



TOWN OF

Bassendean

AGENDA

Briefing Session

Tuesday 15 November 2022

Notice is hereby given of the Briefing Session
to be held in the Council Chamber

Administration Building

48 Old Perth Road, Bassendean WA 6054

commencing at 6:00 pm

Meeting Information

About the Briefing Session

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 meeting is open to all members of the public, except during the consideration of matters deemed confidential in line with the Local Government Act 1995.

Recording and Live-streaming

All participation in the meeting, except for confidential business, will be audio recorded and live-streamed on the Town's website. The live stream will be archived and made available on the Town's website after the meeting.

Conduct at Briefing Sessions

The Town is committed to ensuring our Briefing Sessions are a safe work environment, free of risks to the health and wellbeing of Elected Members, Officers and our community. Any person attending is 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.

For any questions regarding the Briefing Session or any item presented in the agenda, please contact the Town of Bassendean at mail@bassendean.wa.gov.au.

Further information relating to the Briefing Session can be found here:

[council-briefing-session-policy \(bassendean.wa.gov.au\)](https://www.bassendean.wa.gov.au/council-briefing-session-policy)

Tune in to live streaming from the comfort of your own home, or if you miss it live, go to:

[Town of Bassendean Council - YouTube](https://www.youtube.com/channel/UCv8v8v8v8v8v8v8v8v8v8v8)

Council Role

Each Report presented will identify what Council's Role is in the item

Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
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.
Legislative	Includes adopting local laws, town planning schemes and policies.
Review	When the Council operates as a review authority on decisions made by Officers for appeal purposes.
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.
Information	For the Council/Committee to note.



1 Declaration Of Opening; Acknowledgment of Country; Acknowledgment of Visitors; Disclaimer	5
2 Attendances and Apologies	5
3 Declarations of Interest	5
4 Announcements	5
5 Petitions	5
6 Statements	5
7 Public Question Time	6
8 Deputations	6
9 Reports	7
9.1 Use Not Listed (Short Stay Accommodation) - Units 1 - 8, 63 Third Avenue, Bassendean.....	7
9.2 Use Not Listed (Short Stay Accommodation) - 5B Hardy Road, Bassendean	18
9.3 Evaluation of Pedestrian Zone trial	28
9.4 Parking Amendment Local Law 2023	38
9.5 Community Transport Service Review.....	42
9.6 Quarterly Report - Period ending 30 September 2022.....	54
9.7 Resolutions of Council	56
9.8 Accounts Paid 31 October 2022	60
9.9 Alternative Weed Control Strategies - Children's Playgrounds	62
10 Confidential Business	70
11 Motions of which Previous Notice has been given	70
11.1 Verge Valet Service	70
12 Closure	71

1 Declaration Of Opening; Acknowledgment of Country; Acknowledgment of Visitors; Disclaimer

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 Attendances and Apologies

3 Declarations of Interest

4 Announcements

5 Petitions

6 Statements

Public statement time will be limited to two minutes per person.

Statements at a Briefing Session must relate to an item on the agenda.

Statements can be submitted prior to the Council meeting to:
www.bassendean.wa.gov.au/forms/public-statement-time/37

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

7 Public Question Time

15 minutes will be allocated for questions by members of the public unless the Council, by resolution, decides otherwise.

Each member of the public with a question is entitled to ask up to two questions before other members of the public will be invited to ask their questions.

Members of the public shall not address the meeting on any matter not included in the agenda.

Questions can be submitted prior to the Council meeting to:

[Online Form - Public Question Time » Town of Bassendean](#)

If a person asking a question is not present at the meeting, then the Mayor can choose to deal with it at the meeting or arrange a response by email.

8 Deputations

Deputation requests can be submitted prior to the Briefing Session via the online form:

[Online Form - Request for Deputation » Town of Bassendean](#)

Further information can be found here:

[About Council Meetings » Town of Bassendean](#)

9 Reports

9.1 Use Not Listed (Short Stay Accommodation) - Units 1 - 8, 63 (Lot 1) Third Avenue, Bassendean	
Property Address	Units 1–8, 63 Third Avenue, Bassendean
Landowner/Applicant	63 Third Avenue Bassendean PTY LTD, Khaled and Lauren Baghdadi, Kirsten Van Kwawegen and Deserted Island PTY LTD
File Reference	2022-094
Department	Community Planning
Previous Reports	N/A
Authority/Discretion	<p>Quasi-Judicial</p> <p>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.</p>
Attachments	<ol style="list-style-type: none"> 1. Schedule of Submissions [9.1.1 - 20 pages] 2. Management Plan [9.1.2 - 13 pages] 3. Floor Plans [9.1.3 - 9 pages]

Purpose

The purpose of this report is for Council to consider an application for development approval for an existing Use Not Listed (Short Stay Accommodation) at Units 1 – 8, 63 Third Avenue, Bassendean.

The matter is being referred to Council for determination as it is outside the authority delegated to staff due to the nature of the application being a use that is not listed within the Zoning table under Local Planning Scheme No. 10 (LPS 10).

Background

Site History

- An amended application for eight multiple dwellings was approved in 2016, with the strata application to create the individual units approved in 2017.
- All units within the development are owned by the same landowners who have submitted the application.

- During consultation of Local Planning Policy – Short Stay Accommodation, the landowners contacted the Town to advise they had been using all units within the development as Short Stay Accommodation. The landowners were subsequently requested to seek to obtain the relevant approvals from the Town.
- On 11 August 2022, the landowners lodged one application for all eight units to be used for Short Stay Accommodation.

Site Location

The subject site is 954m² lot zoned Residential R20/R40. The site contains eight multiple dwellings that have been developed at the R40 density code. The subject premises is bound by low and medium density detached or semi-detached residential development. The site is located approximately 733m from the Success Hill Railway Station, 960m from the Bassendean Railway Station and 800m from the Bassendean Town Centre (south of Guildford Road).

A location plan follows:



Proposal

The applicant is seeking approval for all eight multiple dwellings to be used as Short Stay Accommodation. The applicant has submitted a comprehensive management plan in support of the proposal, with details of the proposal as follows:

- A maximum of four adult guests or a family of four members per unit at any one time (maximum of 32 guests across all units at any one time).
- No parties, gatherings or events are permitted.

- House rules state that no excessive noise is permitted between 10:00pm and 7:00am Monday to Saturday, and 10:00pm to 9:00am on Sundays and public holidays.
- Check in is from 3:00pm to 8:30pm; check out is from 8:00am to 11:00am.
- Three Managers have been listed in the management plan. The Manager(s) is responsible for complaints management.
- A register of complaints will be kept and available to the Town's staff upon request.
- Adjoining properties will be provided with a copy of the code of conduct, the complaints management procedure and contact details of the Manager(s).
- Guest parking will be contained within the premises. No verge parking is permitted.
- No visitors other than guests booked to stay at the premises are permitted without approval from the Manager(s).
- A minimum of five nights stay is required, with a maximum stay of 90 days.
- 'Minut' monitors are located within each property which monitor noise, temperature, number of persons at the premises, motion, and humidity. These devices will be utilised for compliance matters.
- An on-site register of occupants will be maintained.
- Maintenance of the property will be managed by the landowner(s).
- Should noise complaints be received by the Manager(s) from nearby landowners, a private security company can be utilised to address concerns.

Communication and Engagement

The application was advertised for public comment between 1 September 2022 and 30 September 2022, in the following manner:

- A sign was erected on the subject site;
- Letters were sent to all owners and occupiers within a 200m radius of the proposed development (a second letter was sent to provide clarification that the application pertained to all eight units); and
- A copy of the application was available for review on the Town's website and at the Town's Customer Service Centre.

At the close of the submission period, 12 submissions were received; nine objecting to the proposal and three which provided comment. A schedule of submissions is attached, with the content of the submissions further discussed below.

Strategic Implications

Priority Area 4: Driving Financial Suitability

4.3 Support the local economy

Priority Area 6: Providing Visionary Leadership and Making Great Decisions

6.4 Reinforce a culture of collaboration, trust and demarcation between Council, administration, and the community

Comment

Local Planning Scheme No. 10

The subject site is zoned Residential R25/30 under LPS 10. Short Stay Accommodation is a use that is not listed within the Zoning Table under LPS 10.

Clause 3.4.2 of LPS 10 states:

“If a person proposes to carry out on land any use that is not specifically mentioned in the Zoning Table and cannot be determined as falling within the type, class or genus of activity of any other use category the local government may:

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

The objectives of the Residential Zone, as defined by LPS10 are:

- “(a) To maintain lifelong or long-time residents as an integral component of the Bassendean community;*
- (b) To continue and increase the attraction for young families to reside and raise their families in the Bassendean community;*
- (c) To recognise the role of Bassendean as a middle metropolitan area that is well placed to contribute meaningfully to sustainable urban development for the Perth Region, and therefore facilitate the planned gradual increase in population growth in a manner that provides net environmental, social and economic benefit;*
- (d) To make provision for housing types that respond to the demands of an ageing population and declining occupancy rates;*
- (e) To limit non-residential activities to those of which the predominant function is to service the local residential neighborhood and for self-employment or creative activities, provided such activities have no detrimental effect on the residential amenity;*

- (f) *To ensure that the density of development takes cognizance of the availability of reticulated sewerage, the effluent disposal characteristics of the land and other environmental factors; and*
- (g) *To ensure that subdivision and development comply with the Local Planning Strategy and the principles of any Local Planning Policy adopted by the Council.”*

As the proposed use is a quasi-commercial land use that, if not appropriately managed, may result in adverse impacts on the residential amenity of the immediate area. If the site is appropriately managed it was determined that it “may” be consistent with the objectives of the zone.

Local Planning Policy – Short Stay Accommodation

On 25 October 2022, Council resolved to adopt draft Local Planning Policy – Short Stay Accommodation. It should be noted that the Policy was a draft at the time of lodgment of this application and during the consultation period. Draft Policies can still be given weight even though they are not operative, based on:

- The degree to which the draft addresses the specific application.
- The degree to which the draft is based on sound town planning principles.
- The degree to which its ultimate approval could be regarded as “certain”.
- The degree to which its ultimate approval could be regarded as “imminent”.

In any event, as the Policy has since been adopted, Council is required to consider the proposal against the requirements of the Policy as this application is yet to be determined. Assessment of the application against the Policy is set out below.

Assessment Criteria	Proposal
The site is located within a 400m walk from a centre or railway station and/or a 200m walk from a recognised high frequency bus route.	Not compliant. The site is located 733m from the nearest railway station and 800m from the Bassendean Town Centre.
The site has direct access to a constructed road that has two exit routes (i.e., excluding situations where the sole access to the premises is provided from a cul-de-sac, right of way or battle-axe access leg).	Not compliant. The site is located at the end of Third Avenue, which is a cul-de-sac head. Whilst the site adjoins Walter Road East, there is no vehicle access to the site from Walter Road East.
Short stay accommodation in strata and community title developments will only be supported where: (i) the strata company or community corporation has consented to the application; and (ii) the short stay accommodation can operate without reliance on shared facilities.	Partially compliant. Whilst all landowners have consented to the application, the nature of a multiple dwelling development is such that it relies on shared facilities (i.e., gated entry, communal bin store and visitor car parking bays).

The site is not identified as being at risk of natural hazards or alternatively, the relevant risk has been identified and appropriate mitigation measures proposed.	Compliant – there are no identified hazards impacting the site.
The operation of the proposed use shall minimise adverse issues, particularly amenity impacts on surrounding residential and other land uses.	Whilst no formal complaints have been made to date, submitters have advised that the use of the premises for Short Stay Accommodation has adversely impacted the amenity of the locality.
All car parking associated must be wholly contained on the same site as the short stay accommodation. Strata and community title developments must not rely on the use of visitor car parking bays.	Not compliant. There is a shortfall of three car parking bays on site to service the proposed development as further discussed in this report.
The site shall be provided with adequate standard of services and infrastructure necessary to support the use.	Compliant.

As demonstrated above, the proposal does not comply with all requirements of the Policy. The premises is not within close proximity to a railway station or Bassendean Town Centre, vehicle access to the site is via a cul-de-sac, and there is a car parking shortfall. Concerns were also raised by submitters with respect to the ability to manage potential adverse amenity impacts on the surrounding locality.

