

TOWN OF BASSENDEAN

NOTICE OF BRIEFING SESSION

A Briefing Session of the Council of the Town of Bassendean will be held on Tuesday, 17 March 2020 in the Council Chamber, 48 Old Perth Road, Bassendean, commencing at 7.00pm.

The Mayor will preside at the Briefing Session. In the absence of the Mayor, the session will be presided over by the Deputy Mayor. The Briefing Session is designed as a Question and Answer session only. No decisions by Council are made at this forum.

Members of the public are encouraged to provide feedback at: yoursay.bassendean.wa.gov.au as part of a 12-month trial of delivering Council Briefing Sessions in the community.

A G E N D A

1.0 DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

Acknowledgement of Traditional Owners

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

Audio Recording

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

The audio recording 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.

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



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Cr Chris Barty
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2.0 ATTENDANCES AND APOLOGIES

3.0 DECLARATIONS

Mr Vince Siciliano, and Mr Vernon Butterly will be in attendance to provide a deputation on Item 7.1 - Disposal of 246 (Lot 5) Morley Drive East, Eden Hill.

4.0 ANNOUNCEMENTS

5.0 POSTCARD SUBMISSIONS

If any member of the community has a question that relates to a particular agenda item, they can complete a postcard so that staff can address these issues during their short briefing on the relevant item.

Verbal questions from community members on agenda items are to be asked after Councillors have asked their questions, if time allows (limit of one question per person).

Anyone with general questions not related to agenda items, is encouraged to ask them by completing a postcard. Postcards will be available prior to the meeting to fill out and they will be followed up at a later date.

6.0 DEPUTATIONS

7.0 REPORTS

Under each report, Officers will provide a brief outline of the report. Councillors will be given the opportunity to ask any questions that they may have.

7.1 Disposal of 246 (Lot 5) Morley Drive East, Eden Hill – Owners: Town of Bassendean and Birmingham Properties Pty Ltd/Ladriфт Pty Ltd/Matax Pty Ltd (Ref: A3693 & A3714 – Luke Gibson, Director Community Planning)

APPLICATION

The purpose of this report is for Council to consider the potential disposal of 246 (Lot 5) Morley Drive East, Eden Hill. This report does not deal with the issue of future commercial and mixed use development on the site. Those matters will be subject to separate consideration in the future.

ATTACHMENTS

Attachment No. 1:

- Offer and Acceptance Form and associated Special Conditions form; and
- Community Consultation Report.

BACKGROUND

The Town of Bassendean owns 246 (Lot 5) Morley Drive East, Eden Hill. At its meeting held 23 April 2019, Council resolved to adopt the Eden Hill Master Planning Concept Plan (prepared by Taylor Robinson Chaney and Broderick in March 2019), for the purposes of consultation with community and stakeholders on the potential sale of Lot 5. It was also resolved that further reports be presented to Council to address the following:

- The proposed purchase price of the land;
- Design amendments that address Council's desire to preserve existing significant trees;
- Assurance for the community regarding good quality design and development outcomes;
- Arrangements to ensure that the land is developed in a reasonable timeframe; and
- Any other information required to evaluate a proposal for the Council owned land to be sold by private treaty.

The proposal was not advertised due to the need to resolve a contamination issue and obtain a fresh valuation, both of which ultimately occurred.

The proponent group subsequently advised that it was still interested in acquiring the subject site, and provided the terms upon which it would agree. Those terms are contained in the attached Offer and Acceptance Form and associated Special Conditions form.

At its meeting of 17 December 2019, Council resolved to advertise the proposal for public comment, as discussed below.

COMMUNICATION & ENGAGEMENT

The proposal was advertised for public comment in January and February 2020, in accordance with Section 3.59 of the Local Government Act 1995. This involved:

- An online survey at Your Say Bassendean, promoted on Facebook;
- A statutory newspaper advertisement; and
- Emails submitted through the 'yoursay' page and lodged in the electronic survey results.

In response, 67 submissions were received, with 51 supporting the sale of the lot and 13 not supporting the sale of the lot. Three submissions lodged no opinion.

It is noted that some concern was raised with the validity of the valuation and the manner in which consultation took place. In response, the following is provided:

- In selling the land, the Town is required to comply with Clause 3.58 of the Local Government Act 1995. Clause 3.58(4)(c)(i) requires that the details of the proposal sale for public advertising are to include a market valuation of the disposition as ascertained by a valuation carried out no more than six months before the proposed disposition. The relevant valuation was obtained on 8 July 2019, meaning that it was within the six-month period at the time that Council resolved to advertise the proposal. In any event, it should be noted that the offer from the prospective purchaser is \$25,000 greater than the valuation and it is therefore considered a fair value of the land.
- The consultation was specifically targeted to the issue at hand, being the potential sale of Town-owned land. While the landowner's concept plan was provided, it was clearly explained that it was for illustrative purposes only and had no formal status.

Following the conclusion of the consultation period, the Town received an unsolicited offer from a third party to purchase the site. That offer is \$25,000 greater than the advertised offer, however, would be subject to a condition requiring the purchaser to obtain development approval prior to settlement. In addition, sale to a third party would not provide for consolidation of the two separate parcels.

STRATEGIC IMPLICATIONS

STRATEGIC PRIORITY 4: Economic

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	
	4.1.3 Support and promote home based businesses	
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)
	4.2.2 Continue the activation of Bassendean's Town Centre	
	4.2.3 Enhance economic activity in neighbourhood centres	

COMMENT

The matter for Council's consideration is simply whether or not to dispose of the land in accordance with the terms offered by the abutting landowner. In considering this matter, the following is relevant:

- Council is under no obligation to sell the land;
- If Council retains the site and the owner of Lot 5 lodges an application for development approval for that site, a potential conflict of interest will arise as the Town would have a regulatory role and be the abutting landowner. This could present a risk of reputational damage given that the development application process is likely to be contentious;
- Further to the above, disposal of the site would reduce the complexity associated with Council's role in the development process and would still allow the Town and Council to be involved in the project from a regulatory perspective;
- Given the Town's portion is only 11% of the development site and the concept plan, allows for development of the larger site independently of the Town's portion, the Town, as a landowner, has only limited influence over the development timeframes or outcomes of the abutting site;
- Disposal of the site would allow the creation of one consolidated parcel, in single ownership;

- Disposal of the site would provide a significant financial benefit for the Town, providing funding opportunities for other projects. Conversely, there will be opportunity costs associated with not disposing of the land;
- Council has no firm plans to develop the site and as such, there may be little value in retaining ownership of it;
- It is open to Council to commence an open sale process under the Local Government Act 1995;
- The Town has recently received an unsolicited offer from a third party to purchase the site, although that offer would be subject to a condition requiring the purchaser to obtain development approval prior to settlement. Such a condition would likely result in a conflict of interest associated with the Town's role as both a regulator and direct beneficiary; and
- The consultation exercise suggests that there is broad community support for the sale of the property.

Whilst it is open to Council to not dispose of the land through the current process and thereafter pursue a new open sale process (based upon the recent interest from a third party), it is considered appropriate to pursue a sale that provides for the consolidation of the two sites and, in turn, opportunities for coordinated development. It will therefore be recommended that Council dispose of the site through the private treaty provisions of the Local Government Act 1995, as advertised.

STATUTORY REQUIREMENTS

Local Government Act 1995

FINANCIAL CONSIDERATIONS

If the subject site is sold, it will result in a financial benefit for Council.

OFFICER RECOMMENDATION – ITEM 7.1

That Council, pursuant to Section 3.58(3)(b) of the Local Government Act 1995, disposes of 246 (Lot 5) Morley Drive East, Eden Hill, to Birmingham Properties Pty Ltd, Ladrift Pty Ltd and Matax Pty Ltd for the sum of \$1,000,000.

Voting requirement: Simple Majority

7.2 Local Planning Policy No. 17 – Grade Separation at the Corner of Guildford Road and Old Perth Road – Revocation (Ref: LUAP/POLCY/7 - Donna Shaw, Manager Development and Place)

PROPOSAL

The purpose of this report is for Council to consider revoking Local Planning Policy No. 17 – Grade Separation at the Corner of Guildford Road and Old Perth Road (LPP 17).

