

# **TOWN OF BASSENDEAN**

## **NOTICE OF BRIEFING SESSION**

A Briefing Session of the Council of the Town of Bassendean will be held on Tuesday, 15 June 2021 in the Council Chamber, 48 Old Perth Road, Bassendean, commencing at 6.00pm.

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.

The Town is committed to ensuring our Council Meetings are a safe work environment, free of risks to the health and wellbeing of Elected Members, Officers and our community.

Participants are required to be respectful, courteous and have due regard for individual rights and differences. Individuals may be asked to leave should their conduct adversely affect the health and safety of others. By attending this meeting, you agree to abide by these conditions.

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## **A G E N D A**

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

#### ***Acknowledgement of Traditional Owners***

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

### **2.0                    ATTENDANCES AND APOLOGIES**

### **3.0                    DECLARATIONS**

## **4.0 ANNOUNCEMENTS**

## **5.0 PUBLIC QUESTION TIME/STATEMENTS**

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

Questions and statements can be submitted prior to the Briefing Session to:

<https://www.bassendean.wa.gov.au/forms/public-question-time/36>.

Mr Jeremy Kirkham – Received 31 May 2021

How would one go about making this a law/regulation that would always need to be followed in the Town of Bassendean?

All decisions to cut down any tree in the Town of Bassendean that is on public property needs to be approved by an open vote for all residents of Bassendean.

### Officer Comment

The Town is committed to increasing the planting, canopy and biodiversity of our region.

The Town plants many trees across the district every year and has planted in excess of 1,000 trees last year and is on track to plant another 1,000 trees this year along with many thousands of seedlings and shrubs, approximately 50,000. The Town also manages the existing trees and has identified that some are in poor condition and need to be removed for the safety and health of our community. The Town has an established process and recruited qualified staff that are able to assess the health of trees and only makes the decision to remove trees when absolutely necessary.

As the elected representatives, Council has endorsed a policy related to trees within the public realm.

Circumstances when trees may be considered for removal include when the tree is:

- (i) Dead, having less than 10% photosynthetic material or live tissue present in the canopy mass;
- (ii) Diseased and unlikely to respond to treatment;
- (iii) Structurally unsound to the extent it presents a danger to the community;

- (iv) A species declared a noxious weed by the Department of Primary Industries and Regional Development; or
- (v) The Town determines the tree is of no ecological or amenity value.

An attempt to put in place a regulation that would require a poll of electors each time a tree was required to be removed, would result in a significant cost to the district, potential delays in removing dangerous trees and associated with this, the liability risk created in delaying a response to remove a hazard once identified.

## **6.0 DEPUTATIONS**

Ms Jane Bremmer will be in attendance to make a deputation on a Proposed Tree Preservation Order – 47 Seventh Avenue, Bassendean.

## **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.

<b>Item No. 7.1</b>	<b>Food Truck Event</b>
<b>Property Address (if applicable)</b>	Ashfield Reserve, Ashfield
<b>Landowner/Applicant (if applicable)</b>	MiLi Markets (applicant)
<b>Ref</b>	
<b>Directorate</b>	Community Planning
<b>Authority/Discretion</b>	<input type="checkbox"/> <input checked="" type="checkbox"/>
<input type="checkbox"/> Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
<input type="checkbox"/> Executive	The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
<input type="checkbox"/> Legislative	Includes adopting local laws, town planning schemes & policies.
<input type="checkbox"/> Review	When the Council operates as a review authority on decisions made by Officers for appeal purposes.

<input checked="" type="checkbox"/> Quasi-Judicial	When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.
<input type="checkbox"/> Information	For the Council/Committee to note.
<b>Attachment No. 1</b>	Proposal from MiLi Markets

## Purpose

The purpose of this report is for Council to consider an application to stage a fortnightly food truck event on Ashfield Reserve.

## Background

On 11 March 2021, the applicant lodged an application for a food truck event from 4.30pm to 7.30pm on the fire track at Ashfield Reserve (Colstoun Road end), commencing on Thursday 8 April and running every fortnight until 31 December 2021. The event would comprise of up to 10 food trucks, light entertainment and sale of alcohol restricted to meals being purchased.

The Town issued approval on a trial basis, being three occasions on Thursday 22 April, 6 and 20 May 2021. Due to inclement weather on Thursday 6 May, the event was cancelled, with Thursday 3 June being approved in lieu of the cancellation.

The applicant has now lodged an application to run the event more permanently, that is, up to the 12 months permitted by the Local Law.

## Proposal

To consider an additional approval beyond the initial trial, the applicant was requested to lodge a proposal for Council's consideration addressing various criteria.

A proposal was submitted (included as an attachment to this report) and is summarised as follows.

Criteria	Proposal
Location and Timing	<ul style="list-style-type: none"> <li>Stage event at Ashfield Reserve every second Thursday evening from 4.30pm to 7.30pm.</li> <li>Situate food trucks near the Ashfield play-space, on the asphalted road that runs between the two ovals.</li> </ul>
Demonstrated Experience and Capacity	<ul style="list-style-type: none"> <li>The food truck events to be marketed using social media and also promoted through several of the local Facebook groups specific to Bassendean.</li> <li>Aware that there are other food venues operating on Colstoun Road to avoid any clash with food venues no pizza vendor is secured as there is a pizza store near the IGA. Apart from the pizza store there is a lunch bar which closes at 2.30pm, with the food truck event not directly competing / impacting their trade.</li> <li>Public Liability Insurance policy of \$20 million.</li> </ul>

	<ul style="list-style-type: none"> <li>• Considered approach to risk management where gates are closed to the area with food trucks so that there is no vehicle movement during the event, with food trucks departing once attendees have left.</li> <li>• All vendors secure their generators and power cables away from the public.</li> </ul>
Financial and Economic Viability	<ul style="list-style-type: none"> <li>• The food truck events are self-funded and require no funding from local government.</li> <li>• Usage fees are paid to the Town.</li> </ul>
Sustainability and Creativity	<ul style="list-style-type: none"> <li>• Based on a survey, 96% of respondents believe the event is positive for the area, and most would attend again. There has been no negative responses, and no anti-social behaviour.</li> <li>• All of the food trucks are single-use plastic free, and where possible, use wooden or paper serving plates and utensils. Rubbish is collected into the two existing bins near the toilets which has attracted a local resident collecting cans and bottles from the bins for recycling.</li> <li>• Event organisers enjoy activating the area on a weeknight, something which would not otherwise be happening.</li> <li>• Free or low-cost entertainment is supplied such as children's rides, bouncy castle, baby animal farm and a ride-on train, as well as the location beside the playground also being advantageous.</li> <li>• Music is played, tables and chairs supplied for people to sit and enjoy a meal together. Families are encouraged to bring a picnic blanket, and even the family dog. The sense of community is visible when you see family groups meeting up, and people greeting acquaintances.</li> </ul>

### Communication and Engagement

It appears that the food truck event has been well received by local residents which is backed up by survey results conducted by the event organiser and included as part of this report. It is acknowledged however, that there has been negative feedback from food businesses trading on Colstoun Road. The views are broadly summarised as follows:

- Established food businesses (Need for Feed and Turkish Kebab) did not respond positively to the event. The owners of Need for Feed (which currently operates to 2.30pm) indicated that they were planning to commence trading at night and that the food truck event would now compromise that proposal.
- Non-food businesses such as the hairdresser and chemist responded positively to the advice indicating that a food truck event would increase vibrancy and activate the area.
- The Ashfield Sports Club contacted the Town regarding the event and queried if permission had been granted for the event organiser to sell alcohol given that the Club already has a liquor licence. The Town explained that the sale of alcohol was restricted to people purchasing a meal. Since then, the Club has worked positively with the event organiser as co-users of Ashfield Reserve.

- The owners of Ashfield IGA (which predominantly sell groceries but also have a small food take-away section inside their premises) are of the view that if the food truck event continues, it will affect take-away food but also acknowledged that more people may shop at their premises as a result of the food truck event being staged.
- Chaos Theory Events (which has recently been appointed to run the Old Perth Road Markets), expressed concern with having two events that both sell food will lead to competition for limited discretionary spending within the district. It also raised concerns with the branding of the food truck event in that it used the term “Bassendean”, as it had caused some confusion amongst community members thinking that the Old Perth Road (Bassendean) Markets had been re-located to Ashfield Reserve.

## Strategic Implications

### Priority Area 1: Strengthening and Connecting our Community

Direction	Potential Strategies	What Success Looks Like
Establishing partnerships with the community that build capacity, connection and sense of belonging	<ul style="list-style-type: none"> <li>• Identify community members and organisations with the capacity to deliver projects and programs</li> </ul>	<ul style="list-style-type: none"> <li>• Increased percentage of services delivered by community groups compared to the Town</li> <li>• Increased social return on investment using an agreed approach</li> <li>• Increased volunteer participation rates</li> <li>• Town staff hours result in greater return for time in volunteer management</li> </ul>
Facilitating community connection	<ul style="list-style-type: none"> <li>• Prioritise projects that bring people together and strengthen community connectedness</li> </ul>	<ul style="list-style-type: none"> <li>• Increased participation rates in volunteering, community activities and events</li> </ul>

## Comment

The application requires assessment against Council’s Alfresco Dining and Public Trading Policy, as it relates to Parked Mobile Food Vendors. The proposal complies with the policy with the exception of the following:

Clause	Provision	Assessment
1.3(a)	Unless otherwise approved by the Town or trading as part of a Town approved event, parked mobile food vendors are only permitted to trade within the car parking areas at Sandy Beach Reserve, Pickering Park, Success Hill Reserve and Point Reserve.	The application relates to Ashfield Reserve.
1.3(b)	Unless otherwise approved by the Town or trading as part of a Town approved event, there are to be no more than three vendors at any venue at any time, with availability to be on a ‘first come, first serve’ basis.	The application involves up to 10 vendors at any one time.
1.3(g)	Hours of operation are restricted to between 7:00am and 7:00pm.	The event is proposed to run until 7.30pm.

In considering the above, the following is relevant:

- It appears that the event has run smoothly with no complaints being received by the Town's Rangers in regards to traffic management, parking or anti-social behaviour. Some minor issues in regards to the cleanliness of the public toilets on Colstoun Street have been addressed, as well as the event organisers improving lighting at the event.
- The event affects at least one nearby bricks and mortar business (kebab shop) which sells take-away food at the same time as the event, albeit for one evening per fortnight.
- Whilst the event could potentially impact the viability of the Old Perth Road Markets, any impact is considered to be minimal given the different locations and operating times.
- The event does activate Ashfield Reserve and provides an opportunity for community connection and socialisation, which is aligned with the Strategic Community Plan.
- Approval of the use of the reserve will generate revenue for the Town.
- The operation of the event until 7.30pm (rather than the policy requirement of 7.00pm) is not considered problematic and is unlikely to have any determinately impact on the amenity of the surrounding residential area.

Based on the above, it is considered appropriate to approve the application for a fortnightly booking for a period of 12 months. It is open to Council to impose conditions restricting trade so as to mitigate the commercial impacts of the event or to refuse the application.

### **Statutory Requirements**

Part 5 of the *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2010* requires a permit to be obtained to trade in a public place.

### **Financial Considerations**

Currently, other than staff time and routine costs of cleaning toilets located on Ashfield Reserve, the Town incurs no costs for the staging of the food truck event. Under the current schedule of fees and charges, the applicant is paying \$420 (inc GST) to hire Ashfield Reserve on each occasion the event is held.

### **Risk Management Implications**

Given the feedback already provided, any approval to continue staging the food truck event is likely to attract at least some criticism.

Not approving the event may also attract criticism more broadly on the basis that the Town is not open to new ideas and strategies that are seemingly effective in activating places and spaces and providing further services/amenity to local residents.

### **Officer Recommendation – Item 7.1**

That Council approves the application for a permit to stage fortnightly food truck events on Ashfield Reserve (Colstoun Road end) subject to the following conditions, as well as any other considered appropriate, in the opinion of the Chief Executive Officer:

1. Signage must not be placed on the west side of Colstoun Road in close vicinity to established food premises, nor more than one hour before the commencement of the food truck event; and
2. The applicant shall be responsible for the cleanliness of the public toilets on Ashfield Reserve during the operating times of the event.

**Voting requirement: Simple Majority**

<b>Item No. 7.2</b>	<b>Amendment to existing Development Approval for Additions to Small Bar - Patio and Café Blinds (Patio Wall - Cork and Bottle)</b>
<b>Property Address</b>	Road reserve abutting 77-83 (Lot 144) Old Perth Road, Bassendean
<b>Landowner/Applicant</b>	Landowner - Town of Bassendean Applicant - Robert & Lorraine Hyde
<b>File Ref</b>	DABC/BDVAPP/2020-152/1
<b>Directorate</b>	Community Planning
<b>Authority/Discretion</b>	<input type="checkbox"/> <input checked="" type="checkbox"/>
<input type="checkbox"/> Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
<input type="checkbox"/> Executive	The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
<input type="checkbox"/> Legislative	Includes adopting local laws, town planning schemes and policies.
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<input checked="" type="checkbox"/> Quasi-Judicial	When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building permits, applications for other permits/licences (eg under <i>Health Act</i> , <i>Dog Act</i> or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.
<b>Attachment No. 2</b>	Development Plans Photo of development

## Purpose

The purpose of this report is for Council to consider an amendment to the existing development approval for Patio and Café Blinds (Cork and Bottle) in the road reserve abutting 77-83 (Lot 144) Old Perth Road, Bassendean. The matter is referred to Council for determination as Council considered the original application.

## Background

On 26 August 2014, Council resolved to approve an application for a Small Bar, along with additions and alterations at 77-83 (Lot 144) Old Perth Road, Bassendean.

On 25 August 2015, Council approved an application for the installation of a wooden beam structure within the road reserve abutting the above site.

On 24 November 2020, Council considered an application for additions to the Small Bar (Patio and Café Blinds) within the road reserve abutting the above site, which involved:

- Provision of roof cover over the existing pergola structure, compromised of insulated roof sheeting, gutters and flashing;

- PVC café blinds on the perimeter of the existing structure;
- Connection of the patio to the Town’s stormwater infrastructure via a rainwater pipe, which will run underneath existing paving and connect into a nearby grate;
- The removal of an existing street tree; and
- The area being used as an Outdoor Eating Area/licensed area in conjunction with the existing Small Bar (the size of the Outdoor Eating Area remained unchanged).