The Policy states that in approving an application for development approval, the Town may impose a condition that involves a time limitation for up to 12 months. In that instance, the applicant may lodge a subsequent application to extend to the term of the approval and in determining such an application, the Town would have regard to the performance of the accommodation over the period. If the Town is not satisfied of the previous performance, the application may not be supported. Such an approach is recommended in this case as further detailed below.

Local Planning Policy No. 8 – Car Parking and End of Trip Facilities

LPS 10 does not prescribe minimum car parking spaces for Short Stay Accommodation, nor does it contain any similar comparable use that may be applicable.

Local Planning Policy No.8 – Car Parking and End-of-Trip Facilities (LPP 8) is used to guide decision making on applications which include variations to the minimum car parking standards required in LPS 10 and includes a car parking standard for every land use listed in draft LPS 11. Under that draft Scheme, the subject proposal would be considered a Holiday Home.

For a Holiday Home, LPP 8 requires the provision of two car parking bays; therefore 16 bays are required. There are 13 bays (including two visitor bays) on site, resulting in a three-bay shortfall.

In addition to the local planning framework, the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) requires Council to have due regard to the adequacy of car parking arrangements. In considering the matter, the following is relevant:

- The original multiple dwelling application was assessed against a former version of State Planning Policy 7.3 – Residential Design Codes. If assessed against the current requirements, only one car parking bay per dwelling and 2 visitors bays would be required (10 bays) given the site's proximity to the Success Hill Railway Station. The 13 bays provided on site are surplus to what would otherwise be required if the premises were used as multiple dwellings.
- The management plan details that guests are not to park on the verge outside the property, and compliance with the Town's *Parking Local Law 2019* is otherwise required for on-street parking.
- Whilst the Town acknowledges the submitters' concerns regarding car parking the proposed maximum number of guests (32) and associated car parking (2 bays per guest) is not beyond what would be appropriate for a residential dwelling.

Based on the above, the car parking arrangements are considered adequate subject to compliance with the management plan.

Amenity Considerations

Clause 67(n) of the Regulations requires the local government to have regard to amenity considerations (including environmental, character and social impacts) as well as the compatibility of the proposal with its setting. These matters were raised in numerous submissions.

In considering these issues, the following is relevant:

- The area is characterised by low to medium density residential development, which is typically quiet and suburban in nature. The area is proposed to be 'down-coded' to the base code of R20 under draft Local Planning Scheme No.11, resulting in a continuation of the prevailing low density development.
- It is a reasonable expectation that visitors and short-term occupants are likely to use the premises and outdoor living area (including balconies) at a greater frequency and for extended periods of time than long term residents. This may result in unacceptable levels of noise and/or higher intensity of land use that would be expected when dwellings are being used on a permanent basis by owners or tenants.
- During the consultation period, submitters raised concerns with respect to noise, amenity impacts associated with the land use activity, and the inability to appropriately manage the activity to prevent or reasonably deal with these impacts.

- The management plan includes several means to address noise and potential impacts on residential amenity, including:
 - Prohibiting parties, events, gathering, functions or similar activities;
 - Prohibiting 'offensive' noise, and stating that such noise may result in immediate termination, eviction, loss of security deposit and bonds;
 - Prohibiting visitors or guests other than those booked to stay at the premises;
 - Guests being required to report complaints from neighbours to the Manager(s), as well as the Manager(s) details being made available to adjacent properties to raise any concerns; and
 - The use of 'Minut' monitoring devices to monitor real time noise from the premises.

Based on the above, it is considered that the risk of amenity impacts to surrounding landowner is low, where the management plan is followed correctly. The assurance that the property will not be utilised for events and/or large gatherings would result in the dwelling not being used beyond what could be reasonably expected within a low-density residential area. The Town suggests that the performance of the accommodation is monitored for a set period of time to evaluate the effectiveness of the management plan.

It should be noted that the management plan is required to be amended to remove reference to a swimming pool, as no pool exists on site. Matters relating to keypads and keys are also recommended for inclusion, as well as waste management as detailed below.

Waste Management

Clause 67(u)(iii) of the Regulations requires the local government to have regard to the availability and adequacy for the development in relation to collection of waste. This matter was also raised in numerous submissions.

The management plan details procedures for waste management, which includes utilising the Town's waste services and ensuring the Manger monitors bin placement and removal of bins from the verge following collection.

The property is currently on the former two bin system, and will be transitioning to FOGO in the next few weeks.

It is also open to the Town to undertake enforcement action in accordance with the *Waste Local Law 2019* should bins overflow or cause offensive odours.

The Town is therefore satisfied that if the management plan is adhered to, the means for waste management is appropriate. It is noted that the management plan is required to be updated to reflect the transition to the three-bin system.

Site History

Clause 67(w) of the Regulations provides that the history of the site can be considered. Whilst submitters advised that some adverse amenity impacts had been experienced due to guests staying within the complex (one of which involved a police incident), no formal complaints to the Town have been made to date.

A review of the occupants of the premises through the online booking platform details that over 100 guests have previously stayed at the premises. Given the lack of formal complaints to date, the management of the development has generally limited any adverse impacts on the amenity of the locality.

Draft Local Planning Strategy

The draft Local Planning Strategy was endorsed by Council at its September 2022 Ordinary Meeting, and is currently awaiting final determination by the Western Australian Planning Commission. The draft is a seriously entertained planning proposal and considered a relevant document as part of the assessment of this application. It is identified (through section 4.3.3 Tourism), that the Town contains multiple attributes of tourism value and recognises the opportunity to consider increasing tourist accommodation within the Town, including short term accommodation. Tourism is also identified as a planning opportunity within the Town by including new short term accommodation land uses within the local planning scheme.

Conclusion

Whilst the land use, if not managed appropriately, has the potential to result in adverse impacts to nearby residents, the Town acknowledges that a detailed management plan has been proposed to mitigate these. As such, a temporary approval is recommended to enable the Town to monitor the performance of the accommodation over that period.

Statutory Requirements

In accordance with Clause 68(2) of the Regulations, 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.

If Council resolves to refuse the application, the Town will take action to ensure that the use ceases operation.

Financial Considerations

Financial Risk - Low

Risk Management Implications

Low. Should Council refuse the application, the applicant may seek to appeal to the State Administrative Tribunal.

Declaration of Conflicts of Interest

All officers involved in the preparation of this report have considered and determined that they do not have a conflict of interest in the matter.

Officer Recommendation – Item 9.1

That Council approves the application for development approval of an existing Use Not Listed (Short Stay Accommodation) at Units 1 – 8, 63 Third Avenue, Bassendean, subject to the following conditions:

1. The approval is valid for a period of 12 months only from the date of the approval. The applicant will be required lodge a subsequent application to extend to the term of the approval and in determining such an application, the Town would have regard to the performance of the accommodation over the previous period. If the Town is not satisfied of the previous performance, the application may not be supported;
2. The use must be undertaken in accordance with the submitted management plan (as amended by this approval) at all times to the satisfaction of the Town;
3. The contact details of the owner/manager must be prominently displayed at the front of the property as viewed from the street to the satisfaction of the Town;
4. A register of all persons occupying the short stay accommodation is required to be kept and shall be open to inspection on demand by the Town;
5. No more than four persons are permitted to be at each unit between the hours of 10:00pm and 7:00am;
6. A revised management plan shall be submitted, to the satisfaction of the Town within 60 days of the date of the approval addressing following:
 - (i) Removes reference to the swimming pool given there is no pool on the property;

- (ii) Prescribes the minimum stay as five days (refer to error in brackets on page 5 of the management plan);
- (iii) Include details in respect to proposed access to the property (keypads and keys); and
- (iv) Updating the 'Garbage and Recycling' section to refer to the three-bin FOGO system.

Voting requirements: Simple Majority

9.2 Use Not Listed (Short Stay Accommodation) - 5B (Lot 35) Hardy Road, Bassendean	
Property Address	5B (Lot 35) Hardy Road, Bassendean
Landowner/Applicant	Semra Lee Smith and Roderick Smith
File Reference	2022-100
Department	Community Planning
Previous Reports	N/A
Authority/Discretion	<p>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.</p>
Attachments	<ol style="list-style-type: none"> 1. Schedule of Submissions [9.2.1 - 13 pages] 2. Management Plan and Code of Conduct [9.2.2 - 2 pages]

Purpose

The purpose of this report is for Council to consider an application for development approval for an existing Use Not Listed (Short Stay Accommodation) at 5B (Lot 35) Hardy Road, Bassendean.

The matter is being referred to Council for determination as it is outside the authority delegated to staff due to the nature of the application being a use that is not listed within the Zoning Table under Local Planning Scheme No. 10 (LPS10).

Background

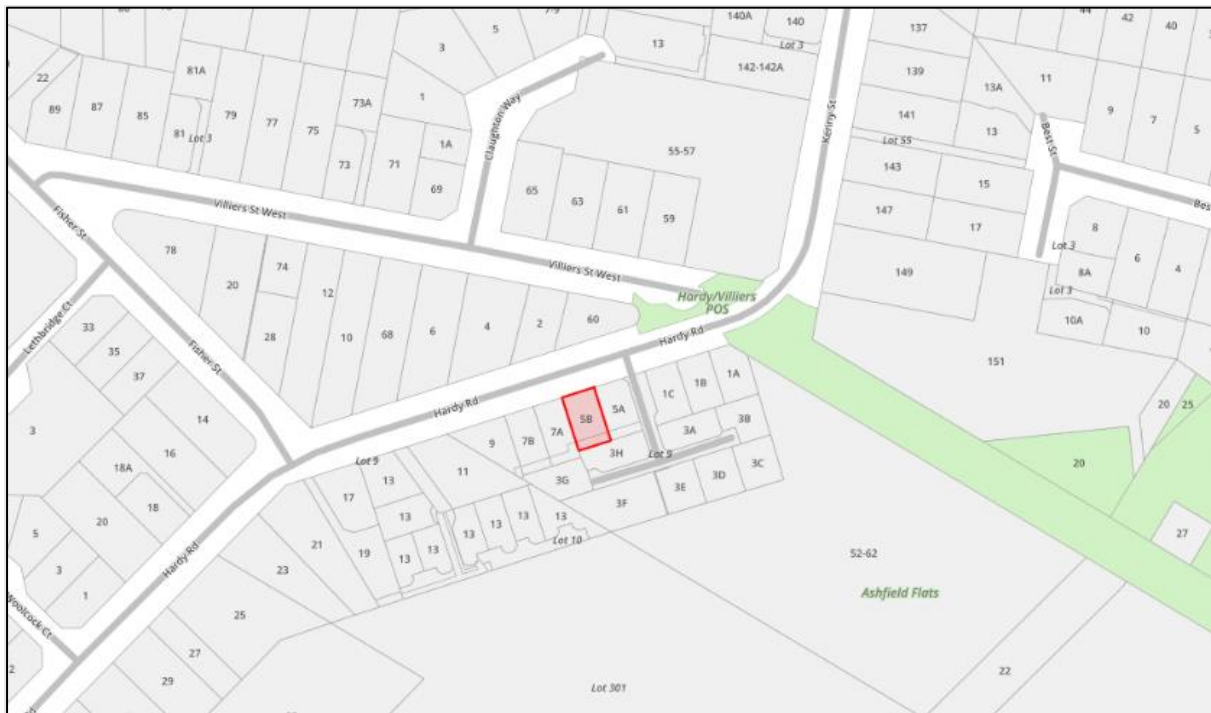
Site History

- On 8 August 2022 the Town received a complaint in relation to an alleged Short Stay Accommodation being operated from the subject premises. The complaint indicated that the land use activity was creating a disturbance to the amenity of the locality.
- The Town subsequently undertook an investigation and determined that the land use was occurring without the relevant approvals. The Town wrote to the landowner requesting they cease operating until such time relevant approvals are obtained, or should no application be forthcoming, cease operating entirely.
- On 22 August 2022, the landowner lodged an application for the use of the site as Short Stay Accommodation.

Site Location

The subject site is a 350m² lot zoned Residential R25/R30 under LPS 10 which contains a two-story single dwelling. The subject site is surrounded by low density detached or semi-detached residential development. It is located approximately 900m from the Ashfield Railway Station, approximately 825m from the Ashfield Centre (at the intersections of Colstoun and Guildford Roads) and approximately 1.3km from the Bassendean Town Centre.

A location plan follows:



Proposal

The applicant is seeking approval for the dwelling to be used as Short Stay Accommodation. Details of the proposal are as follows:

- A maximum of eight guests are permitted at the property at any one time.
- No parties or events are permitted.
- House rules state that no excessive noise is permitted outside between 11:00pm and 9:00am.
- Check in time is from 2:00pm.
- The application indicates that the landowner will be responsible for handling of complaints.
- A register of complaints will be kept and made available to the Town upon request.

