

TOWN OF BASSENDEAN

NOTICE OF BRIEFINGS SESSION

A Briefings Session of the Council of the Town of Bassendean will be held on Tuesday, 16 July 2019 in the Council Chamber, 48 Old Perth Road, Bassendean, commencing at 7.00pm.

A G E N D A

The Mayor will preside at Briefing Sessions. In the absence of the Mayor, the session will be presided over by the Deputy Mayor.

1.0 DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

Acknowledgement of Traditional Owners

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

Live Streaming – Audio and Video

The Town is committed to engaging with its community and recognises that providing opportunities for the community to attend Council meetings will result in more informed and engaged residents.

Live Streaming will commence at the times that the meetings are due to commence and finish when the Presiding Member closes or adjourns the meeting for any reason.

Meetings closed for consideration of matters under Section 5.23 of the Local Government Act or by resolution of Council will not be streamed.

Members of the public are requested to sign the attendance sheet located on the table at the rear of the Council Chamber.

2.0 ATTENDANCES AND APOLOGIES

3.0 DEPUTATIONS

4.0 DECLARATIONS OF INTEREST

5.0 ADDRESSES BY MEMBERS OF THE PUBLIC

15 minutes will be allocated for addresses by members of the public on matters contained in the agenda only.

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

6.0 REPORTS

6.1 Joint Metropolitan Central Development Assessment Panel Application – Form 2 – Application for Amendment of a Development Assessment Panel Application for 22 Multiple Dwellings – Lot 54 (No. 72) Railway Parade, Bassendean, Owner: Mark Francis Hammond and Sandra Lee Hammond, Applicant: Dynamic Planning and Development (Ref: DABC/BDVAPPS/2019-077 : Christian Buttle, A/Manager Development Services(Planning))

APPLICATION

The application seeks to extend the period of validity for the proposed development of 22 Multiple Dwellings at Lot 54 (No. 72) Railway Parade, Bassendean.

The proposed development was first approved by the Metro Central Joint Development Assessment Panel (JDAP) at its meeting held 23 June 2015. JDAP then granted further approval at its meeting held 29 May 2017 to extend the period of approval for a further two years (to 23 June 2019). This application seeks approval for a further extension of time within which the development may be undertaken.

Having regard to the timing of reporting requirements associated with this application, it is not possible to have an Officer report prepared for consideration at the Agenda Briefings Session. Instead, the Officer report will be included within the agenda for the Ordinary Council meeting.

6.2 **Proposed Adoption of Amendment 11 to Local Planning Scheme No. 10 (Ref: LPS10.11 – Alex Snadden – Planning Officer)**

APPLICATION

The purpose of this report is for Council to consider final adoption of an amendment to Local Planning Scheme No. 10 (the scheme) to modify Table 1 (Zoning Table) of the Scheme to amend the use of 'Convenience Store' from a 'P' use, and the use of 'Service Station' from an 'A' use, to an 'X' use (a use that is not permitted) within the 'Town Centre' zone and 'Local Shopping' zone.

ATTACHMENTS

Attachment No. 1:

Scheme Amendment Report No. 11.
Summary of Submissions

BACKGROUND

At the Ordinary Council meeting held on 18 December 2018, Council unanimously adopted the following notice of motion:

"That Council:

- 1. Requests staff review and commence the process of changing the permitted use of properties zoned Local Shopping Centre to prohibit development of 'Convenience Stores Providing for the Sale of Fuel and Convenience Goods' and 'Service Stations' at undesirable locations within the Town; and*
- 2. Requests staff to review and commence the process of changing the permitted use of properties zoned Town Centre to prohibit development of 'Convenience Stores Providing for the Sale of Fuel and Convenience Goods' and 'Service Stations' at undesirable locations within the Town's Central Business District."*

As requested by Council, Town staff completed a review of the appropriateness of allowing land use activities that permit the retail sale of fuel within the 'Town Centre' and 'Local Shopping Zones'. An Officer report was presented to the Ordinary Council meeting held 26 February 2019, at which time Council resolved as follows:

- “1. Council resolves to support to initiate proposed Amendment No. 11 to the Town of Bassendean Local Planning Scheme No. 10 to modify Table 1 – Zoning Table by changing the land use permissibility of ‘Convenience Store’ and ‘Service Stations’ in the Town Centre and Local Shopping zones to an ‘X’ use, meaning the use(s) will not be permitted in these zones.*
- 2. Such amendment is a “standard” amendment pursuant to the Planning and Development (Local Planning Schemes) Regulations by virtue of it being:
 - i. An amendment that would have minimal impact on land in the scheme area that is not the subject of the amendment.*
 - ii. An amendment that is not a complex or basic amendment.**
- 3. The proposal be referred to the Environmental Protection Authority for comment prior to advertising;*
- 4. The amendment be advertised for a period of 42 days in accordance with the requirements for a Standard Amendment; and*
- 5. Following the advertisement period, present the proposal back to Council for further consideration.”*

By way of correspondence dated 25 March 2019 from the Environmental Protection Authority, the Town was advised that the proposal did not warrant advice or recommendation and that the proposal was defined as an assessed scheme under the *Environmental Protection Act 1986*.

The Amendment was subsequently advertised for public comment from 7 May 2019 to 25 June 2019. The application is now being referred back to Council for consideration of the submissions and for final adoption of the amendment.

STATUTORY REQUIREMENTS

Planning and Development Act 2005

Section 75 of the *Planning and Development Act 2005* allows a local government authority to amend its local planning scheme with the approval of the Minister for Planning.

Planning and Development (Local Planning Schemes) Regulations 2015

Regulation 35 of the *Planning and Development (Local Planning Schemes) Regulations 2015* requires a resolution of a local government to adopt an amendment to a local planning scheme which must specify if it is a “basic amendment”, “standard amendment” or “complex” and an explanation of the reason for the local government for forming that opinion.

This amendment is considered to be a “standard amendment” by Town Staff by virtue of it being:

- i. An amendment that would have minimal impact on land in the scheme area that is not the subject of the amendment.
- ii. An amendment that is not a complex or basic amendment.

COMMUNICATION & ENGAGEMENT

In accordance with section 47 (4) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, as per the requirements for a standard amendment, the application was advertised for a minimum period of 42 days, commencing on 7 May 2019 when published in the local newspaper (Eastern Reporter).

In addition to a notice published in the local newspaper, the amendment was advertised via the following means:

- ‘Your Say Bassendean’ platform on the Town’s website;
- Facebook; and
- Letters to the owners and occupiers of land within the Town Centre and Local Shopping zones (with the exception of the mixed use development sites and shopping centres where a notification was sent to the body corporate/managing authority of the individual developments).

During the advertising period the Town received a total of six submissions, two submissions of support, one comment on the amendment and three objections to the amendment. The three objections were from members of the same family.

Town staff have discussed the objections further within the report and a summary of submissions is also provided as an attachment to this report.

STRATEGIC IMPLICATIONS

Objectives <i>What we need to achieve</i>	Strategies <i>How we're going to do it</i>	Measures of Success <i>How we will be judged</i>
3.1 Plan for an increased population and changing demographics	3.1.3 Plan for Local Neighbourhoods and their Centres	The number of new dwelling approvals granted by the Town against the Perth Peel @ 3.5 million planning framework target for Bassendean (4,200 new dwellings by 2050). The level of community engagement and participation into Local Area Planning (Input into plans and policy development).
3.2 Enhance connectivity between places and people	3.2.3 enhance the liveability of Local Neighbourhoods	Community/Stakeholder Satisfaction Survey

COMMENT

The objections raised during the advertising period pertained to concerns about prohibiting the sale of convenience goods, prohibiting commercial diversity and smaller commercial businesses and having to travel outside of the Town to purchase petrol. The submissions received are not considered to give rise to any considerations that should influence whether Council proceeds with this amendment, modifies it or resolves to not proceed with it.

With regards to the submissions, there was a misunderstanding about the definition of a 'convenience store' and the intent of the amendment. It was clear there was a concern that should the amendment be approved by the Minister it would result in the prohibition of the retail sale of convenience goods and products within these zones, which is not the case.

The amendment will only prohibit the land use that involves the retail sale of petrol, for the reasons highlighted in the amendment report that was adopted for advertising by Council. The retail sale of 'convenience' goods will still be supported through the permitted 'shop' land use, which is not being modified.

The change in permissibility will not have any detrimental impacts on the function of the Town's Local Shopping and Town Centre zones. None of the existing Service Stations or Convenience stores within the Town are situated on land that is zoned Local Shopping or Town Centre, so these areas will continue to operate in the same manner in which they already do.

Service Stations and Convenience Stores will remain permitted within the 'Light Industry' and 'General Industry' zones, which are considered to be a more appropriate location for such land uses.

Town staff believe the objections can be dismissed and that the Amendment should be adopted by Council without modification.

FINANCIAL CONSIDERATIONS

Advertising costs associated with the Scheme Amendment are funded from the Town Planning operating accounts.

OFFICER RECOMMENDATION — ITEM 6.2

That Council resolves to:

1. Support submissions No. 1 and 6, note submission No. 3 and dismiss submissions No. 2, 4 and 5 received during the public advertisement period on proposed Amendment No.11 to Local Planning Scheme No. 10;
2. Adopt Amendment No. 11 to the Town of Bassendean Local Planning Scheme No. 10 as initiated by Council at its meeting of the 26 February 2019 without modification;
3. Forward the amendment documentation and schedule of submissions to the Western Australian Planning Commission with the request that the Hon. Minister for Planning grant approval to the amendment and its gazettal without modification; and
4. Advise those that lodged a submission of Council's decision accordingly.

Voting requirements: Simple Majority

6.3 Amended Application for Development Approval for Concrete Batching Plant at Lot 105 (Nos. 2-8) Clune Street, Bassendean, Owner: Keppel Holdings Pty Ltd, Applicant: Rowe Group (Ref: DABC/BDVAPPS/2019-018 – Alex Snadden, Planning Officer)

APPLICATION

The Town has received an amended application for development approval (DA 2019-018) for the existing concrete batching plant at Lot 105 (Nos. 2-8) Clune Street, Bassendean. The amended application seeks the deletion of conditions which restrict the operational capacity of the plant. The application seeks the deletion of:

- Condition 6, which restricts operating hours;
- Conditions 7, 9 and 10, which relate to the annual output of the facility, the average and maximum daily production capacity and reporting requirements to the Town; and
- Condition 8, which restricts access to and from the site on Sundays and Public Holidays by trucks and semi-trailers.

As previous applications for this development have been determined by Council, this application is similarly referred to a Council meeting for determination.

ATTACHMENTS

Attachment No. 2:

- a) Applicant's Justification Letter (inclusive of previous approvals for the site);
- b) Environmental Noise Assessment;
- c) Revised Transport Impact Statement;
- d) Updated Swept Paths;
- e) Dust Management Plan;
- f) Waste and Dust Management Plan; and
- g) External Comments.

BACKGROUND

On 18 December 2015, the Town received an application for development approval for a proposed Concrete Batching Plant at Lot 105 (Nos. 2-8) Clune Street, Bassendean (DA 2015-246).

As the application was not determined within the designated statutory timeframe, it was 'deemed refused' for the purposes of generating a right of appeal.

The applicant pursued their right of appeal by lodging an application for review with the State Administrative Tribunal (SAT) on 15 March 2016 where after extensive mediation and receipt of amended plans, the Town was invited to reconsider its decision by 28 June 2016.

The application was considered by Council at its Ordinary meeting held 28 June 2016 at which time Council resolved to refuse the application, in line with an Officer recommendation, due to non-compliance with the objectives and provisions of both the Town of Bassendean Local Planning Scheme No. 10 (LPS10) and Local Planning Policy No. 6: Industrial Development Zones Development Guidelines (LPP6), along with the unquantified impact of the proposed development on nearby sensitive land uses and concerns relating to traffic management.

The matter was subsequently referred to a further two Directions Hearings on 15 July 2016 and 5 August 2016 where the applicant was prepared to have the matter reconsidered again by Council with further information to be provided for the purpose of reconsideration. A final hearing date of 5 December 2016 was also made pending Council's resolution. At its 2016 September Ordinary Council meeting Council deferred the application to allow for further investigation. The matter was referred to the 2016 October Council meeting for reconsideration with an officer recommendation for approval. Council refused the application on the grounds that Council was not satisfied with the disposal of water from the site (which is required to remediate the dust associated with the business activities).

