



TOWN OF  
**Bassendean**

# AGENDA

## Ordinary Council Meeting Tuesday 24 September 2024, 6:00 pm

Notice is hereby given to Council Members of the next Ordinary Council Meeting to be held at 6:00 pm on Tuesday 24 September 2024, in the Council Chamber, Administration Building, 48 Old Perth Road, Bassendean.

Cameron Woods  
**CHIEF EXECUTIVE OFFICER**

19 SEPTEMBER 2024

# Meeting Information

## Recording and Live-streaming

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

## Conduct at meetings

The Town is committed to ensuring our Council Meetings are a safe work environment, free of risks to the health and wellbeing of Elected Members, Officers and our community. Any person attending is required to be respectful, courteous and have due regard for individual rights and differences. Individuals may be asked to leave should their conduct adversely affect the health and safety of others.

By attending this meeting, you agree to abide by these conditions.

For any questions regarding the Ordinary Council meeting or any item presented in the agenda, please contact the Town of Bassendean at:  
[mail@bassendean.wa.gov.au](mailto:mail@bassendean.wa.gov.au).

Tune in to live streaming from the comfort of your own home by going to:  
Town of Bassendean Council - YouTube

or if you miss it live, go to:  
<https://www.youtube.com/channel/UC46mMs3D7vmHuO0ePibihhg>

# Council Chambers Seating Plan



**Chief Executive Officer**  
Cameron Woods



**Mayor**  
Cr Kathryn Hamilton  
[CrHamilton@bassendean.wa.gov.au](mailto:CrHamilton@bassendean.wa.gov.au)



Cr Jennie Carter  
[CrCarter@bassendean.wa.gov.au](mailto:CrCarter@bassendean.wa.gov.au)



Cr Emily Wilding  
[CrWilding@bassendean.wa.gov.au](mailto:CrWilding@bassendean.wa.gov.au)



Cr Tallan Ames  
[CrAmes@bassendean.wa.gov.au](mailto:CrAmes@bassendean.wa.gov.au)



Cr Jamayne Burke  
[CrBurke@bassendean.wa.gov.au](mailto:CrBurke@bassendean.wa.gov.au)



Cr Ken John  
[CrJohn@bassendean.wa.gov.au](mailto:CrJohn@bassendean.wa.gov.au)



**Deputy Mayor**  
Cr Paul Poliwka  
[CrPoliwka@bassendean.wa.gov.au](mailto:CrPoliwka@bassendean.wa.gov.au)



**Director Corporate Services**  
Paul White



**Director Community and Place**  
Michelle Brennand



**Director Infrastructure Services**  
Shane Asmus

Public Gallery

# Council Role

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

Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
Executive	The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, setting and amending budgets.
Legislative	Includes adopting local laws, local planning schemes and policies.
Review	When the Council operates as a review authority on decisions made by Officers for appeal purposes.
Quasi-Judicial	When the Council determines an application/matter that directly affects a person's rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include development applications, building permits, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be subject to review by the State Administrative Tribunal.
Information	For the Council/Committee to note.

# Table of Contents

<b>1 Declaration Of Opening; Acknowledgment of Country; Acknowledgment of Visitors; Disclaimer .....</b>	<b>6</b>
<b>2 Announcements by The Presiding Person Without Discussion.....</b>	<b>6</b>
<b>3 Attendances, Apologies and Applications for Leave of Absence .....</b>	<b>6</b>
<b>4 Declarations of Interest.....</b>	<b>6</b>
<b>5 Presentations or Deputations .....</b>	<b>6</b>
<b>6 Statements by Members of the Public.....</b>	<b>7</b>
<b>7 Questions from Members of the Public.....</b>	<b>7</b>
<b>8 Petitions .....</b>	<b>7</b>
<b>9 Confirmation of Minutes .....</b>	<b>7</b>
<b>10 Business Deferred from Previous Meeting .....</b>	<b>7</b>
<b>11 External Committee Reports and Updates.....</b>	<b>8</b>
11.1 External Committee Reports and Updates.....	8
<b>12 Officer Reports .....</b>	<b>9</b>
12.1 Adoption of Recommendations En Bloc.....	11
12.2 Bassendean Local Emergency Management Committee Meeting - 28 August 2024 .....	12
12.3 Audit and Governance Committee Meeting - 4 September 2024 .....	14
12.4 Accounts Paid - August 2024 .....	18
12.5 Monthly Financial Report - August 2024 .....	20
12.6 RFT 05/2024 - Electrical Services - Reactive, Scheduled and Minor Works .....	24
12.7 RFT 06/2024 - Streetscape Weed Control.....	27
12.8 Town Centre (Area 2) Parking Review.....	30
12.9 Draft Local Planning Policy No. 13 - Tree Retention and Provision.....	36
<b>13 Motions of which Previous Notice has been given .....</b>	<b>45</b>
<b>14 Announcements of Notices of Motion for the next meeting .....</b>	<b>45</b>
<b>15 Urgent Business .....</b>	<b>45</b>
<b>16 Confidential Business .....</b>	<b>45</b>
16.1 Membership of the East Metropolitan Regional Council .....	45
<b>17 Closure .....</b>	<b>45</b>

## **1 Declaration of Opening; Acknowledgment of Country; Acknowledgment of Visitors; Disclaimer**

### **Acknowledgment of Country**

The Town of Bassendean acknowledges the Whadjuk people of the Noongar Nation as the Traditional Custodians of this land. We pay our respects to Elders past and present, and acknowledge their continuing culture and the contribution they make to the region.

## **2 Announcements by The Presiding Person Without Discussion**

## **3 Attendances, Apologies and Applications for Leave of Absence**

### Councillors

Cr Kathryn Hamilton, Mayor (Presiding Member)  
Cr Paul Poliwka, Deputy Mayor  
Cr Emily Wilding  
Cr Ken John  
Cr Tallan Ames

### Officers

Mr Cameron Woods, Chief Executive Officer  
Mr Paul White, Director Corporate Services  
Mr Shane Asmus, Director Infrastructure & Sustainability  
Ms Alex Snadden, Acting Director Community and Place  
Ms Ana Fernandez, Minute Secretary

### Apologies

Cr Jamayne Burke – Leave of Absence  
Cr Jennie Carter – Leave of Absence  
Ms Michelle Brennand, Director Community and Place  
Ms Joanne Burges, Manager Governance and Strategy

### Public

## **4 Declarations of Interest**

## **5 Presentations or Deputations**

## 6 Statements by Members of the Public

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

Members of the public are encouraged to submit their statements in advance by completing the relevant form:

Online Form - Public Statement Time » Town of Bassendean

Please complete this form and submit it to the Town's Chief Executive Officer by no later than 12noon on the day of the meeting.

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

## 7 Questions from Members of the Public

15 minutes will be allocated for questions by members of the public any question that relates to the district.

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

Questions can be submitted prior to the Council meeting to:  
[www.bassendean.wa.gov.au/forms/public-question-time/36](http://www.bassendean.wa.gov.au/forms/public-question-time/36)

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

## 8 Petitions

## 9 Confirmation of Minutes

9.1 Confirmation of Minutes	
Attachments	1. Ordinary Council Meeting 27 August 2024 Minutes [9.1.1 - 42 pages]

### Officer Recommendation – Item 9.1

That the minutes of the Ordinary Council meeting held on 27 August 2024, be received and confirmed as a true and correct record.

**Voting requirements: Simple Majority**

## 10 Business Deferred from Previous Meeting

Nil

## 11 External Committee Reports and Updates

11.1 External Committee Reports and Updates	
<b>Property Address</b>	NA
<b>Landowner/Applicant</b>	NA
<b>File Reference</b>	GOVN/CCLMEET/1
<b>Directorate</b>	Office of the CEO
<b>Responsible Officer</b>	Chief Executive Officer
<b>Previous Reports</b>	N/A
<b>Authority/Discretion</b>	<b>Information</b> For the Council/Committee to note.
<b>Attachments</b>	<ol style="list-style-type: none"> <li>Minutes East Metropolitan Zone - 15 August 2024 [11.1.1 - 38 pages]</li> <li>Abridged Minutes - EMRC Ordinary Meeting of Council -22 August 2024 [11.1.2 - 11 pages]</li> </ol>

### Purpose

The purpose of this report is for Council note the minutes from external Committees and organisations that have been received.