- The landowners contact details will be provided to adjoining and nearby owners/occupiers.
- No visitors other than guests who are booked to stay at the premises are permitted without prior approval from the landowner.
- CCTV is available to assist the landowner in managing the premises.

Communication and Engagement

The application was advertised for public comment between 16 September 2022 and 14 October in the following manner:

- A sign was erected on the subject site;
- Letters were sent to all owners and occupiers within a 200m radius of the proposed development; and
- A copy of the application was available for review on the Town's website and the Town's Customer Service Centre.

At the close of the submission period, seven submissions were received; three objecting to the proposal, one in support/ comment of the proposal and three providing comments. A schedule of the submissions is attached, with the content of the submissions further discussed below.

Strategic Implications

Priority Area 4: Driving Financial Suitability

4.3 Support the local economy

Priority Area 6: Providing Visionary Leadership and Making Great Decisions

6.4 Reinforce a culture of collaboration, trust and demarcation between Council, administration and the community

Comment

Local Planning Scheme No. 10

The subject site is zoned Residential R25/30 under LPS 10. Short Stay Accommodation is a use that is not listed within the Zoning Table under LPS 10.

Clause 3.4.2 of LPS 10 states:

"If a person proposes to carry out on land any use that is not specifically mentioned in the Zoning Table and cannot be determined as falling within the type, class or genus of activity of any other use category the local government may:

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

The objectives of the Residential Zone, as defined by LPS 10 are:

- “(a) *To maintain lifelong or long-time residents as an integral component of the Bassendean community;*
- (b) *To continue and increase the attraction for young families to reside and raise their families in the Bassendean community;*
- (c) *To recognise the role of Bassendean as a middle metropolitan area that is well placed to contribute meaningfully to sustainable urban development for the Perth Region, and therefore facilitate the planned gradual increase in population growth in a manner that provides net environmental, social and economic benefit;*
- (d) *To make provision for housing types that respond to the demands of an ageing population and declining occupancy rates;*
- (e) *To limit non-residential activities to those of which the predominant function is to service the local residential neighbourhood and for self-employment or creative activities, provided such activities have no detrimental effect on the residential amenity;*
- (f) *To ensure that the density of development takes cognizance of the availability of reticulated sewerage, the effluent disposal characteristics of the land and other environmental factors; and*
- (g) *To ensure that subdivision and development comply with the Local Planning Strategy and the principles of any Local Planning Policy adopted by the Council.”*

As the proposed use is a quasi-commercial land use that, if the activity is not appropriately managed, it may result in adverse impacts on the residential amenity of the immediate area. If the site is appropriately managed it was determined that it “may” be consistent with the objectives of the zone.

Local Planning Policy – Short Stay Accommodation

On 25 October 2022, Council resolved to adopt draft Local Planning Policy – Short Stay Accommodation. It should be noted that the Policy was a draft at the time of lodgement of this application and during the consultation period. Draft Policies can still be given weight even though they are not operative, based on:

- The degree to which the draft addresses the specific application.
- The degree to which the draft is based on sound town planning principles.
- The degree to which its ultimate approval could be regarded as “certain”.
- The degree to which its ultimate approval could be regarded as “imminent”.

In any event, as the Policy has since been adopted, Council is required to consider the proposal against the requirements of the Policy as this application is yet to be determined. Assessment of the application against the Policy is set out below.

Assessment Criteria	Proposal
The site is located within a 400m walk from a centre or railway station and/or a 200m walk from a recognised high frequency bus route.	Not compliant. The site is located 900m from the nearest railway station, 825m from the existing Ashfield Centre and 1.3km from the Bassendean Town Centre. The site is 183m from the nearest bus stop on Kenny Street, however, this is not a high frequency bus route.
The site has direct access to a constructed road that has two exit routes (i.e. excluding situations where the sole access to the premises is provided from a cul-de-sac, right of way or battle-axe access leg);	Compliant. The lot has access to Hardy Road which has two exit routes.
Short stay accommodation in strata and community title developments will only be supported where: (i) the strata company or community corporation has consented to the application; and (ii) the short stay accommodation can operate without reliance on shared facilities.	Compliant. The site is a freehold lot.
The site is not identified as being at risk of natural hazards or alternatively, the relevant risk has been identified and appropriate mitigation measures proposed.	The subject site is within a designated bushfire prone area due to its proximity to Ashfield Flats. This is further discussed later in this report.
The operation of the proposed use shall minimise adverse issues, particularly amenity impacts on surrounding residential and other land uses.	The proposal was submitted as a result of compliance action undertaken by the Town in response to concerns regarding the amenity impacts associated with the use. Notwithstanding, the applicant has submitted a management plan in support of the application which details future management of the use. This is further discussed in this report.

<p>All car parking associated must be wholly contained on the same site as the short stay accommodation. Strata and community title developments must not rely on the use of visitor car parking bays.</p>	<p>Whilst there is sufficient car parking on site as detailed in the assessment below, the management plan provided indicates parking being available for guests 'on a side street to the east of the property'. This land is not a side street, but rather, is within the adjoining strata complex. This aspect of the proposal is not able to be contemplated as the adjacent site does not form part of this application. Further, given that the Policy requires all car parking to be contained on site, should the application be approved, it is recommended that the management plan be required to be updated to remove reference to this parking being available.</p>
<p>The site shall be provided with adequate standard of services and infrastructure necessary to support the use.</p>	<p>Compliant.</p>

As demonstrated above, the proposal does not comply with all requirements of the Policy. The subject premises is not in close proximity to a centre, railway station or recognised high frequency bus route, and is located in a low-density residential area.

Concerns were also raised by submitters with respect to the ability to manage potential adverse amenity impacts on the surrounding locality. In this respect, the applicant has advised that stricter management procedures are proposed, and that the use of the premises for Short Stay Accommodation had only recently occurred.

Local Planning Policy No. 8 – Car Parking and End of Trip Facilities

A minimum car parking requirement of two bays for a Holiday Home land use is contained within LPP 8, (which is a comparable land use) and can be used for the purposes of this assessment. The site has a double garage and space for two vehicles to park in the driveway. The proposal is therefore compliant with the car parking requirements of LPP 8.

Whilst the Town acknowledges the submitters' concerns regarding car parking and management of the Short Stay Accommodation to date, the proposed number of guests and associated car parking is not beyond what would be appropriate for a residential dwelling.

Amenity considerations and compatibility with surrounding area

Clause 67(n) of the *Planning and Development (Local Planning Schemes) Regulations 2015* requires the local government to have regard to amenity considerations (including environmental, character and social impacts) as well as the compatibility of the proposal with its setting. These matters were raised in submissions.

In considering these issues, the following is relevant:

- The area is characterised by low density residential development, which is typically quiet and suburban in nature. The use of the site for Short Stay Accommodation is a quasi-commercial use that is best suited to areas closer to public transport and centres.
- It is a reasonable expectation that visitors and short-term occupants are likely to use the premises, outdoor living area and pool at a greater frequency and for extended periods of time than long term residents. This may result in unacceptable levels of noise and/or higher intensity of land use that would be expected when dwellings are being used on a permanent basis by owners or tenants.
- Despite parties and events being prohibited in the management plan, no minimum night stay period is proposed, which may increase the likelihood that such instances will occur.
- During the advertisement period, submitters raised concerns with respect to noise, and amenity impacts associated with the land use activity, and the inability to appropriately manage the activity to prevent or reasonable deal with these impacts.
- Despite the management plan provided, there is limited ability for issues to be identified (i.e., via monitoring equipment other than CCTV for guest entry and departure) or acted upon before impacting surrounding properties. The management plan otherwise relies on complaints from neighbouring property owners to the landowner, with no third-party services available to address matters (e.g., contract security services) should the landowner be unavailable.

Based on the above, it is considered that the risk of amenity impacts to surrounding landowners is high, regardless of measures in place to respond to complaints. The development is not considered to not be compatible with the surrounding locality, may result in amenity impacts beyond what could be reasonable expected within a low-density residential area.

State Planning Policy 3.7 – Planning in Bushfire Prone Areas (SPP 3.7) and associated Guidelines

In accordance with SPP 3.7, tourism land uses (including ‘Holiday House’ consistent with the Short Stay Accommodation proposal) are considered vulnerable land uses given they involve visitors who are unfamiliar with the surroundings and/or where they present evacuation challenges.

The acceptable solutions within the Guidelines recognise that:

- the maximum number of persons are restricted to that of a residential dwelling; and
- residential built-out areas do not generally present the same evacuation challenges to those developments outside of residential built-out areas.

The proposal is wholly compliant with Element 5 – Vulnerable Tourism Land Uses of the Guidelines for developments within a residential built-out area.

For applications within a residential built-out area, the Guidelines require a simplified emergency evacuation plan (EEP) be provided. The on-going implementation of the EEP should be a condition of development approval. In addition, an information brochure and a site map should be prepared for any visitors, that provides advice on what to do in the event of a bushfire, identifies the subject property, the access routes and suitable destinations.

Should Council approve the application, it is recommended that a condition be imposed requiring the submission of an EEP and associated information in accordance with the requirements of the Guidelines.

Conclusion

Whilst it is acknowledged that much of the assessment of the proposal is somewhat speculative (and would be the function of how the use is managed day to day by the applicant), it has the potential to result in an accumulation of adverse amenity impacts at a scale likely to be detrimental to nearby residents.

Ultimately, the proposed location is considered unsuitable for the purposes of Short Stay Accommodation activities. It is therefore recommended that the application is refused.

If Council is not inclined to refuse the application, it is open to it to effectively grant a trial (time limited) approval in which the Town can monitor the management of the accommodation and impacts on the surrounding landowners. A temporary, 12-month approval would allow the Town to gauge the performance of the accommodation over that period, after which, it could determine the ongoing use of the property (if a subsequent application were to be submitted). It is recommended that such a determination be accompanied by the following conditions:

1. The approval is valid for a period of 12 months only from the date of the approval. The applicant will be required lodge a subsequent application to extend to the term of the approval and in determining such an application, the Town would have regard to the performance of the accommodation over the previous period. If the Town is not satisfied of the previous performance, the application may not be supported.
2. The use must be undertaken in accordance with the submitted management plan (as amended by this approval) at all times to the satisfaction of the Town.
3. The contact details of the owner/manager must be prominently displayed at the front of the property as viewed from the street to the satisfaction of the Town.

4. A register of all persons occupying the short stay accommodation is required to be kept and shall be open to inspection on demand by the Town.
5. No more than four persons are permitted to be at each unit between the hours of 10:00pm and 7:00am.
6. A revised management plan shall be submitted, to the satisfaction of the Town within 60 days of the date of the approval addressing following:
 - (i) installation of real-time noise monitoring device(s);
 - (ii) logging of noise performance against the *Environmental Protection (Noise) Regulations 1997*;
 - (iii) reporting of all noise breaches to Town in an agreed format; and
 - (iv) removal of reference to parking on 'the side street to the east of the property'. All car parking is to be wholly contained on site.
7. Prior to commencement of the Short Stay Accommodation, a simplified emergency evacuation plan (EEP) in accordance with the Department of Planning, Lands and Heritage's *Simple Development Application BMP Template* shall be submitted to the Town and thereafter implemented for the duration of the use.

The EEP is to be supported by an information brochure and a site map providing advice on what to do in the event of a bushfire and identifies the subject property, the access routes and suitable destinations.

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.

If Council resolves to refuse the application, the Town will take action to ensure that the use ceases to continue.

Financial Considerations

Nil.

Risk Management Implications

Financial Risk

Low

Should Council refuse the application, the applicant may seek to appeal to the State Administrative Tribunal.

Declaration of Conflicts of Interest

All officers involved in the preparation of this report have considered and determined that they do not have a conflict of interest in the matter.

Officer Recommendation – Item 9.2

That Council refuses the application for development approval of a Use Not Listed (Short Stay Accommodation) at 5B (Lot 35) Hardy Road, Bassendean for the following reasons:

1. The proposal does not comply with the location criteria contained in Local Planning Policy – Short Stay Accommodation and a variation is not supported as the proposed use is likely to result in an accumulation of adverse impacts at a scale that may detrimentally affect the amenity of the local area in a manner that would not reasonably be expected in an existing low-density, residential context; and
2. The applicant has failed to demonstrate how the use would be managed to ensure that there would not be an accumulation of adverse impacts at a scale that may detrimentally affect the amenity of the local area.

