Auditor) this may be considered by the Audit committee in February 2018.
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OBJECTIVE 5.3 - STRIVE FOR IMPROVEMENT AND INNOVATION

Strategies <i>How we're going to do it</i>	Success Measures	Targets	Projects <i>New projects that will be implemented</i>	2nd Quarter (October to December)
5.3.1 Adopt and measure against best practices ensuring a focus on continuous improvement	Local Government Service Review Benchmarks.	Improved efficiency and effectiveness of services.	Adopt a formal service review program	Seniors services identified as a priority for review with impending new funding regime.
	Percentage uptake of the community of Ecommerce applications	Increased E-commerce applications	E-commerce development through the Town's Website	Customer Service and Building Applications software purchased. The preparation of the server and application for certificate has been implemented. Training for staff being planned.

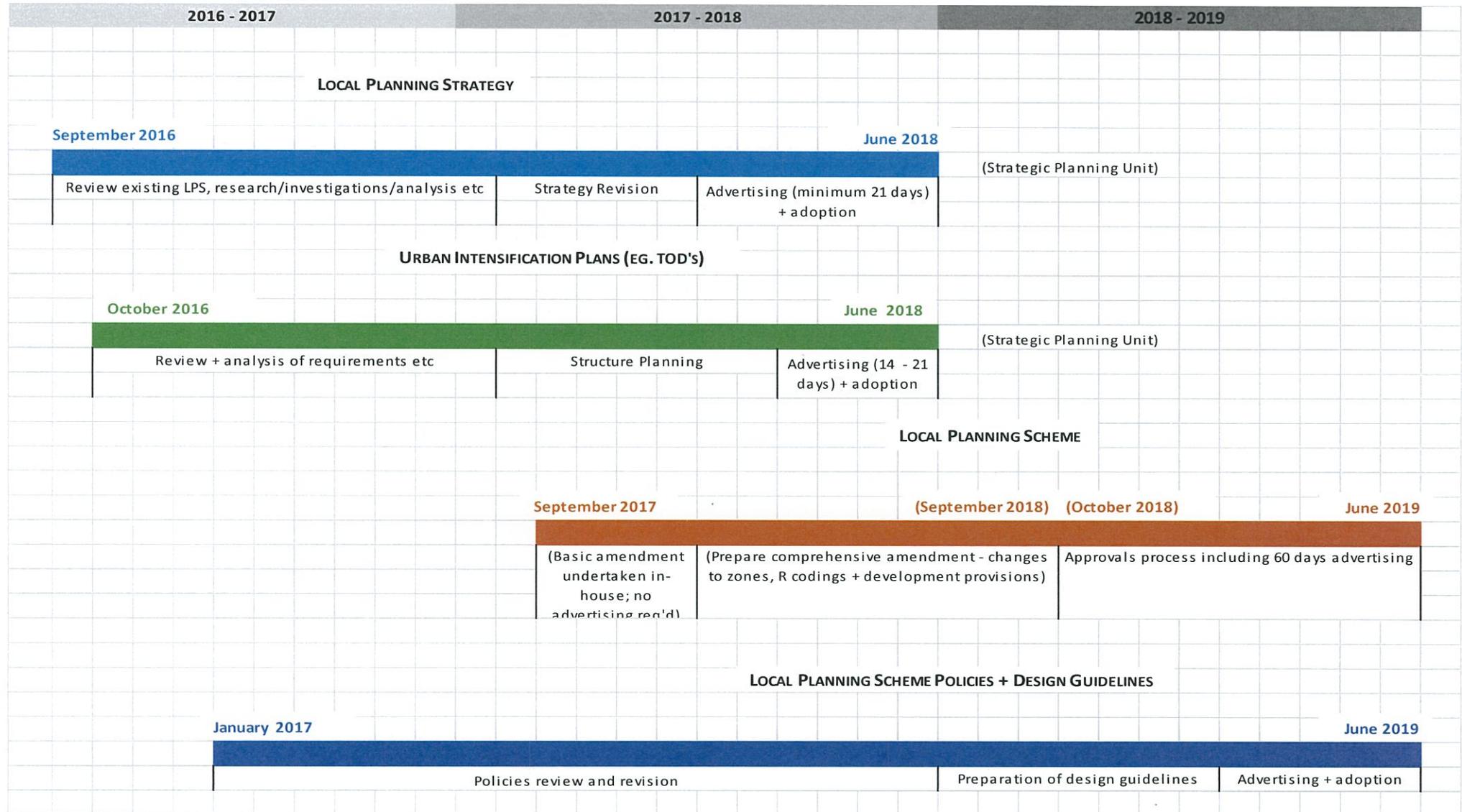
CASH IN LIEU

Cash In Lieu Public Open Space Balance at 31 December 2017							
Trust ID	Subdivision	Original Trust Receipts	Project	Approved for Expenditure from this Trust	Balance Available in Trust after Completion of Projects based on no projects under budget	Amount Drawn to Date	Cash In Lieu Public Open Space Balance at 31 December 2017
T1148 MINISTRY OF HOUSING		\$ 212,000.00	Broadway Aboretum Stage 2	\$ 85,000.00	\$ -	\$ 40,899.14	\$ 73,524.33
			Broadway Aboretum Stage 1	\$ 39,500.00		\$ 38,800.00	
			Construction of 2 additional hard tennis courts	\$ 87,500.00		\$ 58,776.53	
T1174 WESTCHOICE		\$ 194,000.00	Path Network & outdoor Gym	\$ 47,522.08	\$ -	\$ 47,043.24	\$ 53,621.24
			Public Toilet	\$ 146,477.92		\$ 93,335.52	
T1607 Danmar Homes	50 IVANHOE STREET - WAPC#951-11	\$ 130,000.00		\$ -	\$ 130,000.00	\$ -	\$ 130,000.00
T1803 Westfocus	92-96 FIRST AVE	\$ 97,000.00			\$ 97,000.00	\$ -	\$ 97,000.00
T1946 PD Projects	141 FIRST AVE - WAPC REF 149585	\$ 85,311.75			\$ 85,311.75	\$ -	\$ 85,311.75
T1992 Miluc Pty Ltd	LOT 3 MORLEY DRIVE WAPC # 146605	\$ 295,000.00		\$ 250,000.00	\$ 45,000.00	\$ -	\$ 45,000.00