Council resolved to approve the application, subject to a series of conditions.

### Proposal

The application seeks approval for the installation of two 1.1m high walls as part of the patio structure. The works have already taken place.

### Communication and Engagement

In mid-May 2021, the landowners advised the Town that they had constructed nib walls to the patio structure, on the basis that the applicant’s consulting engineers recommended the walls be constructed to address the impact of lateral wind forces. The Town advised the landowner that development approval was required for the works, and on 24 May 2021, the Town received the subject application for development approval.

Given the minor nature of the works, the application was not advertised for public comment. In any event, the commercial tenancies that may be potentially impacted by the proposal all form part of the abutting Lot 144 and the owner of that site has supported the lodgement of the application.

### Strategic Implications

Priority Area 3: Creating a Vibrant Town and Precincts

Direction	Potential Strategies	What Success Looks Like
Support the town centre to thrive	<ul style="list-style-type: none"> <li>• Advocate for economic growth of our Bassendean town centre</li> <li>• Engage potential government and private sector development partners to realise opportunities within the Town of Bassendean</li> </ul>	<p>LONG TERM</p> <ul style="list-style-type: none"> <li>• Increased number of developments within the town centre</li> <li>• Increased population within the Town</li> <li>• Improved retention of existing businesses</li> <li>• Increased number and retention of new businesses</li> <li>• Increased local employment</li> </ul>

Priority Area 4: Driving Financial Suitability

Direction	Potential Strategies	What Success Looks Like
Support the local economy	<ul style="list-style-type: none"> <li>• Prioritise infrastructure projects that generate local employment and support a circular economy</li> <li>• Ensure the local economy is positioned to recover from crises</li> </ul>	SHORT TERM <ul style="list-style-type: none"> <li>• Increased local employment, relative to nonlocal employment</li> <li>• Increased local supply-chain use, relative to non-local supply</li> </ul>

**Comment**

Local Planning Scheme No. 10 (LPS 10)

Clause 3.2.3 of LPS 10 provides a range of objectives for the Town Centre Zone, including ensuring buildings and ancillary structures are of high quality and achieve an architectural theme contributing to the uniqueness of the townscape, and that sheltered places for pedestrians are provided.

The development is minor and does not compromise objectives for the Town Centre Zone.

Walls

The applicant’s justification for the walls is based on lateral forces causing the patio structure to sway as a result of the roofing/café blinds.

The Town disagreed with this assessment and believes that the location of the welded portals would not result in the structure moving as suggested. If such movement is occurring, it would likely be from either inadequate footings or an inadequate roof frame members running perpendicular to the main frame of the structure. Whilst walls could address this issue, cross bracings could equally be used.

The above notwithstanding, given the walls are contained to the existing structure and do not obstruct pedestrian movement on the thoroughfare, the Town has no objection to the works.

Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2010 and Council Policy – Alfresco Dining and Public Trading

Under the Local Law, the Town may issue a permit to allow certain activities to occur in public streets and on Town reserves. Businesses seeking to operate an Alfresco Dining area or trade on public land are required to obtain a permit under the Activities Local Law.

The applicant has yet to obtain an Outdoor Eating Area Permit. The applicant will be advised of the need to make an application for this permit, which is a separate process to this application for development approval with the assessment of such an application guided by Council's Alfresco Dining and Public Trading Policy.

That policy states that, unless otherwise approved by the Town, alfresco dining areas, trading and portable signage must provide for a minimum 1.8m wide pedestrian clearway (running parallel to the street) and be located a minimum 1.0m from any kerb line. In areas of heavy pedestrian traffic, the Town may require a wider pedestrian thoroughfare and/or greater setback to the kerb line.

The walls are contained within the existing structure, which meets the abovementioned requirements.

### Municipal Heritage Inventory

The abutting property (77-83 Old Perth Road) is listed as Place No. 168 and has a Category 2 level of significance under the Town's Municipal Heritage Inventory. The proposed development is separate to the existing building and therefore will not impact the listed place.

### Conclusion

The development is minor and has little impact on the streetscape and the permeability of the thoroughfare. It is therefore recommended that Council approve the application to amend the existing development approval.

### **Statutory Requirements**

Regulation 17 of the Local Government (Uniform Local Provisions) Regulations 1996 requires a person who constructs anything in accordance with permission under this section is required to maintain it and have appropriate public liability insurance. Suitable conditions addressing these matters were imposed on the November 2020 approval.

### **Financial Considerations**

Nil.

### **Risk Management Implications**

Low. The risk of approving the application is low given appropriate conditions have already been imposed on the original development approval and application of relevant Local Laws can be applied to ensure the ongoing maintenance of the structure.

## **Officer Recommendation – Item 7.2**

That Council:

1. Approves the amendment to the existing application for development approval for Additions to Small Bar - Patio and Café Blinds (Patio Wall) abutting 77-83 (Lot 144) Old Perth Road, Bassendean so as to include 1.1m walls as marked on the submitted plans; and
2. Notes that all previously imposed conditions continue to apply.

**Voting requirements: Simple Majority**

<b>Item No. 7.3</b>	<b>Proposed Single House - 31 (Strata Lot 1) Ashfield Parade, Ashfield</b>
<b>Property Address (if applicable)</b>	31 (Strata Lot 1) Ashfield Parade, Ashfield
<b>Landowner/Applicant (if applicable)</b>	Landowner - Anita Petronella Busacca Applicant – Melissa Taylor
<b>Ref</b>	DABC/BDVAPP/2021-038
<b>Directorate</b>	Community Planning
<b>Authority/Discretion</b>	<input type="checkbox"/> <input checked="" type="checkbox"/>
<input type="checkbox"/> Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
<input type="checkbox"/> Executive	The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
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<input type="checkbox"/> Information	For the Council/Committee to note.
<b>Attachment No. 3</b>	Development Plans

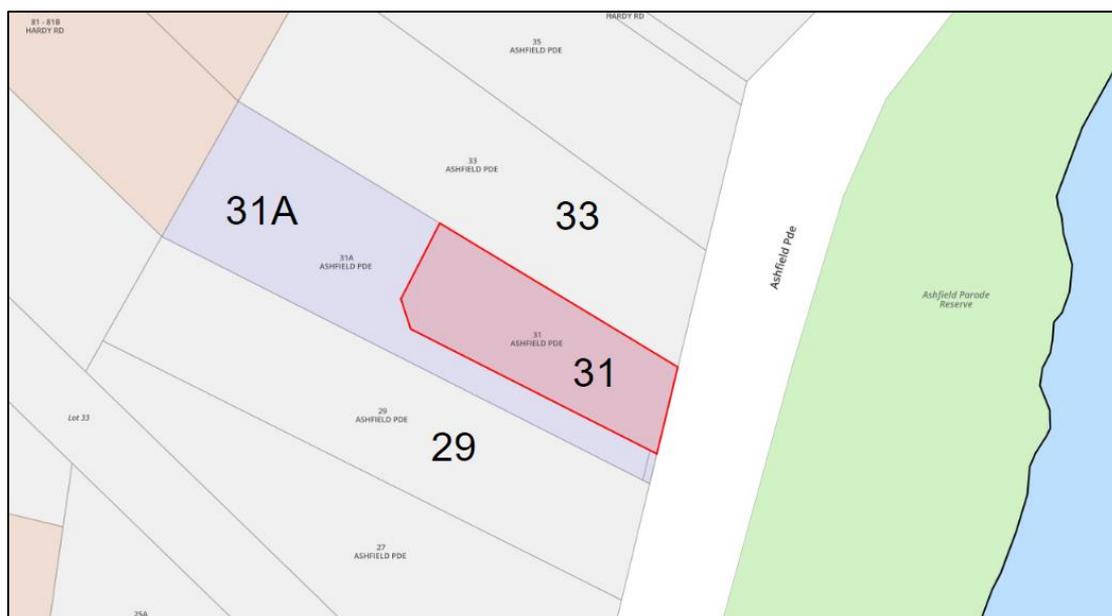
## Purpose

The purpose of this report is for Council to consider an application for a Single House at 31 (Strata Lot 1) Ashfield Parade, Ashfield. The matter is referred to Council for determination as it is outside the authority delegated to staff due to an objection being received during the consultation period.

## Background

### Site Description

The subject site is a survey strata lot zoned Residential 'R20' with an area of 496m<sup>2</sup>. Surrounding development includes single houses to the north and south, a grouped dwelling to the rear (west) and Ashfield Parade Reserve to the east. Land to the east of the subject site is reserved 'Parks and Recreation' under the Metropolitan Region Scheme and is within the Swan-Canning Development Control Area. A location plan follows.



### Application

On 4 March 2021, the Town originally received an application for a Single House on the subject site involving elements that did not meet the ‘deemed-to-comply’ requirements of State Planning Policy 7.3 – Residential Design Codes (R-Codes) relating to building height, lot boundary setbacks and open space. In addition, it did not comply with Local Planning Policy No. 13 – Tree Retention and Provision. Following initial public consultation and discussions with the Town on 11 May 2021, the applicant submitted amended plans, which forms the basis of this report.

### **Proposal**

The application involves the following:

- A two storey single dwelling with a rooftop terrace constructed of rendered brick and Colorbond roofing;
- Access via a new double crossover from Ashfield Parade; and
- Perimeter landscaping to the northern and southern boundaries, and a medium sized tree within the front setback area.

A copy of the development plans are attached.

### **Communication and Engagement**

The original development application plans were referred to owners and occupiers of affected properties for a period of 14 days (being from 10 March to 24 March 2021). At the close of the submission period, two objections were received based on:

- Bulk of the development;
- Impact on the amenity and views of significance;

- Overshadowing; and
- Inconsistent/disproportionate to existing development within the streetscape.

On 11 May 2021, the applicant submitted amended plans which involved a slightly reduced height of the proposed development and included features to address the bulk of the building. The amended plans were advertised to the two submitters for a further 14 days (being from 11 May to 25 May 2021). At the close of that second period, one objection was received; relating to the impacts on amenity from the overall building height and bulk of the development. This is further discussed in this report.

As the subject site abuts the Swan-Canning Development Control Area, the proposal was also referred to the Department of Biodiversity, Conservation and Attractions which advised that it has no objections to the proposal, subject to the applicant ensuring on-site measures are implemented to prevent sediment from entering into the storm water system and Swan River during construction. These matters can be addressed via a condition of development approval.

### Strategic Implications

#### Priority Area 1: Strengthening and Connecting our Community

Direction	Potential Strategies	What Success Looks Like
Fostering a culture of collaboration and trust between the organisation and community	<ul style="list-style-type: none"> <li>• Provide opportunity to listen and involve our community in decisions that affect them</li> </ul>	<ul style="list-style-type: none"> <li>• Greater community support for decision making</li> </ul>

### Comment

#### Local Planning Scheme No. 10 (LPS 10)

The subject site is zoned Residential R20 under LPS 10. A Single House is a “P” use within the Residential zone, meaning the use is permitted by the Scheme providing the use complies with the relevant development standards and the requirements of the Scheme.

#### State Planning Policy 7.3 – Residential Design Codes Volume 1 (R-Codes)

The R-Codes include ‘deemed-to-comply’ Criteria (prefixed by “C”) and Design Principles (prefixed by “P”). Applications not complying with the deemed-to-comply criteria can be assessed against relevant design principles.

The subject proposal complies with all relevant deemed-to-comply provisions of the R-Codes with the exception of those detailed in the table below.

R-Code and Policy Provision	Assessment/Comment
<b>5.1.3 – Lot Boundary Setback</b>	
<p>C3.2 Walls may be built up to a lot boundary behind the street setback (specified in Table 1 and in accordance with clauses 5.1.2, 5.2.1 and 5.2.2), within the following limits and subject to the overshadowing provisions of clause 5.4.2 and Figure Series 11:</p> <p>ii. in areas coded R20 and R25, walls not higher than 3.5m with an average of 3m or less, up to a maximum length of the greater of 9m or one-third the length of the balance of the lot boundary behind the front setback, to one side boundary only;</p> <p>P3.2. Buildings built up to boundaries (other than the street boundary) where this:</p> <ul style="list-style-type: none"> <li>- makes more effective use of space for enhanced privacy for the occupant/s or outdoor living areas;</li> <li>- does not compromise the design principle contained in clause 5.1.3 P3.1;</li> <li>- does not have any adverse impact on the amenity of the adjoining property;</li> <li>- ensures direct sun to major openings to habitable rooms and outdoor living areas for adjoining properties is not restricted; and</li> <li>- positively contributes to the prevailing or future development context and streetscape as outlined in the local planning framework.</li> </ul>	<p>One third of the length of the boundary behind the front setback is 10.3m.</p> <p>The proposed wall on the northern boundary has a length of 10.79m, which is 0.49m greater than the deemed-to-comply standard.</p> <p>As the proposal does not comply with the deemed-to-comply criteria, assessment against the design principles is required.</p> <p>In considering the principles, the following is relevant:</p> <ul style="list-style-type: none"> <li>• If the wall was 4.5% (0.49m) shorter, it would meet the deemed to comply requirement.</li> <li>• The boundary wall is not considered to have any adverse impacts on the amenity of the adjoining property. This is supported by the fact that the affected landowner did not object to the boundary wall.</li> <li>• The subject site has an 11.91m wide frontage, and the boundary wall is considered to provide for the effective use of space on the site;</li> <li>• The boundary wall is located on the northern boundary and therefore does not result in any non-compliance as it relates to the overshadowing of the adjacent No. 33 Ashfield Parade.</li> <li>• Whilst the development is somewhat inconsistent with the current streetscape, it is likely to be consistent with the future streetscape, given the subdivision potential of lots on Ashfield Parade; and</li> </ul> <p>Based on the above, it is considered that the proposal meets the relevant Design Principle.</p>
<b>5.1.6 – Building Height</b>	
<p>C6 Buildings which comply with Table 3 for category B area buildings, except where stated otherwise in the scheme, the relevant local planning policy, structure plan or local development plan.</p>	<p>The Codes permit an external wall up to 6.0m and an external wall (concealed roof) up to 7.0m</p> <p>The proposed dwelling has an external wall height of 6.7m and an external wall (concealed roof) height of 8.6m, which are 0.7m and 1.6m greater than the deemed-to-comply standard, respectively. Both walls are facing the southern boundary.</p>