The matter was progressed to a final hearing on 5 December 2016. The Council's October 2016 refusal had the effect that the only substantive issue was with the adequacy of the drainage and liquid waste disposal systems proposed by the applicant. The Town's expert environmental witness advised that while the existing plans did not incorporate the full design details, the essential drainage requirements are set out in the *Concrete Batching Plant Regulations*, and the issue could be adequately dealt with by way of a condition of development approval. There was no evidentiary basis upon which the Town was able to argue for refusal to approve the development.

The applicant did not agree with all the draft conditions proposed by the Town, and the hearing therefore dealt with the conditions in dispute. These were:

- Condition 6 (hours of operation); and

- Conditions 7, 9 and 10 (annual and daily production limitations).

The applicant's argument was that there was a need for flexibility in both hours of operation and production rates because the Batching Plant needs to be able to respond to the requirements of the market. According to the applicant, this might lead to occasional night time concrete pours, or days during which the production rate may be substantially higher than the 350m³ per day average proposed.

The Town's solicitors submitted that the annual production limit of 105,300m³ proposed by the Town was fundamental to the acceptability of the proposal, as that annual limit was derived from the daily average rate proposed by the applicant. That in turn was the basis of the application meeting the generic recommended separation distance in the Environmental Protection Authority (EPA) Guidance Statement No. 3, which is 300-500m 'depending on size' for concrete batching plants. The applicant's contention was that the 420m separation distance in this case was adequate based on the 350m³ daily production rate proposed.

The Tribunal agreed with the Town's position on the annual rate, together with the need for there to be a daily maximum limit and a limitation on the hours of operation, at least in the absence of any site specific scientific evidence from the applicant which would justify deleting those conditions. The Tribunal approved the application subject to the Town's draft conditions. The Tribunal gave reasons for the decision in which it noted:

- (a) the Tribunal had regard to the officer's report to Council on 27 September 2016 which deals with the development application. The report identifies the relevant planning instruments and issues and canvasses the appropriate separation distance for the development, including the response from the DER which is to the effect that 420m is appropriate given the proposed production rate of 350m³ per day and reflected by the Town's expert witness statement;
- (b) the Tribunal also had regard to the draft works approval approved by the DER for the proposed development; and

- (c) the Tribunal was satisfied based on the evidence of the Town's planning officer and environmental expert that the relevant issues had been canvassed and that the development should be approved subject to draft conditions proposed by the Town dated 2 December 2016.

On 6 July 2017, the Town received an amended development application (DA 2017-103) that proposed the addition of three silos as well as additions to plant equipment for the approved concrete batching plant. The purpose of the amended development application was to increase the storage facilities on site. Condition 7 of the original development approval limited the annual output from the subject site to 105,300m³, and the proposed amendments did not result in any increase to the estimated output from the approved concrete batching plant. At its August 2017 meeting, Council approved the proposed amendments.

On 7 February 2018, the Town received a further amended application (DA 2018-019) that proposed the following further changes:

1. Increased height of the overall plant (including silos) from 15.10m to 16.81m (approximately 17.33m including the filter);
2. Reduced height of the aggregate storage bins from 11.990m to 11.680m (approximately 11.703m including the hand rail); and
3. Minor reconfiguration of the plant.

The amended application did not result in any increase to the estimated output from the concrete batching plant. At its March 2018 meeting, Council approved the amended application.

On 1 March 2019, the Town received a further amended application (DA 2019-018) which is the subject of this report. This application seeks to amend conditions of the previous approvals, namely the deletion of conditions that have been applied to restrict the operational capacity of the plant. The proponent seeks the deletion of:

- Condition 6, which relates to the restriction of operating hours;
- Condition 7, 9 and 10 which relate to the annual output of the facility; the average and maximum daily production capacity; and reporting requirements to the Town; and

- Condition 8, which relates to the restriction of access to and from the site on Sundays and Public Holidays by trucks and semi-trailers.

COMMUNICATION & ENGAGEMENT

In considering an application for development approval, the Town shall have regard to the possible effects of the development on the amenity of the surrounding area. The application was therefore advertised in the following manner:

- (a) Advertisement in the local newspaper;
- (b) Advertisement on the Town of Bassendean 'Your Say Bassendean' platform; and
- (c) Letters to surrounding landowners within 500m of the subject site (inclusive of landowners within the City of Bayswater).

During the advertising period the Town received 18 submissions on the proposal, two (2) of which were supportive of the application with 16 submissions objecting to the proposal. The objections related to concerns associated with:

- Proximity to sensitive receptors;
- Failure to achieve the recommended 500m separation distance;
- Noise;
- Dust;
- Traffic; and
- Environmental and health risks.

The application was referred internally to the Town's Environmental Health team for comment on:

- The acoustic assessment that accompanied the application; and
- The waste and dust management plan that accompanied the application.

The application was also referred internally to the Town's Engineering team for comment on:

- Vehicle maneuvering and traffic impacts.

The application was also referred to the City of Bayswater and the Department of Water and Environment Regulation (DWER) for comment, with neither of these external stakeholders objecting to the proposal.

Responses from the external stakeholders are provided within the Attachments to the report.

STRATEGIC IMPLICATIONS

Objectives <i>What we need to achieve</i>	Strategies <i>How we're going to do it</i>	Measures of Success <i>How we will be judged</i>
4.1 Build economic capacity	4.1.1 Encourage and attract new investment and increase capacity for local employment	Economic and Commercial Activity New businesses (including home based) granted development approval by the Town.
	4.1.2 Plan for and build capacity for Commercial and Industrial	
4.2 Facilitate local business retention and growth	4.2.1 Strengthen local business networks and partnerships	Number of local business and Stakeholder Survey (Engagement and Facilitation of local Business Networks)

COMMENT

Noise:

The application was accompanied by an acoustic report prepared by Lloyd George Acoustics (Report Reference 18114736-01B). The report confirms that the existing operation is compliant with the *Environmental Protection (Noise) Regulations 1997* and would remain compliant should the restrictions relating to operating hours be removed. The noise modelling (which has been based on site specific evidence) indicates that the development will comply by at least 8 dB at all hours to the nearest sensitive receptors being the closest residential properties on Guildford Road.

Officers have reviewed the acoustic report and concur with the findings that the development will remain compliant with the regulations should the restriction on operating hours be removed. The development will not impact surrounding land owners or nearby sensitive receptors with regards to noise.

If the application were to be approved, it would be prudent to include a condition that the development be carried out in accordance with the acoustic report which formed a part of the application.

Dust:

The *Environmental Protection (Concrete Batching and Cement Product Manufacturing) Regulations 1998* specify the controls for dust management that a concrete batching plant is required to meet. In short, an operator must not carry on concrete batching unless it is carried out in such a manner that no visible dust escapes from the premises.

DWER, when assessing an application for a works approval (construction of the plant) considers the environmental impacts such as dust. The Department determined that whilst the consequence of dust is a moderate impact, the likelihood of it occurring is unlikely. The Department therefore considered the moderate risk associated with dust was acceptable subject to the controls specified within the works approval for the development along with the further controls contained within the Environmental Protection Regulations which cover noise and concrete batching plants.

As part of this application, the Town requested an updated dust management plan that provided for greater detail than previously provided to address DWER's guideline for managing the impacts of dust and associated contaminants from land development sites. Town staff are satisfied with the updated dust management plan, and have concluded that the risk associated with the activity can be managed, without restriction on operational capacity. The waste management practices within the previously endorsed waste and dust management plan remain valid.

Throughout the assessment of the application, Town staff have undertaken several site visits, in differing weather conditions to: determine if dust is an issue onsite; confirm the management measures are in place; and confirm that they are effective. At no point in time did Town staff view visible dust crossing the boundaries of the site. However, Town staff did note that material (sediment) was apparent on the crossovers of the site. If the application were to be approved, it would be appropriate to include a condition to ensure that the premises, inclusive of the crossover and directly adjoining road reserve, is kept clean and swept to the satisfaction of the Town, in order to address this matter.

Traffic:

In support of the application, the proponent provided a traffic impact statement (TIS), which concluded that there will not be an unacceptable impact on the surrounding road network and/or intersections as a result of additional traffic to and from the site. The Town's technical engineering staff agree with the findings contained within the TIS.

As part of the assessment of the application, the Town has determined there is an existing safety concern with respect to material and agitator trucks not being able to stay lane correct when entering the property when travelling south along Clune Street.

Officers believe that this matter should be addressed in conjunction with any approval granted for this application, noting that any increase in vehicle movements of this nature will increase the risk of conflict with a vehicle travelling north along Clune Street.

To address this matter, the proponent was requested to provide revised swept paths (refer to attachments), identifying the turning movement to demonstrate vehicles entering the site, staying lane correct and the required modification (widening) to the crossover to address this. Whilst Town staff acknowledge that this will result in a non-standard (over width) industrial crossover, given it is an existing safety issue, staff support the required works in this respect. The modified widened crossover should be completed prior to any increase in production capacity occurring on site, should approval be granted.

Council Workshop:

A Councillor workshop was held on 2 July 2019 to discuss the application. In response to questions asked at the workshop the following further information is provided.

Water license: The Town is not the responsible authority for issuing or regulating ground water licenses. Should the proponent require additional ground water as a result of the removal of the restrictions to facilitate an increase in operational capacity, they would need to obtain approval through the Department of Water and Environmental Regulation to do so. Failing to obtain additional water allocation may have the effect of placing an operational restriction on the capacity of the site.

Wash-down Stations: The application being presented to Council does not propose any additional physical works on site, i.e. no additional wash-down stations are being proposed as a part of this application. Due to the process involved (trucks being filled and washed down) the applicant has advised that the maximum realistic efficiency of the site equates to approximately 15 agitator trucks or approximately 100m³ of concrete produced in an hour.

Penalties: A \$5000 penalty can be imposed for a person who contravenes any part of the regulations and commits an offence as listed under part 14 of the *Environmental Protection (Concrete Batching and Cement Product Manufacturing) Regulations 1998*. This would be the responsibility of the Department of Water and Environmental Regulation to enforce.

Waste water: A question was raised regarding how the waste water systems on site will work based upon the increased production capacity that is now proposed, Council is advised the wastewater tank set up at the subject site includes two (2) 40,000L waste tanks (dirty water) and two (2) 40,000L bore water tanks. All wastewater is used in the production process. The plant operative can either blend or switch between 'dirty' water or bore water in the manufacturing process.

Separation Distances to Nearest Sensitive Land Use:

In accordance with the EPA Guidance for the Assessment of Environmental Factors – Separation Distances between Industrial and Sensitive Land Uses (2005), the recommended buffer distances (being 300m to 500m for a concrete batching plant) to a sensitive land use can be varied where it is demonstrated that a lesser separation distance is appropriate.

Whilst the buffer distance was determined as appropriate for the restricted operation, to increase the output and remove the restrictions, site specific technical information is required which demonstrates that the development will not cause unreasonable impact on the amenity of nearby sensitive land uses within the recommended buffer zone associated with any noise and dust emissions that the development may produce.

According to the technical information provided (acoustic report, dust management plan, and traffic impact statement) it has been determined the nearest sensitive land uses will not be adversely impacted as a result of the removal of conditions.

The development is situated in an appropriate location being relatively central within an industrial area and is separated to sensitive receptors by a train line and a primary regional road. Since the operational activities commenced, the Town has not received any complaints in relation to the plant. Town staff are of the opinion that there is no longer a need for the conditions that restrict operational capacity onsite, based on the technical information that has now been provided and low risk nature of the activity.

This position is reinforced by DWER in their most recent advice to the Town. DWER is the responsible authority for regulating prescribed premises (which concrete batching falls within). DWER has advised the activity does not require any conditions regulating the operations from them, but rather that the proponent is required to obtain a registration for the operation, which they have done. Registrations are issued under the *Environmental Protection Regulations 1987 (EP Regulations)* and are associated with activities that are considered to have a lesser degree of risk of environmental harm, and therefore the registrations do not contain conditions.

Council is also advised that the Town is dealing with a further amendment to the development onsite (DA 2019-050) which seeks retrospective approval for (a) an installed diesel tank; (b) installation of onsite signage; and (c) changes to landscaping arrangements on site from what had been shown on the originally approved plans. Having regard to the minor nature of this application, it is intended to be dealt with under Delegated Authority, without referral to Council.