### Background

Councillors are appointed as members of external Committees and organisations. The minutes are attached for consideration of all Councillors.

### Comment

The following minutes have been received from external Committees and organisations:

- WALGA East Metropolitan Zone – 15 August 2024
- EMRC Ordinary Council Meeting – 22 August 2024

### Officer Recommendation – Item 11.1

That Council notes the minutes from external Committees that have been received within the reporting period.

### Voting requirements: Simple Majority



## 12 Officer Reports

### 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 Council Meeting Procedures Local Law 2020.

*Council Meeting Procedures Local Law 2020*, 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

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 4.0, Declarations of Interest, they should do so at this point of the agenda.

Item	Report	Vote
12.1	Adoption of Recommendations En Bloc	<b>Simple Majority</b>
12.2	Bassendean Local Emergency Management Committee Meeting - 28 August 2024	<b>Simple Majority</b>
12.3	Audit and Governance Committee Meeting - 4 September 2024	<b>Simple Majority</b>
12.4	Accounts Paid - August 2024	<b>Simple Majority</b>
12.5	Monthly Financial Report - August 2024	<b>Simple Majority</b>
12.6	RFT 05/2024 - Electrical Services - Reactive, Scheduled and Minor Works	<b>Simple Majority</b>
12.7	RFT 06/2024 - Streetscape Weed Control	<b>Simple Majority</b>
12.8	Town Centre (Area 2) Parking Review	<b>Simple Majority</b>
12.9	Draft Local Planning Policy No. 13 - Tree Retention and Provision	<b>Simple Majority</b> <b>Absolute Majority</b>
<b>13</b>	<b>Motions of which Previous Notice has been given</b>	
<b>16</b>	<b>Confidential Business</b>	
16.1	Membership of the East Metropolitan Regional Council	<b>Simple Majority</b>

### **Officer Recommendation Item 12.1**

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

Item	Report
12.2	Bassendean Local Emergency Management Committee Meeting - 28 August 2024
12.3	Audit and Governance Committee Meeting - 4 September 2024
12.4	Accounts Paid – August 2024
12.5	Monthly Financial Report – August 2024
12.6	RFT 05/2024 - Electrical Services - Reactive, Scheduled and Minor Works
12.7	RFT 06/2024 - Streetscape Weed Control
12.8	Town Centre (Area 2) Parking Review

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

Item	Report
12.9	Draft Local Planning Policy No. 13 - Tree Retention and Provision

**Voting requirements: Simple Majority**

<b>12.2 Bassendean Local Emergency Management Committee Meeting - 28 August 2024</b>	
<b>Property Address</b>	N/A
<b>Landowner/Applicant</b>	N/A
<b>File Reference</b>	GOVN/CCLMEET/12
<b>Directorate</b>	Office of the CEO
<b>Responsible Officer</b>	Director Community and Place
<b>Previous Reports</b>	
<b>Authority/Discretion</b>	<b>Information</b> For the Council/Committee to note.
<b>Attachments</b>	1. Bassendean Local Emergency Management Committee Draft MINUTES 280824 [12.2.1 - 6 pages]

### Purpose

The purpose of this report is for Council to receive the minutes of the Bassendean Local Emergency Management Committee (BLEMC) Meeting held on 28 August 2024.

### Strategic Implications

#### Performance Area 1: People

2.1 Create a safe town for everyone.

### Comment

The Committee discussed the following items at the meeting:

- Agency Member Reports (Round Table)
- Annual Report 2023 – 2024
- Joint Annual Exercise with the City of Bayswater

### Statutory Requirements

Under sections 38 - 40 of the *Emergency Management Act 2005*, local governments are required to establish and carry out the functions of a Local Emergency Management Committee, which includes coordinating the development and submission of documents in accordance with legislative and policy requirements including an Annual Report, Annual Business Plan and maintenance of Local Emergency Management Arrangements.

## **Financial Considerations**

Nil.

## **Risk Management Implications**

No Risks Identified

## **Declaration of Conflicts of Interest**

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

## **Officer Recommendation – Item 12.2**

That Council receives the minutes of the Bassendean Local Emergency Management Committee meeting held on 28 August 2024.

## **Voting requirements: Simple Majority**

<b>12.3 Audit and Governance Committee Meeting - 4 September 2024</b>	
<b>Property Address</b>	N/A
<b>Landowner/Applicant</b>	N/A
<b>File Reference</b>	GOVN/CCLMEET/18
<b>Directorate</b>	Office of the CEO
<b>Responsible Officer</b>	Director Corporate Services
<b>Previous Reports</b>	
<b>Authority/Discretion</b>	<b>Executive</b> The substantial direction setting and oversight role of the Council.
<b>Attachments</b>	<ol style="list-style-type: none"> <li>1. Audit and Governance Committee 4_ September 2024 Minutes [<b>12.3.1</b> - 23 pages]</li> <li>2. CONFIDENTIAL - Clean 2024 Review Risk Management Framework [<b>12.3.2</b> - 27 pages]</li> <li>3. CONFIDENTIAL - 240820 - To B - Tenders and RF Qs Internal Audit Review Final [<b>12.3.3</b> - 10 pages]</li> <li>4. CONFIDENTIAL - Interim Management Letter to CEO - Town of Bassendean 30 June 2024 [<b>12.3.4</b> - 1 page]</li> <li>5. CONFIDENTIAL - Interim Management Letter Attachment ITGC - Town of Bassendean 30 June 2024 [<b>12.3.5</b> - 10 pages]</li> <li>6. CONFIDENTIAL - September 2024 Audit Findings Log [<b>12.3.6</b> - 8 pages]</li> </ol>

### Purpose

The purpose of this report is for Council to receive the Minutes and consider recommendations from the meeting of the Audit and Governance Committee held on 4 September 2024.

### Background

The Town's Audit and Governance Committee meets at least four times each year in carrying out its functions under the Audit and Governance Committee Charter (the Charter). The Charter specifies the authority, objectives and responsibilities of the Committee and governs its membership and meeting requirements.

### Proposal

For Council to receive the report on the meeting of the Audit and Governance Committee held on 4 September 2024 including adoption of recommendations.

## Communication and Engagement

To ensure openness, accountability and integrity, Council has appointed a community representative as a member of the Audit and Governance Committee.

## Strategic Implications

### Performance Area 5: Performance

9.1 Continuously improve operational performance and service delivery.

### Comment

The Committee considered the following items:

#### Review – Risk Management Policy and Framework

The Town's administration has undertaken a review of its Risk Management Policy and Framework to confirm the appropriateness and effectiveness of its systems and procedures in relation to risk management to fulfil its obligations under Regulation 17 of the Local Government (Audit) Regulations 1996.

The administration recognises the importance of Risk Management in achieving the Town's objectives through continuous review of its processes and systems.

To that end, the Town is required to ensure that it maintains a risk management framework and has a formal process for managing risks. The reviewed Risk Management Policy and Framework seeks to continually improve risk management within the Town's operational activities. The reviewed Risk Management Policy and Framework is attached as a confidential document.

#### Small Balance Write Offs for Rates

Small rates balances may arise for a variety of reasons, including delays in processing and errors by the payer. The Town's finance system generates a report at the end of each month and any amounts that are below \$10 are extracted and reviewed by Town officers and, if deemed appropriate, recommended for write-off. The purpose of the report was for the Committee to note the exercise of the delegation by the Manager Financial Services to write off small rates balances during 2023/24, totalling \$454.66.

In terms of the delegation, Council has delegated authority to the CEO to write off small rates balances up to a maximum of \$10.00 per property per annum, and the CEO has sub-delegated the authority to the Director Corporate Services and Manager Financial Services. (Delegation 1.2.15: Defer Payment, Grant Discounts, Waive Fees or Write Off Debts).

A condition of the delegation of authority is that Council shall be informed of the details whenever this delegation is exercised. While the condition does not specify the frequency of notification to Council, it is proposed to do so annually.

#### Internal Audit of Tenders and Quotes

The Town's internal auditors Paxon Group conducted an internal audit on the Town's procurement processes for tenders and quotes. The Internal Audit Review Report prepared by Paxon was provided to the Committee for it to consider the recommendations therein and the management action proposed by the Town.

Paxon identified three key findings and made three recommendations to address the risks highlighted by those findings. One finding was rated as medium risk and two were rated as low risk. Paxon's report is attached as a confidential attachment to this report.