	<p>As the proposal does not comply with the deemed-to-comply criteria, assessment against the design principles is required.</p>
<p>P6 Building height that creates no adverse impact on the amenity of adjoining properties or the streetscape, including road reserves and public open space reserves; and where appropriate maintains:</p> <ul style="list-style-type: none"> <li>- adequate access to direct sun into buildings and appurtenant open spaces;</li> <li>- adequate daylight to major openings into habitable rooms; and</li> <li>- access to views of significance.</li> </ul>	<p>In considering the principles, the following is relevant:</p> <ul style="list-style-type: none"> <li>• The amount of overshadowing is within the acceptable limits prescribed by the R-Codes.</li> <li>• Access to direct sunlight to adjoining buildings or open spaces is generally maintained with most habitable rooms of the dwelling at No. 29 being unaffected.</li> <li>• The height of the building will not obstruct views of the Swan River.</li> <li>• The applicant has designed the walls such they incorporate differing materials, colours, articulations and window treatments to help break up the building bulk of the walls;</li> <li>• The proposal meets the R-Code requirements relating to setbacks and open space, therefore not exacerbating the overall bulk of the building and/or impact on the streetscape; and</li> <li>• There is a 4m wide access leg between the subject site and No 29, which the site that accommodates effectively reduces the impact of the height by increasing the separation between the dwellings.</li> <li>• The lots on Ashfield Parade are coded such that the lots generally provide for two lot subdivision. As such, the area is underdoing transition from predominantly large lots with modest dwellings to being subdivided lots with new, larger residential development.</li> <li>• It is acknowledged that the land directly abutting the subject site to the north will shortly be subdivided, which will require the existing dwelling to be demolished and in turn, make way for two new dwellings. The proposed building height and overall bulk of the proposed development is likely to be representative of future developments along Ashfield Parade.</li> <li>• Whilst the height and bulk of the proposed development is somewhat inconsistent with existing residences to the south of the subject site, the proposal is not considered to be out of scale or proportion with newer surrounding development in the foreshore location along Ashfield Parade. The residential amenity of the area is therefore not considered to be compromised as the proposal is consistent with the emerging streetscape pattern.</li> </ul>

	<ul style="list-style-type: none"><li>• The subject proposal is considered less impactful than a building with a ridge height of 9m across the entire development, which is permitted by the deemed-to-comply provisions of the R-Codes</li></ul> <p>Based on the above, it is considered that the proposal meets the relevant Design Principle.</p>
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### Local Planning Policy No. 13 – Tree Retention and Provision

The policy requires the provision of one medium or large tree on site. The proposal complies by virtue of the provision of a medium tree within the front setback area. It will be recommended that conditions be imposed accordingly.

### Conclusion

In considering whether the proposed development maintains the amenity of the locality and whether its bulk, scale and orientation complements surrounding development, it is acknowledged that Ashfield Parade is undergoing transition, with the zoning providing for residential developments on smaller sites.

The proposed development is generally compliant with the R-Codes and where it is does not, it is considered to meet the requirements of the relevant design principles. It is therefore recommended that Council grants conditional development approval.

### **Statutory Requirements**

In accordance with Clause 68(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, Council is required to determine the application by:

- (a) granting development approval without conditions; or
- (b) granting development approval with conditions; or
- (c) refusing to grant development approval.

### **Financial Considerations**

Nil.

### **Risk Management Implications**

Low, however, should Council refuse the application, the applicant may appeal to the State Administrative Tribunal.

### **Officer Recommendation – Item 7.3**

That Council approves the application for development approval for a Single House at 31 (Strata Lot 1) Ashfield Parade, Ashfield, subject to the following conditions:

1. All building works to be carried out under this development approval, including footings, are required to be contained within the boundaries of the subject lot.
2. All stormwater being contained on site. Details of the method of storm water disposal being submitted for approval in conjunction with the application for a Building Permit.
3. Prior to the occupation of the development, a minimum of one medium tree is required to be planted on site in accordance with Local Planning Policy No. 13 – Tree Retention and Provision. The tree must be a minimum of 2m high and 100-litre pot size at the time of planting and both the tree and the tree growth zone must be retained for the life of the development.
4. A notification is to be registered on the Certificate of Title under Section 70A of the *Transfer of Land Act 1893* advising prospective purchasers that the site contains a tree(s) which is required, by a condition of development approval, to be retained to the satisfaction of the Town of Bassendean.
5. The standard finish to the wall built up to boundary must be to the satisfaction of the adjoining owner(s) or in case of a dispute, to the satisfaction of the Town of Bassendean.
6. Provision of side and rear boundary fencing (behind the building line) of 1.8 metres in height. Where the ground levels differ on either side of the fence, the required height shall be measured above the higher ground level.
7. External fixtures, including but not limited to air-conditioning units, clothes drying facilities, satellite dishes and non-standard television aerials, but excluding solar collectors, are to be located such that they are not visible from the street.
8. Prior to the occupation of the development, the landscaping and irrigation of the development site and the adjoining verges is to be installed and thereafter maintained to the satisfaction of the Town of Bassendean.
9. The existing street tree within the street verge adjacent to the development site being protected from damage with barricades during construction in accordance with Council Policy 1.8 – Street Trees.

10. The proponent shall ensure that appropriate on-site measures are implemented to prevent sediment from entering the stormwater system and river during construction, to the satisfaction of the Town of Bassendean, on the advice of the Department of Biodiversity, Conservation and Attractions.
11. The proposed crossover shall be constructed in accordance with the Town of Bassendean's crossover specifications. Separate approval is to be obtained from the Town of Bassendean's Asset Services for the proposed crossover, and the crossover being constructed in accordance with that approval.
12. Prior to the occupation of the development, the redundant vehicle crossover is to be removed and the kerbing, verge, and footpath (where relevant) reinstated with grass or landscaping to the satisfaction of the Town of Bassendean.

**Voting requirements: Simple majority**

<b>Item No. 7.4</b>	<b>Proposed Tree Preservation Order</b>
<b>Property Address</b>	47 (Lot 126) Seventh Avenue, Bassendean
<b>Landowner/Applicant</b>	Jane Marie Bremmer
<b>File Ref</b>	ENVM/NOTIF/1
<b>Directorate</b>	Community Planning
<b>Authority/Discretion</b>	<input type="checkbox"/> <input checked="" type="checkbox"/>
<input type="checkbox"/> Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
<input type="checkbox"/> Executive	The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
<input type="checkbox"/> Legislative	Includes adopting local laws, town planning schemes and policies.
<input type="checkbox"/> Review	When the Council operates as a review authority on decisions made by Officers for appeal purposes.
<input checked="" type="checkbox"/> Quasi-Judicial	When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building permits, applications for other permits/licences (eg under <i>Health Act</i> , <i>Dog Act</i> or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.
<b>Attachment No. 4</b>	TPO nomination and photograph Photographs of tree

## Purpose

The purpose of this report is for Council to consider making a Tree Preservation Order (TPO) for a Flooded Gum Tree (*Eucalyptus Rudis*) located at 47 (Lot 126) Seventh Avenue, Bassendean.

## Background

On 7 May 2021, the Town received notification from the owner of 47 (Lot 126) Seventh Avenue, Bassendean, that a tree on-site had likely been poisoned by a third party. Whilst no evidence has been provided to support this claim, a visual inspection by the Town indicated that the tree was in decay.

On 11 May, 2021 the landowner submitted a TPO nomination for the tree based on the tree's aesthetic, scientific, environmental and historical qualities, specifically:

- The tree is connected to the Swan River ecological corridor being within 200m from the Success Hill Reserve (Class A bushland and registered sacred site);
- The tree provides food and habitat for endangered Carnaby Cockatoos; and
- The tree is one of the last standing old flooded gums in the area.

## Communication and Engagement

In accordance with Clause 4.7.7.3 of Local Planning Scheme No. 10 (LPS 10), the proposal was advertised to the adjoining landowner at 49 (Lot 128) Seventh Avenue, as the tree significantly overhangs into that property. The adjacent landowner objected to the proposed TPO for a number of reasons.

These matters are discussed in this report.

## Strategic Implications

Priority Area 2: Leading Environmental Sustainability

Direction	Potential Strategies	What Success Looks Like
Support the creation of a more green and shaded Town	<ul style="list-style-type: none"> <li>• Create an urban forest throughout reserves, gardens and streets</li> <li>• Protect existing trees and green spaces</li> </ul>	<p>SHORT TERM</p> <ul style="list-style-type: none"> <li>• Fewer trees lost during development</li> </ul> <p>LONG TERM</p> <ul style="list-style-type: none"> <li>• Increased proportion of tree cover</li> <li>• Reduced heat island effect</li> </ul>

## Comment

### Local Planning Scheme No. 10

In accordance with Clause 4.7.7.2 of LPS 10, the local government may order the preservation and maintenance of a tree, having regard to a tree's:

- aesthetic quality;
- historical association;
- rarity; and
- any other characteristics which make the tree worthy of preservation.

Whilst the Town acknowledges the significant aesthetic quality the tree may have had due to its size, the declining health of the tree is also a relevant consideration.

### Overhanging Branches

The adjacent landowner objects to the proposed TPO, primarily on the basis that a TPO would restrict the ability to trim the tree without the prior consent of Council.

The tree has a breast height diameter of approximately 80cm, the tree has a height of approximately 25m and is located directly abutting the boundary fence. The tree overhangs approximately 8m into the adjacent 49 Seventh Avenue, Bassendean (which is a 20m wide lot).

In the absence of a TPO, landowners are permitted to cut/trim branches that encroach into their land without the prior approval of the adjacent property owner or the Town. The Town advises landowners seeking to cut/trim branches to take care as to not cause unnecessary damage to the health of the tree.

### Subdivision/Development Potential

The adjacent landowner is also concerned that the location of the tree would impact the ability to develop/subdivide the lot in future (the site is zoned Residential R20/40 and has subdivision potential for up to four lots).

Whilst an arborist report would be needed based on the proposed subdivision/development layout to ascertain the actual impacts subdivision or development would have on the tree, given its close proximity to the boundary, the health of the tree could be compromised by such works.

### Tree Health/Liability Matters

Whilst no arborist report has been provided in support of the application by the landowner (the Town only obtains arborists reports where the TPO is not a self-nomination), the Town has inspected the tree and determined that it is in poor health. The Town considers that the tree could recover, but currently presents as declining and could, due to large decaying/dead branches, potentially represent a risk to both sites.

As with all trees on private property (either the subject of a TPO or not), damage caused by trees is a civil matter between the neighbouring landowners.

Whilst TPOs do not prevent the pruning of trees, should Council resolve to make the TPO, the Town's approval would be required prior to pruning being undertaken. Given the poor health of the tree, the Town is concerned that restricting the ability of the adjacent landowner to immediately cut/trim overhanging branches could result in a liability risk between the parties and safety risks.

It is open to the Town to form the view that the tree is dangerous and is required to be made safe. The Town may elect to issue a notice under section 3.25 of the *Local Government Act 1995* to ensure compliance. Whilst the Town does not consider this warranted at this stage, should the health of the tree further decline, it may be required to issue a notice to ensure the safety of owners/occupiers.

### Delegation

Whilst not applicable to the subject tree, Councillors have previously requested consideration be given to an appropriate to delegation being provided to the CEO to allow TPOs to be made, where the nominations meet the criteria contained in LPS 10 and are supported by all affected parties.

Such a delegation has been included as a separate recommendation.

### Conclusion

Whilst the Town acknowledges the significant aesthetic value the tree may have due to its size, and other qualities as outlined by the landowner, the tree is in a poor state of health and could further decline, resulting in a safety risk to nearby owners/occupiers.

As such, the Town does not support a TPO being made in this instance.

### **Statutory Requirements**

In accordance with clause 4.7.7.6 of LPS 10, the local government is to record, in a Registry of Tree Preservation Orders, a list of the trees subject to orders under this section.

### **Financial Considerations**

Nil.

### **Risk Management Implications**

In the absence of a TPO, trees on private property can be removed without the need for prior approval. Should Council resolve to make a TPO, the ability to immediately trim/cut overhanging branches would be restricted, as the prior approval of the Town would be required.

### **Officer Recommendation – Item 7.4**

That Council:

1. Does not make a Tree Preservation Order for the Flooded Gum Tree (*Eucalyptus Rudis*) located at 47 (Lot 126) Seventh Avenue, Bassendean; and
2. Delegates to the CEO the ability to make Tree Preservation Orders in accordance with Clause 4.7.7.2 of Local Planning Scheme No. 10 where consent is received from the owner(s) and occupier(s) of the land on which the tree is located, which, for the purpose of this delegation, includes all lots where a tree may overhang.

### **Voting requirements:**

**Point 1 – Simple majority**

**Point 2 - Absolute majority**

<b>Item No. 7.5</b>	<b>Review of Various Parking Restrictions – Bassendean Oval</b>
<b>Property Address</b>	N/A
<b>Landowner/Applicant</b>	N/A
<b>Ref</b>	LAWE/REPRTNG/3
<b>Directorate</b>	Community Planning
<b>Authority/Discretion</b>	<input type="checkbox"/> <input checked="" type="checkbox"/>
<input type="checkbox"/> Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
<input type="checkbox"/> Executive	The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
<input checked="" type="checkbox"/> Legislative	Includes adopting local laws, town planning schemes & policies.
<input type="checkbox"/> Review	When the Council operates as a review authority on decisions made by Officers for appeal purposes.
<input type="checkbox"/> Quasi-Judicial	When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building permits, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.
<input type="checkbox"/> Information	For the Council/Committee to note.
<b>Attachment No. 5</b>	Schedule of Submissions Map of proposed restrictions Devon Road Schedule of Submissions Submission 13

## Purpose

The purpose of this report is for Council to consider modifying existing football-related parking restrictions in the vicinity of Bassendean Oval.

## Background

The Town has undertaken an audit of the district with particular focus on existing parking signage and restrictions in relation to football parking. The audit has identified that in some locations, existing parking restrictions are either no longer meeting the needs of the community or should be amended.

Information taken into account during the audit included anecdotal history from Ranger Services, site inspections and complaints, comments and requests received from the community.

The background to each of the reviewed parking restrictions are further discussed below and is supported by the attached map of proposed restrictions.