STATUTORY REQUIREMENTS

As identified within the *Planning and Development (Local Planning Schemes) Regulations 2015*, the local government in considering an application for development approval is to have due regard to the following matters which in the opinion of local government are relevant to the use of development the subject of the application:

- (a) the aims and provisions of the Scheme and any other relevant town planning schemes operating within the Scheme are, including the Metropolitan Region Scheme;
- (b) the requirements of orderly and proper planning including any relevant proposed new Local Planning Scheme or amendment, or region scheme or amendment, which has been granted consent for public submissions to be sought;

- (d) any approved environmental protection policy under the *Environmental Protection Act 1986*;
- (e) any relevant policy or strategy of the Western Australian Planning Commission and any relevant policy adopted by the Government of the State;
- (f) any Local Planning Policy adopted by the local government under Clause 2.4;
- (i) the compatibility of a use with its setting;
- (j) any social issue that may have an affect on the amenity of the locality;
- (o) the relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal;
- (p) whether the proposed means of access and egress from the site are adequate and whether adequate provisions have been made for the loading, unloading, manoeuvring and parking of vehicles;
- (q) the amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road systems in the locality and the probable effect on traffic flow and safety;
- (v) whether adequate provision has been made for the landscaping of land to which the application relates;
- (y) any relevant submission made on the proposal;
- (zb) any other planning consideration the local government considers relevant.

As there are no physical works that are proposed under this application for development approval (other than the need for a widened crossover within the road reserve), there no specific development controls within either the Town's LPS 10 or Local Planning Policy No. 6 - Industrial Zones Development Design Guidelines which are of relevance to Council's consideration of this application.

FINANCIAL CONSIDERATIONS

The City of Bayswater refused to approve a concrete batching plant located at Nos. 277 -279 Collier Road, Bayswater in 2014. The application was approved at a SAT hearing subject to a number of conditions, which included the management of dust and noise. In 2016, the Tribunal granted approval, subject again to a number of conditions, for a modified design of the previously approved concrete batching plant, which was improved in relation to these original dust and noise concerns. Following this approval by the Tribunal, the applicant made an application for an indemnity costs order against the respondent in the amount of \$248,798.42.

The Tribunal noted that an invitation from the Tribunal under s31 of the *State Administrative Tribunal Act 2004 (WA)* for a decision maker to reconsider its decision, is simply that, an invitation. The decision maker may decide to refuse the invitation from the Tribunal, however, once that invitation is accepted, the decision maker must discharge its duty to genuinely attempt to decide the matter on its merit.

It was apparent to the Tribunal that the City of Bayswater took the view it would always oppose the concrete batching plant regardless of any professional advice or previous decision of the Tribunal. The Tribunal found, that whilst the City of Bayswater may oppose the concrete batching plant, they are still obliged to consider the proposal on its merits and to apply the relevant provision of the planning framework, which includes the importance of consistency in decision making in the interests of orderly and proper planning.

In addition, the Tribunal found that, in circumstances where the City of Bayswater was well informed and advised by extensive professional planning, legal and environmental advice that the concrete batching plant was suitable to its location and addressed the relevant legislation, the City of Bayswater acted unreasonably in refusing to approve the application.

The Tribunal determined that the application should be awarded costs and made orders for costs inclusive of disbursements and GST or \$112,772.73.

This information is provided to inform Council that it must consider the application on its merits and against the relevant planning framework, and that a failure to do so may result in financial implications.

OFFICER RECOMMENDATION — ITEM 6.3

That Council approves the amended application for development application for the proposed concrete batching plant at lot 105 (Nos 2-8) Clune Street, Bassendean subject to the following conditions:

1. Prior to the issue of a Building Permit, a development bond for the sum of \$10,000 being lodged with the Town of Bassendean to ensure the satisfactory completion of all works associated with landscaping, car parking, access ways, screen walls, and other associated works. In the event the works are not completed to a satisfactory standard, the Town may call on the bond for the purpose of completing the works.
2. All landscaped areas shall be reticulated and maintained for the life of the development in accordance with the approved landscaping plans. Landscaping along Wick Street road reserve post resumption of the unzoned portion of the lot is to be subject of a separate development application.
3. Any fencing to be setback a minimum of two (2) metres from the Clune street frontage, behind the landscaping strip as detailed on the approved drawings. Fencing along the Wicks street road reserve post resumption of unzoned portion of the lot is to be subject of a separate development application.
4. The proposed development shall at all times operate in accordance with the approved 'Waste and Dust Management Plan' with regards to Waste Management to the satisfaction of the Town.
5. The proposed development shall at all times operate in accordance with the 'Dust Management Plan' prepared by BGC (Reference: DMP-001) with respect to Dust Management and the *Environmental Protection (Concrete Batching and Cement Product Manufacturing) Regulations 1998* to the satisfaction of the Town.
6. The proposed development shall at all times operate in accordance with the Environmental Noise Assessment, prepared by Lloyd George Acoustics Pty Ltd, on behalf of BGC Australia (Report Reference: 18114736-01B) to the satisfaction of the Town.

7. The development shall at all times operate in accordance with the Transport Impact Statement, prepared by Shawmac Pty Ltd, on behalf of BGC Australia (Report Reference: 19011-TIS-001) to the satisfaction of the Town.
8. Standing water shall not remain on site for a period greater than 120 consecutive hours, so as to minimise the possibility of mosquito breeding.
9. All uncontaminated storm water and drainage runoff produced onsite is to be disposed of onsite via the use of soakwells. The soakwells must deal with the entire land area and be designed to contain a 24hour storm duration and 100-year ARI. Details of storm water disposal being submitted for the approval of the Town in conjunction with or prior to the issue of a Building Permit, in accordance with Local Planning Policy No. 14 – On-site Storm water Policy.
10. Any stored aggregate or sand outside the building is to be either wetted at all times or covered to prevent driven dust erosion.
11. Trucks must be washed down at the slump stand before leaving the site.
12. No products, good materials or waste shall be stored outside of the material bins or waste storage bins unless in a designated area that has been approved by the Town for this purpose.
13. A bin area is:
 - a. To be provided of not less than 10m²;
 - b. To be screened by a gate and brick walls or other suitable material to a height of not less than 1.8m;
 - c. To be provided with 75mm minimum thickness concrete floors to a 100mm industrial floor waste, with a hose cock to enable both the bins and bin storage area to be washed out; and
 - d. To be provided with internal walls that are cement rendered (solid and impervious) to enable easy cleaning.
14. Bins are to be washed only in an approved wash down facility within the bin area; drained to a silt trap and disposal of via the water corporation sewer system or if this is not available a leach drain soakwell system which is separate to the storm water disposal system, or approved system, to the satisfaction of the Town of Bassendean.

15. The 19 car parking space and 18 truck parking spaces and associated access ways on the approved drawings are to be constructed, kerbed, marked and maintained thereafter to the Town's satisfaction.
16. Concrete mixer trucks are to be parked within an approved truck parking bays only.
17. Truck parking bays are to conform to the relevant Australian Standards. Future truck parking is subject to a future application for development upon resumption of the unzoned portion of the lot.
18. The required crossover post resumption of the unzoned portion of the land shall be constructed to Councils specifications (Note: Separate application and approval required).
19. Prior to any increase in production above 375m³ maximum daily output, the applicant/landowner is required to prepare drawings identifying the works involved within the verge in ensuring vehicles remain lane correct when entering the site; have the drawings approved by the Town and undertake the works in accordance with the approved drawings to the satisfaction of the Town.
20. The site, crossovers and immediate road reserve shall be kept clean and swept and free of sediment to the satisfaction of the Town of Bassendean.
21. No retail sales to be carried out from the premises.
22. Signage to be subject to a separate application.
23. The street number being prominently displayed at the front of the development.
24. The issue of a building permit prior to the commencement of any works onsite.

Voting Requirements: Simple Majority

6.4 Development Application – Proposed Change of Use for – Exhibition Centre, Market, Trade Display and Reception Centre at Lot 600 (No. 174) Railway Parade, Bassendean (Ref: DABC/BDVAPPS/2019-062 – Alex Snadden – Planning Officer)

APPLICATION

On 7 March 2019, the Town received an application to seek approval to retain and adaptively reuse the existing building at the corner of Jackson Street and Railway Parade for industry events which are catered for by the following land uses described within the Town's Local Planning Scheme No. 10 (LPS10):

- **Exhibition Centre:** which *“means premises used for the display, or display and sale of materials of an artistic, cultural, or historical nature, and includes a museum or art gallery”*;
- **Market:** which *“means premises used for the display and sale of goods from stalls by independent vendors”*;
- **Trade Display:** which *“means premises used for the display of trade goods and equipment for the purpose of advertisement”*; and
- **Reception Centre:** which *“means premises used for functions on formal or ceremonial occasions but not for unhosted use for general entertainment purposes.”*

It is expected that support of these activities will facilitate the following activities as described by the applicant to occur:

- *“Industry events/networking and trade/product launches (e.g. komatsu/caterpillar);*
- *Display space for trade goods and car/industry auctions where a grandeur scale is required (e.g. promotion or trading of new equipment);*
- *Corporate/private functions (up to 500 persons);*
- *Special market events (e.g. gourmet food products and produce);*
- *Industrial demonstrations/business workshops/ upskilling workshops/ trade seminars;*
- *Short term hires of meeting rooms for nearby industrial businesses; and*
- *Industrial setting for photography, exhibition space for local artists, photographers and cultural groups.”*

The application does not propose to change or alter the existing warehouse that is located on the eastern side of the development site, existing offices or existing lunch bar.

The application is referred to a Council meeting for determination, as it is a proposal which has the potential to have a significant effect on the Town.

ATTACHMENTS

Attachment No. 3:

Industry Warehouse' Change of Use Application Report – Prepared by Element Pty Ltd.

BACKGROUND

There are two main warehouses that exist on the development site. The application which is the subject of this report relates solely to the warehouse that is adjacent to Jackson St / Railway Parade. The second warehouse, which is adjacent to Wood Street / Railway Parade is unaffected by this application.

Development approval was granted in 2017 for additions and alterations to the warehouse adjacent to Jackson Street / Railway Parade (DA 2017-141). The additions and alterations primarily related to repairs to the building and modifications to the façade improving the amenity of the building. Development approval was also recently granted for a 'Lunch Bar' (DA 2018-131) located within the north western corner of this same building. The lunch bar commenced operations in early 2019. Prior to this, the building had primarily sat vacant for the past 10 years.

In December 2018, a meeting was held between Element (representatives of the owner) and officers of the Town to seek initial feedback from the Town in relation to a proposal for a change of use application that would cover a range of uses on site. The concept was not yet fully developed at this point in time, and officers requested further information before detailed comment was made.

An on-site meeting was subsequently held in January 2019 attended by Element, the landowners, the Mayor and a staff representative, to provide the opportunity for the renovated industrial building and lunch bar (which was under construction at the time) to be viewed, and to further discuss the applicant's developing ideas for the building moving into the future.

Following the second meeting, the proponent provided the Town with a brief for a proposed change of use application, outlining their intention to apply for exhibition centre; trade display; market and reception centre land uses at the property.

After reviewing information provided, officers of the Town raised concerns with the reception centre component of the proposal notably in relation to the suitability of this land use for a site with a General Industry zoning, in which the subject property is located.

A further on-site meeting was then held during February 2019, at which time the CEO was briefed on the proposal.

A formal application for development approval was then submitted in May 2019 with additional justification in support of the application.

COMMUNICATION & ENGAGEMENT

Given the nature of the application, primarily the use not listed 'Reception Centre' aspect of the application, the development was advertised for a period of 21 days from 31 May 2019 to the 20 June 2019 in the following manner:

- Letters to landowners and occupiers of properties directly adjoining and opposite the development site; and
- Signs on site facing both Railway Parade and Jackson Street.

During the advertising period, the Town received a total of 20 submissions on the proposal, all of which were supported. It should be noted that all of the submissions were provided in a standardised proforma arrangement, and signed by nearby businesses, residents and ratepayers. The proforma was not provided by the Town. The standardised reasons for support of the proposal was as follows:

- Encourage much-needed investment in the local area and Bassendean economy through opportunities for industry growth, development and networking;
- Accommodate a range of activities and services associated with Bassendean industries and their wider network of industry-based partnerships;
- Improve the look and feel of the Bassendean industrial area and how it is accessed by users both day and night; and
- Provide appropriate land use activities within an emerging activity centre adjacent to a train station.

STRATEGIC IMPLICATIONS

Objectives <i>What we need to achieve</i>	Strategies <i>How we're going to do it</i>	Measures of Success <i>How we will be judged</i>
4.1 Build economic capacity	4.1.1 Encourage and attract new investment and increase capacity for local employment	Economic and Commercial Activity
	4.1.2 Plan for and build capacity for Commercial and Industrial	New businesses (including home based) granted development approval by the Town.

COMMENT

The application has been assessed against the provisions of the LPS10, inclusive of the objectives of the zone and any Local Planning Policies No. 6 - Industrial Zones Development Design Guidelines and No. 8 - Parking Specifications.