#### Annual Audit 2023/24 – Interim Audit Findings for Finance and IT General Controls

The purpose of this report was for the Committee to consider the findings from the interim audit component of the 2023/24 annual audit.

While no findings arose from the financial component of the audit, eight findings arose from the IT General Controls component of the audit, with 12 recommendations made to address the risks inherent in those findings.

Management is of the view that the findings and recommendations reflect a continuing year-on-year improvement in ICT controls by the Town, with some, but not all, recommendations relating to a governance control such as the development and implementation of a policy or procedure to reinforce a technical control, rather than the absence of a technical practice that mitigates a risk to the Town. Nevertheless, some recommendations would involve significant capital and operating expenditure by the Town. While the Town has the capacity to implement some recommendations from its current budgets, the remaining recommendations will be considered for funding via the 2025/26 annual budget and long-term financial plan.

#### Audit Findings Log

The purpose of this report was to provide the Committee with the Town's Audit Findings Log, with updated actions since the meeting of the Committee on 12 June 2024.

#### **Statutory Requirements**

Section 7.1A of the *Local Government Act 1995* requires a local government to establish an audit committee consisting of three or more persons to exercise the powers and discharge the duties conferred on it. The local government appoints the



members of the audit committee and at least three of the members, and the majority of the members, are to be council members. Regulation 16 of the *Local Government (Audit) Regulations 1996* specifies the functions of the audit committee.

### **Financial Considerations**

Implementation of some audit recommendations may require additional funds and will be the subject of separate budget submissions as and when required. The Town's Purchasing Policy and Procurement Framework will govern any required Engagements.

### **Risk Management Implications**

The Audit and Governance Committee considered risks captured in the Town's Audit Findings Log. If improvement opportunities relating to the identified risks are not progressed, the risks may not be adequately mitigated.

### **Declaration of Conflicts of Interest**

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

### **Officer Recommendation – Item 12.3**

That Council:

- Receives the Minutes of the Audit and Governance Committee of 4 September 2024.
- Adopts the reviewed Risk Management Policy and Framework, attached to this report.
- Receives, for the purpose of Delegation 1.2.15, notification of the exercise of the delegation be provided to Council annually, as soon as practicable after the end of the financial year.
- Receives the Internal Audit Review Report for Tenders and Quotes, attached as a confidential attachment to this report, and notes the findings and recommendations, and the management action to be taken to address the identified risks.
- Receives the interim audit results and notes the findings and recommendations detailed in the IT General Controls Management Letter attached as a confidential attachment to this report, and the management action to be taken to address the identified risks.

**Voting requirements: Simple Majority**

<b>12.4 Accounts Paid - August 2024</b>	
<b>Property Address</b>	N/A
<b>Landowner/Applicant</b>	N/A
<b>File Reference</b>	FINM/CREDTS/4
<b>Directorate</b>	Corporate Services
<b>Responsible Officer</b>	Director Corporate Services
<b>Previous Reports</b>	N/A
<b>Authority/Discretion</b>	<b>Legislative</b> Includes adopting local laws, local planning schemes & policies.
<b>Attachments</b>	1. List of Payments - August 2024 [ <b>12.4.1</b> - 20 pages]

### Purpose

The purpose of this report is for Council to receive the list of accounts paid for August 2024.

### Background

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

### Proposal

For Council to receive the list of accounts paid for August 2024.

### Communication and Engagement

Nil

### Strategic Implications

#### Performance Area 5: Performance

9.1 Continuously improve operational performance and service delivery.

### Comment

Payments made during August 2024 are presented to Council, showing the date, payee, amount, and description in respect of each payment for goods and services received.

## Statutory Requirements

Regulation 13 of the *Local Government (Financial Management) Regulations 1996* provides:

**13. *Payments from municipal fund or trust fund by CEO, CEO's duties as to etc.***

*(1) If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared —*

- (a) the payee's name; and*
- (b) the amount of the payment; and*
- (c) the date of the payment; and*
- (d) sufficient information to identify the transaction.*

## Financial Considerations

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

## Risk Management Implications

Financial Risk  
Low

The Town has adequate controls in place to mitigate external and internal risks in accounts payable. As an extra measure, the Town uses EftSure to independently check bank account details of suppliers paid by the Town.

## Declaration of Conflicts of Interest

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

## Officer Recommendation – Item 12.4

That Council receives the list of accounts paid for August 2024.

**Voting requirements: Simple Majority**

<b>12.5 Monthly Financial Report - August 2024</b>	
<b>Property Address</b>	N/A
<b>Landowner/Applicant</b>	N/A
<b>File Reference</b>	FINM/AUD/1
<b>Directorate</b>	Corporate Services
<b>Responsible Officer</b>	Director Corporate Services
<b>Previous Reports</b>	N/A
<b>Authority/Discretion</b>	<b>Legislative</b> Includes adopting local laws, local planning schemes & policies.
<b>Attachments</b>	1. Monthly Financial Statements August 2024 [ <b>12.5.1</b> - 10 pages]

### Purpose

The purpose of this report is for Council to receive the Monthly Financial Report for August 2024 which incorporates the Statement of Financial Activity.

### Background

The *Local Government (Financial Management) Regulations 1996*, Regulation 34, requires a Statement of Financial Activity to be prepared each month and presented to the Council.

The Statement of Financial Activity compares the budget estimates with the actual revenue and expenditure figures for the year-to-date. The Statement of Financial Activity and accompanying documents must be presented to Council within two months after the end of the month to which the statement relates.

The variance report compares actual income and expenditure to the original budget, which was adopted by Council on 26 June 2024.

Each year Council is required to adopt a percentage or value to be used for reporting material variances. Council adopted \$15,000 or 10% whichever is higher, as part of its 2024/25 Annual Budget.

### Proposal

For Council to receive the Monthly Financial Report for August 2024.

### Communication and Engagement

Nil.

## Strategic Implications

### Performance Area 5: Performance

#### 9.1 Continuously improve operational performance and service delivery.

#### Comment

The Monthly Financial Report contains the Statement of Financial Activity, which represents the adopted 2024/25 Annual Budget and actual income and expenditure amounts for August 2024.

The opening surplus provided in the draft Statement of Financial Activity is unaudited and subject to change for the following 2023/24 year-end entries:

1. Audited results for the Eastern Metropolitan Regional Council (EMRC) have not been finalised;
  - a) Adjustments related to the Australian Accounting Standards; and
  - b) Potential audit adjustments resulting from the final audit by the Office of the Auditor General.

#### Statement of Financial Activity (by nature or type)

The Statement of Financial Activity provides a comparison between actual and budget income and expenditure on a year-to-date basis. The accompanying notes provide a detailed breakdown of the amounts and commentary is based on the August 2024 year-to-date figures.

Item	Original Budget	YTD Budget	YTD Actual	Variance to YTD Budget	Variance to YTD Budget
	\$M	\$M	\$M	\$M	%
Revenue (including General Rates)	25.2	21.3	21.4	0.04	0
Expenditure	27.8	4.4	4.3	0.03	1
Capital Works	7.8	0.3	0.1	0.2	91
Non-Operating Grants, Subsidies and Contributions	3.7	0.4	0.4	0.03	7

#### Operating Revenue

Total Revenue is under budget by \$36k, primarily due to:

- Revenue from Service charges is lower than budget by \$55k due to income received in advance from property sales, recognised in the previous financial year;

and

- Revenue from fees and charges is lower than budget by \$16k.

### Operating Expenditure

Total expenditure is under budget by \$33k. The significant variances within the individual categories are as follows:

- Employment Costs are under budget by \$20k, considered a timing issue; and
- Materials and Contracts are under budget by \$30k, due to the timing of maintenance of infrastructure assets.