T 2045 PD Projects	# 137 First Ave Bassendean	\$ 70,000.00			\$ 70,000.00	\$ -	\$ 70,000.00
T1400 Interest on POS		\$ 163,904.27		\$ 92,500.00	\$ 71,404.27	\$ 92,500.00	\$ 71,404.27
TOTALS (includes completed projects)		\$ 2,088,452.94		\$ 1,589,736.92	\$ 498,716.02	\$ 1,212,591.35	\$ 625,861.59
				\$ 625,861.59	TOTAL in TRUST		
				-\$ 44,100.86	Less Approved Projects (Broadway Aboretum Stage 2)		
				-\$ 290,000.00	Less Sandy Beach Playground Awaiting Ministerial Approval		
				\$ -			
				\$ 291,760.73	Available for additional projects		

GRANTS

COA	Description	Inc/Exp Analysis Summary	Original Budget	YTD Actual
112160	INCOME - HALLS - GRANTS (NO GST)	Non Operating Grants	\$0	-\$30,000.00
122011	INCOME - SPORT & REC - GRANTS	Non Operating Grants	-\$500,000	\$0.00
122015	INCOME - SPORT & REC - CAPITAL GRANT & POS(NO GST)	Non Operating Grants	-\$250,000	\$0.00
132015	INCOME - RESERVES - GRANT INCOME	Non Operating Grants	-\$67,000	\$0.00
212001	INCOME - ROAD MAINT - CAPITAL GRANT NO GST(RTR)	Non Operating Grants	-\$190,000	-\$32,560.00
212011	INCOME - ROAD MAINT - CAPITAL GRANT(MRWA)	Non Operating Grants	-\$401,462	-\$160,584.00
862284	INCOME - RYDE GRANT	Non Operating Grants	-\$20,000	\$0.00
872014	INCOME - BYS -GRANTS	Non Operating Grants	-\$50,000	-\$20,000.00
122201	SPORT & RECN GRANT - KIDS SPORT	Operating Grants	-\$19,000	-\$9,000.00
212011	INCOME - ROAD MAINT - CAPITAL GRANT(MRWA)	Operating Grants	-\$52,394	-\$30,174.00
322001	INCOME - GRANTS - ROADS GRANT	Operating Grants	-\$120,000	-\$46,680.50
322002	INCOME - GRANTS - GENERAL PURPOSE GRANT	Operating Grants	-\$164,000	-\$72,268.00
542013	INCOME - ES - GRANTS	Operating Grants	-\$45,000	-\$23,892.50
612013	INCOME - ASSETS - OTHER INCOME (NO GST)	Operating Grants	\$0	\$0.00
862284	INCOME - RYDE GRANT	Operating Grants	\$0	-\$20,000.00
872011	INCOME - BYS - DEPT CHILD PROTECTION GRANTS	Operating Grants	-\$90,400	-\$67,905.51
902011	INCOME - VOLUNTEER - GRANTS	Operating Grants	-\$1,000	\$0.00
942001	INCOME - SDS - HACC GRANTS	Operating Grants	-\$1,512,480	-\$866,427.00
942102	INCOME - HCP SUBSIDIES	Operating Grants	-\$360,000	-\$214,620.12
			-\$3,842,736	-\$1,594,112