Voting requirements: Simple Majority

9.3 Evaluation of Pedestrian Zone trial	
Property Address	Old Perth Road, Bassendean
Landowner/Applicant	Various
File Reference	TBA
Department	Community Planning
Previous Reports	23 November 2021
Authority/Discretion	Executive The substantial direction setting and oversight role of the Council.
Attachments	<ol style="list-style-type: none"> 1. P 2 P Feedback and Survey Results - post activation [9.3.1 - 5 pages] 2. P 2 P Survey Results - during activation [9.3.2 - 4 pages] 3. P 2 P Survey Results - businesses [9.3.3 - 3 pages]

Purpose

The purpose of this report is for Council to consider the evaluation of the recent trial 'pedestrian only zone' (POZ) at the western end of Old Perth Road, Bassendean and to determine the future of the zone.

Background

In mid-2020, the Town in conjunction with Creating Communities Australia, as part of the preparation of a draft masterplan for the time centre, hosted a series of focus groups and interviews with community members who have a stake in the town centre (such as property owners, businesses, community groups, those who registered to be involved in previous engagement from the BassenDream of Future project, local residents, State Government and potential investors). These engagements helped to inform the development of some draft masterplan concepts, which included the POZ.

While overall there was a high level of support during the consultation period for the Masterplan for the proposed POZ on the east side of Old Perth Road, between Guildford Road and Wilson Street, as a means to activate this area of the town centre, some community members raised concerns that by prioritising pedestrians and creating an alfresco area that will replace some car bays this might impact businesses and the town centre. It was also noted by some community members that this area of Old Perth Road had been closed previously without success.

The recommendation from the engagement was therefore to trial the POZ using temporary measures to close the area and permit alfresco dining, street activation and other uses.

In August 2021, the Town lodged an application for funding (\$80,000) to support and test the concept of a POZ as demonstrated in the draft Town Centre Masterplan. That application was successful and the funds were available so long as they were matched by a \$20,000 contribution from the Town.

In November 2021, Council resolved to allocate the necessary funds. At that same meeting, Council also resolved to formally adopt the Town Centre Masterplan

Whilst there was a significant amount of planning associated with the project, the actual trial took place from 24 September until 9 October 2022. This period aligned with the September school holidays and involved a series of events and activations to help draw people to the precinct.

Communication and Engagement

The trial POZ was heavily promoted by the Town in the lead up to the activation period.

To enable the trial to be properly evaluated, the Town undertook the following public consultation:

- Conducted face-to-face surveys of people attending the Power to the People precinct over the two-week activation period;
- Provided an online survey from 20 to 31 October 2022, for those that did not complete the above face-to-face survey.
- Surveyed businesses on Old Perth Road and the operators of the Bassendean Markets following the trial period.

Consultation Feedback

A total of 596 responses were received either during the activation, from surveys with businesses, via the online survey following the activation and submitted directly to the Town's Customer Services Centre. Details of the feedback is provided below.

Activation Attendee Feedback

During the trial period, surveys of people attending the event were conducted. The following summarises the 460 attendee responses to whether the POZ should be made permanent, with a full summary of the submissions attached to this report.

Should the POZ be made permanent?			
Attendees	Yes (same as trial)	Yes (with changes)	No
Total	241	146	73
Total (%)	84%		16%

- For those that responded no, the key reasons included:
 - Lack of parking;
 - Traffic impacts; and
 - Impacts to businesses.

Community Survey Feedback

Following the trial period, an online survey was held between 20 October 2022 and 31 October 2022. The following table represents the 113 responses of the survey, including three comments received in person at the Town’s Customer Service Centre.

Should the POZ be made permanent?			
Online Survey	Yes (same as trial)	Yes (with changes)	No
Total	33	33	47
Total (%)	58.5%		41.5%

Business Feedback

Following the trial period, 23 businesses (14 on the POZ side and 9 on the adjacent side of Old Perth Road) were interviewed. The following summarises the business responses to whether the POZ should be made permanent, with a full summary of the submissions attached to this report.

Should the POZ be made permanent?			
Location	Yes (same as trial)	Yes (with changes)	No
Business on POZ	1	5	8
Business opposite POZ	0	4	5
Total	1	9	13
Total (%)	43%		57%

- For those that responded no, the key reasons included:
 - Lack of ongoing activation of the space;
 - Lack of shade/ heat of artificial turf;
 - Lack of parking; and
 - Current business typologies do not support activation of the street.

Overall Community and Business Feedback

The following table represents overall results from the activation attendee, community survey and business feedback:

Should the POZ be made permanent?			
	Yes (same as trial)	Yes (with changes)	No
	275	188	133
Total	46.14%	31.54%	22.31%

Bassendean Markets

In addition to the above community and business feedback, the Town sought comments from the operators of the Bassendean Markets.

At its 27 April 2021 Ordinary Meeting, Council resolved to appoint Chaos Theory Events to stage markets within the Town of Bassendean from 1 July 2021 to 30 June 2023. Whilst the resolution did not specify the location of the markets, the Deed of Agreement provided for day markets to be held on Old Perth Road from May to September on the last Sunday morning of the month during that period.

Chaos Theory Events did not commit to either closure or retention of the road, however, noted the above issues and the ability to facilitate the markets in a reduced area. Concern was raised that the markets would no longer be financially viable if required to trade in a reduced area.

Strategic Implications

Priority Area 1: Strengthening and Connecting our Community

1.4 Creating an environment where people feel welcome and safe

Priority Area 3: Creating a Vibrant Town and Precincts

3.1 Support the town centre to thrive

Priority Area 6: Providing Visionary Leadership and Making Great Decisions

6.2 Ensure major decision making is informed by community feedback

Comment

Purpose

The project sought to:

- Create a safe and healthy street that is “pedestrian only” for the purpose of the pilot as a means of changing behaviours and attitudes by putting people before cars.
- Beautify and redesign the main street of the Bassendean town centre (between Wilson Street and Guildford Road, along Old Perth Road) to demonstrate how it could be reimagined through a pilot activation with the benefit of enduring upgrades.
- Enhance the attractiveness and functionality of the public realm building on Bassendean’s unique characteristics through activating the high street to create a vibrant town centre.
- Support the local economy and increase visitors by enhancing access and activating the high street.
- Engage, inspire and help empower residents and the business community to get involved in shaping and driving change in their local area through co-design and demonstrating the benefits of reimagining and revitalising the high street.

Evaluation

In considering the evaluation, Council is asked to determine whether or not it wants (i) the road to remain closed (by way of the existing trial infrastructure or by some other method) or (ii) for the closure infrastructure to be removed and the road re-opened to traffic.

In considering the options, the following is relevant:

Traffic and Infrastructure

- The subject portion of road (the east-bound lane between Guildford Road and Wilson Street) carries relatively little traffic. Traffic counts undertaken prior to the closure trial demonstrated that, on average, that section of road carries 277 vehicles per day, with the vast majority of movements (258) occurring between 7am and 7pm. As such, over that 12-hour period, the road carries an average of only 21.5 vehicles per hour, or approximately one vehicle every three minutes.
- The bulk of the closure infrastructure (concrete soakwells) is already in place. Should Council resolve to remove these items (in-house works crew staff costs and storage/ disposal), the estimated cost is \$14,000).

- Should Council resolve to retain the closure, at a minimum, permanent signage and kerbing the lower asphalt section at the Guildford Road, Parker Street and Wilson Street intersections would be required, in addition to modifications to the timing of the traffic signals at Guildford Road (to be undertaken by Main Roads WA). The estimated costs of undertaking these works (including traffic management, designs and works) is \$123,000.
- Should Council seek to retain the closure and redesign the road to a higher specification (e.g. flush kerbing, pavement treatments, plantings etc.), the cost of design, community consultation and construction is approximately \$1.48 million.

Community Feedback

In considering the matter, Council is to have regard to the outcomes of the public consultation on the matter, which is broadly summarised as follows:

- Responses received during the activation were more supportive of the POZ remaining than those received following the event.
- Whilst the community was still supportive of the POZ following the activation, it was evident in detailed responses that there was a desire for ongoing activation of the space.
- The community generally appreciated a space for community engagement and activation, however, recommended higher quality infrastructure and furniture (i.e., not pallet or 'pop-up' style furniture), as well as more shade.
- The type of adjacent businesses was also noted throughout the feedback, with numerous requests for more 'active' land uses such as restaurants and use of vacant tenancies. This is a matter beyond the direct control of the Town and/or Council.
- Concern was raised with respect to loss of trade for businesses in the POZ on the basis of a lack of parking.
- Businesses in or adjacent the POZ slightly favoured removing the POZ, although there was support for its retention if it was activated.

Future Activation

In respect to future activation of the space, which was consistently raised through feedback, the following table outlines the costs of events that occurred during the activation as an indication of potential costs should Council seek to retain the space for future similar activities.

It should be noted that the table does not account for activations featured multiple times, nor accounts for the total cost of the P2P activation (which was largely grant funded).

Activation	Cost
EMRC Waste Education Stall	Free
TOB Waste & Sustainability and Environment Stall	Free
Balance beam set up	\$290
Chalkboard set up	\$26.94
Bubbleology	\$510.00
Aboriginal Art Workshop	\$1,425.00
Circus Workshop	\$1,297.50
2 x musicians	\$1,020.00
Overall Staging of Bassendean Markets	\$5,981.84
Photo Challenge Launch	Free
Official Launch of Power to the People Project (Welcome to Country)	\$650.00
Super Sonic Science Experiments	\$1,635.00
All Abilities Strongman demonstration	Free
Skate/Scooter Workshops	\$1,800.00
Zumba	\$100.00
Seniors Art	\$300.00
Jungle Sports	\$409.09
Modern Cloth Nappy Workshop with Nabilla Antipas	Free
BikeDr Pop-up Servicing	\$636.36
Kids Craft/STEM	\$404.93
Pimp Your Ride bike decorating	\$17.90
Teddy Bear's Picnic	\$20.00
Remida Community Playspace	\$490.91
Free Icecream	\$750.00
Recycled Plant Pot Workshop (Kids)	Free
Barnyard Buddies Petting Zoo	\$900.00
Fibrant Creative Workshop	\$500.00
Remida Jewellery Making Workshop	\$491.00
Enviro House Compost Stall & Eco Shop	Free
Slot Car Racing	\$450.00
EMRC Recycled Fashion Tour	\$125.90
Lego League	Free
African Drumming Workshop	\$350.00
Free-flow Puppet Making Workshop	\$1,060.00
Fauna Nestbox Workshop	\$1,257.60
Ask Dave Kelly Q&A Session	Free

Rock Painting	\$160.96
Eco Faeries Energizer Zone	\$480.00
Citizenship Ceremony	\$735.91
Meet the Councillors	\$400.00
Wadumbah Indigenous Dancers	\$1,500.00
Pazaz Kids Dance Workshops & performance	\$800.00
Sunny & Clare's Sustainability Show	\$400.00
Seniors Morning Tea	\$400.00
Cupcake Decorating - Kids/ Adults	\$910.00
Face-Painting	\$681.34
Gardening With Microbes Workshop	Free
Men's Shed Workshop	\$500.00
Gardening for Wellbeing	\$600.00
Close Up Critters	\$1,500.00
Community BBQ	\$230.30
Western Power Presentation	Free
Cleaning With Chemistry WS - SYT	Free
Giant Paint Pouring	\$2,000.00
Patti Pig - It's Not All Rubbish Show	\$400.00
Samba Drumming Workshop	\$350.00
Step into Volunteering	Free
Box World	\$2,000.00
Wildlife Friendly Gardens	\$600.00
Birds of Prey	\$1,500.00
Sri Lankan Dance	\$500.00
Lindsay Miles - Sustainable Habits	\$750.00
Long Table Dinner	\$4,405.63
Speed Portrait Photo Session with Matt Biocich Photography	\$1,205.00
Local History Dreamtime Story Artefacts presentation	\$600.00
Swan Valley Voices Choir Performance	\$400.00
Community Connect	\$175.22
Scitech Science Wonderland x 2 shows	\$1,900.00

One adjacent business owner (Curry Virundhu) has made enquiries with the Town to utilise the space for expanded alfresco dining and future events. Whilst the use of the space for ad-hoc events by adjacent businesses is supported (in the event that Council decides to retain the POZ), providing one business exclusive use of the space via an alfresco dining permit is not recommended as this would restrict use of the space for other potential activations.