### Non-Operating Grants

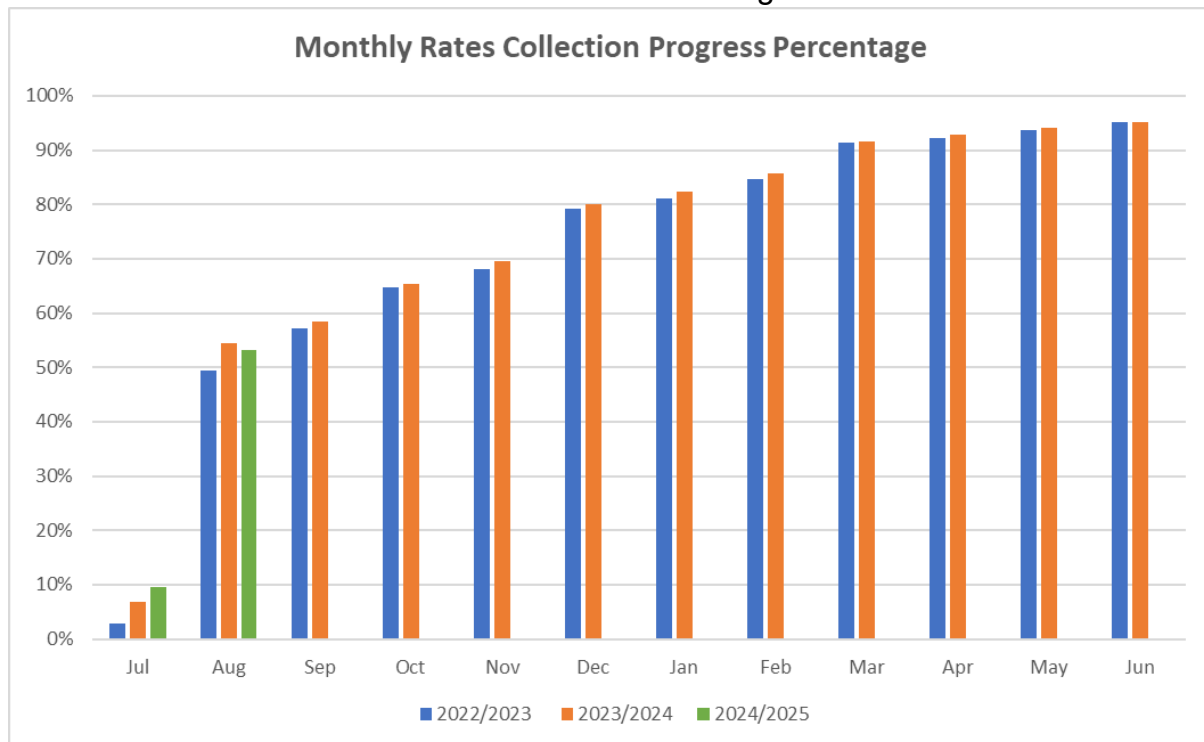
Non-operating grants are under budget by \$30k primarily due to the timing of the grants associated with capital road projects.

### Capital Works

With the budget adopted in late June, most operations are still in the planning and mobilisation stages and the variance is deemed a timing matter.

### Rates Collection Report

The chart below shows collection at 53% as of 31 August 2024.



## Monthly Investment Report

The overall balance of the Town's investments is \$27m. This is comprised of municipal investments of \$14.5m (including restricted cash) and reserve investments of \$12.5m.

The administration uses *Marketforces.org.au* to assist in assessing whether financial institutions invest funds in fossil fuel-related industries. The Town currently has 73% of its funds invested in non-fossil fuel ADIs.

## **Statutory Requirements**

*Local Government (Financial Management) Regulations 1996.*

## **Financial Considerations**

The Monthly Financial Report provides an overview of income and expenditure for the appropriate period.

## **Risk Management Implications**

No Risks Identified.

## **Declaration of Conflicts of Interest**

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

## **Officer Recommendation – Item 12.5**

That Council:

1. Notes the Explanation of Material Variances in the Statement of Financial Activity.
2. Receives the Monthly Financial Report for the period ending 31 August 2024, which incorporates the Statement of Financial Activity for the period to August 2024.

## **Voting requirements: Simple Majority**

<b>12.6 RFT 05/2024 - Electrical Services - Reactive, Scheduled and Minor Works</b>	
<b>File Reference</b>	COUP/TENDNG/115
<b>Directorate</b>	Corporate Services
<b>Responsible Officer</b>	Director Corporate Services Director Infrastructure and Sustainability
<b>Previous Reports</b>	
<b>Authority/Discretion</b>	<b>Executive</b> The substantial direction setting and oversight role of the Council.
<b>Attachments</b>	1. CONFIDENTIAL - RFT 05/2024 Evaluation Report [12.6.1 - 16 pages]

### Purpose

The purpose of this report is to present to Council a summary of tenders received for RFT 05/2024 Provision of Electrical Services – Reactive, Scheduled and Minor Works for the Town of Bassendean and recommend appointment of the contractor considered to provide the best value for money to the Town.

### Background

The Town has a requirement to engage a contractor to provide Electrical Services – Reactive, Scheduled and Minor Works. The Town does not have the internal resources to supply the required services and as such requires an appropriate external service provider.

The Town has had a single contract for electrical services with Paramount Electrical Services for the past three years. The contract expires on 19 September 2024 and there was no extension option. The value over this period was \$234,000, and primarily based on the works being undertaken in accordance with the Town's Electrical Services requirements.

With the new contract, the administration has prepared the specification to provide flexibility around servicing requirements and broadened the scope to ensure it can continually monitor and adjust as and when required. This method of contract management is considered the most appropriate at this time, as the Town continues to review its Levels of Service, particularly in operational areas such as Electrical Services.

### Proposal

To appoint a contractor to provide Electrical Services for the Town of Bassendean.



## Communication and Engagement

The Request was advertised in The West Australian Newspaper and on the Town's website on Wednesday 3 July 2024 and closed on Tuesday 23 July 2024.

## Strategic Implications

### Performance Area 5: Performance

9.1 Continuously improve operational performance and service delivery.

### Comment

Submissions were received from the following 11 Tenderers:

- The trustee for The Skenpost Trust t/a Australian HVAC Services Pty Ltd
- Citybling Pty Ltd as Trustee for The Mihevic Family Trust & The Fauntleroy Family Trust t/a Boyan Electrical
- Eamco Pty Ltd t/a EOS Electrical
- Burgess Enterprises Australia Pty Ltd t/a Kalamunda Electrics
- Lece Pty Ltd
- MMJ Electrical Pty Ltd t/a MMJ Electrical
- Northlake Electrical Pty Ltd
- On Tap Services Pty Ltd t/a On Tap Services Plumbing and Electrical
- Lebonn Pty Ltd t/a Paramount Electrical Services
- Platinum Electricians Pty Ltd
- C& M Electrical Pty Ltd ATF C&M Electrical Unit Trust t/as All Hours Electrical WA

The Evaluation Panel for this tender comprised three members with the appropriate technical expertise and experience. The panel carried out the assessment of submissions in a fair and equitable manner.

All 11 Tenderers met the compliance requirements of the Tender and were evaluated against the qualitative criteria and weightings shown in the following table. The predetermined qualitative threshold was set at 60% for this tender.

QUALITATIVE CRITERIA	WEIGHTING
Capacity	40%
Demonstrated Experience	35%
Demonstrated Understanding of the Requirements	25%

Ten of the 11 responders met the qualitative threshold and following the qualitative assessment, the panel carried out a comparison of the submitted schedule of rates offered by each tenderer qualified for stage two to assess value for money to the Town.

Pricing is regarded as commercial in confidence and is included in the attached confidential Tender Evaluation Report.

### **Statutory Requirements**

A public tender was advertised, opened and evaluated in accordance with clauses 11(1) and 18(4) of Part 4 of the Local Government (Functions and General) Regulations 1996, where tenders are required to be publicly invited if the consideration under a contract is, or is estimated to be, more, or worth more, than \$250,000.

### **Financial Considerations**

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

### **Risk Management Implications**

No Risks Identified.

### **Declaration of Conflicts of Interest**

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

### **Officer Recommendation – Item 12.6**

That Council appoints the recommended tenderer shown in the confidential Tender Evaluation Report attached to this report, to provide Electrical Services for the Town as specified in Tender 05/2024 for a period of three (3) years, to commence upon Council Approval and Letter of Award.

### **Voting requirements: Simple Majority**

<b>12.7 RFT 06/2024 - Streetscape Weed Control</b>	
<b>File Reference</b>	ENVM/TENDNG/28
<b>Directorate</b>	Corporate Services
<b>Responsible Officer</b>	Director Corporate Services Director Infrastructure and Sustainability
<b>Previous Reports</b>	n/a
<b>Authority/Discretion</b>	<b>Executive</b> The substantial direction setting and oversight role of the Council.
<b>Attachments</b>	1. CONFIDENTIAL - RFT 06/2024 Evaluation Report [12.7.1 - 14 pages]

### Purpose

The purpose of this report is to present to Council a summary of tenders received for RFT 06/2024 Provision of Streetscape Weed Control for the Town of Bassendean and recommend appointment of the contractor(s) considered to provide the best value for money to the Town.

