

# ATTACHMENTS

## ORDINARY COUNCIL AGENDA

### 30 JANUARY 2018

#### Attachment No. 1A:

Ordinary Council Minutes of 19 December 2017.

#### Attachment No. 1B:

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

#### Attachment No. 2:

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

#### Attachment No. 3:

WAPC DC Policy 2.2 – Residential Subdivision - October 2017

#### Attachment No. 4

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

#### Attachment No. 5

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

#### Attachment No. 6:

Letter from Sport and Recreation WA

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

#### Attachment No. 7

Amended Policies (with track Changes)

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

**Attachment No. 8:**

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

**Attachment No. 9:**

Quarterly Report P/E 31 December 2017

**Attachment No. 10:**

List of Accounts

**Attachment No. 11:**

Financial Statements

Confidential Report – 13.1

# **ATTACHMENT NO. 1A**

# TOWN OF BASSENDEAN MINUTES ORDINARY COUNCIL MEETING 19 DECEMBER 2017

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# TOWN OF BASSENDEAN

## MINUTES

### ORDINARY COUNCIL MEETING

HELD IN THE COUNCIL CHAMBER, 48 OLD PERTH ROAD, BASSENDEAN

ON TUESDAY 19 DECEMBER 2017 AT 7.00PM

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

The Presiding Member declared the meeting open, welcomed all those in attendance and acknowledged the past and present traditional owners and custodians of the land on which the meeting was held.

#### 2.0 PUBLIC QUESTION TIME & ADDRESS BY MEMBERS OF THE PUBLIC

##### 2.1 Public Question Time

Mr Peter Pearson, 14 River Street, Bassendean

Mr Pearson referred to Item 10.5 and presented a number of questions for consideration by the Town and the Department of Agriculture and Food:

- Does the treatment of pinewood, to prevent termite infestation, also kills the European House Borer (EHB).
- Can the Department of Agriculture and Food offer any evidence that removing pine trees from the Perth metropolitan area will curtail the spread of EHB.
- Is there any available research suggesting that growing pine trees can be treated such that their dead branches are resistant to EHB attack.
- Will the Department provide the following research paper to the Town of Bassendean, and if so, may I see it please and any other research available – European House Borer *Hylotrupes bajulus* Linnaeus in Western Australia: the anatomy of an eradication program. Proceedings of the International Research Group on Wood Protection, Beijingm China.

The Director Operational Services advised that the questions would be referred to the Department of Agriculture and Food, Western Australia (DAFWA) who manage biosecurity and infestation of European House Borer.

Ms Carol Seidel, 55 Broadway, Bassendean

Ms Seidel requested the Town consider removing dead wood and branches rather than spending money to cut down the trees.

Ms Seidel asked if the Environmental Officer checked the pine logs for EHB before authorising their use in Success Hill.

The Mayor advised that the logs were not infested when they were used. They have since become infested with the borer.

Ms Seidel asked where the logs came from and was the Town responsible for putting them in the park.

The Director Operational Services advised that the logs came from a tree on site. A pine tree had a large branch removed and this was cut up and used.

Ms Seidel asked if the trees in the report have been inspected for borer.

The Director Operational Services commented that the trees at Success Hill were inspected and the Town was advised by the Department that they should be treated.

Ms Seidel referred to some old logs that are being stored at the Depot and requested the Town inspect them for EHB infestation.

The Mayor advised that this has been taken note of and will be checked.

Mr Mike Lewis, 111 Morley Drive, Eden Hill

Mr Lewis asked if the results of the Australia Day survey have been finalised and if they are available to the public.

The Mayor advised that the working group has not yet met to look at the results of the survey. Further feedback will also be sought at the 2018 Australia Day event, to be considered by the working group along with the survey results. Once the working group has looked at the results and analysed them they will be made available to the public. The survey is being used to gauge community sentiment and will be used to guide the future of the event.

Mrs Val Dreyer, 31 Naunton Crescent, Eden Hill

Mrs Dreyer advised that her comments at the last OCM about works being undertaken in Walter Street and Ivanhoe Street have been recorded incorrectly – it should be Ida Street not Ivanhoe.

Mrs Dreyer expressed her disappointment at the lack of seating and shade at the Remembrance Day event.

The Mayor advised that there has been feedback received about the event and some changes will be made next year.

Mr Don Yates, 10 Thompson Road, Bassendean

Mr Yates asked how much funds are in the Cash in Lieu account.

The Director Corporate Services responded, that there is \$291,000 in the account.

Mr Yates how much funds have been collected from the 1% for public art contribution that developers are required to pay.

The Director Corporate Services advised that he would take that question on notice.

Mr Yates requested that the Town spend money on footpaths and lighting particularly in Thompson Road and commented that the lighting inspection recently undertaken was not adequately done.

The Mayor advised that this item is listed on the Town's Corporate Business Plan.

Mr Paul Bridges, 150 West Road, Bassendean

Mr Bridges asked if the Council were aware that EHB was an issue.

The Director Operational Services responded that the previous Council was advised of the EHB infestation when the Department undertook an inspection of Success Hill. The Town was given advice in June 2017 that the area was a priority management zone. There was no evidence previously of EHB infestation.

Mrs Anne Brinkworth, 90 Ida Street, Bassendean

Mrs Brinkworth asked when the Australia Day survey results will be made available to the public.

The Mayor advised that the 2018 event will be going ahead as normal. The working group, which will include community members, will meet to discuss the survey results. It is proposed that the outcome of this meeting, will be considered by Council at its Ordinary Council Meeting in February 2018.

Mr Don Yates, 10 Thompson Road, Bassendean

Mr Yates asked about the December quarterly report.

The Acting CEO advised that as the quarter finishes at the end of December, the report will be presented in January.

Mr Nathan Jarvis, 1 Walter Road, Bassendean

Mr Jarvis asked about the damaged pine tree and logs on Success Hill Reserve and asked when it will be addressed.

The Mayor responded that the matter is listed on tonight's Agenda for consideration by Council. The Mayor advised that Council would need to consider a budget allocation in the future.

The Director Operational Services advised that he will seek clarification from the Town's Environmental Officer on where the tree logs used at Success Hill Reserve have come from.

## **2.2 Address by Members of the Public**

*It should be noted that public statements are not recorded in the minutes.*

## **3.0 ATTENDANCES, APOLOGIES AND APPLICATIONS FOR LEAVE OF ABSENCE**

Present

Councillors

Cr Renee McLennan, Mayor  
Cr Bob Brown, Deputy Mayor  
Cr John Gangell  
Cr Kathryn Hamilton  
Cr Melissa Mykytiuk  
Cr Sarah Quinton  
Cr Jai Wilson

### Officers

Mr Michael Costarella, A/Chief Executive Officer  
Mr Salvatore Siciliano, A/Director Community Development  
Mr Simon Stewert-Dawkins, Director Operational Services  
Mr Anthony Dowling, Director Strategic Planning  
Mr Brian Reed, Manager Development Services  
Mrs Amy Holmes, Minute Secretary

### Public

Approximately 20 members of the public were in attendance.

### Press

Nil

### Apologies

Mr Bob Jarvis, Chief Executive Officer

### Leave of Absence

### COUNCIL RESOLUTION – ITEM 3.0

**OCM – 1/12/17** MOVED Cr Gangell, Seconded Cr Hamilton, that Cr Wilson be granted a leave of absence for 22 December 2017 – 17 January 2018; and Cr Brown be granted a leave of absence for 27 December 2017 – 16 January 2018.

CARRIED UNANIMOUSLY 7/0

## 4.0 DEPUTATIONS

**4.1** Ms Sarah Clay, of Central Bassendean Physiotherapy, addressed the Council on Item 10.2.

*Cr Brown declared a Financial Interest and left the Chamber, the time being 7.45pm. Cr Brown returned to the Chamber, the time being 7.55pm.*

**4.2** Ms Nonie Jekabsons, of 6 Barton Parade, Bassendean, addressed the Council on Item 10.5.

**4.3** Mr Don Yates, of 10 Thompson Road, Bassendean, addressed the Council on Item 10.2.

*Cr Brown declared a Financial Interest and left the Chamber, the time being 8.05pm. Cr Brown returned to the Chamber, the time being 8.10pm.*

**5.0 CONFIRMATION OF MINUTES**

**5.1 Ordinary Council Meeting held on 28 November 2017**

**COUNCIL RESOLUTION/OFFICER RECOMMENDATION –  
ITEM 5.1(a)**

**OCM – 2/12/17** MOVED Cr Mykytiuk, Seconded Cr Brown, that the minutes of the Ordinary Council Meeting, held on 28 November 2017, be received.

**CARRIED UNANIMOUSLY 7/0**

**COUNCIL RESOLUTION/OFFICER RECOMMENDATION –  
ITEM 5.1(b)**

**OCM – 3/12/17** MOVED Cr Mykytiuk, Seconded Cr Hamilton, that the minutes of the Ordinary Council Meeting, held on 28 November 2017, be confirmed as a true record.

**CARRIED UNANIMOUSLY 7/0**

**6.0 ANNOUNCEMENT BY THE PRESIDING PERSON WITHOUT  
DISCUSSION**

Nil

**7.0 PETITIONS**

Nil

**8.0 DECLARATIONS OF INTEREST**

Cr Brown declared a Financial Interest for Item 10.2.

**9.0 BUSINESS DEFERRED FROM PREVIOUS MEETING**

Nil

**10.0 REPORTS**

**10.1 Adoption of Recommendations En Bloc**

It was agreed that items 10.2, 10.3, 10.5, 10.11 & 10.12 be removed from the en-bloc table and considered separately.

**COUNCIL RESOLUTION/OFFICER RECOMMENDATION –  
ITEM 10.1**

**OCM – 4/12/17** MOVED Cr Quinton, Seconded Cr Mykytiuk, that Council adopts en bloc the following Officer recommendations contained in the Ordinary Council Meeting Agenda of 19 December 2017:

<b>Item</b>	<b>Report</b>
10.8	General Meeting of Electors Minutes held on 5 December 2017
10.13	Determinations Made by the Principal Building Surveyor
10.14	Determinations Made by Development Services
10.15	Use of the Common Seal
10.16	Calendar for January 2018
10.17	Implementation of Council Resolutions
10.18	Accounts for Payment – November 2017
10.19	Financial Statements – November 2017

**CARRIED UNANIMOUSLY 7/0**

Council was then requested to consider the balance of the Officer recommendations independently.

<b>Item</b>	<b>Report</b>
10.2	Proposed Change of Use Application from 'Office' to 'Medical Centre' at Lot 119 (No. 89) Old Perth Road, Bassendean
10.3	Joint Metropolitan Central Development Assessment Panel Application – Form 2 – Application for Amendment of a Development Assessment Panel Application for 10 Multiple Dwellings to Extend Period of Validity of Approval – Lot 3 (No. 8) Walter Road East, Bassendean
10.4	Town of Bassendean Draft Dust and Waste Local Law
10.5	European House Borer Infestation
10.6	RFT CO 075 2017-18 Provision of Chemical Free Weed Control within the Town of Bassendean
10.7	1 Surrey Street, Bassendean - Whole of Life Cost Models for Options 1 and 2C and the associated Business Case.
10.9	Consideration of Meeting Dates and Citizenship Ceremonies for 2018
10.10	Town Assets Committee
10.11	Proposed Guideline for Council Briefing Sessions
10.12	Request By Cr Brown to Attend the Safer Cities Summit Conference In Brisbane 6-7 February 2018
11.1	Notice of Motion – Cr McLennan: Councillors Training Budget
11.2	Notice of Motion – Cr Hamilton: 3 Bin System
13.1	Lease of ex Meals & Wheels Kitchen 50 Old Perth Road, Bassendean

**10.2 Proposed Change of Use Application from 'Office' to 'Medical Centre' at Lot 119 (No. 89) Old Perth Road, Bassendean (Ref: 2017-159 – Timothy Roberts, Planning Officer)**

*Cr Brown declared a Financial Interest and left the Chamber, the time being 8.15pm.*

**APPLICATION**

The application proposes a change of use from 'office' to 'medical centre' for tenancies No. 1 and 2 of the property located at No. 89 Old Perth Road, Bassendean. The application proposes a reduction in the number of car parking bays to less than the minimum required number specified within Local Planning Scheme No. 10. The application also proposes signage that is inconsistent with the provisions contained within Local Planning Policy No. 1: Bassendean Town Centre Strategy and Guidelines.

**OFFICER RECOMMENDATION — ITEM 10.2**

1. That Council grants development approval for the change of use application from 'office' to 'medical centre' (excluding signage options one and three) for tenancies 1 and 2 at Lot 119 (No. 89) Old Perth Road, Bassendean, subject to the following conditions:
  - (a) The allocation of eight car parking spaces being provided on site for use solely in conjunction with tenancy one and two (medical centre) business activities;
  - (b) The allocation of six car parking spaces being provided on site for use solely in conjunction with tenancy three (office) business activities;
  - (c) The allocation of three car parking spaces being provided on site for use solely in conjunction with tenancy four (shop) business activities;
  - (d) The allocation of one car parking space being provided on site solely for the use of unit one;
  - (e) The allocation of one car parking space being provided on site solely for the use of unit two;

- (f) Car parking spaces being clearly marked for use solely for their allocated business. Car parking bays are to be marked or signed to the satisfaction of the Town within 60 days from the date of this development approval;
  - (g) This approval is for the use of the tenancies one and two as a 'medical centre' only. Operation of the proposed 'medical centre' shall be in accordance with the details contained within the cover letter provided by the applicant date stamped received 30 November 2017. Any changes to the operations will require submission of a new application for development approval for consideration by the Town; and
2. Investigate minimum car parking space requirements for the Town Centre Zone, as contained within Local Planning Scheme No. 10, as part of the review of the Local Planning Strategy with the outcomes to be referred back to Council and later included within the revised Local Planning Scheme.

*Cr Hamilton moved that signage option one be modified to include removal of the two side panels. The motion lapsed for want of a seconder.*

*Cr Gangell moved that signage option one be supported (excluding signage options two and three).*

**COUNCIL RESOLUTION – ITEM 10.2(a)**

**OCM – 5/12/17** MOVED Cr Gangell, Seconded Cr Quinton, that signage option one be supported (excluding signage options two and three).  
**CARRIED UNANIMOUSLY 7/0**

*This amendment becomes part of the substantive motion.*

*Cr Hamilton moved the Officer Recommendation with the deletion of Point (f) and the addition of a Point (h) – (will become new Point (g) with (f) removed.*

COUNCIL RESOLUTION - ITEM 10.2

**OCM – 6/12/17** MOVED Cr Hamilton, Seconded Cr Wilson, that:

1. Council grants development approval for the change of use application from 'office' to 'medical centre' (**including signage option one, excluding signage options two and three**) for tenancies 1 and 2 at Lot 119 (No. 89) Old Perth Road, Bassendean, subject to the following conditions:
  - (a) The allocation of eight car parking spaces being provided on site for use solely in conjunction with tenancy one and two (medical centre) business activities;
  - (b) The allocation of six car parking spaces being provided on site for use solely in conjunction with tenancy three (office) business activities;
  - (c) The allocation of three car parking spaces being provided on site for use solely in conjunction with tenancy four (shop) business activities;
  - (d) The allocation of one car parking space being provided on site solely for the use of unit one;
  - (e) The allocation of one car parking space being provided on site solely for the use of unit two;
  - (f) This approval is for the use of the tenancies one and two as a 'medical centre' only. Operation of the proposed 'medical centre' shall be in accordance with the details contained within the cover letter provided by the applicant date stamped received 30 November 2017. Any changes to the operations will require submission of a new application for development approval for consideration by the Town;
  - (g) **Any change of signage during the term of the tenancy shall require a new application for signage that conforms with the Town Planning Scheme of the day.**

2. Council investigate minimum car parking space requirements for the Town Centre Zone, as contained within Local Planning Scheme No. 10, as part of the review of the Local Planning Strategy with the outcomes to be referred back to Council and later included within the revised Local Planning Scheme.