ATTACHMENTS

Attachment No. 2:

Local Planning Policy No. 17 – Grade Separation at the Corner of Guildford Road and Old Perth Road

BACKGROUND

LPP 17 was adopted by Council in October 2010. The purpose of the policy is to encourage grade separation in any future developments on the corners of Guildford Road and Old Perth Road (Lots 1,188,187 and 97 (No 1) Old Perth Road, Bassendean and Lot 355 (No 2) Old Perth Road, Bassendean). The policy also encourages improved access from the Town Centre to the Bassendean Train Station and areas located on the northern side of the railway line.

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>
3.2 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

Planning policies are the adopted position of the Council on various planning matters which either expand on the requirements in the Local Planning Scheme or provide direction on those matters where the Scheme enables the Council to exercise discretion.

The existing policy acknowledges that it is advisory in nature and does not have any statutory force. Whilst it is acknowledged that it is desirable for grade separation to be provided over the railway line, it is not a statutory requirement. As there is no discretionary decision available for which the policy would otherwise provide guidance on, the policy should be revoked.

In regards to the future provision of grade separation, the Town can encourage this as part of any future development application over the land. It should be noted that as Guildford Road is a Primary Regional Road in the Metropolitan Region Scheme under the care and control of Main Roads Western Australia (MRWA), any future grade separation would require the consent of MRWA.

STATUTORY REQUIREMENTS

Clause 6 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* outline the procedure for revoking local planning policies as follows:

“A local planning policy may be revoked -

(a) by a subsequent local planning policy that –

(i) is prepared in accordance with this Part; and

(ii) expressly revokes the local planning policy; or

(b) by a notice of revocation –

(i) prepared by the local government; and

(ii) published in a newspaper circulating in the Scheme area.”

FINANCIAL CONSIDERATIONS

The cost of publishing a notice in a newspaper circulating in the district can be met through Council's approved operational budget.

OFFICER RECOMMENDATION — ITEM 7.2

That Council, pursuant to Clause 6(b) of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, revokes Local Planning Policy No. 17 – Grade Separation at the corner of Guildford Road and Old Perth Road and notes that administration will publish a notice accordingly.

Voting requirements: Absolute Majority

7.3 Draft Local Planning Policy No. 13 – Tree Retention and Provision (Ref: LUAP/POLCY/5 - Donna Shaw – Manager Development and Place)

APPLICATION

The purpose of this report is for Council to consider amending existing Local Planning Policy No. 13 – Trees on Development Sites by effectively replacing it with a new Local Planning Policy No. 13 – Tree Retention and Provision.

ATTACHMENTS

Attachment No. 3:

- Existing Local Planning Policy No. 13 – Trees on Development Sites
- Draft amended Local Planning Policy No. 13 – Tree Retention and Provision

BACKGROUND

The loss of the urban tree canopy as a result of infill development has the potential to adversely impact the amenity and health of the Town. The benefits of trees are widely accepted and include a range of environmental, economic, community and health outcomes.

In response to Council and community concerns regarding the loss of trees as a result of development, the Town has drafted a policy which seeks to address tree retention and provision on private properties.

PROPOSAL

A copy of the draft amended policy is attached. Details of the draft amended policy are discussed in the following sections.

COMMUNICATION & ENGAGEMENT

The draft amended policy was presented to the Design Bassendean Advisory Group on 4 March 2020, which provided broad support for the policy.

Should Council proceed with the draft amended policy, the *Planning and Development (Local Planning Schemes) Regulations 2015* require a notice advising of the proposed policy to be prepared by the local government and published in a newspaper circulating the Scheme area.

STRATEGIC IMPLICATIONS

Strategic Priority 1: Social

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>
1.3 Plan for a healthy and safe community	1.3.2 Promote and advocate community health and well-being	Community / Stakeholder Satisfaction Survey (Safety, Health and Well-being)

Strategic Priority 2: Natural Environment

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>
2.1 To display leadership in environmental sustainability	2.1.1 Strengthen environmental sustainability practices and climate change mitigation	Carbon emissions ("Planet Footprint")
2.2 Protect our River, Bushland Reserves, and Biodiversity	2.2.1 Protect and restore our biodiversity and ecosystems	Community / Stakeholder satisfaction Survey (River, Bushland and Reserves)

Strategic Priority 2: Built Environment

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)

COMMENT

Existing Local Planning Policy No. 13 – Trees on Development Sites (LPP 13)

The purpose of LPP 13 is to state Council's position on the retention of trees on development sites. It effectively outlines the existing requirements under the Residential Design Codes and relevant environmental legislation.

A revised policy was considered necessary as LPP 13 only requires tree planting to offset removal as a result of development, and does not require additional planting or protection of trees. Given the Town seeks to increase canopy cover as infill development occurs, new provisions are required that specify the amount of trees required and the mechanisms to protect the trees. Further, existing LPP 13 does not provide sufficient guidance on the application of tree preservation orders (TPO), which has been included in the draft amended policy.

Limitations

Whilst the intent of the draft amended policy is to retain and provide for trees on private properties, the policy cannot mandate the retention of existing trees, nor is a development application required for the removal of a tree(s) on private property.

The definition of development under the *Planning and Development Act 2005* does not extend to the pruning or modification of trees, and as such, development approval is not required for these works.

Notwithstanding, where a tree preservation order exists, the tree is afforded statutory protection under Local Planning Scheme No. 10 (LPS 10).

Tree Preservation Orders

Whilst Clause 4.7.7.2 of LPS 10 provides for the ability to order the preservation and maintenance of trees within the Scheme area, further guidance is considered necessary to better inform whether a TPO is appropriate. As such, the draft amended policy includes further details which expand upon the requirements outlined under Clause 4.7.7.2.

Thresholds

In regards to the requirement to provide a tree(s), the draft amended policy applies to:

- all applications for subdivision involving residential-zoned land and/or residential development; and
- all applications for development approval involving Single Houses and Grouped Dwellings, where the estimated cost of development is \$100,000 or more.

The draft amended policy does not extend to commercial or industrial developments, as it seeks to address the loss of the urban tree canopy where infill development occurs. Tree planting for mixed use developments are captured by the provisions outlined in State Planning Policy 7.3 – Residential Design Codes - Volume 2 – Apartments. Further, the Town requires landscaping plans as a condition of approval for commercial and industrial developments which specify tree planting.

Tree Provision

The required amount of tree plantings has been based on one tree for every 350m² of site area (rounded to the nearest whole number), with a minimum of one small tree per lot (or equivalent). The aforementioned site area has been determined based on the minimum site area requirement for a lot with a density code of R20, which is the prevailing density to which subdivision/development has been occurring throughout the Scheme area. The minimum of one tree per lot still captures those lots that may be subdivided/developed at a higher density.

The required tree growth zone has been determined having regard to the deep soil zone criteria provided in State Planning Policy 7.3 – Residential Design Codes – Volume 2 - Apartments, as it is considered appropriate to have consistency in the application of standards relating to tree provision across both grouped and multiple dwelling developments.

The retention of existing larger trees is considered to be a more desirable outcome than planting new smaller trees due to the amenity associated with established trees and their increased capacity in absorbing carbon. As such, the draft amended policy provides for a reduction in the required tree plantings where a tree subject to a TPO or a medium or large tree is retained on site and protected by a tree growth zone, in an effort to incentivise the retention of existing larger trees.

Tree Relocation

It is acknowledged that in some circumstances, relocation of the tree will be the preferred option of the landowner to accommodate subdivision and/or development.

Relocation is only supported where an arborist can ensure a suitable location for a tree is provided on site to ensure the health of the tree is maintained after relocation.

A legal agreement is required to ensure that should the tree not survive, the obligations under the draft amended policy to provide a tree(s) are still met.

Street Trees

The draft amended policy does not support relocation of trees in the road reserve, as it is considered important that canopy cover exists on private properties to reduce the *urban heat island* effect. Trees within the verge will be provided via the Town's planting program.

The draft amended policy provides limited criteria where the removal of existing street trees will be supported. Consistent with current Council policy, where approval to remove a street tree is obtained, the applicant will be responsible for the full cost of pruning, removing and replacing any street tree.

STATUTORY REQUIREMENTS

If the local government resolves to amend a local planning policy the local government must, unless the Western Australian Planning Commission otherwise agrees, advertise the proposed policy as follows:

- “(a) publish a notice of the proposed policy in a newspaper circulating in the Scheme area, giving details of –*
 - (i) the subject and nature of the proposed policy; and*
 - (ii) the objectives of the proposed policy; and*
 - (iii) where the proposed policy may be inspected; and*
 - (iv) to whom, in what form and during what period submissions in relation to the proposed policy may be made;*
- (b) if, in the opinion of the local government, the policy is inconsistent with any State planning policy, give notice of the proposed policy to the Commission;*
- (c) give notice of the proposed policy in any other way and carry out any other consultation the local government considers appropriate.”*

FINANCIAL CONSIDERATIONS

The cost of publishing a notice in a newspaper circulating in the district can be met through Council's approved operational budget.