### Background

The Town has a requirement to engage a contractor(s) to provide Streetscape Weed Control services. The Town does not have the internal resources to supply the required services and as such requires an appropriate external service provider.

The Town has had two contracts for separable portions of this service with Greensteam Australia Pty Ltd (Steam Weed Control) and Environmental Industries (Chemical Weed Control) for the past two years, which expire on 2 October 2024. All contract extension options have been exercised. The value over this period was \$240,000, and primarily based on the works being undertaken in accordance with the Town's Weed Control requirements and as outlined in the Hard Surfaces Weed Management Strategy. No changes are proposed to the Weed Management Strategy, with the existing treatment areas and frequency of treatment to continue, along with the "No Spray" list.

### Proposal

To appoint two contractors to provide separable portions for Weed Control Services for the Town of Bassendean.

### Communication and Engagement

The Request was advertised in The West Australian Newspaper and on the Town's website on Wednesday 10 July 2024 and closed on Thursday 1 August 2024.

## Strategic Implications

### Performance Area 5: Performance

#### 9.1 Continuously improve operational performance and service delivery.

#### Comment

Submissions were received from the following two (2) Tenderers:

- Environmental Industries Pty Ltd
- Greensteam Australia Pty Ltd.

The Evaluation Panel for this tender comprised three members with the appropriate technical expertise and experience. The panel carried out the assessment of submissions in a fair and equitable manner.

Both Tenderers met the compliance requirements of the Tender and were evaluated against the qualitative criteria and weightings shown in the following table. The predetermined qualitative threshold was set at 70% for this tender.

QUALITATIVE CRITERIA	WEIGHTING
Capacity	15%
Demonstrated Experience	30%
Demonstrated Understanding of the Requirements	30%
Environmental Management	25%

Both responders met the qualitative threshold and following the qualitative assessment, the panel carried out a comparison of the submitted schedule of rates offered by each tenderer qualified for stage two to assess value for money to the Town.

Pricing is regarded as commercial in confidence and is included in the attached confidential Tender Evaluation Report.

#### Statutory Requirements

A public tender was advertised, opened and evaluated in accordance with clauses 11(1) and 18(4) of Part 4 of the Local Government (Functions and General) Regulations 1996, where tenders are required to be publicly invited if the consideration under a contract is, or is estimated to be, more, or worth more, than \$250,000.

#### Financial Considerations

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

### **Risk Management Implications**

No Risks Identified.

### **Declaration of Conflicts of Interest**

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

### **Officer Recommendation – Item 12.7**

That Council:

- Appoints the Recommended Tenderer shown in the confidential Tender Evaluation Report attached to this report, to provide Streetscape Weed Control for Separable Portion One (1) Steam Weed Control for the Town of Bassendean as specified in Tender 06/2024 for a period of two (2) years with three (3) options to extend the Term of the Contract by one (1) year for each option, to commence upon Council Approval and Letter of Award.
- Appoints the Recommended Tenderer shown in the confidential Tender Evaluation Report attached to this report, to provide Streetscape Weed Control for Separable Portion Two (2) Chemical Weed Control for the Town of Bassendean as specified in Tender 06/2024 for a period of two (2) years with three (3) options to extend the Term of the Contract by one (1) year for each option, to commence upon Council Approval and Letter of Award.

**Voting requirements: Simple Majority**

12.8 Town Centre (Area 2) Parking Review	
File Reference	LAW/REPRTNG/3
Directorate	Community and Place
Responsible Officer	Manager Planning and Regulation
Previous Reports	23 November 2021 23 May 2023 27 February 2024
Authority/Discretion	<b>Legislative</b> Includes adopting local laws, local planning schemes & policies.
Attachments	Nil

## Purpose

The purpose of this report is for Council to consider the parking restrictions within the Bassendean Town Centre and surrounds (Parking Area 2), in particular on Kenny Street between Guildford Road and Palmerston Street.

## Background

In late 2022, the Town undertook an audit of parking signage and restrictions of all thoroughfares located within Parking Area 2; being the area bounded by Guildford Road, West Road and Palmerston Street as detailed on the following map.



Figure. 1 - Town Centre Area 2 Map.

The audit included:

- Compilation of observational evidence from the Town's Ranger Services as to the use and occupancy of car parking bays;
- Site inspections (including parking counts); and
- A review of any existing complaints, comments and requests received for the community related to parking within Parking Area 2.

The audit identified that in some areas, existing parking restrictions or provisions either no longer meet the needs of community or should be amended. Some areas are experiencing street parking with a low turnover rate of vehicles, obstruction of accessways and intersections and reports of increased difficulty in accessing thoroughfares due to an increase in street parking and/or the way street parking is utilised.

As a result of the audit, on 23 May 2023, Council considered various parking control measures and resolved to advertise them for community feedback. The Town sought feedback specifically on Kenny Street, with six submissions requesting no change, six requesting parking permits, one suggesting combined timed and permit parking, one indicating no change as a preferred response and permit parking as a secondary response. One submission objected to all proposals.

Following community feedback Council at the 27 February 2024 OCM, resolved to undertake further, targeted consultation with affected owners and occupiers regarding the proposed permit parking restriction for Kenny Street, between Guildford Road and Palmerston Street.

## **Communication and Engagement**

In accordance with Council's 27 February 2024 resolution, the Town conducted targeted consultation with the owners/occupiers of residents along Kenny Street bound by Guildford Road and Kenny Street via letter/survey. The advertising period for feedback was from 19 July 2024 to 9 August 2024.

The survey sought confirmation on whether residents preferred no change or the introduction of permit parking.

A total of 32 letters were sent, with only four responses received, all requesting the introduction of permit parking.

It is assumed the remaining recipients preferred no change.

## **Strategic Implications**

### **Performance Area 3: Place**

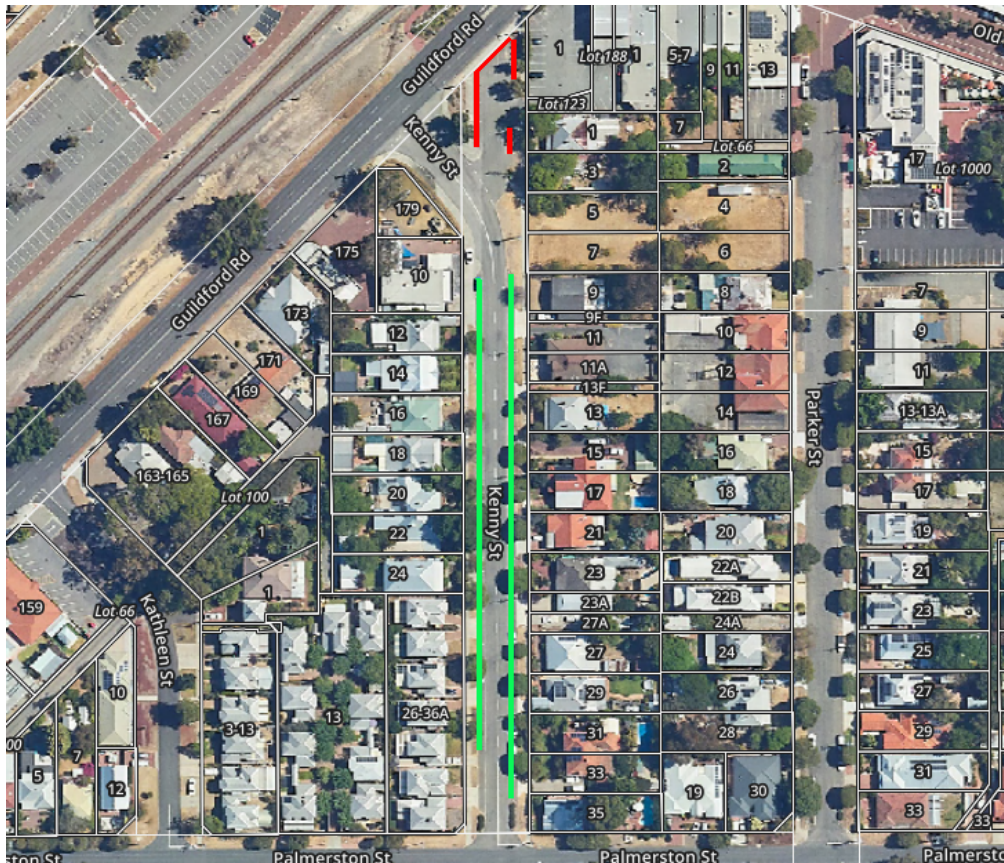
7.1 Deliver an efficient, safe and sustainable transport network.