## **Proposal**

### No Parking Restrictions

Currently the following streets have the 'No Parking – 8am to 6pm, Saturday, March to August' parking restrictions signage:

- Briggs Street (east side);
- Brook Street (south side);
- Calnon Street (east side);
- Devon Road (north side);
- Lamb Street (south side - 4 Thompson Street to 11a Lamb Street);
- Lamb Street (east side - 13 to 21 Lamb Street);
- Lamb Street (west side - opposite 11 and 11a Lamb Street);
- North Road (west side - 309 Guildford Road to 26 North Road);
- Prowse Street (south side);
- Railway Parade (north side - 28 to 40 Railway Parade);
- Rosetta Street (east side);
- Thompson Road (east side); and
- West Road (east side - Old Perth Road to Devon Road).

The current restrictions only provide for parking management between 8am and 6pm on Saturdays during March to August. This does not cover other events that may be held at Bassendean Oval during other times and days.

The football season has now been extended to include games from February to September and also regular games scheduled on Sundays. These games also attract crowds that require parking management which the existing restrictions do not provide for.

Rather than just extending the current restricted times, the Town has focused on the safety, layout and capability of the road to meet current standards for street parking and is proposing to amend the restrictions by converting the nominated restrictions to 'No Stopping' yellow edge lines. The corners and intersections have not been included in the proposed marking as the *Parking Local Law 2019* provides control measures in this respect.

### North Road

In 2018, Council resolved to restrict parking, at all times, on the western side of North Road (between Guildford Road and Surrey Street) and install 'No Parking' restrictions on eastern side of North Road (between Guildford Road and 19 North Road). This was to allow for control of vehicles parking near the bend at the intersection of Brook Road.

In 2019, Council amended the *Parking Local Law 2019* to allow for the installation of 'No Stopping' yellow edge lines. As yellow edge lines are being proposed to replace the existing restrictions, it is also proposed to install 'No Stopping' yellow edge lines for this determination to ensure consistency and clarity for residents and road users in the area.

### Devon Road

As Devon Road is wide enough to allow for on-street parking, it was originally proposed that the parking restrictions on this road be removed. The parking restrictions proposed on Devon Road are further discussed in this report.

### **Communication and Engagement**

The Town conducted a survey of all affected residents and land owners between 16 March 2021 and 30 March 2021. Of the 377 surveys delivered, 33 responses were received. All received completed responses have been summarised in the below table. A Schedule of Submissions is attached.

Street Location	Existing Restriction	Proposed Restriction	Yes	No
Briggs Street (east side)	No Parking, Saturdays, March to August	No Stopping (yellow edge line)	8	3
Brook Street (south side)	No Parking, Saturdays, March to August	No Stopping (yellow edge line)	11	1
Calnon Street (east side)	No Parking, Saturdays, March to August	No Stopping (yellow edge line)	8	1
Devon Road (north side)	No Parking, Saturdays, March to August	No restriction	8	9
Lamb Street (south side - 4 Thompson St to 11a Lamb Street)	No Parking, Saturdays, March to August	No Stopping (yellow edge line)	7	2
Lamb Street (east side - 13 to 21 Lamb Street)	No Parking, Saturdays, March to August	No Stopping (yellow edge line) - including cul-de-sac and entrance/exit to cul-de-sac	7	2
Lamb Street (west side - opposite 11 and 11a Lamb Street)	No Parking, Saturdays, March to August	No Stopping (yellow edge line) - including cul-de-sac and entrance/exit to cul-de-sac	6	2
North Road (east side - 1 to 19 North Road)	No restriction	No Stopping (yellow edge line)	11	3
North Road (west side - 309 Guildford Road to 26 North Road)	No Parking, Saturdays, March to August	No Stopping (yellow edge line)	11	3
Prowse Street (south side)	No Parking, Saturdays, March to August	No Stopping (yellow edge line)	8	3
Railway Parade (north side - 28 to 40 Railway Parade)	No Parking, Saturdays, March to August	No Stopping (yellow edge line)	7	1
Rosetta Street (east side)	No Parking, Saturdays, March to August	No Stopping (yellow edge line) - including cul-de-sac and entrance/exit of cul-de-sac	9	4

Street Location	Existing Restriction	Proposed Restriction	Yes	No
Thompson Road (east side)	No Parking, Saturdays, March to August	No Stopping (yellow edge line)	7	1
West Road (east side - Old Perth Road to Devon Road)	No Parking, Saturdays, March to August	No Stopping (yellow edge line)	8	3

It should be noted that all properties were provided with the same survey and many responded by providing a response on various proposals (not just those that affected the property for which they were not identified as an owner or occupier).

The following table has been prepared to show only the responses provided from the owner or occupier on the specific street being surveyed:

Street Location	Existing Restriction	Proposed Restriction	Yes	No
Briggs Street (east side)	No Parking, Saturdays, March to August	No Stopping (yellow edge line)		2
Brook Street (south side)	No Parking, Saturdays, March to August	No Stopping (yellow edge line)	2	
Calnon Street (east side)	No Parking, Saturdays, March to August	No Stopping (yellow edge line)		
Devon Road (north side)	No Parking, Saturdays, March to August	No restriction	3	7
Lamb Street (south side - 4 Thompson St to 11a Lamb Street)	No Parking, Saturdays, March to August	No Stopping (yellow edge line)	1	2
Lamb Street (east side - 13 to 21 Lamb Street)	No Parking, Saturdays, March to August	No Stopping (yellow edge line) - including cul-de-sac and entrance/exit to cul-de-sac	1	2
Lamb Street (west side - opposite 11 and 11a Lamb Street)	No Parking, Saturdays, March to August	No Stopping (yellow edge line) - including cul-de-sac and entrance/exit to cul-de-sac		2
North Road (east side - 1 to 19 North Road)	No restriction	No Stopping (yellow edge line)	2	
North Road (west side - 309 Guildford Road to 26 North Road)	No Parking, Saturdays, March to August	No Stopping (yellow edge line)	1	
Prowse Street (south side)	No Parking, Saturdays, March to August	No Stopping (yellow edge line)	2	1
Railway Parade (north side - 28 to 40 Railway Parade)	No Parking, Saturdays, March to August	No Stopping (yellow edge line)		
Rosetta Street (east side)	No Parking, Saturdays, March to August	No Stopping (yellow edge line) - including cul-de-sac and entrance/exit of cul-de-sac	3	3
Thompson Road (east side)	No Parking, Saturdays, March to August	No Stopping (yellow edge line)		

Street Location	Existing Restriction	Proposed Restriction	Yes	No
West Road (east side - Old Perth Road to Devon Road)	No Parking, Saturdays, March to August	No Stopping (yellow edge line)	1	

As detailed above, the community consultation indicated at least some objection to the proposed removal of restrictions from Devon Road. As such, the Town subsequently undertook a further survey between 30 April and 14 May 2021, which requested residents to comment on an alternative option of replacing the existing 'Football Day Parking' restrictions with a 'No Stopping' Yellow edge line, as per the other locations identified in the previous consultation. Owners/occupiers were advised that should Council resolve to make the restriction, the proposed restriction will be in place at all times (not just Saturdays), but it will not impede residents from allowing vehicles to park on their verges where verge parking is permitted.

In response to a landowner request, an informal community meeting was held at the intersection of Devon Road and Carnegie Road on the evening of 18 May 2021, which was attended by a number of Councillors. The purpose of the meeting was for staff to answer any questions from residents on the proposals and to reiterate that there was an opportunity to lodge a formal submission on the matter.

At the conclusion of the second round of community consultation, 13 submissions were received. In general, residents were supportive of some level of parking restriction, but were opposed to a permanent yellow edge line. A schedule of submissions is attached.

#### Public Transport Authority (PTA) comment

Given that a bus service (Route 55) runs along Devon Road, comment was sought from the PTA. It advised that altering the restrictions would have no impact on the bus service.

### **Strategic Implications**

#### Priority Area 1: Strengthening and Connecting our Community

Direction	Potential Strategies	What Success Looks Like
Fostering a culture of collaboration and trust between the organisation and community	<ul style="list-style-type: none"> <li>Provide opportunity to listen and involve our community in decisions that affect them</li> </ul>	<ul style="list-style-type: none"> <li>Greater community support for decision making</li> </ul>

## **Comment**

### Yellow Edge Lines

Football games are played from February to September; on Saturdays, Sundays and occasionally on weekdays, the current seasonal football parking restrictions do not allow for the management of parking for the entire football season and the Town is unable to control parking in the currently restricted areas on non-restricted days and times, other than in accordance with general provisions of the *Parking Local Law 2019*.

Some submissions referred to extending the current seasonal restrictions to cover the season and also any future events at the oval. Whilst the restrictions could be extended to cover February to September and include both Saturdays and Sundays, it will not capture other events held at the oval outside of those times.

By removing the existing seasonal restrictions and replacing them with 'No Stopping' yellow edge lines, the streets will be able to remain clear for vehicular traffic throughout the year and the restrictions will be clearer for road users. Feedback from road users in general is that signs are often unseen, misunderstood or occasionally missing and therefore the road user is not aware of the restriction on parking in a particular location.

The advantages of using yellow edge lines to control the parking instead of signage include:

- It reduces visual clutter associated with the over-proliferation of signage;
- They require less maintenance, do not go missing or get vandalised;
- They are clearly visible to all road users;
- They are not confusing with specific days, months and times; and
- The installation of permanent restrictions to one side of the street also ensures that there will always be a clear line of sight along the road when vehicles are parked on the street.

It is open to Council to maintain the current signed restrictions or to impose different signed restrictions.

In any event, the Town will continue to take an educational approach to enforcement of the restrictions where illegal parking is occurring outside of an event at the oval. Where possible, attempts will be made to locate the driver of the vehicle to ensure an opportunity is provided to educate drivers before enforcement action is required to reduce the impact of permanent parking restrictions on affected residents.

### Devon Road

As detailed above, the community consultation originally indicated at least some objection to the proposed removal of restrictions from Devon Road. Following the

community meeting and based on further submissions, it is evident that many residents also oppose the use of 'No Stopping' yellow edge lines.

Whilst some level of parking restriction was considered appropriate, permanent yellow edge lines were considered too excessive.

It will therefore be recommended that the existing restriction medium (signage) be retained, but the operational restrictions be to restrict parking on weekends, all year. This will ensure restrictions are in place during football games and other weekend events at Bassendean Oval, but will allow parking to occur on weekdays.

### Verge Parking

It should be noted that the Town's Parking Local Law 2019 permits owners and occupiers to park on the verge or a person authorised by the occupier of those premises to stop the vehicle so that any portion of it is on the verge. To this effect, the proposed restrictions are unlikely to impact existing residents or their guests, and will instead impact football patrons or event attendees. The Town takes an educational approach to enforcement of all restrictions, and will seek to identify owners of vehicles to request compliance before enforcement action is taken.

### Conclusion

With the exception of Devon Road, it is considered that amending the seasonal restrictions to 'No Stopping' yellow edge lines on the roads impacted by on street parking is a more effective means of managing parking that is current in place. For these reasons, it is recommended that Council make the amendments to the parking restrictions for the reasons outlined in this report.

In any event, the Town will advise affected residents, by letter, of any changes to parking restrictions within the district.

### **Statutory Requirements**

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

### **Financial Considerations**

The cost of the proposal is as follows:

- Yellow edge line markings – approximately \$7,000;
- Removal of existing signage – approximately \$700; and
- Replacement of existing signage (Devon Road) – approximately \$450.

Funding has been proposed for inclusion in the 2021/22 Operational Budget.

It should be noted that the removed poles will be assessed and where appropriate will be reused throughout the Town for other locations that require sign poles.

If Council elects to maintain all existing signage but with different restrictions, it will involve an initial cost of approximately \$3,350, for new signs, in addition to on-going and regular maintenance, repair and replacement, which, at present, costs approximately \$800 a year.

### **Risk Management Implications**

If the proposed amendments are not implemented, there is a risk that parking issues will occur which may affect residents.

### **Officer Recommendation – Item 7.5**

That Council, pursuant to Clause 1.9 of the *Parking Local Law 2019*, makes the following modifications to parking restrictions:

1. Removing the existing 'No Parking – 8am to 6pm, Saturday, March to August' restrictions and replacing them with 'No Stopping' yellow edge lines at the following locations:
  - Briggs Street (east side);
  - Brook Street (south side);
  - Calnon Street (east side);
  - Lamb Street (south side - 4 Thompson Street to 11a Lamb Street);
  - Lamb Street (east side - 13 to 21 Lamb Street);
  - Lamb Street (west side - opposite 11 and 11a Lamb Street);
  - North Road (west side - 309 Guildford Road to 26 North Road);
  - Prowse Street (south side);
  - Railway Parade (north side - 28 to 40 Railway Parade);
  - Rosetta Street (east side);
  - Thompson Road (east side); and
  - West Road (east side - Old Perth Road to Devon Road).
2. Installing 'No Stopping' yellow edge lines:
  - from 1 North Road to 19 North Road, Bassendean;
  - in the cul-de-sac (including the entrance and exit of) at Lamb Street (northern end near 21 and 21b Lamb Street);
  - in the cul-de-sac (including the entrance and exit of) at Lamb Street (southern end near 11 Lamb Street); and
  - in the cul-de-sac (including the entrance and exit of) at Rosetta Street.
3. Amending the existing signed restrictions on Devon Road (north) from 'No Parking – 8am to 6pm, Saturday, March to August' to 'No Parking – Saturdays and Sundays'.

**Voting requirements: Absolute majority**

<b>Item No. 7.6</b>	<b>Disposal of 122 (Lot 110) Hamilton Street, Bassendean</b>
<b>Property Address</b>	122 (Lot 110) Hamilton Street, Bassendean
<b>Landowner/Applicant</b>	Town of Bassendean
<b>File Ref</b>	
<b>Directorate</b>	Community Planning
<b>Authority/Discretion</b>	<input type="checkbox"/> <input checked="" type="checkbox"/>
<input type="checkbox"/> Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
<input checked="" type="checkbox"/> Executive	The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
<input type="checkbox"/> Legislative	Includes adopting local laws, town planning schemes and policies.
<input type="checkbox"/> Review	When the Council operates as a review authority on decisions made by Officers for appeal purposes.
<input type="checkbox"/> Quasi-Judicial	When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building permits, applications for other permits/licences (eg under <i>Health Act</i> , <i>Dog Act</i> or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.
<b>Attachment No. 6</b>	Plan of Subdivision

## Purpose

The purpose of this report is for Council to consider disposal of 122 (Lot 110) Hamilton Street, Bassendean.

