

TOWN OF BASSENDEAN

NOTICE OF ORDINARY COUNCIL MEETING

Dear Council Members

An Ordinary Meeting of the Council of the Town of Bassendean will be held on Tuesday, 25 October 2016 in the Council Chamber, 48 Old Perth Road, Bassendean, commencing at 7.00pm.

BOB JARVIS
CHIEF EXECUTIVE OFFICER

21 October 2016

A G E N D A

1.0 DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

Acknowledgement of Traditional Owners

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

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

2.0 PUBLIC QUESTION TIME & ADDRESS BY MEMBERS OF THE PUBLIC

2.1 Questions Taken on Notice

2.2 Public Question Time

Members of the public who wish to do so may ask questions at this point in the agenda.

2.3 Address by Members of the Public

Members of the public who wish to do so may address Council at this point in the agenda.

It should be noted that Public Statements are not recorded in the minutes. Statements raised by members of the public must be regarding items on the agenda.

3.0 ATTENDANCES, APOLOGIES AND APPLICATIONS FOR LEAVE OF ABSENCE

4.0 DEPUTATIONS

5.0 CONFIRMATION OF MINUTES

5.1 Ordinary Council Meeting held on 27 September 2016
(Attachment No. 1)

OFFICER RECOMMENDATION – ITEM 5.1(a)

That the minutes of the Ordinary Council meeting held on 27 September 2016, be received.

OFFICER RECOMMENDATION – ITEM 5.1(b)

That the minutes of the Ordinary Council meeting held 27 September 2016, be confirmed as a true record.

6.0 ANNOUNCEMENT BY THE PRESIDING PERSON WITHOUT DISCUSSION

The Mayor will present the Sport Achievement Awards to those successful recipients.

7.0 PETITIONS

8.0 DECLARATIONS OF INTEREST

9.0 BUSINESS DEFERRED FROM PREVIOUS MEETING

9.1 Reconsideration of Proposed Mobile Concrete Batching Plant at Lot 105 (Nos. 2-8) Clune Street, Bassendean, Owner: Keppel Holdings Pty Ltd, Applicant: Hotchkin Hanly Lawyers (Ref: DABC/BDVAPPS/DA2015-246 - Timothy Roberts, Planning Officer & Brian Reed, Manager Development Services)

Additional Information

This application was deferred at the September 2016 Ordinary Council meeting, until the November 2016 meeting.

The matter was considered through a direction hearing on Friday 30 September 2016 before Senior Member Spillane where firstly, the final hearing dates of 5 and 6 December 2016 were kept in place.

The following orders were also made:

1. Town to provide its statement of issues by 14 October 2016;
2. Applicant to provide its reply to the statement of issues by 21 October 2016;
3. Town to provide its witness statements by 11 November 2016;
4. Applicant to provide its witness statements by 23 November 2016; and
5. Witnesses within the same discipline are to confer and produce a joint witness statement by 30 November 2016.

The Town's officers have assisted McLeod's with the Statement of Issues.

Inasmuch as the Town officers supported the application, Council will need to engage an Independent expert witness, and there will be costs to the Town in doing this.

In its consideration of the application, Council assumes the role of a Commissioner of the Western Australian Planning Commission and is required to make a determination in accordance with the Scheme. The State Administrative Tribunal will be required to determine the application in a similar way.

The objectives of the General Industry zone include the provision for a broad range of industrial uses.

The use of a concrete batching plant falls within the definition of General Industry which is a permitted use under the Scheme providing the use complies with the relevant development standards and the requirements of the Scheme. The only development standards that are required to be varied relate to the setback of the proposed fencing to Clune Street, which is intended to be dealt with by way of a condition.

There have been concerns expressed by some in the community about the impact of dust and pollution emissions associated with this industry. In this regard, it should be noted that the use of the site as a concrete batching plant will also require a works approval under the Environmental Protection Act 1986, which has been sought from the Department of Environmental Regulation.

In terms of buffer distances and the need for a site specific technical analysis of the site, the Environmental Protection Authority has advised:

“Given the average daily production of 350m³ and the 420m distance to residential areas (which is within the recommended 300 to 500m separation distance), a site specific technical analysis would not be essential. The plant will require a works approval from the Department of Environment Regulation (DER) under Part V Division 3 of the Environmental Protection Act 1986, and during this process the DER would request further technical information if necessary. The plant will also be regulated via the Environmental Protection (Concrete Batching and Cement Product Manufacturing) Regulations 1998.”

In the consideration of the current application, parallels are being drawn between this application and the Ransberg Pty Ltd proposal located on Collier Road in the City of Bayswater. An important distinction between the two sites is that the former Department of Environment and Conservation did not consider the separation distance to be adequate in that instance and offered the following advice:

In accordance with draft [SPP 4.1], DEC does not believe that an adequate buffer could be accommodated if the Concrete batching plant is established on the subject lot. A proponent or responsible authority wishing to deviate from the advice in the Guidance Statement would be expected to put a well-researched, robust and clear justification arguing the need for that deviation. DEC recommends that the City refuse to grant this development application until the proponent has adequately addressed the above issue.

At the September Council meeting, concern was expressed about the average daily production of the plant and what the maximum production capacity of the plant would be. In this regard, the application for the works approval indicates that the expected production is 80,000 m³ per annum, which equates to around 320m³ per day, assuming 5 day per week production over 50 weeks. It should be noted however, that the design capacity is 100m³ per hour.

Similar concerns were expressed at the October Briefing Session where concerns were also expressed regarding the prospect of water borne contaminants entering the local drainage system.

The list of originally suggested conditions have been reviewed by the Town's planning staff and a number of new conditions (shown in bold in the recommendation below) have been included in an attempt to address concerns expressed with the original recommendation. A number of footnotes have also been added reminding the applicant of the need to comply with other legislation.

The conditions may be reviewed by the applicant through the current SAT process.

From a strategic planning point, the main objection with the original proposal submitted, was the prospect of not being able to secure the part of the site required for a road connection to the redeveloped CSBP site, the application has since been designed to show the development of the site without encroaching on the land required for the road.

The remainder of this report is the same as that presented to the September Ordinary Council meeting.

APPLICATION

This report seeks Council's reconsideration for a proposed mobile concrete batching plant at Lot 105 (Nos. 2-8) Clune Street, Bassendean. The matter was refused by Council at its June Ordinary Council meeting as the proposal was considered non compliant with the provisions of the Town of Bassendean Local Planning Scheme No. 10. As part of the State Administrative Tribunal appeal process and on receipt of further justification from the applicant, the Town has been invited to reconsider its decision.

ATTACHMENTS

Attachment No. 2:

1. Site plan
2. Proposed plan of development
3. Correspondence from Hotchkin Hanly Lawyers (The Applicant)
4. Town of Bassendean response letter to the applicant
5. Report to June Ordinary Council meeting
6. Buffer zone
7. Email correspondence from Department of Environment Regulation
8. Traffic management plan
9. CSBP redevelopment zoning map

BACKGROUND

The Town of Bassendean received a development application for a mobile concrete batching plant at Lot 105 (Nos. 2-8) Clune Street, Bassendean on 18 December 2015. Attachment 1 details the location of the site in relation to the surrounding industrial area and nearby residential housing. The applicant considered the application a 'deemed refusal' as it was not determined within the specified timeframes as detailed within the *Planning and Development (Local Planning Schemes) Regulations 2015*. The applicant subsequently lodged an appeal with the State Administrative Tribunal (SAT) on 15 March 2016 where after mediation and receipt of amended plans, the Town was invited to reconsider its decision by 28 June 2016.

The proposed development (see attachment 2) was referred to Council for reconsideration at its June Ordinary Council meeting where Council refused the proposed development due to non compliance with the objectives and provisions of both Town of Bassendean Local Planning Scheme No. 10 (LPS10) and Local Planning Policy No. 6 Industrial Zones Development Guidelines (LPP6). The unquantified impact of the proposed development on nearby sensitive land uses as well as traffic management concerns also formed reasons for refusal. A copy of the officer report along with council's resolution is included as an attachment. As such the matter was referred to a further directions hearing on 08 June 2016 where the following orders were made:

1. On or before 15 July 2016 the applicant is to write to the respondent seeking confirmation of the issues the respondent contends the applicant has not properly addressed.

2. On or before 29 July 2016 the respondent is to reply to the applicant setting out the issues the respondent contends the applicant has failed to properly address and what steps need to be taken to properly address them.
3. The proceeding is adjourned to a further directions hearing at 12 noon on 5 August 2016 at 565 Hay Street, Perth, Western Australia.

The applicant wrote to the Town on 12 July 2016 (see attachment) seeking further clarification with respect to traffic management, the need for a site specific technical analysis and incidental development within the unzoned (to be acquired) portion of the lot. The Town of Bassendean provided a written response (see attachment 4) further supporting its reasons for refusal. At the directions hearing the applicant was prepared to have the matter reconsidered again by Council with further information to be provided for the purpose of reconsideration. The following Orders were made

1. Pursuant to section 31 of the SAT Act the Town is invited to reconsider its decision on or before 27 September 2016.
2. There is a directions hearing for 30 September 2016, to program the matter to a hearing if required.
3. The final hearing dates of 5 and 6 December 2016 are listed.

The proposed mobile concrete batching plant is again being referred to Council for reconsideration in line with these Orders.

STRATEGIC IMPLICATIONS

The proposal has strategic implications for the surrounding area in that both the draft Central Sub-Regional Planning Framework and the Ashfield Precinct Plan identify portions of the nearby CSBP's and Wesfarmer's Landholdings for commercial mixed use and/or residential purposes. The proximity of the former CSBP site to the proposed concrete batching plant falls well within the prescribed buffer zone between industrial and sensitive land uses.

Land parcels proposed for the redevelopment of the former CSBP site have been zoned commercial, general industry and public open space. Implications of the proposed concrete batching plant on the CSBP site redevelopment will be further discussed under the comments section of this report.

COMMENT

In considering applications for development approval within the General Industry zone, the local government shall have regard to the objectives for the zone, and all development shall have regard to the relevant provisions of LPP6.

Fencing proposed is powdercoat black link mesh fencing at a height of 2.1 metres. Fencing is proposed on the lot boundary as opposed to the required two metre setback behind the street alignment. The proposal is unclear as to how fencing will be incorporated assuming the future construction of the Wicks Street road reserve and further detail will be required to ensure future compliance. Shade trees in car parking areas have also not been provided as required under the policy.

It is considered that the above variations can be addressed by way of condition within any development approval. As part of the required SAT correspondence between parties, three essential issues were identified for the Applicant to address before the application could be recommended for approval. These three issues are the adequacy of the Traffic Management Report, the need for a site specific technical analyses and acquisition of and development within the Wicks Street road reserve. The Town has received additional supporting information and further justification, meaning a well informed assessment and decision can now be undertaken.

SEPARATION DISTANCES BETWEEN INDUSTRIAL & SENSITIVE LAND USES

The Western Australian Planning Commission (WAPC) State Planning Policy (SPP) 4.1 State Industrial Buffer Policy recommends that buffer distances outlined in the Guidance for the Assessment of Environmental Factors: Separation distances between industrial and sensitive land uses (EPA 2005) comply with the objectives of the policy, The guidance statement specifies a separation distance of 300-500m between concrete batching plants and sensitive land uses for batching plants where concrete is made (batched) and loaded for transport (see attachment 6).

Land uses considered to be potentially sensitive to emissions from industry and infrastructure include residential development, hospitals, hotels, motels, hostels, caravan parks, schools, nursing homes, child care facilities, shopping centres, playgrounds and some public buildings. Some commercial, institutional and industrial land uses which require high levels of amenity or are sensitive to particular emissions may also be considered 'sensitive land uses' Examples include some retail outlets, offices and training centres, and some types of storage and manufacturing facilities.

The applicant has advised that the site is to be solely used for the batching of concrete and therefore the applicable required buffer zone is 300-500m (dependant on size).

There are 53 residential dwellings (sensitive land use) within the prescribed 300-500m buffer zone. The buffer zone also extends into the City of Bayswater although there are no residential sensitive land uses within this portion of the buffer zone. It is unknown whether any of the nearby industrial properties within either the City of Bayswater or the Town of Bassendean fall within the definition of a sensitive land use. Additionally, the redevelopment of the former CSBP site proposes land uses that could be considered to be a sensitive land use.

The applicant provided the following justification and supporting information in support of the application:

The Environmental Protection Authority Guidance for the Assessment of Environmental Factors – Separation Distances between Industrial and Sensitive Land Uses No. 3 (Guidance Statement No. 3) specifically addresses generic distances between industrial and sensitive land uses to avoid conflicts between these land uses.

Appendix 1 of Guidance Statement No. 3 contains the separation distances between industrial and sensitive land uses. Appendix 1 of Guidance Statement No. 3 states a 'Concrete Batching Plant or Cement Products (Bricks) Manufacture' use would require a buffer distance of 300m to 500m, depending on size (as measured from the lot boundary of the industrial use and the lot boundary of the nearest sensitive land use).

The subject site is located approximately 420m from the nearest sensitive land use (being the residential properties to the south-east of Guildford Road)

Section 4.4.1 of Guidance Statement No. 3 states the following in relation to where a new industrial use is proposed near existing sensitive land use:

'Where the separation between the industrial and sensitive land uses is greater than the generic distance, there will not usually be a need to carry out site specific technical analyses to determine the likely area of amenity impacts due to emissions from the industry. The need for technical analyses is likely to be limited to such instances as major industrial development, industries using new or non-typical processing techniques, or areas subject to cumulative impacts.

As a separation distance greater than the generic minimum distance is provided a technical analyses is not necessary.

Furthermore, the proposed use will operate in accordance with the requirements of the Environmental Protection (Concrete Batching and Cement Product Manufacturing) Regulations 1998. As such, the proposed use will not use any non-typical processing techniques. The proposal will also operate in accordance with a Waste and Dust Management Plan.

It should be noted that the proposal was referred to the Environmental Protection Authority ('EPA') by the Town of Bassendean on 11 May 2016. Rowe Group provided the EPA with A Referral of a Proposal to the Environment Protection Authority under Section 38 of the Environmental Protection Act 1986.

As part of the referral process the EPA advertised the proposal for seven (7) days. No submissions were received during this time.

On 18 July 2016 the EPA issued a Notice under Section 39A(3) of the Environmental Protection Act 1986 stating that the proposal is not so significant as to require assessment by the EPA. No appeal was made against this decision within the 14 days following the date on the EPA's Notice.

Notwithstanding the above, Rowe Group has prepared the following draft condition of planning approval that could be imposed by the Town so as to mitigate any adverse impact on the amenity of the area within the maximum 500m generic buffer prescribed by the Guidance Statement No. 3:

'The proposed development is, at all times, to operate in accordance with the Waste and Dust Management Plan and the Environmental Protection (Concrete Batching and Cement Product Manufacturing) Regulations 1998.'

The Town of Bassendean sought clarification from the EPA with respect to the required 300-500m separation distance from sensitive land uses (dependant on size). The notation that the setback from sensitive land uses be dependent on size without attributing an average daily output to a distance within the buffer range raised uncertainty in the assessment process. The proposed mobile concrete batching plant is setback 420 metres from the nearest sensitive land use and proposes an approximate daily average of 350m³ of concrete to be batched on site. The EPA responded on 2 September 2016 and provided the following comment:

'Given the average daily production of 350m³ and the 420m distance to residential areas (which is within the recommended 300 to 500m separation distance), a site specific technical analysis would NOT be essential. The plant will require a works approval from the Department of Environment Regulation (DER) under Part V Division 3 of the Environmental Protection Act 1986, and during this process the DER would request further technical information if necessary. The plant will also be regulated via the Environmental Protection (Concrete Batching and Cement Product Manufacturing) Regulations 1998.'

ENVIRONMENTAL PROTECTION AUTHORITY

Section 48 of the *Environmental Protection Act 1986* (EP Act) makes provision for the referral to the Environmental Protection Authority (EPA) of a proposal by a third party. The proposed concrete batching plant was referred to the EPA on 11 May 2016 by the Town. The EPA makes a decision about the nature of the proposal and whether or not the proposal is suitable for an *Environmental Impact Assessment* under Part IV of the EP Act. At the time of the June council meeting, no comment had been received. Attachment 7 details correspondence between the Town and the Department of Environment Regulation, with the following comment provided:

'This proposal raises a number of environmental issues. However, the overall environmental impact of the proposal is not so significant as to require assessment by the EPA, and the subsequent setting of formal conditions by the Minister for Environment under Part IV of the Environmental Protection Act 1986 (EP Act). Accordingly, the EPA has determined not to assess this proposal. Nevertheless, the EPA expects that the proposal will be implemented in an environmentally responsible way.'

TRAFFIC MANAGEMENT

Clune Street is classified as an Industrial Access Road with Jackson Street classified as an Industrial Local Distributor under the MRWA Functional Road Hierarchy. In 2003, Jackson Street had daily volumes of 3,420 vehicles per day and in 2007 had daily volumes of 2,004 vehicles per day. No daily traffic volumes are available for Clune Street, however, the traffic management plan (see attachment 8) provided in conjunction with the application estimated daily traffic volumes along Clune Street as being approximately 1,500 vehicles per day.

The maximum desirable traffic volume for an Industrial Local Distributor is 7,000 vehicles per day and 3,000 vehicles per day for an Industrial Access Road. The proposed number of vehicles accessing the proposed concrete batching plant will be approximately 100-120 vehicles per day. It is therefore considered that increased traffic numbers resultant from the proposed concrete batching plant will operate in accordance with the roads intended capacity. Whilst the proposed traffic numbers will operate in accordance with the road networks intended capacities, the intended future construction of the Wicks Street road reserve will further relieve traffic congestion concerns within the area.

The applicant provided the following justification and supporting information in support of the application;

The Transport Statement prepared by Shawmac and provided to the Town on 4 May 2016 demonstrates the expected traffic movements of the proposed concrete batching plant at the subject site and the surrounding streets.

As per the Orders issued by the Tribunal on 14 April 2016 the Town was to provide the Applicant with information regarding traffic estimates from the Outline Development Plan for Lot 10 Railway Parade, Bassendean ('the CSBP Land'). The Town provided the Applicant with a copy of a traffic report titled 'Eastern Access Assessment' prepared by Transcore (dated 12 November 2012) on 14 April 2016.

The 'Eastern Access Assessment' report does not contain any traffic estimates from the Outline Development Plan for the CSBP Land.

Discussions with Transcore on 4 August 2016 confirmed that traffic modelling for Clune Street and the future Wicks Street (which are the most relevant to the proposal) has not been commented on in any report.

Correspondence from Mr Slarke on 4 August contained a copy of what appears to be an extract of a Draft Traffic Report relating to the Outline Development Plan for the CSBP Land. The correspondence from Mr Slarke stated that the Draft Traffic Report was received by the Town on 4 August 2016. The correspondence did not specify who provided the Draft Traffic Report. The Draft Traffic Report is untitled and it is unclear as to who is the author of the document.

The Draft Traffic Report states the CSBP Land would ultimately generate approximately 22,680 daily trips during a typical weekday with the area generating approximately 2,268 trips during the morning or evening peak hour. The Draft Traffic Report does not contain traffic estimates for Clune Street or the future Wicks Street.

Rowe Group attempted to confirm the validity of the Draft Traffic Report through correspondence to Transcore on 4 August and 18 August 2016. No response has been received to date.

Shawmac confirmed in correspondence dated 5 August 2016 that assumptions could be made based on the daily and peak hour traffic estimates generated by the CSBP Land described in the Draft Traffic Report, however without the traffic modelling being available it is impossible to accurately determine the potential traffic impact of the CSBP Land.

On the basis of the above, Rowe Group is of the view that it is inappropriate that the prospective leaseholder of the subject site be required to update the Transport Statement to reflect traffic estimates of the Outline Development Plan for CSBP Land for the following reasons:

- No traffic report appears to have been prepared or made public which contains traffic modelling for Clune Street or the future Wicks Street. The prospective leaseholder contends how the Town can require the Applicant to reflect the traffic modelling which they themselves have not seen, reviewed or supported;*
- The proposal will generate an additional 256 trips per day (or approximately 26 trips per hour). In comparison to the proposed 22,680 trips generated by potential development at the CSBP Land, the proposal is so insignificant that any adverse impact cannot be expected; and*
- No subdivision application has been lodged with the WAPC or a development application has been lodged with the City of Bayswater in relation to the CSBP land. Further, the property has been on the market.*

- *A purchaser may purchase the site with the intention of changing the zoning of this land or developing the site for some other use. Therefore there is too much uncertainty in relation to the future use(s) of the CSBP land.*

WICKS STREET ROAD RESERVE

The proposed development is located within close proximity to the former CSBP site within the City of Bayswater. This site (see attachment 9) has been the subject of comprehensive strategic planning with an Outline Development Plan (ODP) adopted by the City of Bayswater on 23 April 2013. The ODP is a fundamental planning tool to guide the future subdivision and redevelopment of the site in accordance with the intent and recommendations of the Ashfield Precinct Plan. The ODP provides for the subdivision of the former CSBP site into potentially 92 lots with associated areas allocated for drainage and public open space and critical site access and road layouts. The ODP identified that the extension of Wicks Street (currently unconstructed) into Jackson Street was the most suitable option for vehicle access. This culminated in a (Town of Bassendean) Council resolution on 23 April 2013 supporting traffic arrangements proposed for the CSBP site, including the construction of the Wicks Street road reserve, and resolved to initiate acquisition of lands required for such purpose. It should be noted that part of the required Wicks Street road reserve falls within the lot the subject of the proposed development.

Incidental development to the proposed usage is currently proposed on land required for the Wicks Street road reserve (truck parking and associated vehicle access). The proposed development should be designed on the basis of this portion of land being required for road purposes and being excised from the development site. Should council choose to approve the application subject to advice outlined within this report, future compliance with the Town of Bassendean crossover specifications post resumption of the unzoned portion of land can be conditioned within any planning approval.

The development proposes 18 truck parking spaces and once the unzoned portion of Wicks Street is acquired the development proposes the relocation of 15 on these truck parking spaces within the general industry zoned portion of the lot. There are no planning controls as to the number of commercial vehicles to be provided for a concrete batching plant however the future truck parking spaces proposed are required to work in accordance with '*Australian Standard 2890.2-2002: Off-street commercial vehicle facilities*'.

It is evident that should the truck parking spaces be relocated as proposed, the design turning radius for a medium rigid vehicle would not comply with these standards for five of the truck parking spaces.

Should Council choose to approve the application subject to the advice outlined within this report, the relocation of truck parking spaces and required compliance with the Australian Standards can be conditioned within any planning approval.

On 7 July 2016, The Town of Bassendean requested the assistance of State Lands to acquire the unzoned portion of the lot for the construction of a public road in line with council's June resolution. At this stage, there has been no response received from State Lands as to the status of the acquisition.

The applicant has provided the following justification and supporting comments in support of the application:

In relation to the statements made by the Town in the 19 July 2016 Letter, we provide the following comments. Note that the statements made by the Town in the 19 July 2016 letter have been refined to three issues as outlined in the 29 July 2016 correspondence from Mr Slarke, two of which have been addressed above. The below section addresses the third issue; being the implication of the future Wicks Street road reserve.

The 29 July 2016 correspondence from Mr Slarke states that the primary issue of the future Wicks Street road reserve are:

- *It is not clear from the site layout plan how the facility will operate once the Wicks St land is resumed; and*
- *The crossover on Wicks St closest to Clune St will not be supported by the Town.*

The proposal involves a two stage development. This is reflected on the development plans through a pre-Wicks Street construction and post-Wicks Street construction.

Until the resumption of Wicks Street is finalised, it is proposed that truck parking be permitted on the southern portion of the subject site that is currently shown as 'No Zone' under the provisions of LPS 10.

When the resumption of Wicks Street is finalised, the truck parking will be relocated onto the northern portion of the subject site that is currently zoned 'General Industry' under the provisions on LPS 10 and crossovers will be constructed to allow access to the future Wicks Street. This is reflected on the updated plans.

We are of the view that this is a reasonable request whilst the southern portion of the subject site is still until private land ownership.

In relation to the location of the crossovers, the Town confirmed in its 5 August 2016 correspondence that the crossover closest to the intersection of Clune Street and the future Wicks Street and that opens onto the future Wicks Street is required to be set back 12m from the invisible truncation peg.

STATUTORY REQUIREMENTS

Relevant statutory considerations relating to the interpretation of LPS 10 and LPP 6 have been addressed within the associated June council report (see attachment 5) additional to a brief overview within the comments section of the report. The proposed variations to LPS 10 and LPP 6 are considered minor in nature and can be addressed as a condition of approval should council favourably view the proposal.