Conclusion

Based on the above, it is recommended that Council consider the feedback received from the community and businesses and resolve to (1) retain the POZ in its current form or (2) retain the POZ and consider future activations through the Arts, Culture and Events Committee or (3) remove the infrastructure and re-open the road as a vehicular thoroughfare.

Statutory Requirements

In accordance with Section 3.50 of the *Local Government Act 1995*, the local government may close any thoroughfare that it manages to the passage of vehicles, wholly or partially, for a period not exceeding 4 weeks without approval.

Should Council resolve to close this portion of road permanently, a request to the Minister for Lands in accordance with section 58(2) of the *Land Administration Act 1997* is required. Prior to the request being made, public notification of the proposed closure would be required.

Financial Considerations

As detailed above, maintaining the closure on a permanent basis to a minimum standard would incur additional costs of approximately \$123,000 excluding activation events.

If Council resolves to discontinue the closure, there will be transport and logistical costs associated with removing the existing closure infrastructure. These costs are estimated to be approximately \$14,000, although those costs would be partially offset by being able to use the infrastructure for other purposes.

Risk Management Implications

The financial risk varies based on whether Council removes, retains or upgrades the POZ.

Given the Town Centre Masterplan recommended a trial period of the POZ in lieu of permanent closure, there would be little reputational damage should Council resolve to re-open the road as a result of feedback.

Declaration of Conflicts of Interest

All officers involved in the preparation of this report have considered and determined that they do not have a conflict of interest in the matter.

Officer Recommendation – Item 9.3

That Council advises of its decision in relation to the recent trial ‘pedestrian only zone’ at the western end of Old Perth Road, Bassendean (*this section is required to be reworded at the Ordinary Meeting of Council*).

Voting requirements: Simple Majority

9.4 Parking Amendment Local Law 2023	
File Reference	LAWE/LOCLWS/2
Department	Community Planning
Previous Reports	N/A
Authority/Discretion	Legislative Includes adopting local laws, town planning schemes & policies.
Attachments	<ol style="list-style-type: none"> 1. Draft Parking Amendment Local Law 2023 [9.4.1 - 2 pages] 2. Parking Local Law 2019 track change amendments [9.4.2 - 31 pages]

Purpose

The purpose of this report is for Council to consider amending the *Parking Local Law 2019*.

Background

Section 3.16 of the *Local Government Act 1995* requires that all adopted local laws be reviewed within a period of 8 years to determine whether it considers that it should be repealed or amended. As such, the Local Law does not require review until 2027.

That notwithstanding, on 27 September 2022, Council resolved to authorise a request being made to the Minister for Lands to revoke the management order that applies to the Wilson Street Carpark (Reserve 37441 - Lot 9644 Park Lane, Bassendean), and cancel the reserve. Within the Local Law 'Schedule 3 – Deemed Parking Stations', the Wilson Street Carpark is listed as Parking Station Number 1. With the above resolution, the Local Law will need to be amended to remove the car park from the schedule. It will also be proposed to make other minor amendments, as discussed in the report.

Communication and Engagement

Strategic Implications

Priority Area 1: Strengthening and Connecting our Community

1.1 Fostering a culture of collaboration and trust between the organisation and community

Priority Area 6: Providing Visionary Leadership and Making Great Decisions

- 6.1 Make brave decisions in line with a risk appetite
- 6.2 Ensure major decision making is informed by community feedback

Comment

Schedule 3 – Deemed Parking Stations

The revocation of the management order for the Wilson Street Carpark has resulted in the requirement to remove the car park from Schedule 3 of the Local Law as it will no longer be a 'Deemed Parking Station' managed by the Town. As such, the Local Law cannot be applied to the location and any parking of vehicles must be managed by the landowner.

Clause 1.4 – Interpretation

It is proposed to provide additional definitions, specifically, for 'electric vehicles' and the 'head of a cul-de-sac', as follows:

- Electric vehicle

Including a definition for 'electric vehicle' means the community and Town staff can have a standard for what is permissible under the Local Law for this class of vehicle.

- Head of a cul-de-sac

Community feedback has suggested that road users may not be aware of what constitutes the 'head of a cul-de-sac'. Inclusion of a definition will increase the understanding of parking restrictions and avoid confusion.

By providing definitions of these terms in the Local Law, education and enforcement of the relevant clauses is clear and can be applied consistently throughout the district.

Clause 1.7 – Class of vehicles

When the electric charging vehicle station was installed on James Street, the Local Law was already being advertised and an amendment to include references to this type of vehicle was not included at the time. Whilst the situation of non-electric powered vehicles parking in the charging station does not occur often, including this amendment will ensure there is a provision in future should further stations be installed, or issues arise.

Clause 7.6 – Vehicles not to obstruct a public place

It has been identified that clause 7.6, which relates to the towing of vehicles that have been identified as abandoned, needs clarification to better reflect the circumstances in which a vehicle may be determined to be an obstruction and be towed from Town owned or managed land.

The Town has been using clause 7.6(2) of the Local Law to tow/impound a vehicle where it had been left for a period exceeding 24 hours, however, clarification is considered necessary in respect to vehicles otherwise parked on a verge that are not obstructing an accessway.

When the Local Law was first drafted in 2018, officers had included further clarification in this clause in regard to the above, however, the advice from the Department of Local Government at the time recommended the clause be simplified to reflect only the power to impound under the Act (s. 3.37 to s. 3.48).

It has been noted that since that time, other Local Laws have included comparable phrasing to the initial drafting, and as such, an updated version of the referencing has been included in the Amendment Local Law.

It should be noted that under Regulation 29 of the *Local Government (Functions and General) Regulations 1996*, a Local Government may set out contraventions that may lead to impounding under section 3.37 of the Act. This clause has been drafted with this regulation in mind.

Statutory Requirements

Purpose and Effect

In accordance with section 3.12(2) the purpose and effect of the proposed *Parking Amendment Local Law 2023* is as follows:

- The purpose of the proposed local law is to amend the existing *Parking Local Law 2019* to insert new definitions and classes of vehicles, amend schedule 3 and clarify the impoundment clause.
- The effect of the proposed local law is to amend and clarify the *Parking Local Law 2019* to ensure the continued management of parking within the district.

Process

The process for making a local law is governed by section 3.12 of the *Local Government Act 1995*.

Due to the limited number and nature of the proposed changes, it is appropriate to create an Amendment Local Law than repealing and replacing the existing local law. The making of an amendment local law follows the same procedure to make Local Laws in accordance with section 3.12(7) of the Act.

The Amendment Local Law will be required to be advertised for a minimum of 42 days, including providing a copy of the proposed Amendment Local Law to the Minister for Local Government. Given the upcoming Christmas closure period, the Town considers that advertising should be extended until February 2023.

The Town intends to undertake advertising and consultation in the following manner:

- Providing notice on the Town's website;
- Publishing a notice in the West Australian newspaper; and
- Ensuring a copy of the proposed Amendment Local Law is publicly available for inspection at the Customer Services Centre and Library.

Following conclusion of the advertising period, Council will be required to consider any submissions prior to resolving whether to make the Amendment Local Law.

Financial Considerations

The costs of advertising the amendment local law can be met by the 2022/23 budget. The costs of advertising are likely to be approximately \$750, with additional costs for gazettal and final advertising of the Amendment Local Law.

Risk Management Implications

Financial Risk
Low

Failure to undertake the requested amendments will result in the inability to effectively manage parking in some circumstances.

Declaration of Conflicts of Interest

All officers involved in the preparation of this report have considered and determined that they do not have a conflict of interest in the matter.

Officer Recommendation – Item 9.4

That Council advertises the draft *Parking Amendment Local Law 2023* attached to this report, in accordance with section 3.12 of the *Local Government Act 1995*.

Voting requirements: Simple Majority

9.5 Community Transport Service Review	
Property Address	N/A
Landowner/Applicant	N/A
File Reference	COMS/REPRTNG/3
Department	Community Planning
Previous Reports	N/A
Authority/Discretion	Executive The substantial direction setting and oversight role of the Council.
Attachments	Nil

Purpose

The purpose of this report is for Council to consider the future of the Community Transport Service.

Background

The Community Transport Service has been operating since 1984 and was originally formed as a courtesy service to seniors with limited transport to medical appointments and shopping. Currently users should be mobile, living independently and with capacity to make decisions of their own needs, and are required to get in and out of the vehicle without assistance and attend their appointments unaided.

The service offers transport to residents using two seven-seater vehicles staffed by a team of volunteer drivers and administration personnel.

The service is currently used by 95 Town residents who contribute a donation of their choice (per trip), with the same clients using the service regularly. Of the six volunteer drivers and five receptionists who assist in running the service, eight are residents of the Town.

Previously, the Community Transport Service worked with the Town's Seniors and Disability Services to ensure clients who needed to transition contacted SDS and they were guided through the 'My Aged Care' registration process.

In March 2022, the *Work Health and Safety Act 2020* (WHS Act) came into effect, which introduces new obligations to provide a safe and healthy workplace. The Town is considered a 'person conducting a business or undertaking' (PCBU) and has a primary duty of care to ensure the health and safety of their workers (including volunteers) and others who may be affected by the carrying out of work.

This means, where reasonably practicable, PCBUs take action to eliminate risks to health and safety. If this is not reasonably practicable, the Town is required to make sure those risks are minimised as far as is reasonably practicable. This includes reviewing the strategic, structural, policy and resourcing decisions involved in running the Town's existing services.

Importantly, the WHS Act includes a new offence of industrial manslaughter, with substantial penalties for PCBUs where a WHS duty causes the death of an individual, in circumstances where the PCBU knew the conduct could cause death or serious harm.

The service is currently being operated at a reduced capacity as a result of less demand (due there being greater use of tele-health appointments in response to Covid-19) and having fewer available drivers.

Proposal

The Town has undertaken a review of the Community Transport Service in light of changes to WHS legislation and in respect to potential risks and financial costs associated with identified risk mitigation measures. The findings are detailed in this report.

Communication and Engagement

Councillors have previously been advised of the intent to review the Community Transport Service via the Bulletin. Volunteers and clients have also been notified of the intent to review the service.

Strategic Implications

Priority Area 1: Strengthening and Connecting our Community

1.3 Treating people equitably with access to programs and services, regardless of advantage or ability

1.7 Facilitating community connection

Priority Area 4: Driving Financial Suitability

4.1 Ensure there is sufficient, effective and sustainable use of assets

4.2 Ensure community facilities are accessible to and well utilised by a diverse range of community members

Priority Area 5: Facilitating People-Centred Services

5.1 Ensure community members know where and how to access services

Priority Area 6: Providing Visionary Leadership and Making Great Decisions

6.1 Make brave decisions in line with a risk appetite

6.3 Ensure operational activities reflect the strategic focus of Council

Comment

Risk Assessment

A review of the current service has identified the following risks:

Area	Details	Risk	Mitigation	Impact
Client Vulnerability	Volunteers currently assessing the health, fitness and memory of clients.	Volunteers are not trained in seniors' service provision.	Annual refresher training for drivers including first aid, driver awareness and manual handling training.	Training costs. Availability of trained drivers.
	Potential deteriorating health and memory of clients given age of clients.	Client injury during service provision. Volunteer driver injury whilst supporting frail clients. Reputational risk. WHS breaches	Town assessing clients to access the service (i.e. Town appointing a staff member with Seniors) Certificate III in Aged Care (CHC30212)	Staff training and resourcing.
Driver Vulnerability	Drivers exposed to difficult situations and potential deteriorating health of drivers given age of drivers.	Accidents, injury to clients and volunteers.	Annual refresher training for drivers including first aid, driver awareness and manual handling training.	Training costs. Availability of trained drivers.
	Ability for drivers to comply with WHS requirements.	Accidents, injury to clients and volunteers.	Annual refresher training for drivers including first aid, driver awareness and manual handling training.	Training costs. Availability of trained drivers.
	Inadequate training.	Accidents, injury to clients and volunteers.	Develop and record information showing driver's orientation / training completed, refresher training / due dates and other relevant information on driver ability.	Training costs. Availability of trained drivers.