## Background

The Town owns 122 (Lot 110) Hamilton Street (1,400m<sup>2</sup>, vacant land) as well as the adjacent Lot 8111 Hamilton Street.

In 2016, the Town excised Lot 110 (No. 122) Hamilton Street from the broader parcel, so as to facilitate a then-planned land swap with a property in Hyland Street. That excision excluded an adjacent 443m<sup>2</sup> strip of Residential zoned land to the south of the subject site. This strip has therefore remained as part of Lot 8111, as follows.



The abovementioned land swap did not eventuate and in May 2021, the Town lodged a subdivision application with the Western Australian Planning Commission (WAPC) to amalgamate the adjacent Residential zoned strip into 122 (Lot 110) Hamilton Street so as to create a 1,843m<sup>2</sup> Residential zoned lot. A copy of the subdivision plan is attached.

The Town has provided a response to the WAPC recommending conditional approval of the subdivision, and is expecting the application to be approved in the near future.

### Communication and Engagement

Nil.

### Strategic Implications

#### Priority Area 4: Driving Financial Suitability

Direction	Potential Strategies	What Success Looks Like
Ensure there is sufficient, effective and sustainable use of assets	<ul style="list-style-type: none"> <li>Assess assets (including review of portfolio, landholdings and facility condition, use and capacity) to optimise and rationalise</li> <li>Ensure financial planning has a long term outlook and a focus on land asset rationalisation</li> </ul>	<p>SHORT TERM</p> <ul style="list-style-type: none"> <li>All Town-owned buildings increased in their utilisation</li> <li>Defined position and strategy of when buildings need renewal</li> </ul> <p>LONG TERM</p> <ul style="list-style-type: none"> <li>Consolidated infrastructure footprint</li> <li>Enhanced sustainability footprint</li> <li>Clear indications of whole-of-life costs</li> </ul>

### Comment

#### Zoning Information

122 (Lot 110) Hamilton Street, Bassendean is zoned Residential R25 under Local Planning Scheme No. 10 and with the inclusion of the additional 443m<sup>2</sup> strip of Residential zoned land, has subdivision potential for five lots. Any future dwellings will be required to comply with State Planning Policy 7.3 – Residential Design Codes and relevant local planning policies.

#### Conditional Subdivision Approval and Factors Affecting Land

The subject site is located within Area C of Town Planning Scheme 4A and is therefore subject to a unit development contribution at the Building Permit stage. The Town has recommended an advice note on the subdivision approval in this respect.

The land is also located within the flood fringe of the Swan River and may be affected by flooding and the finished floor levels of any future dwelling will need to consider flood risk. The lot is also in close proximity to known mosquito breeding areas (Ashfield Flats).

The Town has recommended conditions of subdivision approval requiring notifications in accordance with Section 165 of the *Planning and Development Act 2005* to be registered on the future Certificate of Title to advise prospective purchasers of these factors affecting the land. It is expected that the WAPC will impose conditions accordingly.

### Subdivision Clearance

On receipt of a subdivision approval, the landowner/applicant would typically fulfil the requirements of the conditions prior to seeking subdivision clearance, obtaining titles for the newly created lots and selling and/or developing the land.

Whilst the Town can fulfil the conditions relating to notifications on the plan, it is proposed to issue subdivision clearance without all physical works (civil works, fencing etc) being undertaken, thereby enabling the creation of the lot for sale. It is further proposed to require, as a condition of sale, the future owner to acknowledge that those works are to be undertaken as part of any future development of the site, at that owner's cost.

### Disposal Process

Under Section 3.58 of the *Local Government Act 1995*, local governments may dispose of land by public auction, public tender or by advertising its intent to dispose to a particular party.

It is recommended that Council, in the first instance, seek to dispose of the site via public tender.

With respect to the value of the proposed land, the Town will review sales data for vacant lots to help inform Council in its decision on the outcome of the tender process.

In the event that no tender is received or the submissions received in respect to the public tender do not meet the tender requirements, negotiation will be undertaken by the Town with the unsuccessful tenderers, and with other interested parties, for the purpose of securing a sale in accordance with the exemption provisions of the *Local Government (Functions and General) Regulations 1996*.

### Conclusion

122 (Lot 110) Hamilton Street, Bassendean is a vacant parcel of land currently serving no community benefit. The Town is required to maintain the land in accordance with the annual bushfire notice, which represents an ongoing cost, albeit minimal, to the community.

It is recommended that Council endorses the disposal of 122 (Lot 110) Hamilton Street, Bassendean by public tender.

### **Statutory Requirements**

Land with a value of greater than \$5,000 must be disposed in accordance with the requirements of Section 3.58 of the *Local Government Act 1995* (being by public auction or public tender).

### **Financial Considerations**

The creation of the consolidated lot will incur costs associated with the preparation of a deposited plan, clearance fees and an application for new titles.

The proceeds from the disposal of the lots will be set aside in a reserve account.

The future subdivision/development of the land in private ownership will be a source of rate revenue.

### **Risk Management Implications**

There is a reputational risk associated with the Town owning land that could otherwise be developed with numerous dwellings.

### **Officer Recommendation – Item 7.6**

That Council:

1. notes that staff will take the necessary steps to create a new 1,843m<sup>2</sup> Residential zoned lot, located at 122 Hamilton Street, Bassendean.
2. authorises the Chief Executive Officer to seek to dispose of that lot (once it is created) by public tender and notes that the matter will be presented to Council for final determination, following the tender process.

**Voting requirements: Absolute majority**

<b>Item No. 7.7</b>	<b>Review of existing Council Policy 5.5 - Disused Vehicles</b>
<b>Property Address (if applicable)</b>	N/A
<b>Landowner/Applicant (if applicable)</b>	N/A
<b>File Ref</b>	COMDEV/POLCY/1
<b>Directorate</b>	Community Planning
<b>Authority/Discretion</b>	<input type="checkbox"/> <input checked="" type="checkbox"/>
<input type="checkbox"/> Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
<input type="checkbox"/> Executive	The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
<input checked="" type="checkbox"/> Legislative	Includes adopting local laws, town planning schemes and policies.
<input type="checkbox"/> Review	When the Council operates as a review authority on decisions made by Officers for appeal purposes.
<input type="checkbox"/> Quasi-Judicial	When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building permits, applications for other permits/licences (eg under <i>Health Act, Dog Act</i> or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.
<b>Attachment No. 7</b>	Existing Council Policy 5.5 – Disused Vehicle Policy Draft amended Council Policy – Disused Materials

## Purpose

The purpose of this report is for Council to consider adopting an amended Council Policy - Disused Materials.

## Background

The existing Council Policy 5.5 (CP 5.5) was first adopted in 2002, last reviewed in 2014 and was due for further review in 2016. The Policy seeks to enhance the appearance of the Town by ensuring that disused vehicles are not stored in such a way as to detrimentally impact the amenity of the area.

## Proposal

To amend Council Policy 5.5 – Disused Vehicle for the reasons outlined in this report.

## Communication and Engagement

The draft amended policy was provided to Councillors in the CEO Bulletin of 23 May 2021. No comments or queries were received.

## Strategic Implications

### Priority Area 6: Providing Visionary Leadership and Making Great Decisions

Direction	Potential Strategies	What Success Looks Like
Ensure operational activities reflect the strategic focus of Council	<ul style="list-style-type: none"> <li>• Ensure clear communication and flow of information from decision makers to operational staff</li> <li>• Implement a framework on decision making that identifies delegated authority for different levels of decision</li> </ul>	<p>SHORT TERM</p> <ul style="list-style-type: none"> <li>• Efficient and effective Council meetings</li> <li>• Outcomes-focused decision making (not process-focused)</li> <li>• More delegated authority to CEO on appropriate items to enable Council to focus on strategy</li> </ul>

### Comment

CP 5.5 ensures that vehicles kept on premises that are unlicensed or infrequently used do not impact on the amenity of the area or on neighbouring residents by allowing the storage of such vehicles in garages or carports with a car cover, or elsewhere at the discretion of the Chief Executive Officer.

The policy has been reviewed and amendments have been made to:

- Broaden the scope to apply to materials, rather than just vehicles;
- Change the title of the policy to reflect the broader scope; and
- Remove reference to the impact on property values and replacing this with impacts on the amenity of adjoining properties, as property values are open to interpretation.

It is recommended that Council adopt the draft amended policy.

### Statutory Requirements

Section 2.7(2)(b) of the *Local Government Act 1995* provides Council with the power to determine policies.

### Financial Considerations

Nil.

### Risk Management Implications

Low. Should Council not adopt the recommendations within this report, Council may be scrutinised for failing to review policies in line with contemporary practices and standards.

**Officer Recommendation – Item 7.7**

That Council amends Council Policy – Disused Vehicle by adopting draft amended Council Policy – Disused Materials, as attached to this report.

**Voting requirements: Absolute majority**

<b>Item No. 7.8</b>	<b>Revocation of existing Council Policy 5.22 – Reserve Sponsorship Signage</b>
<b>Property Address (if applicable)</b>	N/A
<b>Landowner/Applicant (if applicable)</b>	N/A
<b>File Ref</b>	COMDEV/POLCY/1
<b>Directorate</b>	Community Planning
<b>Authority/Discretion</b>	<input type="checkbox"/> <input checked="" type="checkbox"/>
<input type="checkbox"/> Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
<input type="checkbox"/> Executive	The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
<input checked="" type="checkbox"/> Legislative	Includes adopting local laws, town planning schemes and policies.
<input type="checkbox"/> Review	When the Council operates as a review authority on decisions made by Officers for appeal purposes.
<input type="checkbox"/> Quasi-Judicial	When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building permits, applications for other permits/licences (eg under <i>Health Act</i> , <i>Dog Act</i> or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.
<b>Attachment No. 8</b>	Council Policy 5.22 – Reserve Sponsorship Signage

## Purpose

The purpose of this report is for Council to consider revoking Council Policy 5.22 - Reserve Sponsorship Signage (CP 5.22).

## Background

The existing CP 5.22 was first adopted in 2010, last reviewed in 2014 and was due for further review in 2016. The Policy seeks to monitor and control all sponsorship signage that is erected at the Towns Reserves and to support and encourage local clubs to be more sustainable through sourcing external sponsorship income.

## Proposal

To revoke Council Policy 5.22 – Reserve Sponsorship Signage for the reasons outlined in this report.

## Communication and Engagement

Nil.

## Strategic Implications

### Priority Area 6: Providing Visionary Leadership and Making Great Decisions

Direction	Potential Strategies	What Success Looks Like
Ensure operational activities reflect the strategic focus of Council	<ul style="list-style-type: none"> <li>• Ensure clear communication and flow of information from decision makers to operational staff</li> <li>• Implement a framework on decision making that identifies delegated authority for different levels of decision</li> </ul>	SHORT TERM <ul style="list-style-type: none"> <li>• Efficient and effective Council meetings</li> <li>• Outcomes-focused decision making (not process-focused)</li> <li>• More delegated authority to CEO on appropriate items to enable Council to focus on strategy</li> </ul>

### Comment

CP 5.22 contains no material provisions that would assist in the assessment in a proposal for signage on a Town reserve. It makes references to Local Planning Scheme No. 10, however, under the Town's *Property Local Law*, a permit is required to "advertise anything by any means on local government property".

In the event that a permit application was lodged, the Town would assess the proposal on its individual merits, as guided by the objectives of the Local Planning Policy relating to signage.

It is therefore recommended that Council revoke the policy.

### Statutory Requirements

Section 2.7(2)(b) of the *Local Government Act 1995* provides Council with the power to determine policies.

### Financial Considerations

Nil.

### Risk Management Implications

Low.

### Officer Recommendation – Item 7.8

That Council revokes Council Policy 5.22 – Reserve Sponsorship Signage.

**Voting requirements: Absolute majority**

<b>Item No. 7.9</b>	<b>Draft Amended Local Planning Policy No. 16 – Control of Advertisements Under Local Planning Scheme No. 10 (Final Adoption)</b>
<b>File Ref</b>	LUAP/POLCY/16
<b>Directorate</b>	Community Planning
<b>Authority/Discretion</b>	<input type="checkbox"/> <input checked="" type="checkbox"/>
<input type="checkbox"/> Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
<input type="checkbox"/> Executive	The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
<input checked="" type="checkbox"/> Legislative	Includes adopting local laws, town planning schemes and policies.
<input type="checkbox"/> Review	When the Council operates as a review authority on decisions made by Officers for appeal purposes.
<input type="checkbox"/> Quasi-Judicial	When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building permits, applications for other permits/licences (eg under <i>Health Act</i> , <i>Dog Act</i> or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.
<b>Attachment No. 9</b>	LPP No. 16 – Control of Advertisements Under the Local Planning Scheme No. 10 Draft LPP No. 16 – Advertising and Signage

## Purpose

The purpose of this report is for Council to consider adopting draft amended Local Planning Policy No. 16 – Advertising and Signage.

## Background

At its meeting on 27 April 2021, Council resolved to advertise the draft amended Local Planning Policy No. 16 – Advertising and Signage.

## Communication and Engagement

Following Council's resolution on the matter, the draft Policy was advertised for public comment on the Town's website for a period of 21 days, being from the 5 May 2021 to 26 May 2021.

At the close of the public consultation period, no submissions were received.

## Strategic Implications

Priority Area 1: Strengthening and Connecting our Community

Direction	Potential Strategies	What Success Looks Like
Fostering a culture of collaboration and trust between the organisation and community	<ul style="list-style-type: none"> <li>• Provide opportunity to listen and involve our community in decisions that affect them</li> </ul>	<ul style="list-style-type: none"> <li>• Greater community support for decision making</li> </ul>

### Comment

Adoption of the revised Local Planning Policy will result in a simplified, yet comprehensive, local planning policy that clearly sets out the Town’s standards and expectations for advertisements and signage within the Town. It is therefore recommended that Council adopts the amended policy.

### Statutory Requirements

The *Planning and Development (Local Planning Schemes) Regulations 2015* outline the procedure that the local government must follow after the consultation period which is to:

- “(a) Review the proposed policy in light of any submissions made; and
- (b) resolve to:
  - (i) proceed with the policy without modification; or
  - (ii) proceed with the policy with modification; or
  - (iii) not proceed with the policy.”

If Council proceeds with the policy, the local government is required to publish the policy on its website.

### Financial Considerations

Nil.

### Risk Management Implications

Low. Should Council not adopt the draft policy, the Town will revert back to the existing policy, the provisions of which are no longer considered appropriate acknowledging the existing policy is not considered to be in line with the current legislation and does not provide efficient or clear policy guidance.