CARRIED UNANIMOUSLY 7/0

*Cr Brown returned to the Chamber, the time being 8.20pm.*

**10.3 Joint Metropolitan Central Development Assessment Panel Application – Form 2 – Application for Amendment of a Development Assessment Panel Application for 10 Multiple Dwellings to Extend Period of Validity of Approval – Lot 3 (No. 8) Walter Road East, Bassendean, Owner: 8 Walter Road East, Bassendean Pty Ltd. Applicant: Planning Solutions (Ref: DABC/BDVAPPS/2017 - 155)**

APPLICATION

At its Ordinary Council meeting held in May 2011, Council resolved to require that all Joint Development Assessment Panel (JDAP) applications be the subject of a report to Council in order that Council can make an alternative recommendation to the Metropolitan Central JDAP, should it see fit.

COUNCIL RESOLUTION/OFFICER RECOMMENDATION – ITEM 10.3

**OCM – 7/12/17** MOVED Cr Gangell, Seconded Cr Brown, that Council endorses the Senior Planning Officer's Form 2 – Responsible Authority Report for the Application for Amendment of a Development Assessment Panel Application for 10 Multiple Dwellings to Extend the Period of Validity of Approval for 10 Multiple Dwellings Lot 3 (No. 8) Walter Road East, Bassendean.  
LOST 2/5

*Crs Gangell & Brown voted in favour of the motion. Crs McLennan, Hamilton, Mykytiuk, Quinton & Wilson voted against the motion.*

COUNCIL RESOLUTION – ITEM 10.3(a)

**OCM – 8/12/17** MOVED Cr Mykytiuk, Seconded Cr Hamilton, that Council **does not endorse** the Senior Planning Officer's Form 2 – Responsible Authority Report for the Application for Amendment of a Development Assessment Panel Application for 10 Multiple Dwellings to Extend the Period of Validity of Approval for 10 Multiple Dwellings Lot 3 (No. 8) Walter Road East, Bassendean.

CARRIED 5/2

*Crs Mykytiuk, Hamilton, McLennan, Quinton & Wilson voted in favour of the motion. Crs Brown & Gangell voted against the motion.*

**10.4 Town of Bassendean Draft Dust and Waste Local Law (Ref: LAWE/LOCLWS/2 – Brian Reed, Manager Development Services)**

APPLICATION

The purpose of this report was for Council to consider the preparation of a Dust and Waste Local Law to better manage and control dust emissions in the Town.

*The Mayor read aloud the following purpose and effect of the law as required:*

**Purpose**

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

**Effect**

The effect of this local law is to establish the requirements relating to dust and building waste on building sites and subdivisions on land within the district.

COUNCIL RESOLUTION/OFFICER RECOMMENDATION - ITEM 10.4

**OCM – 9/12/17** MOVED Cr. Quinton, Seconded Cr Wilson, that Council commences the advertising and consultation processes outlined in clauses (3) and (3a) of section 3.12 of the Local Government Act 1995 for the proposed Town of Bassendean Dust and Waste Local Law attached to the Ordinary Council Agenda of 19 December 2017.

CARRIED UNANIMOUSLY 7/0

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

**APPLICATION**

The purpose of this report was to advise Council that the Town has received a notice from the Department of Primary Industries and Regional Development, Biosecurity and Regulation Agriculture & Food Division (DAFWA), that an infestation of European House Borer has been identified within land controlled by the Town.

**OFFICER RECOMMENDATION — ITEM 10.5**

That Council:

1. In line with Department of Primary Industries and Regional Development, Biosecurity and Regulation Agriculture & Food Division recommendation authorise Officers to remove 60 Pinus Pinaster Trees located in Success Hill Reserve, James Street and surrounding the Depot in Bassendean;
2. Agrees to implement a replanting and maintenance program where Pinus Pinaster trees have been identified for removal;
3. Agrees to implement a two-staged process to remove the 60 Pinus Pinaster Trees, (Stage 1) Success Hill, James St Bassendean and (Stage 2) Town's Works Depot area;
4. Lists an amount of \$61,800 in the draft 2018/19 Capital Budget to complete stage 1 for the removal of identified Pinus Pinaster Trees, for Council's consideration; and
5. Lists an amount of \$40,895 in the draft 2019/20 Capital to complete stage 2, for the removal of identified Pinus Pinaster Trees for Council's consideration.

*Cr Mykytiuk moved an alternative motion.*

**COUNCIL RESOLUTION – ITEM 10.5**

**OCM – 10/12/17** MOVED Cr Mykytiuk, Seconded Cr Gangell, that:

1. Council requests the Department of Primary Industry and Regional Development, Agriculture and Food provide a report which includes:

- a. The details and location of past and current European House Borer infestations in the Success Hill Pine Plantation;
  - b. A risk assessment detailed the likelihood and timeframe for the spread to surrounding pine trees at Success Hill and to the James Street and Depot plantations;
  - c. Alternate management options (other than immediate removal) for managing the spread of European House Borer.
2. The Town adopts the appropriate biosecurity/hygiene measures and community education to prevent the spread of European House Borer.
  3. The Town engage with the Eastern Metropolitan Regional Council to work with neighbouring local governments in an endeavour to reduce the spread of EHB across the region.  
CARRIED UNANIMOUSLY 7/0

**10.6 RFT CO 075 2017-18 Provision of Chemical Free Weed Control within the Town of Bassendean (Ref: ENVM/TENDNG/2 – Jeremy Walker, Senior Environmental Officer)**

APPLICATION

The purpose of this report was to appoint a successful contractor from those tender offers received for RFT CO 075 2017-18 Provision of Chemical Free Weed Control within the Town of Bassendean.

COUNCIL RESOLUTION/OFFICER RECOMMENDATION - ITEM 10.6

**OCM – 11/12/17** MOVED Cr Quinton, Seconded Cr Wilson, that Council appoints Natural Area Holdings Ltd to undertake the work as required in RFT CO 075 2017-18 Provision of Chemical Free Weed Control within the Town of Bassendean, in accordance with its offer and the specifications and terms and conditions for a period of two (2) years, commencing 1<sup>st</sup> January 2018, subject to Natural Area Holdings Ltd meeting traffic management requirements of the conditions of the tender.  
CARRIED BY AN ABSOLUTE MAJORITY 7/0

**10.7 1 Surrey Street, Bassendean - Whole of Life Cost Models for Options 1 and 2C and the associated Business Case (Ref: COMDEV/TENDNG/10 - Director Operational Services, Simon Stewart-Dawkins)**

**APPLICATION**

The purpose of this report was to request that Council authorise the use of the current budget provisions to prepare Whole of Life Cost Models for Options 1 and 2C and the associated business case for each including any ongoing management requirements associated with future options

**OFFICER RECOMMENDATION – ITEM 10.7**

That:

1. Council amends the 2017/18 Budget to allocate an estimated \$10,000 in funds for the purpose of employment of a contractor to prepare a Whole of Life Costs for Options 1 and 2C and Business Case for 1 Surrey Street, Bassendean; and
2. Funds be reallocated from A/C 151359 - Pensioner Guard Cottage – Architect.

*The Officer Recommendation lapsed for want of a mover.*

*Cr Hamilton moved that the matter be deferred pending the outcome of the Councillor workshop.*

**COUNCIL RESOLUTION – ITEM 10.7**

**OCM – 12/12/17** MOVED Cr Hamilton, Seconded Cr Quinton, that Council defer any further expenditure on this project, pending the outcome of the Councillor workshop in January 2018 and request that staff provide as much information as possible on the financial aspects of the project for consideration at the Councillor workshop.

**CARRIED 5/2**

*Crs Hamilton, Quinton, McLennan, Brown & Mykytiuk voted in favour of the motion. Crs Gangell & Wilson voted against the motion.*

**10.8 General Meeting of Electors Minutes held on 5 December 2017 (Ref GOVN/CCLMEET/6 – Mike Costarella Director Corporate Services)**

**APPLICATION**

The purpose of this report was to consider the minutes of the General Meeting of Electors held on 5 December 2017 in accordance with the Local Government Act 1995.

**COUNCIL RESOLUTION/OFFICER RECOMMENDATION - ITEM 10.8**

**OCM – 13/12/17** MOVED Cr Quinton, Seconded Cr Mykytiuk, that Council:

1. Receives the report on the General Meeting of Electors Minutes held on 5 December 2017, and the proceedings of the meeting; and
2. Considers the reduction in the size of the general waste bin as part of the review of the waste management plan.

**CARRIED UNANIMOUSLY BY EN BLOC RESOLUTION – OCM-4/12/17 7/0**

**10.9 Consideration of Meeting Dates and Citizenship Ceremonies for 2018 (Ref: GOVN/CCLMEET/1 – Yvonne Zaffino, Council Support Officer)**

**APPLICATION**

Council was requested to consider its meeting dates for Council and Committees and notes Citizenship Ceremony dates for 2018.

*It was agreed that the Audit & Risk Committee be renamed the Audit & Governance Committee and some meeting dates/times be changed, as indicated in bold.*

COUNCIL RESOLUTION/OFFICER RECOMMENDATION -  
ITEM 10.9

**OCM – 14/12/17** MOVED Cr McLennan Seconded Cr Hamilton, that:

1. Council endorses the following Briefing Sessions, Council and Committee meeting dates to be held in the Council Chamber, and Citizenship Ceremonies for 2018:

Briefing Sessions – Tuesdays 7.00pm

23 January, 20 February, 20 March, 17 April, 15 May, 19 June, 17 July, 21 August, 18 September, 16 October, 20 November, 11 December.

Ordinary Council Meetings – Tuesdays 7.00pm

30 January, 27 February, 27 March, 24 April, 22 May, 26 June, 24 July, 28 August, 25 September, 23 October, 27 November and 18 December.

Access and Inclusion Advisory Committee – Wednesdays,  
10.00am

14 March, 16 May, 11 July, 12 September and 12 December.

**Audit and Governance Committee – Wednesdays,  
5.30pm**

14 February, 9 May, 8 August and 10 October.

Bassendean Local Emergency Management Committee –  
Wednesdays, 3.30pm

**7 March**, 6 June, 5 September and 7 November.

River Parks Committee – Tuesdays, **3.00pm**

6 February, 8 May, 7 August and 6 November.

Design Bassendean – Wednesdays, 7.00pm

**7 February**, 6 June, 8 August and 5 December.

Economic Development Committee – Tuesdays, 7.00pm

**6 March**, 8 May, 4 September, 4 December.

People Services Committee – Tuesdays, 7.00pm

13 February, 10 April, 12 June and 14 August.

Sustainability Committee – Tuesdays 7.00pm

13 March, 29 May, 3 July and 2 October.

Town Assets Committee

**6 February** (*Subject to a separate report*)

Youth Advisory Council – Fridays, 5.00pm

23 February, 25 May, 29 June, 27 July, 31 August, 26 October, 30 November

2. Council notes that Citizenship Ceremonies for 2018 will be held on Friday, 26 January, Tuesday, 1 May, Tuesday, 31 July and 30 October, commencing at 6.00pm, excluding Australia Day.

CARRIED BY AN ABSOLUTE MAJORITY 7/0

**10.10 Town Assets Committee (Ref: GOVN/CCLMEET/1 – Yvonne Zaffino, Council Support Officer)**

APPLICATION

Council was requested to consider and endorse the Instrument of Appointment and Delegation of the Town Assets Committee and call for nominations of Councillors to the Committee.

*Cr Brown moved that 'Sustainably manage ground water' be included in the Instrument of Appointment and Delegation of the Town Assets Committee. The motion lapsed for want of a seconder.*

COUNCIL RESOLUTION/OFFICER RECOMMENDATION – ITEM 10.10

**OCM – 15/12/17** MOVED Cr Hamilton, Seconded Cr Brown, that Council:

1. Notes the changes made and endorses the Instrument of Appointment and Delegation of the Town Assets Committee;

2. Endorses **Cr Wilson, Cr Hamilton and Cr Mykytiuk** as Members and **Cr Gangell** as Deputy Member of the Town Assets Committee; and
3. Set its first meeting of the Town Assets Committee on **Tuesday 6 February 2018**, commencing at (to be confirmed) and that the Committee considers future meeting dates at this meeting.

CARRIED BY AN ABSOLUTE MAJORITY 7/0

**10.11 Proposed Guidelines for Council Briefing Sessions (Ref: GOVN/CCLMEET/1 - Bob Jarvis, Chief Executive Officer)**

APPLICATION

The purpose of this report was for Council to consider the adoption of guidelines for Council Briefing Sessions

*Cr Mykytiuk moved that the guidelines be amended to include: Deputations – Required to apply to the Mayor at least 24 hours prior.*

COUNCIL RESOLUTION/OFFICER RECOMMENDATION — ITEM 10.11

**OCM – 16/12/17** MOVED Cr Mykytiuk, Seconded Cr Quinton, that Council adopts the Briefing Session Guidelines attached to the Ordinary Council Meeting Agenda of 19 December 2017, **with the following addition: Deputations – Required to apply to the Mayor at least 24 hours prior.**

CARRIED UNANIMOUSLY 7/0

**10.12 Request By Cr Brown to Attend the Safer Cities Summit Conference In Brisbane 6-7 February 2018 (Ref: Bob Jarvis, CEO)**

APPLICATION

Seeking Council's consideration (in accordance with Council's Policy) of a request by Cr Brown to attend the Public Sector Safer Cities Summit in Brisbane in February 2018.

*Cr McLennan moved the officer recommendation with minor amendments as shown in bold.*

COUNCIL RESOLUTION/OFFICER RECOMMENDATION –  
ITEM 10.12

**OCM – 17/12/17** MOVED Cr McLennan, Seconded Cr Mykytiuk, that Council **recognises that the community expects our elected members be competent and well educated in their roles and therefore:**

1. Approves the attendance by Cr Brown at the Safer Cities Summit to be held in Brisbane on 6 to 7 February 2018;
2. Approves the use of the balance of Cr Brown's professional development funds towards the costs of attendance;
3. Notes that the balance of any costs associated with the attendance at the conference will be met by Cr Brown personally; and
4. **Requests that Cr Brown provide a presentation to Council upon his return to communicate key learnings.**

CARRIED 6/1

*Crs McLennan, Mykytiuk, Brown, Hamilton, Quinton & Wilson voted in favour of the motion. Cr Gangell voted against the motion.*

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

COUNCIL RESOLUTION/OFFICER RECOMMENDATION –  
ITEM 10.13

**OCM – 18/12/17** MOVED Cr Quinton, Seconded Cr Mykytiuk, that Council notes the decisions made under delegated authority by the Principal Building Surveyor.