<p>Rostering Transport requests / driver rosters</p>	<p>Incorrect information due to legibility of handwritten records.</p>	<p>Accidents, injury to clients and volunteers. Driver stress from increased requests for transportation, cancellation of jobs on rosters impacting clients. Reputational risk to the Town for operation of service.</p>	<p>Volunteer training for online and/or computer bookings. Purchasing scheduling software.</p>	<p>Cost of software/ computers and/or tablets. Staff training and resourcing.</p>
	<p>Booking process not being followed/ adjusted to suit client.</p>	<p>Accidents, injury to clients and volunteers. Driver stress from increased requests for transportation, cancellation of jobs on rosters impacting clients. Reputational risk to the Town for operation of service.</p>	<p>Volunteer training for online and/or computer bookings. Purchasing scheduling Software.</p>	<p>Cost of software/ computers and/or tablets. Staff training and resourcing.</p>
<p>Shopping Service</p>	<p>Shopping service transports approximately 15 passengers weekly. Shopping assistant volunteer helps deliver shopping into the client's home.</p>	<p>Accidents, injury to clients and volunteers.</p>	<p>Encourage clients of the shopping service to seek assistance for shopping needs via family, friends or other registered providers, including the use of the Taxi User Subsidy Scheme.</p>	<p>Staff resourcing.</p>
<p>Volunteer Professional Boundaries</p>	<p>Potential personal relationships between volunteers and clients resulting in a conflict of interest and bookings outside of the 'Transport Guidelines and Code of Conduct'.</p>	<p>Accidents, injury to clients and volunteers. Reputational risk to the Town for operation of service.</p>	<p>Induction training in accordance with existing volunteer handbook which addresses these matters. Distribute information from the handbook and other sources to volunteers to reaffirm expectations and requirements of the role.</p>	<p>Staff resourcing.</p>

<p>Volunteer Expectations</p>	<p>Responsibility of volunteers to provide the service in accordance with the requirements stipulated by the Town.</p>	<p>Reputational risk to the Town for operation of service.</p>	<p>Seek feedback from existing volunteers and drivers on how to improve the service and support volunteers. Determine appropriate person to store client information.</p>	<p>Staff resourcing.</p>
<p>Client Confidentiality</p>	<p>Use of hard copy bookings resulting in potential privacy breaches due to unsecure data.</p>	<p>Reputational risk to the Town for operation of service. Litigation associated with breaches in privacy.</p>	<p>Training for compliance with the <i>Privacy Act 1988</i> and confidentiality requirements of information forms as part of inductions. Volunteer disclosure acknowledging their legislative obligations. Limit volunteer access to level of information, providing details on the drivers' rosters that is necessary for transport service. Provide scheduling programme and tablets for drivers to use when transporting clients.</p>	<p>Cost of software/ computers and/or tablets. Staff training and resourcing.</p>

Managing Volunteers/Drivers	Increasing procedures/ administration to manage situations / respond to incidents as these have occurred.	<p>Volunteer and staff stress.</p> <p>Insufficient resources to complete other duties.</p> <p>Lack of training for difficult/ emergency situations.</p>	<p>Employ a PTE to manage the service.</p> <p>Review policies and procedures for volunteers in accordance with regulatory requirements.</p> <p>Annual refresher training for volunteers including first aid and dealing with aggressive behaviours.</p> <p>Spill kits and training for drivers.</p>	<p>Additional staff costs.</p> <p>Staff training and resourcing.</p>
	Increasing procedures/ administration to manage situations / respond to incidents as these have occurred	Lack of training in incident management.	<p>Review policies and procedures for volunteers in accordance with regulatory requirements.</p> <p>Training for spill procedures, including blood spill.</p>	Costs of PPE, spill kits and training.
Vehicle Suitability	<p>Vehicles do not support all people considered independent with transfers in/out of vehicle (e.g. no ability for wheelchairs).</p> <p>Ageing vehicles will require replacement.</p> <p>Vehicles not equipped to deal with emergency situations.</p>	<p>Limited provision of service can be seen as discriminatory.</p> <p>Staff and volunteers not trained in aged care service provision.</p> <p>Lack of support systems for drivers in duress.</p> <p>Lack of duress or GPS systems in vehicles.</p>	<p>Annual refresher training for drivers including first aid, driver awareness and manual handling training.</p> <p>Town ensure vehicles are regularly reviewed and maintained to a high standard.</p> <p>Vehicle with a hoist requires annual certification.</p> <p>Aged care specific staff member for service provision.</p>	<p>Replacement vehicle costs.</p> <p>Maintenance Costs, including annual certification.</p> <p>Additional staff costs.</p> <p>Staff training and resourcing.</p> <p>Cost of installing GPS and duress systems.</p>

Service delivery and maintenance costs	Vehicle maintenance and running costs. Donation based service does not provide cost recovery.	Charging fee for service will create an expectation that a more comprehensive transport service will be provided.	Updated vehicles would like result in greater economical running costs. Increase fees for clients. Prescribing a set fee according to distance travelled.	Staff training and resourcing. Software system to manage payments.
Non-compliance in service provision for seniors	Current staff member skill set for volunteering.	Breaches in provision of service to seniors.	Employ a PTE trained in aged care to manage the service.	Additional staff costs.

Financial Considerations

The following table represents the current cost of providing the service (excluding staff costs).

Current Budget Expenditure (without staffing costs)	
Vehicle Operating Costs	\$20,000
Volunteer Costs (\$10 per day meal vouchers, meeting refreshments)	\$ 8,000
Total	\$28,000
Income	
Donations (median) (Based on typical range of donations received annually - \$3,000 to \$6,000)	\$ 4,500
Net Operating Cost	\$23,500

The following table represents approximate additional costs of risk mitigation measures to enable the service to continue to a standard that was address WHS requirements and reputational risk (excluding existing staff costs).

Risk Mitigation Item	Annually	One Off Cost
Volunteers/ Staff Costs		
Additional part time employee to manage the community transport operations	\$37,492	
Volunteers identified as high risk workers under the Hepatitis Prevention and Vaccination Program are to be offered a Hepatitis Vaccination	\$810	
Under the Drug and Alcohol Policy, Volunteers are to be included as 'High Risk Workers' and are to undergo drug and alcohol testing during the onboarding process and be subjected to random testing	\$200	

Driver volunteers attending fire extinguisher training (every 3 years)	\$450	
Driver volunteers first aid training	\$1,350	
Volunteers to be trained in dealing with aggressive behaviours (external) and made aware of the requirement to report these incidents (internal)	\$675	
Volunteer software training (external) and training in scheduling of bookings (internal)	\$1,000	
Following (internal) medical assessment, referral may be required to the Town's medical provider for further assessment.	\$1,650	
Driver awareness training is to be undertaken by volunteers every 3 years, or as required.	\$1,000	
Volunteers to attend manual handling (LGIS – seniors specific) training every 3 years, or as required	\$317	
Equipment Costs		
Scheduling software	\$1,000	\$5,000
Purchase of tablets for volunteer drivers		\$500
GPS installation to vehicles		\$200
Purchasing trolley or aid to assist volunteers with manual tasks		\$400
Sunscreen for volunteers	\$24	
Duress system implemented for volunteer drivers	\$480	
Spill kits available on each vehicles	\$100	
Cleaning supplies for spills or substances within the vehicles	\$60	
Driver volunteers to be provided with the necessary PPE and equipment so that they can clean up spills and substances		\$30
New Vehicle		
Lease SG Fleet on Kia Carnival	\$5,300	
Registration on Kia Carnival	\$388	
Fuel, tyres, servicing and maintenance	\$3,500	
Modification for wheelchair hoist and certification		\$10,000
Total Annual and One Off Costs	\$55,796	\$16,130
Total Costs		\$71,926

Alternative Transport Options

Taxi Users' Subsidy Scheme

The Taxi Users' Subsidy Scheme (TUSS) is a subsidy available to eligible people with disabilities travelling in taxis and taxi cars under the provisions of the *Taxi Act 1994* and *Transport Coordination Act 1966*. Carers can travel with the person using the taxi service.

To be eligible for TUSS a person must demonstrate to the Director General of Department of Transport (through an authorised officer) that they:

- Are a permanent resident in Western Australia;
- Have a disability that will always prevent them using conventional public transport; and
- Are over ten years of age, or less than ten years of age and they use a wheelchair.

To be eligible for TUSS a person must have a disability that falls within one or more of the following three categories:

- Mobility disability;
- Vision disability; and
- Cognitive or intellectual disability.

My Aged Care

Government funding is currently available through 'My Aged Care' for seniors who require access to transport and provide a specialised service with the ability to monitor client's future needs.

The Federal Government offers transport services via 'My Aged Care'. The service can be provided through the Commonwealth Home Support Program or as part of associated Home Care Package. These transport services are provided locally through Amana Living on behalf of the 'My Aged Care' Service. The cost of the package depends on the care level of the client as assessed by the Federal Government when registering for 'My Aged Care'.

St John's Community Transport

St John's Community Transport provides Perth metro residents with a transportation service. The service can be used to travel to community centres and medical appointments, by booking our service at least 24 hours before. A companion service is also offered whereby drivers will wait before, during and after appointments which is extended to passenger carers. Drivers are trained in first aid and vehicles are equipped with first aid supplies, an automated external defibrillator and a fire extinguisher.

Universal Access – Department of Transport

For clients of the service that are still able to drive, information on Universal Access for community members including people with disability, seniors, parents with prams and young children is available on the Department of Transport's website.

The Town is able to assist users of the service in accessing the above options should Council resolve to discontinue the service.

Local Government Services

The Town has identified other local governments providing a similar community transport service including:

Local Government	Overview
City of East Fremantle	Community transport provided to Commonwealth Home Support Program ('My Aged Care') supported seniors only.
City of Nedlands	Community transport provided to Commonwealth Home Support Program ('My Aged Care') supported seniors only.
City of Stirling	Volunteer drivers use their own vehicles and City's vehicles, with volunteers onboarded and inducted, thereafter deployed to the Community Transport Department where they receive more training specific to aged care. Volunteers only transport mobile seniors.
City of Joondalup	Two buses vehicles are used once weekly to pick residents up from their homes and transport them to social activities, driven by volunteers. The service is currently under review.
City of Wanneroo	Two vehicles are used once weekly to pick residents up from their homes and transport them to social activities, driven by volunteers.
City of Vincent	Pre-paid taxi vouchers of up to \$100 for individuals and \$150 for couples (per year).
City of Swan	<p>Community transport provided to Commonwealth Home Support Program ('My Aged Care') supported. Club (Group Socialisation) transport drivers are staff, with other transport services delivered by volunteer drivers (medical appointments, shopping, socialisation etc.). The service is currently under review.</p> <p>The Town sought further advice from the City as to whether there was an opportunity to expand its service to Town residents. The City advised that the service was currently under review with respect to its worksafe plan and safe work method statements, the estimated \$85,000 deficit to currently operate the service, as well as whether it will continue delivering Commonwealth Home Support Programs, national disability insurance scheme and brokered services. As such, the City could not confirm whether this arrangement could occur at this this stage, although the Town can continue to liaise with the City following its review.</p>

Based on the above, it is evident that:

- Generally, only larger local governments with greater resources provide such a service;
- Where services are provided, they are only available to Commonwealth Home Support Program ('My Aged Care') seniors following assessment, similar to the Town's previous involved in Seniors and Disability Services; and
- There is a recognised need to review such services in light of funding arrangements and changes to the WHS Act.

Options

Giving the new legislation, the following options are available to Council:

1. Discontinue the Town providing the service and refer existing clients to alternative transport options as outlined above. Skills of existing volunteers would be reviewed to determine if there are alternative volunteering arrangements available within the Town.

Given the risk exposure and potential breaches of the WHS Act, this option is recommended. As users have already been notified that the service was under review and to seek alternative arrangements in the event Council resolves to discontinue the service, a transition period of one month is considered appropriate. A longer transition timeframe is not recommended given the ongoing risk exposure.

2. Continue the service with risk mitigation measures implemented.

This option will involve an annual expenditure of approximately \$80,000, which equates to a significant per-user rate of approximately \$840 per current user. This option is not recommended due to the financial implications of risk mitigation, ongoing financial obligations required in respect to training etc., and the ongoing level of some risk exposure despite mitigation measures being implemented.

This option will involve an initial suspension of the service until such time as the risk mitigation measures have been funded and implemented. This could occur following the allocation of funding as part of the upcoming 2023/24 budget.

Conclusion

The review of the Community Transport Services has clearly demonstrated that immediate change is required regarding future delivery of the service to mitigate risk and to ensure the Town is compliant with the WHS Act.