OFFICER RECOMMENDATION — ITEM 7.3

That Council, pursuant to Clause 5(1) of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, advertises for public comment, the draft amended Local Planning Policy No. 13 – Tree Retention and Provision, as attached to the Ordinary Council Agenda of 25 March 2020.

Voting requirements: Simple Majority

7.4 Animals, Environment, Nuisance & Pests Local Law (Ref: PUBH/LEGLTN/1 - Jeff Somes, Environmental Health Officer)

APPLICATION

The purpose of this report is for Council to make the Town of Bassendean Animals, Environment Nuisance and Pest Local Law 2019.

ATTACHMENTS

Attachment No. 4:

- Proposed Town of Bassendean Animals, Environment, Nuisance and Pests Local Law 2019 (with amendments in red);
- Comments received from the Department of Local Government;
- Comments received from the Department of Health; and
- Summary of submissions.

BACKGROUND

The purpose of this draft local law is to shift a number of provisions of the Town's existing Health Local Law from the *Health (Miscellaneous Provisions) Act 1911* to the *Local Government Act 1995* (the Act). As part of this process, it was also appropriate to review the existing provisions dealing with animals, nuisances and pests to ensure they are contemporary.

At its meeting on 26 February 2019, Council resolved to give notice of its intention to make the Animals, Environment, Nuisance and Pest Local Law 2019.

COMMUNICATION & ENGAGEMENT

In accordance with Council's resolution and Section 3.12(3) of the Act, the Town gave public notice of its proposal to make the local law in the West Australian newspaper on 23 March 2019.

Details of the proposed local law were also advertised through the Town's Facebook page, Notice Boards and 'Your Say Bassendean', with hard copies of the proposed local law being available at the Customer Service Centre and the Memorial Library.

At the close of the submission period, six submissions were received. Details of the submissions are contained as an attachment.

In addition, the Town consulted directly with the Department of Health and the Department of Local Government, Sport and Cultural Industries.

In response, the following was received:

- The Department of Health advised that as the local laws are to be established under the Local Government Act, consent was not required from the Chief Health Officer.
- The Department of Local Government, Sport and Cultural Industries suggested minor amendments to terminology used in the local law to ensure it is consistent with terms used in the Act and some minor formatting changes. Amendments to the draft local law have been made accordingly.

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>
1.3 Plan for a healthy and safe community	1.3.1 Facilitate safer neighbourhood environments	Community / Stakeholder Satisfaction Survey (Safety, Health and Well-being)
3.3 Enhance the Town's appearance	3.3.1 Improve amenity and the public realm	Community / Stakeholder Satisfaction Survey (heritage, amenity and appearance)

COMMENT

Poultry

Four submissions related to the provisions pertaining to poultry, in particular the number of birds that can be kept on a property, setbacks and enclosure requirements.

In light of the submissions received, the Town has amended the draft local law to provide for the owner or occupier to apply to vary the requirements relating to setbacks and enclosures, at which time an assessment of the location and type of enclosure can be undertaken.

The maximum number of poultry (12), has not been amended, as the draft local law already provides for owners and occupiers to apply for more poultry subject to the approval of the Town.

Enforcement

One submission noted the need for enforcement of laws relating to cats and dogs. Part 7 of the draft local law provides enforcement provisions for non-compliance with any aspect of the local law, including the ability for the local government to issue infringement notices.

In addition to public submissions, comments were received from the Department of Health advising that as the local laws are to be established under the Act, consent was not required from the Chief Health Officer.

The submission received from the Department of Local Government, Sport and Cultural Industries suggested some minor amendments to terminology used in the local law to ensure it is consistent with terms used in the Act and some minor formatting changes. Amendments to the draft local law have been made accordingly.

Procedure

In accordance with Section 3.12 of the Act, Council is required to consider submissions received and may make the local law as proposed or make a local law that is not significantly different from what was proposed.

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 advertising procedure.

The proposed local law brings together the majority of the environment and nuisance provisions under the one local law. The modifications as a result of submissions are not considered to be significantly different from what was first proposed, and it is therefore recommended that Council makes the local law as contained in the attachments.

STATUTORY REQUIREMENTS

Section 3.12 of the Act prescribes the process to be following in making a local law.

Should Council endorse the recommendation as proposed, there are a number of procedural requirements with which the Town must comply. These include:

- Publishing the local law in the Government Gazette; and

- Giving local public notice of the adoption of the local law and its commencement date.

The local law will come into operation 14 days after the day on which it is published in the Government Gazette.

The Minister may also give direction to the local government requiring them to provide to the Parliament copies of local laws they have made and any explanatory or other material relating to them.

FINANCIAL CONSIDERATIONS

The cost of advertising the local law was \$1130.43 and has been met out of Account 401333. The cost of publishing the local law in the Government Gazette and providing the required statutory notices of the local law's adoption can be accommodated within Council's approved budget.

OFFICER RECOMMENDATION – ITEM 7.4

That Council:

1. In accordance with Section 3.12(4) of the Local Government Act 1995, makes the Town of Bassendean Animals, Environment, Nuisance and Pest Local Law 2019, as attached to the Ordinary Council Agenda of 24 March 2020, and authorises the Common Seal to be attached; and
2. Notes the progression of the remaining actions to finalise the local law adoption process as detailed in section 3.12 of the *Local Government Act 1995*.

Voting requirements: Absolute majority

7.5 **Adoption of Waste Local Law (Ref: WSTMNG/SVPROVN/5 - Brice Campbell, Recycling and Waste Coordinator)**

APPLICATION

The purpose of this report is for Council to make the Town of Bassendean Waste Local Law 2019. The matter came before Council at its meeting dated 26 November 2019.

ATTACHMENTS

Attachment No. 5:

- Letter from the Director General Department of Water and Environmental Regulation (DWER) dated 20 December 2019.
- Proposed *Town of Bassendean Waste Local Law 2019* (Final draft).

BACKGROUND

At its meeting held on 26 February 2019, Council resolved to advertise the proposed local law for public comment. The proposed Waste Local Law was advertised in the West Australian Newspaper on 23 March 2019. Submissions closed on 10 May 2019. Four submissions were received during the public submission period.

Council resolved at its meeting held on 26 November 2019, to approve the submission of the draft local law to the relevant authorities for consideration.

On 6 December 2019, the proposed *Town of Bassendean's Waste Local Law 2019* was sent to the Director General of the Department of Water and Environmental Regulation (DWER) for consent. Local laws proposed to be made pursuant to the *Waste Avoidance and Resource Recovery Act 2007* are required, to be consented to by the Director General of DWER before adoption by the local government. The consent of the Director General of DWER (previously DEC) was communicated to the Town under cover of a letter dated 20 December 2019.

Council is now required to make the local law.

COMMUNICATION & ENGAGEMENT

Under Section 3.12(3) of the *Local Government Act 1995*, Council is to give Statewide public notice for not less than 6 weeks, stating its intention to introduce a new local law and invite public submissions to be made during this time.

An advertisement was placed in the West Australian on 23 March 2019. The public submission period closed on 10 May 2019. Copies of the proposed local law were made available to the public at the local government’s offices, library and website. A copy of the proposed Waste Local Law was sent to the Minister for Local Government and Communities and the Minister for the Environment for comment. Feedback was received on 5 July 2019 from the Director General DWER requesting amendment be made to the proposed local law.

STRATEGIC IMPLICATIONS

Objectives What we need to achieve	Strategies How we’re going to do it	Measures of Success How we will be judged
2.1 To display leadership in environmental sustainability	2.1.2 Reduce waste through sustainable waste management practices	Waste reduction ratio to population

COMMENT

Pursuant to s. 3.12(4) of the *Local Government Act 1995*, Council is now required to consider the submissions made and may make the local law as proposed or make a local law that is not significantly different from what was proposed.

(a) Public Submissions

Feedback received was generally related to the transition to the third FOGO bin and other services provided. Comments were provided regarding public place recycling (Container Deposit Scheme (CDS)) and littering during the verge collection. These comments were considered and it was determined that the items were already covered by other legislation such as planning schemes, the *Environmental Protection Act 1986* and the *Litter Act 1979*.