When assessing each of the land use activities proposed, the Town must have due regard with the consistency of each use with the objectives of the General Industry Zone which are summarised as follows:

- To provide for a broad range of industrial uses (excluding noxious or hazardous industry);
- To accommodate industry that is 'heavier' in nature than that of light industry;
- To accommodate a range of manufacturing and associated activities which will not detrimentally affect the amenity of nearby land;
- To achieve safety and efficiency in traffic circulation;
- To provide for appropriate car parking and landscaping;
- To preclude the storage of unsightly goods from public view; and
- To ensure that development conforms with the Local Planning Strategy and relevant Local Planning Policy.

Exhibition Centre, Trade Display & Market:

An exhibition centre, trade display & market are all classified as 'D' or discretionary land uses within LPS10. Having regard to the above mentioned objectives, whilst an exhibition centre, trade display & market are not considered to be heavier 'industrial' land use activities, the proposed activities are not necessarily inconsistent with the objectives of the zone. The uses will not detrimentally affect traffic safety, circulation, the amenity of the area or result in the storage of unsightly goods.

Reception Centre:

The reception centre component of the application, by virtue of the being a 'use not listed' within the Zoning Table (Table 1) of LPS10, requires a more in-depth review compared to that of the discretionary land use activities referred to above.

As part of the Town's review into the reception centre component of the proposal, officers of the Town reviewed the permissibility of this use within the Town Planning Scheme of adjoining local authorities and the other local authorities within the Metro Central Joint Development Assessment Panel Area (being Swan, Bayswater, Belmont, Canning, Melville, South Perth and Victoria Park). Without exception, a reception centre was designated as an 'x' (prohibited) use, meaning the use is not permitted within the equivalent industrial zoned areas within each of these local authorities.

Whilst the reception centre land use is not industrial in nature, nor necessarily associated with industrial activities, there are aspects of the proposal where the use could be considered consistent with the objectives of the general industry zone, such as:

- The land use not detrimentally affecting the amenity of the adjoining properties or their ability to function as an industrial site (further detail about this is provided in the subsequent 'Noise' section of this report);
- The reception centre component not involving the storage of unsightly goods;
- Traffic associated with the proposed development not having an adverse impact on the surrounding road network, traffic safety or traffic circulation; and
- Car parking not being identified as an issue for the site (further detail is provided with regard to this matter under the subsequent car parking section of the report).

In addition to the development being consistent with some of the objectives of the general industry zone, the Town has identified the following considerations that should be given due regard when assessing the proposal:

- Proximity to the Ashfield Train Station: the subject site is directly opposite the Ashfield Train Station and the proposed PTA carpark.

Not only could the development leverage of the carpark and train station for patrons to the site, the development could in turn activate the train station further and provide improved passive surveillance of the train station at night, when larger functions are likely to occur;

- Support from the community during the consultation period. During the consultation period the Town received 20 submissions all in support of the application;
- Economic benefits: encouraging and facilitating new investment opportunities to build the capacity of local employment opportunities; and the Town's commercial and industrial opportunities are identified objectives within the Community strategic plan. The subject site is currently under-utilised. According to the applicant, the western warehouse that this application pertains to has primarily remained vacant over the last 10 years.
- The reception centre component aligns with the other uses being considered for approval as part of this application and could further facilitate industrial networking opportunities and seminars of an industrial nature, positively contributing to the industrial precinct.
- Whilst not a formally adopted planning policy, this area was identified to transition from a general industry zone to a commercial zoning, as part of the Ashfield Precinct Plan, and is identified as an Activity Centre within the State Government Perth and Peel @ 3.5M document. The range of uses that are contemplated for the site align with future planning intentions for the locality.

Local Planning Policy No. 6 – Industrial Zones Development Guidelines (LPP6):

There are minimal works proposed as part of this application onsite. The only works proposed relate to increasing the number of vehicle parking bays onsite by an additional 25 car parking bays. In accordance with the provisions of LPP6, the car parking spaces will need to be constructed and maintained in accordance with Local Planning Policy No. 8 – Parking Specifications (LPP8). If the application were to be approved, it would be appropriate to enforce this requirement through a condition of development approval.

In addition to the car parking area complying with LPP8, in accordance with the landscaping requirements of LPP6, shade trees in car parking areas shall be provided at a ratio of one tree per four car parking bays with all tree planting to comply with the Town’s specifications. The proponent has not proposed any shade trees for the proposed car parking bays. If the application was to be approved, it would be appropriate to enforce this requirement through a condition of approval.

Car parking:

With a minor modification to the existing car parking layout, the development will have a maximum of 95 car parking bays available onsite, with the proponent indicating that 9 will be allocated for staff, leaving 86 bays available to the public.

If the office, lunch bar and the proposed change of use, and eastern warehouse were all operating in unison, the development would require 146 vehicle parking bays provided onsite. For a breakdown of the car parking calculations refer to the below table:

Use	Size	Parking Requirement	Required Bays
Office	275sqm	1:20sqm	14
Lunch Bar	245sqm	1:20sqm	12
Eastern Warehouse	2,000sqm	1:100sqm	20
‘Reception Centre’, ‘Market’, ‘Trade Display’ & ‘Exhibition Centre’	Up to 500 persons	1:5 persons	100 vehicle bays
Total Required			146
Total Provided			95

Whilst Officers of the Town acknowledge that this would equate to a 51 vehicle bay shortfall, when acknowledging the nature of the proposed development and the likelihood that the larger events up to 500 persons will occur outside the usual hours of operation (being evenings and weekend) when the bays associated with the office, eastern warehouse and lunch bar will be available, the shortfall should not be problematic.

In addition to the reciprocal parking available when the larger events will occur, the Town has also taken into consideration the proximity to the Ashfield Train Station which is located directly opposite the subject site.

The Ashfield Train Station provides the opportunity for patrons to travel to the site via public transport. In addition to this, given the larger events will operate outside of traditional hours, and the Ashfield Train Station will soon be provided with a new public car park, there is also the opportunity for patrons to leverage off this car park outside of ordinary hours.

Noise:

As part of the assessment of the land use the Town must take into consideration potential implications of the development on nearby industrial activities and or the impact the development may have on those same activities. Ensuring that the industrial premises comply with the relevant noise regulations is imperative.

The *Environmental Protection (Noise) Regulations 1997* assign allowable noise levels for all type of premises receiving noise, including residential, commercial and industrial premises, for all hours of the day. Furthermore, it requires that noise emitted from any premises, when received at other premises, be free of tonality, impulsiveness and modulation.

Industrial premises are assigned the following decibel levels at **all hours** of the day:

- L_{A10} of 65dB(A) - The L_{a10} means an assigned level, which is not to be exceeded for more than 10% of the representative assessment period;
- L_{A1} of 80dB(A) - The L_{a1} means an assigned level, which is not to be exceeded for more than 1% of the representative assessment period; and
- L_{Amax} of 90dB(A) - The L_{Amax} shall not be exceeded at all.

In comparison, commercial premises, such as the proposed development and the existing Pots & More, located adjacent to Bradken, are assigned the following decibel levels:

- L_{A10} of 60dB(A) at all times of the day;
- L_{A1} of 75dB(A) at all times of the day; and
- L_{Amax} of 80dB(A) at all times of the day.

When assessing noise being received at a premises, the L_{a10} is used, as it is the 'strictest' criteria. The difference in decibels between commercial and industrial premises, when comparing the L_{A10} is 5 dB(A).

The assigned levels for commercial premises have a 15-25dB difference to residential premises which are classified as noise sensitive premises.

Residential premises are significantly lower, with the quietest part of the day being between 2200 hours on any day, to 0700 hours Monday to Saturday and 0900 hours of Sunday and public holidays.

TIME OF DAY	ASSIGNED LEVEL (dB)		
	La10	La1	LAmx
0700 to 1900 hours Monday to Saturday	45 + influencing factor	55 + influencing factor	65 + influencing factor
0900 to 1900 hours Sunday and public holidays	40 + influencing factor	50 + influencing factor	65 + influencing factor
1900 to 2200 hours all days	40 + influencing factor	50 + influencing factor	55 + influencing factor
2200 hours on any day to 0700 hours Monday to Saturday and 0900 hours Sunday and public holidays	35 + influencing factor	45 + influencing factor	55 + influencing factor

The Town’s Environmental Health Department is of the opinion that industrial developments within proximity to the subject site are unlikely to impose any undue noise impacts on the subject property as a result of the change from an industrial to commercial use with respect to compliance with the noise regulations.

Officers, however, do have a concern that should the activities as part of this application use noise amplification equipment, the development may impact on the nearby residential activities south of the development along Guildford Road, particularly after 10pm.

If the application were to be approved, it would be appropriate to include a condition that would require amplified noise to cease by 10pm, unless a subsequent acoustic report is provided that would demonstrate activities would comply with the *Environmental Protection (Noise) Regulations 1997*.

Conclusion:

Officers have concluded that an ‘exhibition centre’, ‘trade display’ & ‘market’ are consistent with the objectives of the zone to the extent that the land use activities should be supported by the Town.

Whilst there may be a valid planning argument that a 'reception centre' is an inappropriate land use in the general industry zone, as already highlighted within this report, there are other considerations that need to be taken into consideration. Town staff have concluded that on balance the reception centre, trade display, market and exhibition centre are all worthy of support for the following reasons:

- The strategic location for the subject site, being directly opposite the Ashfield Train station and the ability to leverage off the newly proposed car park;
- The Ashfield Precinct Plan identifying the site as a site for a transition away from an industrial focus to a commercial based focus into the future;
- The support received during the community consultation;
- The consistency of the application with the Town of Bassendean Strategic Community Plan to encourage and attract new investment, increase capacity for local employment, and build the capacity of industrial and commercial activities, particularly noting the site had been vacant for 10 years;
- The 'reception centre' component of the application aligning with the other uses that are being considered for approval on the same site; and
- The combined range of land use activities that are proposed for the site being compatible within the locality.

STATUTORY REQUIREMENTS

Relevant statutory consideration relating to the interpretation of LPS10 and LPP 6 have been addressed in the comments section of the report.

Exhibition centre, market and trade display are all discretionary land use within LPS10, which means there is capacity to have these uses approved.

Whilst reception centre is defined within the Town's Local Planning Scheme, it is not specifically mentioned in Table 1 – Zoning Table. In accordance with part 3.4.2 of LPS10, if a person proposes to carry out on land any use that is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the type, class or genus of activity of any other use category the local government may:

- a) determine that the use is consistent with the objectives of the particular zone and is therefore permitted;

- b) determine the use may be consistent with the objectives of the particular zone and thereafter follow the advertising procedures of clause 67 of the deemed provisions in considering an application for development approval; or
- c) determine that the use is not consistent with the objectives of the particular zone and is therefore not permitted.

FINANCIAL CONSIDERATIONS

Nil.

OFFICER RECOMMENDATION — ITEM 6.4

That Council approves the application for development approval for the proposed change of use for Exhibition Centre, Market, Trade Display and Reception Centre at Lot 600 (No. 174) Railway Parade, Bassendean, subject to the following conditions:

- 1. A Waste Management Plan shall be submitted to and approved by the Town of Bassendean prior to the commencement of the approved development. Waste collection shall be undertaken in accordance with the approved plan thereafter to the satisfaction of the Town.
- 2. An Event Management Plan shall be submitted to and approved by the Town of Bassendean prior to the commencement of the approved development. Event management shall be undertaken in accordance with the approved plan thereafter to the satisfaction of the Town.
- 3. A Parking Management Plan be submitted to and approved by the Town of Bassendean prior to the commencement of the approved development. Car parking management shall be undertaken in accordance with the approved plan thereafter to the satisfaction of the Town.
- 4. Amplified sound shall cease from the site by 10pm on any day, unless a subsequent Acoustic Report is prepared and provided to the Town that demonstrates to the satisfaction of the Town of Bassendean that development onsite will comply with the *Environmental Protection (Noise) Regulations 1997* at all times.
- 5. The approved car bays and vehicle access areas are to be constructed, sealed and drained in accordance with the specifications set out by the Town within Local Planning Policy No. 8 – Parking Specifications.

6. Prior to the commencement of the approved development, a professionally prepared landscaping plan is required to be submitted to the Town for approval which addresses the following:
 - a. The planting of a minimum of seven (7) trees on site to provide shade for the additional car parking bays that are provided as a part of this development. The species of the tree is to be approved by the Town of Bassendean and the trees shall be minimum 90L pot size and two metres in height at the time of planting;
 - b. Planting of street trees along the entire length of the Railway Parade verge area forward of the development site of a number, species and size to be approved by the Town;
 - c. Details of the proposed watering system to ensure the establishment of species and their survival during the hot dry, summer months.