CARRIED UNANIMOUSLY BY EN BLOC RESOLUTION –  
OCM-4/12/17 7/0

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

COUNCIL RESOLUTION/OFFICER RECOMMENDATION – ITEM 10.14

**OCM – 19/12/17** MOVED Cr Quinton, Seconded Cr Mykytiuk, that Council notes the decisions made under delegated authority by the Manager Development Services.  
CARRIED UNANIMOUSLY BY EN BLOC RESOLUTION – OCM-4/12/17 7/0

**10.15 Use of the Common Seal (Ref: INFM/INTPROP/1 – Yvonne Zaffino, Council Support Officer)**

COUNCIL RESOLUTION/OFFICER RECOMMENDATION - ITEM 10.15

**OCM – 20/12/17** MOVED Cr Quinton, Seconded Cr Mykytiuk, that Council notes the affixing of the Common Seal to the documents listed in the Ordinary Council Meeting Agenda of 19 December 2017.  
CARRIED UNANIMOUSLY BY EN BLOC RESOLUTION – OCM-4/12/17 7/0

**10.16 Calendar for January 2018 (Ref: Yvonne Zaffino, Council Support Officer)**

COUNCIL RESOLUTION/OFFICER RECOMMENDATION - ITEM 10.16

**OCM – 21/12/17** MOVED Cr Quinton, Seconded Cr Mykytiuk, that the Calendar for January 2018 be adopted.  
CARRIED UNANIMOUSLY BY EN BLOC RESOLUTION – OCM-4/12/17 7/0

**10.17 Implementation of Council Resolutions (Ref: GOVN/CCLMEET/1 – Yvonne Zaffino)**

COUNCIL RESOLUTION/OFFICER RECOMMENDATION - ITEM 10.17

**OCM – 22/12/17** MOVED Cr Quinton, Seconded Cr Mykytiuk, that the outstanding Council resolutions detailed in the table listed in the Ordinary Council Meeting Agenda of 19 December 2017 be deleted from the Implementation of Council Resolutions list.  
CARRIED UNANIMOUSLY BY EN BLOC RESOLUTION – OCM-4/12/17 7/0

**10.18 Accounts for Payment – November 2017 (Ref: FINM/CREDTS/4 – Ken Lapham, Manager Corporate Services)**

APPLICATION

The purpose of this report was for Council to receive the Accounts for Payment in accordance with Regulation 13 (3) of the Local Government (Financial Management) Regulations 1996.

COUNCIL RESOLUTION/OFFICER RECOMMENDATION - ITEM 10.18

**OCM – 23/12/17** MOVED Cr Quinton, Seconded Cr Mykytiuk That Council receives the List of Accounts paid for November 2017, as attached to the Ordinary Council Agenda of 19 December 2017. CARRIED UNANIMOUSLY BY EN BLOC RESOLUTION – OCM-4/12/17 7/0

**10.19 Financial Statements – November 2017 (Ref: FINM/AUD/1 – Ken Lapham, Manager Corporate Services)**

APPLICATION

The Local Government Financial Management Regulations, Clause 34(1) requires that a monthly financial report be presented to Council. A Local Government is to prepare each month a statement of financial activity that clearly shows a comparison of the budget estimates with the actual revenue and expenditure figures for the year to date.

COUNCIL RESOLUTION/OFFICER RECOMMENDATION - ITEM 10.19

**OCM – 24/12/17** MOVED Cr Quinton, Seconded Cr Mykytiuk, that the Financial Reports for the period ended 30 November 2017, as attached to the Ordinary Council Agenda of 19 December 2017, be received. CARRIED UNANIMOUSLY BY EN BLOC RESOLUTION – OCM-4/12/17 7/0

**11.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

**11.1 Notice of Motion – Cr McLennan: Councillors’ Training Budget**

*Cr McLennan moved her motion with an additional point, as shown in bold.*

**COUNCIL RESOLUTION – ITEM 11.1**

**OCM – 25/12/17** MOVED Cr McLennan, Seconded Cr Wilson, that:

1. Council recognises the importance of Elected Members being competent and well educated in their roles in order to be able to provide good governance for the Town of Bassendean;
2. Council considers allocating an additional \$10,000 for the purpose of Councillor training at the 2017/18 mid-year budget review; and
3. **The additional budget be reserved for registered training, provided by registered training providers, and not be accrued for travel or conferences.**

**CARRIED UNANIMOUSLY 7/0**

**11.2 Notice of Motion – Cr Hamilton: 3 Bin System**

*The Motion lapsed for want of a seconder.*

**12.0 ANNOUNCEMENTS OF NOTICES OF MOTION FOR THE NEXT MEETING**

Nil.

**13.0 CONFIDENTIAL BUSINESS**

**COUNCIL RESOLUTION – ITEM 13.0(a)**

**OCM – 26/12/17** MOVED Cr Gangell, Seconded Cr Quinton, that the meeting go behind closed doors in accordance with Section 5.23 of the Local Government Act 1995, the time being 9.25pm.

**CARRIED UNANIMOUSLY 7/0**

*All members of the public vacated the Chamber, the time being 9.25pm.*

**13.1 Lease of Seniors and Community Centre - 50 Old Perth Road, Bassendean (Ref COUP/USAGE/7 – Salvatore Siciliano, A/Director Community Development & William Barry, Snr Economic Development Officer)**

*This matter was considered with members of the public excluded from the Chamber under Clause 5.23 (2) (c) and (d) of the Local Government Act 1995, as the Officer report discusses details of a proposed contract to be entered into.*

**OFFICER RECOMMENDATION – ITEM 13.1**

That Council:

1. Agrees in principle to allow the use of the Bassendean Seniors' & Community Centre kitchen for the purpose of a Business Startup Pilot Program for a maximum period of 6 months;
2. Council consider the allocation of \$6,000 in the 2017/18 February Budget Review for the required repairs and maintenance of the Bassendean Seniors & Community Centre kitchen and subject to funds being allocated;
3. Set a fee for the hire of the kitchen facilities for the Business Startup Pilot Program at the adoption of the 2017/18 budget review;
4. Utilise the Community Facilities Hire Application Form and Terms & Conditions;
5. Delegate the authority to the CEO to enter into an agreement with Michael Grau and the Packed Lunch Box for the use of the facility for a maximum period of 6 months commencing from the 1 April 2018;
6. Requires the Applicant to indemnify Council from any liability and provide a copy of the current insurance certificates;
7. Requires the applicant to ensure that any of their own equipment used on the premises complies with the requirements of the Occupation Health and Safety Act and has been certified by a qualified electrician; and
8. At the conclusion of the 6 month period, the tenant will be required to remove and make good any alternations that the tenant has made to the premises during the agreement period.

*Cr Wilson moved an alternative motion.*

**COUNCIL RESOLUTION – ITEM 13.1**

**OCM – 27/12/17** MOVED Cr Wilson, Seconded Cr Quinton, that:

1. Council agrees to allow the use of the Bassendean Seniors' and Community Centre kitchen for the purpose of a Community Kitchen Pilot Programme for a maximum period of six months;
2. Council approve the allocation and expenditure of \$1,500 for the installation of three phase power in the Bassendean Seniors and Community Centre kitchen;
3. Council authorises the CEO to enter into an agreement with Michael Grau for the non-exclusive use of the facility for a maximum period of six months commencing from 1 January 2018 requiring Michael Grau to provide a report to Council on the Pilot and providing recommendations for the future use of the facility;
4. The Applicant indemnifies Council from any liability and provides a copy of the current insurance certificates;
5. The Applicant ensures that any of their own equipment used on the premises complies with the requirements of the Occupation Health and Safety Act and has been certified by a qualified electrician; and
6. At the conclusion of the six month period, Council will consider the outcomes of the Community Kitchen Pilot Program before deciding whether to continue the Pilot, adopt other arrangements or discontinue the Pilot. Should Council decide to discontinue the Pilot the user/s of the Community Kitchen will be required to remove and make good any alterations that the user has made to the premises during the agreement period.

**CARRIED UNANIMOUSLY 7/0**

**COUNCIL RESOLUTION – ITEM 13.0(b)**

**OCM – 28/12/17** MOVED Cr Gangell, Seconded Cr Brown, that the meeting come from behind closed doors, the time being 9.29pm.

**CARRIED UNANIMOUSLY 7/0**

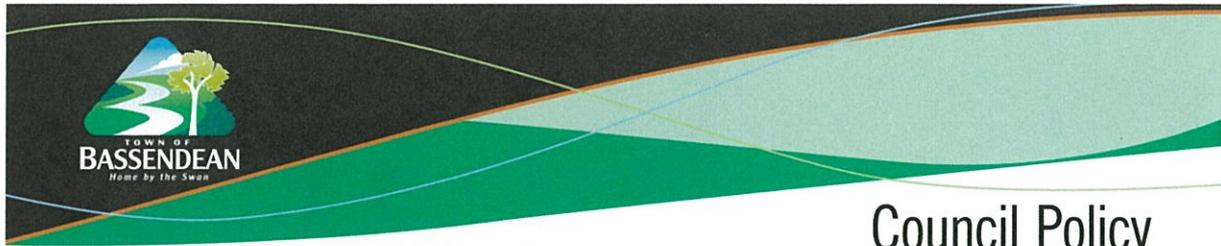
*As no members of the public returned to the Chamber, the reading aloud of the motions passed behind closed doors was dispensed with.*

**14.0**                    **CLOSURE**

The next Ordinary Council Meeting will be held on Tuesday 30 January 2018.

There being no further business, the Presiding Member declared the meeting closed, the time being 9.29pm.

**ATTACHMENT NO. 1B**



## Council Policy

### **1.16 Development Bonds Policy - Compliance With Conditions of Planning Consent**

#### **Policy**

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

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

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

#### **Application of Policy**

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

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

#### **RELATIONSHIP TO LOCAL PLANNING SCHEME NO 10**

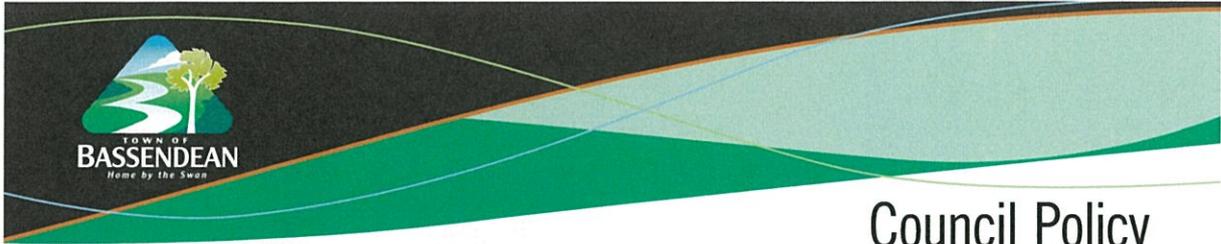
This policy complements Local Planning Scheme No 10. The Scheme contains the following clauses relating to occupation of buildings:

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

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

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

Clause 11,4 states a person must not:



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

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

### POLICY OBJECTIVES

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

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

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

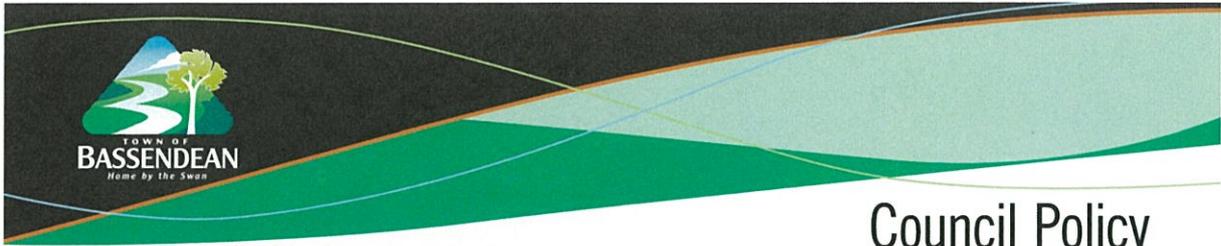
### REQUIREMENTS FOR RESIDENTIAL DEVELOPMENT

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

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

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

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



### **New Grouped or Multiple Dwellings**

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

### **Temporary Retention of Existing Dwelling During Construction of New Dwelling**

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

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

### **REQUIREMENTS FOR INDUSTRIAL OR COMMERCIAL DEVELOPMENT**

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

### **RETURN OF DEVELOPMENT BONDS**

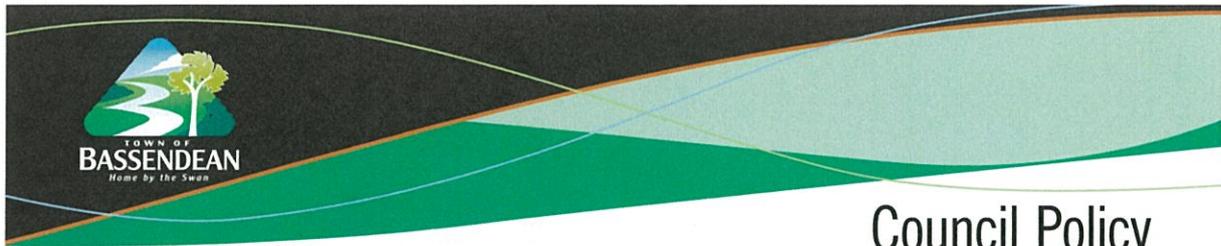
#### **Residential Development**

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

#### **Industrial/Commercial Development**

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

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



ENFORCEMENT

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

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

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

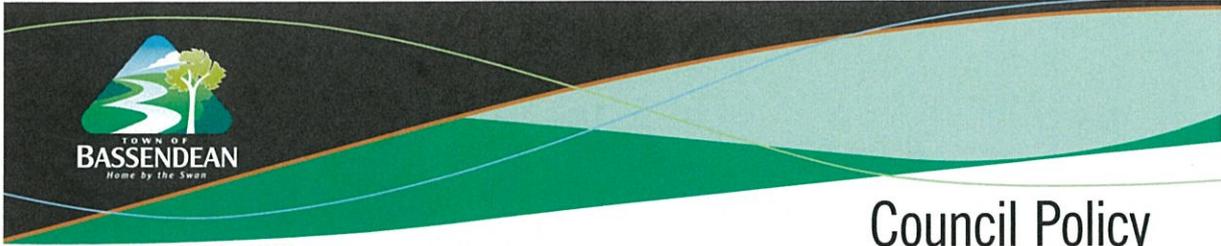
The above advice will be confirmed in writing and the owner will be instructed to advise Council in writing, how they intend to resolve the matter to the satisfaction of Council within 14 days. The letter must also specify the estimated time likely to complete the works to remove the breach of planning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

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

**Application**

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

<p><b>Policy Type:</b> Strategic Policy</p> <p><b>Link to Strategic Community Plan:</b> Town Planning and Built Environment</p>	<p><b>Responsible Officer:</b> Chief Executive Officer and Manager Development Services</p> <p><b>Last Reviewed:</b> March 2014 <b>Version 2</b></p> <p><b>Next Review due by:</b> December 2016</p>
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## 1.16 Development Bonds Policy - Compliance With Conditions of **Development Approval**

### Policy

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

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

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

### Application of Policy

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

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

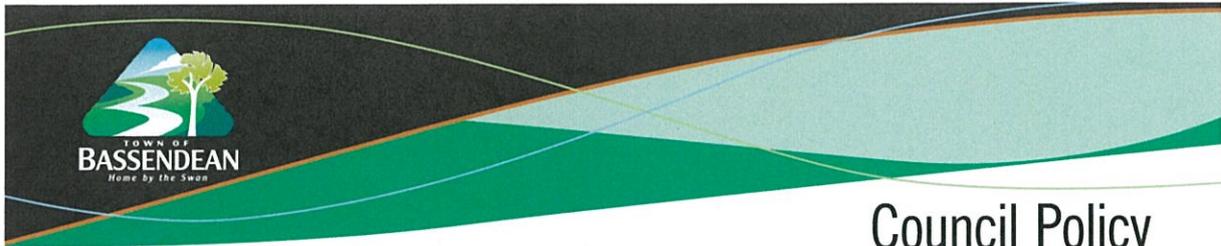
### RELATIONSHIP TO LOCAL PLANNING SCHEME NO 10

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

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

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

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



## Council Policy

Clause 11,4 states a person must not:

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

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

### POLICY OBJECTIVES

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

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

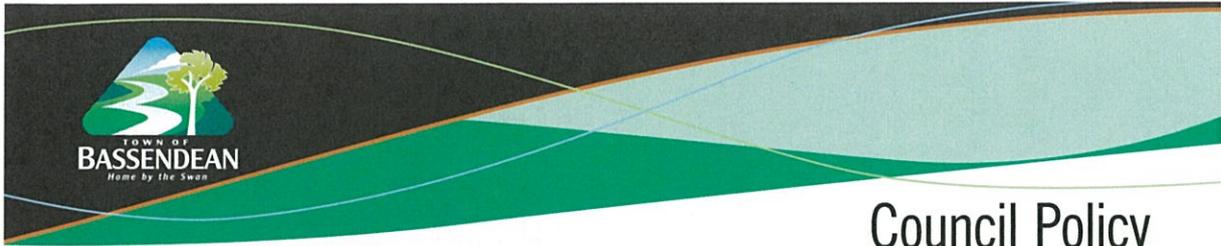
To ensure that all conditions of development approval and all works necessary to complete a development are carried out prior to occupation of a building.

