



# AGENDA

## ORDINARY MEETING OF COUNCIL

### TUESDAY 22 MARCH 2022

Notice is hereby given of the Ordinary Council Meeting to be held via Microsoft Teams, commencing at 6.00pm.

Peta Mabbs  
**CHIEF EXECUTIVE OFFICER**

18 March 2022

Tune in to live streaming from the comfort of your own home by going to:  
<https://www.youtube.com/channel/UC46mMs3D7vmHuO0ePibihhg/live>

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

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.



# Council Seating Plan

Minute Secretary

Amy Holmes

Manager Governance and Strategy

Elizabeth Kania



Chief Executive Officer  
Peta Mabbs



Mayor  
Cr Kathryn Hamilton  
E: crhamilton@bassendean.wa.gov.au

Director Corporate Services

Paul White



Director Community Planning

Luke Gibson



Executive Manager Infrastructure

Phillip Adams



Executive Manager Sustainability and Environment

Nicole Davey



Cr Emily Wilding  
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Cr Hilary MacWilliam  
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Cr Tallan Ames  
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Cr Renee MacLennan  
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Cr Jennie Carter  
E: crcarter@bassendean.wa.gov.au



Cr Paul Poliwka  
E: crpoliwka@bassendean.wa.gov.au



**1.0 DECLARATION OF OPENING; ACKNOWLEDGEMENT OF COUNTRY; ACKNOWLEDGEMENT OF VISITORS; DISCLAIMER**

**Acknowledgement of Traditional Owners**

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

**2.0 ANNOUNCEMENTS BY THE PRESIDING PERSON WITHOUT DISCUSSION**

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

**Leave of Absence – Cr McLennan**

Cr McLennan has requested Leave of Absence from 18 April to 25 April 2022.

**4.0 DECLARATIONS OF INTEREST**

**5.0 PRESENTATIONS OR DEPUTATIONS**

Mr George Christos: Item 12.3 - Draft Rights of Way Strategy

**6.0 STATEMENTS BY MEMBERS OF THE PUBLIC ON AGENDA ITEM**

The public statement session will be restricted to 15 minutes unless the Council, by resolution, extends the public statement time.

Each person is restricted to one statement of up to two minutes unless the Council, by decision, determines that they may speak for no more than a further two minutes.

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

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

## **7.0 QUESTIONS FROM MEMBERS OF THE PUBLIC**

15 minutes will be allocated for questions by members of the public unless the Council, by resolution, extends public question time.

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.

## **8.0 PETITIONS**

## **9.0 CONFIRMATION OF MINUTES**

### **9.1 Ordinary Council Meeting held on 22 February 2022 Attachment No. 1:**

#### **Officer Recommendation – Item 9.1(a)**

That the minutes of the Ordinary Council meeting held 22 February 2022, be received.

#### **Officer Recommendation – Item 9.1(b)**

That the minutes of the Ordinary Council meeting held on 22 February 2022, be confirmed as a true record.

## **10.0 BUSINESS DEFERRED FROM PREVIOUS MEETING**

## **11.0 EXTERNAL COMMITTEE REPORTS/UPDATES**

<b>Item No. 11.1</b>	<b>Receipt of External Committee and Organisation Minutes</b>
<b>Property Address (if applicable)</b>	Not applicable
<b>Landowner/Applicant (if applicable)</b>	Not applicable
<b>File Ref/ROC</b>	INFM/INTPROP/1
<b>Previous Council Reports (if applicable)</b>	Not applicable
<b>Directorate</b>	Chief Executive
<b>Authority/Discretion</b> <input type="checkbox"/> <input checked="" type="checkbox"/>	
<input type="checkbox"/> Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
<input type="checkbox"/> Executive	The substantial direction setting and oversight role of the Council. E.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
<input checked="" type="checkbox"/> Legislative	Includes adopting local laws, town planning schemes and policies.
<input type="checkbox"/> Review	When the Council operates as a review authority on decisions made by Officers for appeal purposes.
<input type="checkbox"/> Quasi-Judicial	When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under <i>Health Act</i> , <i>Dog Act</i> or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.
<b>Attachment No. 2</b>	A. WALGA East Metropolitan Zone Meeting Minutes – 17 February 2022 B. EMRC Abridged Minutes – 24 February 2022 C. EMRC Delegates Report – 24 February 2022 D. EMRC Special Meeting Unconfirmed Minutes – 3 March 2022

### **Purpose**

The purpose of this report is for Council to consider minutes from external Committees and organisations.

### **Background**

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

### **Proposal**

Not applicable.

## Communication and Engagement

Not applicable.

## Strategic Implications

Priority Area 6: Providing visionary leadership and making great decisions

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

## Comment

Meeting	Date Held
WALGA East Metropolitan Zone	Thur 17 Feb 2022
EMRC Council Meeting	Thur 24 Feb 2022
EMRC Special Meeting	Thur 3 March 2022

## Statutory Requirements

Not applicable.

## Financial Considerations

Not applicable.

## Risk Management Implications

Not applicable.

## Officer Recommendation – Item 11.1

That Council notes the attached documents from external Committee meetings held within the reporting period.

**Voting requirements: Simple majority**

## **12.0                    REPORTS**

### **12.1            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 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
  - (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 4.0, Declarations of Interest, they should do so at this point of the agenda.