Landscaping shall be undertaken in accordance with the approved plan prior to the occupancy of the use, and maintained in perpetuity to the satisfaction of the Town of Bassendean.

7. The premises which are the subject of this approval are limited to a maximum capacity of 500 persons at any given time. Any future proposed increase in total capacity will require lodgement of a new application for development application for approval by the Town.
8. The loading and/or unloading of vehicles is to occur on-site and in a manner that does not interfere with the parking of vehicles in the car park. All car parking bays in the car park are to be made available at all times for the parking of vehicles by visitors and employees.
9. Car parking bays and areas designated for landscaping shall not be used for the storage, display or selling of any goods or vehicles whatsoever.
10. Signage for all development which is the subject of this approval shall be subject of a separate application.
11. The premises shall be kept in a neat and tidy condition at all times to the satisfaction of the Town of Bassendean.

12. The approved development shall not commence operations or continue to operate thereafter until all of the conditions of development approval have been met to the satisfaction of the Town of Bassendean.

Voting requirements: Simple Majority

6.5 Town of Bassendean Dust and Building Waste Local Law 2018 (Ref: LAWE/LOCLWS/2 - Brian Reed, Manager Development Services)

APPLICATION

The purpose of this report is for Council to consider correspondence from the Joint Standing Committee on Delegated Legislation that Council is to:

- provide an undertaking to the Committee that in its next review of the Local Law, it will make amendments to the Local Law;
- until the Local Law is amended, it will not enforce the Local Law contrary to those amendments; and
- a copy of the undertaking is made available with the local law.

ATTACHMENTS

Attachment No. 4:

- Copy of gazetted Local Law

Confidential Attachment No. 1:

- Confidential letter received from the Joint Standing Committee on Delegated Legislation dated 27 June 2019.

BACKGROUND

This matter was last considered by Council at its meeting held in April last year when it was resolved by OCM-11/04/18 that Council makes the Town of Bassendean Dust and Building Waste Local Law as attached to the Ordinary Council Agenda dated 24 April 2018.

At its meeting in December 2017, Council authorised the commencement of the advertising and consultation process under section 3.12 of the Local Government Act 1995 to prepare the Local Law. The Town's local law was based almost entirely on a Gazetted local law prepared by the Shire of Serpentine Jarrahdale.

The purpose of this local law is to provide for the regulation, control and management of dust and building waste on building sites and subdivisions on land within the district to protect and enhance the environment and amenity of the district.

The Local Law was considered by the Joint Standing Committee on Delegated Legislation on 26 June 2019, which has requested an undertaking to the Committee from Council by the 14 August 2019, that when the Local Law is next reviewed or amended that the Town will amend the Local Law to delete and amend certain clauses, and to provide an undertaking not to enforce the Local Law, contrary to those amendment and deletions. The matter is discussed further in the comment section below.

COMMUNICATION & ENGAGEMENT

Nil

STRATEGIC IMPLICATIONS

Objectives <i>What we need to achieve</i>	Strategies <i>How we're going to do it</i>	Measures of Success <i>How we will be judged</i>
3.3 Enhance the Town's appearance	3.3.1 Improve amenity and the public realm	Community / Stakeholder Satisfaction Survey (heritage, amenity and appearance)
	3.3.2 Strengthen and promote Bassendean's unique character and heritage	
	3.3.3 Implement design policies and provisions of buildings and places	

COMMENT

The Committee has identified some minor drafting errors, and probably more fundamentally identified a clause which it considers to be beyond the power of the Local Law's enabling Act, being the Local Government Act 1995.

The minor drafting errors are as follows:

- In clause 3.4(2)(c): the words *'the local government may'* should be deleted, as these words have been repeated; and
- In clause 4.1(3)(c)(i): the words *'to the person who has not complied'* should be added after the word *'owner'* and clause 4.1(3)(c)(ii) deleted.

The Committee considers that clause 4 .3 of the Local Law is beyond the power of the Local Government Act. The clause is reproduced below:

Where the local government is of the opinion that dust or building waste may be released or escape as a result of an activity which is likely to be carried on from any land, the local government may give to the owner or occupier of the land, or the person in charge, a notice prohibiting the activity from being carried on except in accordance with the conditions that are specified in the notice.

The modified penalty for contravening clause 4.3 is set out in Item 14 of Schedule 1 and is specified as a penalty of \$500 for 'failure to comply with a notice to prevent a possible breach.'

The Committee considers that clause 4.3 would have the effect of pre-emptively penalising an owner or occupier for the release of dust or building waste which may not occur, during an activity which has not yet occurred and may never occur and the effect of this clause is so unreasonable that it cannot be regarded as falling within the contemplation of the legislature in passing the Act enabling the making of the Local Law.

The point is made that the Local Law contains various other provisions that can be relied upon by the Town should they consider there is a risk of pollution, or that a landowner is not complying with their obligations pursuant to a dust management plan.

On the basis of the above, the Committee has determined that clause 4.3 and Item 14 in Schedule 1 offends the Committee's Term of Reference 10.6(a) and should be deleted.

In order to rectify this issue, the Committee requests that the Council of the Town of Bassendean provide undertakings as outlined in the recommendation below:

STATUTORY REQUIREMENTS

Role of the Joint Standing Committee on Delegated Legislation

The Joint Standing Committee on Delegated Legislation is a Committee of the Western Australian Parliament comprising eight members with equal representation from the Legislative Council and Legislative Assembly.

Once a local law is gazetted, it is referred to the Committee for consideration under its terms of reference. Where the Committee finds that a local law offends one or more of its terms of reference it will usually seek a written undertaking from the local government to amend or repeal the instrument in question.

Where a local government does not comply with the committee's request for an undertaking the committee may, as a last resort, resolve to report to the Parliament recommending the disallowance of the instrument in the Legislative Council.

A local law will cease to have effect from the date on which it is disallowed. Where the local law amended or repealed another local law the earlier local law will be revived on and after the day of disallowance.

FINANCIAL CONSIDERATIONS

Nil

OFFICER RECOMMENDATION — ITEM 6.5

That the Council of the Town of Bassendean resolves to undertake to the Joint Standing Committee on Delegated Legislation, that the Town will:

1. When the Local Law is next reviewed or amended, amend the Local Law to:

Delete clause 4.3.

Delete item 14 in Schedule 1.

Amend clause 3.4(2)(c) by deleting the words 'the local government may'.

Amend clause 4.1(3)(c)(i) by:

iii. Inserting the words 'or to the person who has not complied' after the word 'owner'.

iv. Deleting '; or'

Delete clause 4.1(3)(c)(ii).

Make all necessary consequential amendments.

2. Until the Local Law is amended in accordance with undertaking 1:

Not enforce the Local Law in a manner contrary to undertaking 1.

Where the Local Law is made publicly available, whether in hard copy or electronic form (including on the Town's website), ensure that it is accompanied by a copy of these undertakings.

Voting requirements: Simple Majority

**6.6 Adoption of Town of Bassendean Parking Local Law 2019
(Ref: LAWE/LOCLWS/2 – Sharna Merritt, Senior Ranger)**

APPLICATION

The purpose of this report is for Council to finalise the *Town of Bassendean Parking Local Law 2019*.

ATTACHMENTS

Attachment No. 5:

- Report of Submissions from the public;
- Summary of the suggested amendments from the Department of Local Government, Sport and Cultural Industries; and
- Town of Bassendean Parking Local Law 2019.

BACKGROUND

The Parking Local Law was last considered by Council at its meeting held in October 2018, when it was resolved by OCM – 9/10/18, that Council commences the advertising and consultation processes outlined in clauses (3) and (3a) of section 3.12 of the Local Government Act 1995 for the proposed Parking Local Law, as attached to the Ordinary Council Agenda of 23 October 2018.

COMMUNICATION & ENGAGEMENT

The proposed local law was advertised in accordance with the provisions of section 3.12 of the Local Government Act 1995. An advert was placed in the *West Australian* on 13 February 2019, which included the purpose and effect of the local law, inviting any submissions to be made by 5 April 2019.

The proposed local law was also advertised on the *Your Say Bassendean* website and on Facebook, with hard copies of the proposed local law available at the Customer Service Centre and the Memorial Library.

The draft Local Law was also provided to the Department of Local Government, Sport and Cultural Industries (the Department) for its review.

The Parking Local Law received two submissions from members of the public and comments were received from the Department. Please see attached reports for the submissions received.

STRATEGIC IMPLICATIONS

Good Governance

Objectives <i>What we need to achieve</i>	Strategies <i>How we're going to do it</i>	Measures of Success <i>How we will be judged</i>
5.2 Proactively partner with the community and our stakeholders	5.2.1 Improve customer interfaces and service	Community / Stakeholder Satisfaction Survey (Community engagement and participation)
	5.2.2 Engage and communicate with the community	
	5.2.3 Advocate and develop strong partnerships to benefit community	

STATUTORY REQUIREMENTS

The following represents the process outlined under section 3.12 of the Act that remains outstanding.

- (4) After the last day for submissions, the local government is to consider any submissions made and may make the local law* as proposed or make a local law* that is not significantly different from what was proposed.

** Absolute majority required.*

- (5) After making the local law, the local government is to publish it in the *Gazette* and give a copy of it to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister.
- (6) After the local law has been published in the *Gazette* the local government is to give local public notice —
- (a) stating the title of the local law;
 - (b) summarising the purpose and effect of the local law (specifying the day on which it comes into operation); and
 - (c) advising that copies of the local law may be inspected or obtained from the local government's office.

(7) The Minister may give directions to local governments requiring them to provide to the Parliament copies of local laws they have made and any explanatory or other material relating to them.

(8) In this section —

making in relation to a local law, includes making a local law to amend the text of, or repeal, a local law.

Under section 3.13 of the Act, if the local government decides to make a local law that would be significantly different from what it first proposed, the local government is to recommence the procedure.

FINANCIAL CONSIDERATIONS

The cost of advertising the Local Law in the Government Gazette and giving local Public Notice, will be met from account 401333.

COMMENT

The contents of the submissions from the public were considered, but as none of them related to the content, purpose or effect of the Local Law, they did not result in any amendments to the final Local Law.

The comments provided by the Department included a number of recommendations, mostly related to referencing, formatting and terminology definition. One major suggestion by the Department was to hold off on the adoption of the Local Law as amendments were being made to relevant State legislation that may affect the definitions and other references in the Parking Local Law.

The particular legislation is the repeal of the *Taxi Act 1994* and amendment of the *Transport Co-ordination Act 1966* by the introduction of the *Transport (Road Passenger Services) Act 2018* (TRPS Act).

The effect of these changes to legislation on the Town's proposed Parking Local Law were in relation to the definition of 'taxi'. The TRPS Act has changed the terminology surrounding this subject to be more inclusive of alternative passenger services.

The Town was advised that the new definition under section 4(1) of the TRPS Act provides for 'passenger transport service' which includes a number of transport options –

- 'on-demand passenger transport service' (taxis and Uber etc)
- 'regular passenger transport service' (timetabled Public Transport Authority and other busses on regular routes); and
- 'tourism passenger transport service' (any vehicle being used for hire or reward for the purposes of tourism that operates on a publicly available tour itinerary).

The definition of 'taxi' has been amended to reflect the new terminology used for 'on-demand passenger transport service' and references the TRPS Act rather than the previous references and definition. This will allow other types of similar service vehicles to use 'taxi zones' when picking up and dropping off of service users.

Further clarification was sought from the Department in relation to a suggested amendment for clause 3.6, subclause 1, which would have required the amendment of the modified penalties list and other subsequent subclauses of the local law. The advice provided was that the suggested amendment could be excluded if it was preferred to keep the clause as is, as it would not affect the intent, purpose or effect of the Local Law. This amendment was not included in the final draft of the Local Law, as attached.

One other suggested amendment was to simplify clause 7.6 in relation to the impounding of vehicles obstructing public places to reflect the powers under the Local Government Act rather than specifying circumstances.

The title of the Parking Local Law was amended from *Town of Bassendean Parking Local Law 2019* to *Town of Bassendean Parking Local Law 2019*, as this is the year in which the Local Law would be adopted and gazetted.

The suggested edits have been determined to be relatively minor and do not change the purpose, effect or intent of the Local Law that was originally approved for advertising.

As such, the amendments have been incorporated into the attached final version of the Local Law for consideration and adoption by Council.