As required by legislation, the Draft Local Law was referred to the Minister for the Environment and was subsequently passed to the Director General of DWER for consideration.

It was noted that the proposed *Town of Bassendean Waste Local Law 2019* that was advertised for public comment, deviated slightly from the WALGA template. As a result of these changes to the template, the Town was advised by the Director General of DWER that a number of amendments would need to be made to the proposed local law. Any deviation from the template would not be accepted by the Joint Standing Committee on Delegated Legislation and could therefore lead to disallowance by the Committee or formal amendment to the local law. On 15 October 2019, officers at the Town amended the proposed local law in accordance with the changes requested by the Director General.

On 26 November 2019, the Council noted the amendments made to the proposed local law and approved the submission of the local law to the Director General for his consent in accordance with legislative requirement. On 20 December 2019, consent was granted.

Below is a list of the amendments requested by the Director General.

(b) Amendment

In considering whether an amendment made to a local law is 'significantly different' from what was proposed, one needs to consider how the amendment would affect the operation of the local law. If the amendment is deemed to classify the local law as significantly different to the one that was formerly proposed, then the local law making process must be started again.

The amendments required by the Director General focused on realigning the proposed local law with the WALGA template.

(i) *Clause 1.4 Repeal*

Clause 1.4(a) is deleted as it is a departure from the template waste local law and may affect the rights and interests of a person subject to the proposed Waste Local Law.

(ii) *Clause 1.5 Meaning of terms*

The definitions of bulk waste, green waste, and street setback are deleted. The definition of organic waste is amended to remove reference to 'Food Organics and Garden Organics (FOGO)' and replace with garden waste or food waste to ensure compliance with the template local law.

The definition of recycling waste is amended at (b) plastic containers to include the words 'comprised of polyethylene terephthalate or high density polyethylene.' A new definition of street alignment is inserted to realign with the template.

(iii) Clause 2.1 Supply of receptacles

Clause 2.1(1) was amended to delete the words 'Subject to subclause (2) to align with the template waste local law.

Clause 2.1(2) was deleted as it is not in the template local law.

Clause 2.1(3) was renumbered (2) and reference in that subclause to '(2)' was deleted.

(iv) Clause 2.7 Duties of owner or occupier

Clause 2.7(a) – Duties of owner or occupier has been amended to align with subclause 2.7(a) of the template local law. The clause reads –

'(a) except for a reasonable period before and after collection time, keep each receptacle in a storage space or area that is behind the street alignment.'

Clause 2.7(c) was reinstated into the local law as follows –

'(c) take reasonable steps to ensure that the premises are provided with an adequate number of receptacles; and'

The remaining clause was renumbered.

(v) Clause 2.10 Verge collections

Clause 2.10 – verge collections has been amended to realign with the template local law by deleting the words 'green', 'or bulk waste' where they appear. The word 'shall' has been deleted and replaced with the word 'must'.

(vi) Clause 3.1 Duties of an owner or occupier

Clause 3.1(c)(iv) was deleted to align with the template; clause 3.1(e) was deleted as it did not appear in the template local law and was difficult to enforce and encroached further on existing rights and interests of an owner or occupier.

(vii) Schedule 2 – Prescribed offences

Schedule 2 (Item 7 and Item 14) – was amended to align with the template. The variation in these items was not acceptable from the template waste local law. The schedule required amendment to ensure that the clause number was correct. A new item 14 was inserted –

14	2.7(c)	<i>Failing to provide a sufficient number of receptacles</i>	\$250
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All subsequent items were renumbered.

These amendments are not significant as they do not affect the operation of the local law, nor do they constitute a significant deviation from the local law that was previously advertised for public comment. While the list of amendments appears numerous, these constitute minor changes to the proposed local law. The amendments ensure alignment with the template local law. Failure to amend the proposed local law at this stage would probably lead to disallowance of the local law by the Joint Standing Committee on Delegated Legislation.

(c) Section 3.12 Process

After Council has made the local law, the local government is required to publish it in the Government Gazette and submit a copy of it to the Minister for Local Government and Communities and to the Minister for Environment. After the local law has been published in the Gazette, the local government is to give local public notice.

Once the local law has appeared in the Government Gazette, the local government is also required to send an explanatory memorandum, statutory checklist and copies of the local law to the Joint Standing Committee on Delegated Legislation.

STATUTORY REQUIREMENTS

Local Government Act 1995 (WA), Section 3.12(4), (5), (6) and (7).

Waste Avoidance and Resources Recovery Act 2007, Section 61,s. 64(2).

This local law repeals part 4, division 2 of the Town of Bassendean Health Local Law 2001, as published in the Government Gazette on 24 August 2001, except for clause 4.16 of that Part.

FINANCIAL CONSIDERATIONS

Advertisement costs for the adoption notice and the gazettal fee for the proposed *Town of Bassendean Waste Local Law 2019*.

OFFICER RECOMMENDATION — ITEM 7.5

That Council:

1. Notes the Director General of the Department of Water and Environmental Regulation has provided its consent to the proposed *Town of Bassendean Waste Local Law 2019*; and
2. Makes the *Town of Bassendean Waste Local Law 2019* as attached to the Ordinary Council agenda of 24 March 2020, and authorises the Common Seal to be attached; and
3. Notes the progression of the remaining actions to finalise the local law adoption process as detailed in section 3.12 of the *Local Government Act 1995*.

Voting requirements: Absolute Majority

7.6 Swimming Pool and Spa Safety Inspections (Ref: DABC/INSPEC/2 – Kallan Short, Principal Building Surveyor)

APPLICATION

The purpose of this report is for Council to determine the frequency of the Town’s swimming pool and spa safety inspections.

BACKGROUND

The *Building Act 2011* (the Act) requires that, at least once every four years, the Town is to inspect all properties located within the district containing a privately owned pool/spa. The Town currently engages an external contractor to undertake these inspections, however this is not ideal as the Town must then rely on an external provider to fulfil its statutory obligations.

To address this issue, as part of the 2019 Workforce Plan, Council endorsed the creation of a Development Compliance Officer position. The position was approved on the basis that at least part of it could be funded using the funds otherwise directed to the external contractor undertaking the inspections.

It is therefore appropriate the Council determines the frequency of the inspections going forward.

STRATEGIC IMPLICATIONS

Strategic Priority 1: Social

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>
1.3 Plan for a healthy and safe community	1.3.1 Facilitate safer neighbourhood environments	Community/Stakeholder Satisfaction Survey (Safety, Health and Wellbeing)

COMMENT

The Town is currently meeting its minimum statutory obligation to inspect all privately owned pools/spas once every four years.

In the past, first round inspections identified that as many as 30% of pool/spa barriers were non-compliant barriers. The contractor facilitating the current inspection program has identified that this has improved to approximately 10% being non-compliant.

In many instances, non-compliance occurs due to a lack of proper maintenance or modifications to the barriers, however, in some cases, it occurs due to deliberate actions to compromise the security.

Ultimately, it is considered that increasing the frequency of inspections will likely result in the greatest level of compliance and only facilitating the minimum standard of four-yearly inspections is not considered sufficient to meet the safety needs of the community, given the aforementioned rates of non-compliance. It must be acknowledged, however, that more frequent inspections will have a financial impact on landowners, as follows.

Frequency Option	Annual levy per property
Annual	\$58.45
Every two years	\$29.22
Every three years	\$19.48
Every four years	\$14.61

Based on the above, it is considered that a two-yearly inspection program is appropriate. If the rate of non-compliance is not addressed by that frequency, the Town can continue to liaise with these landowners, or consider further increasing the frequency of inspections to annually.

STATUTORY REQUIREMENTS

Whilst the Act requires that the Town inspect all properties containing a privately owned pool/spa at least once every four years, the Act does not restrict the Town from carrying out these inspections more frequently.

FINANCIAL CONSIDERATIONS

The Town currently has 829 properties subject to the inspection program. A maximum levy of \$58.45 may be charged once a year against each property, when annual inspections are carried out. Alternatively, a proportional charge can be applied when inspections are conducted less frequently.

Implementing a two-yearly inspection regime will generate approximately \$24,220 of revenue every year, although this will depend on the exact number of pools and spas within the district.

OFFICER RECOMMENDATION — ITEM 7.6

That Council endorses increasing the frequency in which the Statutory Swimming Pool/Spa inspections are carried out from four-yearly to two-yearly.