FINANCIAL CONSIDERATIONS

Refusal of the application could result in significant legal fees for the Town, in terms of defending the application for review.

CONCLUSION

From receipt of additional supporting information and further justification from the applicant in conjunction with receipt of traffic estimates and additional information from the Environmental Protection Authority, it is considered that Council is now in a position to make a comprehensive and well informed assessment and determination on the proposed development.

The Town's solicitors have provided further comment on the justification and supporting information provided by the applicant to formalise a recommendation as to whether a realistic prospect of a favourable outcome can be achieved at a final hearing in the SAT.

OFFICER RECOMMENDATION — ITEM 9.1

That, in response to the s31 invitation made by the State Administrative Tribunal, Council approves the development application for the proposed mobile concrete batching plant at Lot 105 (Nos 2-8) Clune Street, Bassendean, with the following conditions imposed:

1. Prior to the issue of a building permit, a development bond for the sum of \$10,000 being lodged with Council to ensure the satisfactory completion of all works associated with landscaping, car parking, access ways, screen walls, and other associated works;
2. A detailed landscaping plan being submitted for approval prior to or in conjunction with the application for a Building Permit which demonstrates compliance with the following requirements:
 - a. Provision of a minimum 6 shade trees for car parking spaces on site;
 - b. Shade trees being a minimum height of 2m at the time of planting;
 - c. Eucalyptus Leucoxydon Rosea to be planted with a minimum pot size at the time of planting of 100L;
 - d. All landscaped areas being reticulated;
 - e. A focus on the use of local species as specified within the Town's adopted Local Planning Policy – Landscaping with Local Plants;
3. All landscaped areas shall be reticulated and maintained for the life of the development in accordance with the approved plans;
4. Any fencing to be set back a minimum of 2 metres from the Clune Street frontage, behind the landscaping strip as marked in red on the approved drawings. Fencing is not permitted to be constructed along the alignment of the Clune Street property boundary. Fencing along the Wicks Street road reserve post resumption of the unzoned portion of the lot is to be subject of a separate planning application. Details of fencing to be submitted for the approval of the Town in conjunction with or prior to the issue of the Building Permit;
5. The proposed development is, at all times, to operate in accordance with the Waste and Dust Management Plan and the Environmental Protection (Concrete Batching and Cement Product Manufacturing) Regulations 1998;
6. **Operating hours are to be restricted to 6:00am to 6:00pm Monday to Saturday (public holidays excluded), however no front end loader may operate prior to 7:00am.**
7. **The annual output (1 January to 31 December) of the facility is limited to 105,300 cubic metres of concrete.**

- 8. There is to be no access to the site by trucks and semi-trailers on Sundays or public holidays.**
- 9. Average daily production of the plant not exceeding 350 cubic meters per working day with a maximum production capacity of 375 cubic meters on any given day without the further approval of the Town first having been obtained;**
- 10. The amount of concrete batched on-site is to be provided quarterly to the Town by no more than 30 days after the end of each quarter ending 31 March, 30 June, 30 September and 31 December on any given year. The quarterly summary must identify and highlight for each working day the date and time that the maximum output was reached being:
 - a) 350m³ as a daily average; and**
 - b) 375m³ as a daily maximum****
- 11. All stormwater and drainage runoff produced onsite is to be disposed of onsite via the use of soakwells, approved by the Town. The soakwells must deal with the entire land area and be designed to contain a 24hr storm duration and 100-year ARI.**
- 12. A copy of an approval issued by the Department of Environment Regulation – Licensing Section for the operation of the facility shall be submitted to the Town prior to operations commencing.**
- 13. Any stored aggregate or sand outside the building is to be either wetted at all times or covered to prevent wind driven dust erosion.**
- 14. Any material spills outside the buildings are to be immediately wetted prior to removal of the materials.**
- 15. A truck wash-down area is to be provided in accordance with the requirements of the *Environmental Protection (Concrete Batching and Cement Product Manufacturing) Regulations 1998* and in a location approved by the Town of Bassendean. Trucks may only be washed down in the approved wash down area.**
- 16. No products, goods, materials or waste shall be stored outside of the building unless in a designated area that has been approved by the Town for this purpose;**

17. A bin area is:
 - To be provided of not less than 10m²;
 - To be screened by a gate and brick walls or other suitable material to a height of not less than 1.8m;
 - To be provided with 75mm minimum thickness concrete floors grading to a 100mm industrial floor waste, with a hose cock to enable both the bins and bin storage area to be washed out; and
 - To be provided with internal walls that are cement rendered (solid and impervious) to enable easy cleaning;
18. Bins are to be washed only in an approved wash down facility within the bin area, drained to a silt trap and disposal of via the Water Corporation sewer system or if this is not available, a leach drain soakwell system which is separate to the stormwater disposal system, or approved system, to the satisfaction of the Town of Bassendean;
19. The 19 car parking space and 18 truck parking spaces and associated access ways shown on the approved drawings being constructed, kerbed, marked and maintained thereafter to the Town's satisfaction;
20. Car parking bays being setback 2 metre minimum from the existing corner truncation as marked in red on the approved plans;
21. Concrete mixer trucks are to be parked within an approved truck parking bay only;
22. Truck parking bays are to conform to the relevant Australian Standards. Future truck parking as marked on the approved plans are not approved as part of this planning application and subject to a future application for development upon resumption of the unzoned portion of the lot;
23. The required crossover post resumption of the unzoned portion of land shall be constructed to Council's specifications. (Note: Separate application and approval required);
24. On completion of construction, all excess articles, equipment, rubbish and materials being removed from the site and the site left in an orderly and tidy condition;
25. No retail sales to be carried out from the premises;

26. Signage being subject to a separate application;
27. The street number being prominently displayed at the front of the development; and
28. The issue of a Building Permit prior to the commencement of any on site works.

Footnotes

- a) Suitable arrangements are to be made with the City of Bayswater for the provision of the vehicle crossover to service the lot from Clune Street and will be subject to the **City's crossover specifications and standards.**
- b) **The applicant is advised that the development is to demonstrate compliance with the Environmental Protection (Noise) Regulations 1997 at all times.**
- c) **The applicant is advised that the development is to demonstrate compliance with the Environmental Protection (Unauthorised Discharge) Regulations 2004 at all times.**
- d) **The applicant is advised that the development is to demonstrate compliance with the Town of Bassendean Health Local Law 2001 with respect to the disposal of liquid waste and liquid refuse at all times.**
- e) **The applicant is advised that the development is to demonstrate compliance with the Health (Treatment of Sewerage and Disposal of Effluent and Liquid Waste) Regulations 1974 at all times.**
- f) **The location of the existing septic system is to be confirmed in order to ensure that it is not located in a trafficable area.**
- g) **Settling Ponds are to be constructed and maintained so as to prevent breeding of mosquitoes.**

Voting requirements: Simple Majority

10.0 REPORTS

10.1 Adoption of Recommendations En Bloc

The following information is provided to Councillors for guidance on the use of En Bloc voting as is permissible under the Town's Standing Orders Local Law 2011.

Standing Orders Local Law 2011, Clause 5.4 states:

- (1) In this clause adoption by en bloc voting means a resolution of the Council that has the effect of adopting, for a number of specifically identified reports, the officer recommendation as the Council resolution.
- (2) Subject to subclause (3), Council may pass an adoption by en bloc voting.
- (3) An adoption by en bloc voting may not be used for a matter –
 - (a) that requires a 75% majority or a special majority;
 - (b) in which an interest has been disclosed;
 - (c) that has been the subject of a petition or deputation;
 - (d) that is a matter on which a member wishes to make a statement; or
 - (e) that is a matter on which a member wishes to move a motion that is different to the Officer recommendation.

Councillors should be aware that should they wish to declare an interest in any of the items listed in the en bloc voting table, and have not done so under Item 8.0, Declarations of Interest, they should do so at this point of the agenda.

OFFICER RECOMMENDATION – ITEM 10.1

That Council adopts en bloc the following Officer recommendations contained in the Ordinary Council Agenda 25 October 2016:

Item	Report
9.1	Reconsideration of Proposed Mobile Concrete Batching Plant at Lot 105 (Nos. 2-8) Clune Street, Bassendean
10.2	Reconsideration for Proposed Commercial Vehicle Parking of Lot 679; No. 72 Walkington Way, Bassendean
10.3	Section 31 – Reconsideration for Proposed Eight Multiple Dwellings on Lot 106; (No. 70) Second Avenue, Bassendean
10.4	Proposed Prosecution Proceedings for Non Compliance at Lot 67 (No. 14) Clune Street, Bassendean
10.6	Carparking at Hyde Retirement Village
10.7	(Draft) Perth Transport Plan for 3.5 Million People and Beyond
10.13	Quarterly Reports for Quarter Ended 30 September 2016
10.14	Bassendean Youth Advisory Council Meeting held on 26 August 2016
10.15	Bassendean Local Studies Collection Management Committee Meeting held on 6 October 2016
10.16	Liveable Town Advisory Committee (LTAC) 11 October 2016
10.17	Audit & Risk Management Committee Meeting held on 12 October 2016
10.18	Hyde Retirement Village - Annual General Meeting held on 14 October 2016
10.19	Accounts for Payment – September 2016
10.21	Determinations Made by the Principal Building Surveyor
10.22	Determinations Made by Development Services
10.23	Use of the Common Seal
10.24	Calendar for November 2016
10.25	Implementation of Council Resolutions

Council is now requested to consider the balance of the Officer recommendations independently.

Item	Report
10.5	Proposed Omnibus Amendment to the Local Planning Scheme No. 10
10.8	RFT CO 059 2016-17 Australia Day Fireworks for the Town of Bassendean
10.9	RFT CO 055 Street Sweeping 2016-17 - Provision of Street Sweeping Services for the Town of Bassendean
10.10	Review of Delegation to a Committee
10.11	Review of Delegations to the Chief Executive Officer & Other Officers
10.12	Annual Report for the Year Ended 30 June 2016
10.20	Financial Statements – September 2016
11.1	Cr Bridges – 100 Year Flood Height Markers
11.2	Cr Bridges – Council Forms
11.3	Cr McLennan - Water Corp Drainage for Liveability Projects
13.1	Council Street Trees – 87 Anzac Terrace, Bassendean
13.2	Prosecution Matter
13.3	Sports Achievement Awards

10.2 Reconsideration for Proposed Commercial Vehicle Parking of Lot 679; No. 72 Walkington Way, Bassendean, Owner/Applicant: BR & KJ Minson (Ref: DABC/BDVAPPS/2010-116 - Dylan Stokes, Planning Officer)

APPLICATION

The Town, by virtue of an order made by the State Administrative Tribunal, has been invited to reconsider its decision to refuse development approval for proposed commercial vehicle parking at Lot 679 (No. 72) Walkington Way, Eden Hill.

ATTACHMENTS

Attachment No. 3:

- Site plan submitted by the applicant for reconsideration.
- Elevation photographs submitted by the application for reconsideration.
- Report prepared by Formscape, the planning consultants representing the applicant.
- Letters of no-objection provided by the applicant and signed by the surrounding landowners.
- A letter provided by the landowner detailing the vehicle specifications.
- A copy of an insurance form detailing the Vehicle Registration.
- Photograph of the truck provided by the landowner from 1989.
- Local Planning Policy No. 19: Parking of Commercial Vehicles.
- Notice of the State Administrative Tribunal determination dated 25 August 2016.

BACKGROUND

In 2010, Council adopted Local Planning Policy No. 19: Parking of Commercial Vehicles (LPP19) which introduced specifications relating to Commercial Vehicle parking in addition to the requirements previously listed under Clause 5.7.11 of Local Planning Scheme No. 10. LPP19 aimed to provide criteria for the considering variations to the rigid requirements listed under the Scheme introduced in 2008. Prior to the introduction to the policy, the Scheme stated the following regarding Commercial Vehicle Parking:

1. *No person shall park, or cause to be parked or permit to be parked any commercial vehicle in excess of three (3) tonnes combined tare weight on any lot within the Residential, Town Centre or Local Shopping zones without the planning approval of Council.*
2. *The parking of any commercial vehicle on any lot within the residential, Town Centre or Local Shopping zones, shall at all times comply with the following standard requirements:*
 - (a) *The commercial vehicle shall not exceed 9 metres in length and 3 metres in height; and*
 - (b) *There shall be a limit of one (1) commercial vehicle per lot;*
 - (c) *The operating of refrigeration units and or undertaking of mechanical repairs and or loading and unloading of the commercial vehicle shall be prohibited; and*
 - (d) *Commercial vehicles used to carry livestock or hazardous materials shall be prohibited.*

The policy introduced the ability for vehicles to exceed 9-metres in length and 3 metres in height subject to the following requirements being achieved:

1. *The commercial vehicle is not a Prime Mover.*
2. *There is sufficient space on the lot to park the commercial vehicles behind the building line.*
3. *There are no objections by immediately adjoining/affected neighbours to the proposal following a 14 day consultation period*
4. *The commercial vehicles will not operate to and from the site between 11:00pm and 7:00am Monday to Sunday.*
5. *Approval is restricted to parking only, with servicing and repairs not being carried out on site.*
6. *The commercial vehicle is parked on a single residential lot.*
7. *The combined tare weight does not exceed 5-tonnes.*
8. *The commercial vehicles can access the lot via a constructed crossover to Council specifications.*

As a result of the introduction of the policy, a letter was sent to lots where vehicle parking had previously occurred and notified the landowners that new requirements had been introduced and a subsequent application may be required to the Town. As a result, multiple applications were submitted to the Town seeking approval under the policy or seeking variations in excess of what was permitted by the policy.

Many of the applications were investigated by the Town but due to some of the applications seeking further variations than what could be permitted under the LPP19, a number of applications were unresolved.

In 2016, in an effort to resolve the outstanding commercial vehicle parking applications, the applications were reviewed, with site inspections occurring to identify if there had been continued use of commercial vehicle parking on site. All applications where vehicle parking had ceased were subsequently cancelled with the remaining applications being issued with approval or refusal notices after a full assessment against the policy and contact with the landowners.

The application for commercial vehicle parking at 72 Walkington Way was initially submitted on 8 July 2010. The application was reviewed on 28 April 2016 and advertising sent 2 May 2016 to which no objections were received. As part of the assessment process the Town identified variations to Provision 2, 4 and 7 under Part 5.0 the Policy:

2. The parking position of the vehicle is located in front of the building line to Walkington Way.
4. The vehicle was proposed to operate between the hours of 6:30am to 6:00pm.
7. The proposed vehicle has a weight of 10-tonnes.

Given that the vehicle had operated on site prior to the introduction of the Policy, Council Officers agreed to take the application to Council recommending approval but subject to that the site was modified to allow the truck to park behind the building line thereby meeting Provision 2 of the Policy. It was identified that this could be achieved through relocating the existing crossover to the south allowing the truck to park further into the lot or alternatively by relocating/removing the outbuilding to the rear of the site thereby allowing the truck to park in place of the existing outbuilding.

Council Staff subsequently met with the applicant at the Town to discuss the application. The applicant demonstrated reluctance in attempting to comply with Provision 2 of the Policy and subsequently the application was refused under delegated authority.

By way of a letter dated 8 August 2016, the Town received notice from the State Administrative Tribunal that an application for review (appeal) had been made against the Town's decision to refuse the application.

A directions hearing was held on 24 August 2016 which evolved into a mediation of the application. As part of the mediation it was agreed that the Town would reconsider the application at the October Council Meeting, and the applicant

would formalise accurate plans and provide further written justification for Councils consideration. The landowner consulted Formscape Built and Planning Solutions to prepare acceptable plans and organise necessary information for reconsideration.

STRATEGIC IMPLICATIONS

Town Planning and Built Environment

Objective

Provide safe access for all road users

Strategies

- Plan for bicycle paths and bicycle lanes to be provided where possible to reduce vehicle traffic.
- Strive to ensure access to open space and play equipment is maintained and improved.
- Continue to monitor traffic flows and intervene where necessary to ensure safety.

COMMENT

The application has been assessed against relevant provisions of the Town of Bassendean Local Planning Scheme No. 10 (LPS10) and Local Planning Policy No. 19 – Parking of Commercial Vehicles (LPP19) and the proposed variations have been identified below. The application has not been modified since initially being refused under delegated authority on 8 July 2016.

The parking position of the vehicle is located in front of the building line to Walkington Way.

Provision 2 of the Policy states that there “should be sufficient space to park the vehicle behind the building line.” The current position of the vehicle is parked virtually on the lot boundary and in front of the building line to the secondary street to the east. In order to enable the truck to park behind the building line, either of the following modifications are required to the site:

- Remove or relocate the existing outbuilding that is currently located to the rear of the site, allowing the truck to park wholly behind the building line.
- Alternatively relocate the crossover to the south to permit the commercial vehicle to park in the vacant area between the outbuilding and the existing dwelling.

The applicant refused to make either of the above changes, originally stating that it was not feasible or reasonable. The written justification and plans provided as part of the reconsideration by Formscape presented the following:

- The applicant has parked in the current location on site for over 36 years and the parking predates the implementation of the policy. A photograph of the truck has been provided from 1989 (see attachments).
- There have been no objections from any of the adjoining landowners and letters of no-objection (see attachments, 7 in total) have been provided on behalf of the applicant signed by the adjoining landowners.
- The landowner claims that there were previous verbal discussions with Council staff prior to the introduction of LPP19 who advised the current location of the parking was acceptable.
- The existing crossover is in good condition without any form of damage.
- A corner site has two differing frontages, which has two different sets of 'building lines'. The policy is restrictive in the need to obtain the necessary setbacks to each road frontage. This is considered by the applicant to be a shortfall in the wording of the policy as it does not allow for flexibility for corner lots. The applicant believes that the policy provisions should refer to the 'building line as viewed from the primary street only'.
- The truck is not visible from the primary street as the existing foliage screens it from view to the south.
- The existing solid gates to the east restrict the visibility of the truck from the street.

The justification provided by Formscape states that the truck has been operating on site significantly in advance of both the policy and the current Scheme. The previous Scheme (Town Planning Scheme No. 3) which was operational between 1983 and 2008 did not contain any requirements relating to Commercial Vehicle Parking. As photographic evidence has been provided, which proves the truck was parked in the same location during this period, it is considered acceptable that a variation is permitted to Provision 2 of the Policy. Given that evidence has been provided that shows the truck operating prior to the requirements of the Policy or the Scheme being implemented, it will not set an undesirable precedent for any future applications that also wish to vary this provision.

Furthermore, the Town's Asset Services were contacted for a quote relating to the cost of relocating the crossover. A quote of \$14,520 was provided that included the removal of the crossover, verge reinstatement and kerb installation (approximately \$4,200) and removal of the three existing street trees (approximately \$10,320). On balance, considering the amenity of the streetscape, retaining the existing street trees is considered the preferable approach as opposed to enforcing an alternative location for the commercial vehicle.

The vehicle was proposed to operate between the hours of 6:30am to 6:00pm

Provision 4 of the policy states that the vehicle shall not operate from the site between 11:00pm and 7:00am from Monday to Sunday. The applicant has indicated that work associated with the truck would commence on site between the hours of 7:00am to 8:00am, requiring use of the vehicle as early as 6:30am. Given that the vehicle has been operating in the past without any form of complaint from the adjoining neighbours and that the variation is minor in nature, Council Staff recommend supporting a variation.

The proposed vehicle has a weight of 10-tonnes

Under the Scheme, trucks are permitted to have a length of under 9m and under 3-tonnes tare weight without approval being required. Provision 7 of the Policy permits vehicles to be in excess of 9m in length and 3m in height but up to a maximum of 5-tonnes. The truck as proposed is 11.2m in length, with a height of 3.0m to the roof or 3.45m to the top of the rear loaded crane. The excessive weight is likely the result of the crane attached to the vehicle. On balance, the dimensions of the vehicle with the crane are considered appropriate and relatable to the dimensions listed under the Policy and therefore it would be acceptable to allow a large variation to the vehicle tare-weight under Provision 7.

STATUTORY REQUIREMENTS

The application is subject to the provisions of the Town of Bassendean Local Planning Scheme No. 10 (LPS10) and Local Planning Policy No. 19 – Parking of Commercial Vehicles (LPP19).

Clause 67 of the Town Planning Regulations identifies matters that are to be considered by the Local Government when dealing with an application for planning approval including:

- (b) the requirements of orderly and proper planning including any relevant proposed new Local Planning Scheme or amendment, or region scheme or amendment, which has

- been granted consent for public submissions to be sought;
- (g) any local planning policy for the Scheme area;
 - (m) the compatibility of a use or development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;
 - (n) the preservation of the amenity of the locality including the following –
 - (i) environmental impacts of the development;
 - (ii) the character of the locality;
 - (iii) social impacts of the development;
 - (s) the adequacy of –
 - (i) the proposed means of access to and egress from the site;
 - (ii) arrangement for the loading, unloading, manoeuvring and parking of vehicles;
 - (q) the amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety.

FINANCIAL CONSIDERATIONS

Should Council not accept the Officer recommendation, it is likely that the matter will proceed to a final hearing and costs would be incurred in this event, as it would be necessary to engage independent external planning consultants to defend any such determination. Officers of the Town would not be in a position to defend any such determination at a final hearing due to the conflict of interest that would arise.

Conclusion

The proposal represented in drawings date stamped received 3 October 2016, is seen to satisfactorily address relevant provisions contained within LPS10 and LPP19 for the reasons identified within the report. Whilst the application was previously refused on the basis of Provision 2 of the Policy, upon reconsideration of the additional justification, it would be recommended that Council grants approval for the proposed commercial vehicle in accordance with the recommendation presented below.

OFFICER RECOMMENDATION — ITEM 10.2

That in response to the invitation given by the State Administrative Tribunal in its order dated 25 August 2016 pursuant to s 31(1) of the State Administrative Tribunal Act 2004 (WA), Council grants development approval for the proposed parking of a commercial vehicle at Lot 679 (No. 72) Walkington Way, Eden Hill, subject to the following conditions:

1. The commercial vehicle shall only be stored/parked in the designated location shown on the approved plan;
2. Only one commercial vehicle shall be parked on the site;
3. The approval shall be personal to the applicant and vehicle make and model which is the subject of this application and shall not be transferred to any other person or vehicle make and model;
4. The approval is limited to the subject site only and no other property within the Town of Bassendean;
5. The Town retains the ability to revoke the approval where:
 - (a) The applicant is not complying with the conditions of approval;
 - (b) A nuisance or annoyance has been verified; and
 - (c) The applicant has not rectified the source of nuisance, annoyance or non compliance within seven (7) days of written notification being issued by the Town,

after which no person shall park a commercial vehicle upon that land without the further approval of the Town first having been obtained;

6. The commercial vehicle shall not operate to and from the site between the hours of 11:00pm and 6:30am on any day;
7. The vehicle shall not be fitted with refrigeration units and the loading and unloading of the commercial vehicle shall be prohibited on the site; and
8. Servicing, repairs or washing down of the commercial vehicle shall be prohibited on the site.

Voting requirements: Simple majority

10.3 Section 31 – Reconsideration for Proposed Eight Multiple Dwellings on Lot 106; (No. 70) Second Avenue, Bassendean, Owner: Spagnolo Property No. 1 Pty Ltd, Applicant: Harley Dykstra (Ref: DABC/BDVAPPS/2015-213 Timothy Roberts, Planning Officer)

APPLICATION

Council, by virtue of an Order made by the State Administrative Tribunal, has been invited to reconsider its refusal to grant planning approval for the proposed development of 8 multiple dwellings at Lot 106 (No. 70) Second Avenue, Bassendean, having regard to amended plans submitted by the applicant.

The application which is now before Council proposes 8 multiple dwellings which include variations to the 'Deemed-to-comply' provisions of the Residential Design Codes of Western Australia (R-Codes) relating to plot ratio, lot boundary setback, outdoor living areas and overshadowing. The proposal is also inconsistent with Local Planning Policy No. 8: Parking Specifications.

The aspects of the development, which do not meet the Deemed-to-comply provisions of the R-Codes, require assessment and determination against the 'Design Principles'.

ATTACHMENTS

Attachment No. 4:

- Determination letter and notice;
- Amended Plans; and
- Schedule of submissions
- Shadow diagram

BACKGROUND

An application for eight multiple dwellings was received by the Town in November 2015. The application was refused under delegated authority as the proposal did not comply with the following requirements of Clause 5.3.1.2 'Split Density Code and Corner Lots' of the Town of Bassendean Local Planning Scheme No. 10 (LPS10):

1. The proposed development did not demonstrate that due regard has been given to Council's Local Planning Policies relating to Energy Efficient Design;
2. The proposed development did not demonstrate elements of water sensitive urban design; and
3. The existing streetscape was not being preserved.