OFFICER RECOMMENDATION — ITEM 6.6

That Council:

1. Makes the *Town of Bassendean Parking Local Law 2019* as attached to the Ordinary Council Agenda of 23 July 2019; and
2. Instructs officers to continue with the process leading to the implementation of the Local Law, as set out in section 3.12 of the *Local Government Act 1995*.

Voting requirement:

Item 1 – Absolute majority

Item 2 – Simple majority

6.7 Parking Restrictions – Troy Street, Bassendean (Ref: LAWE/REPRTNG/3 – Sharna Merritt – Senior Ranger)

APPLICATION

The purpose of this report is to request Council consider an installation of parking restrictions during school drop off and pick up times on Troy Street, Bassendean.

ATTACHMENTS

Attachment No. 6:

- Parking area drawing for Troy Street, Bassendean.

BACKGROUND

On 9 May 2019, the Senior Ranger and the Engineering Technical Coordinator met the Principal of the Anzac Terrace Primary School on-site to discuss issues arising from vehicular traffic creating safety hazards at school drop off and pick up times.

One of the solutions discussed for the issues arising around the school was the installation of parking restrictions on the eastern side of Troy Street, from the intersection of Troy Street and Anzac Terrace, to the Intersection of Troy Street and Elsfield Way.

It is alleged that during the pick up and drop off times for Anzac Terrace Primary School, vehicles parked on both sides of this street creates safety issues for students, pedestrians and other road users, due to the narrowing of the carriageway and increased pedestrian presence.

COMMUNICATION & ENGAGEMENT

Officers have consulted the two properties that have side verges abutting the proposed parking restriction location (181 Anzac Terrace and 38 Elsfield Way) and both residences have advised that they do not object to the installation of the proposed parking restrictions for the school drop off and pick up times.

STRATEGIC IMPLICATIONS

Objectives <i>What we need to achieve</i>	Strategies <i>How we're going to do it</i>	Measures of Success <i>How we will be judged</i>
3.2 Enhance connectivity between places and people	3.2.1 Connect the Town through a safe and inviting walking and cycling network.	Community / Stakeholder Satisfaction Survey (roads, footpaths and cycle paths)
	3.2.2 Advocate for improved and innovative transport access and solutions.	
	3.2.3 Enhance the liveability of local neighbourhoods.	Community/ Stakeholder Satisfaction Survey (access to public transport both access to Town and within.)
	3.2.4 Enhance road safety through design	

COMMENT

The installation of parking restrictions for drop off and pick up times at this location will alleviate the concerns expressed by the School, parents and road users.

Neither of the properties that abut the proposed restrictions face onto Troy Street, so the restrictions will not affect access or regular parking for the residents of these properties.

This location was determined to be the more suitable side as it will allow traffic turning into Troy Street from Anzac Terrace clearer egress when leaving the school and it will also have the least impact on residents, as the two bordering properties do not face onto Troy Street.

One property has an additional side driveway on Troy Street, but this is an additional access and the limited time for the restrictions will not impact on this access point. These restrictions have the potential to also improve access to the side driveway during the peak use times as there will not be vehicles parked on this side of the street.

In order to maintain consistency, it is proposed to install the same restrictions that are in place on Culworth Road relating to Anzac Terrace Primary School, which are 'No Stopping, Monday to Friday, 8am - 9am and 2.30pm - 3.30pm'.

Restricting parking along one side of Troy Street during the peak usage times will allow for clear and safe access for vehicles and pedestrians using this location for school drop offs and pick ups. By allowing the parking to return to normal outside of these times, other road users will not be impacted.

As one part of a holistic approach to assisting Anzac Terrace Primary School with concerns they have raised regarding vehicle and pedestrian interactions, these parking restrictions aim to alleviate some of the more immediately resolvable issues and will work towards improving the safety of students during peak road usage times.

STATUTORY REQUIREMENTS

Parking and Parking Facilities Local Law 2010

FINANCIAL CONSIDERATIONS

The installation of signage in this location can be achieved within the 2019/20 Operational Budget.

OFFICER RECOMMENDATIONS – ITEM 6.7

That Council approves the installation of 'No Stopping, Monday to Friday, 8am-9am and 2.30pm-3.30pm' parking restrictions on the eastern side of Troy Street, Bassendean, between Anzac Terrace and Elsfeld Way, Bassendean.

Voting Requirements: - Simple majority

6.8 European House Borer Infestation (Ref: COUP/MAINT/1 - Jeremy Walker, Senior Environmental Officer)

APPLICATION

The purpose of this report is to provide an update to recommend action to Council on the European House Borer Infestation at Success Hill Reserve. (OCM-10/12/17 refers.

ATTACHMENTS

Attachment No. 7:

- Department of Primary Industries & Regional Development (DPIRD) Letter of response to Council's resolution item 10.5 (OCM-10/12/17);
- Arboricultural Report on Pine trees Success Hill, Bowden Tree Consultancy; and
- EMRC notes from DPIRD meeting held on 10 May 2019.

BACKGROUND

At the December 2017 Council meeting, officers presented a report advising them of the letter the Town received from DPIRD advising that, under section 17 of the Agriculture and Related Resource Protection (European House Borer) Regulations 2006, the pinewood property at Success Hill Reserve, Seventh Avenue, Bassendean, is infested with EHB *Hylotrupes bajulus*, a declared animal under the Agriculture and Related Resources Protection Act 1976.

The letter stated that under regulation 17 of the Agriculture and Related Resources Protection (European House Borer) Regulations 2006, Success Hill Reserve is now a priority management zone and all pinewood within that area is to be treated, as per the requested management methods. DPIRD had located and identified EHB, in old pine logs within the reserve, and advised that 27 *Pinus Pinaster* trees that reside within the parkland at Success Hill, are a direct threat of EHB and should be treated before they become established. The Town's Environmental Officer arranged for the Pine logs, within the bushland, to be destroyed using a Wood chipper, as per DPIRD instructions.

DPIRD advice to the Town was to remove the 27 pine trees within the reserve to alleviate any potential threat. Officers obtained quotes for removal and provided these costs to Council.

It was resolved that:

- “1. Council requests the Department of Primary Industry and Regional Development, Agriculture and Food provide a report, which includes:
 - a. The details and location of past and current European House Borer infestations in the Success Hill Pine Plantation;
 - b. A risk assessment detailed the likelihood and timeframe for the spread to surrounding pine trees at Success Hill and to the James Street and Depot plantations;
 - c. Alternate management options (other than immediate removal) for managing the spread of European House Borer.
2. The Town adopts the appropriate biosecurity/hygiene measures and community education to prevent the spread of European House Borer.
3. The Town engage with the Eastern Metropolitan Regional Council to work with neighbouring local governments in an endeavour to reduce the spread of EHB across the region.”

COMMUNICATION & ENGAGEMENT

Officers have provided updates to members of the River Parks Committee on the investigation that have taken place and provided copies of the attached Arborist report at the 4 May 2019 meeting. Officers have also contacted the EMRC and other LGA’s to seek advice.

STRATEGIC IMPLICATIONS

Natural Environment:

Objectives <i>What we need to achieve</i>	Strategies <i>How we’re going to do it</i>	Measure of Success <i>How we will be judged</i>
2.2 Protect our Rivers, Bushland Reserves, and Biodiversity	2.2.1 Protect and restore our biodiversity and ecosystems. 2.2.2 Sustainably manage significant natural areas.	Community / Stakeholder Satisfaction Survey (Rivers, Bushland and reserves).

COMMENT

In regards to Item 1, Officers wrote to DPIRD in January 2018 requesting a report that addresses Item 1, a) to c) of the Council resolution. DPIRD provided a response to Officers on 3 July 2018 (attachment 1). The (former) Director of Operational Services provided this report to Council through the Councillors' Bulletin.

In regards to Item 2, Officers have been investigating appropriate biosecurity/hygiene measures. Officers have contacted other LGA's to seek advice on how EHB is managed within their areas, as such Officers have developed a management plan moving forward to reduce the risk of EHB spreading whilst retaining the trees at Success Hill, Town Depot and James Street.

To manage the spread of EHB officers engaged Bowden Tree Consultancy to inspect the trees at Success Hill which involved removing several dead branches from trees around the reserve and visually inspecting for signs of EHB, Bowden Tree Consultancy provided the Town with an arborist report (attachment 2) which identified no signs of EHB and concurs with the Officer's recommendation to remove all dead wood annually and continue to monitor branches for signs of EHB. Officers have already adopted this approach for the Depot and James Street. Officers intend to have all the trees dead-wooded each year prior to September when EHB is in flight season.

In regards to Item 3, Officers wrote to the EMRC to request that they work with neighbouring local governments in an endeavour to reduce the spread of EHB. The EMRC has provided meeting notes from their meeting with DPIRD and advised the Town that they are willing to host regional information sessions if that is useful to member councils.

STATUTORY REQUIREMENTS

Under section 17 of the Agriculture and Related Resource Protection (European House Borer) Regulations 2006, the pinewood property at Success Hill Reserve Seventh Avenue Bassendean may be infested with EHB *Hylotrupes Bajulus*, a declared animal under the Agriculture and Related Resources Protection Act 1976. The Town has an obligation to manage the area appropriately.

FINANCIAL CONSIDERATIONS

Officers have proposed funding in the 2019-20 Operational Budget to undertake the annual dead wooding of trees and annual monitoring report.

OFFICER RECOMMENDATION — ITEM 6.8

That Council:

1. Receives the letter of response from DPIRD;
2. Receives the EMRC meeting notes from its meeting with DPIRD to discuss the spread of EHB on a regional scale;
3. Receive Arboricultural assessment of the Pinus Pinaster trees within Success Hill Reserve;
4. Requests that the EMRC hosts regional information sessions for member Councils to endorse a collaborated approach to manage the spread of EHB; and
5. Endorses the Officer's comments in this report for EHB at Success Hill through annual dead wooding and monitoring reports of the Pine trees within the reserve.

Voting requirements: Simple Majority

6.9 Eden Hill Underground Power (Ref: ESAT/CONCTN/2 – Phillip Adams, Acting Executive Manager Operations)

APPLICATION

Western Power is planning to upgrade its electrical infrastructure network in the Eden Hill area and has approached the Town of Bassendean to engage with the community to gain feedback on the proposed works. Western Power is working through the business case but a proposed option could result in the network being installed underground. As the project is driven by the need for Western Power to upgrade their electrical infrastructure network, the cost to ratepayers, when compared to SUPP programs, is significantly reduced.

Please note this is not a SUPP program but an initiative driven by Western Power as a cost effective option that can provide benefits to the community when Western Power need to upgrade assets.

Figure 1 describes the proposed area of Eden Hill which requires further confirmation through further detailed analysis.

The purpose of this report is for Council to consider the proposal.

COMMUNICATION & ENGAGEMENT

If Council elects to consider the proposal from Western Power, the Town of Bassendean will canvas affected ratepayers about their interest in seeing power go underground and willingness to pay for it.

COMMENT

Electricity is supplied to Eden Hill via overhead power lines. Western Power has acknowledged that its 30-year-old infrastructure needs replacement and that supply is sometimes interrupted, leaving residents with power outages.

Western Power has two options – to replace the overhead power lines with a similar but upgraded overhead network of poles and wires or to install the cables underground. It has approached the Town of Bassendean with a proposal to investigate the community's interest in paying for their component of the network to be installed underground. This component is from the property boundary to the house as per figure 2.

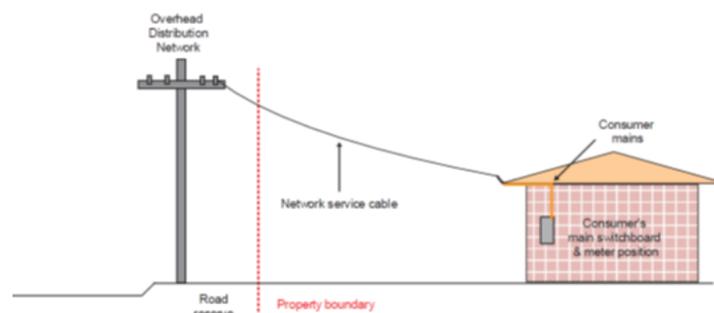
The following forms the basis of the financial proposal:

- Total forecast cost to the residents for the proposal is \$1,631,011 which incorporates:
 - An approximate cost of \$1,989 per connection for each residential property (over a time period to be decided).
- Town of Bassendean to collect funds from ratepayers on behalf of Western Power.

The total forecast cost includes a \$30,000 upfront cost which indicates an early undertaking agreement between the Town and Western Power and is refundable if the project does not go ahead.