(REVISED) BASSENDEAN STRATEGIC PLANNING FRAMEWORK - IMPLEMENTATION TIMETABLE



HEALTH OFFICER'S QUARTERLY REPORT – DECEMBER 2017

Public Health complaints/requests:

A total of 44 complaints were received in relation to health related matters (other than noise complaints that are reported separately). The majority were in relation to asbestos, food and backyard mosquito breeding.

Community Education:

Health Services continued to provide information to residents through social media (Facebook) on a number of Health related matters including Food Recalls, Environmental Water Sampling, and Mosquito Monitoring and Control Program.

Food Business Inspections:

A total of 35 food businesses were assessed during the quarter to ensure compliance with the Food Safety Standards and the Food Act 2008.

Food Safety Audits:

Two high risk food businesses (Child Care and Aged Care) were due for their third party Food Safety Audits during the quarter. Audits were conducted and the Audit Reports were submitted to the Town's Senior Environmental Health Officer for assessment and action, in order to assist the food businesses with closing out all non-compliances found during the audit.

Temporary Food Businesses:

A total of 32 applications for temporary food premises were received and assessed during the quarter. These applications were for the Twilight Markets, WAMFest and Australia Day event scheduled for January 2018.

Food Business Registrations:

Two new food premises were fitted out and opened during the quarter, 7-Eleven and Caff on Broadway. Final inspections and registration of these premises were carried out in accordance with the Food Act 2008.

Food Recalls:

Four Food Recall Notifications were issued by the Department of Health, which required follow up to ensure that the products were removed from retail sale.

Public Event Applications:

Four public event applications were submitted, assessed and approved during the quarter, being WAMfest, Morley Baptist Church Christmas Festival, Outdoor Cinema, and Bassendean Church of Christ Christmas Carols.

Food Sampling:

Microbiological food sampling was carried out in response to an exploding tin of tomatoes.

Chemical sampling was undertaken due to a foreign body (plastic) in a food item.

Public Building Inspection:

Two public building was inspected during the quarter to assess compliance with the Health (Public Buildings) Regulations 1992. Premises are inspected annually or biennially, depending on risk classification.

Noise Complaints:

A total of 20 noise complaints were received during the quarter. Noise complaints were in relation to loud music / party noise.

Noise Management Plans:

One Noise Management Plan was received from PTA for works to be done along the Railway tracks, assessed and approved.

Ross River Virus:

There were no notifications for mosquito borne viruses during the quarter.

Mosquito Control Program:

The Mosquito Monitoring and Control program commenced this quarter. Health Services commenced baiting a number of stormwater drains in the area. This involved inspecting stormwater drains and treating with Prolink Briquettes where drains were found to be holding water and some larvae present. There have been no mosquito complaints received from any of the areas where baiting has been carried out.

Ashfield Flats continues to be assessed on a weekly basis and treatment undertaken as required.

Rat Bait:

Approximately 970 sachets of rat bait (Generation First Strike and Racumin) were issued during the quarter. This is approximately double of what was issued to residents the same quarter last year.

Recreational Water Sampling:

The Environmental Water Sampling program commenced this quarter. Samples are collected from Point Reserve, Sandy Beach and Success Hill on a weekly basis. To date 36 samples have been collected and analysed by the labs.

Health Warning signage was made in December to provide users of these sites, with general information about the water quality at the sites.