The site therefore did not qualify for development at the higher R40 density code and development of the site was restricted to a density of R20 pursuant to the provisions of clause 5.3.1.1 of LPS10. At an R20 density code the development which had been proposed could not be approved. The proposed development also included variations to the 'Deemed-to-comply' provisions of the R-Codes in relation to street setback, lot boundary setback, street surveillance, landscaping, design of car parking spaces, vehicular access, visual privacy, solar access for an adjoining site, external fixtures and utilities and facilities. The proposal also failed to satisfactorily address Local Planning Policy No. 8: Parking Specifications and Local Planning Policy No. 18: Landscaping with Local Plants.

The applicant was invited to amend the plans to demonstrate compliance with the above provisions; however the Town was requested to determine the proposal on the basis of the information submitted before the Town. Subsequently the application was refused (see attachment 1) and an Application for Review was submitted with the State Administrative Tribunal (SAT).

As part of the review process, SAT referred the matter to mediation. During the mediation process, the applicant considered a number of design changes to the development in order to address the initial areas of non compliance. As a result of the mediation process, the design has now been modified (see attachment 2) with the respondent (Town of Bassendean) invited to reconsider its decision on or before 25 October 2016.

STRATEGIC IMPLICATIONS

Built Environment

Objective: Ensure Town provides choice in housing types.

Strategies:

Plan for the highest densities to be centred on railway stations, the Town Centre, and major transport routes.

Strive to ensure that higher density housing will have excellent design to ensure that development is people-friendly and attractive.

Strive to ensure that new housing, and in particular higher density housing, has high environmental standards.

Plan for the availability of a broad range of housing types and affordability.

Objective:

Foster enhanced public space and street appearance.

Strategies: Plan for improved streetscapes which include better footpaths, street furniture and inviting verges with well-developed and maintained street trees.

Encourage the retention of trees of development sites.

COMMENT

The application has been assessed against the provisions of the Local Planning Scheme No. 10, the Residential Design Codes (State Planning Policy 3.1) and relevant Local Planning Policies, including the Town's Energy Efficient Design Policy, Water Sensitive Design Policy and Percent for Art Policy.

ASSESSMENT

Land Use

Multiple Dwellings are a permitted use in the residential zone under the Local Planning Scheme No. 10.

Housing Density

By virtue of the clauses 5.3.1.1 and 5.3.1.2 of the Local Planning Scheme No. 10, the site is to be considered as if the density code is R20, unless Council determines that it is appropriate to develop the site at the higher code of R40.

In order to develop the site at the higher code of R40, Council must be satisfied that the development complies with the following criteria:

- (a) In the opinion of Council, the lot has a road frontage sufficient to allow at least two homes and a shared access way, where required to service development to the rear;
- (b) There is due regard for relevant Local Planning Policies;
- (c) Identified heritage objectives are not compromised;
- (d) The proposal demonstrates elements of water sensitive urban design; and
- (e) The existing streetscape is being preserved.

The proposal is considered to comply with points (a) to (d). With regard to point (e), the existing streetscape is characterised by single storey dwellings which have been developed to in accordance with the R20 density code. These dwellings are provided with generous setbacks and complemented by significant landscaping and associated areas of open space.

The proposed development proposes more intense development; however the building setbacks are compliant with the required setbacks of an R40 density code and compliment those of other dwellings within the street, with comparable areas of landscaping and associated areas of open space.

In light of the above, development is able to be assessed against the higher density code of R40. It is noted that the development potential for multiple dwellings under the R40 density code, is controlled by plot ratio rather than a site area per dwelling requirement as applies for the development of grouped dwellings and single houses.

Compliance with the Residential Design Codes

The proposal complies with the Deemed-to-comply requirements of the Residential Design Codes, with the following exceptions:

Building size

The Deemed-to-comply (DTC) requirements of the R-Codes stipulate that development complies with the maximum plot ratio requirements for R40 coded land being 0.6. The proposed development requests a plot ratio of 0.609. The proposal is therefore required to be assessed against the relevant design principle being '*development of the building is at a bulk and scale indicated in the local planning framework and is consistent with the existing or future built form of the locality*'. The stairwells that service units 5 and 6 are required to be assessed within plot ratio calculations as per the definition of plot ratio area within the R-Codes. As the stairwells are open, it is considered that they do not provide the same level of bulk or scale than if they were enclosed. The plot ratio variation proposed is equivalent to the area of the open stairs. It is therefore considered that the minor variation to plot ratio should be supported.

Lot boundary setbacks

The proposed development incorporates various side lot boundary setbacks which do not demonstrate compliance with the DTC provisions of the R-Codes and which must be assessed against the associated Design principles as described below:

- Left hand (northern) side upper floor lot boundary setback: 1.7 metre lot boundary setback proposed in lieu of the required 1.8 metres.

- Right hand (southern) side: upper floor lot boundary setback: 1.7 metre lot boundary setback proposed in lieu of the required 1.8 metres.

As the aspects of the development described above do not meet the DTC provisions of the R-Codes, it is necessary that they be considered against the associated Design principles which require:

“Buildings set back from boundaries or adjacent buildings so as to:

- *Ensure adequate daylight, direct sun and ventilation for buildings and the open space associated with them;*
- *Moderate the visual impact of building bulk on a neighbouring property;*
- *Ensure access to daylight and direct sun for adjoining properties; and*
- *Assist with the protection of privacy between adjoining properties.*

While it is acknowledged that the upper floor setbacks are less than would ordinarily be accepted by the Town, on balance the design is considered to be acceptable for the following reasons:

- The reduced lot boundary setbacks are considered minor in nature;
- For the northern requested reduced lot boundary setback, as the development is located to the south of the adjoining property, no overshadowing results;
- For the southern requested reduced lot boundary setback, the proposal demonstrates compliance with overshadowing requirements of the adjacent lot;
- The upper floor demonstrates compliance with the visual privacy provisions of the R-Codes;
- The design has been modified in ways which assist the reduction of building bulk as viewed from the adjoining property including the provision of articulated walls and the inclusion of highlight windows.

Outdoor Living areas

The R-Codes stipulate that each unit is to be provided with at least one balcony or equivalent accessed directly from a habitable room with a minimum area of 10m² and a minimum dimension of 2.4m. The proposed development is compliant except with respect to the minimum area proposed for unit 7 and unit 8 being 9.72m² and 9.57m² respectively.

As this aspect of the development does not meet the DTC provisions of the R-Codes and the Applicant has not presented a Design principle justification for the Town's consideration, a condition of approval has been recommended which requires the size of balconies for unit 7 and 8 to be increased in size to a minimum of 10 square metres with minimum internal dimensions of 2.4 metres.

Landscaping

The R-Codes stipulate that lighting is to be provided to pathways and car parking areas. This requirement has not been satisfactorily addressed as part of the proposal. This matter could be dealt with by way of a condition of approval. The design does rely on a 'shared space' arrangement with respect to vehicular access and pedestrian path linking car parking areas to entries of the building and the street. This is considered to be acceptable in this instance given that the driveway is only serving eight dwellings if paving treatment is differentiated by colour (as shown on the applicant's drawings). This is reinforced by a recommended condition of approval.

Vehicular access

The proposal does not incorporate two-way access for the full length of the vehicle access way. The Deemed-to-comply provisions provide for driveways to be designed for two-way access to allow for vehicles to enter the street in forward gear. The proposal is therefore required to be assessed against the relevant design principle being that '*vehicular access is to be provided so as to minimise the number of crossovers, to be safe in use and not detract from the streetscape*'.

As the proposal comprises one crossover to the site, it aids in minimising the number of crossovers. With regards to the driveway being safe in use, the proposed driveway width accommodates one-way access where the secure automatic gates are to be installed. As the crossover and driveway adjacent to the visitor's bays (forward of the security gates) provides for two way access, this provides a spot for vehicles to wait as a vehicle exits the automatic gates. Further to this, the width of the rear portion of the driveway servicing the residents' bays provides for a second holding bay, allowing two vehicles to pass at the rear. In light of the above, the proposed driveway is considered to be safe in use.

Solar access for adjoining sites

The R-Codes stipulate that development shall be designed so that its shadow cast at midday on the 21st June onto any other adjoining property does not exceed 25% of the site area. The shadow cast onto the lot at 66 Second Avenue is compliant with these requirements. The proposed development casts a shadow of 28.88 per cent of the site area onto the adjacent southern lot at 68 Second Avenue.

The R-Codes require overshadowing to be measured without regard to any building on the adjoining lot. A portion of the shadow (associated with the carports which sit between the front and back buildings) will be intercepted by the boundary fence meaning that in terms of actual shadow, the percent of overshadowing will be 26% of the southern lot. The applicant is requesting a 1% variation to the as of right 25% shadowing entitlement of the southern adjoining lot at 68 Second Avenue under a Design principle assessment. The relevant Design principle that the variation is required to be assessed against is as follows:

“Effective solar access for the proposed development. Development designed to protect solar access for neighbouring properties taking into account the potential to overshadow existing outdoor living areas, north facing major openings to habitable rooms or roof mounted solar collectors.”

An assessment of the proposed development's overshadowing against these design principles will be discussed under the neighbour consultation section of this report.

Local Planning Policy No. 3: Water Sensitive Design

In order to qualify for development at the higher coding, the proposed development is required to address both Local Planning Policy 2: Energy Efficient Design and Local Planning Policy No. 3: Water Sensitive Design. The proposal does not meet the requirements of Local Planning Policy No. 3: Water Sensitive Design in that it is not clearly demonstrated how the access way, driveway or paved areas are graded in order for stormwater to be directed to landscaped areas. The proposed development achieves the required 70 points with respect to energy efficient design requirements without the need to address landscaping design and plant selection.

It is a recommended condition of approval that a detailed landscaping plan be submitted prior to or in conjunction with the application for a Building Permit consistent with the assessment of any multiple dwelling application. This requirement to ensure compliance with the water sensitive design policy can be notated as part of approval of the landscaping plan. It is also a standard condition of development approval that stormwater be contained on site.

Local Planning Policy No. 8: Parking Specifications

Local Planning Policy No. 8: Parking Specifications details the dimensions of car parking bays and manoeuvring areas. When the depth of a car parking bay, as proposed, is 5.4 metres, the aisle width is required to be 6.2 metres as per this policy. The aisle width proposed for the development is 5.8 metres.

It should be noted that the parking specifications within the proposed development are in accordance with Australian Standards and compliant with the Deemed-to-comply provisions of the R-Codes. The provisions within the Town's policy are consistent with the Australian Standards User Class 1 which is generally aligned with employee and commuter parking (generally all day parking). User Class 1A is for residential, domestic and employee parking and calls for an aisle width of 5.8 metres as proposed within this development. The applicant is seeking council's discretion to permit this variation against Local Planning Policy No. 8.

Local Planning Policy No. 15: Percent for Art Policy

If the proposal is approved, it is subject to compliance with the Town's Percent for Art Policy. All development proposals for multiple dwellings, mixed use, commercial, civic, institutional, educational projects or public works with a value greater than \$1,000,000 shall be regarded as eligible proposals under this policy.

This element is dealt with as a recommended condition of planning approval.

Neighbour Consultation

Neighbour consultation was undertaken with the adjoining property owners. The proposed development requested two reduced lot boundary setbacks at 1.7 metres in lieu of the required 1.8 metres. Additionally the overshadowing of the southern lot is in excess of the deemed-to-comply 25%. Two objections have been received (see attachment) in relation to the proposal whereby the following comment were made:

1. Overshadowing:

Objector 1: *'Though my land area is around 560 metre square, a large portion of it is the driveway and therefore not suitable for any other purpose. The two storey building seems to block most of the housing/front garden area and we will be devoid of any sun in winter. We won't even get any sun to dry our clothes in winter and will need to use air conditioner even during day time in winter'*.

Objector 2: *'The shadow cast illustrated on the drawings, and in your letter, is almost 4% beyond the acceptable allowance. This equates to almost 20m² of additional shadow over our property on the 21st June each year. The shadow will encroach over the living area, kitchen windows, outside sitting deck and adjacent outdoor grassed area. These areas are the main focal points of use in our property. The living and kitchen are the most-used areas throughout the year. To have these fully encroached in shadow would significantly impact the living standards of everyone in our property. This would include resulting in a significant energy output to heat the kitchen and living areas, which would otherwise be heated naturally by the sun. The deck and grassed areas are the main outdoor spaces used in our property as well. To have these areas fully shadowed through winter would make them practically unusable. In addition, the grassed space will die without sun and adjacent plants will also die through the winter months.'*

2. Parking

Objector 1: *'Another issue will be crowding/ noise and parking issue. It looks like there will be eight units and only eight parking bay. Where will the other cars (for example, partner's car/ visitor's car) park as the street in front street is usually busy (as it links with Walter road and railway parade on two sides), surely they are not expecting to permanently park on the street outside'*.

Objector 2: *'Parking is not adequate for the dwellings: The drawings show 8 car parking bays, with two visitors bays at the front. This equates to a total of 10 parking bays. The dwellings are drawn as 2 bedroom properties, with one bedroom a master bedroom with ensuite, and the other a smaller bedroom. This would indicate an occupation of 2-3 persons per property.'*

Should there be the lower amount, of 2 persons, a minimum of 16 persons, and 16 vehicles, will be utilising the property's parking. At any stage, 6-8 vehicles will therefore, not have allocated parking. This will result in overcrowding of the street with vehicles strewn all over the place. This will pose a significant safety risk for my children who access the front of the property continuously'.

3. Visual Privacy

Objector 1: 'The houses are too many in a small area and there will be noise issues with too many people and too many car in a very small confined space. Especially in my case as I only have a front lawn and absolutely no privacy. We will constantly have prying eyes looking at us and that means we will have to be confined inside the house all the time'.

Objector 2: ' Dwellings 3 and 7 have a balcony that faces west: This balcony has a clear line of site into our backyard (As marked up on the plans). this is unacceptable from a privacy and security risk. Dwellings 2 and 6 have a balcony that faces west: This balcony has a line of site into our front yard. This needs to be reviewed as the current design for a low height screen, does not protect privacy or security'.

4. Property Values

Objector 1: 'We will probably be forced to sell our family home and move away but this will devalue the price of our property even if we try to sell it'.

Objector 2: 'All of the above will detrimentally impact the usability of the property and will likely impact on any resale value for our house'.

5. Split Coding Requirements

Objector 2: 'Zoning regulations: Due to property 'pushing the boundaries' of the R20/40 zoning rules. Design doesn't fit with the streetscape: The plans clearly highlight that this property will look like a sore thumb on the current streetscape of Second Avenue. Second Avenue is a brilliant example of a street strongly enriched in Bassendean's heritage. The majority of dwellings are original worker's cottages from the 1930's to 1950's. These properties have been carefully renovated over the years, whilst paying homage to their original intent. The desire to keep maintain the streetscape is discussed in the Town's planning strategy which states that the Town is to ensure that 'site planning for multiple dwellings does not undermine the attractiveness of the area for traditional family housing'.

Placing a new dwelling such as that proposed, will significantly differ from the current streetscape, scar the current area and result in us, and other families, having to relocate from the street’.

The following comments are provided in response to the concerns that have been raised by the adjoining property owners:

1. Overshadowing

The proposal in relation to the overshadowing of the property of objector 1 complies with the Deemed-to-comply provisions of Clause 6.4.2 ‘Solar Access for Adjoining Sites’ C2.1 of the R-Codes. Overshadowing is assessed as the shadow cast by the development at midday on 21 June, onto any other adjoining property. It is noted that Clause 2.5.4 states:

“The decision maker shall not refuse to grant approval to an application where the application satisfies the deemed-to-comply provisions of the R-Codes and the relevant provisions of the scheme and any relevant local planning policy”.

In relation to the variation for the overshadowing of the southern adjacent lot at 68 Second Avenue, the majority of the shadow falls onto the roof of the dwelling (see attachment 4). It should also be noted that there are no solar collectors on the roof that will be impacted by the level of overshadowing. There are no northern facing major openings on the southern adjacent dwelling meaning that the shadow cast by the development will have no impact on solar access to habitable rooms. There is also a mature tree (see photo below) within the backyard of the affected property that casts a shadow south over the outdoor living area similar to that cast by the proposed development.

If the design of the proposed development was to be modified in line with the Deemed-to-comply requirement of a 25% shadow, the shadow would decrease by 3 square metres which equates to a 16cm reduction to the depth of shadow cast from the building containing units 2 and 6. A change of this kind would not result in any perceivable difference for the owners of the adjoining property. It is therefore considered that the proposal addresses the relevant solar access Design principles.



2. Parking

Car parking is provided in accordance with Deemed-to-comply provisions of Clause 6.3.3 'Parking' C3.1 of the R-Codes. It is noted that Clause 2.5.4 states:

“The decision maker shall not refuse to grant approval to an application where the application satisfies the deemed-to-comply provisions of the R-Codes and the relevant provisions of the scheme and any relevant local planning policy”.

In light of the above, additional car parking cannot be required beyond that specified by the Deemed-to-comply provisions of the R-Codes.

3. Visual Privacy

All windows and balconies are either set back in accordance with the cone-of-vision requirements or screened up to 1.6 metres above the finished floor level, in accordance with the Deemed-to-comply provisions of Clause 6.4.1 'Visual Privacy' C1.1 and C1.2 of the R-Codes. It is noted that Clause 2.5.4 states:

“The decision maker shall not refuse to grant approval to an application where the application satisfies the deemed-to-comply provisions of the R-Codes and the relevant provisions of the scheme and any relevant local planning policy”.

In light of the above, additional screening cannot be required beyond that specified by the Deemed-to-comply provisions of the R-Codes.

4. Property Values

This is not a valid planning consideration.

5. Split Coding Requirements

The subject site and adjoining properties are zoned Residential R20/40. The subject site is proposing development in accordance with the higher R40 density code. There is a two-storey height limit permitted for development on the subject site and the surrounding properties at either coding. The proposal therefore cannot be considered to have a negligible impact on the streetscape. Whilst the proposed development proposes more intense development; the building setbacks are compliant with the required setbacks of an R40 density code and compliment those of other dwellings within the street, with comparable areas of landscaping and associated areas of open space. It is considered that the existing streetscape is being preserved in line with the requirements for development in excess of the lower coding under LPS10. The proposed amendment dealing with multiple dwellings referred to in the discussion of the Local Planning Strategy cannot be regarded as a seriously entertained document at this stage.

STATUTORY REQUIREMENTS

The application is subject to the provisions of the Town's adopted Local Planning Scheme No. 10 and the Residential Design Codes of Western Australia.

Clause 67 of Local Planning Scheme Regulations identifies matters that are to be considered by the Local Government when dealing with an application for planning approval including:

- (a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;
- (b) the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the Planning and Development (Local Planning Schemes) Regulations 2015 or any other proposed planning instrument that the local government is seriously considering adopting or approving;
- (c) any approved State Planning Policy;
- (e) any policy of the Commission;
- (f) any policy of the State;
- (g) any Local Planning Policy for the Scheme area;

- (m) the compatibility of a use or development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effects of the height, bulk, scale, orientation and appearance of the development;
- (n) the amenity of the locality including the following –
 - (i) environmental impacts of the development;
 - (ii) the character of the locality;
 - (iii) social impacts of the development;
- (u) the availability and adequacy for the development of the following –
 - (i) public transport services;
 - (ii) public utility services;
 - (iii) storage, management and collection of waste;
 - (iv) access for pedestrians and cyclists;
 - (x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;
- (y) any submissions received on the application; and
- (zb) any other planning considerations that local government considers appropriate.

FINANCIAL CONSIDERATIONS

Should Council not accept the Officer recommendation, it is likely that the matter will proceed to a final hearing and costs would be incurred in this event, as it would be necessary to engage independent external planning consultants to defend any such determination. Officers of the Town would not be in a position to defend any such determination at a final hearing due to the conflict of interest that would arise.

CONCLUSION

The proposed development is seen to satisfactorily address the Design Principles specified within the R-Codes, for each of the areas where the building has not been designed to meet the relevant Deemed-to-comply provisions, for the reasons that have been discussed within the body of the report.

On this basis, it is recommended that Council grants approval for the proposed development in accordance with the recommendation presented below.

OFFICER RECOMMENDATION — ITEM 10.3

That in response to the invitation given by the State Administrative Tribunal in its Order dated 26 August 2016 pursuant to s 31(1) of the State Administrative Tribunal Act 2004 (WA), Council grants planning approval for the proposed eight (8) multiple dwellings at Lot 106 (No. 70) Second Avenue, Bassendean, subject to the following conditions:

1. A detailed and professionally prepared landscaping plan being submitted prior to or with the application for a Building Permit for the Town's approval which addresses the following;
 - (a) Details of the location and type of proposed trees, shrubs, ground cover and lawn areas to be planted;
 - (b) Low water use;
 - (c) Landscaping of the verge area adjacent to the development site, including the provision of substantial streets trees in accordance with the Town's adopted Street Tree Master Plan; and
 - (d) Details of the proposed watering system to ensure the establishment of species and their survival during the hot, dry summer months.
2. Balconies for unit 7 and 8 being increased in size to 10 square metres minimum with minimum internal dimensions of 2.4 metres.
3. Pedestrian paths to be constructed which provide wheelchair accessibility connecting all entries to buildings with the public footpath and car parking areas, constructed at a level which is flush with the level of the main vehicular driveway on site. The colour of the pedestrian paths shall be clearly distinguishable from the colour of the main vehicular driveway;
4. Provision of lighting to pathways and car parking areas, with details to be provided for approval of the Town prior to, or in conjunction with the application for a building permit;
5. The existing crossover on the Second Avenue frontage of the development site being removed and the verge and kerbing being reinstated to the satisfaction of the Town;

6. Separate approval being obtained from the Town's Asset Services for the proposed crossover on the Second Avenue frontage of the development site and this crossover being constructed in accordance with that approval;
7. The sealing and kerbing of all car parking areas and access ways to the Town's specifications;
8. The on-site car parking spaces and associated access ways being constructed using pervious paving materials and maintained thereafter to the Town's satisfaction;
9. Each dwelling being provided with one (1) car parking space. Such arrangement shall be reflected on any subsequent strata plan
10. Visitor parking spaces being clearly marked for "Visitor's Only" and used as such;
11. A minimum of three (3) and one (1) bicycle bays shall be provided for the residents and visitors respectively. The bicycle parking spaces shall be located in the area identified on the approved drawings and shall be constructed in accordance with the provisions of AS 2890.3 (as amended);
12. Details of stormwater disposal being submitted for the approval of the Town in conjunction with or prior to the issue of a Building Permit, in accordance with Local Planning Policy No. 14 – On-Site Stormwater Policy;
13. Prior to the issue of a Building Permit a development bond for the sum of \$4,000 being lodged with Council to ensure the satisfactory completion of all works associated with landscaping, car parking, access ways and fencing;
14. The incorporation of public art in the proposed development or a cash-in-lieu payment of one per cent of the construction cost of the proposed development in accordance with the Town's adopted Local Planning Policy No. 15 'Percent for Art Policy'. Detailed arrangements and agreement with respect to art to be provided on-site or alternatively payment of the required fee shall be made prior to or in conjunction with the application for a Building Permit;
15. The street number being prominently displayed at the front of the development;

16. The unit numbers being prominently displayed at the pedestrian entrance to each individual dwelling;
17. The provision of side and rear fences, behind the street setback line, of 1.8 metres in height. Where the ground levels vary on either side of the fence, the required 1.8 metre height shall be measured above the higher ground level;
18. A separate application and approval being obtained for any proposed fencing within the street setback area;
19. The provision of letterboxes in materials to complement the development to the satisfaction of the Town;
20. Each dwelling to be provided with an effective clothes drying facility;
21. External clothes drying facilities shall be screened from view of the street or any other public place at all times. No drying of clothes from upper floor balconies (units 5, 6, 7 & 8) or ground floor outdoor living areas (units 1, 2, 3 & 4) is permitted;
22. Air-conditioning units and external fittings shall be incorporated into the building or screened from view. Details of the treatment of such external fittings to the building being submitted prior to the issue of a building permit to the satisfaction of the Town;
23. A Waste Management Plan (WMP) is to be submitted for the Town's approval prior to or in conjunction with the application for a Building Permit. The WMP shall address matters including, but not necessarily limited to, the following:
 - (a) Measures to be implemented for the purpose of minimising the delivery of waste to landfill during occupation, including: the on site separation of materials for recycling and the expectations of owners and/or tenants;
 - (b) Site Plan showing the location and size of the on-site rubbish disposal area, including the number of general rubbish and recycling bins to be provided for the development, including sharing arrangements where the number of bins is less than the number of dwellings;

- (c) An estimation of the volume of waste to be generated by the proposed development and the capacity of this volume of waste to be accommodated by on site bin storage capacity;
- (d) Details of intended method of collection (private contractor of Council contractor);
- (e) Details of arrangements for transferring bins from the bin storage area to the verge for collection and subsequently from the verge back to the bin storage area, including timeframes at each stage;
- (f) Details of where the bins would be located when waiting collection;
- (g) Details of advice to be provided to owners and occupiers regarding the WMP; and
- (h) Details of how the WMP will continue to be applied in perpetuity across the life of the development, including the WMP being incorporated into the strata by-laws for the proposed development;

24. The bin storage area is;

- (a) To be provided with a self closing gate;
- (b) To be provided with 75mm minimum thickness concrete floors grading to a 100mm industrial waste floor, with a hose cock to enable both the bins and bin storage area to be washed out; and
- (c) To be provided with internal walls that are cement rendered (solid and impervious) to enable easy cleaning;

25. Bins shall be stored only in an approved, designated location, and shall not be stored within any of the approved car parking bays or associated access aisles;

26. The surface finish of the boundary wall shall be finished to the satisfaction of the adjoining land owner or in the case of a dispute to the satisfaction of the Town;

27. All building works to be carried out under this planning approval are required to be contained within the boundaries of the subject lot;

28. The building hereby approved shall not be occupied until all of the conditions of planning consent have been complied with to the satisfaction of the Manager Development Services, unless the applicant has entered into a legal agreement with Council to comply with those conditions within a specified period; and
29. The issue of a building permit prior to the commencement of any on-site works.