Whilst it is acknowledged that the service is highly valued by residents using the service and has been operating for an extensive period of time, continuing to operate the service in its current format with the risks identified results in an unacceptable level of risk to the Town.

As such, it is recommended that discontinue the service, with Town staff assisting existing users of the service to transition to alternative arrangements.

Statutory Requirements

In accordance with Part 2, Division 1, Section 17 of the *Work Health and Safety Act 2020*, a duty imposed on a person to ensure health and safety requires the person —

- (a) to eliminate risks to health and safety, so far as is reasonably practicable; and
- (b) if it is not reasonably practicable to eliminate risks to health and safety, to minimise those risks so far as is reasonably practicable.

Financial Considerations

The net operating cost to currently provide the Community Transport Service is \$23,500.

Implementation of risk mitigation measures will likely incur additional costs of \$71,926, bringing the total cost to operate the service to \$95,426.

Risk Management Implications

High. Continuing the current service without implementing risk mitigation measures will expose the Town to an unacceptable level of risk and may result in breaches of the WHS Act.

Discontinuing the service represents a reputation risk however, this can be mitigated by the Town assisting in transitioning users from the Community Transport Service to appropriate providers as referenced in the report.

Declaration of Conflicts of Interest

All officers involved in the preparation of this report have considered and determined that they do not have a conflict of interest in the matter.

Officer Recommendation – Item 9.5

That Council:

1. Discontinue the Community Transport Service by 23 December 2022; and
2. Notes that the Town will assist in transitional arrangements for clients and volunteers seeking alternative transport support or volunteering opportunities, respectively.

Voting requirements: Simple Majority

9.6 Quarterly Report - Period ending 30 September 2022	
Property Address	N/A
Landowner/Applicant	N/A
File Reference	GOVN/CCLMEET/1
Department	Office of the CEO
Previous Reports	N/A
Authority/Discretion	Legislative Includes adopting local laws, town planning schemes & policies.
Attachments	<ol style="list-style-type: none"> 1. Quarterly Report 2022-23 Quarter One [9.6.1 - 23 pages] 2. Outstanding Resolutions Recommended for Closure [9.6.2 - 9 pages]

Purpose

The purpose of this report is for Council to receive the Quarterly Report for the period ending 30 September 2022.

Background

Council's Quarterly Report format addresses progress against the CEO's Key Performance Indicators, as well as providing a progress report on budget deliverables in the 2021-2026 Corporate Business Plan, where those deliverables commence in the 2022/23 financial year. The Quarterly Report also contains the list of Council Resolutions recommended for closure.

Proposal

That Council resolves to adopt the Quarterly Report for the period ending 30 September 2022.

Communication and Engagement

The draft Quarterly Report was provided to Councillors under cover of the CEO Bulletin dated 4 November 2022 for initial comment/feedback. No feedback was received.

Strategic Implications

Priority Area 6: Providing Visionary Leadership and Making Great Decisions
 6.3 Ensure operational activities reflect the strategic focus of Council
 6.4 Reinforce a culture of collaboration, trust and demarcation between Council, administration and the community

Comment

The Quarterly Report P/E 30 September 2022 is the first report for the financial year 2022/2023. The report reflects a composite of the activities that have occurred in the first quarter of the 2022/2023 financial year and provides a progress report on budget deliverables in the Corporate Business Plan. The report provides updates on the strategic priority projects and the deliverables of each priority area as contained in the SCP.

Statutory Requirements

Local Government Act 1995.

Financial Considerations

Nil.

Risk Management Implications

Financial Risk
Low

A comprehensive and strategically aligned Quarterly Report will ensure transparency of decision-making and timeliness of service deliverables.

Declaration of Conflicts of Interest

All officers involved in the preparation of this report have considered and determined that they do not have a conflict of interest in the matter.

Officer Recommendation – Item 9.6

That Council:

1. Receives the Quarterly Report for the quarter ending 30 September 2022; and
2. Endorses the Council Resolutions recommended for closure attached to the Quarterly Report for the period ending 30 September 2022.

Voting requirements: Simple Majority

9.7 Resolutions of Council	
Property Address	N/A
Landowner/Applicant	N/A
File Reference	N/A
Department	Office of the CEO
Previous Reports	28 April 1998 14 December 2010
Authority/Discretion	Executive The substantial direction setting and oversight role of the Council.
Attachments	Nil

Purpose

The purpose of this report is for Council to consider the process around implementing and reporting on previous resolutions of Council.

Background

On 28 April 1998, Council resolved that:

“Councillors want those items listed for deletion to be forwarded to Council for endorsement and that those items in progress be circulated in the Bulletin on the last Friday of Each month.”

On 14 December 2010, Council resolved that:

- “1. Based on advice from the Department of Local Government that in future only items that are to be deleted be referred to Council and all other items in progress be included in the Crs’ Bulletin on the last Friday of the month; and*
- 2. This information be included in the Town’s website”*

Proposal

It is proposed that Council revoke the above resolutions and that the Town use an alternative approach as to implementing and reporting on previous resolutions of Council.

Communication and Engagement

This matter was raised in the CEO Bulletin of 4 November 2022.

Strategic Implications

Priority Area 6: Providing Visionary Leadership and Making Great Decisions

6.4 Reinforce a culture of collaboration, trust and demarcation between Council, administration and the community.

Comment

The Town, for some time, has routinely presented previous Council resolutions to Council for approval for them to be “deleted”. This practice has stemmed from the 1998 and 2010 resolutions.

This approach is inconsistent with the practices at other local governments and is considered to be contrary to the *Local Government Act 1995*, which prescribes that the implementation of Council decisions is a function of the CEO. Further, the purported “deletion” of a resolution is misleading as the resolution is not being formally revoked or rescinded, but rather, simply acknowledged as having been implemented or completed.

Based on the above, and on advice received from WALGA on the issue, the following approach is recommend:

- The 1998 and 2010 resolutions be revoked.
- The CEO will, pursuant to Section 5.41(c) of the Act, manage the implementation of Council decisions. Practically, this will be managed via a standing item at the internal Corporate Management Committee (CMC) meeting (attended by the executive team and CEO). This will ensure the CEO has an appropriate level of oversight with relevant Departments as to the implementation of resolutions of Council, and can inform Council of any additional resource implications or delays in implementing resolutions should the need arise.
- Information will be periodically (say, every three months) provided to Councillors, via the CEO Bulletin, on previous resolutions of Council that (i) have been completed since the last update and (ii) have not yet been fully implemented. Reasons for any delays or unforeseen challenges can also be included.
- The performance of the CEO, including the performance pertaining to the implementation of Council decisions, will be assessed as part of the CEO performance review in accordance with the Model Standards.
- The Town will provide a register of agenda reports and Council resolutions on its website, enabling Councillors, community members and staff to perform a search function for previous items and resolutions. The Town has recently added a register for the period July 2016 to April 2022 and is making arrangements to add the resolutions from May 2022 to October 2022, as well as new resolutions that are made each month.

Notwithstanding the above, should Councillors seek an update on any particular project or resolution outside of the reporting period, Councillors can contact the CEO directly for information.

Statutory Requirements

Local Government Act 1995

Financial Considerations

Nil

Risk Management Implications

If Council does not resolve to revoke the previous resolutions and pursue the alternative approach, there is a risk that Council may be seen as contravening Section 5.41(c) of the Act.

Whilst there may be a perceived risk that Councillors will lose oversight of the implementation of previous Council decisions, this is appropriately mitigated by way of the provision of relevant information via the CEO Bulletin, direct request to the CEO and the CEO Performance Review Process.

Declaration of Conflicts of Interest

All officers involved in the preparation of this report have considered and determined that they do not have a conflict of interest in the matter.

Officer Recommendation – Item 9.7

That Council:

1. rescinds the resolution from 28 April 1998, which reads:

“Councillors want those items listed for deletion to be forwarded to Council for endorsement and that those items in progress be circulated in the Bulletin on the last Friday of Each month.”

2. rescinds the resolution from 14 December 2010, which reads:

“1. Based on advice from the Department of Local Government that in future only items that are to be deleted be referred to Council and all other items in progress be included in the Crs’ Bulletin on the last Friday of the month; and

2. *This information be included in the Town’s website”*

3. notes that information of previous resolutions of Council, being those that have (i) been completed since the last update and (ii) not yet been fully implemented, will be periodically provided to Councillors, via the CEO Bulletin.

Voting requirements: Absolute Majority

9.8 Accounts Paid 31 October 2022	
Property Address	N/A
Landowner/Applicant	N/A
File Reference	FINM/CREDTS/4
Department	Corporate Services
Previous Reports	N/A
Authority/Discretion	Legislative Includes adopting local laws, town planning schemes & policies.
Attachments	1. October 2022 Payments Listing [9.8.1 - 17 pages]

Purpose

The purpose of this report is for Council to receive the list of payments for October 2022.

Background

Payments made during October 2022 are presented to Council, showing the date, payee, amount and description in respect of each payment for goods and services received.

Proposal

For Council to receive the list of payments for October 2022.

Communication and Engagement

Nil.

Strategic Implications

Priority Area 4: Driving Financial Suitability

4.1 Ensure there is sufficient, effective and sustainable use of assets

4.3 Support the local economy

Comment

Nil.

Statutory Requirements

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

Financial Considerations

All payments are authorised prior to disbursement in accordance with the Town's Purchasing Policy, Procurement Guidelines and allocated budgets.

Risk Management Implications

Financial Risk
Low

The Town has adequate controls in place to mitigate external and internal risks in accounts payable.

As an extra measure, the Town uses EftSure to independently check bank account details of key suppliers paid by the Town.

Declaration of Conflicts of Interest

All officers involved in the preparation of this report have considered and determined that they do not have a conflict of interest in the matter.

Officer Recommendation – Item 9.8

That Council receive the list of payments for October 2022.

Voting requirements: Simple Majority

9.9 Alternative Weed Control Strategies - Children's Playgrounds	
Property Address	N/A
Landowner/Applicant	N/A
File Reference	ENVM/MAINT/1
Department	Infrastructure Sustainability and Environment
Previous Reports	21 December 2021 27 September 2022
Authority/Discretion	Information For the Council/Committee to note.
Attachments	1. Location of play equipment [9.9.1 - 1 page] 2. Playground Maintenance and Treatments [9.9.2 - 1 page]

Purpose

The purpose of this report is for Council to consider a report outlining alternative weed control strategies so as to reduce or where possible eliminate the use of glyphosate or other herbicides in or near children's playgrounds.

Background

At the 21 December 2021 Ordinary Council Meeting, a Notice of Motion submitted by Cr Carter was listed for consideration:

"That the Town discontinue the use of glyphosate in or near children's playgrounds and other public places where children congregate, such as day care centres and schools, and also near waterways."

At the meeting, Council resolved to defer any further consideration of the use of glyphosate and weed management until after the review of weed management strategies has been completed and presented to Councillors.

The following was subsequently undertaken relating to the above Council resolution:

- Results of weed trials (Beat a Weed, LocalSafe, Solarisation, Trimmer Boss and Steam Weeding) and steam weeding monitoring provided to Councillors through the CEO Bulletin in December 2021.
- Review of weed management strategies for parks and gardens, natural areas and streetscapes completed and provided to Councillors through the CEO Bulletin in December 2021, prior to publication on the Town's website.
- Draft 10 Year Management Plans developed for Town-managed natural areas (including weed management strategies) and provided to relevant Friends Of/ environmental groups for comment.

- Presentation on weed management at the 8 February 2022 Councillor workshop, including summary of integrated pest management, operational policies/ guidelines, legislative requirements and guidelines, weed management within Town-managed public spaces (parks and gardens, natural areas, streetscapes), 10 Year Management Plans for natural areas and actions of the WALGA Local Government Herbicide Use and Integrated Weed Management Working Group, of which the Town is a member.
- Report to the 23 March 2022 Ordinary Council meeting 'Review of Streetscape Weed Management' including Steam Weeding Monitoring Report.
- Update to the streetscape weed management strategy and re-establishment of the 'No spray' list, due to the subsequent resolution of Council. A RFQ for streetscape weed control was subsequently advertised and is presented as a separate report within this agenda.
- Information provided through the CEO Bulletin in April 2022, on weed management practices undertaken within and near playgrounds or other places where children congregate, current weed control contracts, contractor compliance and complaint management.
- Copy of the Town's internal Pesticide Use and Management Policy and Operational Guidelines provided to Councillors through the CEO Bulletin in July 2022.