### REQUIREMENTS FOR RESIDENTIAL DEVELOPMENT

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

Subject to the following clause, where development approval is granted for a grouped dwelling addition to an existing single house to form 2 or more grouped dwellings, the new dwellings shall not be occupied until the upgrading works are carried out and all of the conditions of development approval have been complied with to the satisfaction of the Town.

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



## Council Policy

A bond of \$2000 per unit or 1% of the estimated cost of development (whichever is the greater) as determined by the Manager Development Services, is required prior to the issue of a Building Permit.

### **New Grouped or Multiple Dwellings**

A bond of \$2000 per unit or 1% of the estimated cost of development (whichever is the greater) as determined by the Manager Development Services, is required prior to the issue of a Building Permit.

### **Temporary Retention of Existing Dwelling During Construction of New Dwelling**

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

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

### **REQUIREMENTS FOR INDUSTRIAL OR COMMERCIAL DEVELOPMENT**

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

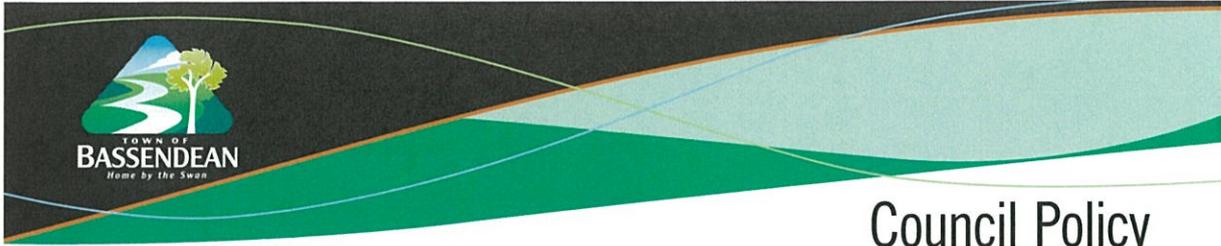
### **RETURN OF DEVELOPMENT BONDS**

#### **Residential Development**

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

#### **Industrial/Commercial Development**

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



# Council Policy

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

## ENFORCEMENT

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

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

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

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

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

## Application

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

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



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

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## 1.0 In Brief

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

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

## 2.0 Background

### 2.1 Background to WALGA Policy Position

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

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

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

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

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

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

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

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

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

That:

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

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

## 2.2 Changes to the Planning Framework

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

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

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

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

### 3.0 Current Third Party Appeal Rights in Australia

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

#### 3.1 Development Assessment Forum (DAF)

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

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

### 3.2 Third Party Appeal Rights by State and Territory

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

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

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

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

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

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

v- Victoria Civil and Administrative Tribunal

### 3.3 Western Australia State Government Position

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

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

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

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

### 3.4 Judicial Review

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

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

## 4.0 Arguments For and Against Third Party Appeal Rights

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

### 4.1 Arguments Against Third Party Appeals

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

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

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

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

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

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

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

## 4.2 Arguments For Third Party Appeals

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

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

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

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

## 4.3 Competing Viewpoints

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

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

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

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

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

## 5.0 Issues to Consider

### 5.1 Criteria for Third Party Appeal Rights in other States

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

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

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

## 5.2 Implications for Local Government

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

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

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

## 6.0 Conclusion – What is right for Western Australia?

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

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

### 6.1 Feedback Sought

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

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

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

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

### APPLICATION

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

### ATTACHMENTS

**Attachment No. 1:** WALGA discussion paper titled “Third Party Appeal Rights in Planning”.

### BACKGROUND

At its December 2016 meeting, WALGA State Council requested a review of WALGA’s policy position on Third Party Appeal Rights relating to planning decisions.

The review was requested noting that the legislative environment relating to planning had changed since WALGA had established a policy position in 2008. Noting this changed legislative environment, it was determined that a review was warranted.

### COMMUNICATION & ENGAGEMENT

WALGA is seeking feedback from the Local Government planning community and Elected members which will be used to consider any review of WALGA’s policy position on third party appeal rights.

While welcoming comment on the issue generally, WALGA is seeking particular comment from local government on the following:

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

### STRATEGIC IMPLICATIONS

While the subject matter of this report does not align directly with any of the Objectives contained within the Town’s Strategic Community Plan, it sits broadly under the Leadership and Governance heading.

### COMMENT

Since WALGA last considered its position in relation to this matter in 2008, the state government has introduced a number of changes to the planning framework which have directly affected (weakened) the decision making powers

of Local Government as identified in the discussion paper. These changes include, amongst others:

- The introduction of Development Assessment Panels (DAPs). Opt in capacity for DAP applications has already been adjusted down (now \$2M opt in) since the system was first established;
- The introduction of 'Deemed Provisions' for local planning schemes which had the effect of automatically amending all local authority town planning schemes; and
- Changes to section 76 of the Planning and Development Act 2005 to give the Minister for Planning the power to order a Local Government to prepare or adopt an amendment to a local planning scheme

The discussion paper which is attached to this report provides detailed comment on the matter of third party appeal rights, including:

- A comparison with arrangements in place in other states and territories;
- Arguments 'for' and 'against'; and
- Other issues to consider.

While the discussion paper should be referred to for detailed commentary in relation to each of these matters, a summary for each of these areas is provided below:

### **Third Party Appeal Rights by State and Territory**

While the scope of appeal rights varies, some form of third party appeal right exists in all other states and territories. The Table at clause 3.2 (pages 6 and 7 of the attachment) provides detail and comparison between each state and territory.

In its 2015 report on the review of the Planning and Development (Development Assessment Panels) Regulations 2011, the (previous) state government stated that there was no intention to introduce third party appeal rights in Western Australia.

### **Arguments 'For' and 'Against'**

The following arguments 'for' and 'against' third party appeals are discussed in detail within the attached report and summarized below:

#### For

##### Legitimate Interest:

Neighbouring owners / occupiers and others within the local community have a legitimate interest in proposed development and its impact on the local area. Without third party appeal rights the wider community is removed as a stakeholder.

Improved Participation and Decision Making:

Third party appeal rights offer the capacity for the public generally to become more engaged in the planning process which offers the potential for improved planning outcomes to result.

Improved Consultation:

The existence of third party appeal rights may lead to developers engaging in more meaningful dialogue with a local community.

Improved Transparency:

Third party appeal rights improve accountability and reduce the potential for corrupt behaviour.

Against:

Legitimate Interest:

Appeal rights should be restricted to property owners and they should be able to use their property with minimal external interference. Unless clearly defined, third party appeal rights may allow parties with no direct interest in a matter to become involved in the planning process.

Loss of Representation:

The appeals process shifts decision making for development applications away from Local Government and therefore away from locally elected representation.

Current Planning Processes Provide Opportunities to Participate:

It is preferable for public participation to occur in relation to 'higher order' policy formulation and strategic planning as opposed to individual development proposals.

Not Representative of the Broader Community:

Some research has found that the majority of people lodging third party appeals come from a well-organised, well-connected and well-resourced segment of the community (i.e. the number of objections increases in more socio-economically advantaged areas with a lower number of objections in more socio-economically disadvantaged areas).

Impact on the Decision Making Process:

It is argued that the introduction of third party appeal rights will lead to increased cost and delays and the possibility of appeals being lodged for commercial (and non-genuine planning) purposes.

Failure to Determine / Deemed Refusal:

It is argued that there is an increased potential for Local Governments not to determine an application for development approval as the number of objections received increases, as it is these applications which are the most likely to be the subject of an appeal.

### Turning Planning into a 'Numbers' game:

There is a thought that the existence of third party appeal rights may lead some members of the community to think that the number of objections (as opposed to the content or veracity of those objections) may influence the outcome of planning decisions.

### **Other Issues**

If Third Party Appeals were to be introduced, and after considering the arguments for and against, the following primary criteria have been recommended against which an appeal must fit:

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

If Third Party Appeals were introduced, it is anticipated that this would lead to the following implications for Local Government:

- Increased workload which could have knock on effects in relation to slowing development application processing generally;
- Increased financial burden, particularly as a result of the need to engage additional legal representation; and
- The need for additional resourcing within planning departments

The following implications could result for the private sector:

- Uncertainty, increased costs and a potential for reduced investment and economic growth.

### STATUTORY REQUIREMENTS

The legislative framework which applies to the planning system within WA does not (with the exception of the limited capacity described below) provide for third party appeal rights within the planning system.

A third party may currently become involved in a matter which is the subject of an application for review to the State Administrative Tribunal in the following capacity:

- Being called as a witness;
- Making a submission pursuant to the provisions contained within section 242 of the Planning and Development Act;
- Intervening under section 37(s) of the State Administrative Tribunal (SAT) Act 2004; and

- Possible participation in mediation of an application for review before the SAT.

The purpose of this report is for Council to formulate a position as to whether or not the planning framework should be changed to allow for third party appeals, and to advise WALGA of its position in this respect.

#### FINANCIAL CONSIDERATIONS

While there are no immediate financial considerations associated with this matter, the introduction of third party appeal rights has the potential to increase the number of appeals within the planning system generally. This has the potential to:

- Add additional cost associated with the development which is the subject of a third party appeal; and
- Impose an additional cost burden to each local government.

#### Conclusion

As identified at the commencement of this report, WALGA is seeking feedback on the following:

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

Since the matter was last considered by WALGA, the legislative framework within which planning decisions are made has changed quite dramatically, and there has been a general trend by the state government to erode Local Government planning powers.

This is particularly the case in relation to the introduction of DAP's and their associated structure (weighted with 3 specialist members to 2 Local Government members). While there have not been any controversial DAP decisions that have affected the Town of Bassendean, there have been many which have involved other Local Governments across the metropolitan area.

Western Australia is also unique in not allowing for third party appeal rights, and there is no identified reason as to why this should remain the case.

Noting the above, it is considered that there may be some merit in allowing for the introduction of Third Party Appeal Rights subject to the recommended criteria identified in the report.

#### OFFICER RECOMMENDATION — ITEM 10.

That in response to the invitation by WALGA to provide input into the topic of Third Party Appeals in Planning, Council advises WALGA that the Town of Bassendean:

- (a) Supports in principle the introduction of some form of Third Party Appeal Right being introduced in Western Australia, subject to any such arrangement giving consideration to the following:
  - (i) Excluding vexatious or commercial interest appeals, and any appeals made on none-genuine planning matters.
  - (ii) Degree of involvement (or exclusion) in the appeals by those parties who did not previously make a submission.
  - (iii) Excluding appeals where an application meets 'deemed-to-comply' requirements, and no discretion has been exercised.
  - (iv) Excluding appeals for some cases of minor development (to be determined).
  - (v) Having a short window in which to appeal (timeframe to be determined)."

**Voting requirements: Simple Majority**

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

**APPLICATION**

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

**COUNCIL RESOLUTION/OFFICER RECOMMENDATION — ITEM 10.6**

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

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

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



1 December 2017

Our Ref: 06-06-01-0001 GC

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

Dear Mr Jarvis,

### **CONSULTATION WITH MEMBERS – THIRD PARTY APPEAL RIGHTS IN PLANNING**

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

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

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

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

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

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

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

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

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

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

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

Yours sincerely



**Ricky Burges**  
**Chief Executive Officer**



1 December 2017

Our Ref: 06-06-01-0001 GC

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

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



Dear Mayor McLennan

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Yours sincerely



**Cr Lynne Craigie**  
**President**



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# Outcomes of Consultation

## **Third Party Appeal Rights in Planning**

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## 1.0 In Brief

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

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

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

## 2.0 Background

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

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

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

## 3.0 Consultation

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### 3.1 Voting and Preferred Model

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

A breakdown of the votes are as follows:

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

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

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

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

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

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

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

#### 4.0 Feedback Sought and Next Steps

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

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

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

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

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

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

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

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

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

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

### Option 1 Comments

#### Pros

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

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

### Cons

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

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

### Modifications

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

### Option 2

#### Pros

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

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

#### Cons

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

#### Modifications

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

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

### Option 3

#### Pros

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

#### Cons

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

## Modifications

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

## OPTION 4

### Pros

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

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

### Cons

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

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

### **Modifications**

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

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

## OPTION 5

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

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

### **Parked Items**

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

# **ATTACHMENT NO. 3**



Department of Planning,  
Lands and Heritage



October 2017

# DC Policy 2.2

– Residential Subdivision

# Development Control Policy 2.2

## – Residential Subdivision

[click to follow](#)

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website: [www.dplh.wa.gov.au](http://www.dplh.wa.gov.au)  
email: [info@dplh.wa.gov.au](mailto:info@dplh.wa.gov.au)

tel: 08 6551 8002  
fax: 08 6551 9001  
National Relay Service: 13 36 77

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



## Background notes

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

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

*State Planning Policy 2.6 – State Coastal Planning*

*State Planning Policy 3.6 – Development Contributions for Infrastructure*

*State Planning Policy 3.7 – Planning in Bushfire Prone Areas*

*State Planning Policy 5.4 – Road and Rail Noise*

*Liveable Neighbourhoods*

*Development Control Policy 1.1 – Subdivision of Land - General Principles*

*Development Control Policy 1.3 – Strata Titles*

*Development Control Policy 1.7 – General Road Planning*

*Development Control Policy 2.3 – Public Open Space in Residential Areas*

*Development Control Policy 2.4 – School Sites*

*Development Control Policy 2.5 – Special Residential Zones*

*Development Control Policy 2.6 – Residential Road Planning*

*Government Sewerage Policy*

## 1. Citation

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

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

## 2. Introduction

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

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

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



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

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

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

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

### 3. Policy objectives

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

### 4. Policy measures

#### 4.1 General requirements

4.1.1 Applications for the subdivision of land into residential lots will be assessed against:

- criteria set out in clause 4.1.3
- the context of the general subdivision requirements of *Development Control Policy 1.1 – Subdivision of Land – General Principles*
- state and local planning frameworks, including Liveable Neighbourhoods

- water sensitive urban design (WSUD) principles.