Voting requirements: Simple Majority

10.4 Proposed Prosecution Proceedings for Non Compliance at Lot 67 (No. 14) Clune Street, Bassendean, Owner: Automotive Recyclers Pty Ltd (Ref: DABC/BDVAPPS/2015-090 - Timothy Roberts, Planning Officer)

APPLICATION

The purpose of this report is to seek Council's authorisation to commence legal action for breach of conditions of development approval at the abovementioned property.

ATTACHMENTS

Attachment No. 5:

- Determination on Application for Development Approval
- Notification of failure to address conditions of Development Approval
- Photographic evidence of non compliance

BACKGROUND

The Town received a retrospective application to commence development for a proposed change of use at Lot 67 (No. 14) Clune Street, Bassendean. The application was assessed against the provisions of Local Planning Policy No. 6: Industrial Zones Development Design Guidelines which guided the conditions of approval. Development approval for the retrospective change of use was granted on 28 July 2016 (see attachment 1) with a footnote stating as follows:

"The applicant is instructed to meet the conditions of development approval issued for the site on 28 July 2016 within 28 days of the determination date. In the event that the required modifications are not undertaken within the specified timeframe, the applicant is advised that the Town will commence formal legal action".

Numerous site visits to this property outside of the 28 day period observed that the conditions of development approval have not been satisfactorily addressed. A letter was sent to the owner on 19 September 2016, advising the landowner of their non compliance with the conditions of development approval. The owner was subsequently put on notice that it would be open to the Town to commence prosecution proceedings for continuing to permit this ongoing unlawful development.

STRATEGIC IMPLICATIONS

Objective: Foster enhanced public space and street appearance.

Strategy: Plan for improved streetscapes which include better footpaths, street furniture and inviting verges with well-developed and maintained street trees.

COMMENT

The applicant has been notified of the non-compliance with the conditions of development approval (see attachment) and has not committed to resolving the outstanding conditions. It is therefore appropriate that Council authorise the ability to commence compliance action should the applicant continue to ignore requests to resolve conditions of development approval.

Prosecution action to resolve the unaddressed conditions of development approval is in keeping with standard procedure and ensures a better streetscape for Bassendean.

At the October site inspections, the owner requested an extension of time in order to complete the required works. The owner cited that his business is closed for a period of 15 days over the Christmas break starting on Christmas Eve. This would allow for the required works to be completed and uninterrupted by the day to day functions of his business. The onus should be on the owner to ensure that all appropriate trades people are able to complete the works within the required time and no further extensions of time will be given. Prosecution action will commence immediately after the requested extension of time being 20 January 2017.

STATUTORY REQUIREMENTS

The following conditions of development approval have not been addressed on site within the specified time frame (see attachment):

1. *Fencing to be setback a minimum of 2 metres from the primary road (Clune Street) and 1 metre from the secondary street (Lavan Street), behind the landscaping strip as marked in red on the approved drawings. Fencing is not permitted to be constructed along the alignment of the front property or secondary street property boundary.*

2. *The planting of two Corymbia Ficifolia street trees (Red Flowering Gum) within the Lavan Street road reserve, as marked in red on the approved plans. Street Trees are to have a minimum pot size at the time of planting of 90L in accordance with the Town's adopted Street Tree Master Plan, and shall be maintained thereafter to the satisfaction of the Town.*
3. *The gates on Lavan Street and Clune Street frontages are not permitted to swing into the adjacent road reserves at any times.*
4. *A detailed landscaping plan being submitted for the approval of the Town which demonstrates compliance with the following requirements:*
 - (a) *Plant legend detailing the number of plants and species name including pot-size of plants at the time of planting;*
 - (b) *All landscaped areas being reticulated;*
 - (c) *A focus on the use of local species as specified within the Town's adopted Local Planning Policy No. 18: Landscaping with Local Plants.*
5. *All landscaped areas shall be reticulated and maintained for the life of the development in accordance with the approved plans.*
6. *The 16 car parking bays and associated access ways shown on the approved drawings being constructed, kerbed, marked and maintained thereafter to the Town's satisfaction.*
7. *No products, goods, materials or waste shall be stored outside of the building unless in a designated area that has been approved by the Town for this purpose.*

FINANCIAL CONSIDERATIONS

Should the Town be required to resort to legal action, the costs of prosecution proceedings are estimated to be in between \$2,000 and \$5,000. These costs could be recouped under a successful prosecution.

OFFICER RECOMMENDATION — ITEM 10.4

That Council authorises the Chief Executive Officer to initiate legal action if the conditions of development approval at Lot 67 (No. 14) Clune Street, Bassendean, are not addressed by 20 January 2017.

Voting requirements: Simple Majority

10.5 Proposed Omnibus Amendment to the Local Planning Scheme No. 10 (Ref: LUAP/PLANNG/1 Brian Reed, Manager Development Services)

APPLICATION

The purpose of this report is to firm up on the proposals to be included and to ascertain whether Council is prepared to accept additional items included in the forthcoming omnibus amendment to the Local Planning scheme No 10.

BACKGROUND

This matter has been previously considered by Council in May 2015 and June 2016. In May 2015, Council resolved by way of OCM – 12/05 15 that the Chief Executive Officer arranges for a report to be brought back to Council for Councillors' discussion on the advantages and disadvantages for seeking a scheme amendment on the sites mentioned in this report. These sites include:

Bridson Street

This site is located on the south east corner of Bridson Street and Elder Parade with an area of 1,447.5m². Council has initiated a road closure with a view to creating a recreation reserve to be vested in the Town.



94 Hamilton Street (Reserve 32920)

This site has an area of 2184m². This land is currently zoned residential with a density code of R20. While Council did resolve to give the land back to the State Government in 2008, as part of the Open Space Strategy, this decision has since been reversed. The land is vested in the Town as a recreational reserve.

Christie Park

This site has an area of 2,184.0 m². This land is currently zoned residential with a density code of R20. The land is owned freehold by the Town. Council's last resolution on this land appears to date back to 2008 when it was resolved:

“The potential sale of Christie Park be further investigated in a future report to Council as a possible source of funds for the implementation of the POS Strategy when adopted by Council and in particular as a means to finance any shortfall of funding to implement the required improvements in the Town's parks infrastructure and facilities to the standard required of a contemporary local government.”

If the land were to be reserved for open space, obviously the land would not be able to be sold to fund other open space opportunities.

42 Watson Street

This site has an area of 863 m². This land is currently zoned residential with a density code of R20.

The land is vested in the Town as a recreational reserve

179 Guildford Road

This site has an area of 371m² and adjoins the RSL Hall in Kenny Street. . This land is currently zoned residential with a density code of R20.

Kelly Park

Kelly Park has an effective area of approximately 3,160m² however, only 352m² is reserved for Parks and Recreation under the Local planning Scheme.

Council has initiated a road closure with a view to creating a recreation reserve to be vested in the Town.

17 and 19 Anstey Road

These two lots have an area of 2,024m² and adjoin/form part of Bindaring Park. The lots are zoned residential and are owned freehold by the Town.

Other land

The following properties also contain zoning anomalies that should be addressed in any omnibus amendment to the Scheme.

33 Hanwell Way- Morley Baptist Church Incorporated

This land is reserved for Parks and Recreation by the Local Planning Scheme No. 10. Council has previously resolved that this land be rezoned to Light Industry.

260 Morley Drive former Range View Tavern Site

This site which is being redeveloped for residential use still retains an additional use for a Hotel/Tavern. It is considered that the additional use should be removed.

Earlsferry

Part of this site is without a zoning under the local Planning Scheme No. 10, due to a reduction in the extent of the reservation of land required for Guildford Road under the Metropolitan Region Scheme.

There is also a portion of land at the rear of the property with an area of 625.9m², which is currently unzoned which should be reserved for open space under the Local Planning Scheme No. 10.

Earlsferry also has an additional use relating to the original development of what is now Earlsferry Court which seems to be now redundant.

Drain Reserves

There are a number of open drains in the Town that were created as part of the subdivision of adjacent land. The drains generally are either reserved under the Scheme for drainage purposes but oftentimes are zoned in accordance with the surrounding land. The majority of the open drains are owned or managed by the Water Corporation.

It is considered that the notion of converting some of these drains to living streams and reserving them as open space should be investigated. In the first instance, it is considered that the idea of converting the drains to living streams should be discussed with the Water Corporation for the greater part.

At its meeting held on June 2016 Council resolved by way of OCM – 9/06/16 to request the Chief Executive Officer to arrange the preparation of amendment documents to the Local Planning Scheme No. 10 and Town Planning Scheme No. 4A with a view to:

- a) Deleting the proposed footpath over Lot 663 Hardy Road, Bassendean;
- b) Rezoning Lots 162 and 163 Anstey Road, Bassendean from Residential with a density Code of R25 to Parks and Recreation;
- c) Transferring the development potential of the residential zoned land from part Lot 271 Hamilton Street to Part Lot 271 Hamilton Street and part Lot 272 Hamilton Street.

The matter is discussed further in the comment section below, together with additional sites that could be included in the proposed amendment.

STRATEGIC IMPLICATIONS

Foster enhanced public space and street appearance.
 Plan to ensure access to open space and play equipment is maintained and improved.

COMMENT

The following table shows the ownership of the land parcels, and the proposed zonings be applied to the land through the omnibus amendment

Location	Current land status	Proposed Zoning
Bridson Street	Part of road reserve to be created as a reserve for recreation with a Management Order in favour of the Town	Recreation
94 Hamilton Street	Land is currently zoned residential with a density code of R20 - Reserve for recreation with a Management Order in favour of the Town	Recreation
Christie Park	Land is currently zoned residential with a density code of R20 The land is owned freehold by the Town	To be determined by Council.

42 Watson Street	Land is currently zoned residential with a density code of R20- Reserve for recreation with a Management Order in favour of the Town	Recreation
179 Guildford Road	Land is currently zoned residential with a density code of R20 - The land is owned freehold by the Town and has been subject to a lease with the Returned Services League	Retain residential zoning
Kelly Park	Part of road reserve to be created as a reserve for recreation with a Management Order in favour of the Town	Recreation
17 and 19 Anstey Road	Land is currently zoned residential with a density code of R20 - The land is owned freehold by the Town	Recreation
33 Hanwell Way Morley Baptist Church	This land is reserved for Parks and Recreation by the Local Planning Scheme No. 10. The land is in Private ownership and the Town has no intention of acquiring the land as the reservation suggests.	Light Industry
260 Morley Drive	Land has been developed with housing	Remove additional use for tavern
Earlsferry	a) Part of this site is without a zoning under the local Planning Scheme No. 10, due to a reduction in the extent of the reservation of land required for Guildford Road under the Metropolitan Region Scheme. b) unzoned portion of land at the rear of the property	Apply a residential zoning with a density code of R10 to the unzoned portion of Earlsferry. This land has since been reserved for

	<p>c) Earlsferry has an additional use for Single Residential Dwellings which is conditional upon a former existing single storey dwelling facing Earlsferry Court to be demolished prior to subdivision of the land.</p>	<p>Parks and Recreation under the Metropolitan Region Scheme.</p> <p>This requirement has been met and the additional use condition should be removed from the Scheme.</p>
Drain Reserves	<p>The majority of the open drains are owned or managed by the Water Corporation. Whilst there has been some limited discussion with the Water Corporation about this issue, the discussions are not advanced enough at the this stage to alter the zoning of the drains to recreation at this stage</p>	<p>Retain existing zonings with the exception of the drainage reserves linking the “parks: between the Hamilton Street and Clark way Reserves(see image below)</p>
Lot 271 Hamilton	<p>Part lot 271 Hamilton Street to be zoned for recreation with a corresponding portion of part lot 272 Hamilton street to be zoned Residential with a density code of R25</p>	<p>Recreation and Residential with a density code of R25(see image below)</p>

Reserve 32920 Hamilton Street and the adjoining drainage reserves to be reserved for Parks and Recreation



Lost 271 and 272 Hamilton Street.



Council direction is sought in terms of whether or not to alter the zoning of Christie Park from Residential to Recreation.

The land is currently owned freehold and is appropriately zoned to be sold off for housing. According to Council's Asset Management Plan the land had a value in excess of \$500,000 based on 2013 valuations.

The land was gifted to the Town in 1939 by Mrs Christie. The minutes of the Council meeting of 24 May 1939, state that the lots were donated to the Council and there were no encumbrances placed on the lots as to how the land should be used. Extensive research has failed to indicate that this donation was anything but an unconditional gift for the benefit of the whole community.

Whilst the adopted Open Space Strategy lists the park for retention as an "undeveloped" park, the Strategy itself included the following commentary on Christie Park:

General Comment/Options for Development

The reserve is limited and provides little recreational opportunity.

It would appear that the surrounding houses are on large size blocks and it is assumed that the majority would have sufficient outdoor area to allow for individual BBQ's within the homes.

The reserve is within walking distance of Steel Blue Oval.

It is questionable what purpose the reserve meets.

It should be further noted that there was previously extensive community opposition to the Town's proposal to dispose of the land for housing as part of the adoption of the Public Open Space Strategy.

The Hester Property Report included the following recommendations for the site:

Two options exist with respect to this property, dependent upon the outcomes of the master planning process for Bassendean Oval;

- Retain property as local open space and transfer the freehold titles to another crown reserve that the Town of Bassendean wishes to acquire. This will enable the Council to retain the value of its asset without the loss of the service delivery to the community, or*
- Consider the sale of the subject property for residential development on the assumption that a new local open space will be delivered to the community as part of the Bassendean Oval Master Planning Process.*

Other possible inclusions in the Omnibus Amendment

46, 48 and 50 Third Avenue Bassendean



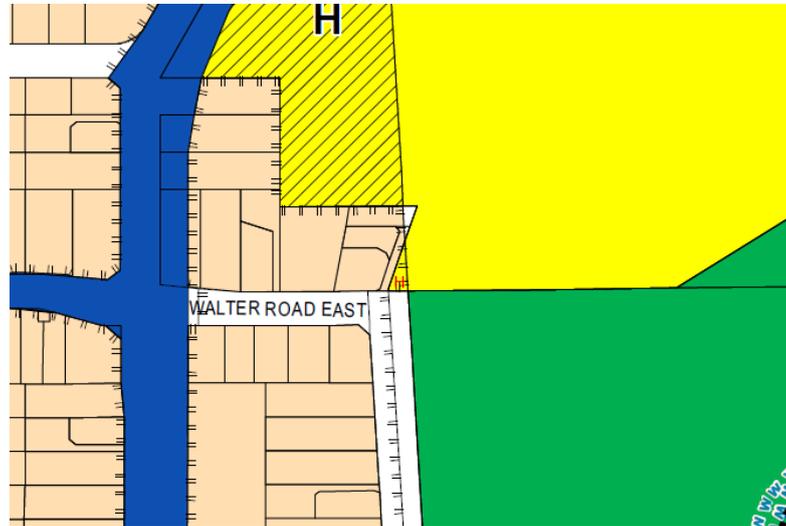
This land is currently zoned residential with a density code of R20. The land comprises three reserves for recreation with a combined area of 3,027m² with a Management Order in favour of the Town. Having regard to the fact that the zoning of the land is inconsistent with the land's management order, it is recommended that the sites zoning be amended to recreation.

Reserves for recreation within the Park Estate



This land is currently zoned residential with a split density code of R20/30/60 . The land comprises three reserves for recreation with a combined area of 8,385m² with a Management Order in favour of the Town. Having regard to the fact that the zoning of the land is inconsistent with the land's management order it is recommended that the sites zoning be amended to recreation.

2 Walter Road East.



Part of 2 Walter Road East now contains land that zoned Urban under the Metropolitan Region Scheme but is not zoned under the Local Planning Scheme No 10, by virtue of Metropolitan Region Scheme Proposed Amendment 1275/57 Central Districts Omnibus 4

The Town is required to apply a zoning under the Local Planning Scheme No 10 and it is suggested that the land be zoned residential with a split density Code of R20/40 which is consistent with the remainder of the land.

Properties located substantially in the flood way of the Swan River



There are some 10 properties located within the floodway of the Swan River which are zoned residential with a density code of R5.

Generally, the Town and the Western Australian Planning Commission (WAPC) ha been able to resist further development of the land beyond a single house within this area on the strength of the Town's floodplain policy which had a general presumption against development in the floodway, and the adopted Local Planning Strategy.

Recently, the WAPC has approved the further subdivision of 183 West Road, to form two lots.

Officers recommend that the density code of the above properties be reduced to R2. If the land is down coded as suggested, the minimum lot area would become 5,000m² as opposed to the current 2,000m².

The Town may then be required to vary the open space and set back requirements to take account of existing developments as the R Code requirements are harsher at the lower density code.

STATUTORY REQUIREMENTS

Nil at this stage.

FINANCIAL CONSIDERATIONS

The cost of the external advertising of the proposed scheme amendment can be met out of the Town Planning operational account.

If the zoning of Christie Park is amended from Residential to Recreation, the Town's land asset values would reflect a loss in excess of \$500,000.

OFFICER RECOMMENDATION — ITEM 10.5

That Council:

1a) Endorses Christie Park being reserved for recreation in the forthcoming omnibus amendment to the Local Planning Scheme No. 10;

Or

1b) Does not endorse Christie Park being reserved for recreation in the forthcoming omnibus amendment to the Local Planning Scheme No. 10; and

2. Endorses the following proposal being included in the forthcoming omnibus amendment to the Local Planning Scheme No. 10:
 - a) Reserving the following land for Parks and Recreation
 - i. That part of the Bridson Street road reserve intended to be created as a recreation reserve.
 - ii. Reserve 32920 Hamilton Street and the adjoining drainage reserves
 - iii. 42 Watson Street
 - iv. Kelly Park
 - v. 17 and 19 Anstey Road
 - vi. Part lot 271 Hamilton Street
 - vii. 46, 48 and 50 Third Avenue Bassendean
 - viii. The recreation reserves within the Park Estate
 - b) Amending the zoning of 33 Hanwell Way to Light Industry;
 - c) Removing the additional use for a Tavern from 260 Morley drive;
 - d) Removing condition 1 additional uses for Earlsferry that requires "Prior to the subdivision of the land, the existing single storey dwelling facing Nurstead Avenue shall be demolished";
 - e) Applying a residential zoning with a density code of R10 to the unzoned portion of Earlsferry;
 - f) Applying a residential zoning with a spit density code of R20/40 to the unzoned portion of No 2 Water Road East;
 - g) Applying a residential zoning with a density code of R25 to part Lot 272 Hamilton Street; and
 - h) Decreasing the density code of the properties located substantially in the floodway of the Swan River to R2, including house numbers 180,182,183,184,186,187, 193, and 195 West Road and 155 Whitfield Street, Bassendean

Voting requirements: Simple Majority

10.6 Carparking at Hyde Retirement Village (Ref: COUP/MAINT/9 - Graeme Haggart, Director Community Development)

APPLICATION

Council is requested to determine what action to take in response to requests for improved carparking facilities within the Hyde Retirement Village.

ATTACHMENTS

Attachment No. 6:

Dodd and Hall correspondence

BACKGROUND

This item was last considered in April 2016 at which time Council resolved in part that *“Officers investigate the feasibility of creating additional onsite bays through looking at the existing oversized bays, emergency vehicle bays and bin storage areas and depending on the outcome of the feasibility investigations, consider the provision of residents only car bays on the street in front of the Hyde Retirement Village”*.

In the April 2016 Officer Report, it was noted that:

- There exists 8 car parking bays off-road within Hyde Retirement Village;
- There are 31 residences within Hyde Retirement Village;
- There exists more residents with private vehicles than car bays available on site;
- The trend to retained private vehicles with residents is likely to further increase in the future;
- Car bays are hired by residents and allocations are made based on an expression of interest waiting list retained by the Town;
- On-street parking congestion has increased in recent times and attributed to increases in commercial activity in the Town Centre;
- A limited number of Hyde Retirement Village residents have expressed dissatisfaction with the existent of car parking available given the increase in competition for bays directly adjoining the Village; and
- Resident’s information packs for prospective tenant’s highlights the limited number of car parking bays available and how those bays are allocated.

Since the April meeting, officers have administratively determined to remark the two bays marked for emergency service vehicles to be redeployed as additional allocation bays and engineering solutions have been sought to increase further the number of off-road bays.

Removing the trees and gardens at the front of Units 20 – 25 could accommodate construction of an additional 3 angled bays at an estimated cost of \$50,000. However, three on-road bays will be lost for the crossover.

The bin storage area (outside Units 1 – 6) can be modified at a cost of \$6,500 to accommodate the hard stand access becoming a designated bay. However Development Services are concerned the necessary turn-around capacity (to allow vehicles to drive out of the car park forward-facing) is unlikely to be achieved. Converting this space to a designated car bay will also restrict pedestrian access to the bin area and this undoubtedly will become problematic for residents.

The oversized car bays in front of Units 26 & 27 are constructed as per the approved plans. Approval was granted for there to be 6 bays in this car park. The car park has marked bays for 4 cars. Some modifications quoted at \$3,250 are required to accommodate an additional bay on the southern side. A bank of letterboxes has been installed on the property line on the northern side of the cross over to the car park, the proximity of which precludes converting this row to 3 bays.

Options were explored to achieve additional on-road bays including angled parking.

The Town's Engineering Technical Officer advised: "The Town contacted Main Roads WA to obtain their opinion about providing angular car parking on James Street. 60 degree angular on-road parking was proposed. At present there are 7 parallel parking bays along this stretch of road. Furthermore, there are no parking restrictions on the other side of the road. If we were to provide 60 degree parking, the Town would get 9 angular bays. However, to maintain the circulation width of the road, the Town will need to install "no parking" signs on the other side of the road. Therefore, there is no net gain of car parking spaces, if angular parking is to be provided at this location."

Such an outcome would be contentious for residents on the other side of the road in preventing them and their guests from parking in front of their properties.

The April 2016, the Officer Report argued that on-street permit parking would not be a solution, as it would require to be offered to all properties in the street including the commercial premises and require resources for monitoring.

The Hyde Retirement Village Annual General Meeting was conducted on Monday 10 October with approximately 20 residents in attendance. The parking issue was discussed and a resolution passed supporting the reinstatement of the two emergency service bays as additional allocated bays, but that no further action be taken to increase the number of off-road bays in the Village.

STRATEGIC IMPLICATIONS

The 2016 -2020 Corporate Business Plan includes an objective to “build a sense of belonging and connectivity in the community”. One strategy toward this objective is to “nurture community resilience and self-reliance toward a sense of belonging with residents to a highly connected community” with an outcome being the “standards of provision of services addressing children, young people, seniors in the community meet the community’s needs”.