### **Officer Recommendation – Item 12.1**

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

<b>Item</b>	<b>Report</b>
12.2	Bassendean Oval Business Case
12.4	Draft Local Planning Policy – Sustainable Development
12.9	Australian Local Government Association Nation General Assembly Motion
12.10	Accounts Paid – February 2022
12.11	Monthly Financial Report – February 2022
12.12	Use of Common Seal

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

<b>Item</b>	<b>Report</b>
12.3	Draft Rights of Way Strategy
12.5	Review of Streetscape Weed Management
12.6	Review of Council Policies - Environmental Sustainability and Adaption to Climate Change
12.7	Proposed Cats Amendment Local Law 2022
12.8	Audit and Governance Committee Meeting held on 9 March 2022
12.13	Calendar for April 2022
13.1	Notice of Motion – Cr Poliwka: Engagement with property development industry representative body to assess impacts when developing policy proposals impacting town centre
16.1	Baywaste Tip Passes
16.2	Community Awards



<b>Item No. 12.2</b>	<b>Bassendean Oval Business Case</b>
<b>Property Address</b>	1 West Road, Bassendean
<b>Landowner/Applicant</b>	Crown land vested with Town of Bassendean
<b>Ref</b>	COMDEV/PLANNG/4 and ROC19/69544
<b>Directorate</b>	Community Planning
<b>Decision Type</b>	Executive
<b>Authority/Discretion</b>	
<input type="checkbox"/> Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
<input checked="" type="checkbox"/> Executive	The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
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<b>Attachment</b>	Nil.

## Purpose

The purpose of this report is for Council to consider the Bassendean Oval Business Case project in light of the development of a Town Centre Masterplan.

## Background

On 13 July 2017, Council resolved to participate in the Bassendean Oval Football Facilities business case project.

A Project Control Group (PCG) was established to oversee the development of the business case. That group includes representatives from the Town, the Swan Districts Football Club (SDFC), the West Australian Football Commission (WAFC) and the Department for Local Government, Sport and Cultural Industries (DLGSCI).

In early 2018, the Town, on the advice of the PCG, appointed a consultant (Dave Lanfear Consulting) to prepare the business case, with the PCG to oversee the role of the consultant. That appointment was facilitated by the provision of \$55,000, made up of contributions from the Department (\$25,000), the Football Commission (\$20,000) and Landcorp (\$10,000).

To date, the consultant has completed two block design options which includes, at the request of SDFC, the provision of commercial space on the site, which would be able to be leased out by the SDFC to increase the financial sustainability of the Club.

In November 2019, Council resolved (among other things) to amend the scope of the project to including the investigation of a third option, being the potential for any redevelopment of Bassendean Oval to also incorporate community facilities, in addition to accommodating the Swan Districts Football Club.

In June 2020, Council resolved to commence a Town Centre Masterplan project, so as to provide a vision for the Bassendean Town Centre area that responds to the community’s desire to be a vibrant and activated mixed use precinct. That project concluded on 23 November 2021, when Council resolved to adopt the Town Centre Masterplan. In relation to Bassendean Oval, the adopted Masterplan provides for (amongst other things) the area generally occupied by the Club’s current facilities, to be redeveloped with new football facilities, as well as residential dwellings, up a total height of 10 storeys.

**Communication and Engagement**

SDFC was heavily consulted as part of the Town Centre Masterplan project and liaison has continued with regard to the future redevelopment of Bassendean Oval.

The ToB has had discussions with SDFC, DLGSC and the WAFC regarding the proposal to abandon the current business case project.

**Strategic Implications**

Priority Area 6: Providing Visionary Leadership and Making Great Decisions

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

**Comment**

The development outcome contemplated by the adopted Masterplan for the SDFC site is meaningfully different to the options that were previously investigated as part of the Business Case project (which did not include residential development). Therefore, the project would effectively need to be restarted.

It is recommended that the project be formally ceased, noting that the cessation of the project will still enable ongoing liaison and discussion between SDFC and the Town regarding matters affecting Bassendean Oval, including (but not limited to) the future redevelopment of the reserve site.

## **Statutory Requirements**

Nil.

## **Financial Considerations**

The discontinuance of the Business Case project will also cease any further expenditure, with \$33,640 of the project budget unspent. It is expected that those funds would be returned to the applicable funding sources on a proportionate basis, as follows:

- Department for Local Government, Sport and Cultural Industries - \$15,290
- West Australian Football Commission - \$12,230
- Development WA (in lieu of the former Landcorp) - \$6,120

## **Risk Management Implications**

Council's disengagement from the project could be interpreted as the Town having little interest in the future redevelopment aspirations of the SDFC. That is not the case, and whilst the Town's development focus will appropriately be on Town-owned or Town-managed sites, the Town will continue to assist the SDFC where possible.

## **Officer Recommendation – Item 12.2**

That Council:

1. ceases its involvement with the Bassendean Oval Business Case project (as currently scoped) and notes that unspent funds will be returned to the original sources on a proportionate basis.
2. acknowledges that, whilst it has resolved to cease its involvement with the Bassendean Oval Business Case, the Town will, where possible, continue liaison and discussion with the Swan Districts Football Club regarding matters affecting Bassendean Oval, including (but not limited to) the future redevelopment of the reserve site.