### **Officer Recommendation – Item 7.9**

That Council:

1. Revokes Local Planning Policy No. 16 – Control of Advertisements Under the Local Planning Scheme No. 10; and
2. Pursuant to Clause 4(3) of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 (amended), adopts the draft amended Local Planning Policy No. 16 – Advertising and Signage, as contained in the attachment to this report.

**Voting requirements: Simple Majority**

<b>Item No. 7.10</b>	<b>Council Policies – Debt Recovery, Financial Hardship and Rates Exemption</b>
<b>Property Address (if applicable)</b>	Various
<b>Landowner/Applicant (if applicable)</b>	Various
<b>File Ref/ROC</b>	RAT&VAL/POLCY2 and RAT&VAL/POLCY1
<b>Previous Council Reports (if applicable)</b>	26 May 2020
<b>Directorate</b>	Corporate Services
<b>Authority/Discretion</b> <input type="checkbox"/> <input checked="" type="checkbox"/>	
<input type="checkbox"/> Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
<input checked="" type="checkbox"/> Executive	The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
<input type="checkbox"/> Legislative	Includes adopting local laws, town planning schemes and policies.
<input type="checkbox"/> Review	When the Council operates as a review authority on decisions made by Officers for appeal purposes.
<input type="checkbox"/> Quasi-Judicial	When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under <i>Health Act, Dog Act</i> or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.
<b>Attachment No. 10</b>	Policy 6.28 – Amended Recovery of Rates and Service Charges

## Purpose

The purpose of this report is for Council to review the operation and effectiveness of Council's policies for debt recovery, financial hardship and rates exemption.

## Background

At the Ordinary Council Meeting held on 26 May 2020, Council adopted the following four policies:

- Recovery of Rates and Service Charges Policy;
- Recovery of Sundry Debts Policy;
- Financial Hardship Policy; and
- Rates Exemption Policy.

The purpose of these policies was to:

- Provide equity for all property owners and community members by ensuring all accept and meet their obligations to contribute to the cost of the provision of essential community infrastructure and services;

- Provide a clear, accountable, and transparent process for the Town’s rates and service charges and sundry debt management and collection practices and ensure consistency for all debt recovery;
- Help those experiencing genuine financial hardship; and
- Establish a consistent approach for determining the granting of an exemption, concession or waiver of the requirement to pay rates.

Council set a review date of 30 June 2021 for these policies and sought a report on the implementation of these policies after 12 months of operation.

### Proposal

That Council receive this report, determine that the four policies do not currently require amendment and set a review date of 30 June 2023.

### Communication and Engagement

Town staff developed application forms and internal processes for assessing and approving applications for financial hardship. The Town included information about the Financial Hardship Policy on the back of rates notices, with links to the policy and application forms on the Town’s website.

Town staff reviewed all rates debtors and categorised debtors according to the length of time the debt had been outstanding, whether a payment arrangement had been entered into and whether the terms of any payment arrangement were suitable and being adhered to. This is discussed further below.

Town staff attempted to contact all ratepayers with an outstanding debt by phone and/or email and/or letter inviting the ratepayer to contact Rates Officers to discuss the outstanding debt. This resulted in many ratepayers paying some or all of the outstanding debt or entering into a payment arrangement to pay the debt. Nevertheless, many ratepayers did not respond, including some ratepayers who have not made any payment to the Town for two or more years.

In May 2021, the Town engaged CS Legal to provide debt collection services for the Town for the next three years. The Town has referred its more recalcitrant ratepayers to CS Legal for debt recovery.

### Strategic Implications

Priority Area 6: Providing Visionary Leadership and Making Great Decisions

Direction	Potential Strategies	What Success Looks Like
Ensure operational activities reflect the strategic focus of Council	<ul style="list-style-type: none"> <li>• Ensure clear communication and flow of information from decision makers to operational staff</li> <li>• Implement a framework on decision making that</li> </ul>	<p>SHORT TERM</p> <ul style="list-style-type: none"> <li>• Efficient and effective Council meetings</li> <li>• Outcomes-focused decision making (not process-focused)</li> </ul>

	identifies delegated authority for different levels of decision	<ul style="list-style-type: none"> <li>• More delegated authority to CEO on appropriate items to enable Council to focus on strategy</li> </ul>
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**Comment**

Recovery of Rates and Service Charges Policy

The Recovery of Rates and Service Charges Policy applies to all debts due to the Town for outstanding rates and service charges.

The Policy sets out a process for recovery of rates and service charges due to the Town that includes a number of steps to attempt to recover the debt prior to initiating legal action. Those steps include the Town issuing a Final Notice, a Notice of Intention to Claim and attempting to contact the debtor by other means.

The Policy also refers to further recovery options available under the *Local Government Act 1995* where an outstanding rates debt has remained unpaid for at least three years.

The Policy encourages the debtor to apply to enter into a payment agreement with the Town to clear the debt within twelve (12) months and refers the debtor to the Town’s Financial Hardship Policy should further support be required.

The following two amendments are proposed to the Recovery of Rates and Service Charges Policy:

- Section 1.1 (a) Interest: delete “(currently 5.5% per annum)”; and
- Section 1.1 (a) Interest: delete “(currently 10% per annum)”.

The purpose of these amendments is to specify the rate of interest under Regulations 68 and 70 of the Local Government (Financial Management) Regulations 1996, as applicable from time-to-time, without the need for amendment to the policy where the rate of interest changes.

The Town’s rates officers reviewed all rates debtors in February 2021. At that time, 239 rates debtors owed a total of \$989,289.44 to the Town. Rates officers placed these debtors into one of the following categories:

Category	Category Description	Number of Assessments	Total Rates Debt <sup>1</sup>
1	Rates outstanding for three years or more	30	\$317,815.53
2	Rates outstanding for one to two years	184	\$541,962.07
3	Ratepayers making payments that were insufficient for amount of the debt	25	\$129,511.84

Category One debtors had rates outstanding equal to at least three years of annual rates levied on the property. Those debtors had been sent at least one Rates Notice and one Final Demand Notice for each of those years. Many of these debtors had a long history of payment agreements that had not been met. Some of these debtors had not made any payment to the Town for at least three years.

The Town referred the 30 Category One rates debtors to CS Legal on 12 May 2021, with CS Legal issuing a Notice of Intention to Claim. By 31 May 2021, four debtors have entered into a payment agreement with the Town.

With only four debtors entering into a payment agreement thus far, and interest continuing to accrue on the debt, total debt for Category One debtors has reduced only marginally, by \$1,520.96.

Category Two debtors had rates outstanding equal to one or two years of annual rates levied on the property. Those debtors had been sent at least one Rates Notice and one Final Demand Notice for each year.

Rates officers contacted, or attempted to contact, each of the 184 Category Two debtors by email, telephone or letter, with considerable success. As at 31 May 2021:

- 79 debtors have paid in full;
- 32 debtors have entered into a payment agreement with the Town;
- 54 debtors have not responded, of which 10 have been referred to CS Legal for debt recovery;
- 5 debtors have been assessed under the Financial Hardship Policy as experiencing genuine financial hardship, with a further two under assessment;
- 2 are deceased estates that cannot be pursued; and

Total outstanding debt for Category Two debtors has reduced by more than 50%, from \$541,962.07 to \$267,600.18, as at 31 May 2021.

Category Three debtors had entered into one or more payment agreements with the Town and were generally making regular repayments. However, the repayments were considered insufficient to repay the outstanding debt within a reasonable period of time (three years under the Financial Hardship Policy). In some cases, the payments were insufficient to cover the interest accruing on the debt.

Rates officers contacted each of the 25 Category Three debtors by email or letter, advising that the payments were insufficient to clear the debt within a reasonable period and encouraging the debtor to contact the Town to discuss a suitable payment agreement. As at 31 May 2021:

- 4 debtors have paid in full;
- 8 debtors have entered into a payment agreement with the Town;
- 5 debtors have not responded;
- 1 debtor has been assessed under Financial Hardship Policy as experiencing genuine financial hardship, with a further application under assessment;
- 1 debtor is a deceased estate that cannot be pursued;
- 1 debtor has declared bankruptcy and cannot be pursued; and
- 4 debtors have been referred to CS Legal for debt recovery.

The total outstanding debt for Category Three debtors has reduced by almost 20%, from \$129,511.84 to \$104,198.80, as at 31 May 2021.

In total, the rates debt across the three categories has reduced by more than 30%, from \$989,289.44 to \$688,093.55.

#### Recovery of Sundry Debts Policy

This Recovery of Sundry Debts Policy applies to all debts due to the Town except debts in respect of rates and service charges.

The Town has entered into discussions with one community organisation that has a significant debt owing to the Town and this situation is being closely monitored.

#### Financial Hardship Policy

The Financial Hardship Policy applies to rates debtors and sundry debtors who are unable to pay outstanding rates, service charges or sundry debts due to financial hardship.

The policy sets out a process for a debtor to apply for financial hardship support and enter into a payment agreement with the Town that is structured to:

- clear the outstanding debt within three (3) years;
- require future rates, service charges and any other monies that may become payable to the Town to be paid on time; and
- require payments to be made by direct debit.

The policy provides for the suspension of administration fees and interest charges while the debtor adheres to the terms and conditions of the payment agreement.

The policy also sets out guidelines for when a debtor may be considered to be in default of a payment agreement and makes it clear that it is the Town's discretion whether to enter into a further payment agreement with the debtor or to initiate debt recovery proceedings.

As at 31 May 2021, the Town has received 29 applications for assistance under the Financial Hardship Policy. Town staff have assessed 24 applications and five are currently under assessment. Of the applications assessed, three applicants were asked to provide further information and undergo financial counselling, with a short-term payment agreement being entered into while that process takes place. The remaining 21 applicants have been assessed as experiencing genuine financial hardship and have entered into a payment agreement with the Town, with fees and interest suspended.

The total rates debt for the 29 properties at the time of application was \$136,275.20. As at 31 May 2021, the total rates debt for these properties has reduced by more than 25% to \$101,394.73. A total of \$2,066.14 in interest has been waived.

Rates officers are currently conducting follow up action for three debtors who may be considered to be in default of their payment agreement.

### Rates Exemption Policy

The Rates Exemption Policy applies to ratepayers who are eligible to apply for:

- Land to be considered not rateable land pursuant to section 6.26(2) of the *Local Government Act 1995* (referred to as a rates exemption); and
- A waiver or concession in relation to rates or service charges pursuant to section 6.47 of the *Local Government Act 1995*.

The policy sets out a process for ratepayers to apply for a rates exemption, including information and documentation requirements, and the Town's obligations for assessment of the application. The policy also provides for applications from not-for-profit community groups to apply for a concession or waiver of rates or services charges.

The Town received applications for a rates exemption from five different entities in respect of 22 properties within the Town. The total rates levied on those properties for 2020/21 was \$82,750.41.

All applications were assessed and all applicants were informed that the land is not considered to be non-rateable under section 6.26(2)(g) of the *Local Government Act 1995*. While the land in each case was managed by a charitable organisation, the land was not used exclusively for charitable purposes. The land was used to provide residential accommodation.

The Town received one application for a 50% rates concession from Westcare Incorporated, an Australian Disability Enterprise (not-for-profit) providing quality employment and training for West Australians with disabilities.

Council approved the rates concession at the Ordinary Council Meeting held on 24 November 2020. The rates concession was granted for the 2020/21 and 2021/22 financial years, and was for a total of \$6,758.73 in 2020/21.

## **Statutory Requirements**

*Local Government Act 1995*

*Local Government (Financial Management) Regulations 1996*

*Rates and Charges (Rebates and Deferrals) Act 1992*

The relevant provisions of the above Act and Regulations are specified within the policies.

## **Financial Considerations**

The financial considerations have been discussed throughout this report.

## **Risk Management Implications**

The policies play an important role in mitigating the Town's risk by providing a clear, accountable, and transparent process for the Town's rates and service charges and sundry debt management and collection practices and ensure consistency for all debt recovery. The policies provide a mechanism to balance the need for all property owners and community members to meet their financial obligations to the Town, with the capacity to assist those experiencing genuine financial hardship.

With referral of a number of debtors to CS Legal for recovery action occurring only recently, recovery action has to date been limited to the issuing of a Notice of Intention to Claim. Inevitably, further steps will be required in some cases. There is a risk of dissatisfaction by some debtors regarding the Town's approach, which could result in complaints and adverse social media commentary.

## **Officer Recommendation – Item 7.10**

That Council:

1. Receive this report on implementation of the following Council policies:
  - Recovery of Rates and Service Charges Policy;
  - Recovery of Sundry Debts Policy;
  - Financial Hardship Policy; and
  - Rates Exemption Policy.
2. Adopts the amended Council's Recovery of Rates and Service Charges Policy, which includes deleting "(currently 5.5% per annum)"; and "(currently 10% per annum)" in Section 1.1 (a) Interest; and
2. Set the next review date for the policies listed at (1) above to 30 June 2023.

**Voting requirements: Simple majority**

<b>Item 7.11</b>	<b>Workforce Plan (2021-2025) and Workforce Plan Minor Review</b>
<b>Property Address (if applicable)</b>	NA
<b>Landowner/Applicant (if applicable)</b>	NA
<b>Ref</b>	
<b>Directorate</b>	Office of the Chief Executive Officer
<b>Decision Type</b>	Council
<b>Confidential Attachment No. 1</b>	<ul style="list-style-type: none"> <li>• Workforce Plan (2021-2025)</li> <li>• Workforce Plan Minor Review</li> </ul>

### **Purpose**

The purpose of this report is for Council to receive the Town's Workforce Plan (2021-2025) and Workforce Plan Minor Review (Update as of May 2021).

### **Background**

The minimum requirement to meet the Integrated Planning and Reporting Framework and Guidelines requires Council endorsement of a Strategic Community Plan and a Corporate Business Plan. Other Informing Strategies (i.e. Financial, Asset Management and Workforce) inform the local government of how capable it is to deliver the services and assets required by the community.

As per the Local Government Act 1995, the Chief Executive Officer functions include managing the day to day operations of the local government and responsibility for the employment, management supervision, direction and dismissal of employees. A Workforce Plan provides a coordinated approach for the administration to address the human resourcing requirements to deliver the local government operations taking into consideration all key inputs and strategic influences.