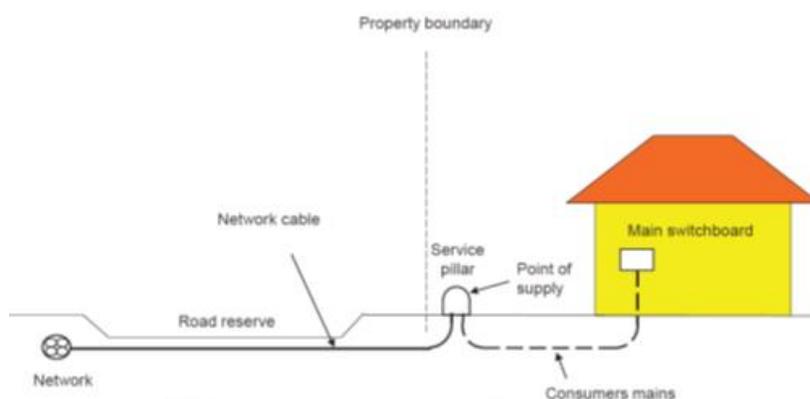
This proposal is significantly reduced from other proposal where ratepayers throughout metropolitan Perth have contributed between \$5,000 and \$10,000 each to underground power projects.

Figure 1



Typical overhead supply arrangement

Figure 2



Typical underground supply arrangement

This proposal from Western Power provides the benefits associated with underground power which include:

- Improved public safety
- Enhances streetscape (visual amenity)
- Reduced vegetation management
- No exposed bare conductors
- Reliability of supply

The proposal compliments the Towns Tree Planting Plan and Strategic goal to achieve a 70% tree canopy.

A community engagement strategy will be developed and delivered by the Town.

OFFICER RECOMMENDATION – ITEM 6.9

That Council:

1. Accepts the request from Western Power to investigate provision of underground power in Eden Hill, subject to a majority acceptance from ratepayers in Eden Hill; and
2. Requests the CEO to give consideration to Western Power's request for \$30,000 (refundable if proposal does not proceed) towards the investigation.

Voting requirement: Simple Majority

**6.10 Town Assets Committee Meeting held on 19 June 2019
(Ref: GOVNCCL/MEET/37 – Phillip Adams, A/Executive
Manager Infrastructure**

APPLICATION

The purpose of this report is for Council to receive the report on a meeting of the Town's Asset Committee held on 19 June 2019, and adopt the following recommendations from the Committee:

- TAC - 1/06/19 Street Tree Planting Program
- TAC - 2/06/19 Street Lighting Audit – Within 200m Radius of
Success Hill Train Station
- TAC - 3/06/19 Implementation of FOGO.

ATTACHMENTS

Attachment No. 8:

Town Assets Committee Minutes of 19 June 2019

COMMENT

At the Town Assets Committee meeting, the following items were discussed:

- Purchase of appropriate trees and the implementation of a planting program,
- Installation of LED lighting to Thompson Rd in consideration that Western is proposing an asset upgrade of the Eden Hill area.

Street Tree Planting Program

The Committee discussed the Street Tree Planting program where approximately 200 trees had been purchased and were available to residents. To date approximately 85 residents had expressed interest. The range of available tree species is:

- Chinese Elm – 10 No
- Flooded Gum – 50 No. Large tree suitable for Public Open Space areas
- Spotted Gum – 50 No. Large tree suitable for Public Open Space areas
- Claret Ash – 30 No
- Chinese Pistachio – 30 No
- Royal Poinciana – 30 No

Street Light Audit Implementation

Western Power has approached the Town to discuss its proposed asset upgrade in the Eden Hill area, which may result in undergrounding the power and the upgrading of lighting. This may affect the Thompson Road lighting upgrade project.

FOGO

Mr Anthony Frisk from CGM made a deputation to the Committee on the tree planting and FOGO implementation communication strategy.

COMMITTEE RECOMMENDATION – ITEM 6.10

That Council:

1. Receives the report on a meeting of the Town Assets Committee held on 19 June 2019;
2. Notes that Officers are to proceed with the Street Tree Planting with the list of current residents;
3. Notes that Officers will put a second call out to residents for the remainder of the current street trees with appropriate descriptors and pictures;
4. Notes that the Thompson Rd lighting project is on hold and that further clarification is being sought from Western Power on the proposed works and that an LED upgrading program in high pedestrian areas will continue; and
5. Notes that it will continue with the EMRC to implement FOGO and accepts the communications strategy plans.

Voting requirement: Simple majority

**6.11 Determinations Made by the Principal Building Surveyor
Ref: LUAP/PROCED/1 – Kallan Short, Principal Building
Surveyor)**

Building Applications Determined in the Month of June 2019		
Application No	Property Address	Description
201900017	9 BLOCKLEY WAY, BASSENDEAN	SHED
201900097	49 WEST ROAD, BASSENDEAN	RESIDENTIAL ADDITIONS & ALTERATIONS
201900075	71 THIRD AVENUE, EDEN HILL	ALTERATIONS & ADDITIONS (BEDROOM ENSUITE + RE-ROOF AND INTERNAL MODIFICATIONS)
201900132	146 WEST ROAD, BASSENDEAN	DEMOLITION DWELLING
201900115	139 WHITFIELD STREET, BASSENDEAN	PATIO
201900111	110 KENNY STREET, BASSENDEAN	PATIO
201900117	108 ANZAC TERRACE, BASSENDEAN	DEMOLITION
201900113	112 HAMILTON STREET, BASSENDEAN	PROPOSED NEW OPEN STEEL & TIMBER PATIO STRUCTURE
201900112	20 THIRD AVENUE, BASSENDEAN	MASONRY SCREENWALL PIERS & INFILL PANELS
201900116	6 PURSER LOOP, BASSENDEAN	INTERNAL WALL (RETROSPECTIVE)
201900110	11 SUCCESS ROAD, BASSENDEAN	FENCE
201900118	40 PENZANCE STREET, BASSENDEAN	FREESTANDING GABLE SHED
201900106	14 LATHAM STREET, ASHFIELD	ANCILLARY ACCOMODATION & DWELLING ADDITIONS
201900107	147 WHITFIELD STREET, BASSENDEAN	DWELLING
201900103	27 MANN WAY, BASSENDEAN	FENCE ALTERATIONS (AMENDMENT TO 201700307)
201900109	35 CLARKE WAY, BASSENDEAN	SINGLE DWELLING
201900123	14 SURREY STREET, BASSENDEAN	INSTALL BELOW GROUND FIBREGLASS POOL
201900125	17A CHAPMAN STREET, BASSENDEAN	FENCE
201900129	85 ANZAC TERRACE, BASSENDEAN	ANCILLARY DWELLING
201900121	23 WALKINGTON WAY, EDEN HILL	DEMOLITION DWELLING
201900120	36 FRENCH STREET, ASHFIELD	INTERNAL WALL REMOVAL
201900128	97 KATHLEEN STREET, BASSENDEAN	RECLADDING OF SHED
201900124	14 SURREY STREET, BASSENDEAN	POOL FENCE
201900122	12 BROOK STREET, BASSENDEAN	FULL DEMOLITION
201900126	62 MARGARET STREET, ASHFIELD	PATIO

OFFICER RECOMMENDATION – ITEM 6.11

That Council notes the decisions made under delegated authority by the Principal Building Surveyor.

Voting requirement: Simple majority

6.12 Determinations Made by Development Services (Ref: LUAP/PROCED/1 – Christian Buttle, A/Manager Development Services)

The Manager Development Services made the following planning decisions under Delegated Authority since those reported to the last Council meeting:

Planning and Subdivision Applications Determined to 28 June 2019			
Applic No.	Property Address	Description	Determination
2018-091	50A LORD STREET EDEN HILL WA 6054	GROUPED DWELLING	Delegate Approved
2019-019	129 WALTER ROAD EAST BASSENDEAN 6054	TWO ADDITIONAL SINGLE BEDROOM DWELLINGS TO REAR OF EXISTING HOUSE TO FORM THREE GROUPED DWELLINGS	Delegate Approved
2019-041	58 CYRIL STREET BASSENDEAN 6054	THREE GROUPED DWELLINGS	Delegate Approved
2019-042	11 BROADWAY BASSENDEAN 6054	RENEWAL OF APPROVAL FOR HOME BUSINESS (ART STUDIO)	Delegate Approved
2019-045	56 CYRIL STREET BASSENDEAN 6054	THREE GROUPED DWELLINGS	Delegate Approved
2019-054	73 SECOND AVENUE BASSENDEAN 6054	AMENDED APPLICATION FOR SINGLE HOUSE	Delegate Approved
2019-058	71 THIRD AVENUE EDEN HILL 6054	ADDITIONS AND ALTERATIONS TO SINGLE HOUSE	Delegate Approved
2019-064	30 MICKLETON TERRACE BASSENDEAN 6054	SINGLE HOUSE	Delegate Approved
2019-066	150 WEST ROAD BASSENDEAN 6054	ADDITIONS AND ALTERATIONS TO SINGLE HOUSE	Delegate Approved
2019-068	67 HAMILTON STREET BASSENDEAN 6054	AMENDED APPLICATION FOR ADDITIONAL DWELLING TO REAR OF EXISTING SINGLE HOUSE	Delegate Approved
2019-073	52 HAMILTON STREET BASSENDEAN 6054	AMENDED APPLICATION FOR SINGLE HOUSE	Delegate Approved
	Subdivision Applications		
157983	50 NORTH ROAD BASSENDEAN 6054	FOUR LOT SUBDIVISION	Statutory Advice - Recommend Approval
157998	186 RAILWAY PARADE BASSENDEAN 6054	FIVE LOT INDUSTRIAL SUBDIVISION	Statutory Advice - Recommend Refusal
158091	5 FOURTH AVENUE BASSENDEAN 6054	TWO LOT SUBDIVISION	Statutory Advice - Recommend Approval
158126	3 ALICE STREET BASSENDEAN 6054	AMALGAMATION	Statutory Advice - Recommend Approval

OFFICER RECOMMENDATION – ITEM 6.12

That Council notes the decisions made under delegated authority by the Manager Development Services.

Voting requirement: Simple majority

6.13 Implementation of Council Resolutions (Ref: GOVN/CCLMEET/1 – Sue Perkins, Executive Assistant to the CEO)

At the Ordinary Council meeting held on 14 December 2010, it was resolved that only those items that are to be deleted from the implementation of Council resolutions be referred to Council, and all other items in progress be included in the Councillors’ Bulletin on the last Friday of the month.

STRATEGIC IMPLICATIONS

Strengthen Council governance and compliance.

COMMENT

The following table detail those resolutions of the Council that are recommended for deletion:

ROC Number	Officer	Brief Description	Action Taken
ROC18/60307	DAVID DWYER	OCM-11/3/18 - BROADWAY PROPOSED PRINCIPAL SHARED PATH MOVED CR QUINTON SECONDED CR WILSON THAT COUNCIL: 1.RECEIVES THE PUBLIC TRANSPORT AUTHORITY LETTER DATED 13 MARCH 2018 REGARDING THE PROPOSED PRINCIPAL SHARED PATH (PSP) IN BROADWAY BASSENDEAN; 2.PROVIDES IN PRINCIPLE SUPPORT TO THE PUBLIC TRANSPORT AUTHORITY FOR THE IMPLEMENTATION OF A BROADWAY PRINCIPAL SHARED PATH EXTENDING BETWEEN IOLANTHE STREET AND THE BASSENDEAN TRAIN STATION; 3. REQUESTS THAT THE PUBLIC TRANSPORT AUTHORITY CONSIDER AS AN OPTION FOR THE DRAFT BROADWAY PRINCIPAL SHARED PATH CONCEPT PLAN BETWEEN IOLANTHE STREET AND THE BASSENDEAN TRAIN STATION THE FOLLOWING: A)ON ROAD CARRIAGEWAY BY USE OF BOULEVARD-STYLE PLANTINGS TO PROVIDE TREE CANOPY/SHADE OVER THE CYCLING ROUTE; B)INCORPORATE WATER SENSITIVE URBAN DESIGN PRINCIPLES; C)CLARIFY WITH THE PUBLIC TRANSPORT AUTHORITY THE DESIGN GUIDELINES AND WHETHER THERE IS AN OPPORTUNITY TO IMPLEMENT A UNIQUE DESIGN FOR	OCM 11/03/18 IS SUPERSEDED BY OCM 5/2/19. REFER TO OCM 5/2/19 FOR PROGRESS ON THE BROADWAY STATION ACCESS PROJECT. RECOMMEND DELETION.