**Voting requirements: Simple majority**

<b>Item No. 12.3</b>	<b>Draft Rights of Way Strategy</b>
<b>Property Address</b>	N/A
<b>Landowner/Applicant</b>	N/A
<b>Ref</b>	ROAD/STMNGT/4
<b>Directorate</b>	Community Planning
<b>Authority/Discretion</b>	<input type="checkbox"/> <input checked="" type="checkbox"/>
<input type="checkbox"/> Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
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<input type="checkbox"/> Information	For the Council/Committee to note.
<b>Attachment No. 3</b>	A. Draft ROW Strategy (as amended after advertising) B. ROW Map C. Schedule of Submissions D. Council Policy 1.6 – Maintenance of Rights of Way Policy E. Council Policy 1.20 – Rights of Way Closure

## Purpose

The purpose of this report is for Council to consider the draft Rights of Way (ROW) Strategy for final adoption, and revoking Council Policies 1.6 – Maintenance of Rights of Way Policy and 1.20 – Right-of-Way Closure.

## Background

CP 1.6 was adopted in 2001 and last reviewed in March 2014. It outlines that an annual budget allocation will be provided for the maintenance of rights of way, both under the care and control of the Town and or otherwise, and that landowners should also maintain and contribute to the cost of maintenance.

CP 1.20 was last reviewed by Council in March 2014 and seeks to ensure consideration on short and long term impacts of ROW closure requests. It establishes a set of principles where closure of ROWs will generally not be considered (such as where it is the only point of access to a dwelling), which have been captured in the recommendations of the draft Strategy. A copy of CP 1.20 is attached.

In mid-2021, the Town undertook a review of the ROWs within the district and prepared a draft ROW Strategy for the ongoing use and management of the ROWs within the district.

On 24 August 2021, Council resolved to adopt the drafts ROW Strategy for the purposes of advertising.

### Communication and Engagement

Following Council's resolution, the draft ROW Strategy was advertised for 40 days (22 October 2021 – 30 November 2021), by way of the following:

- Letters to owners and occupiers of properties abutting ROWs (including a request that, in the event that the RoW was proposed to be closed, the landowner indicate whether or not they would be interested in acquiring the adjacent portion);
- Notice to the Department of Planning, Lands and Heritage;
- Letters to relevant service providers;
- On the Town's website; and
- Advertised on the Town's social media.

It should also be noted that the Town has been accepting late submissions until the preparation of this report.

At the close of the consultation period, a total of 64 landowner/occupier submissions were received; 20 in support, 33 objecting and 11 providing comment. In addition to the typical submissions, the Town received two petitions; one containing nine signatures opposing the proposed closure of ROW 4 and the other containing 18 signatures advocating for the closure of ROW 5.

A Schedule of Submissions is attached, with a summary of submissions for each ROW provided below. It should be noted that 45% of the submissions were received regarding only two RoWs.

No.	ROW Location	Recommended action	Support	Object	Comment	Interest in acquisition
1	Lot 60: lot bounded by Walter Road East (north), First Avenue (east), Anzac Terrace (south) and Ivanhoe Street (west)	Partial Retention and Partial Closure	1	1	2	2
2	Lot 61: lot bounded by Walter Road East (north), Second Avenue (east), Anzac Terrace (south) and First Avenue (west)	Upgrade	1	2	2	3
3A	Lot 62: lot bounded by Anzac Terrace (north), First Avenue (east), Railway Parade (south) and Ivanhoe Street (west)	Upgrade	3	1	0	1
4	Lot 63: lot bounded by Anzac Terrace (north), Second Avenue (east), Railway Parade (south) and First Avenue (west)	Close	5	11	1	4

5	Lot 54: lot bounded by Broadway (north), Iolanthe Street (east), Scaddan Street (south) and Penzance Street (west)	Upgrade	1	11	1	1
8	Lot 100: bounded by Kathleen Street (east), Palmerston Street (south) and Guildford Road (west)	Retain	0	1	0	0
9	Lot 100: bounded by Guildford Road (north), Kenny Street (east), Palmerston Street (south) and Kathleen Street (west)	Retain	0	0	3	0
12	Lot 251: bounded by Old Perth Road (north), Rosetta Street (east), Devon Road (south) and West Road (west)	Retain	0	1	0	1
14	Lot 66: bounded by Guildford Road (north), Geraldine Street (east), Cyril Street (south) and Shackleton Street (west)	Retain	1	0	0	0
15	Lot 33: bounded by Palmerston Street (north), Parker Street (east), Bridson Street (south) and Kenny Street (west)	Close	4	0	1	4
16	Lot 108: bounded by Guildford Road (north), Shackleton Street (east), Cyril Street (south) and Chapman Street (west)	Close	1	4	0	1
18	Lot 56: bounded by Shackleton Street (north), Kathleen Street (east), Chapman Street (south), Eileen (west)	Upgrade	0	1	1	0
19	Lot 50: bounded by Bridson Street (north), Hatton Court (east), Chapman Street (south) and Kenny Street (west)	Close	1	0	0	1
22	Lot 133 & 500: bounded by Guildford Road (north), Colstoun Road (east), Maidos Street (south) and French Street (west)	Upgrade	2	0	0	0

The following responses were also received from service agencies:

ATCO Gas

ATCO Gas highlighted an error made in identifying its infrastructure in ROW 20. The draft Strategy has been amended accordingly.

### Department Planning, Lands and Heritage (DPLH)

Given the WAPC's *Planning Bulletin 33/2017 – Rights-of-Way or Laneways in Established Areas* specifically states that ROWs should be a minimum of 6.0 metres wide, the Town requested DPLH advice on whether it would be prepared to support the formal dedication of some ROWs that did not meet the minimum width.