Voting requirements: Simple Majority

7.7 Single-use Plastics and Balloons Policy (Ref:ENVM/POLCY/1 - Ariadne Macleod, Recycling & Waste Officer)

APPLICATION

The purpose of this report is for Council to adopt the policy on Single Use Plastics and Balloons.

The attached policy and guidance document supports application of the Council decision to ban the use of single use plastics at events organised or sponsored by the Town.

The purpose of the policy is to strengthen the Town's position on phasing out single use plastics and supporting alternatives, and to ensure the ban is adopted in applicable activities and events.

The attached guidance document provides policy users with the required information and support to apply the ban to their event or activity.

ATTACHMENTS

Attachment No. 6:

- Policy on Single Use Plastics & Balloons
- A Guide for Eliminating Single-Use Plastics
- Policy 4.7 – Recyclable & Biodegradable Products at Town of Bassendean's Events and Functions Policy

BACKGROUND

The policy has been developed in response to the Council decision to ban the use of single use plastics. The Policy is the tool that will make the ban tangible and allow the Town to deliver on the intent of its decision.

At the March 2018 meeting, Council resolved that:

1. The Town of Bassendean recognise the scourge that single use plastics has on our environment and is committed to reducing the amount of single use plastics created in the Town;
2. The Town of Bassendean ban all use of single use plastics at events organised or sponsored by the Town of Bassendean including but not limited to straws, plastics cups, including plastic lined cups and plastic bags;

3. The ban would take effect immediately however vendors would be given a six months grace period to source alternatives to single use plastic. If they used single use plastics, an officer from the Town would advise them of our ban and provide them with a list of alternatives;
4. The Mayor of the Town of Bassendean write to all businesses in the Town outlining our ban on single use plastics and encourage them to reduce single use plastics, particularly straws and plastic cups where possible;
5. The Mayor write to Hawaiian Shopping Centre about installing a communal drop off point for cloth shopping bags for shoppers who forget their re-usable bags;
6. The Mayor write to Coles informing them of our ban and request they audit and cease their use of plastic wrapping, particularly on fruit and vegetables; Ordinary Council Meeting Minutes 27/03/18 Page 42 of 43;
7. The Town organise an education campaign about single use plastics, including a list of suppliers for vendors and businesses on where to source alternatives to single use plastics such as reusable and washable items, paper, cardboard, wooden or compostable single use items; and
8. The scheme to be monitored by the Sustainability Committee.

CONSULTATION

Officers of the Town have been given the opportunity to read and provide comment on the policy. Feedback from officers has been considered and incorporated into the document where appropriate.

Officers also engaged with the Coordinator of the Old Perth Road Markets and the WA Plastic Free Project Coordinator.

In February 2019 a training session was delivered to the community called 'How to organise a community event'. This session included slides and discussion about the new policy, its relevance and how to incorporate the policy into events management.

Officers are currently developing a webpage which will be dedicated to information for the community and event organisers to assist them to delivering successful community events. This webpage will include a space to communicate directly to these groups about the new policy and ban on single use plastics and balloons.

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>
2.1 To display leadership in environmental sustainability	2.1.2 Reduce waste through sustainable waste management practices	Waste reduction ratio to population

SUMMARY

This policy aligns with the direction of the State Government's Waste Planning process and will assist the Town to achieve the targets set out in the WARR Strategy 2030.

The resolution at the March 2018 meeting tasked the Sustainability Committee with monitoring the scheme. The Sustainability Committee has since been disbanded and oversight will be provided by the Corporate Management Committee.

FINANCIAL CONSIDERATIONS

There are no direct financial implications as a result of adoption of this policy.

OFFICER RECOMMENDATION — ITEM 7.7

That Council

1. Repeals Council Policy 4.7 – Recyclable & Biodegradable Products at Town of Bassendean's Events and Functions Policy; and
2. Endorses the Single Use Plastics and Balloons Policy, as attached to the Ordinary Council Agenda of 24 March 2020.

Voting requirements: Absolute majority

7.8 Draft New Council Policy 1.9 Verge Treatment Policy and Town of Bassendean Verge Treatments – Guidelines for enhancing your verge 2020 (Ref: Phillip Adams, Executive Manager Infrastructure and Gareth Broderick, Engineering Compliance Officer)

APPLICATION

This report provides a new draft Council Policy 1.9 Verge Treatment Policy 2020 to repeal and replace Council Policy 1.9 of 12 December 2011 - Verge Treatment and Maintenance Policy, including Appendix One Permissible Verge Treatments. The report also provides wording for the draft *Verge Treatments – Guidelines for enhancing your verge*, which will accompany and support policy implementation.

ATTACHMENTS

Attachment No. 7:

- (Draft) Council Policy 1.9 Verge Treatment Policy 2020 (new verge treatment policy).
- (Draft) *Verge Treatments – Guidelines for enhancing your verge* (guidelines).
- Current Council Policy 1.9 Verge Treatment and Maintenance Policy and Appendix One Permissible Verge Treatments.
- *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2010 (Thoroughfares Local Law)*.
- Josh Byrnes and Associates, Verge treatment Review, November 2019.
- Water Corporation's *Waterwise verge best practice guidelines*.

BACKGROUND

The Town of Bassendean (Town) has a longstanding commitment to providing safe, environmentally sustainable and community friendly and accessible public areas. This commitment has fostered the inception of a range of environmentally sustainable programs and initiatives in the Town over recent years.

The new verge treatment policy and guidelines are a further example of this commitment. The new verge treatment policy and guidelines address Council resolution of 30 January 2018, to revise and update the existing policy on verge treatments and maintenance.

Developed through a consultative, considered and pragmatic approach, which commenced in 2016, the Town has worked diligently to deliver new verge treatment policy and guidelines that effectively balance environmental sustainability and community considerations, with the Town's statutory obligations to care for and protect Crown land verges. Importantly, this includes ensuring the verge treatment and guidelines are compliant with the statutory requirements set out in the *Thoroughfares Local Law*. This was achieved without the need to undertake a lengthy statutory review process to amend the *Thoroughfares Local Law*. Notwithstanding this, in accordance with Council resolution of 28 May 2019 a statutory review of the *Thoroughfares Local Law* is due and will be undertaken in accordance with sections 3.16 and 3.12 of the *Local Government Act 1995*.

COMMUNICATION & ENGAGEMENT

In accordance with Council resolution of 30 January 2018, requiring a review of other Local Government policy and guidelines of a similar nature and consultation with the Verge Transformation Group, amongst others, extensive consultation occurred to develop the new verge treatment policy and guidelines.

This included consultation, over a period from September 2017 to January 2020, with Councillors and many key stakeholders, partner agency representatives and community members. Various consultation methods were adopted, including:

- (a) seeking preliminary feedback in 2017 from the Verge Transformation Project Group on the existing policy, approval process and guidelines;
- (b) obtaining input in 2018 from the Town's Asset Committee;
- (c) garnering community feedback on a preliminary draft policy from the 'Your Say' platform in August 2019;
- (d) commissioning Josh Byrne and Associates to facilitate a community consultation (n=150+) forum on the 25 August 2019, and to review a preliminary draft policy and prepare a report;
- (e) engaging members of the community, various content experts and Councillors in drafting wording for the *Verge Treatments – Guidelines for enhancing Your Verge*;
- (f) engaging with the key business areas within the Town that will be effected by, or have a role in the implementation of, the new verge treatment policy and guidelines to mitigate implementation risks;

- (g) desk-top review of verge treatment policies and guidelines from other Local Governments, including from the Cities of Bayswater, Fremantle, Joondalup, Subiaco and Melville; and
- (h) incorporating and reflecting the advice and strategic directions of the Water Corporation for verge treatments as set out in *Waterwise verge best practice guidelines: a benchmark tool to ensure best practice is achieved and maintained across all local government.*

IMPLEMENTATION

To facilitate implementation and understanding about requirements, a social media and marketing approach will be adopted to promote the new verge treatment policy and guidelines: This will involve:

- (a) Publication via electronic platforms including, Facebook and the Town’s website;
- (b) Publication via hard print platforms including the Town’s Thrive magazine and the local Eastern Reporter newspaper;
- (c) Professional publication and dissemination of the guidelines to residents and relevant stakeholders;
- (d) Working with key partners, agency representatives and other stakeholders to implement initiatives aimed at promoting permissible verge treatments; and
- (e) Providing local support to residents, through relevant officers of the Town, by addressing any questions or providing clarification on requirements for verge treatments.