COMMENT

Residents entering the Village are made fully aware of the parking limitations and that bays are allocated on a first come, first served basis from a waiting list as a bay becomes available. A \$10/fortnight fee applies to parking bay holders.

Not all residents are seeking an increase in off-road parking and not all residents parking on the street are waiting for an allocated bay.

Attached is correspondence from Mrs Dodd arguing that accessibility should not be compromised in the pursuit of additional car bays.

Others however, like Mr Hall (also attached) argue that on street parking leaves their vehicle vulnerable to vandalism and therefore unreasonable personal costs.

Mr Hall was in attendance at the AGM and voted in support of the resolution. In speaking with him after the meeting, he advised that has recently become a resident and he is concerned of his new vehicle. He does however, accept there are limitations and is prepared to wait for a bay to become available to him.

There are apparently only 4 or 5 residents parking on the street waiting for a bay. All are recent arrivals. Longer term residents assert they too had to wait and like new residents were aware of the circumstances on signing up for residency.

It is possible to achieve a total of 7 additional off-road bays at an estimated cost of \$59,750 however this action is not supported by the residents in the Village. The resolution at the AGM is to not support renovations that require expenditure.

The two emergency service vehicle bays have already been converted without requiring engineering or substantial cost (other than painting that is deemed an operational cost).

It is understood the two emergency service vehicle bays were created as a solution to an ongoing problem being experienced with cars parked in those bays being regularly scratched by a now past-resident who drove a gopher on the path alongside the parked cars.

The residents in the AGM argued that if the bays in front of unit 27 were converted to 3, as per the approved building plans, that they would be too narrow for large vehicles driven by older drivers.

Expanding the car parking capacity by reducing the oversized bays and also the converting of the pedestrian access to the bin storage area to a car bay is recommended by the DCD to be considered a cost effective solution for when the pressure to resolve undersupply next emerges.

In accordance with the legislation, eligibility for residency is age 55-years. It is becoming more common for couples to enter the Village. Currently there are 7 couples resident in the Village: In 2008 there were three. Recently a couple chose to not pursue a tenancy as both have retained their own vehicle (2-vehicle family) and are still working.

The first Units within the Hyde Retirement Village were constructed in 1979 and the most recent in 1991. At that time the building design and village amenity met contemporary needs.

Aged independent living villages offering single bedroom, semi-detached units with limited communal amenities, no private gardens or courtyards and limited parking, are now considered architecturally antiquated.

Inability to keep a canary or other species of bird is an example of the limitations that result from the current Village built form. Companion animals, like dogs and cats are certainly not possible.

In addition to the request for additional parking bays, recently arrived residents have also requested the provision of common rooms/games rooms and a barbeque area: Neither of which are currently provided and unlikely to be possible given the Village layout.

While the buildings are sound, planning for their replacement should be commenced.

The Village abuts properties on Old Perth Road and arguably should be zoned Town Centre or R-IC, allowing densification through multistorey built form.

STATUTORY REQUIREMENTS

Local Government Act 1995
Retirement Villages Act 1992
Parking and Parking Facilities Local Law 2010
Road Traffic Code 2000

FINANCIAL CONSIDERATIONS

If supported, the residents propose there to be two only additional bays and that with this solution, there are no capital expenses required.

OFFICER RECOMMENDATION — ITEM 10.6

That in accordance with the wishes of the residents of Hyde Retirement Village, Council:

1. Acknowledges the two emergency service vehicle parking bays have been reallocated as additional bays for resident parking; and
2. Takes no further action in relation to increasing the number of off-street bays for residents at Hyde Retirement Village at this time.

Voting requirements: Simple Majority

10.7 (Draft) Perth Transport Plan for 3.5 Million People and Beyond (Ref: GOVR/LREGLIA/4 - Anthony Dowling, Director Strategic Planning)

APPLICATION

The State Government, through the Department of Transport (DoT), the Public Transport Authority (PTA), and Main Roads Western Australia (MRWA), recently released for public comment the aforementioned draft plan that applies to the Perth – Peel metropolitan region.

The draft plan is open for comment/feedback until 3.00pm, Friday 28 October 2016.

Council may wish to consider making a submission on the draft plan if it identifies that the draft plan is likely to impact upon the Town's functions and services in respect to its movement network.

This report identifies (broad) likely impacts and recommendations in respect to the draft plan for Council's consideration.

ATTACHMENTS

Attachment No. 7:

- Draft Perth Transport Plan for 3.5 Million People and Beyond Summary
- Council resolutions OCM2 – 11/09/11, OCM2 - 12/09/11, and OCM2 – 13/09/11
- Public Transport Plan for Perth in 2031 - Ultimate Network Map

BACKGROUND

The (Draft) *Perth Transport Plan for 3.5 Million People and Beyond* proposes a vision for generational change to Perth's and the Peel region's transport network predicated on a forecasted population of 3.5 million people by 2050.

The draft transport plan is modelled on the Western Australian Planning Commission's draft *Perth and Peel @ 3.5 Million* planning framework of where people will live and work. It also aligns with the *Perth and Peel Green Growth Plan for 3.5 Million*.

The aim of the plan is to provide people with more than one viable option for travelling to work, school and shops and for accessing services and recreational activities.

The plan's stated vision and objectives are:

"A vibrant, connected and productive Perth will need a transport network that meets the following objectives:

- *optimises use of the existing network and as it grows;*
- *integrates with land use and across the public transport, active transport and road networks;*
- *delivers high frequency, 'turn up and go' mass rapid transit connected with effective public transport feeder services;*
- *provides a safe, connected active transport network of primarily off-road cycleways and walkways; and*
- *maintains a free-flowing freeway and arterial road network for the efficient distribution of people and freight."*

Its desired outcomes are to:

1. *Increase public transport use to 11 per cent of all-day trips, including 65 per cent of peak period trips to the Perth CBD and 32 per cent of person kilometres travelled by motorised vehicles during peak periods;*
2. *Increase cycling and walking to 18 per cent of all-day trips; and*
3. *Reduce the mode share of car driver trips to 50 per cent of all-day trips, and to 29 per cent of peak period trips to the CBD.*

Many of the projects in the Plan are new and conceptual. These will be the subject of further examination in regard to scope, engineering and design, cost and funding, as well as timing. This will occur as part of the Government's usual planning and investment decision making processes.

Further modelling and analysis will also be required over the ensuing decade as new information becomes available.

It is intended that the draft plan – once finalized and adopted - will be reviewed every five years to ensure it continues to meet the needs of Perth's growing population.

A summary of the draft plan is reproduced at Attachment 1. A full copy of the draft plan can be viewed on the Department of Transport website (www.transport.wa.gov.au/transportplan)

Draft Transport Plan Proposals for the Town of Bassendean

There is only one proposed project within the draft plan that will significantly impact upon the Town, namely a proposed Bus Rapid Transit (BRT) or Light Rail Rapid Transit (LRT) system along Lord Street between the Bassendean train station and Ellenbrook (refer to map on page 11 in the draft plan summary and Figure 15 in the full copy of the draft plan).

According to the draft plan, BRT and LRT systems are utilized when the level of demand does not warrant an investment in heavy rail, but is too high for the regular bus system to operate efficiently in mixed traffic.

LRT and BRT systems usually operate in their own lane, separated from other traffic, providing a semi-rapid transport service.

The Lord Street BRT/LRT is proposed to be implemented by the time the population of Perth and the Peel Region reaches 2.7 million people.

No timeframe has been given, however, the previous transport plan for Perth "*Public Transport Plan for Perth 2031*" forecasted this level of population to be reached by about 2031.

This means that the proposed BRT/LRT system along Lord Street will probably need to be implemented within 15 years from now.

STRATEGIC IMPLICATIONS

The draft plan provides no details (including costings) as to how the proposed BRT/LRT system will be implemented along Lord Street. Neither does it detail whether any road reserve widening will be required nor who will be responsible for designing, constructing and maintaining the system once built.

Presumably this will be considered, worked-through, and determined once the draft plan has been adopted by the State.

As mentioned before, the proposed BRT/LRT link will extend between Ellenbrook and the Bassendean Train Station. By inference, the proposed route within the Town of Bassendean will extend from the bus interchange adjacent to the Bassendean Train Station, eastwards along Railway Parade to Lord Street, then northwards along Lord Street to the Town's boundary at Morley Drive.

Both of these streets are under the care and control of the Town.

On the face of it, it appears there are at least 2 likely implications for the Town to consider in respect to this proposal, namely:

1. The requirement to make physical changes to Railway Parade (between Broadway and Lord Street) and Lord Street (between Railway Parade and Morley Drive), including intersection modifications, road reserve and pavement widenings etc in order to accommodate the separate lanes required for this system; and
2. Whether land abutting land the proposed rapid transit route ought to be redeveloped for increased residential densities, and/or a greater mix of suitable land uses.

In relation to 1 above, it is unknown whether the State will implement the route at its cost, or whether there is an expectation by the State for the Town to fund wholly or partially the implementation of that part of the link proposed through the Town, and whether the Town is expected to maintain the system once operational.

Additionally, the Town also needs to assess its capability in being able to wholly or partially implement and maintain the system should it be willing to consider this, or if it is imposed upon it.

In relation to 2 above, it is noted that the draft *Perth and Peel @ 3.5 Million* plan produced by the Western Australian Planning Commission (WAPC) proposes the transitioning of a number of key transport corridors into multi-functional corridors (high density residential and mixed use development) that allow for efficient movement and high amenity.

Under this plan, Ivanhoe Street has been identified as a proposed 'multi-function corridor' however, Lord Street and Railway Parade (between Broadway and Lord Street) have not. In respect to the latter this seems incongruent with the *Perth and Peel @ 3.5 Million* plan.

Given that it is a principle of the *Perth and Peel @ 3.5 Million* plan that existing and planned high-quality, high-frequency public transport routes be supported by quality higher-density residential land uses to meet long-term growth, the Town may wish to submit to the State – in the interest of consistency - that the two subject streets be designated as multi-functional corridors under the *Perth and Peel @ 3.5 Million* plan.

One benefit of designating these streets as 'multi-functional' corridors is that it provides an option for the Town to achieve the desired infill housing targets set out in the *Perth and Peel @ 3.5 Million* plan for the Town.

COMMENT

Although not stated in the draft transport plan it appears that this draft transport plan is a derivation of the *Public Transport Plan for Perth 2031* published in 2011 and required as a consequence of the draft *Perth and Peel @ 3.5 Million* plan succeeding the *Directions 2031 and Beyond Plan*.

However, it would have been helpful for the draft transport plan to have also denoted and explained any changes from the *Public Transport Plan for Perth 2031*.

It is noted that the draft *Perth Transport Plan for 3.5 Million People and Beyond* aligns with the draft *Perth and Peel @ 3.5 Million* plan. This is commendable and makes sense given that there is a nexus between land use planning and transport planning.

It is further noted however, that the *Perth and Peel @ 3.5 Million* plan has yet to be adopted/endorsed by the State, and could be subject to a number of modifications, which may in turn require modifications to the draft *Perth Transport Plan for 3.5 Million People and Beyond*.

Ideally, it would have been preferable for the draft transport plan to be included as an integral component of the draft *Perth and Peel @ 3.5 Million* plan.

Insofar as it effects the Town, it is noted that the draft transport plan does not reflect a previous resolution of Council made at its 27 September 2011 Ordinary Council Meeting (see Attachment 2) for a road-based rapid transit service (light rail or bus) to be provided from Bassendean to Morley and from Morley to Warwick before 2020.

This recommendation of Council was reflected in the 'Ultimate Network Map' contained in the *Public Transport Plan for Perth 2031* (see Attachment 3) but is not shown in the current draft transport plan. The reason/s for this is unknown or not explained in the draft transport plan.

However, it appears that Council's resolution made at the same aforementioned meeting for the planned rapid transit bus service to terminate in the Town Centre has been heeded by virtue of the draft transport plan's proposal for the BRT/LRT link to extend between Bassendean Station and Ellenbrook.

But, it is not known as to whether the DoT considered Council's further resolution made at the same meeting that the Kewdale-Welshpool, Forrestfield, Malaga, Hazelmere and Bayswater-Bassendean sites be incorporated into a future plan and completed before 2031.

Notwithstanding that the BRT/LRT proposal has been around for some time, and that it has merit as an idea or concept, the draft transport plan provides no rationale or basis as to whether it is merited or even warranted along Lord Street.

This ought to be questioned on the basis that the Town's *Local Area Traffic Management Plan* (July 2012) states that Lord Street has capacity to accommodate more traffic if required (although that plan does not prescribe any capacity limit and when it might be reached).

It is assumed that a BRT/LRT link would only be merited if Lord Street was consistently operating at or above its design capacity.

Thus, the Town's support or otherwise of the proposed BRT/LRT proposal ought to be predicated upon the rationale for the link and future analysis of Lord Street's predicted carrying capacity and function.

One other aspect of the draft transport plan that perhaps could have entertained more discussion, envisioning and analysis is the section on 'Future Trends (Section 5).

This is particularly pertinent given Council's resolution also made at its 27 September 2011 Ordinary Meeting for the *"Public Transport Plan for Perth 2031 to adequately address public transport requirements for the Perth Metropolitan Area or Bassendean residents in order to reduce our communities car dependence which would subsequently reduce our residents vulnerability to increases in oil and carbon emissions."*

Given that the draft transport plan provides an outlook of Perth's transport needs to at least 2050, during which time evolving and sustainable transport technologies are likely to come to the fore, it would have been prudent to have examined with more depth these evolving technologies, and the likelihood of their viability. This could have been carried out through say, the issue of a separate discussion paper informing the draft transport plan and its recommendations.

Such an examination could have countenanced, for example, Israel's proposal – through a partnership with the SkyTran Company and NASA's Ames Research Centre – to develop and implement in its major metropolitan areas an on-demand mass transport system of magnetically levitating pods tethered to a gridded system of monorail tracks (see Figure 1 following).



Figure 1 - Futuristic Image of the SkyTran system
(Source: www.skytran.us)

According to SkyTran, these pods will ferry passengers around a city, much like a taxi, but will charge a fare closer to that of a bus. Passengers will be able to order rides via a smartphone application.

Israel is presently sponsoring the development of a prototype of this system which it plans to implement across its city of Tel Aviv. If successful, SkyTran hopes to roll out the system to large cities worldwide (with France and India expressing an interest in the system).

According to SkyTran, the system will provide a cheaper, faster, environmental friendly and comfortable alternative to cars and buses, which are the main cause for congestion and pollution in metropolitan areas.

SkyTran also claims that the cost of building and operating this system will be substantially less than building train and light rail systems.

Further details about the SkyTran system, including its claimed benefits, can be accessed via its website: www.skytran.us

Consideration of such a system and other transport technologies accords with the draft Transport plan's stated objective of *"delivering high frequency, 'turn up and go' mass rapid transit connected with effective public transport feeder services"*.

It may also be a viable alternative to building new or extended rail links, as well as being a preferred mode for transportation to, from and within Activity Centres and Activity Corridors radiating out from these.

STATUTORY REQUIREMENTS

None at this stage.

If the draft *Perth and Peel @ 3.5 Million* plan and the draft *Perth Transport Plan for 3.5 Million People and Beyond* are adopted by the State as State planning policies, then the Town's decision-making functions in respect to land use and development and movement networks will need to have due regard to these plans and their proposals insofar as it affects the Town.

FINANCIAL CONSIDERATIONS

None at this stage.

However, with reference to the comments made under the section 'Strategic Implications' there may be – as yet unidentified – costs to the Town with the implementation of the proposed Ellenbrook – Bassendean Train Station BRT/LRT link.

OFFICER RECOMMENDATION — ITEM 10.7

That Council submits to the Department of Transport the following comments in respect to the draft *Perth Transport Plan for 3.5 Million People and Beyond*:

That:

1. Whilst the proposals for a bus or light rail transit system have merit as an idea or concept, the draft plan lacks detail in respect to the proposed Ellenbrook – Bassendean Train Station BRT/LRT link, especially in relation to:
 - (i) Physical requirements (eg. road reserve and pavement widenings, land acquisition etc) to implement the system along the proposed route;
 - (ii) Responsibility for designing, constructing and maintaining the system along the proposed route;
 - (iii) The estimated cost to implement the system along the proposed route and who will fund it;
 - (iv) The rationale for the proposed route, especially given that Lord Street is presently not operating to capacity and that it might be more appropriate (and less costly) to provide a BRT/LRT link between Ellenbrook and the Morley Activity Centre, particularly as an interim measure until the proposed public rail link between Ellenbrook and the Morley Activity Centre is implemented;
2. The aforementioned concerns be suitably addressed by the DoT, with the Town being consulted accordingly, prior to the draft *Perth Transport Plan for 3.5 Million People and Beyond* being finalized and endorsed or approved by the State;
3. The rapid transit link between the Bassendean Train Station and the Morley Activity Centre proposed in the *Public Transport Plan for Perth 2031* be reflected in the finalized *Perth Transport Plan for 3.5 Million People and Beyond*, and that it be slated for implementation before or by 2020;

4. If the proposed Ellenbrook – Bassendean Train Station BRT/LRT link is to be retained in the finalized *Perth Transport Plan for 3.5 Million People and Beyond*, the WAPC be requested to designate this link as an ‘Activity Corridor’ in the finalised *Perth and Peel @ 3.5 Million* plan; and
5. Section 5 - Future Trends in the draft *Perth Transport Plan for 3.5 Million People and Beyond* be expanded to include identification and discussion of further developing transport technologies and modes (such as the SkyTran proposal reported on) that have a reasonable or optimistic chance of alleviating or reducing car-dependent travel across metropolitan-wide and urban transport networks.

Voting requirements: Simple Majority

10.8 RFT CO 059 2016-17 Australia Day Fireworks for the Town of Bassendean (RECC/TENDNG/4 – Mandy Godfrey, Contracts Support Officer & Ken Cardy, Manager Asset Services)

APPLICATION

The purpose of this report is to present to Council a summary of tenders received against Request for Tender RFT CO 059 2016-17 - Provision of Australia Day Fireworks for the Town of Bassendean, and to appoint the most appropriate contractor.

ATTACHMENTS

Confidential Attachment No. 1: RFT Specifications

BACKGROUND

Contractors were invited to tender for RFT CO 059 2016-17 - Provision of Australia Day Fireworks for the Town of Bassendean via an advertisement in the Western Australian Newspaper on Saturday 27 August 2016.

STRATEGIC IMPLICATIONS

Economic Wellbeing and Prosperity

Objectives: Encourage and Support community connections.

Strategies: Continue to support public arts, community festivals and event, and the development of unique community culture that defines us.

COMMENT

In response to RFT CO 059 2016-17 - Provision of Australia Day Fireworks for the Town of Bassendean, 2 tender responses were received prior to the tender deadline 10.00am on Friday 23 September 2016.

The contract is for a period covering 4 Australia Day displays commencing 1st November 2016 through to 1st February 2020 and will be subject to Council's Budget approval each financial year.

As per the Town's Procurement Guidelines, an Evaluation Panel was formed and required to assess each tender against the selection criteria.

Both tenderers met the RFT compliance requirements. The following index represents the selection criteria and weighting for this contract.

Index:

Selection Criteria 1: Relevant Experience on similar projects (40% weighting)

Selection Criteria 2: Key Personnel and Resources (30% weighting)

Selection Criteria 3: Tendered Price (30% weighting)

Pricing is regarded as commercial in confidence and therefore between the parties involved. Tables containing full pricing and selection criteria weighting is contained in a confidential attachment.

STATUTORY REQUIREMENTS

Local Government Act 1995

Local Government (Functions and General) Regulations 2007

FINANCIAL CONSIDERATIONS

The costs associated with this contract, pending Council approval each year, will be included in the Town of Bassendean's Operational Budget for each year of the contract.

OFFICER RECOMMENDATION – ITEM 10.8

That Council appoints Cardile International Fireworks to undertake the work as required in RFT CO 059 2016-17 - Provision of Australia Day Fireworks for the Town of Bassendean in accordance with the specifications and terms and conditions for a period commencing 1st November 2016 through to 1st February 2020 and will be subject to Council's Budget approval each financial year.

Voting Requirement: Absolute majority

10.9 RFT CO 055 Street Sweeping 2016-17 - Provision of Street Sweeping Services for the Town of Bassendean (ROAD/TENDNG/38 – Mandy Godfrey Contracts Support Officer)

APPLICATION

The purpose of this report is to present to Council a summary of tenders received against Request for Tender (RFT) CO 055 2016-17 - Provision of Street Sweeping for the Town of Bassendean and appoint the most appropriate contractor.

ATTACHMENTS

Confidential Attachment No. 2

- Tender Specifications)

BACKGROUND

Contractors were invited to tender for RFT CO 055 2016 2016-17 Provision of Street Sweeping Services for the Town of Bassendean via an advertisement in the Western Australian Newspaper on Saturday 3 September 2016.

STRATEGIC IMPLICATIONS

Town Planning & Built Environment

Objectives: Foster enhanced public space and street appearance

Strategies: Plan for improved streetscapes which include better footpaths, street furniture and inviting verges with well-developed and maintained street trees.

COMMENT

In response to RFT CO 055 2016-17 Provision of Street Sweeping Services for the Town of Bassendean; eight (8) tender responses were received prior to the tender deadline 2.30pm on Tuesday 27 September 2016.

The contract is for a 5 year period commencing 1st November 2016.

As per the Town's Procurement Guidelines, an Evaluation Panel was formed and required to assess each tender against the selection criteria.

All 8 responses met the RFT compliance requirements. The following index represents the selection criteria and weighting for this contract.

Index:

Selection Criteria 1: Programme (25% weighting)

Selection Criteria 2: Experience and Resources (40% weighting)

Selection Criteria 3: Understanding of Required Tasks (5%)

Selection Criteria 4: Tendered Price (30%)

Pricing is regarded as commercial in confidence and therefore between the parties involved. Tables containing full pricing and selection criteria weighting is contained in a confidential attachment.

STATUTORY REQUIREMENTS

Local Government Act 1995

Local Government (Functions and General) Regulations 2007

FINANCIAL CONSIDERATIONS

The costs associated with this contract will be included in the Town of Bassendean's Operational Budget for each year of the contract.

OFFICER RECOMMENDATION – ITEM 10.9

That Council appoints Kalamunda Sweeping to undertake the work as required in RFT CO 055 2016-17 Provision of Street Sweeping Services for the Town of Bassendean in accordance with the specifications, which are shown in the confidential attachment, and terms and conditions for a 5 year period commencing 1st November 2016.

Voting Requirement: Absolute majority

10.10 Review of Delegation to a Committee (Ref: GOVN/CCLMEET/6 – Sue Perkins, Executive Assistant)

APPLICATION

The purpose of this report is for Council to review the current delegation made to a Committee under the Local Government Act 1995.

It is a requirement of Section 5.18 of the Local Government Act 1995 that the delegations made by the Council to Committees are reviewed at least once every financial year.

Currently, Council delegates limited powers to just one committee.

BACKGROUND

Pursuant to the Local Government Act, the Council has the power to delegate to the CEO (Section 5.42) or to a committee of Council (Section 5.16) as long as that committee is not exclusively comprised of community members.

Council may, from time-to-time as it deems necessary or expedient, delegate to a committee comprising Councillors and/or staff by an absolute majority decision any of its powers, duties and functions as it thinks fit within certain limitations. Where a committee has Councillor and/or staff and community members the delegation is limited to the management of local government property or an event.

Delegations are to be in writing and a register of delegations is to be kept by the CEO.

Limitations of delegation to a Committee

- Any power requiring an absolute or special majority;
- Any powers that are prescribed; and
- Any powers to a committee comprised only of community members.

There is a requirement under the Local Government Act 1995 that all delegations made under the Act must be reviewed at least once each financial year.

STRATEGIC IMPLICATIONS

Objective:

Strengthen Council governance and compliance

Strategy:

Review governance processes

Objective:

Improve capability and capacity

Strategy:

Monitor and enhance organisational performance and service delivery

COMMENT

Pursuant to the Local Government Act, the Council has the power to delegate to a committee of Council (section 5.16) as long as that committee is not exclusively comprised of community members.

The delegated power for the Committee is listed in the Council adopted Instrument of Appointment and Delegation and is shown in the recommendation below.

Council's options are to amend the officer recommendation to provide for less delegated authority or for more delegated authority.

Should Council desire to delegate more authority, then a further report would be required to recommend to Council which areas can be further delegated.

STATUTORY REQUIREMENTS

Local Government Act 1995

FINANCIAL CONSIDERATIONS

Nil.