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

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

4.1.3 All new residential lots will be:

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



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

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

## 4.2 Lot sizes

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

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

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

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



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

#### Variations to average lot size greater than five per cent criteria

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

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

### 4.3 Single residential lots

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

### 4.4 Small residential lots

- 4.4.1 Where proposed lots of less than 260m<sup>2</sup> are narrow, irregularly shaped, present vehicular access difficulties or involve the development to proceed with boundary

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

### 4.5 Battle-axe subdivision criteria

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



- to facilitate vehicular access to significantly sloping sites where acceptable street gradient can not be achieved.
  - Retention of existing heritage or character development.
- 4.5.3 Where opportunities exist to dedicate existing laneways and rights-of-way as public streets – both as a means of providing alternative access and a street aspect, this is a preferred lot configuration outcome.
- 4.5.4 Where local government considers battle-axe subdivisions are likely to seriously threaten the character of an established residential area that ought to be protected (for example, heritage precincts or special design control areas) density controls may be included in local planning schemes, or development controls introduced through local planning policy or local development plans to ensure that battle-axe subdivisions and development is in keeping with their surroundings. Provisions should take into account the character and built form outcome of the area.
- 4.5.5 The minimum battle-axe lot area will be as set out in clause 5.1.1 and column 4 of *Table 1* of the R-Codes. The WAPC will not permit reductions in the minimum or average lot sizes for battle-axe lots.
- 4.5.6 In locations not subject to the provisions of the R-Codes, the WAPC will normally require residential battle-axe lots to have an effective lot area of at least 850m<sup>2</sup> to overcome the sense of confinement from lack of street frontage.
- 4.5.7 A battle-axe leg should be a minimum of 4 metres in width to allow for a constructed driveway and the necessary public utility services. Where a battle-axe lot is to be created for or is of a size capable of further subdivision for grouped or multiple dwelling development, the WAPC may require the width of the leg to be increased. Driveways may be required to be constructed and drained as a condition of subdivision approval in accordance with the specification of the local government and may be bonded to facilitate future construction post dwelling construction.
- 4.5.8 In rural, rural-residential and low-density subdivisions requiring long battle-axe legs, and locations where there are particular physical or topographical constraints, the WAPC, on the advice of the local government, may require a battle-axe leg wider than 4 metres. The Guidelines for Planning in Bushfire Prone Areas specifies where battle-axe lots should be avoided.
- 4.5.9 In cases where battle-axe legs are adjoining, the WAPC may accept a reduced width of 3 metres for each leg, subject to the subdivider entering into an agreement with the local government to ensure reciprocal rights of access over adjoining battle-axe legs. The reciprocal rights should also extend into the effective lot areas to allow for a shared turning area.
- 4.5.10 Battle-axe arrangements involving more than two access legs will not be accepted unless there are exceptional circumstances to justify such an arrangement. Where more than two adjoining battle-axe legs are proposed, access should be provided by way of a constructed street.
- 4.5.11 The WAPC will not accept undersized battle-axe legs as a means of obtaining alternative street frontage and to avoid the costs of extending a water main or sewer in accordance with normal requirements.
- 4.5.12 A 3 x 3 metre truncation of 4.24 metres may be required at the point where the access leg joins the effective area of the lot, for vehicular access and maneuverability. A 1.5 x 1.5 metre truncation of 2.12 metres may be required at the point where the access leg meets the street reserve, particularly on major roads and where non visually permeable street walls and fences exist, to improve visibility for vehicles, cyclists and pedestrians. The WAPC will give particular regard to the advice of the local government on these requirements.



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

#### 4.6 Access to residential lots

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

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

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

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

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

#### 4.7 Provision of screen fencing

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

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

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

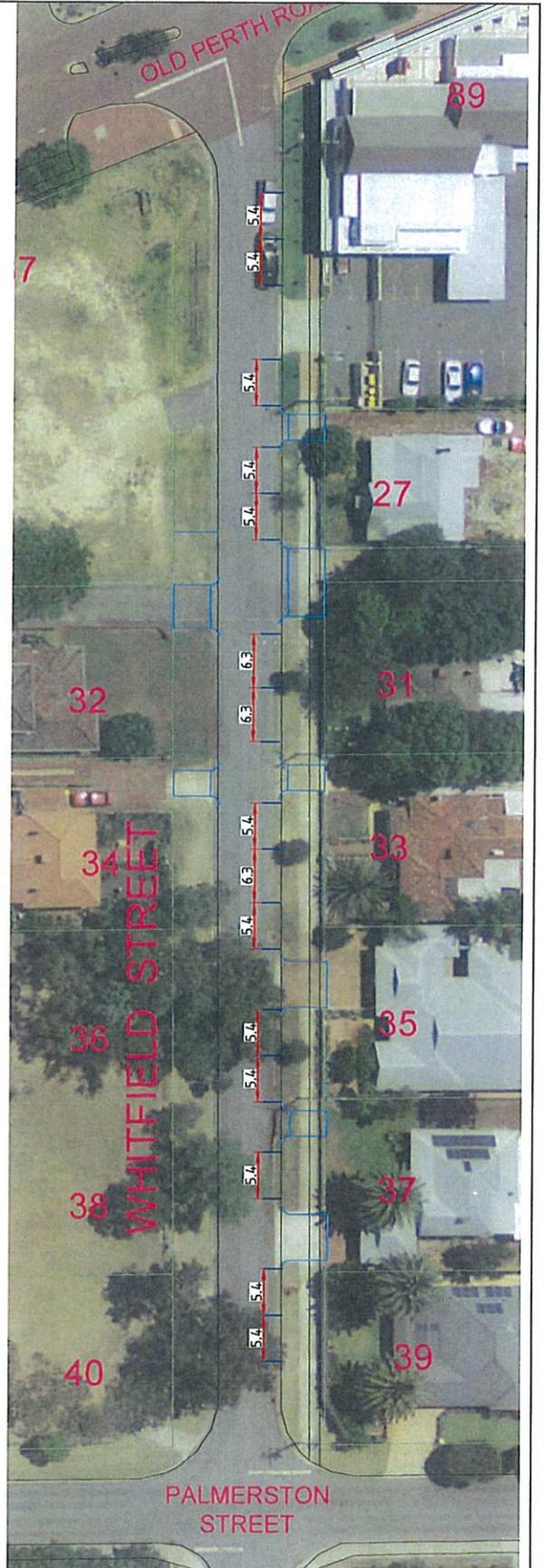
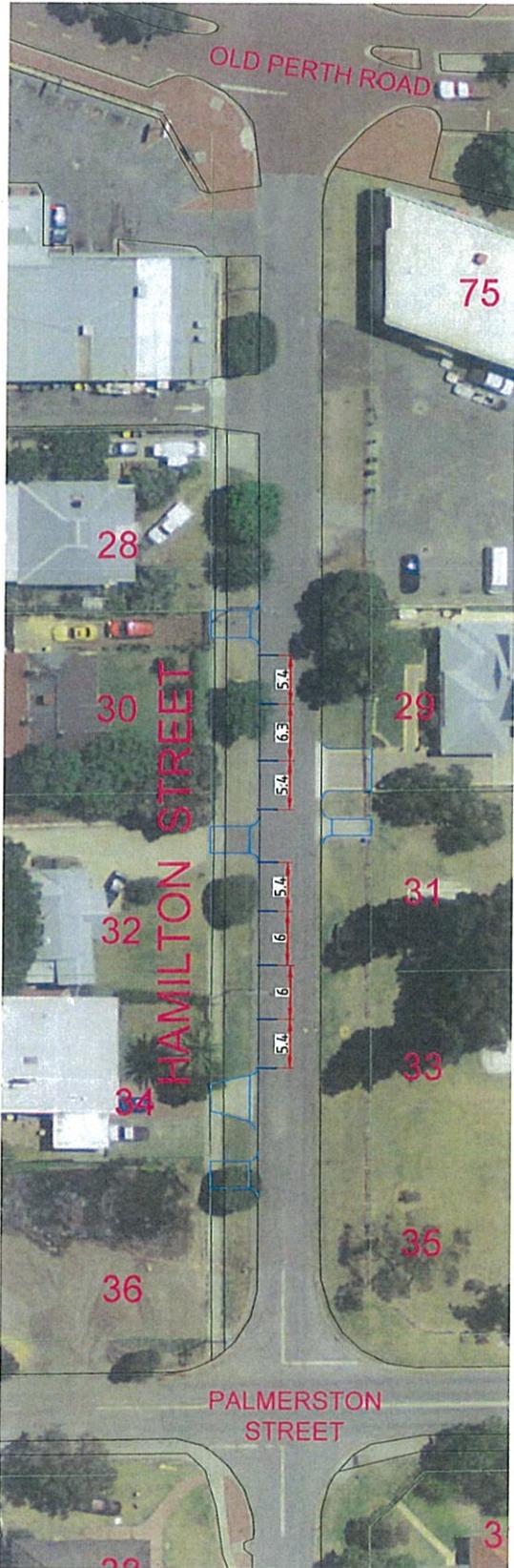


- of uniform height, design and materials with adjacent lots and of compatible design and/or materials where changes in design or height are justified due to the requirements of topography or to relieve monotony
  - of sufficient height and strength and of appropriate design where it is necessary to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

## 4.8 Utility service provision

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

# **ATTACHMENT NO. 4**



DRAWN	NB	DATE	TITLE
CHECKED	-	13/10/16	HAMILTON ST AND WHITFIELD ST PALMERSTON - OLD PERTH ROAD ON-STREET PARKING
DESIGNED	-	-	
APPROVED	-	-	

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



**TOWN OF BASSENDEAN**  
ASSET SERVICES

48 OLD PERTH RD  
BASSENDEAN WA 6054  
1801 29 347 493 108

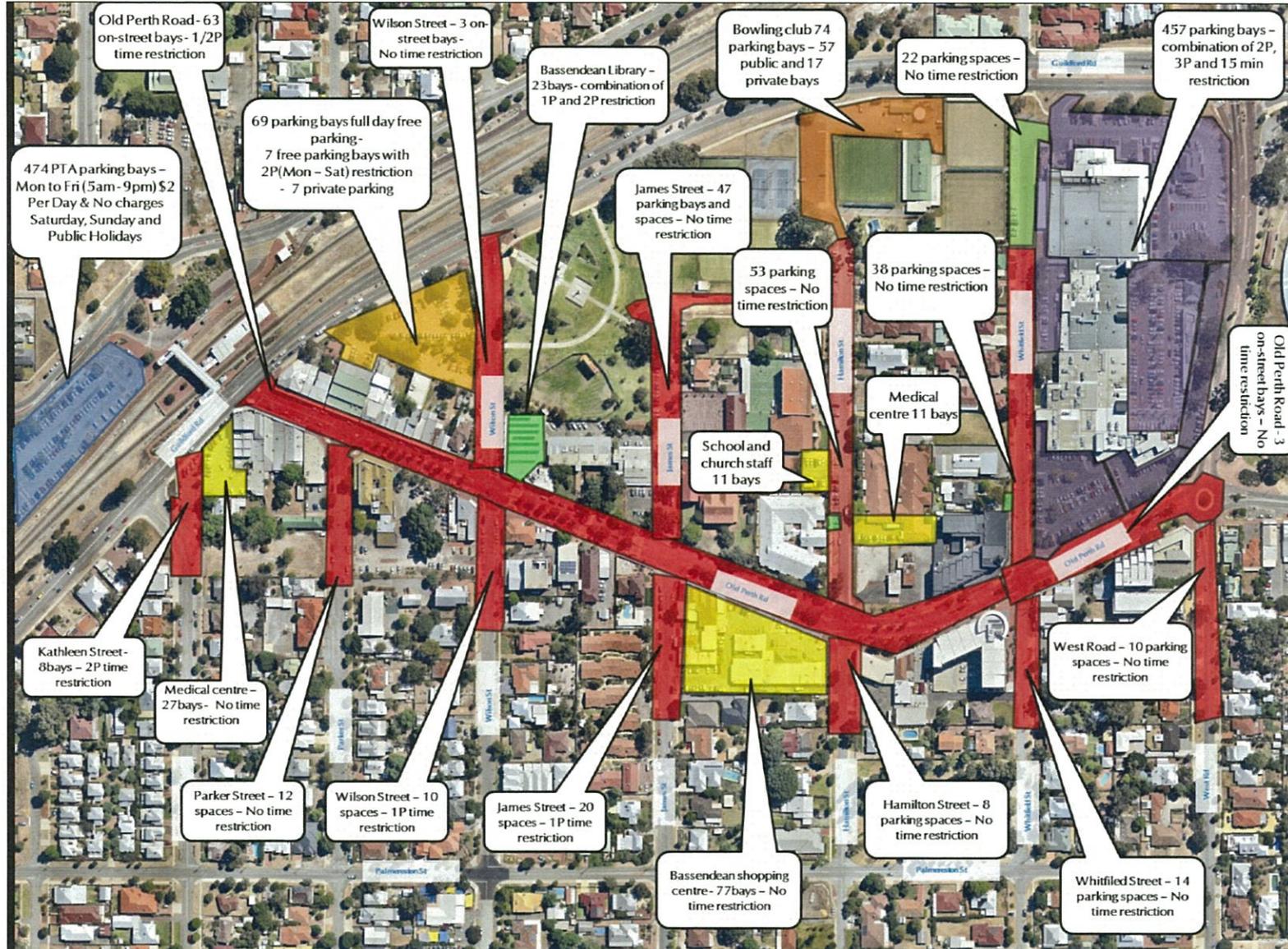
Telephone: (08) 9377 9000  
Facsimile: (08) 9279 5416  
Email: mail@bassendean.wa.gov.au  
www.bassendean.wa.gov.au

SCALE: 1:500

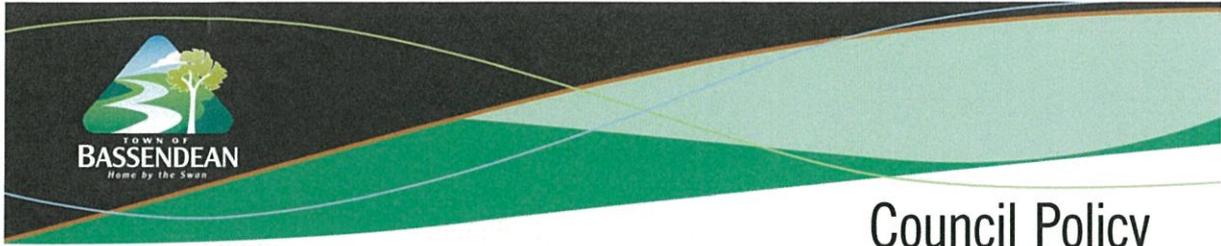
DRG NO. SHT. REV.  
TOB-11-2016 . .

A3

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



# **ATTACHMENT NO. 5**



## 1.1 Verge Treatment and Maintenance Policy

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

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

### Objectives

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

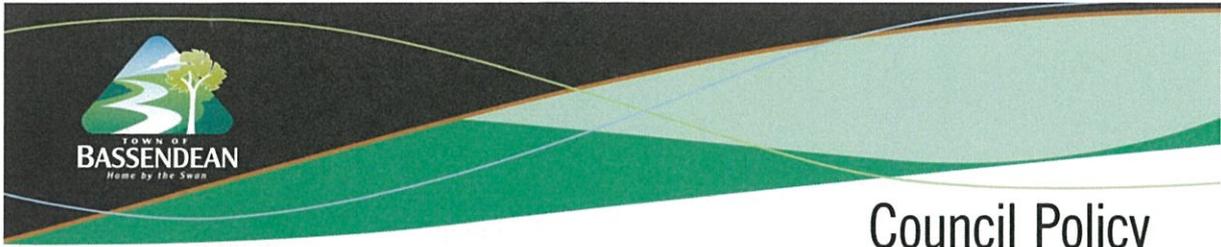
Council does not mow or slash verges adjacent to all private, commercial or industrial property on the basis that owners and residents with civic pride undertake this activity as a contribution to the amenity of the Town. This allows Council to direct its resources to priority services.

### Strategy

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

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

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



# Council Policy

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

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

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

Note:

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

## Detail

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

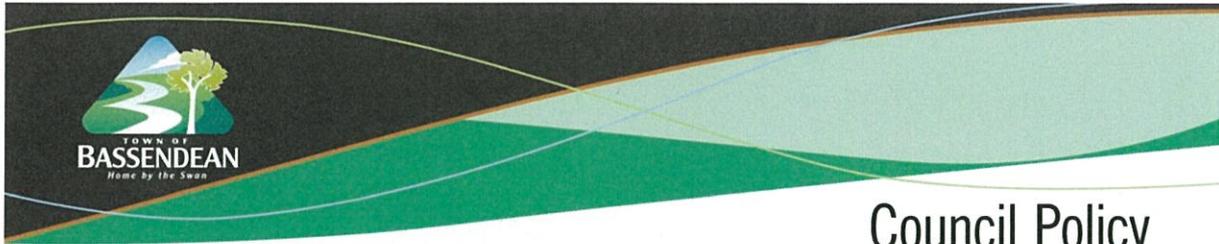
Treatments should be attractive and provide a positive enhancement to the streetscape. Street tree planting shall be in accordance to the adopted Street Tree Master Plan. Street trees remain the responsibility of the Town and are therefore, excluded from this policy.

## Application

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

The Policy is to be reviewed every three years.