The DPLH advised that it would consider supporting the dedication of ROWs less than 6.0m wide, and that dedication of ROWs less than 5.0m would be subject to individual investigations and advice from DPLH, which may need to consider measures to address the narrow width, such as one way access and the provision of passing areas.

### Department of Communities (DoC)

DoC advised that it has a total of 65 dwellings across the Town on land that abuts ROWs. DoC is generally supportive of the Town's intention to provide strategic direction on the ongoing use and management of the ROWs within its local area, and encouraged the Town to liaise with adjoining landowners where closures are proposed to ensure equitable opportunities and cost sharing. DoC also encouraged the use of ROWs to support a diversity in dwelling typology.

### Other Service Agencies

The draft ROW Strategy was also advertised to the Department of Fire and Emergency Services, Telstra, NBN Co., Water Corporation and Western Power. Although these agencies provided no comment, it should be noted that all agencies (with the exception of Telstra and NBN Co.) provided comments to the initial referral, which informed the preparation of the draft ROW Strategy.

## **Strategic Implications**

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

<b>Direction</b>	<b>Potential Strategies</b>	<b>What Success Looks Like</b>
Creating an environment where people feel welcome and safe	<ul style="list-style-type: none"><li>• Create public spaces and transport routes that encourage people to linger, interact and enjoy (including evening use)</li><li>• Encourage the adoption of a collective responsibility towards safety</li></ul>	<ul style="list-style-type: none"><li>• Increased use of public transport by different demographics</li><li>• Increased active transport by different demographics</li><li>• Reduced antisocial incidents</li></ul>

### Priority Area 3: Creating a Vibrant Town and Precincts

Direction	Potential Strategies	What Success Looks Like
Support the town centre to thrive	<ul style="list-style-type: none"> <li>Advocate for economic growth of our Bassendean town centre</li> <li>Engage potential government and private sector development partners to realise opportunities within the Town of Bassendean</li> </ul>	<p>LONG TERM</p> <ul style="list-style-type: none"> <li>Increased number of developments within the town centre</li> <li>Increased population within the Town</li> <li>Improved retention of existing businesses</li> <li>Increased number and retention of new businesses</li> <li>Increased local employment</li> </ul>
Increase the residential population close to centres and train stations	<ul style="list-style-type: none"> <li>Ensure planning and development strategies and policies align with the desire to focus future development around centres and train stations</li> </ul>	<p>LONG TERM</p> <ul style="list-style-type: none"> <li>Meet obligations under State population targets</li> <li>Appropriately located development</li> <li>Increased dwelling numbers and diversity of dwelling types</li> <li>Enhanced quality of development outcomes</li> </ul>

### Priority Area 4: Driving Financial Suitability

Direction	Potential Strategies	What Success Looks Like
Ensure there is sufficient, effective and sustainable use of assets	<ul style="list-style-type: none"> <li>Assess assets (including review of portfolio, landholdings and facility condition, use and capacity) to optimise and rationalise <ul style="list-style-type: none"> <li>Ensure financial planning has a long term outlook and a focus on land asset rationalisation</li> </ul> </li> </ul>	<p>SHORT TERM</p> <ul style="list-style-type: none"> <li>All Town-owned buildings increased in their utilisation</li> <li>Defined position and strategy of when buildings need renewal</li> </ul> <p>LONG TERM</p> <ul style="list-style-type: none"> <li>Consolidated infrastructure footprint</li> <li>Enhanced sustainability footprint</li> <li>Clear indications of whole-of-life costs</li> </ul>
Ensure community facilities are accessible to and well utilised by a diverse range of community members	<ul style="list-style-type: none"> <li>Community Infrastructure Strategy (use of community spaces, shared or individual hubs, appropriate number of facilities)</li> <li>Leasing, Licensing and Hiring Strategy</li> </ul>	<p>SHORT TERM</p> <ul style="list-style-type: none"> <li>Increased use of facilities</li> <li>Increased shared use of spaces/diversity of use</li> </ul>



## **Comment**

### Matters raised in submissions

The following section discusses common issues raised during the submission period.

#### *Crime*

Instances of anti-social behaviour in ROWs 2, 4, 5, 8, 16 and 18 were raised, in addition to the potential for crime to occur in future, should the recommended upgrades of ROWs 2 and 5 proceed.

The ROWs recommended for retention and upgrade currently have no passive surveillance or lighting. The Town considers that the upgrading of ROWs, combined with future design guidelines that would provide for passive surveillance for new development abutting ROWs, would result in improved safety outcomes by increasing patronage, passive surveillance and lighting.

#### *Maintenance*

Poor maintenance was frequently raised in the submissions across the majority of ROWs, including overgrown vegetation/weeds, degraded surface conditions, rubbish dumping, graffiti and vermin.

Given the majority of ROWs are privately owned or held in deceased estates, the maintenance responsibility of ROWs in the district has been ambiguous. The draft ROW Strategy seeks to rectify this ambiguity by rationalising land tenure and providing a basis for a coordinated approach to ROW maintenance.

Should the draft ROW Strategy be adopted, the Town would liaise with the DPLH to formally resume deceased estates and where recommended, close or upgrade ROWs. This would ensure the management of ROWs would become the responsibility of the Town in future.

#### *Loss of Secondary Vehicle Access*

Various submissions raised the issue of ongoing access to approved garage, carport or workshop structures where the ROW constituted the only access to those structures. This matter is discussed further in the following sections.