		<p>THE PRINCIPLE SHARED PATH TO DIFFERENTIATE BETWEEN THE CYCLING ROUTE AND THE VEHICLE PORTION OF ROAD; AND 4.REQUESTS THAT THE PUBLIC TRANSPORT AUTHORITY PRESENT THE DRAFT BROADWAY PRINCIPAL SHARED PATH CONCEPT PLAN BACK TO COUNCIL FOR CONSIDERATION PRIOR TO UNDERTAKING COMMUNITY CONSULTATION.</p>	
<p>ROC18/64235</p>	<p>DAVID DWYER</p>	<p>OCM-25/10/18 - CR GANGELL - INSTALLATION OF BELOW GROUND BOLLARDS MOVED CR GANGELL SECONDED CR WILSON THAT COUNCIL RECEIVES A REPORT ON THE COST OF INSTALLING BELOW GROUND BOLLARDS ON INTERSECTIONS ON OLD PERTH ROAD FROM GUILDFORD ROAD TO JAMES STREET.</p>	<p>REPORT PRESENTED TO COUNCIL AT JUNE COUNCIL MEETING OCM – 10/06/19 - RECOMMEND DELETION APPLICATION THE PURPOSE OF THIS REPORT WAS TO INFORM COUNCIL OF THE COST TO INSTALL MANUALLY RETRACTABLE BOLLARDS ON THE INTERSECTIONS OF OLD PERTH ROAD FROM GUILDFORD ROAD TO JAMES STREET AND ADVISE OF THE IMPLICATION ON TRAFFIC MANAGEMENT FOR EVENTS. COUNCIL RESOLUTION/OFFICER RECOMMENDATION — ITEM 10.4 OCM – 10/06/19 MOVED CR WILSON SECONDED CR MYKYTIUK THAT: 1. COUNCIL RECEIVES THE COST ESTIMATION FOR THE INSTALLATION OF MANUALLY RETRACTABLE BOLLARDS ON THE INTERSECTIONS OF OLD PERTH RD FROM GUILDFORD ROAD TO JAMES STREET; AND 2. IT BE NOTED THAT OFFICERS RECOMMEND THAT BOLLARDS NOT BE INSTALLED IN OLD PERTH ROAD FROM GUILDFORD ROAD TO JAMES STREET AS THERE IS NO EFFECTIVE COST REDUCTION FOR THE IMPLEMENTATION OF TRAFFIC MANAGEMENT FOR EVENTS. 3. THE INSTALLATION OF BOLLARDS BE RECONSIDERED IN FUTURE PLACE MAKING/STREET SCAPING PROJECTS ALONG OLD PERTH ROAD. CARRIED 6/1 CRS WILSON MYKYTIUK MCLENNAN BROWN HAMILTON & QUINTON VOTED IN FAVOUR OF THE MOTION. CR GANGELL VOTED AGAINST THE MOTION. RECOMMEND DELETION</p>

<p>ROC19/65998</p>	<p>DAVID DWYER</p>	<p>OCM-5/2/19 - STATION ACCESS CYCLE & PEDESTRIAN UPGRADE – BROADWAY BASSENDEAN MOVED CR HAMILTON SECONDED CR MYKYTIUK THAT COUNCIL: 1.NOTES THE PERTH TRANSPORT AUTHORITY ADVICE THAT THE TOWN'S \$100000 CONTRIBUTION TOWARDS THE STATION ACCESS CYCLE & PEDESTRIAN UPGRADE – BROADWAY PROJECT CAN BE UTILISED FOR LANDSCAPING/STREET SCAPING BASED UPON COUNCIL REQUIREMENTS AND THE PUBLIC TRANSPORT AUTHORITY WILL COVER THE COST OF CYCLING PEDESTRIAN AND INTERSECTION UPGRADES; 2.NOTES THE FEEDBACK FROM THE PERTH TRANSPORT AUTHORITY REGARDING OPPORTUNITIES FOR IMPROVING AMENITY AND THE PLANTING OF TREES ALONG THE CYCLE ROUTE INCLUDING THE POSSIBILITY OF MEDIAN PLANTING AND THAT ADDITIONAL TREE PLANTING WILL NEED TO BE CONDUCTED BY THE TOWN AT THE TOWN'S COST; AND 3.ENDORSES THE FINAL PUBLIC TRANSPORT AUTHORITY DETAILED DESIGN FOR THE STATION ACCESS CYCLE & PEDESTRIAN UPGRADE – BROADWAY BASSENDEAN AND APPROVES THE PUBLIC TRANSPORT AUTHORITY PROCEEDING TO THE CONSTRUCTION PHASE SUBJECT TO: A)ALL EXISTING TREES BEING RETAINED AND PROTECTED THROUGHOUT THE PROJECT AND IF DAMAGED REPLACED PER THE TOWN'S POLICIES AT PTA'S EXPENSE; B)PTA TO USE PERMEABLE PAVING IN AND AROUND TREE TRUNK ZONES INSTALLED AT ADEQUATE DISTANCES AND IN THE REQUIRED MANNER TO ENHANCE TREE HEALTH.</p>	<p>DEED OF AGREEMENT SIGNED AND TENDER PROGRESSING ITEM 1: NOTED ITEM 2: NOTED ITEM 2: ALL EXISTING TREES ARE BEING PROTECTED AND PERMEABLE PAVING AROUND THE TREE TRUNK ZONES IS INCORPORATED INTO THE DESIGN. ANTICIPATED CONSTRUCTION COMPLETING 30/10/19. RECOMMEND DELETION</p>
<p>ROC18/61606</p>	<p>GRAEME HAGGART</p>	<p>OCM 12/08/18 - BASSENDEAN MEN'S SHED - MOVED CR MYKYTIUK SECONDED CR WILSON THAT COUNCIL: 1.SELECTS THE OPTION 3 SITE CONFIGURATION AS OUTLINED IN THIS REPORT BASED ON THE INFORMATION PROVIDED AND THE PREFERENCES OF THE MEN'S SHED GROUP; 2.RECEIVES</p>	<p>REPORT TO AWARD TENDER ENDORSED BY COUNCIL JUNE 2019 (NEW ROC19/67370 REFERS). RECOMMEND DELETION</p>

		<p>THE DRAFT ITERATION OF THE BASSENDEAN MEN'S SHED BUSINESS PLAN PROVIDED AND ATTACHED TO THE ORDINARY COUNCIL MEETING AGENDA OF 28 AUGUST 2018; 3.INSTRUCTS THE CEO TO COMMENCE PROCESSES REQUESTING THE DEPARTMENT OF PLANNING LANDS AND HERITAGE TO RECLASSIFY LOT 590 MAY HOLMAN DRIVE BASSENDEAN FROM 'PUBLIC RECREATION' TO 'COMMUNITY PURPOSE' AND THAT THE VESTING ORDER BE AMENDED AND INCLUDE THE POWER TO LEASE; 4.AGrees THE PROJECT IS FINANCIALLY VIABLE AT THE MAY HOLMAN DRIVE BASSENDEAN SITE BASED ON THE QUOTES RECEIVED AND APPROVES PROGRESSING TO THE NEXT PHASES OF PLANNING AND CONSTRUCTION; 5.CONDUCTS A WORKSHOP WITH THE BASSENDEAN MEN'S SHED ASSOCIATION (INC) TO CONSIDER THE TERMS OF A REVISED LEASE AGREEMENT; AND 6.NOTIFIES THE BASSENDEAN MEN'S SHED ASSOCIATION (INC.) AND LOTTERYWEST OF ANY DECISIONS MADE. OCM-22/05/18 - CONSTRUCTION OF THE BASSENDEAN MEN'S SHED MOVED CR HAMILTON SECONDED CR WILSON & CR MCLENNAN THAT COUNCIL: 1.RESCINDS PART 5 OF OCM-11/10/15 WHICH READS: "THAT COUNCIL: 5.LISTS OPERATING SUBSIDY AMOUNTS FOR THE BASSENDEAN MEN'S SHED ASSOCIATION AS DEFINED IN THE LEASE AGREEMENT IN THE CORRESPONDING YEAR'S BUDGET BEING: YEAR OF OPERATION SUBSIDY ALLOCATION 2017/18 \$25000 2018/19 \$20000 2019/20 \$15000 2020/21 \$10000 2021/22 \$5000"; 2.SELECTS THE MAY HOLMAN RESERVE AS THE NEW PREFERRED SITE FOR THE PROPOSED BASSENDEAN MEN'S SHED BASED ON THE COST ESTIMATES AND SITE ANALYSIS PROVIDED; 3.REQUESTS STAFF TO ASSIST THE BASSENDEAN MEN'S SHED TO DEVELOP A "BUSINESS PLAN" THAT IS TO BE SUBMITTED TO COUNCIL FOR REVIEW BY THE JUNE OCM; 4.UNDERTAKES A FORMAL</p>	
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		<p>REQUEST FOR QUOTE PROCESS TO CONFIRM THE FINDINGS OF OFFICERS' PRELIMINARY COST ANALYSIS FOR THE MAY HOLMAN RESERVE SITE STARTING WITH A COST COMPARISON OF THE PROPOSED RETAINING WALL/FILL COMPARED TO REALIGNMENT OF THE TOWN OF BASSENDEAN STORMWATER DRAIN THAT WOULD PROVIDE A MORE EFFECTIVE UTILISATION OF THE LAND PARCEL; 5.DEPENDENT ON THESE AFOREMENTIONED PROCESSES REFERS ANY POTENTIAL ADDITIONAL FUNDING OF THE BASSENDEAN MEN'S SHED TO THE DRAFT 2018/19 BUDGET; 6.REQUESTS STAFF TO FURTHER LIAISE WITH THE DEPARTMENT OF PLANNING LANDS AND HERITAGE TO ADVANCE ADVICE RECENTLY RECEIVED BY THE TOWN OF BASSENDEAN "THAT THE DEPARTMENT OF PLANNING LANDS AND HERITAGE CAN FACILITATE THE REPURPOSING OF RESERVE 45364 FROM 'PUBLIC RECREATION' TO 'COMMUNITY PURPOSE' WITH A CHANGE TO THE MANAGEMENT ORDER TO ALLOW SUB-LEASING TO FACILITATE A MEN'S SHED"; AND 7.NOTIFIES THE BASSENDEAN MEN'S SHED ASSOCIATION (INC.) AND LOTTERYWEST OF ANY DECISIONS MADE.</p>	
<p>ROC18/64869</p>	<p>GRAEME HAGGART</p>	<p>13.1MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN – CR GANGELL: FREEMAN OF THE TOWN COUNCIL RESOLUTION – ITEM 13.2 OCM – 27/12/18MOVED CR GANGELL SECONDED CR WILSON THAT COUNCIL RECEIVES A REPORT ON NOMINATIONS PUT FORWARD FOR FREEMAN OF THE TOWN.</p>	<p>RECOMMEND DELETION.</p>

ROC19/66004	GRAEME HAGGART	OCM-13/02/19 - COMMUNITY GROUP FUNDING REQUEST RECEIVED FROM EDEN HILL COMMUNITY ACTION NETWORK MOVED CR WILSON SECONDED CR BROWN THAT COUNCIL APPROVES A SPONSORSHIP OF \$4000 TO EDEN HILL COMMUNITY ACTION NETWORK (INC); AND THAT A SPONSORSHIP AGREEMENT BE FINALISED BETWEEN THE TOWN AND EDEN HILL COMMUNITY ACTION NETWORK (INC).	FUNDING AGREEMENT EXECUTED. FUNDS DISPENSED. RECOMMEND DELETION
ROC18/64612	SHARNA MERRITT	OCM-30/11/18 - CR GANGELL: KENNY STREET PARKING BAYS MOVED CR GANGELL SECONDED CR MYKYTIUK THAT THE CAR PARKING BAYS BE CLEARLY DELINEATED ON KENNY STREET WITH THE PARKING BAYS BEING MARKED OUT WITH PAINT.	INSTALLATION OF KENNY STREET ON-STREET PARKING BAY MARKINGS HAS BEEN COMPLETED. RECOMMEND DELETION.

OFFICER RECOMMENDATION – ITEM 6.13

That the outstanding Council resolutions detailed in the table listed in the Ordinary Council Meeting Agenda of 23 July 2019 be deleted from the Implementation of Council Resolutions list.

Voting Requirements: Simple majority

7.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

8.0 CONFIDENTIAL BUSINESS

It should be noted that that the audio and live streaming will be turned off whilst confidential items are being discussed.

9.0 CLOSURE

The next Briefings Session will be held on Tuesday 20 August 2019 commencing at 7.00pm.