OFFICER RECOMMENDATION – ITEM 10.10

That Council, having reviewed the delegation currently in place, delegates to the Committee of Council listed in the table below the following delegation:

Delegation No	Committee	Delegation
9.3	Local Studies Collection Management Committee	The Management Committee shall be responsible for the management, operation and policy of the Collection. The designated officer shall submit a financial report to each ordinary meeting of the Committee. Minutes of the meeting shall be considered by Council with copies provided to the Bassendean Historical Society (Inc).

Voting Requirement: Absolute majority

10.11 Review of Delegations to the Chief Executive Officer & Other Officers (Ref: GOVN/CCLMEET/6 – Sue Perkins, Executive Assistant)

APPLICATION

The purpose of this report is for Council to review the delegations made to the Chief Executive Officer and to other officers under the Local Government Act 1995 or other Acts.

It is a statutory requirement that the exercise of powers and discharge of duties delegated by the Council be reviewed annually.

BACKGROUND

Pursuant to the Local Government Act 1995, the Council has the power to delegate to the CEO (Section 5.42).

Council can delegate to the CEO, by an absolute majority resolution, the exercise of any of its powers or the discharge of any of its duties from time-to-time and in such manner as the Council determines, excepting certain limitations as outlined below. The CEO has the power to on-delegate to other staff members.

Delegations are to be in writing and a register of delegations is to be kept by the CEO.

Limitations to delegating to the CEO under the Local Government Act 1995

A local government cannot delegate to a CEO any of the following powers or duties:

- (a) any power or duty that requires a decision of an absolute majority or a 75% majority of the local government;
- (b) accepting a tender which exceeds an amount determined by the local government for the purpose of this paragraph;
- (c) appointing an auditor;
- (d) acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government for the purpose of this paragraph;
- (e) any of the local government's powers under section 5.98, 5.98A, 5.99, 5.99A or 5.100;
- (f) borrowing money on behalf of the local government;
- (g) hearing or determining an objection of a kind referred to in section 9.5;
- (ha) the power under section 9.49A(4) to authorise a person to sign documents on behalf of the local government;

- (h) any power or duty that requires the approval of the Minister or the Governor;
- (i) such other powers or duties as may be prescribed.

There is a requirement under the Act that all delegations made must be reviewed each financial year. The opportunity is also taken to review all other delegations to officers provided under alternative legislation.

ACTS AND SUBSIDIARY ACTS IN FORCE

Building Act 2011
Building Regulations 2012
Bush Fires Act 1954
Bush Fires Regulations 1954
Bush Fires (Infringement) Regulations 1978
Cat Act 2011
Cat Regulations 2012
Cat (Uniform Local Provisions) Regulations 2013
Caravan Parks and Camping Grounds Regulations 1997
Dog Act 1976
Dog Regulations 2013
Environmental Protection Act 1986
Environmental Protection (Unauthorised Discharges) Regulations 2004
Environmental Protection (Noise) Regulations 1997
Food Act 2008
Food Regulations 2009
Graffiti Vandalism Act 2016
Health Act 1911
Health (Asbestos) Regulations 1992
Health (Air-handling and Water Systems) Regulations 1994
Health (Aquatic Facilities) Regulations 2007
Health (Cloth Materials) Regulations 1985
Health (Garden Soil) Regulations 1998
Health (Offensive Trades Fees) Regulations 1976
Health (Pesticides) Regulations 2011
Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974
Health (Public Buildings) Regulations 1992
Health (Skin Penetration Procedure) Regulations 1998
Health Act (Carbon Monoxide) Regulations 1975
Health Act (Laundries and Bathrooms) Regulations
Health Act (Local Authorities Sewerage Undertakings) Model By-laws
Health Act (Underground Water Supply) Regulations 1959
Sewerage (Lighting, Ventilation and Construction) Regulations 1971
Liquor Licensing Act 1988
Local Government Act 1995
Local Government (Miscellaneous Provisions) Act 1960
Planning and Development Act 2005

Planning and Development (Local Planning Schemes)
Regulations 2015
Regulations made under the Health Act 1911
Strata Titles Act 1985
Tobacco Products Control Act 2006
Tobacco Products Control Regulations 2006

COMMENT

Delegation of powers from Council to officers or a committee enables decisions to be made in a shorter timeframe. Legislation ensures that staff will be held accountable for any decisions made.

There is a saving of staff time in terms of report writing when delegations are used in preference to Council decision-making.

Delegations are also an effective means of implementing Council policy.

The existing delegations have been reviewed by officers and some minor changes have been made to the suggested delegations to include updated legislation and to ensure that the list of delegations cover issues that are required by the Administration. The new delegations include:

- 1.4 The authority to deal with applications for section 39 certificates (certificate of local health authority) and section 40 certificates (certificate of local planning authority); and
- 4.7 The authority to endorse 'Built Strata' Form 24 and Form 26 documentation in accordance with the Strata Titles Act 1985.

Council's options are to reconfirm the existing delegations at this point in time or amend the officer recommendation to provide for less delegated authority or for more delegated authority.

The Local Government Act 1995 allows Council to delegate to the CEO only and not to other officers, unless the delegation is covered by another Act such as the Health Act 1911, or the Local Government (Miscellaneous Provisions) Act 1960. The CEO is able to on-delegate any items under the Local Government Act 1995 to other officers.

The delegations in essence allow determinations such as planning decisions, building decisions and administration of the Health Act, etc, to be made in accordance with Council's policies. The current delegations are working efficiently.

It has been necessary to create a new delegation to the CEO as the new *Graffiti Vandalism Act 2016* came into force on Friday 7 October 2016:

7.4 The authority to exercise any of the powers of the Council or discharge any of its duties under the *Graffiti Vandalism Act 2016*.

The *Graffiti Vandalism Act* is a consolidated Act enabling police, public transit officers and the local government sector to deal with graffiti offences. The relevant powers of these agencies have been transferred from the various Acts into the new *Graffiti Vandalism Act*.

Also, as part of the *Graffiti Vandalism Act's* introduction, Council is required to adopt two forms that are used in connection with the Act, Form 4 and Form 6 (Point 8 of the Officer Recommendation).

Form 4 relates to Objections under Section 22 of the Act, while Form 6 relates to Warrants to enter premises issued under Section 29 of the Act.

The CEO is able to on-delegate any items under the *Graffiti Vandalism Act 2016* to other officers.

OFFICER RECOMMENDATION – ITEM 10.11

That, having reviewed the delegations currently in place:

1. That Council delegates to the Chief Executive Officer:

No	Title	Legislative Power	Delegation
ADMINISTRATION			
1.1	Inconsistency with Street Amenity	Local Gov Act 1995, s5.42	The authority to issue notices under Section 3.25 of the Local Government Act 1995 when a property is deemed to be inconsistent with the amenity of the street in accordance with Schedule 3.1, Division 1 of the Act. <i>(Note: This delegation relates to a range of requirements, including containing run-off on private property, house numbering, unsightly appearance of land and storage of disused materials, etc.)</i>
1.2	Failure to comply with a notice	Local Gov Act 1995, s5.42	The authority to exercise the additional powers contained within Section 3.26 of the Local Government Act 1995 when notice is given, where the person to whom the notice is given under Section 3.25, as contained in delegation 1.1, fails to comply.

1.3	Permission to Extend Leased Buildings	Local Gov Act 1995, s5.42	<p>The authority to extend leased buildings in the following circumstances:</p> <ol style="list-style-type: none"> 1. The works comply with the Local Planning Scheme and planning approval; 2. The works do not involve any expenditure to Council unless that expenditure is budgeted; and 3. The value of the asset will not be diminished as a result of the works. <p>Unless otherwise provided for in the lease, the terms shall be increased to take account of the extension.</p>
1.4	Granting of Liquor Licences for Special Occasions and for liquor licence applications generally.	Local Gov Act 1995, s5.42	<p>The authority to deal with applications from clubs seeking approval for liquor licences for special occasions on Council owned or vested land.</p> <p>The authority to deal with applications for section 39 certificates (certificate of local health authority) and section 40 certificates (certificate of local planning authority).</p>
1.5	Reimbursement of Travel Expenses	Local Gov Act 1995 & Local Government Administration Regulations (32)	The authority to approve reimbursements of travel expenses in accordance with Section 5.98(2)(b) and (3) of the Local Government Act 1995 and Regulation 32 of the Local Government Administration Regulations.
1.6	Approval of future requests for donations from the WA Special Children's Christmas Party Appeal	Local Gov Act 1995, s5.42	The authority to approve future requests for donations from the WA Special Children's Christmas Party Appeal in liaison with the Mayor.
1.7	Circuses without Exotic Animals	Local Gov Act 1995, s5.42	The authority to approve the hire of a reserve or facility within the Town for the purpose of conducting a circus without exotic animals.
1.8	Unauthorised Signs located within street thoroughfares	Local Gov Act 1995, s5.42	The authority to take legal action to enforce infringement notices issued where proprietors fail to adhere to the Town's instructions to remove unauthorised advertising signs located within thoroughfares, including the impounding of such signs and/or serving of infringement notices where required.
1.9	Donations – Financial Assistance	Local Gov Act 1995, s5.42	The authority to assess and approve donations in accordance with Policy 6.13 – Donations & Financial Assistance - and to refuse applications for donations and financial assistance where they do not meet the requirements set down in this policy.
1.10		Local Gov Act 1995, s5.42	
'ONE-OFF' DELEGATIONS			
2.2	Occupation of Land – State Emergency Service	Local Gov Act 1995, s5.42	The authority to enter into an agreement with the Bassendean State Emergency Service to allow the organisation to occupy portion of the land at Reserve 26417 Scaddan Street.
2.46	Extension of Contract – Old Perth Road Markets Management Agreement	Local Gov Act 1995, s5.42	The authority to award the future options extending the Rotary Club of Swan Valley's contract to run the Old Perth Road Markets on their satisfactorily fulfilling their responsibilities as set out in the Agreement.

2.52	Extension of Contract – Annual Bulk Rubbish Collection	Local Gov Act 1995, s5.42	The authority to exercise the option under the Annual Bulk Rubbish Collection Contract (RFT CO 011 2011-12) to negotiate for a one year extension of the contract beyond the nominal expiry date of 4 November 2016. This contract was extended to 31 December 2016 by letter to Alvito Pty Ltd dated 16 June 2016.
2.61	Extension of Contract – Building & General Electrical Services	Local Gov Act 1995, s5.42	The authority to exercise the option under contract RFT CO 022 2013-14, Building & General Electrical Services, to negotiate for a one year extension of the contract beyond the nominal expiry date of 30 March 2017.
2.64	Telecommunications Facility Feasibility Investigation	Local Gov Act 1995, s5.42	The CEO was delegated the authority to enter into further discussions with Visionstream regarding the feasibility of establishing a new telecommunication infrastructure site on Jubilee Reserve, Mary Crescent Reserve, or any other alternative sites, that can accommodate all carriers and includes some aesthetic treatments to minimise the visual impact.
2.66	Lease Agreement – Bassendean Men’s Shed Association (Inc)	Local Gov Act 1995, s5.42	The CEO was delegated the authority to: 1. Execute the Deed of Agreement as attached to the October 2015 Ordinary Council Meeting Agenda; 2. Have registered easements for access to the Bassendean Men’s Shed site over Reserve 49216 and Reserve 49217, being the TADWA and St. John Ambulance Association properties; 3. Execute the Lease Agreement, subject to confirmation that the conditions of the Deed have been met; and 4. Negotiate lease option renewals in-line with the covenants in the Lease.
2.67	Unauthorised Parking at 93 Kenny Street, Bassendean	Local Gov Act 1995, s5.42	The CEO, or a delegate on his behalf, was delegated the authority to commence formal prosecution action if the property at 93 Kenny Street, Bassendean, continues to be used for commercial vehicle parking in contravention of Local Planning Scheme No 10.
2.68	Unauthorised Non-Residential Storage at 107 Kenny Street, Bassendean	Local Gov Act 1995, s5.42	The CEO, or a delegate on his behalf, was delegated the authority to commence formal prosecution action if the property at 107 Kenny Street, Bassendean, continues to be used for storage purposes, or if the verge is not reinstated or gates continue to have the capacity to open outwards into the road reserve, in advance of 24 December 2015.
2.69	Extension of Contract – Supply Cart & Install Asphalt – Minor & Major Works	Local Gov Act 1995, s5.42	The CEO was delegated the authority to exercise the option under contract RFT CO 041 2015-16, Supply, Cart & Install Asphalt, Minor & Major Works, to negotiate for a one year extension of the contract beyond the nominal expiry date of 28 February 2019.
2.70	Extension of Contract – Provision of Cleaning Services for Council Facilities	Local Gov Act 1995, s5.42	The CEO was delegated the authority to exercise the option under contract RFT CO 039 2015-16, Supply, Provision of Cleaning Services for Council Facilities, to negotiate for a one year extension of the contract beyond the nominal expiry date of 1 May 2018.
2.71	Unauthorised Construction – Lot 20; 63 Ivanhoe Street, Bassendean	Local Gov Act 1995, s5.42	The CEO was delegated the authority to initiate legal action if the unauthorised front wall at Lot 20; 63 Ivanhoe Street, Bassendean, is not modified to comply with the Deemed-to-Comply requirements of the R-Codes by 13 June 2016.

2.72	Extension of Contract – Provision of Plumbing & Gas Services	Local Gov Act 1995, s5.42	The CEO was delegated the authority to exercise the option under Contract RFT CO 046 2015-16, Provision of Plumbing and Gas Services, to negotiate for a one year extension of the contract beyond the nominal expiry date of 10 June 2019.
2.74	Extension of Contract – Provision of Turf Maintenance at Bassendean Oval Ashfield Reserve & Jubilee Reserve	Local Gov Act 1995, s5.42	The CEO was delegated the authority to exercise the option under Contract RFT CO 043 2015-16, Provision of Turf Maintenance at Bassendean Oval, Ashfield Reserve and Jubilee Reserve, to negotiate for a one year extension of the contract beyond the nominal expiry date of 30 June 2019.
2.76	Extension of Contract – Provision of Tree Maintenance for the Town of Bassendean	Local Gov Act 1995, s5.42	The CEO was delegated the authority to exercise the option under Contract RFT CO 038 2015-16, Provision of Tree Maintenance for the Town of Bassendean, to negotiate for a one year extension of the contract beyond the nominal expiry date of 30 June 2018.
CORPORATE SERVICES			
3.1	The Power to Make Payments	Local Gov Act 1995, s5.42	The power to make payment from the Municipal Fund, the Trust Fund, the Reserve Fund and any other fund which the Council may operate from time-to-time.
3.2	Special Arrangements for Financial Hardship	Local Gov Act 1995, s5.42, s6.49	The power to enter into special arrangements for the payment of rates and services charges with ratepayers who demonstrate cases of financial hardship.
3.3	Approval of Credit Cards	Local Gov Act 1995, s5.42	The authority to approve the issue of Council credit cards.
3.5	Contracts and Tenders Approval	Local Gov Act 1995, s5.42	The authority to enter into contracts for the supply of goods, services and programs identified within the approved budget up to the value of \$150,000, exclusive of GST, and for the inviting of tenders for the supply of contracts over the value of \$150,000 without further reference to Council, unless expressly identified and itemised by resolution of the Council.
3.6	Disposal of Property Listed in the Annual Budget	Local Gov Act 1995 s5.42	The authority to dispose of local government property listed in the Annual Budget to a value not exceeding \$100,000.
3.8	Local Government Master Lending Agreement	Local Gov Act 1995, s5.42	The authority to sign schedule documents under the Local Government Master Lending Agreement, and to give instructions thereunder on behalf of the Town of Bassendean.
3.9	Investment of Surplus Funds	Local Gov Act 1995, s5.42	The authority to invest surplus funds in accordance with Council's Investment Policy.
PLANNING SERVICES			
4.1	Advice to the Western Australian Planning Commission	Local Gov Act 1995, s5.42	The authority to give advice to the Western Australian Planning Commission on applications to amalgamate and subdivide land under s142 of the Planning & Development Act 2005, provided the advice is consistent with the requirements of Local Planning Scheme No. 10, subject to all applications for subdivision or amalgamation being presented to the Development Control Unit.

4.4	Delegation of Powers under Local Planning Scheme No 10	Planning and Development (Local Planning Schemes) Regulations 2015	<p>1. The power to determine applications under Clause 68.(2) of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015, with the exception of the following classes of development:</p> <ul style="list-style-type: none"> a) Where, in the opinion of the Chief Executive Officer, the proposal involves a major commercial or residential development, which in the opinion of the delegate is likely to have a significant effect on the Town or on local amenity; b) Where, in the opinion of the Chief Executive Officer, the proposal represents a significant departure from the Local Planning Scheme, the Residential Design Codes or Local Planning Policies and nevertheless, the Chief Executive Officer, if he was to decide, the matter would grant approval; c) Where, in the opinion of the Chief Executive Officer, the proposal involves the modification of Restrictive Covenants where there are valid objections on planning grounds; and d) The proposal has been subjected to neighbour or community consultation and has attracted objections which, in the opinion of the Chief Executive Officer, should not be resolved by Officers. <p>2 The authority to prepare responses to the State Administrative Tribunal for applications for review lodged against Council's decisions and notices, and decisions issued under delegated authority, and responses be circulated to Councillors for information.</p> <p>The CEO has on-delegated these powers to the Town Planner (Manager Development Services), pursuant to Clause 83 of the Planning and Development (Local Planning Schemes) Regulations 2015 subject to all applications for approval to commence development being presented to the Development Control Unit in order to provide professional advice and information to the Town Planner (Manager Development Services) under clause 68.(2) of the Planning and Development (Local Planning Schemes) Regulations 2015</p>
4.5	Power to make comment on Department of Housing & Works' Planning Proposals	Local Gov Act 1995, s5.42	The power to make comments to the Department of Housing & Works on public housing proposals, subject to Council being advised of such applications upon lodgement.
4.6	Dealing with requests from owners of land to pay in lieu of setting aside land for open space onsite (Cash-in-lieu payments)	Local Gov Act 1995, s5.42	<p>The authority to deal with requests from landowners to pay in lieu of setting aside land for open space under section 153 of the Planning and Development Act 2005, provided that:</p> <ul style="list-style-type: none"> 1. It would be inappropriate, in his opinion for the open space to be provided on site; 2. The request is not made in an area to be considered deficient in open space; 3. The owner pays to the Town of Bassendean the value of providing the open space onsite; and 4. All money received is to be paid into a separate cash-in-lieu fund and to be reported to Council through the quarterly report.
4.7	Strata Titles	Strata Titles Act 1985	The authority to endorse 'Built Strata' Form 24 and Form 26 documentation in accordance with the Strata Titles Act 1985.
BUILDING SERVICES			

5.1	Occupancy Permits & Building Approval Certificates	Building Act 2011	The authority to endorse Occupancy Permits-Strata and Building Approval Certificates-Strata in accordance with the Building Act 2011.
5.16	Appoint authorised persons for the purposes of the Building Act 2011	Building Act 2011, s96	The authority to designate authorised persons in accordance with Section 96 of the Building Act 2011.
5.17	Issue Building Orders in relation to building work, demolition work and/or an existing building or structure	Building Act 2011, s110	The authority to issue Building Orders in accordance with Section 110 of the Building Act 2011.
5.18	Withdraw Building Orders in relation to building work, demolition work and/or an existing building or structure	Building Act 2011, s117	The authority to revoke Building Orders in accordance with Section 117 of the Building Act 2011.
5.20	Prosecution for Offences committed under the Building Act 2011	Building Act 2011, s133(1)	The authority to commence prosecution for offences committed under the Building Act 2011.
HEALTH SERVICES			
6.1	Functions under the Health Act 1911 (As amended)	Health Act 1911 (As amended)	Delegates to the Chief Executive Officer, or the person acting in that position, as its deputies, for the purposes of discharging its functions under the Health Act 1911 (As amended).
6.2	Authorised Officers under the Food Act 2008	Food Act 2008, Division 3, s122	That pursuant to the provisions of Section 122 of Division 3 of the Food Act 2008, Council: <ol style="list-style-type: none"> 1. Appoints the Senior Environmental Health Officer employed with the Town as an 'Authorised Officer' for the purposes of the Food Act 2008 under provisions of Sections 38 and 122(b); 2. Appoints the Town's food safety risk assessment contractor as an 'Authorised Officer' under provisions of Section 122(a) of the Food Act 2008, subject to the limitation that such officer cannot undertake any enforcement activity under the Food Act 2008 on behalf of the Town, except for the issuing of an 'improvement notice'; 3. Designates the Town's 'Authorised Officers' to be 'designated officers' for the purposes of issuing 'infringement notices' under provisions of Section 126(2) and (3) of the Food Act 2008; 4. Delegates the authority to the Senior Environmental Health Officer/Authorised Officer to issue 'prohibition notices' and instigate prosecutions under the Food Act 2008; 5. Designates the Chief Executive Officer responsible for authorised officers, to be a 'designated officer' to extend and revoke 'infringement notices' under provisions of Section 126(6) and (7) of the Food Act 2008; and 6. Designates the Chief Executive Officer as the 'designated officer' to receive payment from 'infringement notices' under provisions of Section 126(3) and (13).
6.3	Authorised Officers under section 11 of the Caravan Parks and Camping Grounds Regulations 1997	Local Gov Act 1995, s5.42	Delegates to the Chief Executive Officer the power to issue a written approval for a person(s) to camp on land for a period of longer than 3 nights but less than 3 months in any period of 12 months.
RANGER SERVICES			

7.1	Powers Under the Dog Act 1976	Dog Act 1976 Dog Regulations 2013	The authority to exercise any of the powers of the Council or discharge any of its duties under the Dog Act 1976, Dog Regulations 2013, and the Dogs' Local Law.
7.2	Applications to keep more than two dogs on a property	Dog Act 1976	The authority to approve or refuse applications to keep more than two dogs on a property in accordance with Section 26(3) of the Dog Act 1976.
7.3	Powers Under the Cat Act 2011	Cat Act 2011 Cat Regulations 2012 & Cat (Uniform Local Provisions) Regulations 2013	The authority to exercise any of the powers of the Council or discharge any of its duties under the Cat Act 2011, Cat Regulations 2012, and the Cat (Uniform Local Provisions) Regulations 2013
7.4	Powers Under the Graffiti Vandalism Act 2016	Graffiti Vandalism Act 2016	The authority to exercise any of the powers of the Council or discharge any of its duties under the Graffiti Vandalism Act 2016
LOCAL LAWS			
8.1	Powers under the Local Laws	Local Gov Act 1995, s5.42	<p>The authority to exercise any of the powers of the Council or discharge any of its duties in connection with the following local laws made under the Local Government Act 1995, the Health Act 1911 (As amended) the Dog Act 1976 and the Cat Act 2011:</p> <ul style="list-style-type: none"> * Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2010; * Bee Keeping Local Law 2001; * Dogs Local Law 2001; * Fencing Local Law 2013; * Health Local Law 2001; * Parking and Parking Facilities Local Law 2010; * Property Local Law 2001; and * Responsible Cat Ownership Local Law 2005. <p>The CEO has on-delegated the authority to exercise any of the powers of the Council or discharge any of its duties in connection with the above local laws made under the Local Government Act 1995, the Health Act 1911 (As amended), the Dog Act 1976 and the Cat Act 2011 to certain officers.</p>
MAYORAL DELEGATIONS			
13.1	Speaking on Behalf of the Council	Local Gov Act 1995, s5.41(f)	The authority to speak on and represent the view of the Council of the Town of Bassendean to the media and other third parties when the Mayor is not available. Valid until 21/10/2017.

2. That Council delegates to the Mayor and Chief Executive Officer:

No	Title	Legislative Power	Delegation
1.10	Use of the Common Seal	Local Gov Act 1995, s5.42	The responsibility of affixing the Common Seal to documents requiring signing and sealing, and reports the exercise of that delegation to the next available Ordinary Meeting of the Council.