#### *Adverse Possession*

Some submissions raised potential adverse possession of the ROWs, and that where continuous use of the ROW has occurred, the draft ROW Strategy should recommend this land be amalgamated with the adjacent land at no cost to the landowner.

Adverse possession is where a person who is not the legal owner of the land occupies land owned by someone else for a period of at least 12 years, without the consent of the legal owner. To make an adverse possession claim, the person must be able to demonstrate the following:

- Factual possession without consent; proof they have taken physical control of the property and their control is without consent;
- Open possession of the land; a third party would assume the person is the legal owner of the land, and that possession has occurred without violence;
- The person must prove that they had the intention to possess the land to the exclusion of the legal owner; and
- Time; the person claiming possession must have continuous and uninterrupted possession of the land for at least 12 years.

Applications for adverse possession must be made with either Landgate or by commencing proceedings in the Supreme Court of WA, and would not be fettered by the draft ROW Strategy.

#### *Closure Process*

Numerous submissions (and queries received during the consultation period) sought advice on the closure process for ROWs. The process is guided by section 52 of the *Land Administration Act 1997* and is generally as follows:

- Landowners generally agree as to the distribution of all of the land that makes up the ROW.
- Survey diagrams are prepared for the new lot configurations.
- Unless the land is already held in freehold by the local government, the local government must take all reasonable steps to give notice of the proposal to the holder of the freehold land. The DPLH has advised that, where the Town has already undertaken probate searches for the ROW's held in deceased estates, such searches are sufficient to meet the notification requirement;
- The local government notifies adjacent landowners and service providers, as well as providing a notice of the proposal in the newspaper for at least 30 days, allowing the lodgment of objections;
- The documentation, including Council's consent to the closure (which would occur as a result of adopting the draft ROW Strategy), are provided to the DPLH;
- The DPLH requests that the Valuer General's Office undertake a valuation of the land, so as to allow the DPLH to make an offer to the relevant abutting landowners. Landowners can also commission their own valuation;
- If the landowner(s) accepts the offer, the land transaction takes place and the land is amalgamated into the abutting property(ies), including the provision of any required easements from service providers.

In the absence of an adopted ROW Strategy, the Town would charge an administrative fee of \$1,525 to undertake the administrative and advertising tasks associated with the closure process.

To facilitate the recommendations contained within the ROW Strategy, it is recommended that Council waive the \$1,525 fee for any closure proposal that accords with the adopted ROW Strategy. Landowners seeking to purchase the adjacent section of ROW would be responsible for the cost of the preparation of survey diagrams, any Landgate charges and the cost of acquiring the land from the State.

### ROW-Specific Considerations

*ROW 1 - Lot 60: lot bounded by Walter Road East (north), First Avenue (east), Anzac Terrace (south) and Ivanhoe Street (west)*

In 2000, the Town issued a Building Permit for a garage at Lot 528 (No. 65) First Avenue, Bassendean, which relies on the ROW for access. Whilst no driveway was shown to the ROW, the plans provided for a roller door adjacent the ROW which would reasonably indicate that access would be obtained from the ROW.

Given the site is two properties from where the ROW connects with Anzac Terrace, it is considered appropriate to retain this portion of ROW to provide ongoing access to the approved structure, noting those sites (No. 63 First Avenue and No. 96 Anzac Terrace) are yet to be fully developed in accordance with the existing development potential, and could therefore use this portion of ROW for access in future.

*ROW 4 - Lot 63: lot bounded by Anzac Terrace (north), Second Avenue (east), Railway Parade (south) and First Avenue (west)*

ROW 4 was proposed to be closed for the following reasons:

- The lack of connectivity to the road network;
- No properties relying on the ROW for primary vehicles access;
- The narrow width (thereby creating non-compliant vehicle turning circles);
- Development obstructions through sections which are entirely fenced off for private use;
- Evidence of some anti-social behaviour; and
- Degrading surface condition for portions of ROW 4.

Approximately 170m in the northern portion of ROW 4 has been unlawfully fenced off. One submitter has raised the potential for an adverse possession claim. As previously advised, adverse possession claims are a separate process and beyond the scope of the draft Strategy.

Through the consultation process, the Town was made aware of seven approved structures that rely on the southern portion of the ROW for access. To ensure the continued access to approved structures, it is recommended that the southern 'dog leg' portion of the ROW be upgraded and the northern portion closed.

It should be noted that given ROW 4 is 4.0m wide, further investigation and consultation with DPLH will be required to ensure upgrades address safety and traffic management issues.

*ROW 5 - Lot 54: lot bounded by Broadway (north), Iolanthe Street (east), Scaddan Street (south) and Penzance Street (west)*

ROW 5 was proposed to be upgraded for the following reasons:

- Good connectivity to the surrounding road network;
- Opportunity to deliver a diversity of dwelling typologies;
- Width of 5 metres being considered as acceptable for road dedication; and
- It is located within an 'urban corridor' under the Western Australian Planning Commission's (WAPC) Central Sub-Regional Framework, meaning the land may be suitable to facilitate land use intensification/density given its proximity to public transport.

During the consultation period, the Town received 13 submissions (of which, 11 were objections) as well as an 18-signature petition advocating for the closure of the ROW 5.

Whilst the ROW could be closed, it should be noted that a Building Permit was granted in 1957 for a garage at Lot 778 (No.62) Scaddan Street, and the Town understands the landowner is using the ROW to provide access to the garage for a caravan, and that access for the caravan cannot reasonably be obtained from Scaddan Street.