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

**PERMISSIBLE VERGE TREATMENTS**

**Introduction**

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

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

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

**Permissible Verge Treatments**

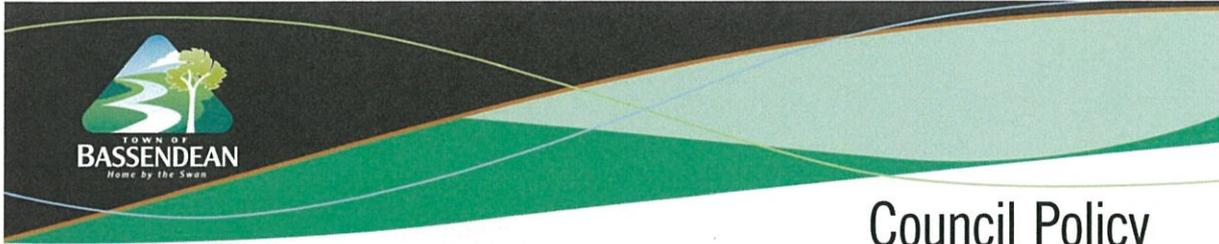
The Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2010 states:

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

Division 3 - Permissible Verge treatments:

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

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



## Council Policy

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

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

## Irrigation & Planting requirements

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

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

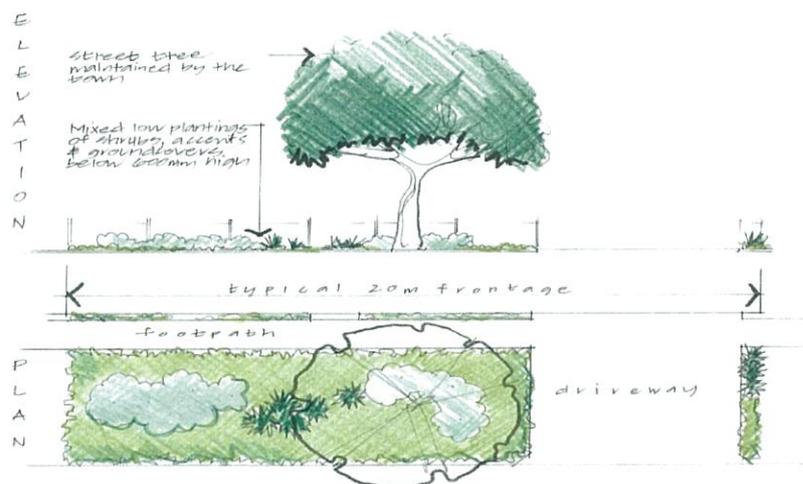
In regards to the landscaping of the verge, it is essential to provide at all times clear sight visibility for both pedestrians and vehicles. Where there is no footpath, safe and clear access shall be provided for pedestrians. No plant except grass or a similar ground cover plant is to be grown within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

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

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

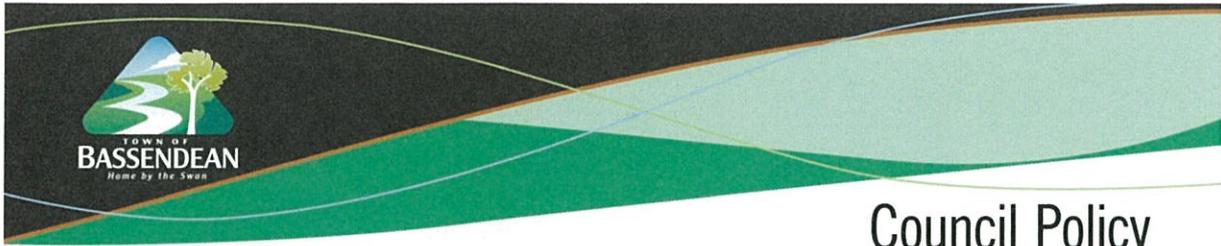
When considering landscaping a verge, the planting of endemic (local native) low growing groundcovers and shrubs are strongly encouraged. *Grow Local* native plants brochures can be obtained from the Town's Customer Service information desk. The brochure contains a range of hints and information on how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

Below is an example of a verge landscaped plan



## Important Information:

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



## APPENDIX 2

### VERGE TREATMENT APPLICATION FORM

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

#### Verge Treatment Details

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

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

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

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

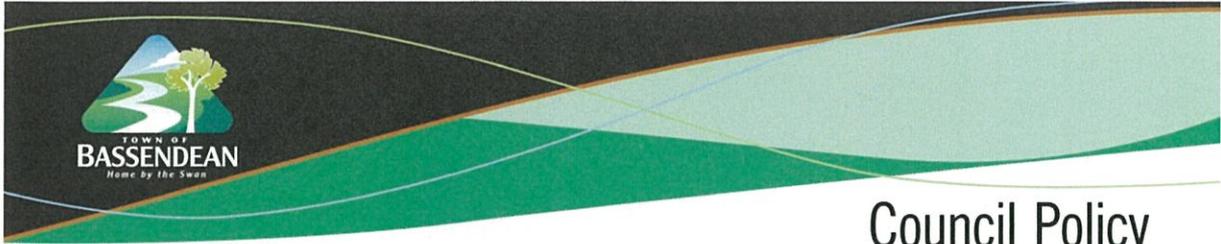
- \* "Street Tree" – Telephone 93779000 or request in writing a street tree (s) beplanted
- \* "Street Tree Protection"- building permit requirements.
- \* "Crossovers" – constructed in accordance to Town's specifications
- \* "Availability of Mulch" Free mulch during specified time frames or pay for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

I/we, agree:

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

Applicant (s) Name .....  
Applicant/s Signature .....  
Date: .....

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



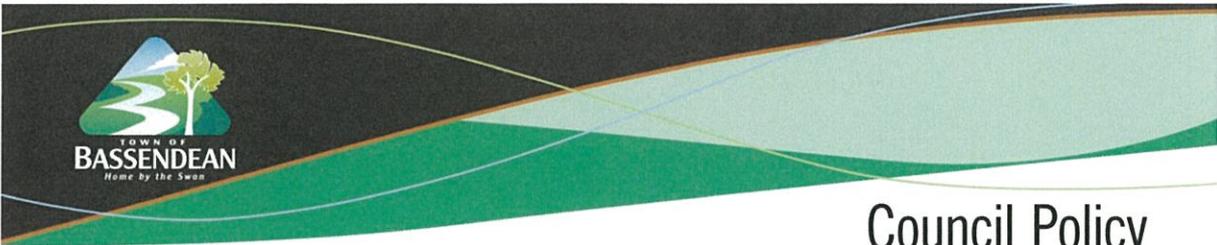
**OFFICE USE ONLY**

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

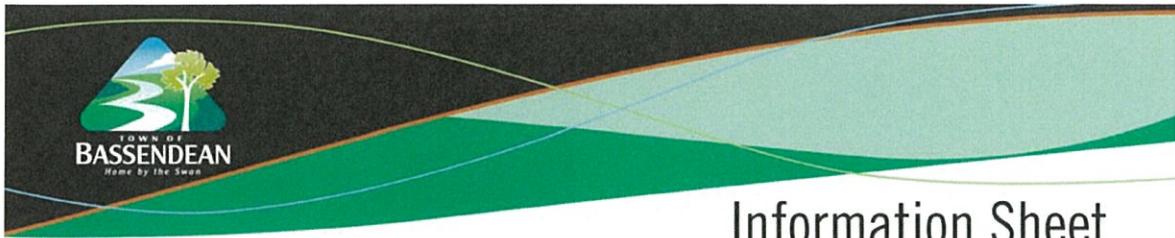
**Application**  Approved  Refused

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

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



# Council Policy



# Information Sheet

## Permissible Verge Treatment

### Introduction

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### Permissible Verge Treatments

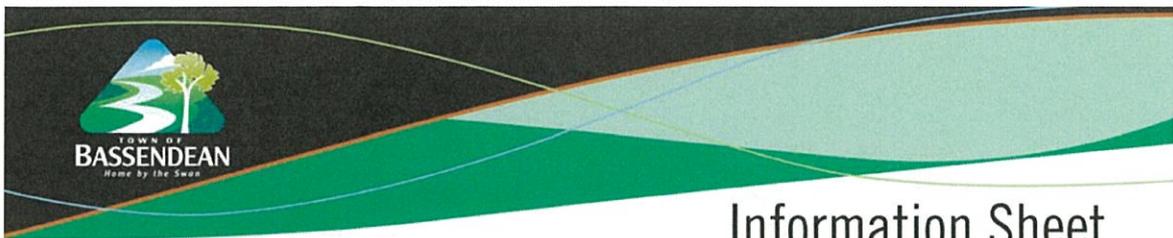
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# Information Sheet

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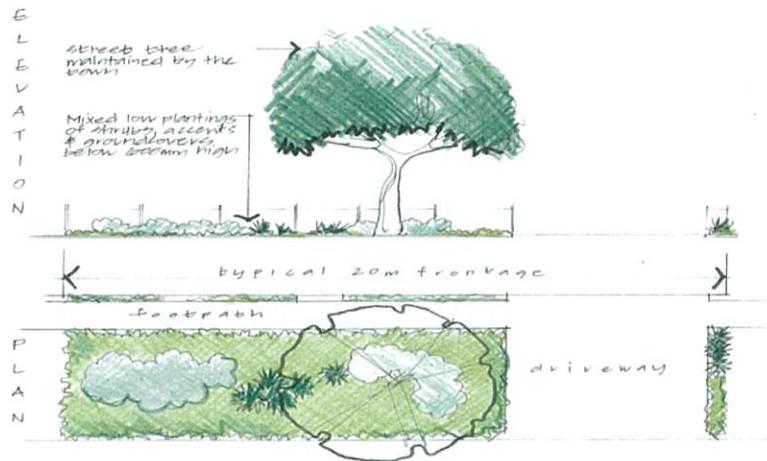
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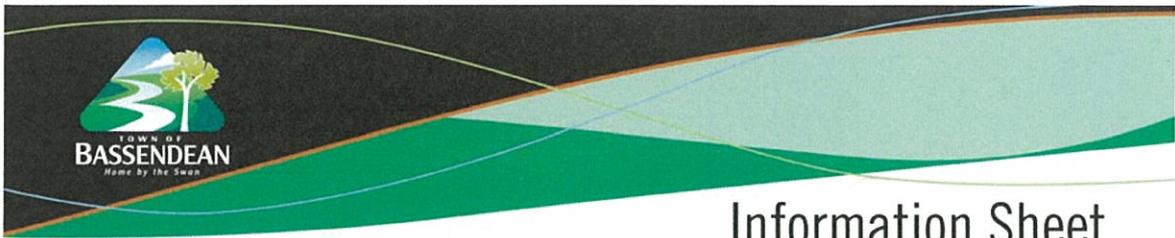
Over the page is shown an example of a verge landscaped plan



**Important Information:**

- Please refer to the **Verge Treatment**, **Street Tree Protection**, **Significant Tree** and the **Crossover** information sheets which are available for viewing on the Town of Bassendean web page at: [www.bassendean.wa.gov.au / information & feedback/ policies](http://www.bassendean.wa.gov.au / information & feedback/ policies)
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See overleaf for Verge Treatment Permit Application Form.



# Information Sheet

## VERGE TREATMENT PERMIT APPLICATION FORM

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

### Verge Treatment Details

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

***I/we, agree:***

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Applicant (s) Name .....  
 Applicant/s Signature .....  
 Date: .....

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



# Information Sheet

## OFFICE USE ONLY

Required Verge Treatment documentation and Plans submitted

Yes  No

Street Tree Protected policy considered & applied

Yes  No

Acceptable materials utilized

Yes  No

Pedestrian Access provided

Yes  No

Existing / Future Street Tree considered

Yes  No

**Application**

Approved

Refused

Comments:

.....

Officer Title : ..... Date: ..... Applicant advise Yes



WESTERN  
AUSTRALIAN  
GOVERNMENT

**Gazette**

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LOCAL GOVERNMENT ACT 1995

TOWN OF BASSENDEAN

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

## LOCAL GOVERNMENT ACT 1995

## TOWN OF BASSENDEAN

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

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## LOCAL GOVERNMENT ACT 1995

## TOWN OF BASSENDEAN

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

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

## PART 1—PRELIMINARY

## 1.1 Citation

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

## 1.2 Definitions

In this local law unless the context otherwise requires—

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

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

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

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

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

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

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

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

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

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

(a) private land; or

(b) a private thoroughfare serving private land;

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

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

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

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

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

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

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

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

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

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

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

(a) which belongs to the local government;

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

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

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

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

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

### 1.3 Application

This local law applies throughout the district.

### 1.4 Repeal

- (1) The *Town of Bassendean Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law* published in the *Government Gazette* on 16 August 2001 is repealed.
- (2) Where a policy was made or adopted by the local government under or in relation to a local law repealed by this local law, then the policy is to be taken to no longer have any effect on and from the commencement day.
- (3) The Council may resolve that notwithstanding subclause (2) specified policies continue, or are to be taken to have continued, to have effect on and from the commencement day.

## PART 2—ACTIVITIES ON THOROUGHFARES AND PUBLIC PLACES

### *Division 1—General*

#### 2.1 General prohibitions

A person must not—

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

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

## 2.2 Activities allowed with a permit—general

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

## 2.3 No possession and consumption of liquor on thoroughfare

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

### *Division 2—Vehicle Crossings*

## 2.4 Temporary Crossings

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

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

### **2.5 Removal of redundant crossing**

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

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

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

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

### *Division 3—Verge Treatments*

#### **2.6 Interpretation**

In this Division, unless the context otherwise requires—

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

#### **2.7 Permissible verge treatments**

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

(2) The permissible verge treatments are—

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

#### **2.8 Only permissible verge treatments to be installed**

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

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

#### **2.9 Obligations of owner or occupier**

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

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

#### **2.10 Notice to owner or occupier**

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

**2.11 Transitional provision**

(1) In this clause—

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

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

(2) A verge treatment which—

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

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

**2.12 Power to carry out public works on verge**

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

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

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

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

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

(ii) sprinklers, pipes or other reticulation equipment.

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

In this Division, unless the context requires otherwise—

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

**2.14 Assignment of numbers**

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

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

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

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

(b) local government property.

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

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

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

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

**2.17 Transitional**

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

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

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

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

(1) In this clause—

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

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

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

(b) the person has first obtained a permit.

## PART 3—ADVERTISING SIGNS ON THOROUGHFARES

### *Division 1—Preliminary*

#### 3.1 Interpretation

In this Part, unless the context otherwise requires—

“**advertising sign**” means a sign used for the purpose of advertising a business, organisation, person, service, product or event and includes an “election sign”;

“**direction sign**” means a sign used to provide direction to another place where an activity or event is taking place, but does not include any such sign erected or affixed by the local government or the Commissioner of Main Roads;

“**infrequent or occasional**” means a one off or annual occurrence; and

“**portable sign**” means a portable free standing advertising sign or direction sign which is not placed on or affixed to any natural feature, including a rock or tree, or on any structure located within a thoroughfare.

### *Division 2—Permit*

#### 3.2 Portable advertising signs and portable direction signs

(1) A person shall not—

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

(b) place a sign of any other description on any part of a thoroughfare.

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

(a) the sign does not exceed 500mm in height or 0.5m<sup>2</sup> in area;

(b) the sign is placed on a thoroughfare on an infrequent or occasional basis only to direct attention to a place where an activity or event is occurring, during the hours of that activity or event;

(c) the number of portable direction signs providing direction to the place where the activity or event is occurring shall not exceed 4 in total;

(d) the sign shall use symbols and lettering of a sufficient size so as to be clearly legible when observed from a distance;

(e) the content of the sign shall be limited to advertising an activity or event and providing direction to its location;

(f) the sign shall only be placed for the duration of the activity or event to which the sign relates;

(g) the sign shall be secured while placed so as to not become a hazard, particularly when subject to wind loads;

(h) the sign shall not be placed on a footpath;

(i) the sign shall not be placed within 1m of a vehicle carriageway and a carriageway will be deemed to include a parking bay; and

(j) the sign shall not be placed in any other location where, in the opinion of the local government, the sign is likely to obstruct sight lines along a thoroughfare or cause danger to any person using the thoroughfare.