3. That Council delegates to the Principal Building Surveyor:

No	Title	Legislative Power	Delegation
5.5	Compliances of Privately Owned Swimming Pools	Building Act 2011, and Division 2 of the Building Regulations 2012	The authority as an Authorised Officer to administer the provisions of Division 2 of the Building Regulations 2012 with respect to the compliance of privately owned swimming pools.
5.11	Approve or Refuse Building Permits	Building Act 2011, s20	The authority to approve or refuse applications for Building Permits in accordance with Section 20 of the Building Act 2011.
5.12	Approve or Refuse Demolition Permits	Building Act 2011, s21	The authority to approve or refuse applications for Demolition Permits in accordance with Section 21 of the Building Act 2011.
5.13	Refuse Building or Demolition Permits where there appears to be an error in the documents or information provided in the applications	Building Act 2011, s22	The authority to refuse applications for Building Permits or Demolition Permits in accordance with Section 22 of the Building Act 2011.
5.14	Approve, modify or refuse Occupancy Permits or Building Approval Certificates	Building Act 2011, s58	The authority to approve, modify or refuse Occupancy Permits or Building Approval Certificates in accordance with Section 58 of the Building Act 2011.
5.15	Approve or refuse an application to extend the validity of an occupancy permit or building approval certificate	Building Act 2011, s65	The authority to approve or refuse an application to extend the validity of an occupancy permit or building approval certificate in accordance with Section 65 of the Building Act 2011.
5.17	Issue Building Orders in relation to building work, demolition work and/or an existing building or structure	Building Act 2011, s110	The authority to issue Building Orders in accordance with Section 110 of the Building Act 2011.
5.18	Withdraw Building Orders in relation to building work, demolition work and/or an existing building or structure	Building Act 2011, s117	The authority to revoke Building Orders in accordance with Section 117 of the Building Act 2011.

4. That, pursuant to the provisions of Section 26 of the Health Act 1911 (as amended), Council:

No	Title	Legislative Power	Delegation
6.1	Functions under the Health Act 1911 (As amended)	Health Act 1911 (As amended)	Delegates to the Senior Environmental Health Officer, or the person acting in that position, as its deputies, for the purposes of discharging its functions under the Health Act 1911 (as amended).

5. That, pursuant to the provisions of Section 122 of Division 3 of the Food Act 2008, Council:

No	Title	Legislative Power	Delegation
6.2	Authorised Officers under the Food Act 2008	Food Act 2008, Division 3, Section 122	<ol style="list-style-type: none"> 1. Appoints the Senior Environmental Health Officer employed with the Town as an 'Authorised Officer' for the purposes of the Food Act 2008 under provisions of Sections 38 and 122(b); 2. Appoints the Town's food safety risk assessment contractor as an 'Authorised Officer' under provisions of Section 122(a) of the Food Act 2008, subject to the limitation that such officer cannot undertake any enforcement activity under the Food Act 2008 on behalf of the Town, except for the issuing of an 'improvement notice'; 3. Designates the Town's 'Authorised Officers' to be 'designated officers' for the purposes of issuing 'infringement notices' under provisions of Section 126(2) and (3) of the Food Act 2008; 4. Delegates the authority to the Senior Environmental Health Officer/Authorised Officer to issue 'prohibition notices' and instigate prosecutions under the Food Act 2008; 5. Designates the Chief Executive Officer responsible for authorised officers, to be a 'designated officer' to extend and revoke 'infringement notices' under provisions of Section 126(6) and (7) of the Food Act 2008; and 6. Designates the Chief Executive Officer as the 'designated officer' to receive payment from 'infringement notices' under provisions of Section 126(3) and (13).

6. That Council notes the following exercises of delegated authority:

No	Title	Legislative Power	Delegation
10.153	Notice under section 17A(2)(c) of the Dog Act 1976	Dog Act 1976	The CEO exercised his delegated authority given under Delegation Number 7.1, Powers Under the Dog Act 1976, on 27 October 2015 when he signed a Notice issued under section 17A(2)(c) of the Dog Act 1976 on the owner of three dogs at 19 Mons Street, Ashfield, as the Town is not satisfied that the dogs are being effectively confined at the premises.
10.154	Approval to keep three dogs	Dog Act 1976	The Chief Executive Officer exercised his delegated authority on 30 November 2015 when he approved an application to keep three dogs at 62 Freeland Way, Bassendean, in accordance with Section 26 (3) of the Dog Act 1976.
10.155	Approval to keep three dogs	Dog Act 1976	The Chief Executive Officer exercised his delegated authority on 30 November 2015 when he approved an application to keep three dogs at 121 Old Perth Road, Bassendean, in accordance with Section 26 (3) of the Dog Act 1976.
10.156	Approval to keep three dogs	Dog Act 1976	The Chief Executive Officer exercised his delegated authority on 21 December 2015 when he approved an application to keep three dogs at 4 Padbury Place, Eden Hill, in accordance with Section 26 (3) of the Dog Act 1976.
10.157	Approval to keep more than two cats	Cat Act 2011 & Responsible Cat Ownership Local Law	The Chief Executive Officer exercised his delegated authority on 23 December 2015 when he approved an application to keep more than two cats at 99 Whitfield Street, Bassendean, in accordance with Section 26 (3) of the Responsible Cat Ownership Local Law.

10.158	Approval to keep three dogs	Dog Act 1976	The Chief Executive Officer exercised his delegated authority on 11 April 2016 when he approved an application to keep three dogs at 42a James Street, Bassendean, in accordance with Section 26 (3) of the Dog Act 1976.
10.159	Notice under Bee Keeping Local Law	Local Gov Act 1995, s5.42	The Manager Development Services exercised his delegated authority on 25 May 2016 when he served a Notice on the owners of 19 Walkington Way, Eden Hill, to remove all bees and bee hives from the property by 6 June 2016.
10.160	Approval to keep three dogs	Dog Act 1976	The Chief Executive Officer exercised his delegated authority on 17 June 2016 when he approved an application to keep three dogs at 134 West Road, Bassendean, in accordance with Section 26 (3) of the Dog Act 1976.
10.161	Approval to keep three dogs	Dog Act 1976	The Chief Executive Officer exercised his delegated authority on 17 June 2016 when he approved an application to keep three dogs at 22 Mary Crescent, Bassendean, in accordance with Section 26 (3) of the Dog Act 1976.
10.162	Extension of Contract – Annual Green Waste Collection	Local Gov Act 1995, s5.42	The CEO exercised his delegated authority, given under Delegation Number 2.53, on 16 June 2016 when he signed a letter extending contract RFT CO 012 2011-12, Annual Green Waste Collection, from 5 May 2016 for a period of 8 weeks to 30 June 2017.
10.163	Extension of Contract – Annual Bulk Rubbish Collection	Local Gov Act 1995, s5.42	The CEO exercised his delegated authority, given under Delegation Number 2.73, on 16 June 2016 when he signed a letter extending contract RFT CO 011 2011-12, Annual Bulk Rubbish Collection, from 4 November 2016 for a period of 8 weeks to 31 December 2016.
10.164	Approval to keep three cats	Cat Act 2011 & Cat Regulations 2012 & Responsible Cat Ownership Amendment Local Law 2006	The Chief Executive Officer exercised his delegated authority on 30 June 2016 when he approved an application to keep three cats at 96b Whitfield Street, Bassendean, in accordance with the Cat Act 2011, the Cat Regulations 2012 and the Town of Bassendean Responsible Cat Ownership Amendment Local Law 2006.
10.165	Approval to keep three dogs	Dog Act 1976	The Chief Executive Officer exercised his delegated authority on 15 August 2016 when he approved an application to keep three dogs at 13 James Street, Bassendean, in accordance with Section 26 (3) of the Dog Act 1976.
10.166	Lease & Licence Renewal – Sparx Early Learning Centre	Local Gov Act 1995, s5.42	The CEO exercised his delegated authority on 24 July 2016 when he signed the new lease and licence renewals for the Ivanhoe Child Care Centre and the Alf Faulkner Hall for Out of School Care with Funtrain Enterprises Pty Ltd and Funtrain Early Learning Centre Pty Ltd.
10.167	Pursuit of Naming Rights for Bassendean Oval – Swan Districts Football Club	Local Gov Act 1995, s5.42	The Chief Executive Officer's delegated authority was exercised when a report was presented to the September 2016 Ordinary Meeting of Council where the officer recommendation was approved by Council (OCM-00/09/16).

7. That Council notes that the following delegations are no longer required:

No	Title	Delegation No	Delegation
11.77	Extension of Contract – Annual Green Waste Collection	2.53	This delegation is no longer required as the CEO exercised his delegated authority, given under Delegation Number 2.53, on 16 June 2016 when he signed a letter extending contract RFT CO 012 2011-12, Annual Green Waste Collection, from 5 May 2016 for a period of 8 weeks to 30 June 2017.
11.78	Extension of Contract – Annual Bulk Rubbish Collection	2.73	This delegation is no longer required as the CEO exercised his delegated authority, given under Delegation Number 2.73, on 16 June 2016 when he signed a letter extending contract RFT CO 011 2011-12, Annual Bulk Rubbish Collection, from 4 November 2016 for a period of 8 weeks to 31 December 2016.
11.79	Lease & Licence Renewal – Sparx Early Learning Centre	2.37	This delegation is no longer required as the CEO exercised his delegated authority on 24 July 2016 when he signed the new lease and licence renewals for the Ivanhoe Child Care Centre and the Alf Faulkner Hall for Out of School Care with Funtrain Enterprises Pty Ltd and Funtrain Early Learning Centre Pty Ltd.
11.80	Pursuit of Naming Rights for Bassendean Oval – Swan Districts Football Club	2.75	The Chief Executive Officer's delegated authority was exercised when a report was presented to the September 2016 Ordinary Meeting of Council where the officer recommendation was approved by Council (OCM-00/09/16).
11.81	Approval/Refusal to store materials on a verge	5.19	This delegation is no longer required as approval of verge permits has been deleted from the Building Act.

8. That Council adopts Form 4 and Form 6 for use under sections 22 and 29 of the Graffiti Vandalism Act 2016.

Voting Requirement: Absolute majority

10.12 Annual Report for the Year Ended 30 June 2016 (Ref: FINM/AUD/7 – Bob Jarvis, Chief Executive Officer)

APPLICATION

The purpose of this report is to:

- Adopt the 2015/16 Annual Report that includes the Annual Financial Statements for the year ended 30 June 2016; and
- Set a date for the General Meeting of Electors.

ATTACHMENTS

Attachment No. 8: Draft 2015/16 Annual Report

BACKGROUND

The 2015/16 Annual Report has been completed and Council is requested to adopt the document.

The CEO is required to give local public notice of the availability of the report. Additionally, a General Meeting of Electors is to be held within 56 days of the adoption by Council of the Annual Report.

It is suggested that Council holds the General Meeting of Electors on Wednesday, 23 November 2016, commencing at 7.00pm.

RELEVANT LAW

The Local Government Act specifies as follows:

Section 5.53. Annual reports

- (1) The local government is to prepare an annual report for each financial year.
- (2) The annual report is to contain:
 - (a) a report from the mayor or president;
 - (b) a report from the CEO;
 - [(c) (d) deleted]
 - (e) an overview of the plan for the future of the district made in accordance with section 5.56, including major initiatives that are proposed to commence or to continue in the next financial year;
 - (f) the financial report for the financial year;
 - (g) such information as may be prescribed in relation to the payments made to employees;
 - (h) the auditor's report for the financial year;

- (ha) a matter on which a report must be made under section 29(2) of the Disability Services Act 1993;
- (hb) details of entries made under section 5.121 during the financial year in the register of complaints, including -
 - (i) the number of complaints recorded in the register of complaints
 - (ii) how the recorded complaints were dealt with;
 - (iii) any other details that the regulations may require; and
- (i) such other information as may be prescribed.

Section 5.54. Acceptance of annual reports

- (1) Subject to subsection (2), the annual report for a financial year is to be accepted* by the local government no later than 31 December after that financial year.
* Absolute majority required.
- (2) If the auditor's report is not available in time for the annual report for a financial year to be accepted by 31 December after that financial year, the annual report is to be accepted by the local government no later than 2 months after the auditor's report becomes available.

Section 5.55 - Notice of Annual Reports

The CEO is to give local public notice of the availability of the annual report as soon as practicable after the report has been accepted by the local government.

STRATEGIC IMPLICATIONS

Leadership and Governance

- *We will be accountable and make decisions for the good of the community*
- *Strengthen Council governance and compliance.*

COMMENT

The Annual Report and Financial Statements provides an overview of the activities of the Town of Bassendean and reports on the measures of success in line with the Corporate Business Plan for the 2015/16 year.

The Independent Audit Report provided by the Town's Auditors, Macri & Partners, is included in the Financial Report.

OFFICER RECOMMENDATION – ITEM 10.12

That Council:

1. Accepts the Town of Bassendean's 2015/16 Annual Report for the year ended 30 June 2016; and
2. Holds its General Meeting of Electors on Wednesday, 23 November 2016, in the Bassendean Community Hall commencing at 7.00pm.

Voting requirement:

Pt 1: Absolute majority

Pt 2: Simple majority

10.13 Quarterly Reports for Quarter Ended 30 September 2016
(Ref: FINM/AUD/1 – Bob Jarvis, Chief Executive Officer)

APPLICATION

The purpose of this report is for Council to receive the Quarterly Reports for the period ended 30 September 2016.

ATTACHMENTS

Attachment No. 9: Quarterly Reports

BACKGROUND

Council's Quarterly Report format addresses progress against the CEO's Key Performance Indicators, as well as providing a progress report on budget deliverables, and the 2015-2019 Corporate Business Plan.

The Quarterly Report also provides information on the progress of Cash In Lieu projects and grants applied for and received in each quarter.

STRATEGIC IMPLICATIONS

Strengthen Council governance and compliance.

OFFICER RECOMMENDATION – ITEM 10.13

That Council receives the Quarterly Reports for the quarter ended 30 September 2016.

Voting requirements: Simple majority

10.14 Bassendean Youth Advisory Council Meeting held on 26 August 2016 (Ref: GOVN/MEETCCL20 – Ayden Mackenzie – Youth Development Officer)

APPLICATION

The purpose of the report is for Council to receive the minutes of the Youth Advisory Council (YAC) meeting held in August 2016.

ATTACHMENT

Attachment No. 10:

Minutes of the Youth Advisory Council meeting held on 26 August 2016

BACKGROUND

The Bassendean Youth Advisory Council meets monthly to consider issues of relevance to young people of the Town.

The Bassendean Youth Advisory Council (BYAC) is comprised of up to 6 young people who live, work or recreate in the Town. The BYAC meets monthly at Bassendean Youth Services.

STRATEGIC IMPLICATIONS

Issues discussed at the YAC are in line with the Bassendean 2023 Strategic Community Plan 2013-2023 and the key actions are of inclusiveness, lifelong learning, health and social wellbeing, and the following:

Objective: Build a sense of belonging and connectivity in community.

Strategies: Encourage people of all ages, abilities and backgrounds to actively participate in community life and democratic processes, and support community members to actively volunteer and make a positive contribution to the overall health and well-being of the community.

COMMENT

The August meeting of the Bassendean Youth Advisory Council focused on same sex marriage, political correctness and the age at which gender reassignment can occur.

STATUTORY REQUIREMENTS

Nil

FINANCIAL CONSIDERATIONS

Nil

OFFICER RECOMMENDATION — ITEM 10.14

That Council received the report on the meeting of the Youth Advisory Council meetings held on the 26 August 2016.

Voting requirements: Simple Majority

10.15 Bassendean Local Studies Collection Management Committee Meeting held on 6 October 2016 (Renata Pietracatella - Manager Library and Information Services)

APPLICATION

The purpose of this report is for Council to receive the report on a meeting of the Local Studies Collection management Committee held on 6 October 2016.

ATTACHMENTS

Attachment No. 11:

Local Studies Collection Management Committee Minutes of 6 October 2016

COMMENT

The Committee dealt with the Local Studies Librarian's report and Financial Activity Statement for the period ended 27 September 2016.

OFFICER RECOMMENDATION – ITEM 10.15

That the report on a meeting of the Bassendean Local Studies Collection Management Committee held on 6 October 2016, be received.

Voting requirement: Simple majority

10.16 Liveable Town Advisory Committee (LTAC) 11 October 2016 (Ref: GOVN/CCL/MEET/34 – Graeme Haggart, Director Community Development)

APPLICATION

The purpose of the report is for Council to receive the report on a meeting of the Liveable Town Advisory Committee held on Tuesday 11 October 2016.

ATTACHMENTS

Attachment No. 12:

Liveable Town Advisory Committee Minutes of 11 October 2016.

COMMENT

The following items were considered at the meeting:

1. Committee Work Program:

No formal meetings of the Working Groups have been held since the last meeting. Verbal reports were provided on the informal progress meetings of the established Working Groups.

2. Ongoing Activity Progress Reports:

Officers reported on activities relevant to Committee under their Lines of Business:

- a.) *Recreation:*
- b.) *Culture:*
- c.) *Economic Development:*
- d.) *Children Services:*

In particular, Committee noted that the Town has been included on the one application for funding lodged by the City of Bayswater to the Club Development Officer Scheme on Friday 7 October 2016 as part of the club development collective with the Cities of Bayswater and Swan.

3. Community Events Sponsorship Program

Committee considered and recommended support for Community Event Sponsorship applications received from:

- A) Bassendean Primary School toward the cost of staging a community event showcasing the school's digital art installation on Saturday 26 November 2016 as part of the Old Perth Road Twilight Markets; and

- B) Success Hill Action Group Inc. towards the cost of staging a Children's Christmas Party in the Park at Success Hill Reserve on Saturday 3 December 2016

4. Little Free Library

Committee considered an Officer Report into a request from a resident for permission to install a Little Free Library on the verge.

The Town's Permissible Verge Treatments Policy precludes and structures be installed on verges and installing the Little Free Library is therefore non-conforming.

Given the Town's insurer LGIS has advised that provided the facility planning considered inherent risks and could be demonstrated as adequately managed to the Town's satisfaction, facility would be covered by the Town's policy.

Committee recommends Council approves installation of the Little Free Library on the verge in front of 23 Kenny Street Bassendean; and that the Permissible Verge Treatment Policy be reviewed to permits such structures.

5. ArtHouse Community Garden

The Committee considered an Officer Report into a request from the ArtHouse Community Gardens group for a "seeding" grant to facilitate the group becoming incorporated.

The ArtHouse Community Garden currently operates as a Sub-Committee of the Cyril Jackson ArtHouse Committee but is approved to acquire Incorporation under the Associations Act to allow them to seek funding in their own name and operate their bank accounts.

Committee recommends that subject to the ArtsHouse Community Garden becoming incorporated, that Council approves a one-off donation of \$1,000 from the Donations account (account number 391392) to assist with the costs associated with the incorporation process for the ArtsHouse Community Garden, including meeting the first annual insurance premiums

STATUTORY REQUIREMENTS

Local Government Act 1995

FINANCIAL CONSIDERATIONS

If supported, the Committee recommends Council approves Community Events Sponsorships totalling \$1,470, waives hire fees totalling \$130 and makes a donation (from Account 391392) of \$1,000.

OFFICER RECOMMENDATION – ITEM 10.16

That:

1. Council notes that the Town has been included on the one application for funding lodged by the City of Bayswater to the Club Development Officer Scheme on Friday 7 October 2016 as part of the club development collective with the Cities of Bayswater and Swan;
2. Council provides sponsorship under the Community Events Sponsorship Program of \$1,000 to the Bassendean Primary School to showcase the School's digital art installation;
3. Council provides sponsorship under the Community Events Sponsorship Program of \$470 to the Success Hill Action Group to assist with the staging of their annual Children's Christmas Party in the Park event;
4. Council waives the hire fee of \$130 to the Success Hill Action Group for the use of Success Hill Reserve for the staging of its annual Children's Christmas Party in the Park event;
5. Council approves the installation of a Little Free Library on the verge at 23 Kenny Street, Bassendean, provided plans acceptable to the Town are first submitted that demonstrates how inherent risks to the Town are to be managed;
6. Subject to the ArtsHouse Community Garden Sub-committee becoming incorporated, Council approves a one-off donation of \$1,000 from the Donations account (account number 391392) to assist with the costs associated with the incorporation process for the ArtsHouse Community Garden, including meeting the first annual insurance premiums; and
7. Council receives the report of the meeting of the Liveable Town Advisory Committee held on 11 October 2016.

Voting requirement: Simple Majority

10.17 Audit & Risk Management Committee Meeting held on 12 October 2016 (Ref: GOVNCCL/MEET/3, Michael Costarella, Director Corporate Services)

APPLICATION

The purpose of this report is for Council to receive the report on a meeting of the Audit & Risk Management Committee held on 12 October 2016 and adopt the recommendations from the Committee.

ATTACHMENTS

Attachment No. 13:

Minutes of the Audit & Risk Management Committee held on 12 October 2016.

COMMENT

The following items were discussed

Draft Audited Annual Financial Statements for the Year Ended 30 June 2016 (Ref: FINM/AUD/7 – Michael Costarella Director Corporate Services)

APPLICATION

The purpose of this report is to receive the Audited Annual Financial Statements for the year ended 30 June 2016

DECLARATION OF INTEREST

The Director Corporate Services declares an impartiality interest in this item as Marci Partners (Mr Anthony Macri, the proprietor) is a family acquaintance.

2015/16 Opening Surplus Adjustment/Budget Review (Ref: FINM/AUD/1, Ken Lapham - Manager Corporate Services)

APPLICATION

The purpose of this report is to review the opening position of the 2016/17 adopted Budget and propose an amendment to the opening balance, in line with the Audited Annual Financial Statements for the 2015/16 financial year.

**Request for a Rate Exemption – Morley Baptist Church 33
Hanwell Way Bassendean (Ref: RAT&VAL/RTPAYMT/2 -
Ken Lapham, Manager Corporate Services**

APPLICATION

The purpose of this report is to provide Council information to assess whether a Rates Exemption from Council Rates could be granted under Section 6.26(2) (d) of the Local Government Act.

COMMITTEE RECOMMENDATION – ITEM 10.17

That Council:

1. Receives the audited 2015/16 Annual Financial Statements and draft Audit Report and Completion Report, as attached to the Audit and Risk Management Committee Agenda of 12 October 2016;
2. Defers the item relating to the amendment to the Opening Surplus, to the next Audit and Risk Management Committee meeting, to allow for a report to be prepared outlining the potential options of expenditure in order to increase the opening surplus;
3. The Trustees of the Morley Baptist Church Inc. be granted a rate exemption on 33 Hanwell Way, Bassendean, for the 2016/17 financial year in accordance with Section 6.26 (2)(d) of the Local Government Act.

Voting requirement:

Points 1 & 2– Simple majority

Point 3 - Absolute Majority

10.18 Hyde Retirement Village - Annual General Meeting held on 14 October 2016 (Ref: COMS/MEETS/2 – Graeme Haggart, Director Community Development)

APPLICATION

Council is requested to receive the report on the Hyde Retirement Village Annual General meeting held on 14 October 2016.

ATTACHMENTS

Attachment No. 14: Minutes of the Hyde Retirement Village – Annual General Meeting held on 14 October 2016.

BACKGROUND

The meeting was chaired by the Director Community Development in the absence of the Mayor who was an apology. Also in attendance was the Director Corporate Services, Manager Seniors and Disability Services and Seniors and Disability Services staff. The meeting was also attended by twenty residents from Hyde Retirement Village.

STRATEGIC IMPLICATIONS

The involvement of Hyde Retirement Village residents in the governance of the complex is in line with the Town's goal of Building a sense of belonging and connectivity in the community.

COMMENT

The attached minutes provide full details of proceedings, however, of major significance is:

The election of the new Committee members – Lorraine Colton, John Hall, Olympe Ingate, Brenda Rogers and Lorraine Philips; and

The election of Joe Colton to the Disputes Committee

The meeting also discussed the issue of restricted number of on-site parking bays. There was general agreement that there are few (4 or 5) vehicles parked on the roadside and not all are awaiting a bay to become available. The meeting supported the two emergency service vehicle bays being reinstated as resident parking bays and allocated, but that no further action should be taken by Council to increase further the number of on-site bays at this time.

Other items were raised from the floor including:

- The potential source of parameter fence mould;
- Marking of disabled bays on the street be considered;
- That the bench seat is an acceptable compromise as the bus shelter replacement;
- The bin recesses at the front of the Village are an eyesore; and
- That families of departing residents are known to dump property in others bins.

STATUTORY REQUIREMENTS

Local Government Act 1995
Retirement Villages Act 1992

The Town fulfilled its obligation to hold the Annual General Meeting and the elections of new members.

FINANCIAL CONSIDERATIONS

The 2015-2016 financial statements were tabled at the meeting by the Director Corporate Services and residents were provided with the opportunity to ask questions.

OFFICER RECOMMENDATION – ITEM 10.18

That Council:

1. Acknowledges the two emergency service vehicle bays have been remarked for tenant parking and takes no further action to increase on-site parking; and
2. Receives the report on a meeting of the Hyde Retirement Village Annual General held on 14 October 2016.