STRATEGIC IMPLICATIONS

Objectives	Strategies	Measures of Success
<i>What we need to achieve</i>	<i>How we’re going to do it</i>	<i>How we will be judged</i>
1.1 Build a sense of place and belonging	1.1.1 Facilitate engagement and empowerment of local communities	Community Stakeholder Satisfaction Survey (Engagement and Participation)
	1.1.2 Activate neighbourhood spaces to facilitate community gathering	
2.1 To display leadership in environmental sustainability	2.1.1 Strengthen environmental sustainability practices and climate change mitigation	Waste reduction ratio to population
	2.1.2 Reduce waste through sustainable waste management practices	Carbon emissions (“Planet Footprint”)

Objectives	Strategies	Measures of Success
	2.1.3 Initiate and drive innovative Renewable Energy practices	
2.3 Ensure the Town's open space is attractive and inviting.	2.3.1 Enhance and develop open spaces and natural areas to facilitate community use and connection.	Community / Stakeholder Satisfaction Survey (Open Space and use of Open Space) Increase in Public Open Space Tree Canopy Area monitoring (Private and Public realms) Water Quality (entering the Swan River analysed in accordance with the Australian Government National Health and Medical Research Council Guidelines)
	2.3.2 Sustainably manage ground water, facilitate the conversion of drains to living streams	
3.3 Enhance the Town's appearance	3.3.1 Improve amenity and the public realm	Community / Stakeholder Satisfaction Survey (heritage, amenity and appearance)

COMMENT

The new verge treatment policy and guidelines are a culmination of a thorough consultation and development process. Importantly, the new verge treatment policy and guidelines expands the types of acceptable materials that can be used when establishing a verge treatment.

Consequently, the types of materials which require prior approval, as required under the former policy, is significantly reduced.

Residents will have access to clear direction and guidance for installing and maintaining verge treatments. The acceptable and unacceptable materials, and relevant conditions where they apply, are clearly set out in the new verge treatment policy and guidelines. Notwithstanding the expanded category of acceptable materials, certain types of verge treatments, which fall outside the scope of acceptable materials, will still require prior approval.

However, these are limited and the approval process is not onerous, involving the online submission of an application form, justification for the proposed verge treatment and a site plan depicting existing infrastructure and the proposed verge treatment.

Additionally, relevant officers of the Town will support those residents who seek approval for verge treatments, by clearly setting out the conditions of approval and engaging with residents in a collaborative manner.

In this way, the Town upholds its statutory obligations to care for and protect Crown land verges, while mitigating risks posed to members of the community, service infrastructure, road users or service providers by unacceptable or unsafe verge treatments.

The guidelines

The draft wording for the *Verge treatments – Guidelines for enhancing your verge*, reflect contemporary standards in environmental sustainability, including incorporating key elements of the Water Corporation's Waterwise Verge Best Practice Guidelines. The guidelines provide residents with examples of the types of permissible verge treatment designs that can be established, recommend plant species, with photographic examples, and outline key approaches in verge treatment preparation, implementation and maintenance.

Moreover, the guidelines include appropriate hyperlinks to additional resources to assist owners or occupiers in planning, designing and installing environmentally sustainable verge treatments. Essentially, the guidelines assist residents to develop and maintain verge treatments that are lawful and environmentally sustainable. Consequently, reflecting the strategic policy priorities of Council to facilitate a range of social, environmental, economic and health benefits to the community.

Statutory compliance

The new verge treatment policy and guidelines comply with the requirements set out in the *Thoroughfares Local Law*, adding further to the benefits the community will experience from gaining access to clear and detailed information and resources for establishing verge treatments.

Importantly, the new verge treatment policy and guidelines will assist the community to understand the Town's statutory obligations, particularly in relation to compliance, while enabling community members' flexibility in the types of permissible verge treatments that can be established.

STATUTORY REQUIREMENTS

- *Local Government Act 1995*, including at section 3.52(2);
Town of Bassendean, Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2010 (Thoroughfares Local Law), including at Division 3 – Verge Treatments;
Town of Bassendean, Parking Local Law 2019; and
Road Traffic Code 2000.

FINANCIAL CONSIDERATIONS

It is anticipated that approximately \$2,000 will be required for graphic design and printing of the new verge treatment policy and guidelines.

OFFICER RECOMMENDATION – ITEM 7.8

That Council:

1. Repeals Council Policy 1.9 - Verge Treatment and Maintenance Policy, including Appendix 1 Permissible Verge Treatments;
2. Approves Council Policy 1.9 - Verge Treatment Policy as attached to the Ordinary Council Agenda of 25 March 2020;
3. Notes the *Verge Treatments – Guidelines for Enhancing Your Verge*; and
4. Notes that a review of the *Thoroughfares Local Law* will be undertaken in accordance with sections 3.16 and 3.12 of the *Local Government Act 1995*.

Voting requirements: Absolute Majority

7.9 Local Government House Trust – Deed of Variation (Ref: Peta Mabbs, CEO)

APPLICATION

This report is for Council to consider the proposed variation to the Local Government House Trust Deed.

ATTACHMENTS

Attachment No. 8:

Deed of Variation – Local Government House Trust sent under cover of email correspondence from the Western Australian Local Government Association (WALGA) CEO Mr Nick Sloane dated 19 February 2020.

BACKGROUND

On 19 February 2020, the Chief Executive Officer of WALGA, sent the Town a letter seeking a variation to the Local Government House Trust.

The Local Government House Trust (the Trust) is a unit trust created for the purpose of providing building accommodation for WALGA. The Trust’s Board of Management is seeking to vary the Trust Deed in order to assist the Trust’s income tax exempt status. Under the Trust Deed, the Trust requires consent of 75% or more of all beneficiaries in order to execute the Deed of Variation. The Town is a unit holder and beneficiary to the Trust. The Trustee is requesting the Town of Bassendean to provide consent to the proposed Deed of Variation by a resolution of Council.

COMMUNICATION & ENGAGEMENT

The letter was circulated amongst the Executive for comment.

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>
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)

COMMENT

The Town of Bassendean is a unit holder in the Trust and has been requested by the Trustee to make a decision on the Deed of Variation.

The variation that has been proposed is to ensure that the Trust retains its income tax exemption status by strengthening the position that the Trust is a State/Territory Body pursuant to Division 1AB of the *Income Tax Assessment Act 1936*.

Legal advice provided to the Trustee identified that the Trustee's ability to retire and appoint a new Trustee might affect the Trust's classification as a State or Territory Body (STB). The proposed Deed of Variation seeks to strengthen the Trust's position that it is a State/Territory Body by –

1. *removing the existing Trustee's power to retire and appoint a new Trustee (Clause 2.1 and 2.2 (22.3) of the Deed of Variation)*
2. *enabling the beneficiaries to appoint and remove a Trustee (Clause 2.2 (22.4) of the Deed of Variation), and*
3. *ensuring that the Board of Management is the 'governing body' of the Trust (Clause 2.3 of the Deed of Variation)*

The Executive have considered the proposed variation to the Trust Deed and it is the belief that the variation will not have any impact to the Town or its unit holding as a beneficiary and recommend Council consent to the proposed deed of Variation as contained in Attachment 1.

STATUTORY REQUIREMENTS

The variation is to ensure that the Trust meets its requirements under the *Income Tax Assessment Act 1936*.

FINANCIAL CONSIDERATIONS

Nil.

OFFICER RECOMMENDATION — ITEM 7.9

That Council supports the Variation to the Trust Deed for the Local Government House Trust as provided as attached to the Ordinary Council Agenda of 25 March 2020.