Based on the above, the Town has amended the draft recommendation for ROW 5 to closure, although it is further recommended that the closure not be actively pursued **by the Town** until such as Lot 778 is redeveloped so as to remove the requirement for access to the ROW. **It would be open to relevant landowners to progress closure of the 160m section between the subject site and Iolanthe Street.**

*ROW 16 - Lot 108: bounded by Guildford Road (north), Shackleton Street (east), Cyril Street (south) and Chapman Street (west)*

ROW 16 was proposed to be closed for the following reasons:

- The intersection with Guildford Road creating an unsafe ingress and egress point; and
- No properties relying on the ROW for primary vehicles access.

Guildford Road is a Primary Regional Road under the Metropolitan Region Scheme, with the WAPC's *Development Control Policy 5.1 - Regional Roads (Vehicular Access)* (DC 5.1) seeking to reduce the accessways and junctions to ensure the flow of traffic and safety. The connectivity of the ROW to Guildford Road is inconsistent with the objectives of DC 5.1.

Whilst not the sole access to the properties, two outbuildings approved by the Town rely on the ROW for access for vehicles, and one property that has access via Guildford Road is using the ROW for access to Cyril Street to avoid access via Guildford Road.

Given the above, the draft Strategy now proposes to recommend that ROW 16 is upgraded, noting that the ROW already achieves the minimum 6.0m width. It is also recommended that bollards be installed at the intersection with Guildford Road, to prevent ROW 16 being used as an unsafe vehicle ingress/egress vehicle access point.

### *Summary of Proposed Changes*

Based on the above, it is proposed that the following recommendations be amended, as set out in the attached draft amended Strategy.

<b>Row No.</b>	<b>Location</b>	<b>Advertised Recommendation</b>	<b>Proposed Recommendation</b>
1	Lot 60: lot bounded by Walter Road East (north), First Avenue (east), Anzac Terrace (south) and Ivanhoe Street (west)	Partial Retention and Partial Closure	Increased proportion to be retained (mapping change)
4	Lot 63: lot bounded by Anzac Terrace (north), Second Avenue (east), Railway Parade (south) and First Avenue (west)	Close	Partial Upgrade and Partial Closure
5	Lot 54: lot bounded by Broadway (north), Iolanthe Street (east), Scaddan Street (south) and Penzance Street (west)	Upgrade	Close
16	Lot 108: bounded by Guildford Road (north), Shackleton Street (east), Cyril Street (south) and Chapman Street (west)	Close	Upgrade (including access restriction to Guildford Road)

### ROW Widening

The draft ROW Strategy that was previously considered by Council recommended the widening of narrow ROWs (i.e., less than 6.0 meters), via the mechanisms prescribed under the *Planning and Development Act 2005*. Broadly, these mechanisms involve the ceding of land as part of a subdivision or development process (as distinct from the land being acquired by adversarial means).

In considering the draft ROW Strategy for advertising, Council resolved to remove any reference to the need for ceding land or the widening of any existing ROW, the draft Strategy amended accordingly, prior to public consultation.

Future upgrades to narrow ROWs will need to consider the use of alternative pedestrian access arrangements, increased setbacks of garages/carports to allow vehicle manoeuvrability and one-way traffic. Whilst these alternative measures may be considered, there is no guarantee that the DPLH would accept the formalisation of a narrow ROW, and therefore the ability to implement the draft ROW Strategy could be compromised.

The Town is also concerned that they could lead to poor design outcomes, as there may be insufficient width to accommodate separate pedestrian and vehicle paths, and lighting.

This is a matter that requires further consideration as part of the implementation of the strategy.

### Existing Council Policies

#### *Council Policy 1.6 – Maintenance of Rights of Way Policy*

CP 1.6 provides for the maintenance of rights of way, both under the care and control of the Town and or otherwise, and that landowners should also maintain and contribute to the cost of maintenance.

The Town cannot lawfully access private land to undertake regular maintenance of ROWs without issuing notices to the landowner to tidy the land in accordance with the *Local Government Act 1995*. The Town also cannot require other landowners to financially contribute to the cost to maintain another person's land.

CP 1.6 is inappropriate and should be revoked. The future maintenance of ROWs will be undertaken by the Town once those proposed to be retained are dedicated as public roads under the care and control of the Town, similar to the maintenance of the balance of the local road network throughout the district.

#### *Council Policy 1.20 – Right-of-Way Closure*

CP 1.20 replicates the process to close ROWs contained within the *Land Administration Act 1997* and otherwise provides no guidance to discretionary decision making. The policy is unnecessary and is suitable for revocation.

### Proposed Local Planning Policy

It is proposed that a draft local planning policy be prepared for Council's consideration, following agreed outcomes in the draft ROW Strategy. The local planning will support the objectives of the strategy by addressing relevant planning matters as follows:

- Provide a clear and coordinated approach to the management of ROWs in the Town;
- Prescribe the design standards for development and subdivision that abuts a ROW;
- Facilitate sufficient access from ROWs, including the use of building setbacks for swept paths for vehicles, or ceding of land;
- Support a greater diversity of dwelling typology in the Town through alternative pedestrian and vehicle access arrangements;
- Promote high quality urban design by diverting vehicles off street frontages via rear access arrangements;

- Utilise the ROW assets in the Town to create a unique sense of place; and
- Form the statutory basis for imposing conditions requiring financial contributions to the cost of upgrading the ROW to a suitable standard (i.e. trafficable surface, drainage, lighting etc.).