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

(a) the sign does not exceed 1m in height or 1m<sup>2</sup> in area;

(b) the sign shall use symbols and lettering of a sufficient size so as to be clearly legible when observed from a distance;

(c) the content of the sign shall be limited to advertising a business, organisation, person, service, product or event;

(d) the sign shall be the only portable advertising sign serving the building, property or business to which the sign relates (1 sign per business/property/building);

(e) the sign shall only be placed during the business hours to which the sign relates;

(f) the sign shall be secured while placed so as to not become a hazard, particularly when subject to wind loads;

(g) the sign shall, in all instances, be located directly adjacent to the building, property or business to which the sign relates;

(h) the sign shall not be placed on a footpath;

(i) notwithstanding subclause (3)(h), the sign may be placed on a footpath if the verge adjoining the building, property or business to which the sign relates consists only of a footpath. In this instance the sign must be—

(i) located within a trading zone or alfresco dining zone if one has been approved for the subject property; or

(ii) where a trading zone or alfresco dining zone has not been approved for the subject property the sign must be placed such that it abuts the property's front boundary; and

(iii) the placement of a sign on a footpath must not reduce the footpaths effective width for use by pedestrians to a distance less than 1.8m.

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

### 3.3 General Discretion

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

## PART 4—OBSTRUCTING ANIMALS, VEHICLES OR SHOPPING TROLLEYS

### *Division 1—Animals and Vehicles*

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

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

#### 4.2 Prohibitions relating to animals

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

#### 4.3 Removal of vehicle or animal

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

### *Division 2—Shopping Trolleys*

#### 4.4 Interpretation

In this Division—

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

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

#### 4.5 Shopping trolley to be marked

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

#### 4.6 Person not to leave trolley in public place

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

#### 4.7 Retailer to remove abandoned trolley

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

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

#### 4.8 Retailer taken to own trolley

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

#### 4.9 Impounding of abandoned trolley

An authorised person may impound a shopping trolley that is—

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

### PART 5—TRADING IN THOROUGHFARES AND PUBLIC PLACES

#### *Division 1—Stallholders and Traders*

##### 5.1 Interpretation

In this Division, unless the context otherwise requires—

“public place” includes—

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

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

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

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

“trader” means a person who carries on trading;

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

“trading” includes—

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

##### 5.2 Stallholder’s permit

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

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

##### 5.3 Trader’s permit

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

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

##### 5.4 No permit required to sell newspaper

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

##### 5.5 Conduct of stallholders and traders

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

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

(2) A stallholder or trader must not—

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

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

*Division 2—Street entertainers*

**5.6 Interpretation**

In this Division, unless the context otherwise requires—

- “perform” includes to play a musical instrument, sing, mime, dance, give an acrobatic or aerobic display or entertain, but does not include public speaking;
- “permit” means a permit issued for the purpose of clause 5.7;
- “permitted area” means the area or areas, specified in a permit, in which the permit holder may perform; and
- “permitted time” means the time or times, specified in a permit, during which the permit holder may perform.

**5.7 Permit required to perform**

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

**5.8 Variation of permitted area and permitted time**

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

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

shown on a permit.

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

**5.9 Duration of permit**

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

**5.10 Cancellation of permit**

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

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

*Division 3—Outdoor Eating Facilities on Public Places*

**5.11 Interpretation**

In this Division—

- “facility” means an outdoor eating facility or establishment on any part of a public place, but does not include such a facility or establishment on private land;
- “permit holder” means the person to whom a permit has been issued for the purpose of clause 5.12; and
- “public place” has the meaning given to it in clause 5.1.

**5.12 Permit required to conduct facility**

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

**5.13 Removal of facility unlawfully conducted**

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

**5.14 Temporary removal of facility may be requested**

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

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

**PART 6—PERMITS**

*Division 1—Applying for a permit*

**6.1 Application for permit**

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

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

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

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

### **6.2 Decision on application for permit**

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

### **6.3 Relevant considerations in determining application for permit**

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

#### *Division 2—Conditions*

### **6.4 Conditions which may be imposed on a permit**

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

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

### **6.5 Imposing conditions under a policy**

- (1) In this clause—

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

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

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

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

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

#### **6.6 Compliance with and variation of conditions**

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

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

#### *Division 3—General*

#### **6.7 Duration of permit**

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

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

#### **6.8 Renewal of permit**

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

(2) The provisions of—

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

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

#### **6.9 Transfer of permit**

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

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

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

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

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

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

#### **6.10 Production of permit**

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

#### **6.11 Cancellation of permit**

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

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

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

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

#### **6.12 Nominee of permit holder**

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

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

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

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

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

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

**8.2 Hazardous plants**

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

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

**8.3 Damage to thoroughfare**

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

**8.4 Notice to remove thing unlawfully placed on thoroughfare**

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

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

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

**9.2 Local government may undertake requirements of notice**

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

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

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

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

**9.4 Prescribed offences**

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

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

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

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

**9.5 Forms**

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

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

*First Schedule**Local Government Act 1995*

## Town of Bassendean

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

## PRESCRIBED OFFENCES

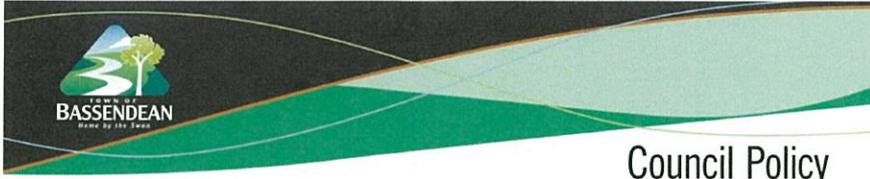
Clause	Description	Modified Penalty \$
2.1(a)	Plant of 0.75m in height on thoroughfare within 6m of intersection	125
2.1(b)	Damaging lawn or garden	125
2.1(c)	Obstructing or causing a hazard on thoroughfare or verge	200
2.1(d)	Damaging or interfering with thoroughfare structure	350
2.1(e)	Playing games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

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

Dated: 16 May 2011.

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

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



Commented [AB1]:

## 1.1 ~~Verge~~ **Treatment and Maintenance Policy**

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

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

### Objectives

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

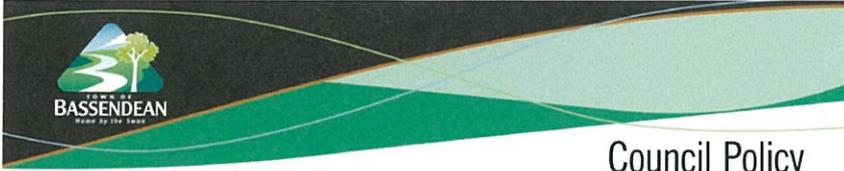
Council does not mow or slash verges adjacent to all private, commercial or industrial property on the basis that owners and residents with civic pride undertake this activity as a contribution to the amenity of the Town. This allows Council to direct its resources to priority services.

### Strategy

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

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

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



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

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

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

Note:

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

**Detail**

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

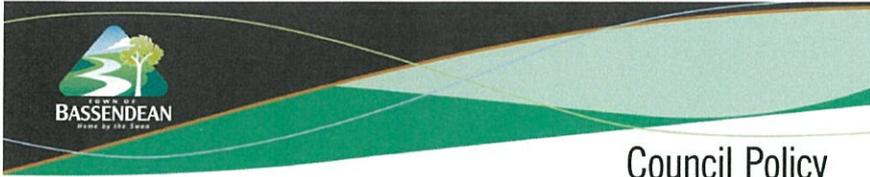
~~Treatments should be attractive and provide a positive enhancement to the streetscape. Street tree planting shall be in accordance to the adopted Street Tree Master Plan.~~ Street trees remain the responsibility of the Town and are therefore, excluded from this policy.

**Application**

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

The Policy is to be reviewed every three years.

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

### APPENDIX 1

## PERMISSIBLE VERGE TREATMENTS

### Introduction

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

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

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

### Permissible Verge Treatments

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

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

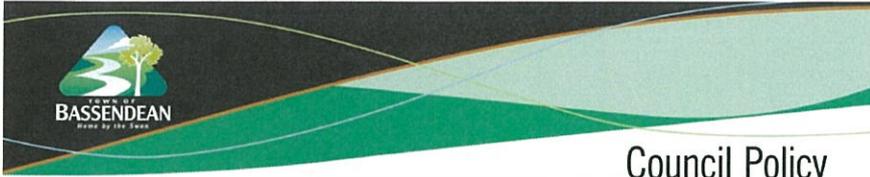
Division 3— Permissible Verge treatments:

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

(2) — The permissible verge treatments are:

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

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



## Council Policy

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

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

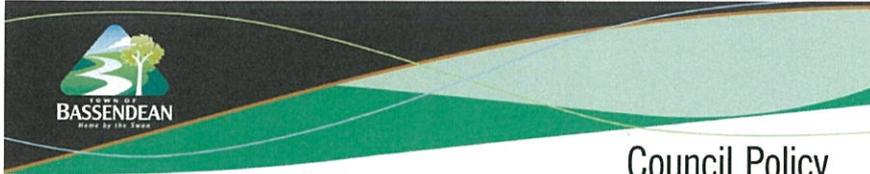
### Irrigation & Planting requirements

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

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

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

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

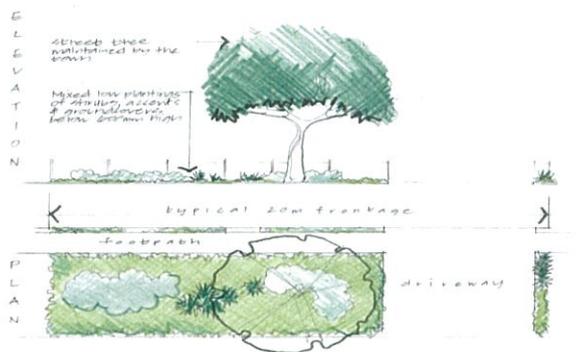


## Council Policy

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

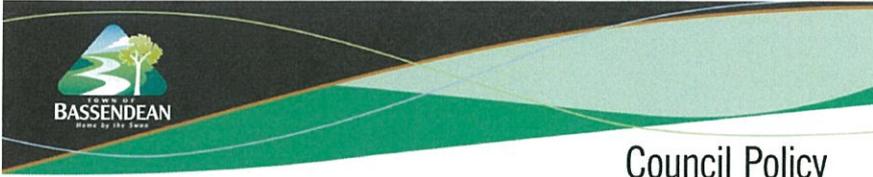
When considering landscaping a verge, the planting of endemic (local native) low growing groundcovers and shrubs are strongly encouraged. *Grow Local* native plants brochures can be obtained from the Town's Customer Service information desk. The brochure contains a range of hints and information on how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

Below is an example of a verge landscaped plan



### Important Information:

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



## Council Policy

### APPENDIX 2

### VERGE TREATMENT APPLICATION FORM

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

#### Verge Treatment Details

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

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

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

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

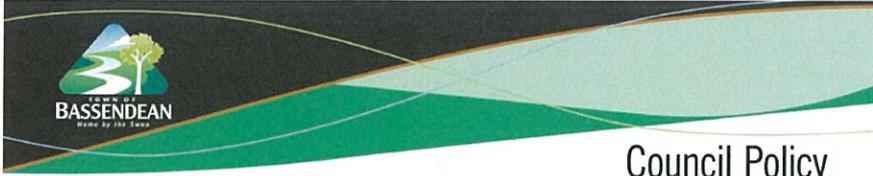
- \* "Street Tree" — Telephone 93779000 or request in writing a street tree (s) be planted
- \* "Street Tree Protection" — building permit requirements.
- \* "Crossovers" — constructed in accordance to Town's specifications
- \* "Availability of Mulch" — Free mulch during specified time frames or pay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

I/we, agree:

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

Applicant (s) Name .....  
Applicant/s Signature .....  
Date: .....

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



**OFFICE USE ONLY**

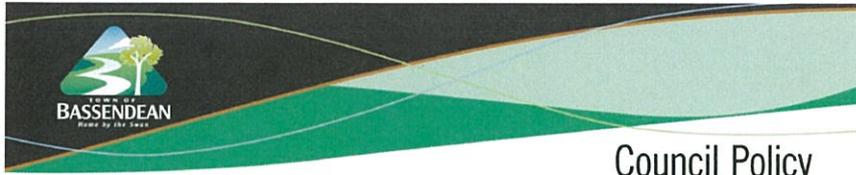
Required Verge Treatment documentation and Plans submitted  Yes  No  
Street Tree Protected policy considered & applied  Yes  No  
Acceptable materials utilized  Yes  No  
Pedestrian Access provided  Yes  No  
Existing / Future Street Tree considered  Yes  No

Application  Approved  Refused

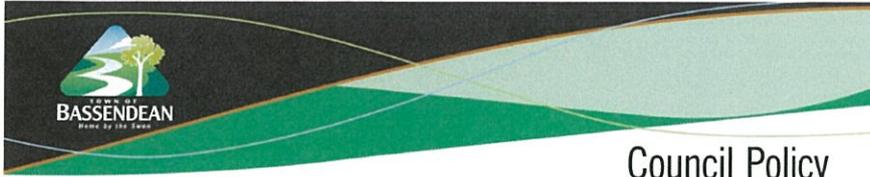
Comments:

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



## Council Policy



## Council Policy

### 1.1 Verges Treatment and Maintenance Policy

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

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

#### Objectives

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

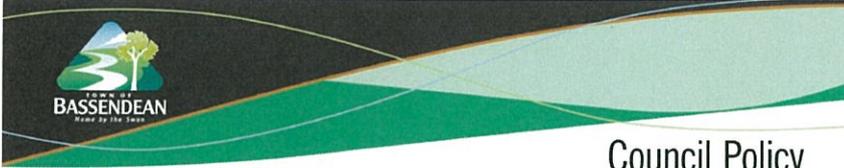
~~Council does not mow or slash verges adjacent to all private, commercial or industrial property on the basis that owners and residents with civic pride undertake this activity as a contribution to the amenity of the Town. This allows Council to direct its resources to priority services.~~

#### Strategy

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

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

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



## Council Policy

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

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

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

~~Note:~~

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

### Detail

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

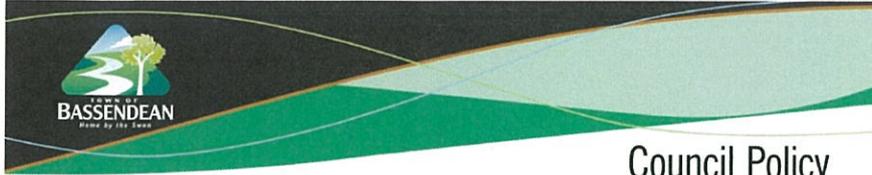
Treatments should be attractive and provide a positive enhancement to the streetscape. Street tree planting shall be in accordance to the adopted Street Tree Master Plan. Street trees remain the responsibility of the Town and are therefore, excluded from this policy.

### Application

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

The Policy is to be reviewed every three years.