Voting requirements: Simple Majority

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

The Principal Building Surveyor made the following building decisions under Delegated Authority since those reported to the last Council meeting:

Building Applications Determined in the Month of February 2020			
Application No	Property Address	Description	Determination
201900267	29 MARGARET STREET, ASHFIELD	CONSTRUCTION OF ANCILLARY DWELLING & SWIMMING POOL	DELEGATE APPROVED
201900264	21 BARTON PARADE, BASSENDEAN	DWELLING ADDITIONS/ALTERATI ONS	DELEGATE APPROVED
201900275	69 NORTH ROAD, BASSENDEAN	GARAGE	DELEGATE APPROVED
201900274	15 BARTON PARADE, BASSENDEAN	GARAGE	DELEGATE APPROVED
201900276	138 SECOND AVENUE, EDEN HILL	RETAINING WALLS	DELEGATE APPROVED
201800260	33 HARDY ROAD, ASHFIELD	RETROSPECTIVE APPROVAL OF PATIO	DELEGATE APPROVED
201900092	50A LORD STREET, EDEN HILL	COMPLETION OF RESIDENTIAL DWELLING	DELEGATE APPROVED
202000032	14 FOURTH AVENUE, BASSENDEAN	FULL DEMOLITION OF DWELLING	DELEGATE APPROVED
202000038	5 BROUN WAY, BASSENDEAN	2 X PATIOS	DELEGATE APPROVED
202000033	10 ATKINS WAY, EDEN HILL	ABOVE GROUND POOL	DELEGATE APPROVED
202000037	18 CLARKE WAY, BASSENDEAN	FULL DEMOLITION OF DWELLING	DELEGATE APPROVED
202000035	112A HAMILTON STREET, BASSENDEAN	2 STOREY DWELLING	DELEGATE APPROVED
202000031	81 KATHLEEN STREET, BASSENDEAN	SINGLE STOREY DWELLING	DELEGATE APPROVED
202000039	99 IVANHOE STREET, EDEN HILL	PATIO	DELEGATE APPROVED
202000016	58 FREELAND SQUARE, EDEN HILL	PATIO	DELEGATE APPROVED
202000010	70 REID STREET, BASSENDEAN	TWO STOREY ADDITION TO DWELLING	DELEGATE APPROVED
202000009	113 HAMILTON STREET, BASSENDEAN	CARPORT	DELEGATE APPROVED

202000001	140 WEST ROAD, BASSENDEAN	PATIO	DELEGATE APPROVED
202000044	49 THIRD AVENUE, BASSENDEAN	GABLE ALUMINIUM PATIO	DELEGATE APPROVED
202000040	147 WHITFIELD STREET,	SHED	DELEGATE APPROVED
202000046	8 MCGLEW STREET, EDEN HILL	FIBREGLASS POOL & TEMPORARY CONSTRUCTION BARRIER	DELEGATE APPROVED
202000041	5 FOURTH AVENUE, BASSENDEAN	UNAUTHORISED WORKS - REAR VERANDAH & PERGOLA	DELEGATE APPROVED
202000045	8 MCGLEW STREET, EDEN HILL	POOL BARRIER FENCE	DELEGATE APPROVED
202000043	5 SEVENTH AVENUE, BASSENDEAN	CONSTRUCTION OF CARPORT RETAINING WALL FENCE POOL	DELEGATE APPROVED
202000047	44 IRELAND WAY, BASSENDEAN	INTERNAL ALTERATIONS TO DWELLING AND PATIO ADDITION	DELEGATE APPROVED
202000024	11 ANSTEY ROAD, BASSENDEAN	UNAUTHORISED WORK - INTERNAL ALTERATIONS INCLUDING LOFT STORAGE INTERNAL WALL LAYOUT & FORMATION OF ENSUITE	DELEGATE APPROVED
202000026	50 NORTH ROAD, BASSENDEAN	SINGLE STOREY DWELLING	DELEGATE APPROVED
202000029	209 ANZAC TERRACE, BASSENDEAN	SHED	DELEGATE APPROVED
202000027	21 IRELAND WAY, BASSENDEAN	SINGLE DWELLING & GARAGE	DELEGATE APPROVED
201900147	50A LORD STREET, EDEN HILL	HOUSE SLAB AND RETAINING WALLS	DELEGATE APPROVED
201900160	21 BRADSHAW STREET, EDEN HILL	SHED BUILDING TO REAR OF PROPERTY	DELEGATE APPROVED
201900267	29 MARGARET STREET, ASHFIELD	CONSTRUCTION OF ANCILLARY DWELLING & SWIMMING POOL	DELEGATE APPROVED

OFFICER RECOMMENDATION – ITEM 7.10

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

Voting requirement: Simple majority

7.11 Determinations Made by Development Services (Ref: LUAP/PROCED/1 – Christian Buttle, Senior Planning Officer)

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

PLANNING AND SUBDIVISION APPLICATIONS DETERMINED TO 28 FEBRUARY 2020			
APPLICATION NUMBER	PROPERTY ADDRESS	DESCRIPTION	DETERMINATION
2019-086	NO. 39, 39A AND 39B IVANHOE STREET, BASSENDEAN 6054	THREE SINGLE HOUSES	DELEGATE APPROVED
2019-110	139 WHITFIELD STREET BASSENDEAN 6054	OUTBUILDING	DELEGATE APPROVED
2019-136	3 ALICE STREET BASSENDEAN 6054	ADDITIONS AND ALTERATIONS TO GENERAL INDUSTRIAL DEVELOPMENT	DELEGATE APPROVED
2019-163	21 BRADSHAW STREET EDEN HILL 6054	OUTBUILDING	DELEGATE APPROVED
2019-166	17 WATKINS STREET EDEN HILL 6054	EXISTING CARPORT	DELEGATE APPROVED
2020-003	15 BARTON PARADE BASSENDEAN 6054	GARAGE	DELEGATE APPROVED
2020-007	1/140 WEST ROAD BASSENDEAN 6054	PATIO	DELEGATE APPROVED
2020-008	87 HAMILTON STREET BASSENDEAN 6054	OUTBUILDING	DELEGATE APPROVED
2020-009	45 PARKER STREET BASSENDEAN 6054	CHANGE OF USE TO USE NOT LISTED (AIR BnB)	DELEGATE APPROVED
2020-019	3-5 NORTH ROAD BASSENDEAN 6054	RE ROOF TO SINGLE HOUSE	DELEGATE APPROVED
2020-021	1A MAY HOLMAN DRIVE BASSENDEAN 6054	ADDITIONS AND ALTERATIONS TO BASSENDEAN MEN'S SHED	DELEGATE APPROVED
2020-024	90 KATHLEEN STREET BASSENDEAN 6054	ADDITIONS AND ALTERATIONS TO SINGLE HOUSE	DELEGATE APPROVED

SUBDIVISION APPLICATIONS			
WAPC 83-20	14 PALMERSTON ST BASSENDEAN 6054	TWO LOT SURVEY STRATA	STATUTORY ADVICE – RECOMMEND APPROVAL

OFFICER RECOMMENDATION – ITEM 7.11

That Council notes the decisions made under delegated authority by the Manager, Development and Place.

Voting requirement: Simple majority

7.12 Accounts Paid – February 2020 (Ref: FINM/CREDTS/4) – Paul White, Director Corporate Services)

APPLICATION

The Local Government (Financial Management) Regulations 1996, Regulation 13, requires a list of accounts paid by the CEO each month to be presented to Council at the next ordinary meeting of Council after the list is prepared.

ATTACHMENTS

Attachment No. 9:

List of payments made under delegated authority for February 2020.

BACKGROUND

The monthly payments made for February 2020 are presented to Council, with details of payments made by the Town in relation to goods and services received.

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>
5.1 Enhance organisational accountability	5.1.1 Enhance the capability of our people	Community / Stakeholder Satisfaction Survey (Governance)
	5.1.2 Ensure financial sustainability	
	5.1.3 Strengthen governance, risk management and compliance	Compliance Audit
	5.1.4 Improve efficiency and effectiveness of planning and services	Risk Management Profile
	5.1.5 Ensure optimal management of assets	Financial Ratio Benchmarked. Asset Ratio Benchmarked

STATUTORY REQUIREMENTS

Local Government (Financial Management) Regulations 1996

FINANCIAL CONSIDERATIONS

All payments are authorised prior to disbursement in accordance with the allocated budget.

OFFICER RECOMMENDATION – ITEM 7.12

That Council receives the list of payments for February 2020.

Voting Requirements: Simple majority

7.13 Monthly Financial Report – February 2020 (Ref: FINM/AUD/1 – Paul White, Director Corporate Services)

APPLICATION

The Local Government (Financial Management) Regulations 1996, Regulation 34, requires that a statement of financial activity be prepared each month and presented to Council.

ATTACHMENTS:

Attachment No. 10:

Monthly Financial Report, containing the Statement of Financial Activity, for February 2020.

BACKGROUND

The statement of financial activity is to show a comparison of the budget estimates with the actual revenue and expenditure figures for the year to date and can be presented by nature and type classification, program or Business Unit. The statement of financial activity hereby presented to Council is by nature and type classification and by program.

A statement of financial activity and accompanying documents must be presented to Council within two months after the end of the month to which the statement relates.