### **Proposal**

The Workforce Plan ensures that as an organisation, we have the right people, with the right skills, to effectively deliver on the Town's Community Strategic Plan and Corporate Business Plan.

The Town's last annual Workforce Plans were completed and noted by Council in July 2020, along with a further minor review noted by Council in November 2020. The Workforce Plan Minor Review (update as of May 2021) focuses on the short-term resource requirements for key areas within the organisation and provides updates progressed since November 2020.

The Workforce Plan (2021-2025), is a four year strategy, however, will continue to be an evolving document with an annual review enabling the Town to consider a variety of information and comparative analysis.

In the past, the Town’s 4 year Workforce Plans were predominately about workforce adjustments to cater for projects and/or operational pressures. The Town’s Plans did not provide a primary focus, address transformational change to drive organisational performance and ultimately improve public value. The focus of the next four year Workforce Plan is to consider the Town’s external influences, workforce profiles and identify workforce strategies to enable us to facilitate improvement through targeted actions.

### Communication and Engagement

The Workforce Plan (2021-2025) and the Workforce Plan Minor Review (Update as of May 2021) are internal plans, which have been developed in consultation with the Town’s Executive Group. Broader consultation is not required.

### Strategic Implications

Direction	Potential Strategies	What Success Looks Like
Ensure operational activities reflect the strategic focus of Council	<ul style="list-style-type: none"> <li>• Ensure clear communication and flow of information from decision makers to operational staff</li> <li>• Implement a framework on decision making that identifies delegated authority for different levels of decision</li> </ul>	<ul style="list-style-type: none"> <li>• Efficient and effective Council meetings</li> <li>• Outcomes-focused decision making (not process-focused)</li> <li>• More delegated authority to CEO on appropriate items to enable Council to focus on strategy</li> </ul>

### Comment

The Town has determined to use the Australian Business Excellence Framework in the development of the Workforce Plan (2021-2025). The Framework provides descriptions, which have been designed specifically to provide guidance to organisations as to what they must address in order to achieve sustained improvement.

This supports how we can consider and improve our organisational performance and workforce capabilities in the following key areas:

1. Leadership;
2. Strategy & Planning;
3. Knowledge & Information;
4. People;
5. Customer & Market Focused;
6. Innovation, Quality & Improvement; and
7. Success & Sustainability.

## **Statutory Requirements**

In accordance with S5.56 (1) of the Local Government Act 1995, the minimum requirement is the development and Council endorsement of a Strategic Community Plan and a Corporate Business Plan. Other Informing Strategies (i.e. Financial, Asset Management and Workforce) inform the local government of how capable it is to deliver the services and assets required by the community.

## **Financial Considerations**

Minor workforce adjustments will be required to support the Workforce Plan (2021-2025) priorities and objectives. The workforce adjustments for 21/22 are included in the Town's salaries and wages budget previously highlighted to Council.

## **Officer Recommendation – Item 7.11**

That Council receives the Workforce Plan (2021-2025) and Workforce Plan Minor Review.

**Voting requirements: Absolute majority**

<b>Item No. 7.12</b>	<b>Behaviour Complaints Policy – Code of Conduct Council Members, Committee Members and Candidates</b>
<b>Property Address (if applicable)</b>	N/A
<b>Landowner/Applicant (if applicable)</b>	N/A
<b>File Ref/ROC</b>	
<b>Previous Council Reports (if applicable)</b>	OCM 27 April 2021 Item 12.8.
<b>Directorate</b>	Chief Executive
<b>Authority/Discretion</b> <input type="checkbox"/> <input checked="" type="checkbox"/>	
<input type="checkbox"/> Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
<input type="checkbox"/> Executive	The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
<input checked="" type="checkbox"/> Legislative	Includes adopting local laws, town planning schemes and policies.
<input type="checkbox"/> Review	When the Council operates as a review authority on decisions made by Officers for appeal purposes.
<input type="checkbox"/> Quasi-Judicial	When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under <i>Health Act, Dog Act</i> or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.
<b>Attachment No. 11</b>	<b>Behaviour Complaints Policy – Code of Conduct Council Members, Committee Members and Candidates.</b>

## Purpose

The purpose of this report is for Council to consider the adoption of the Behaviour Complaints Policy – Code of Conduct Council Members, Committee Members and Candidates.

## Background

Council at its Ordinary Meeting held on 27 April 2021 adopted the Model Code of Conduct for Council Members, Committee Members and Candidates. This replaced the previous Code of Conduct.

A number of shortcomings were identified with the Model Code, predominantly the complaints mechanism that was introduced, particularly the role of Council in deciding complaints and a lack of mechanism for managing conflicts of interest.

As a consequence, WALGA developed a template policy to address these issues.

As a result of a workshop with WALGA representatives, Councillors and Executive staff on 8 June, it was discussed that a recommendation to Council would be made to advocate to State Government for changes in light of the issues associated with the new complaints management framework. Specifically, advocacy to:

- not support the inclusion of local level complaints about alleged behavioural breaches and local governments dealing with complaints provisions in Division 3, clauses 10 and 11; and
- support an external oversight body to manage local level complaints involving council members as prefaced in the Local Government Review Panel Report, City of Perth, Inquiry Report and Select Committee into Local Government Report.

The above reinforces the WALGA State Council’s decision in December 2020 which endorsed the following advocacy position.

*The Local Government sector supports:*

1. *Establishing an Office of the Independent Assessor to replace the Standards Panel to provide an independent body to receive, investigate and assess complaints against elected members and undertake inquiries.*
2. *Remove the CEO from being involved in processing complaints*
3. *That an early intervention framework of monitoring to support local governments be provided.*

In the interim however, it is evident that all local governments are required to develop some form of framework to manage the investigation and determination of behaviour complaints against Council Members, Committee Members and Candidates.

**Proposal**

That Council adopt the draft Behaviour Complaints Policy – Code of Conduct Council Members, Committee Members and Candidates.

**Communication and Engagement**

Representatives from WALGA addressed Councillors at the Concept Workshop on 8 June 2021 to provide a briefing on the new complaints management framework

**Strategic Implications**

**Priority Area 6: Providing Visionary Leadership and Making Great Decisions**

Reinforce a culture of collaboration, trust and demarcation between Council, administration and the community	<ul style="list-style-type: none"> <li>• Build understanding and support for the vision and Strategic Community Plan</li> <li>• Demonstrate clear connections between the</li> </ul>	SHORT TERM <ul style="list-style-type: none"> <li>• Openness and transparency of decision making</li> <li>• Enhanced staff morale</li> </ul>
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	<p>Strategic Community Plan, project and business as-usual services and operations</p> <ul style="list-style-type: none"> <li>• Create an organisational culture of performance, innovation and excellence</li> <li>• Develop shared values between Council, administration and the community</li> </ul>	<ul style="list-style-type: none"> <li>• Staff have appropriate strategic direction</li> <li>• Agreement on the link between projects and Strategic Community Plan</li> <li>• General alignment regarding values</li> </ul>
<p>Foster an environment of innovation and leadership</p>	<ul style="list-style-type: none"> <li>• Foster an environment of innovation, where people are encouraged to contribute</li> <li>• Foster leadership: harness the talent of individuals</li> <li>• Recognise and reward innovation and leadership</li> </ul>	<p>SHORT TERM</p> <ul style="list-style-type: none"> <li>• Councillors and staff feel empowered to make appropriate decisions</li> <li>• Professional development for staff and councillors</li> <li>• Inductions to professional networks</li> </ul> <p>LONG TERM</p> <ul style="list-style-type: none"> <li>• Recognition of excellence by other organisations</li> </ul>

**Comment**

Under clause 15 of the Code of Conduct, the Town is able to determine the procedure to deal with complaints. A draft policy has been created to outline a procedure for dealing with complaints.

The draft policy that has been tabled with Council is based on the WALGA template. (Amendments to the template have been highlighted in the draft policy.) The policy seeks to minimise both actual and perceived bias due to conflicts of interest. WALGA has sought to minimise Council involvement in the complaint handling investigation process, to remove opportunities for conflicts to arise. This is achieved through the reliance on external parties.

The policy establishes the process from when a complaint is first received by the complaints officer, to the conclusion of a breach and any action that may be required.

The policy allows for a complaints officer to appoint a suitably qualified external assessor to deal with a complaint. This allows for an independent third party to assess the complaint and investigate the matter. This process will reduce the perception of bias and ensure procedural fairness is built into the process. The complaints assessor will progress the assessment and prepare a report to a Complaints Committee.

The policy promotes the establishment of a complaints committee of Council to consider the complaints assessor's report. The Complaints Committee, under the proposed Terms of Reference, is comprised of four (4) Council members and three (3) deputy members. The Committee shall be delegated authority from Council to make findings, dismiss complaints, and to prepare and implement plans to address the behavior of a Council Member, where a finding has been made. The condition of delegation requires that in order for the Committee to exercise its function, it is a requirement that any appointed Committee Member identified in a Complaint as either the Complainant or the Respondent, will recuse themselves from the Committee meeting.

The policy ensures transparency in the complaints process, that it is free from bias (including apprehended bias), allowing for independence of decision-making and for procedural fairness to all parties.

## **Statutory Requirements**

### ***2.7. Role of council***

- (1) *The council —*
  - (a) *governs the local government's affairs; and*
  - (b) *is responsible for the performance of the local government's functions.*
  
- (2) *Without limiting subsection (1), the council is to —*
  - (a) *oversee the allocation of the local government's finances and resources;*  
*and*
  - (b) *determine the local government's policies.*

### **5.104. Adoption of model code of conduct**

- (1) *Within 3 months after the day on which regulations prescribing the model code come into operation, a local government must prepare and adopt a code of conduct to be observed by council members, committee members and candidates that incorporates the model code.*

The *Local Government (Model Code of Conduct) Regulations 2021* Schedule 1 and the *Town of Bassendean Code of Conduct for Council Members, Committee Members and Candidates*.

### **15. Other provisions about complaints**

- (2) *The procedure for dealing with complaints may be determined by the local government to the extent that it is not provided for in this Division.*

### **Financial Considerations**

The adoption of the policy will not have any financial consideration, however, the policy does make provision for an independent assessor to be appointed to investigate an alleged breach of the Code of Conduct, and for the establishment of a Complaints Committee. Should there be an alleged breach of the Code of Conduct, there will be costs associated with the investigation of the breach.

### **Risk Management Implications**

Failure to adopt a Complaints Policy to facilitate the investigation of a breach may result in the independence of the process being questioned, and procedural fairness denied.

### **Officer Recommendation – Item 7.12**

That Council:

1. Adopts the draft Behaviour Complaints Policy – Code of Conduct Council Members, Committee Members and Candidates; and
2. Directs the CEO to write to the Minister for Local Government advising that the Town of Bassendean –
  - (a) does not support the inclusion of local level complaints about alleged behavioural breaches and local governments dealing with complaints provisions in Division 3, clauses 10 and 11; and
  - (b) supports an external oversight body to manage local level complaints involving council members as prefaced in the Local Government Review Panel Report, City of Perth, Inquiry Report and Select Committee into Local Government Report.

**Voting requirements: Simple majority**

<b>Item No. 7.13</b>	<b>Complaints Committee</b>
<b>Property Address (if applicable)</b>	N/A
<b>Landowner/Applicant (if applicable)</b>	N/A
<b>File Ref/ROC</b>	
<b>Previous Council Reports (if applicable)</b>	OCM 27 April 2021 Item 12.8.
<b>Directorate</b>	Chief Executive
<b>Authority/Discretion</b> <input type="checkbox"/> <input checked="" type="checkbox"/>	
<input type="checkbox"/> Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
<input type="checkbox"/> Executive	The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
<input checked="" type="checkbox"/> Legislative	Includes adopting local laws, town planning schemes and policies.
<input type="checkbox"/> Review	When the Council operates as a review authority on decisions made by Officers for appeal purposes.
<input type="checkbox"/> Quasi-Judicial	When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under <i>Health Act, Dog Act</i> or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.
<b>Attachment No. 12</b>	Draft Delegation of Authority to Complaints Committee

## Purpose

The purpose of this report is for Council to consider the establishment of a Complaints Committee pursuant to section 5.8 of the *Local Government Act 1995* (Act), the adoption of the Committee's terms of reference, an instrument of delegation to the Committee, and the appointment of members and deputy members to the Committee in accordance with s. 5.10 and s. 5.11A of the Act.

## Background

Council at its Ordinary Meeting held on 27 April 2021 adopted the Model Code of Conduct for Council Members, Committee Members and Candidates. This replaced the previous Code of Conduct.

A number of shortcomings were identified with the Model Code, predominantly the complaints mechanism that was introduced, particularly the role of Council in deciding complaints and a lack of mechanism for managing conflicts of interest.

As a consequence, WALGA developed a template policy to address these issues. The consideration of the policy is subject to a separate Council report, however, it is under the policy that provision is made for the establishment of a Complaints Committee. In accordance with the WALGA template, model Terms of Reference and a model delegation to the Committee were also developed.

## Proposal

That Council, pursuant to section 5.8 of the *Local Government Act 1995*, establishes the Complaints Committee, for the purpose of dealing with complaints made under Division 3 of the Town of Bassendean's Code of Conduct for Council Members, Committee Members and Candidates.

A draft Complaints Committee Terms of Reference is attached to this report. It is proposed in the Terms of Reference that the Committee has the delegated authority as follows:

1. Authority to make a finding as to whether an alleged breach, the subject of a complaint has or has not occurred, based upon evidence from which it may be concluded that it is more likely that the breach occurred than that it did not occur [MCC.cl.12(1) and (3)].

In making any finding the Committee must also determine reasons for the finding [MCC.cl.12(7)].

2. Where a finding is made that a breach has occurred, authority to:
  - a. take no further action [MCC.cl.12(4(a)); or
  - b. prepare and implement a plan to address the behaviour of the person to whom the complaint relates [MCC.cl.12(4)(b), (5) and (6)].
3. Authority to dismiss a complaint and if dismissed, the Committee must also determine reasons for the dismissal [MCC.cl.13(1) and (2)], subject to the following conditions:
  - a. The Committee will make decisions in accordance with the principles and specified requirements established in Code of Conduct Complaints Management Policy;
  - b. That part of a Committee meeting which deals with a Complaint will be held behind closed doors in accordance with s.5.23(2)(b) of the Act;
  - c. The Committee is prohibited from exercising this Delegation where a Committee Member in attendance at a Committee meeting is either the Complainant or Respondent to the Complaint subject of a Committee agenda item;
  - d. In the event of (c) above, the Committee may resolve to defer consideration to a future meeting at which the conflicted Committee Member is absent and a Deputy Committee Member is in attendance;

It is also proposed that Council appoints 4 Councillors to be Members and 3 Councillors to be Deputy Members of the Complaints Committee for the 2019/2021 Term. This will be reviewed in October 2021 following the local government election.