A draft local planning policy will be prepared for Council's consideration following adoption of the draft ROW Strategy.

### Conclusion

The ROWs within the Town are currently underutilised and poorly managed, and a coordinated approach to their ongoing use is required. The final recommendations contained in the draft ROW Strategy have been informed by relevant service agencies and the community, and will assist in the formulation of a new local planning policy.

CP 1.20 provides no guidance to discretionary decision making and includes outdated and obsolete terminology, as well as otherwise replicating processes contained within the *Land Administration Act 1997*. Both CP 1.6 and CP 120 are no longer necessary and should be revoked.

It is therefore recommended that Council adopt the draft ROW Strategy, including amendments as outlined in this report, waives the administrative fee associated with ROW closures and revokes CP 1.6 and CP 1.20.

### **Statutory Requirements**

- *Planning and Development Act 2005*
- *Land Administration Act 1997*
- *Transfer of Land Act 1893*
- *Planning and Development (Local Planning Schemes) Regulations 2015*

### **Financial Considerations**

There is no financial implication associated with adopting the Strategy.

The cost of upgrading the ROWs varies based on the length and widths of the ROWs. In general, costs of paving/resurfacing are reduced where greater lengths are resurfaced at one time (e.g., 50m long at approximately \$330m<sup>2</sup>, 500m long at \$175m<sup>2</sup>). Whilst individual designs for upgrades including fencing, lighting and pedestrian access would determine the exact cost, upgrades are estimated at between \$50,000 to \$400,000 depending on the length of the ROW.

**Whilst not a recommendation of the Strategy, if Council was to pursue the planting out of any retained ROWs, the cost of doing so would depend on species, and the density of plantings required. Should Council pursue such an approach for one or more ROWs, funding would also be required for fencing at either ends of the ROW as well as ongoing maintenance.**

Should Council adopt the ROW Strategy, a staged approach to upgrades would occur, with funding through subsequent budget processes. Should Council also adopt a local planning policy establishing the basis for financial contributions for ROW upgrades, funds could be collected incrementally as development occurs for this purpose.

Any ROWs that are retained or upgraded will require ongoing maintenance from the Town, which would form part of the standard maintenance of public roads in the district.

Should Council waive the administrative requirements associated with ROW Closures, the cost of advertising would be met via the adopted budget as funds permit in subsequent financial years.

### **Risk Management Implications**

In the absence of a Council adopted ROW Strategy, the Town will not have a coordinated approach for the use and management of ROWs, nor a basis to inform a local planning policy to address design issues and financial contributions associated with developments abutting ROWs.

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

That Council:

1. Adopts the draft amended Rights of Way Strategy as contained in Attachment A;
2. Waives the administrative fee associated with ROW closure requests where closure is recommended within the adopted ROW Strategy; and
3. Revokes Council Policies 1.6 – Maintenance of Rights of Way and 1.20 – Right-of-Way Closure.

### **Voting requirements:**

**Point 1 - Simple Majority**

**Points 2 and 3 – Absolute Majority**



<b>Item No. 12.4</b>	<b>Draft Local Planning Policy – Sustainable Development</b>
<b>Property Address (if applicable)</b>	N/A
<b>Landowner/Applicant (if applicable)</b>	N/A
<b>Ref</b>	LUAP/POLICY/8 LUAP/POLICY/9
<b>Directorate</b>	Community Planning
<b>Authority/Discretion</b>	<input type="checkbox"/> <input checked="" type="checkbox"/>
<input type="checkbox"/> Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
<input type="checkbox"/> Executive	The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
<input checked="" type="checkbox"/> Legislative	Includes adopting local laws, town planning schemes & policies.
<input type="checkbox"/> Review	When the Council operates as a review authority on decisions made by Officers for appeal purposes.
<input type="checkbox"/> Quasi-Judicial	When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building permits, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.
<input type="checkbox"/> Information	For the Council/Committee to note.
<b>Attachment No. 4</b>	A. Draft Local Planning Policy – Sustainable Design B. Local Planning Policy No. 2 – Energy Efficient Design C. Local Planning Policy No. 3 – Water Sensitive Design Policy D. Sustainable Development Information Sheet

## Purpose

The purpose of this report is for Council to consider a new draft Local Planning Policy – Sustainable Development, for the purposes of advertising. The draft Policy is intended to replace existing Local Planning Policies 2 and 3.

## Background

### Local Planning Policy No. 2 – Energy Efficient Design (LPP 2)

The intent of LPP 2 is to provide for energy efficient residential developments within the Town. LPP 2 was originally adopted under the former Town Planning Scheme No. 2 in December 2005. The current version of the Policy was re-adopted under the current Local Planning Scheme in 2008 and was subject to a minor amendment in March 2011.

On 22 March 2019, Council resolved to modify Section 6 – Assessment Procedure of the policy to provide applicant's the ability to use a scoring matrix to demonstrate compliance with passive solar design principles (ie building orientation, window placement and landscaping elements).

In respect to the operation of LPP 2, there are two options available to demonstrate compliance:

1. An energy efficiency checklist, in which the proposal must achieve a score of 70 out of 100 eligible points based on achieving passive energy efficient design; and
2. Engage an accredited energy assessor to demonstrate a Nationwide House Energy Rating Scheme (NatHERS) rating at least in one star excess of the current energy efficiency requirements set by the Building Code of Australia (currently a minimum of seven-stars). The applicant must also install a minimum 1.5kW photovoltaic solar panel system and a minimum 3000kL rainwater tank plumbed into a toilet or laundry or an approved grey-water system, which are required by conditions of development approval.