Following several meetings between staff and Cr Carter, an amended Notice of Motion submitted by Cr Cater was listed for consideration at the 23 August 2022 Council meeting, relating to use of glyphosate and other herbicides within or near children's playgrounds and other locations where children congregate.

Information was included in the Briefing Session and Council meeting agendas providing a detailed officer response. Further details were provided to Councillors via the CEO Bulletin on weed management practices currently undertaken in the locations referenced in the Notice of Motion, and implications/ alternatives should herbicides be unable to be used. Information was also provided on the use of non-chemical methods by City of Fremantle and City of Joondalup within the immediate area of playgrounds.

In response to the Notice of Motion, on 23 August 2022, Council resolved as follows:

"That Council requests the CEO prepare a report within three months, outlining alternative weed control strategies so as to reduce or where possible eliminate the use of glyphosate or other herbicides in or near children's playgrounds."

The requested information was compiled and presented to the 27 September 2022 Council Meeting. At that meeting, Council resolved as follows:

“That this item be deferred, as residents may have been caught off guard with the rapid timeframe with which this report has come to Council.”

The report is now being brought back to Council. It should be noted that this report is substantially similar to the previous report presented to Council on the matter.

Proposal

It is proposed that the Town continue with its current approach for weed management in or near children’s playgrounds, which involves minimising use of herbicides where possible and maintaining the Town’s assets in a safe and useable condition, whilst demonstrating financial responsibility.

Communication and Engagement

Extensive communication has been undertaken with Councillors as outlined under the Background section of this report.

Strategic Implications

Priority Area 2: Leading Environmental Sustainability

2.4 Conserve, protect and enhance our natural environment and biodiversity

Comment

The overall objective of the Town’s weed management approach is to effectively control weeds using an integrated approach, to ultimately reduce weeds and the requirement for weed control over time.

This involves investigating and trialling new and emerging technology, selecting the best method for the situation, keeping informed of current government advice/ recommendations and ensuring staff and contractors comply with external legislation and relevant internal policies when using herbicides.

As advised in previous communication to Councillors and in the 23 August 2022 Ordinary Council Meeting agenda report (Item 13.1), the Town is guided by regulatory advice from the Department of Health and the Australian Pesticides and Veterinary Medicines Authority (APVMA) in relation to the use of herbicides. The advice of the APVMA is that products containing glyphosate are safe to use in accordance with the label instructions.

The APVMA review considered the 2015 International Agency for Research on Cancer assessment and concluded that exposure to glyphosate does not pose a carcinogenic or genotoxic risk to humans. Further information on Glyphosate and the assessments and findings of the APVMA can be found here: [Glyphosate | Australian Pesticides and Veterinary Medicines Authority \(apvma.gov.au\)](#).

Where herbicides are required to be applied, the Town follows 'Pesticide Use and Management Policy and Operational Guidelines', with special consideration given to sensitive sites (including schools and childcare centres). For example, maintenance of the Town's parks is scheduled to avoid school sports days/ carnivals and the Town regularly communicates with schools located in close proximity to advise of planned maintenance. All pesticides used by the Town and its contractors are approved by the APVMA and are applied in accordance with the manufacturer's instructions, at the minimum volume required and by personnel who are trained in safe and proper application. The Town currently limits the use of glyphosate and other herbicides to the minimum required as part of routine maintenance.

Please find below an explanation of current weed management practices within locations in or near children's playgrounds, possible alternatives and implications should herbicides be unable to be used.

Attachment 1 shows the location of all play equipment throughout the Town, and Attachment 2 provides further details (edging type and weed management methods).

Immediate area of playground

There are 52 playground locations managed by the Town, at 27 parks and two childcare centres (Wind in the Willows Ashfield and Bassendean).

The usual weed control method within the immediate area of the playground (soffall surface and play equipment) is mechanical removal through hand weeding and brush cutting. Exemptions apply if the weed in question cannot be removed manually (e.g suckering woody weeds), but this is a rare occurrence.

There are two nature playgrounds within the Town where planted garden beds are located throughout the play space area. These include Mary Crescent Reserve, and Sandy Beach Reserve. Herbicide is applied to control weeds in these garden beds (as well as woodchipped areas at Padbury Reserve playground), as part of regular maintenance, through spot spraying. This is scheduled to occur at times where usage is low (such as early mornings), with the playground closed by installation of signage while herbicides are being applied and for 1- 2 hours post completion.

If additional resources were available, some weeds (excluding suckering woody weeds and grasses such as couch and kikuyu) could be removed from garden beds by hand weeding. There are no alternative methods currently available that can effectively control couch, kikuyu or suckering woody weeds. If herbicides were not able to be used to control these weeds, grass weeds (particularly couch) would take over garden beds, resulting in loss of native plants and possible requirement to convert these planted beds to hardstand areas that can be brushcut/ steam weeded. This is particularly an issue for recently established, irrigated planted areas that were previously turf, such as at Sandy Beach Play Space. The grass weeds will continue to aggressively encroach into these areas for at least the first two summers. It is expected that this will reduce over time due to effective weed control and a reduction in irrigation as native plants become established.

For established garden beds within nature playgrounds, such as at Mary Crescent Reserve, it may be possible to control weeds within the immediate playground area (within 5 metres of play equipment) using steam weeding and manual methods. As hand weeding is much more labour intensive and the Town does not own steam weeding equipment, this would require an additional budget and for the maintenance (currently undertaken by Parks staff) to be contracted out. This would come at a high cost with limited benefit compared to the current minimal herbicide use. Steam treatment can cost up to 5- 10 times more than herbicide application per m² and would be required at a high frequency to adequately suppress weeds. Due to the low number of playgrounds that would require weed control within 5m of equipment, any contractor willing to provide a quote will not be able to offer any economies of scale that would apply to larger contracts, reducing cost effectiveness further.

Adjacent turf

Selective herbicides are used to control broadleaf weeds (including bindii) within turf. This is undertaken once annually between July and September, weather dependent and involves use of MCPA and Dicamba. Timing avoids school sports carnivals.

There is no alternative weed control methodology that can control these weeds in turf. Hand weeding of bindii is much more labour intensive and not possible to achieve. If herbicides were unable to be used, untreated areas may be unusable and/or signage may be required to warn users of prickles.

Hydrozoning/ ecozoning (new garden bed establishment)

Conversion of turf to mulched areas or new garden beds requires several treatments of herbicide, prior to mulching and planting. If this does not occur the ongoing weed burden is much higher, requiring more frequent weed control once planted. Re-growth of grass can be reduced by switching/ turning off irrigation systems.

Once planted/ mulched, control of weeds by spot spraying is required. Over time this reduces as plants become more established. Recent planting of the woody meadow at Sandy Beach PlaySpace is a trial of new method that aims to reduce weeds.

The alternative should herbicides be unable to be used is mechanically removing turf and roots, which can extend to 50cm depth and replacement of soil. There is a high cost associated with this method both in labour and disposal / importation of soil.

Solarisation can be used in some situations, however is not practical for large areas due to the quantity of plastic and sand bags required, which also result in a high waste output. Steam is not effective at controlling couch or kikuyu.

A trial has been planned for site preparation as part of the 2022/23 Palmerston Reserve native planting project, involving the following three methods of turf removal, which can then be assessed for effectiveness:

- Roundup Biactive;
- Steam; and
- Initial treatment with steam, with follow up by Roundup Biactive.

Park infrastructure

Herbicide is applied along kerbing around the outside edge of playgrounds and infrastructure such as park benches and bollards, to prevent turf encroachment. As an alternative, concrete/ paved areas can be brushcut using line trimmers however this would require additional time per visit, and an increased frequency of maintenance.

Brushcutting around vertical infrastructure (e.g. bollards) has a high chance of causing damage so it is not a viable option.

Childcare outdoor areas (managed by the Town): Wind in the Willows Ashfield and Bassendean

As above, with all works completed on weekends (Saturdays) when the childcare centres are not in use.

Pesticide buffer/ exclusion zones

The Council resolution makes reference to areas 'near' children's playgrounds, however no distance is provided.

Comment was provided in the 23 August 2022 Ordinary Council Meeting report (Item 13.1) regarding Department of Health guidelines with respect to pesticide exclusion/ buffer zones. In summary, based on the controls in the Town's 'Pesticide Use and Management Policy and Operational Guidelines', it is considered that the risk is adequately managed and there is no requirement to impose a buffer/ exclusion zone.

Statutory Requirements

Health (Pesticides) Regulations 2011

Agricultural and Veterinary Chemicals Code Act 1994.

The Australian Pesticides and Veterinary Medicines Authority is responsible for assessment, product registration, quality assurance and compliance of agricultural chemicals.

Financial Considerations

The financial/ resourcing implications of implementing changes to the Town's current approach to weed management in or near children's playgrounds is shown below.

The current maintenance cost for the three playgrounds where herbicide is used to control weeds in garden beds/ woodchipped areas is \$7500 per year. The expected cost, should this be altered to manual/ steam, is \$45,000 per year (fortnightly maintenance), as well as additional staff time involved in site inspections/ management and contract management accompanied by a reduction in the quality and useability of the playground and community amenities.

Change	Financial/ Resourcing Impacts
Steam weeding and manual methods within garden beds at nature playgrounds and Padbury Reserve	<p>Anticipated six-fold increase in annual maintenance costs for Sandy Beach Reserve, Padbury Reserve and Mary Crescent Reserve.</p> <p>Requirement to contract out works. Methods will not be effective at controlling couch, kikuyu or suckering woody weeds, which may lead to the requirement to replace garden beds with hardstand surfaces that can be effectively treated.</p>
Brushcut turf encroaching onto infrastructure (edging, bollards, concrete pads etc) within 5m of play equipment	<p>Additional time per visit by Parks staff, increased frequency of maintenance.</p> <p>Reduced time available for other maintenance tasks.</p> <p>Likely damage to vertical infrastructure (bollards etc) requiring more frequent repair/ replacement.</p>

Risk Management Implications

There are various risks associated with changes to the Town's approach to weed management in or near children's playgrounds, which do not appear reasonable given the current practices in place to mitigate risks. These are primarily financial and reputational, arising from the additional costs and decline in quality and useability of the Town's public open space along with damage to infrastructure should only manual and steam weeding options be available.

There are no alternative methods currently available that can effectively control couch, kikuyu or suckering woody weeds. If herbicides were not able to be used to control these weeds, grass weeds (particularly couch) would take over garden beds, damage paving and result in poorer outcomes.

Limiting weed control methods to steam/ manual options may also impact infrastructure e.g. cracking of limestone walls, kerbs, paths etc becoming uneven and creating additional safety hazards.

Declaration of Conflicts of Interest

All officers involved in the preparation of this report have considered and determined that they do not have a conflict of interest in the matter.

Officer Recommendation – Item 9.9

That Council notes the contents of this report and the Town's ongoing commitment to continuously review its approach to weed management to evaluate latest developments and best practices.

Voting requirements: Simple Majority

10 Confidential Business

11 Motions of which Previous Notice has been given

11.1 Verge Valet Service	
Councillor	Cr Hamilton
Attachments	Nil

Motion – Item 11.1

That Council:

1. Provision, as soon as practicable, of a one-off Verge Valet service in the 2022/23 financial year for the collection of bulk verge waste from residents lacking the physical capacity to utilise the newly introduced skip bin service;
2. Provision of the same Verge Valet service for collection of bulk verge waste at properties where there is inadequate space on the public verge and within the property itself to set down a skip bin for use by the resident;
3. Funding for provision of the services outlined in points 1 and 2 to come from the Waste Reserve; and
4. Review and discussion of Waste Strategies, plans and full financial costs via a Councillor Concept Workshop in 2023 prior to the formulation of the 2023/24 budget.

Reasons:

Provision of Skips on Call is in itself not an issue, however, the short notice provided in relation to cancellation of the annual Bulk Verge Collections has caused some disruption and issues locally.

A period of transition would have been a preferred model to enable adequate promotion and substitute strategies to be put in place for the collection of bulk waste from residential properties including those properties where a skip bin cannot be placed.

This Notice of Motion, if accepted, is an interim measure to address some of the problems created by the short notification to residents of Bulk Verge cancellation.

12 Closure

The next Briefing Session will be held on Tuesday 6 December 2022 commencing at 6pm.

The next Ordinary Council meeting will be held on Tuesday 13 December 2022 commencing at 6pm.