## Comment

### Kenny Street

The section of Kenny Street between Palmerston Street and Guildford Road contains 36 unrestricted parking bays, and 8 bays restricted to 2-hour parking. One of the 2-hour restricted bays is located directly in front of 1 Kenny Street. The unrestricted bays are shown in green below, and the remaining 2-hour parking bays shown in red.

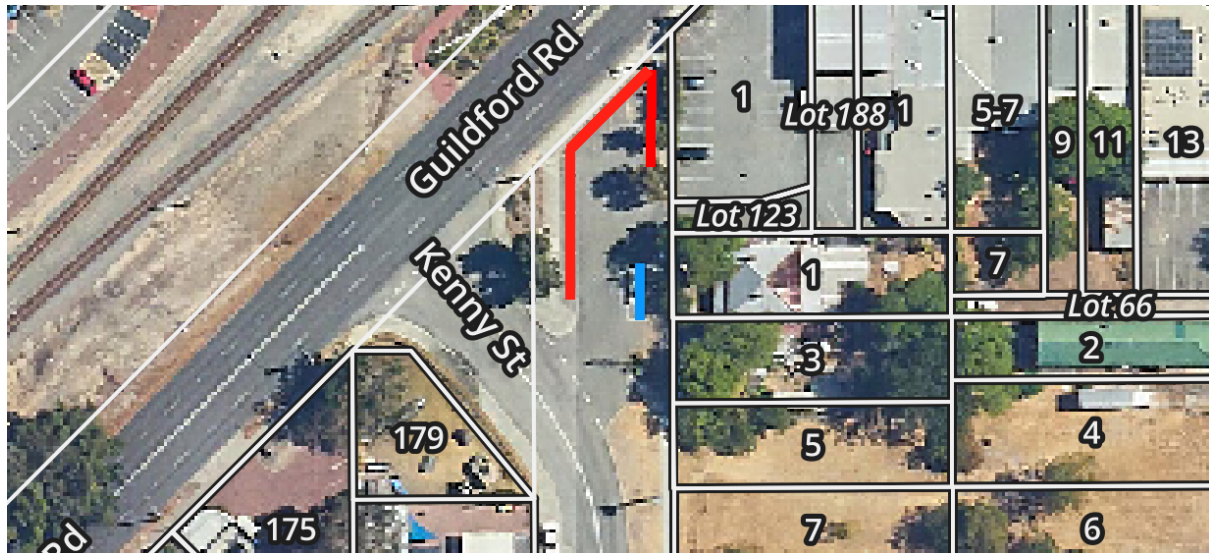


Parking bays along Kenny Street are reported to have instances of vehicles parking all day to access the Bassendean Railway Station. Results from the initial consultation in 2022 and follow-up consultation in 2023 suggested that some form of parking control might be beneficial. A small cohort of residents along Kenny Street does support permit parking, though many owners/occupiers do not.

Since 12 July 2024, the Town's Rangers have conducted seven parking patrols in this section of Kenny Street. During these patrols, there were no instances where all the available bays were occupied and that the on-street bays closer to Guildford Road were generally occupied. It is reasonable to assume these bays may be used by people accessing the train station, as they are currently free. However, the bays could also be used by visitors to the Bassendean RSL, or by residents and their visitors, particularly those on the western side of Kenny Street, where there is limited vehicular access and onsite parking.

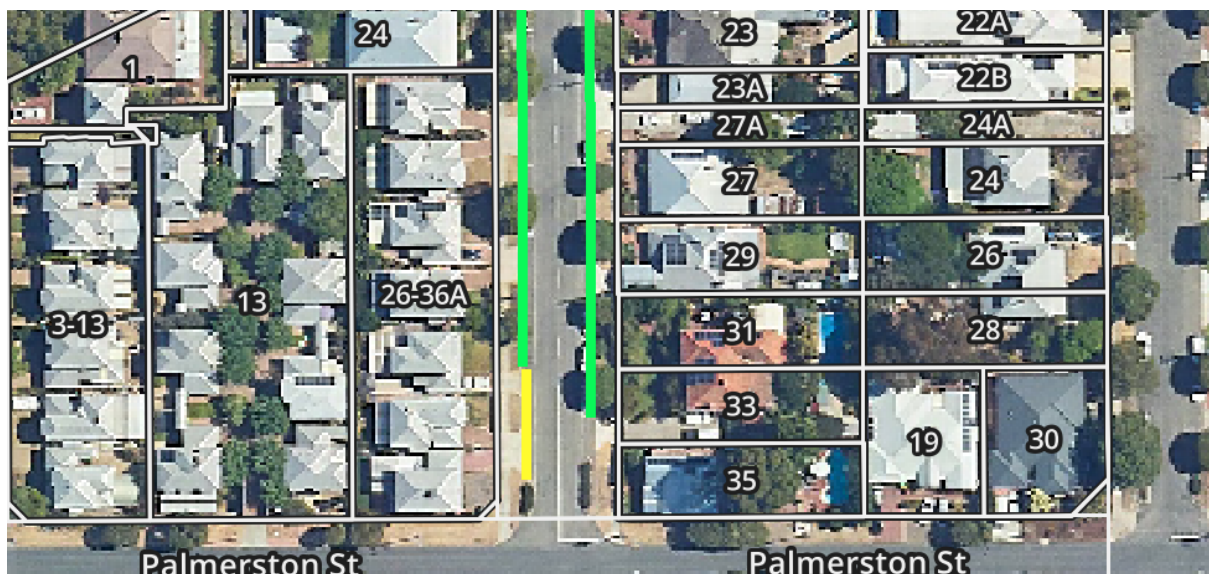


The patrols identified that one of the 2-hour restricted bays regularly had a vehicle parked longer than the 2-hour limit. This was the bay directly in front of 1 Kenny Street, and after discussions with the adjoining property, it was confirmed that the vehicle was associated with the occupier of 1 Kenny Street. Regardless of whether Council decides to pursue permit parking in the area, it is considered reasonable to remove the 2-hour restriction for this bay to allow the adjoining occupier to park there. The bay in question is highlighted in blue in the image below.



The Town is also aware that there is a small section along on the western side of Kenny Street, between two crossovers, which was insufficient in size to support a vehicle parked, however, vehicles have utilised this location. To deal with this issue, the Town recommends the installation of 'No Stopping' yellow edge lines between from northern side of the crossover that services 34 Kenny Street, Bassendean to the southern side of the shared crossover between 36A Kenny Street and 36 Kenny Street, Bassendean. This will make it clear, that vehicles cannot park in this location.

This has been highlighted in yellow in the below image.



Given the lack of responses to the consultation carried out, availability of on-street parking bays in the area, it is recommended that there be no change to the current parking arrangements apart from the changes adjacent to No. 1 Kenny Street and the installation of yellow edge 'No Stopping' lines where no parking can occur.

Additionally, the issue of vehicle parking within the Town Centre (including Kenny Street) will be further considered as part of the development of the Precinct Structure Plan.

### Paid Parking

Paid parking is a control mechanism used to manage high-demand parking bays while generating revenue. However, parking occupancy rates within Kenny Street, and more broadly in Parking Area 2, are low.

As such, the introduction of paid parking is not warranted. It would likely discourage visitors to the area and require an initial outlay for the necessary infrastructure, which has not been adequately scoped or funded.

### **Statutory Requirements**

Clause 1.9 of the Parking Local Law 2019 states that Council can prohibit or regulate the stopping or parking of any vehicle within its municipality.

### **Financial Considerations**

If Council resolves to remove the timed restriction on the bay directly adjoining 1 Kenny Street, Bassendean, this cost would be approximately \$1000. This cost can be absorbed by the Town's existing budget.

If Council resolves to install 'No Stopping' yellow line edge as recommended, the approximate cost will be \$1500. This cost can be absorbed by the Town's existing budget.

If Council resolves to introduce permit parking, the initial cost for installing the required signage is estimated at \$2,800, covering labour and materials for eight signs. There is currently no budget for this work.