Each year Council is required to adopt a percentage or value to be used in statements of financial activity for reporting material variances. Council adopted 10% or \$5,000, whichever is greater, as part of its 2019-20 Annual Budget.

STRATEGIC IMPLICATIONS

Strategic Priority 5: 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>
5.1 Enhance organisational accountability	5.1.1 Enhance the capability of our people 5.1.2 Ensure financial sustainability 5.1.3 Strengthen governance, risk management and compliance	Community / Stakeholder Satisfaction Survey (Governance) Compliance Audit Risk Management Profile Financial Ratio Benchmarked. Asset Ratio Benchmarked

COMMENT

The Statement of Financial Activity attached represents the adopted 2019/20 Annual Budget estimates and actual income and expenditure amounts for the month ending 29 February 2020.

Statement of Financial Activity (by nature or type)

The Statement of Financial Activity provides a comparison between actual and budget income and expenditure on year to date basis. The notes accompanying the statements provide a detailed breakdown of the amounts.

Item	Annual Budget	YTD Budget	YTD Actual	Variance to YTD Budget
	\$m	\$m	\$m	%
Revenue	22.9	20.7	20.7	0.31%
Expenditure	26.0	17.3	16.7	3.41%
Capital Works	6.1	0.8	0.5	34.46%
Non-Operating Grants, Subsidies and Contributions	2.1	0.2	0	0%

Operating Revenue

Revenue year to date is 0.31% above budget. This is due to increased revenue from fees and charges (rubbish charges levied, additional income from swimming pool inspections, hire of reserves and hall hire) offset by the adjustment for rates paid in advance. Other revenue is also above budget due to the LGIS member's contribution received, transfer of LSL employee entitlement and parental leave payments.

Operating Expenditure

Expenditure year to date is 3.41% under budget. This is due to timing of materials and contracts (public events, street tree planting program and other projects, and bulk rubbish collection). Utility charges are also under budget (street lighting) offset by Other Expenditure over budget due to timing.

Capital Works

Expenditure on capital projects is under the year to date budget due to timing and a number of major projects waiting finalisation of the tender process, pending grant applications and reports to OCM.

Cash backed reserves

The closing balance of the cash backed reserves at 28 February 2020 is \$7.0 million. The reserve summary shows all movements to and from reserve deriving the expected closing balance. The report provides information on Town of Bassendean's ability to allocate funds for future projects by providing a closing balance comparison to budget. Transfers from reserve to fund capital projects are still to occur.

Statement of Financial Position

Town of Bassendean has current assets of \$19.6 million. The major components of which are cash and cash equivalents of \$16.2 million and trade and other receivables of \$3.4 million. There are current liabilities of \$6.0 million. The major components are trade and other payables (includes bonds and deposits) of \$3.6 million and employee provisions of \$2.4 million.

Statement of Cash Flows

Net cash provided by operating activities is \$4.1 million for the year to date and net cash used in investing activities is \$0.3 million.

Monthly Investment Report

The overall balance of Town of Bassendean's investments is \$13.6 million. This is comprised of municipal investments of \$5.9 million (including restricted bonds and deposits), reserve investments of \$7.0 million and trust investments of \$0.7 million.

The administration uses *Marketforces.org.au* to assist in assessing whether a bank promotes non-investments in fossil fuel related entities. The Town currently has 63% of its funds invested non-fossil fuel ADIs.

Budget Amendments

There are no budget amendments identified in the statements of financial activity for February 2020.

STATUTORY REQUIREMENTS

Local Government (Financial Management) Regulations 1996.

FINANCIAL CONSIDERATIONS

The monthly financial report provides an overview of income and expenditure for the appropriate period. There are no direct financial implications arising from this report.

OFFICER RECOMMENDATION – ITEM 7.13

That Council receives the monthly financial report for February 2020.

Voting requirements: Simple majority

8.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

8.1 Notice of Motion - Cr John Gangell – Construction of a Town Centre Piazza

“That Council receives a report outlining potential sites, timeframes and associated costs for commencing the planning process for the construction of a multifaceted Town Centre Piazza for consideration in the 2020/2021 draft budget that could potentially, dependant on budget and space constraints, incorporate the following elements:

- 1. A community space that is suitable for a variety of different functions including but not limited to markets, concerts, festivals, rallies, civic functions and other events;*
- 2. A dedicated space for an outdoor functional fitness space that would include but not be limited to climbing, swinging, pushing, pulling and strength and conditioning that would be suitable for all ages.”*

OFFICER COMMENT

Council was recently presented with a broad concept relating to potential Town Centre transformation, which centred around the provision of multi-functional assets in good, strategic locations, thereby allowing various existing, dated assets to be potentially retired and rationalised. Such a concept aligns with the general themes coming out of the BassenDream community engagement exercise as well as the subsequent Catalyse market survey. It is noted that a town centre piazza/community space could form part of the larger transformation project, however, the concept has not progressed to that level of detail at this early stage and has no formal endorsement. In addition, a new Strategic Community Plan (SCP) is currently being prepared, which will set the vision and strategic direction for the Town going forward. Once the SCP is adopted, Council will be able to assess any new projects (including the potential Town Centre transformation) having regard to the alignment with the SCP, competing priorities, organisational capacity and budget implications.

8.2 Notice of Motion - Cr John Gangell – Creation of a Tourism and Marketing Strategy

“That Council receives a report on creating a tourism and marketing strategy in-house for the Town with a focus on creating the Town of Bassendean as a destination location.”

OFFICER COMMENT

A new Strategic Community Plan (SCP) is currently being prepared, which will set the vision and strategic direction for the Town going forward. At the same time, the Town is progressing with a review of the local planning framework, which will ultimately result in a new or amended local planning scheme, that facilitates future development (and therefore investment) within the district. It is not considered appropriate at this juncture to commit to creating a tourism and marketing strategy. It may though be appropriate, in future, to review the need for such a strategy; having regard to the alignment with the SCP, competing priorities, staff resources, budget implications and organisational demand.

8.3 Notice of Motion - Cr McLennan – Supporting UN Treaty on the Prohibition of Nuclear Weapons

“That Council declares its support for the UN Treaty on the Prohibition of Nuclear Weapons and calls on our federal leaders to sign and ratify it without delay.”

BACKGROUND – CR MCLENNAN

On 7 July 2017, an overwhelming majority of the world’s countries voted to adopt the Treaty on the Prohibition of Nuclear Weapons – a landmark global agreement that outlaws nuclear weapons and establishes a framework for achieving their total elimination.

Prior to the treaty’s adoption, nuclear weapons were the only weapons of mass destruction not subject to a comprehensive ban, despite their catastrophic, widespread and persistent humanitarian and environmental consequences. The new agreement fills a significant gap in international law.

It prohibits nations from developing, testing, producing, manufacturing, transferring, possessing, stockpiling, using or threatening to use nuclear weapons, or allowing nuclear weapons to be stationed on their territory.

It also prohibits them from assisting, encouraging or inducing anyone to engage in any of these activities.

A nation that possesses nuclear weapons may join the treaty, so long as it agrees to destroy them in accordance with a legally binding, time-bound plan. Similarly, a nation that hosts another nation's nuclear weapons on its territory may join, so long as it agrees to remove them by a specified deadline.

Once 50 countries ratify or acceded to it, the treaty will enter into force. There are currently 81 signatories and 35 states parties. Australia did not participate in the negotiations and has not signed the treaty.

OFFICER COMMENT

This is an advocacy position which aligns to Council's commitment to the environment and community. There are no resource implications. The Notice of Motion is supported.

9.0 CONFIDENTIAL BUSINESS

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

9.1 **Community Benefit Events Sponsorship and Grants Application for Bassendean Galaxy Basketball Club (Ref: GRSU/PROGM/26 – Tim Dayman – Recreation Development Officer)**

This matter is to be considered with members of the public excluded from the Chamber under Clause 5.23 (2) (b) of the Local Government Act 1995, as the officer report discusses information of a personal nature.

9.2 **Performance Agreement 2019 - 2020 – Chief Executive Officer (Renaë Maher, Manager Human Resources and Organisational Development)**

This matter is to be considered with members of the public excluded from the Chamber under Clause 5.23 (2) (b) of the Local Government Act 1995, as the officer report discusses information of a personal nature.

10.0 CLOSURE

The next Briefings Session will be held on Tuesday 21 April 2020, commencing at 7:00pm - to be advised.