## Communication and Engagement

Representatives from WALGA addressed Councillors at the Concept Workshop on 8 June 2021.

## Strategic Implications

### Priority Area 6: Providing Visionary Leadership and Making Great Decisions

<p>Reinforce a culture of collaboration, trust and demarcation between Council, administration and the community</p>	<ul style="list-style-type: none"> <li>• Build understanding and support for the vision and Strategic Community Plan</li> <li>• Demonstrate clear connections between the Strategic Community Plan, project and business as-usual services and operations</li> <li>• Create an organisational culture of performance, innovation and excellence</li> <li>• Develop shared values between Council, administration and the community</li> </ul>	<p>SHORT TERM</p> <ul style="list-style-type: none"> <li>• Openness and transparency of decision making</li> <li>• Enhanced staff morale</li> <li>• Staff have appropriate strategic direction</li> <li>• Agreement on the link between projects and Strategic Community Plan</li> <li>• General alignment regarding values</li> </ul>
<p>Foster an environment of innovation and leadership</p>	<ul style="list-style-type: none"> <li>• Foster an environment of innovation, where people are encouraged to contribute</li> <li>• Foster leadership: harness the talent of individuals</li> <li>• Recognise and reward innovation and leadership</li> </ul>	<p>SHORT TERM</p> <ul style="list-style-type: none"> <li>• Councillors and staff feel empowered to make appropriate decisions</li> <li>• Professional development for staff and councillors</li> <li>• Inductions to professional networks</li> </ul> <p>LONG TERM</p> <ul style="list-style-type: none"> <li>• Recognition of excellence by other organisations</li> </ul>

## Comment

Should Council decide to establish a Complaints Committee, it is required to do so by absolute majority, under section 5.8 of the *Local Government Act 1995*. Under section 5.9 of the Act a committee may be established so that it is comprised of council members only.

The WALGA model template provides for the establishment of a Complaints Committee to be comprised of Council Members only, for the purpose of dealing with complaints made under Division 3 of the *Town of Bassendean's Code of*

*Conduct for Council Members, Committee Members and Candidates (Code of Conduct).*

Under the proposed Terms of Reference, the Complaints Committee will be comprised of four (4) Council Members, and three (3) deputy members. The Committee shall have delegated authority from Council to make findings, dismiss complaints, and to prepare and implement plans to address the behavior of a Council Member, where a finding has been made. The condition of delegation requires that in order for the Committee to exercise its function, it is a requirement that any appointed Committee Member identified in a Complaint as either the Complainant or the Respondent, will recuse themselves from the Committee meeting.

The requirement to recuse, attempts to remove bias (including apprehended bias) from the complaints process, allowing for the Committee to be as independent as possible in its determination function, and to provide procedural fairness to all parties.

## **Statutory Requirements**

### **5.8. Establishment of committees**

*A local government may establish\* committees of 3 or more persons to assist the council and to exercise the powers and discharge the duties of the local government that can be delegated to committees.*

*\* Absolute majority required.*

### **5.10. Committee members, appointment of**

(1) *A committee is to have as its members —*

- (a) persons appointed\* by the local government to be members of the committee (other than those referred to in paragraph (b)); and*
- (b) persons who are appointed to be members of the committee under subsection (4) or (5).*

*\* Absolute majority required.*

(2) *At any given time each council member is entitled to be a member of at least one committee referred to in section 5.9(2)(a) or (b) and if a council member nominates himself or herself to be a member of such a committee or committees, the local government is to include that council member in the persons appointed under subsection (1)(a) to at least one of those committees as the local government decides.*

### **5.11A. Deputy committee members**

(1) *The local government may appoint\* a person to be a deputy of a member of a committee and may terminate such an appointment\* at any time.*

*\* Absolute majority required.*

- (2) *A person who is appointed as a deputy of a member of a committee is to be —*
- (a) if the member of the committee is a council member — a council member; or*
  - (b) if the member of the committee is an employee — an employee; or*
  - (c) if the member of the committee is not a council member or an employee — a person who is not a council member or an employee; or*
  - (d) if the member of the committee is a person appointed under section 5.10(5) — a person nominated by the CEO.*
- (3) *A deputy of a member of a committee may perform the functions of the member when the member is unable to do so by reason of illness, absence or other cause.*
- (4) *A deputy of a member of a committee, while acting as a member, has all the functions of and all the protection given to a member.*

#### **5.11. Committee membership, tenure of**

- (1) *Where a person is appointed as a member of a committee under section 5.10(4) or (5), the person's membership of the committee continues until —*
- (a) the person no longer holds the office by virtue of which the person became a member, or is no longer the CEO, or the CEO's representative, as the case may be; or*
  - (b) the person resigns from membership of the committee; or*
  - (c) the committee is disbanded; or*
  - (d) the next ordinary elections day, whichever happens first.*

#### **Financial Considerations**

Nil.

#### **Risk Management Implications**

Council not establishing a complaints committee to determine an alleged breach of the Code of Conduct, may place into question the independence of the complaint handling process. Councillors who are either a complainant or a respondent in a complaint, would otherwise be able to sit and vote at Council on the determination of a complaint. This process could be perceived as biased and lacking in procedural fairness to the parties.

## Officer Recommendation – Item 7.13

That Council:

1. Pursuant to section 5.8 of the *Local Government Act 1995*, establishes the Complaints Committee, for the purpose of dealing with complaints made under Division 3 of the *Town of Bassendean's Code of Conduct for Council Members, Committee Members and Candidates*;
2. Adopts the Complaints Committee Terms of Reference as attached to this report;
3. Delegates authority to the Complaints Committee as follows:

- 3.1 Authority to make a finding as to whether an alleged breach, the subject of a complaint has or has not occurred, based upon evidence from which it may be concluded that it is more likely that the breach occurred than that it did not occur [MCC.cl.12(1) and (3)].

In making any finding the Committee must also determine reasons for the finding [MCC.cl.12(7)].

- 3.2 Where a finding is made that a breach has occurred, authority to:
  - a. take no further action [MCC.cl.12(4(a)); or
  - b. prepare and implement a plan to address the behaviour of the person to whom the complaint relates [MCC.cl.12(4)(b), (5) and (6)].
- 3.3 Authority to dismiss a complaint and if dismissed, the Committee must also determine reasons for the dismissal [MCC.cl.13(1) and (2)], subject to the following conditions:
  - a. The Committee will make decisions in accordance with the principles and specified requirements established in Code of Conduct Complaints Management Policy;
  - b. That part of a Committee meeting which deals with a Complaint will be held behind closed doors in accordance with s.5.23(2)(b) of the Act;
  - c. The Committee is prohibited from exercising this Delegation where a Committee Member in attendance at a Committee meeting is either the Complainant or Respondent to the Complaint subject of a Committee agenda item;
  - d. In the event of (c) above, the Committee may resolve to defer consideration to a future meeting at which the conflicted Committee Member is absent and a Deputy Committee Member is in attendance;

4. Appoints the following four (4) Councillors to be members of the Complaints Committee \_\_\_\_\_ for the 2019/21 Term; and
5. Appoints the following three (3) Councillors to be Deputy Members of the Complaints Committee \_\_\_\_\_ for the 2019/21.

**Voting requirements: Absolute majority**

<b>Item No. 7.14</b>	<b>Festive Season Closure Period (2021/2022)</b>
<b>Property Address (if applicable)</b>	NA
<b>Landowner/Applicant (if applicable)</b>	NA
<b>Ref</b>	GOVN/POLCY/2
<b>Decision Type</b>	Council
<b>Directorate</b>	Office of the Chief Executive Officer
<b>Authority/Discretion</b> <input type="checkbox"/> <input checked="" type="checkbox"/>	
<input type="checkbox"/> Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
<input type="checkbox"/> Executive	The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
<input checked="" type="checkbox"/> Legislative	Includes adopting local laws, town planning schemes and policies.
<input type="checkbox"/> Review	When the Council operates as a review authority on decisions made by Officers for appeal purposes.
<input type="checkbox"/> Quasi-Judicial	When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under <i>Health Act</i> , <i>Dog Act</i> or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.
<b>Attachment No. 13</b>	<b>Festive Season Office (Administration) Closure Policy</b>

### Purpose

The purpose of this report is to seek Council's agreement to close the Administration from 12noon to 5pm on Friday, 17 December 2021 (End of Year Function) and from Friday, 24 December 2021 to Friday, 7 January 2022 (Festive Season Closure Period).

### Background

Council Policy 6.12 provides that the Administration is closed during the Festive Season (Christmas to New Year).

Each year the closure period varies depending on when the public holidays (Christmas Day, Boxing Day and New Year's Day) fall within the festive season.

The proposed festive season closure for 2021/2022 includes eight and a half ordinary working days and three public holidays. Friday, 24 December 2021 and Tuesday, 4 January to Friday, 7 January 2022, fall outside the scope of the Policy.

Generally there is little or no customer interaction during this period. Emergency contacts are available during the Festive Season period, as well as Ranger Services and a skeleton staff roster in some services.

### Proposal

It is proposed the closure occurs for the Festive Season period as outlined below:

Friday, 17 December 2021 – From 12 noon (TBC)	Proposed Elected Member and Staff End of Year Function
Monday, 20 December 2021	Open
Tuesday, 21 December 2021	Open
Wednesday, 22 December 2021	Open
Thursday, 23 December 2021	Open
Friday, 24 December 2021	Christmas Eve - Closed
Monday, 27 December 2021	Christmas Day Public Holiday - Closed
Tuesday, 28 December 2021	Boxing Day Public Holiday - Closed
Wednesday, 29 December 2021	Closed
Thursday, 30 December 2021	Closed
Friday, 31 December 2021	Closed
Saturday, 1 January 2022	Closed
Sunday, 2 January 2022	Closed
Monday, 3 January 2022	New Year's Day – Closed
Tuesday, 4 January 2021	Closed
Wednesday, 5 January 2021	Closed
Thursday, 6 January 2021	Closed
Friday, 7 January 2021	Closed

The Town's services will operate the following hours during the Festive Season:

- **Youth Services** - last day Thursday, 23 December 2021, reopening on 10 January 2022;
- **Wind in the Willows** - last day (for children) 22 December 2021, reopening 5 January 2022 (first day for children);
- **Seniors & Disability Services** - last day Thursday, 23 December 2021, reopening on 3 January 2022; and
- **Library** – last day Thursday, 23 December 2021, reopening on 10 January 2022.

### Communication and Engagement

Communication will be provided to all employees advising of the Festive Season closure period.

In the lead up to the Festive Season, the Town will communicate the closure period and service opening times on social media, community newspaper and flyers displayed throughout service areas.

## Strategic Implications

### Priority Area 6: Providing Visionary Leadership and Making Great Decisions

Direction	Potential Strategies	What Success Looks Like
Ensure operational activities reflect the strategic focus of Council	<ul style="list-style-type: none"> <li>• Ensure clear communication and flow of information from decision makers to operational staff</li> <li>• Implement a framework on decision making that identifies delegated authority for different levels of decision</li> </ul>	<ul style="list-style-type: none"> <li>• Efficient and effective Council meetings</li> <li>• Outcomes-focused decision making (not process-focused)</li> <li>• More delegated authority to CEO on appropriate items to enable Council to focus on strategy</li> </ul>

### Comment

An extended closure period provides an opportunity for employees to utilise Annual Leave or other appropriate entitlements. This reduces the Leave Liability to the Town and payment of higher duties along with supporting a family friendly work environment for employees to enjoy the festive season.

### Statutory Requirements

Policy 6.12 – Festive Season Office (Administration) Closure provides the Administration Office will be closed during the Festive Season (Christmas to New Year).

Town of Bassendean employees are covered by either the 'Town of Bassendean Enterprise Agreement 2017-2020' or 'Town of Bassendean Asset Services Agreement 2020'. As per the agreement provisions, employees have an entitlement of two additional days off (conditions apply) to be taken as part of the Festive Season closure period between Christmas and New Year.

### Financial Considerations

This closure period will reduce the employee leave liability for the Town and decrease Higher Duties payments usually paid in the first week of January to back fill leave requirements.

**Officer Recommendation – Item 7.14**

That in addition to Policy 6.12 - Festive Season Office (Administration) Closure, Council:

1. Approves the closing of the Customer Services Centre, Administration Building, Library, Seniors and Disability Services Office, Wind in the Willows Child Care Centre (Bassendean and Ashfield), Youth Services and Council Depot as per the proposed Festive Season period outlined above;
2. Requests the CEO provides emergency contact details to the public for the Festive period in accordance with Policy 6.12; and
3. Requests the CEO to provide a skeleton staff during the Festive Season in accordance with Policy 6.12.

**Voting requirements: Absolute majority**

## **8.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

## **9.0 CONFIDENTIAL BUSINESS**

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

<b>Item No. 9.1</b>	<b>Variation of Contract - Town Centre Masterplan</b>
<b>Property Address (if applicable)</b>	N/A
<b>Landowner/Applicant (if applicable)</b>	N/A
<b>File Ref</b>	COMDEV/POLCY/1
<b>Directorate</b>	Community Planning
<b>Authority/Discretion</b>	<input type="checkbox"/> <input checked="" type="checkbox"/>
<input type="checkbox"/> Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
<input checked="" type="checkbox"/> Executive	The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
<input type="checkbox"/> Legislative	Includes adopting local laws, town planning schemes and policies.
<input type="checkbox"/> Review	When the Council operates as a review authority on decisions made by Officers for appeal purposes.
<input type="checkbox"/> Quasi-Judicial	When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building permits, applications for other permits/licences (eg under <i>Health Act</i> , <i>Dog Act</i> or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.
<b>Attachment</b>	Nil.

*This matter is to be considered with members of the public excluded from the Chambers under Clause 5.23 (2) (c) of the Local Government Act 1995, as the report discusses a contract which may be entered into, by the local government and which relates to a matter to be discussed at the meeting.*

## **10.0 CLOSURE**

The next Briefings Session will be held on Tuesday 20 July 2021, commencing at 6.00pm.