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



## Council Policy

### APPENDIX 1

#### **APPENDIX 1 : PRE –APPROVED PLANT SPECIES**

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

[Conostylis candicans](#)

[Conostylis aculeata](#)

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

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

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

[Myoporum parvifolium](#)

[Pimelea ferruginea](#)

[Banksia blechnifolia](#)

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

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

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

[Carpobrotus virescens](#)

[Kennedia prostrata](#)

[Scaevola cultivars](#)

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

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

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

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

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

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

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

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

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

[Hypocalymma strictum](#)

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

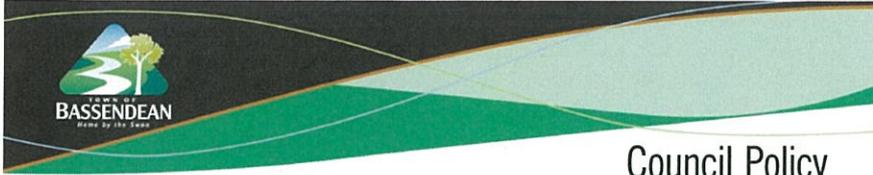
[Templetonia retusa \(Cockies Tongues\)](#)

[Templetonia smithiana](#)

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

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

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## Council Policy

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

### APPENDIX 2

#### VERGE TREATMENT APPLICATION FORM

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

#### Verge Treatment Details

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

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

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

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

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

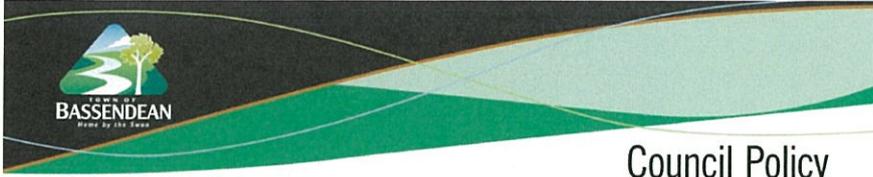
- \* "Street Tree" – Telephone 93779000 or request in writing a street tree (s) be planted
- \* "Street Tree Protection"- building permit requirements.
- \* "Crossovers" – constructed in accordance to Town's specifications
- \* "Availability of Mulch" Free mulch during specified time frames or pay for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

I/we, agree:

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

Applicant (s) Name .....  
 Applicant/s Signature .....  
 Date: .....

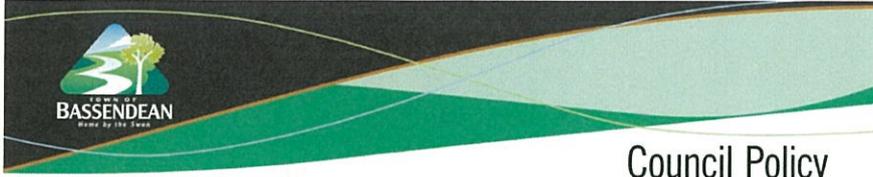
*Please note that landscaping of verge area shall not be undertaken without written approval that*



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

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



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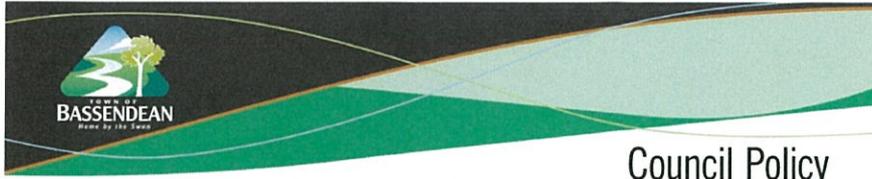
**OFFICE USE ONLY**

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

**Application**  Approved  Refused

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



## Council Policy

### **PERMISSIBLE VERGE TREATMENT GUIDELINESS**

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

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#### **Introduction**

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

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

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

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

#### **Why turn your verge into a waterwise garden?**

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

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

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

#### **Who is responsible for your verge?**

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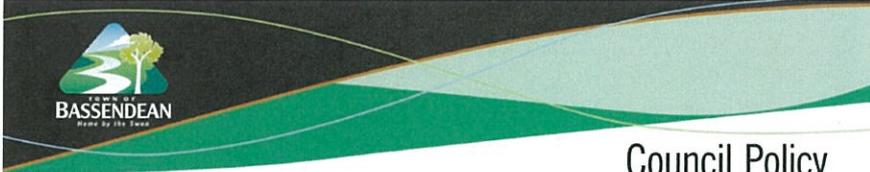
The property owners or residents of the property are responsible for the maintenance of their adjacent verge and any treatments they wish to implement.

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

#### **Where do I start?**

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



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

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

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

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

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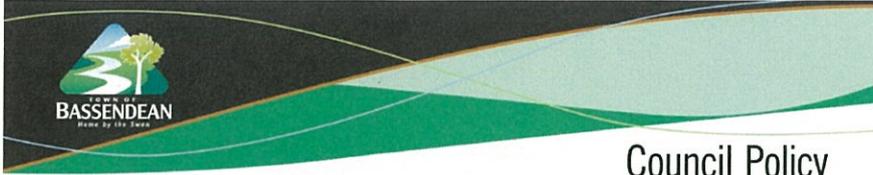
The Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2010 states:

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

Division 3 - Permissible Verge treatments:

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

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



## Council Policy

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

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

### Irrigation & Planting requirements

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

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

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

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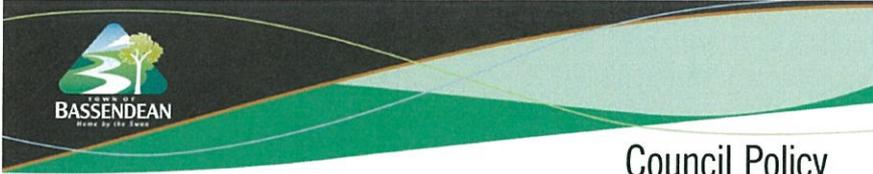
Where street trees are growing under the overhead power lines it is essential that that the Town of Bassendean approved contractors have appropriate machinery access to carry out street tree pruning operations. Should a verge treatment proposal prevent a street tree from being maintained/ pruned or will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

### How do I create my own waterwise verge?

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#### STEP 1: MEASURE YOUR VERGE

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



## Council Policy

verge for reference and to compare later.

### STEP 2: BE INSPIRED AND PREPARED

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

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

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

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

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

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

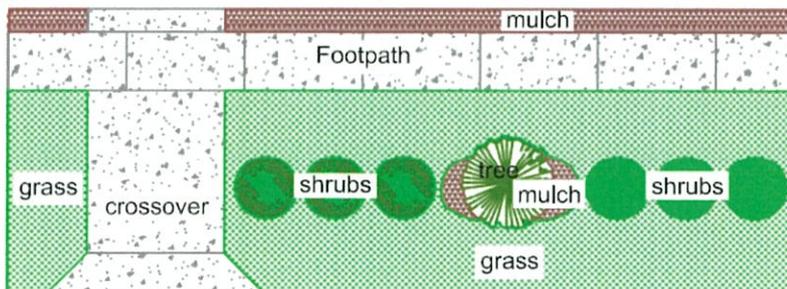
During the planning phase, contact Dial Before You Dig (<https://www.1100.com.au/>), to avoid any potential conflicts with or damage to public utility services.

### STEP 3: START DESIGNING

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

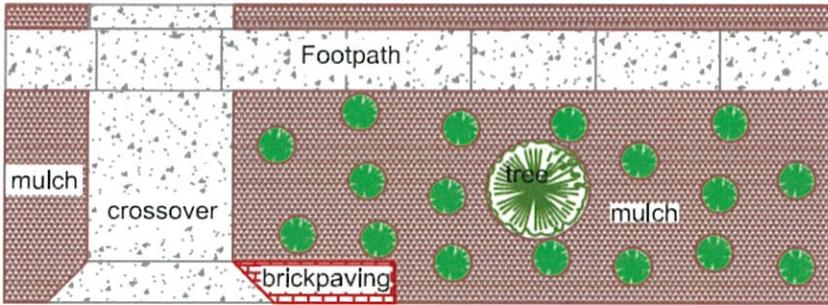
The sketch landscape plan verge design examples below are provided to assist the owner / occupier of the lot abutting a verge, appreciate visually the verge planting requirements. In this plan, the plants have been arranged so that grass or a similar ground cover plant covers are placed at edges and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

1



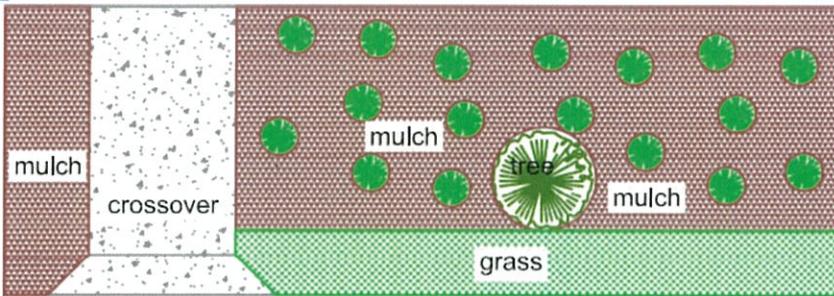
road

2



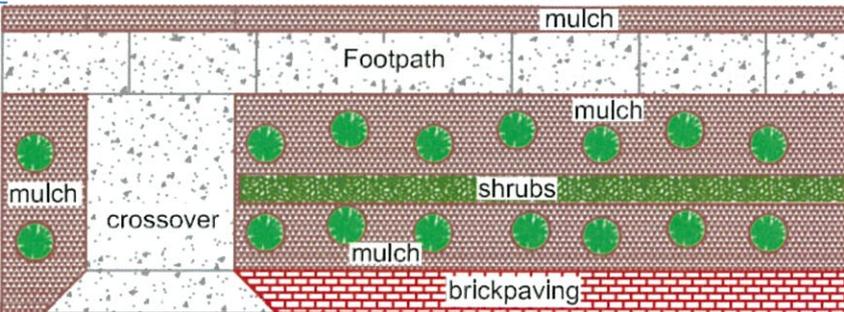
road

3

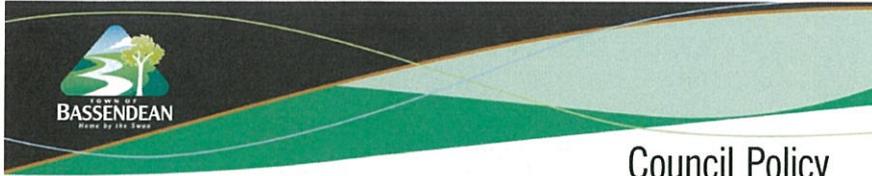


road

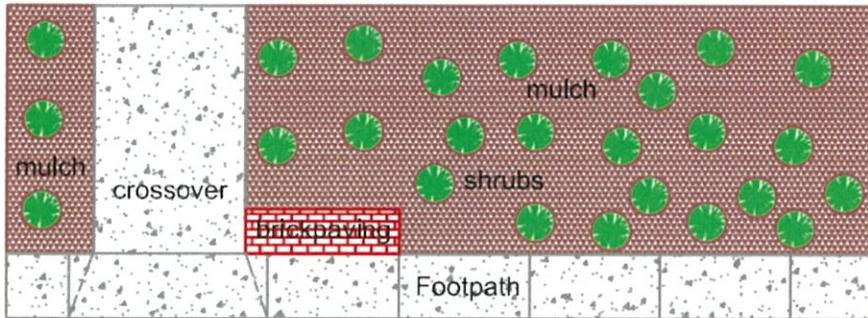
4



road



5



### Selecting Plants

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

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

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

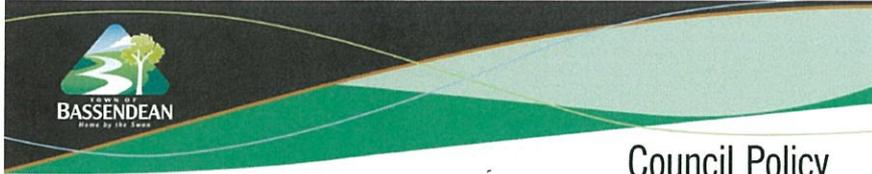
[Your local plant nursery will also have recommendations of native plants suitable for your location and garden design.](#)

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

### Requesting a Street Tree

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

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



To request a street tree, contact the Town's Parks and Gardens Supervisor on 9377 9000. The Town carries out its street tree planting program in July/August each year, although additional time will be required to process a new street tree request. See the Town's Street Tree Information Sheet for further details ([http://www.bassendean.wa.gov.au/Profiles/bassendean/Assets/ClientData/Document-Centre/Information\\_Sheets/Information\\_Sheet\\_5\\_-\\_Street\\_Tree.pdf](http://www.bassendean.wa.gov.au/Profiles/bassendean/Assets/ClientData/Document-Centre/Information_Sheets/Information_Sheet_5_-_Street_Tree.pdf)).

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

**Waterwise Lawn Varieties**

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

**STEP 4: SUBMIT YOUR PLANS**

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

Once you have approval, you can get started!

**STEP 5: PREPARE YOUR VERGE**

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



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

**STEP 6: MAINTAINING YOUR NEW VERGE**

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

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

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

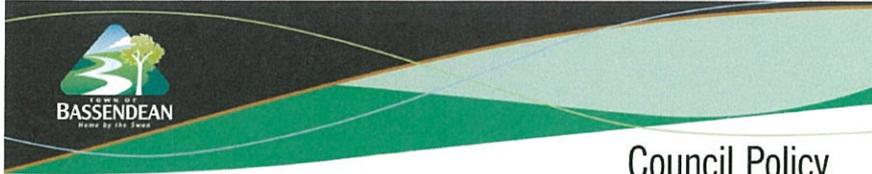
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**Irrigation & Planting requirements**

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

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

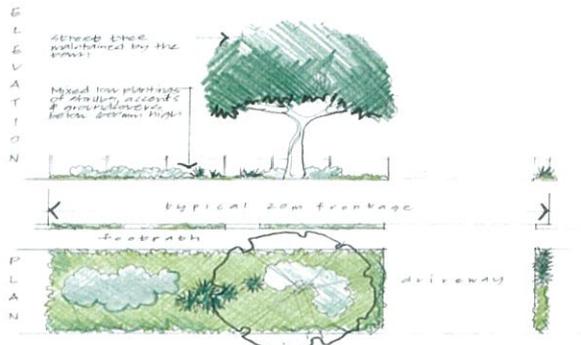


## Council Policy

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

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

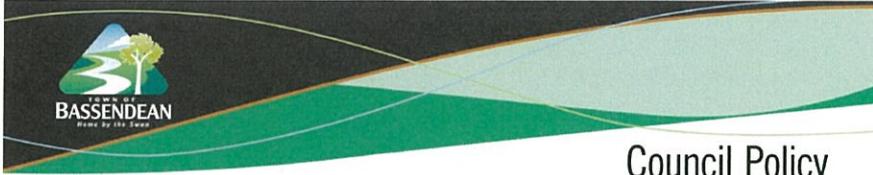
The sketch landscape plan below is provided to assist the owner / occupier of the lot abutting a verge, appreciate visually the verge planting requirements. In this plan, the plants have been arranged so that grass or a similar ground cover plant covers are placed at edges and low growing plant towards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



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

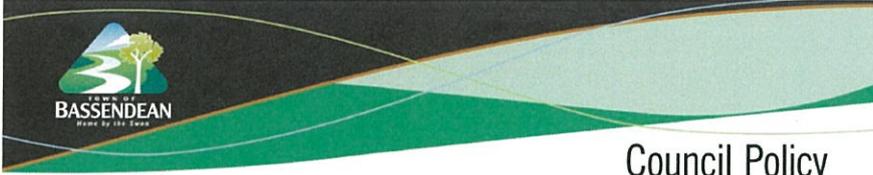
### Important Information:

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



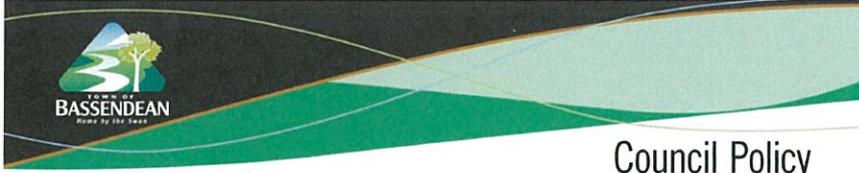
## Council Policy

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



## Council Policy

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



# Council Policy