Voting requirements: Simple Majority

10.19 Accounts for Payment – September 2016 (Ref: FINM/CREDTS/4 – Ken Lapham, Manager Corporate Services)

APPLICATION

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

ATTACHMENTS

Attachment No. 15: List of Accounts

BACKGROUND

The monthly payments made for the period September 2016 are presented to Council, with details of payments made by the Town in relation to goods & services received.

STRATEGIC IMPLICATIONS

Leadership and Governance

Improve capability and capacity

- *Ensure Financial sustainability*
- *Monitor and enhance organisational performance and service delivery*

STATUTORY REQUIREMENTS

Local Government (Financial Management) Regulations 1996

FINANCIAL CONSIDERATIONS

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

OFFICER RECOMMENDATION - ITEM 10.19

That Council receives the List of Accounts paid for September 2016, as attached to the Ordinary Council Agenda of 25 October 2016.

Voting Requirements: Simple majority

10.20 Financial Statements – September 2016 (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.

ATTACHMENTS:

Attachment No. 16: Financial Reports for September 2016

BACKGROUND

Regulations require a local government to prepare a monthly statement of financial activity, reporting on the revenue and expenditure as set out in the Annual Budget.

A statement of financial activity and accompanying documents are required to be presented to Council within 2 months after the end of the month to which the statement relates.

In addition to this and in accordance with Regulation 34 (5) of the Local Government (Financial Management) Regulations 1996 each year Council is required to adopt a percentage or value to be used in the reporting of material variances. For the 2016/17 financial year the amount is \$5,000 or 10% whichever is the greater.

STRATEGIC IMPLICATIONS

Leadership and Governance

Improve capability and capacity

- *Ensure Financial sustainability*
- *Monitor and enhance organisational performance and service delivery*

COMMENT

The Summary of Financial Activity (Income by Nature & type) is indicating that income for the Year to date is 5.67% ahead of Budget Year to date. Interest on investments, Operating Grants and other revenue are ahead of budget YTD forecasts. Fees & charges are on target.

Total expenditure by nature & type for YTD is 18.2% below Budget YTD expectations. Employee costs, materials & contracts, other expenditure, and Insurance Premiums are below anticipated budget levels.

The Statements provide a comparison between actual and budget income and expenditure on year to date basis. The Notes accompanying the statements provide a detailed breakdown of the amounts.

STATUTORY REQUIREMENTS

Local Government (Financial Management) Regulations 1996.

FINANCIAL CONSIDERATIONS

The Financial Statements provide an overview of the income and expenditure for the period's ending the 30th September 2016.

The Notes accompanying the statements provide a detailed breakdown to the Financial Statements.

OFFICER RECOMMENDATION – ITEM 10.20

That the:

1. Financial Report for the period ending 30th September 2016, as attached to the Ordinary Council Agenda of 25 October 2016, be received; and
2. Budget amendments listed for adoption in the Financial Statements as attached to the Ordinary Council Agenda of 25 October 2016, be approved.

Voting Requirements: Absolute majority

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

The Principal Building Surveyor made the following building decisions under Delegated Authority:

Building Applications Determined in the Month of August 2016		
Application No	Property Address	Description
201600019	4 SMALLMAN PLACE, ASHFIELD	CARPORT
201600254	2 IDA STREET, BASSENDEAN	SINGLE DWELLING
201600258	18 WATSON STREET, BASSENDEAN	COMPLETION OF DWELLING APPROVED UNDER PERMIT 201500287
201600257	6 LATHAM STREET, ASHFIELD	PATIO
201600253	115 ANZAC TERRACE, BASSENDEAN	PATIO
201600259	88 BROADWAY, BASSENDEAN	DWELLING
201600255	3 IVANHOE STREET, BASSENDEAN	SINGLE DWELLING AND GARAGE
201600276	62 EILEEN STREET, BASSENDEAN	FIBREGLASS POOL
201600272	10 NURSTEAD AVENUE, BASSENDEAN	SHED & PERGOLA ROOF
201600270	3 ANSTEY ROAD, BASSENDEAN	FENCE APPLICATION
201600278	16 ATKINS WAY, EDEN HILL	FIBREGLASS POOL
201600274	59 ESTHER STREET, EDEN HILL	DWELLING APPROVAL ISSUED BY DEPARTMENT OF HOUSING - RECORD ONLY
201600273	27 DOROTHY STREET, ASHFIELD	RE-ROOFING
201600277	22 IVANHOE STREET, BASSENEDAN	STEEL FRAME /STEEL
201600271	10 BROADWAY, BASSENEDAN	SWIMMING POOL
201600226	52 CHAPMAN STREET, BASSENDEAN	EN-SUITE EXTENSION
201600229	69 WHITFIELD STREET, BASSENDEAN	SINGLE DWELLING
201600268	3 IDA STREET, BASSENDEAN	2 BEDROOM EXTENSION
201600260	88 BROADWAY, BASSENDEAN	DWELLING
201600264	11 HAMILTON STREET, BASSENDEAN	OFFICE ALTERATIONS & PATIO
201600262	2 SURREY STREET, BASSENDEAN	SINGLE DWELLING
201600266	27 WHITFIELD STREET, BASSENDEAN	REAR EXTENSION & RENOVATION OF EXISTING DWELLING
201600265	45 GERALDINE STREET, BASSENDEAN	EXTENSION TO EXISTING ENSUITE AND WIR
201600261	116 ANZAC TERRACE, BASSENDEAN	FENCE APPROVAL
201600263	10 BROADWAY, BASSENDEAN	SWIMMING POOL FENCE
201600244	105 WEST ROAD, BASSENDEAN	PATIO
201600240	4 SEVENTH AVENUE, BASSENDEAN	ADDITIONS AND ALTERATIONS
201600242	19 LORD STREET, BASSENDEAN	8 DWELLINGS
201600249	21 KENNY STREET, BASSENDEAN	PATIO
201600245	8 DEVON ROAD, BASSENDEAN	STORAGE SHED
201600283	LOT 2 WEST ROAD, BASSENDEAN	ADDITIONS AND ALTERATIONS (DENTAL CIRCLE SHOP 30Z)
201600281	137 FIRST AVENUE, EDEN HILL	SINGLE DWELLING
201600282	137 FIRST AVENUE, EDEN HILL	SINGLE DWELLING
201600192	137 WHITFIELD STREET, BASSENDEAN	SINGLE DWELLING
201600189	1 FAULKNER WAY, EDEN HILL	PATIO

OFFICER RECOMMENDATION – ITEM 10.21

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

Voting requirement: Simple majority

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

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

Planning and Subdivision Applications Determined to 7 October 2016			
Applic No.	Property Address	Type of Development	Determination
2015-208	8 DEVON ROAD BASSENDEAN 6054	OUTBUILDING	DELEGATE APPROVED
2016-034	63 FOURTH AVENUE BASSENDEAN 6054	FOUR GROUPED DWELLINGS	DELEGATE APPROVED
2016-123	84 HARDY ROAD ASHFIELD 6054	SINGLE HOUSE	DELEGATE APPROVED
2016-124	UNIT B 1 FAULKNER WAY EDEN HILL 6054	CARPORT	DELEGATE APPROVED
2016-132	1 SURREY STREET BASSENDEAN 6054	1. ADDITIONS & ALTERATIONS TO PENSIONER GUARD COTTAGE; 2. ADDITIONS & ALTERATIONS TO DWELLING ADJOINING PENSIONER GUARD COTTAGE AND CHANGE OF USE TO COMMUNITY PURPOSE; AND 3. CONSTRUCTION OF NEW BUILDING TO REAR OF SITE FOR USE AS COMMUNITY PURPOSE.	DELEGATE APPROVED
2016-135	143 FIRST AVENUE EDEN HILL 6054	SINGLE HOUSE	DELEGATE APPROVED
2016-138	UNIT A 8 TROY STREET BASSENDEAN 6054	SINGLE HOUSE	DELEGATE APPROVED
2016-142	3 SECOND AVENUE BASSENDEAN 6054	RETROSPECTIVE APPLICATION FOR ADDITIONS AND ALTERATIONS TO SINGLE HOUSE	DELEGATE APPROVED
2016-143	10 WENDLEBURY WAY EDEN HILL 6054	SINGLE HOUSE	DELEGATE APPROVED
2016-144	111 SECOND AVENUE BASSENDEAN 6054	ADDITIONS AND ALTERATIONS TO SINGLE HOUSE	DELEGATE APPROVED
2016-147	19 EILEEN STREET BASSENDEAN 6054	BEE KEEPING	DELEGATE APPROVED
2016-150	UNIT B 79 IVANHOE STREET BASSENDEAN 6054	SINGLE HOUSE	STATUTORY ADVICE

2016-152	UNIT B 115 ANZAC TERRACE BASSENDEAN 6054	PATIO	DELEGATE APPROVED
2016-153	59 ESTHER STREET EDEN HILL 6054	SINGLE HOUSE	STATUTORY ADVICE
2016-155	14 BASSENDEAN PARADE BASSENDEAN 6054	ALFRESCO ENCLOSURE	DELEGATE APPROVED
2016-156	13 NURSTEAD AVENUE BASSENDEAN 6054	ADDITIONS AND ALTERATIONS TO SINGLE HOUSE	DELEGATE APPROVED
2016-159	93 OLD PERTH ROAD BASSENDEAN 6054	AMENDED APPLICATION FOR MIXED DEVELOPMENT COMPRISING 25 MULTIPLE DWELLINGS & THREE OFFICES	DELEGATE APPROVED
2016-160	UNIT 5 22 IVANHOE STREET BASSENDEAN 6054	PATIO	DELEGATE APPROVED
2016-161	19 LAMB STREET BASSENDEAN 6054	DEMOLITION OF SINGLE HOUSE	STATUTORY ADVICE
2016-167	17 PARNELL PARADE BASSENDEAN 6054	ADDITIONS AND ALTERATIONS TO GROUPED DWELLING	DELEGATE APPROVED
	Subdivision Applications		
68767	93 OLD PERTH ROAD BASSENDEAN 6054	28 LOT STRATA SUBDIVISION (FORM 24 & FORM 26 APPROVALS)	DELEGATE APPROVED
154295	58 WHITFIELD STREET BASSENDEAN 6054	THREE LOT SUBDIVISION	STATUTORY ADVICE
1074-16	5 FIFTH AVENUE BASSENDEAN 6054	TWO LOT PLUS COMMON PROPERTY SURVEY STRATA	STATUTORY ADVICE

OFFICER RECOMMENDATION – ITEM 10.22

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

Voting requirement: Simple majority

10.23 Use of the Common Seal (Ref: INFM/INTPROP/1 – Sue Perkins, Executive Assistant)

The Chief Executive Officer and the Mayor have been delegated the responsibility for affixing the Common Seal to documents requiring signing and sealing, and for reporting the exercise of that delegation to the next available Ordinary Meeting of the Council.

The Common Seal was attached to the following documents during the reporting period:

11/10/16 Notification Under Section 70A of the Transfer of Land Act 1893, As Amended, between Monique Michelle Fitzgerald of 15 Nurstead Avenue, Bassendean, and the Town of Bassendean, to notify prospective owners that there is a storm water detention system installed which imposes restrictions and drainage limitations on the use and enjoyment of the land.

OFFICER RECOMMENDATION – ITEM 10.23

That Council notes the affixing of the Common Seal to the document listed in the Ordinary Council Meeting Agenda of 25 October 2016.

Voting Requirements: Simple majority

10.24 Calendar for November 2016 (Ref: Sue Perkins, Executive Assistant)

Wed	2 Nov	3.30pm	Local Emergency Management Committee Meeting – Council Chamber (Crs Pule & Brown)
Fri	11 Nov	10.45am	Remembrance Day Service – Bassendean War Memorial
Tue	15 Nov	7.00pm	Briefing Session – Council Chamber
Wed	16 Nov	10.00am	Bassendean River Parks Management Committee Meeting – Council Chamber (Crs Bridges & Brown)
Tue	22 Nov	7.00pm	Ordinary Council Meeting – Council Chamber
Wed	23 Nov	10.00am	Access & Inclusion Committee Meeting – Council Chamber (Cr Pule)
Thu	24 Nov	6.00pm	WALGA East Metropolitan Zone Meeting – EMRC (Crs Gangell, Lewis & Pule)
Fri	25 Nov	5.00pm	Youth Advisory Council Meeting – Youth Services
Tue	29 Nov	7.00pm	Liveable Town Advisory Committee Meeting Council Chamber (Crs Gangell, Bridges & McLennan)

OFFICER RECOMMENDATION - ITEM 10.24

That the Calendar for November 2016 be adopted.

Voting Requirements: Simple majority

10.25 Implementation of Council Resolutions (Ref: Sue Perkins, Executive Assistant)

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

STRATEGIC IMPLICATIONS

Strengthen Council governance and compliance.

COMMENT

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

Issue ID	Assigned To	Brief Description	Action Taken
91638	Bob Jarvis	OCM-15/5/16 - Special Meeting of Electors Minutes held on 20 April 2016	Report to OCM in September on follow up special meeting of electors of 7th September. New Resolution of Council now supercedes this. Recommend deletion.
91646	Graeme Haggart	OCM-40/9/16, OCM-35/5/16 - Authority for Swan Districts Football Club (Inc) to Negotiate Corporate Sponsorship for Naming Rights to Bassendean Oval	SDFC notified. Recommend deletion.
83376	Brian Reed	OCM-12/5/15 - Notes of a Councillors' Information Workshop held on 5 May 2015	Report of omnibus amendment to LPS No 10 subject to a report to the October Council meeting. Recommend deletion.

REC NO.	OFFICER	BRIEF DESCRIPTION	ACTION
ROC16/51411	BOB JARVIS	PUBLIC QUESTION TIME JULY 2016 COUNCIL MEETING	ADVICE FROM DEPARTMENT SENT TO MR WRIGHT ON 5 SEPTEMBER NO FURTHER ACTION. RECOMMEND DELETION

ROC16/51403	CHRISTIAN BUTTLE	OCM - 9/07/16 MOVED CR PULE SECONDED CR MCLENNAN THAT COUNCIL AUTHORISES THE CHIEF EXECUTIVE TO ENGAGE THE TOWN'S SOLICITORS TO COMMENCE FORMAL PROSECUTION ACTION AGAINST THE OWNER OF LOT 4690 (NO. 90) ANZAC TERRACE WITH A VIEW TO HAVING THE UNAUTHORISED FILLING REMOVED AND THE SITE CLEARED	UNAUTHORISED FILL REMOVED WITHOUT THE NEED FOR PROSECUTION ACTION TO BE INITIATED. MATTER RESOLVED. RECOMMEND DELETION.
ROC16/51863	CHRISTIAN BUTTLE	OCM-13/9/16 - JOINT METROPOLITAN CENTRAL DEVELOPMENT ASSESSMENT PANEL APPLICATION FOR 10 MULTIPLE DWELLINGS - LOT 3 (NO. 8) WALTER ROAD EAST BASSENDEAN OWNER: 8 WALTER ROAD EAST BASSENDEAN	APPLICATION APPROVED BY JDAP AT ITS MEETING HELD THURS 6 OCT 2016. RECOMMEND DELETION.
ROC16/51871	KEN CARDY	OCM-21/9/16 - STATE BLACKSPOT PROGRAM – FUNDING APPROVAL	ASSET SERVICES WILL COMPLETE DRAWINGS AND COMMENCE PROCUREMENT PROCESS FOR WORK TO BE UNDERTAKEN. RECOMMEND DELETION
ROC16/51410	KEN CARDY	PUBLIC QUESTION TIME - COUNCIL JULY 2016 VAL DREYER	THIS IS A MAIN ROAD WA SIGN HOWEVER OFFICERS OF THE TOWN HAVE ATTENDED AND STRAIGHTENED THE POLE. RECOMMEND DELETION
ROC16/51868	MANDY GODFREY	OCM-18/9/16 - RFT CO 048 2015-16 - PROVISION OF GARDEN BED WATERING FOR THE TOWN OF BASSENDEAN	NOTED. SUCCESSFUL LETTER FORWARDED TO CONTRACTOR. NO FURTHER ACTION. RECOMMEND DELETION
ROC16/51869	MANDY GODFREY	OCM-19/9/16 - RFT CO 056 2016-17 PROVISION OF SANITARY HYGIENE AND SHARPS SERVICES FOR THE TOWN OF BASSENDEAN	LETTER SENT TO SUCCESSFUL CONTRACTOR. RECOMMEND DELETION.

ROC16/51873	SIMON STEWERT-DAWKINS	OCM-33/9/16 - NOTICE OF MOTION CR BRIDGES - BINDARING PARK	<p>ON 29 AUGUST 2016 THE MANAGER ASSET SERVICES & SENIOR ENVIRONMENTAL OFFICER HELD A MEETING WITH 4 MEMBERS OF FRIENDS OF BINDARING PARK TO DISCUSSED THE GHD WETLAND STUDIES THE REQUIREMENT TO MANAGE THE INVASIVE KIKUYU GRASS/ WEEDS AND TREATMENTS. THE FRIENDS GROUP WERE GIVEN A HARD COPY OF THE LATEST ACTION PLAN FOR THE RESERVE AND IT WAS AGREED THAT REVISED ACTION PLANS WILL BE PROVIDED. A MEMBER OF THE FRIENDS GROUP IS ALSO A MEMBER OF THE BASSENDEAN RIVERS PARK MANAGEMENT COMMITTEE AND WILL BE INCLUDED IN THE REVIEW OF THE DRAFT CONCEPT PLAN WHEN IT IS AVAILABLE. THE FRIENDS GROUP WERE INVITED TO PARTICIPATE IN FUTURE REVEGETATION ACTIVITIES. A MEMBER OF THE FRIENDS GROUP CURRENTLY RECEIVES A LETTER IN THE MAIL EVERY TIME THE TOWN UNDERTAKES SPRAYING AT THE RESERVE.</p> <p>RECOMMEND DELETION.</p>
ROC16/51405	SIMON STEWERT-DAWKINS	OCM 14/7/16 SOUTH WEST NATIVE TITLE SETTLEMENT AGREEMENT – LOT NO. 4436 RESERVE NO 22122 BASSENDEAN – LAND BASE CONSULTATION FOR CROWN LAND WITHIN BINDARING PARK	<p>IN ACCORDANCE WITH OCM 14/06/16 THE TOWN WROTE TO THE SOUTH WEST SETTLEMENT DEPARTMENT OF LANDS ON THE 5TH AUGUST 2016.</p> <p>RECOMMEND DELETION.</p>
ROC16/51875	SIMON STEWERT-DAWKINS	OCM-36/9/16 - NOTICE OF MOTION – CR MCLENNAN: BANS ON SINGLE USE PLASTIC BAGS	<p>ON THE 30TH SEPTEMBER 2016 THE TOWN WROTE TO BOTH ALBERT JACOB THE ENVIRONMENT MINISTER & CHRIS TALLENTIRE THE SHADOW MINISTER SEEKING A POLICY COMMITMENT TO INTRODUCE A STATEWIDE BAN ON SINGLE USE OF PLASTIC BAGS BY 2018.</p> <p>RECOMMEND DELETION</p>
ROC16/51877	TIM DAYMAN	OCM-41/9/16 - SPORTS ACHIEVEMENT AWARDS	TO BE PRESENTED AT OCT MEETING

			RECOMMEND DELETION
ROC16/51607	TIMOTHY ROBERTS	OCM- 4/08/16 - REVIEW OF TOWN OF BASSENDEAN LOCAL GOVERNMENT HERITAGE INVENTORY FR COMMUNITY CONSULTATION	THE COMMENCEMENT OF PUBLIC ADVERTISING HAS BEEN POSTPONED UNTIL AFTER THE SEPTEMBER COUNCIL MEETING PENDING APPROVAL OF HERITAGE INCENTIVES THE SUBJECT OF A SEPTEMBER COUNCIL REPORT. RECOMMEND DELETION
ROC16/51864	TIMOTHY ROBERTS	OCM-14/9/16 - RECONSIDERATION OF PROPOSED MOBILE CONCRETE BATCHING PLANT AT LOT 105 (NOS. 2-8) CLUNE STREET BASSENDEAN	MATTER WAS DEFERRED TO NOVEMBER COUNCIL MEETING. MATTER TO BE TABLED AT OCTOBER BRIEFING SESSION FOR RECONSIDERATION TO AVOID UNNECESSARY COSTS. REQUEST THAT MATTER BE DETERMINED ON ITS PLANNING MERITS. RECOMMEND DELETION
ROC16/51866	TIMOTHY ROBERTS	OCM-16/9/16 - MUNICIPAL HERITAGE INVENTORY: HERITAGE INCENTIVES FOR PROPERTY OWNERS OF PLACES LISTED WITHIN THE HERITAGE LIST	DRAFT MUNICIPAL HERITAGE INVENTORY CAN NOW BE ADVERTISED WITH COUNCILS COMMITMENT TO HERITAGE INCENTIVES. RECOMMEND DELETION
ROC16/51872	YVONNE ZAFFINO	OCM-22/9/16 - RESIGNATION OF CR MCLENNAN AS DEPUTY MEMBER ON VARIOUS COMMITTEES	LIST OF DELEGATES UPDATED. RECOMMEND DELETION

OFFICER RECOMMENDATION – ITEM 10.25

That the outstanding Council resolutions detailed in the table listed in the Ordinary Council Meeting Agenda of 25 December 2016 be deleted from the Implementation of Council Resolutions list.

Voting Requirements: Simple majority

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

11.1 **Cr Bridges – 100 Year Flood Height Markers**

Cr Bridges has advised that he wishes to move the following motion at this meeting:

“That the temporary 100 year flood height vinyl stickers recently attached to power poles be replaced with non-corroding metal bands with the same message and where this is impractical due to the presence of reinforced supports a white band be painted around the pole and supports and the 25 and 100 year flood zone bands be removed to avoid confusion where not adjacent to the flood information signs. Should this require a further financial contribution then this be addressed in the forthcoming budget review.”

11.2 **Cr Bridges – Council Forms**

Cr Bridges has advised that he wishes to move the following motion at this meeting:

That Council forms provided by the Town of Bassendean that request ‘Christian Name’ be amended to read ‘Given Name’.

11.3 **Cr McLennan - Water Corp Drainage for Liveability Projects**

Cr McLennan has advised that she wishes to move the following motion at this meeting:

“That Council:

- 1. Seeks input from community members/groups and officers for innovative ideas on how to take advantage of the existing green spaces next to Water Corporation stormwater drains in Eden Hill for the purpose of submitting an application/s for the Water Corp Drainage for Liveability Project;*
- 2. Requests that officers collate submissions received and, based on these, prepare a draft application for the Drainage for Liveability Project for consideration by Council.”*

BACKGROUND – Cr McLennan

The Drainage for Liveability Program (2016-17) is a collaboration between Water Corporation and Department of Water, designed to enhance the value to the community of stormwater drains and basins across WA.

Stormwater drains and basins serve a functional purpose, but they also have the potential to contribute to the liveability of our local communities.

Working with interested community groups, local authorities and the development industry, Watercorp is aiming to improve drainage and surface water management, and increase green open spaces in our urban environment. Local councils are encouraged to come forward with innovative ideas on how to take advantage of the existing green spaces next to Water Corporation stormwater drains.

<https://www.watercorporation.com.au/drainageprogram>

12.0 ANNOUNCEMENTS OF NOTICES OF MOTION FOR THE NEXT MEETING

13.0 CONFIDENTIAL BUSINESS

13.1 Council Street Trees – 87 Anzac Terrace, Bassendean (Ref: ILET-10975816 – Ken Cardy, Manager Asset Services)

This matter is to be considered with members of the public excluded from the Chamber under Clause 5.23 (2) of the Local Government Act 1995, as the Officer report discusses legal advice.

13.2 Prosecution Matter (Ref: DABC/BDVAPPS/2015-138 - Timothy Roberts, Planning Officer)

This matter is to be considered with members of the public excluded from the Chamber under Clause 5.23 (2) of the Local Government Act 1995, as the Officer report discusses legal advice.

OFFICER RECOMMENDATION – ITEM 13.2

That the Officer Recommendation shown in the Confidential Report attached to the Ordinary Council Agenda of 25 October 2016, be endorsed.

13.3 Sports Achievement Awards (Ref: COMR/AWADP/4 –Tim Dayman, Recreation Development Officer)

This report is to be discussed with members of the public excluded under Section 5.23 (2) (b) of the Local Government Act in order to maintain the confidentiality of the names of the nominees.

14.0 CLOSURE

The next Ordinary Council meeting will be held on Tuesday 22 November 2016.