Should Council implement permit parking restrictions, in accordance with the Schedule of Fees 2024/2025 financial year, a \$20 fee for permits will apply for landowners.

### **Risk Management Implications**

Financial Risk  
Low

## **Declaration of Conflicts of Interest**

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

## **Officer Recommendation – Item 12.8**

That Council Pursuant to Clause 1.9 of the Towns *Parking Local Law 2019*:

- Modifies the existing 2-hour parking restriction on Kenny Street to exclude the vehicle bay directly adjoining No. 1 Kenny Street, Bassendean.
- Installs 'No Stopping' yellow edge lines from the northern side of the crossover that services 34 Kenny Street, Bassendean to the southern side of the shared crossover between 36A Kenny Street and 36 Kenny Street, Bassendean.

**Voting requirements: Simple Majority**

<b>12.9 Draft Local Planning Policy No. 13 - Tree Retention and Provision</b>	
<b>File Reference</b>	LUAP/POLCY/5
<b>Directorate</b>	Community and Place
<b>Responsible Officer</b>	Manager Planning and Regulation
<b>Previous Reports</b>	23 June 2020 27 February 2024 26 March 2024 25 June 2024
<b>Authority/Discretion</b>	<b>Legislative</b> Includes adopting local laws, local planning schemes & policies.
<b>Attachments</b>	<ol style="list-style-type: none"> <li>1. Draft Amended Local Planning Policy No. 13 - Tree Retention and Provision - For Adoption [<b>12.9.1</b> - 9 pages]</li> <li>2. Draft Amended Local Planning Policy No. 13 - Tree Retention and Provision - As advertised [<b>12.9.2</b> - 9 pages]</li> <li>3. Existing Local Planning Policy 13 - Tree Retention and Provision [<b>12.9.3</b> - 4 pages]</li> <li>4. Schedule of Submissions Local Planning Policy No 13 Tree Retention and Provision [<b>12.9.4</b> - 37 pages]</li> </ol>

### Report Summary

- The purpose of this report is for Council to consider adopting draft amended Local Planning Policy No. 13 – Tree Retention and Provision (LPP 13).
- The draft amended policy, if adopted, would identify 'tree damaging activities' as 'works' or 'development' that requires development approval in some circumstances.
- The policy was advertised for a period of 30 days. The Town received 27 submissions, of these submissions 10 were objections, 13 in support and 4 were comments in response.
- Key themes raised by those who object to the policy are, erosion of private property rights, limitations on a property's development potential, liability and safety issues, and the time and cost associated with the development application and approval process. These matters are discussed within the report.
- It is recommended that Council resolve to adopt the draft amended Local Planning Policy, subject to the minor modifications outlined within this report.

## Purpose

The purpose of this report is for Council to consider adopting draft amended Local Planning Policy – Tree Retention.

## Background

On 25 June 2024, Council resolved to support a draft amended Local Planning Policy No. 13 – Tree Retention and Provision for the purposes of advertising.

## Proposal

The proposed amendments to the policy are as follows:

- Administrative changes to reference Local Planning Scheme No. 11 (LPS 11) rather than the former Local Planning Scheme No. 10.
- Identifies 'tree damaging activities' as 'works' or 'development' that requires development approval under LPS 11.
- Identifies a 'regulated tree' as a tree protected from tree damaging activities.
- Identifies when a 'tree damaging activity' is exempt from the requirement to obtain development approval.
- Updates policy objectives in line with Western Australian Local Government (WALGA) model provisions.
- Updates definitions in line with WALGA model provisions and the Residential Design Codes (R-codes).
- Stipulates application requirements in-line with WALGA model provisions.
- Removal of provisions relating to Tree Preservation Orders, in recognition these orders are not provided for under LPS 11.
- Inclusion of policy provisions applicable to assessment of applications for the removal of, or potential damage to, regulated trees.
- Amends existing provisions relating to tree provision including:
  - Reduction in the minimum pot size of new trees in recognition of difficulties sourcing larger pot sizes and limited species generally available.
  - Revise policy provisions prescribing conditions of development approval, consistent with WALGA model provisions.
  - Removal of minimum depth of 'on structure' deep soil areas to allow for on structure planters to be considered on a case by case basis.
  - Update provisions relating to subdivision to reflect WALGA model provisions.

## **Communication and Engagement**

The Town has sought WAPC approval for those sections of the draft amended policy which prescribe minimum tree provision requirements for new residential developments, as they are inconsistent with the R-Codes (i.e. part 8.2). The Town has not yet received a formal response on this matter. Should the WAPC not support the policy provision, part 8.2 will be removed, and the minimum tree provision requirements will defer to the deemed-to-comply requirements of the R-Codes.

The draft amended policy was advertised between 23 July 2024 and 30 August 2024. During this period, the Town received a total of 27 submissions.

- 10 submissions objected to the draft amended policy (all objections were from Bassendean residents)
- 13 submissions were in support (9 submissions from Bassendean residents, 4 submissions from persons who reside outside the district), and
- 4 provided comment on the proposal.

A copy of the schedule of submissions is available as an attachment to the report.

The key reasons for objecting to the proposed policy include erosion of private property rights, limitations on development potential, liability and safety issues and the time and cost.

In addition to objections, the Town also received several comments and questions on the policy, including but not limited to the definition of maintenance pruning and the rights to appeal where decisions are made relating to tree removal. These matters are discussed within the report.

## **Strategic Implications**

### **Performance Area 2: Planet**

3.2 Increase the tree canopy cover to 30% by 2040.

#### Town of Bassendean - Local Planning Strategy (2023)

The Town of Bassendean Local Planning Strategy recognises sustainability issues within the district relating to the loss of trees as a result of development; a concern that has been raised by the community for some time. The Town's local planning strategy contemplates the potential for greater regulatory controls to address tree retention, as such the draft amended local planning policy is consistent with the Town's adopted Local Planning Strategy.



## Comment

### Modifications to Policy.

It is recommended the following modifications be made to the draft amended policy in response to submissions:

Modification	Rationale
<p>Modify the definition of '<i>maintenance pruning</i>' from:</p> <p><i>Maintenance Pruning: means pruning that:</i></p> <ul style="list-style-type: none"> <li>a) <i>involves removing dead or diseased wood only; or</i></li> <li>b) <i>is the first pruning of the tree in the calendar year and affects less than 10% of the canopy; or</i></li> <li>c) <i>is of a fruit tree and done for fruit production; or</i></li> <li>d) <i>does not include removing limbs with a diameter of 100mm or more; or</i></li> <li>e) <i>is otherwise minor maintenance or thinning of the crown that does not adversely affect the health or general appearance of the tree; or</i></li> <li>f) <i>is undertaken in accordance with the standard for Pruning Amenity Trees ASNZ4373.</i></li> </ul> <p>to as follows:</p> <p><i>Maintenance Pruning is pruning that:</i></p> <ul style="list-style-type: none"> <li>○ <i>involves removing dead or diseased wood only; or</i></li> <li>○ <i>is of a fruit tree and done for fruit production; or</i></li> <li>○ <i>is otherwise minor maintenance or thinning of the crown that does not adversely affect the health or general appearance of the tree or, is to balance the tree.</i></li> </ul>	<p>The change in definition of maintenance pruning is to simplify and provide greater clarity to maintenance pruning and aligns with similar local planning policies adopted by other local governments.</p>

Modify 6. Exemptions to modify provision d) from:  <b>6.d) The <i>tree damaging activity</i> is <i>maintenance pruning</i>;</b>  To as follows:  <b>6.d) the <i>tree damaging-activity</i> is <i>maintenance pruning</i> or <i>pruning limbs/roots of the tree back to the property line to prevent overhanging or encroachment of an adjoining property</i>.</b>	The modification allows owners of neighbouring properties to prune tree limbs and roots back to their lot boundary, without the requirement to obtain development approval from the Town. This, in part, addresses some concerns raised through the public consultation period.
---	---

#### Consistency with WALGA Tree Retention Model Local Planning Policy

The draft amended local planning policy is broadly consistent with the Western Australian Local Government Association (WALGA) model tree retention policy in particular the definition of a 'tree damaging activity' and a 'regulated tree'.

#### Erosion of private property rights and limitations on development potential

Many submissions raised concerns that the policy was an erosion of private property rights. The Town recognises that regulatory intervention for tree retention must be balanced with respect for the rights of individual property owners to make decisions about the use and enjoyment of their land.

Balancing private property rights with the public interest is a fundamental challenge of urban planning. This process needs to account for legal and economic implications, as well as the public and social aspects of property ownership.

In considering whether to adopt the draft amended policy, Council must weigh the benefits of private property rights against a regulatory approach that may otherwise protect the social and environmental aspects of the urban environment. When restricting private property rights, consideration should be given to any potential adverse market or financial outcomes, the benefit to society as a whole versus the individual, and whether community expectations resulting from the regulatory action can be met.

In November 2021, the State Government adopted the Private Property Rights Charter for Western Australia, which applies to State Government decisions and aims to ensure proper regard is given to the right of private landowners. Local Governments are also encouraged to comply with the principles from the Charter, which, as it relates to tree retention on private property, includes the following:

1. *Providing a community benefit: Government action which adversely affects private property rights in land should endeavor to benefit the community or otherwise*



*advance the public interest. Public officials should only take government action which adversely affects private property rights in land when they consider it to be justified, having regard to the appropriate balance between the public interest to be advanced by the action and the public interest in the protection of private property rights in land.*

The Town considers that the retention of mature trees provides a wide range of public benefits. These include mitigating the urban heat island effect by offering natural shade and cooling. Mature trees also contribute significantly to the aesthetic appeal and character of streetscapes, helping to foster a sense of place and enhancing the amenity of an area. The preservation of mature trees also promotes biodiversity by supporting a variety of plant and animal species. This, in turn, helps create and maintain biodiversity corridors and linkages to the Town's reserves and the river foreshore.

*2. Considering Alternatives. Public officers should consider whether there are any alternative means by which the relevant community benefit or public interest could be advanced in a manner which avoids or reduces adverse effects on private property rights in land.*

The Town recognises that achieving its 30% canopy target, as well as maintaining a connected tree canopy across the area, cannot be accomplished without the preservation of mature trees on private property.

With regards to submissions that raised concerns about requiring the retention of trees on private property potentially impacting the ability to develop a site, the Town considers that, in many instances, a balance between development and tree retention can be achieved. However, the Town will take a pragmatic approach to development applications where a regulated tree prohibits the site from being developed for a dwelling (e.g. if the regulated tree is located in the centre of the site).

The Town encourages pre-lodgement meetings to discuss proposals and explore ways to retain trees while accommodating development.

### Liability and Safety Issues

Landowners have a duty of care to take reasonable measures to ensure that harm is not caused to the public or adjacent properties by a tree on their property. If a tree from one property has branches and/or roots that encroach onto an adjoining owner's land, that owner is entitled to remove the encroaching material up to the boundary without prior approval from the landowner. Should Council adopt the draft amended policy in its advertised form, development approval may first be required if the tree is regulated. As per the recommended modifications, it is suggested that the policy be amended to expand the exemptions, allowing for the pruning or trimming of trees back to the property line to prevent overhanging and encroachment.

If a request is made to prune or remove a regulated tree, the Town would consider the recommendations of an arborist's report to determine whether the tree is dangerous and requires pruning or removal.

In the instance where a tree is required to be retained that later resulted in damages, the Town would have been required to reasonably foresee that such damages would occur to be negligent. Ensuring determinations are made on the recommendations of an arborist report, and the Town acting reasonably when determining such applications, is considered suitable to minimise liability for any potential damage caused.

### Role of Council in regulating land

A fundamental role of the planning system is to regulate use and development of land, including land in private ownership. The planning system in Western Australia already provides for the regulation of private land and associated impacts on private property rights as the *Planning and Development Act 2005*, requires approval for the development and or use of land.

Amenity and environmental values are widely recognised as relevant planning considerations. The removal of a tree on private property is not expressly excluded from the requirement to obtain development approval under the current planning framework.

### Time and Cost

Submissions raised concerns with respect to the cost and time delays associated with obtaining a development approval, including the cost of an arborist report which can vary from \$450 to \$1000 per tree assessment. The Town currently has not budgeted to cost share or subsidise this cost. However, Council may resolve that the Town explore opportunities for cost sharing or subsidising the cost of an arborist utilising the Towns Urban Greening Reserve.

The statutory timeframe for dealing with a development application is generally 60 days. The Town would endeavour to fast-track applications for the removal or pruning of a regulated tree, however, this is dependent on resourcing. Should the policy be adopted, Council would be recommended to waive the development application fee (\$147.00) where the only works required to obtain development approval is for a 'tree damaging activity'.

Submissions also raised concerns with the cost to the Town with respect to the implementation of the policy (i.e. increased assessment burden on Town staff and the cost of seeking punitive action).

Should the Town seek a prosecution in response to non-compliance with the policy and the failure to require development approval, the expected costs are estimated to be \$15,000 - \$18,000. Achieving a successful prosecution may be difficult.

Any increase in resources necessary to implement the policy is currently unknown, and as such, an in-depth cost analysis cannot be predicted at this stage. If the draft amendment to the policy is adopted, the need for additional resources can be reviewed after a sample period of operation.

### Right of Appeal

In response to submissions querying if a right of appeal existed, it is confirmed that a right of appeal would exist with the State Administrative Tribunal, should the Town resolve to refuse the pruning or removal of a regulated tree.

### **Statutory Requirements**

In accordance with the Regulations, after the expiry of the period within which submissions may be made, the local government must –

- "(a) review the proposed policy in light of any submissions made; and  
(b) resolve to –  
    (i) proceed with the policy without modifications; or  
    (ii) proceed with the policy with modifications; or  
    (iii) not to proceed with the policy."*

### **Financial Considerations**

Development applications attract an application fee of \$147 for works less than \$50,000. To incentivise applications being made in accordance with the draft amended policy, it is recommended that Council waive fees associated with applications for development approval where the only works proposed are for a 'tree damaging activity' to a regulated tree. This requires an absolute majority vote of Council.

### **Risk Management Implications**

#### Environmental

Should the draft amended policy not be adopted, there is a risk that there may be further large canopy producing trees removed. Should the policy be adopted, there is a risk that the policy may not improve the Town's canopy as intended.

#### Reputational

The response to the draft amended policy during the advertising period was relatively low. Should the policy be adopted, additional residents may perceive the policy as eroding on their property rights or as an unnecessary bureaucratic burden.

### Enforcement and Prosecution

Once a tree is removed it will be difficult to prove that the former tree met the relevant criteria of a 'regulated tree', and therefore required development approval prior to removal. Whilst the Town could, to some degree, rely on aerial and street photography, there is no guarantee that this would be suitable evidence to support a prosecution. Similarly, the responsibility of proving who undertook the tree damaging works would also rest with the Town. In the absence of the Town witnessing the works being undertaken at the time, and/or the admittance of guilt, a successful prosecution is likely to be difficult to obtain.

Council is encouraged to pursue a mapping/data collection of all trees within the district that would meet the definition of a regulated tree, allowing the Town to develop a registered tree list, this will improve the success of the policy. This should be investigated as part of a future budget process.

### **Declaration of Conflicts of Interest**

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

### **Officer Recommendation 1 – Item 12.9**

That Council resolves to:

1. Pursuant to Schedule 2, Part 2, Clause 4 (3) of the *Planning and Development (Local Planning Schemes) Regulations 2015* adopt draft amended Local Planning Policy No. 13 – Tree Retention as contained in attachment 1.
2. Authorises staff to make an administrative change to the policy and remove clauses that augment the deemed-to-comply requirements of volume 1 of the R-codes, in the instance should the State Government not support the provisions.

### **Voting requirements: Simple Majority**

### **Officer Recommendation 2 – Item 12.9**

That Council resolves to:

1. In accordance with Part 7, Division 2, Regulation 52 of the *Planning and Development Regulations 2009*, waive fees associated with applications for development approval for a tree damaging activity to a regulated tree.

### **Voting requirements: Absolute Majority**

## 13 Motions of which Previous Notice has been given

## 14 Announcements of Notices of Motion for the next meeting

## 15 Urgent Business

## 16 Confidential Business

### Close Meeting to the Public

#### Officer Recommendation

That the following matters be considered with members of the public excluded from the Chamber under Clause 5.23 (2) of the Local Government Act 1995, in the list below.

#### **16.1 Membership of the East Metropolitan Regional Council**

#### **Reason for this Item to be discussed behind closed doors:**

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

## 17 Closure

The next Ordinary Council meeting will be held on Tuesday 22 October 2024, commencing at 6pm.