### Local Planning Policy No. 3 – Water Sensitive Design Policy (LPP 3)

LPP 3 was originally adopted under the former Town Planning Scheme No. 3 in 2007. The current version of the policy was re-adopted under the current Local Planning Scheme in 2008 and was subject to a minor amendment in March 2011. The most recent review undertaken in October 2016.

LPP 3 supports sustainable development through encouraging best water management practice. It should be noted that whilst applicants are encouraged to have regard to LPP 3, the key provision relating to the retention of stormwater on site is captured by State Planning Policy 7.3 – Residential Design Codes. The Town requires on-site retention, unless the site is physically incapable of retention (i.e. due to soil conditions), in which case, the Town requires development to connect to the Town's infrastructure.

Other objectives of LPP 3, such as retaining and enhancing open drains by converting them to living streams, are not relevant to the consideration of applications for development approval for private land. These overarching statements should be more appropriately located within the Corporate Business Plan as future actions for the Town to undertake, as opposed to a local planning policy.

As the provisions in LPP 3 have since been captured under State-level policies, manuals and guidelines, the duplication of the provisions in LPP 3 is considered to add an unnecessary layer to the local planning framework and the relevant remaining provisions in LPP 3 can instead be captured in one policy addressing sustainability as it related to the development stage.

### Application of LPP 2 and LPP 3

In accordance with Clause 4.3.1.2 of the Town's Local Planning Scheme 10 (LPS 10), subdivision or development in excess of the lower density coding (where provided with a split density code) shall only be considered acceptable where there is due regard for relevant local planning policies, including LPP 2 and LPP 3.

At the time of subdivision at the higher density, a restrictive covenant is required on the title of the land to ensure future compliance with LPP 2 at the development stage.

Whilst compliance with LPP 3 is also required for development at the higher density code, the prescribed application of LPP 3 is more general in nature and is applied more broadly to rezoning, structure plans, subdivisions and development proposals. The application of LPP 3 requires review, as it cannot wholly be applied in this manner as they cannot vary other regulatory requirements, such as those prescribed by the *Planning and Development (Local Planning Schemes) Regulations 2015* or State Planning Policy 7.3 – Residential Design Codes (R-Codes), without the prior approval of the Western Australian Planning Commission (WAPC).

### Review of Local Planning Framework

The Town is currently reviewing its local planning framework, including the preparation of a new draft Local Planning Scheme No. 11 (LPS 11) which is awaiting certification to advertise by the WAPC.

Following preliminary advice from the Department of Planning, Lands and Heritage (DPLH) in preparing the draft Scheme, all split density coded land had been proposed to be removed and replaced with a base code (i.e. R20/40 is proposed to be R20). More recently, the DPLH has suggested the split coding will remain in LPS 11, but will likely be phased out as various planning investigations and subsequent scheme amendments take place.

### **Proposal**

Given the balance of discretionary decision-making guidance provided by LPP 3 is minimal, it is proposed that both policies be replaced by a new consolidated sustainable development local planning policy, which will also include updated and expanded provisions from the existing LPP 2.

In preparing the draft Policy, a desktop review of the planning frameworks of other local governments was undertaken, with a view to ensuring that the Town remains a progressive local government in the physical implementation of energy efficient design and water sensitive design elements that have direct sustainability outcomes.

Details of the draft policy are discussed in the following sections.

### **Communication and Engagement**

The draft Policy was circulated to Councillors in the 11 February 2022 CEO Bulletin for comment. No responses were received.

## Strategic Implications

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

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

### Priority Area 2: Leading Environmental Sustainability

Direction	Potential Strategies	What Success Looks Like
Be innovative in responses to sustainability challenges	<ul style="list-style-type: none"> <li>Embed sustainability considerations in Council decision making</li> <li>Practice early uptake of suitable new technologies and innovations</li> </ul>	SHORT TERM <ul style="list-style-type: none"> <li>Examples of being first adopters are evident</li> </ul>
Foster an empowered community that drives sustainability	<ul style="list-style-type: none"> <li>Increase community support for sustainability considerations</li> </ul>	SHORT TERM <ul style="list-style-type: none"> <li>Increased community support for sustainable initiatives</li> </ul>

## Comment

### Relationship to State Planning Policy 7.3 – Residential Design Codes

The R-Codes control the design of all residential development throughout Western Australia. There are currently two volumes - Volume 1 (single houses, grouped dwelling development and multiple dwellings in areas coded R35 and below), and Volume 2 – Apartments (multiple dwellings in areas coded R40 and above and residential components of mixed use developments).

As previously advised, LPP 2 is only applicable where land has a split density code (e.g. R20/30), and the applicant is seeking development at the higher density code. This means that LPP 2 is currently applicable to all forms of residential development (single, grouped and multiple dwellings) where development at the higher density code is proposed.

Since the adoption of the policies, Volume 2 of the R-Codes was introduced which has energy efficiency and water sensitive design requirements. As such, it is no longer considered necessary to apply the policy provisions to multiple dwelling developments coded in areas R40 and above given the requirements are captured in Volume 2 of the R-Codes. Volume 1 of the R-Codes still does not contain such provisions and as such, there is a need for a local planning policy to capture these requirements.

#### Single Houses

The current LPP 2 applies only where development is proposed at the higher density code on split coded land, and therefore does not apply to single houses on single coded land.

As part of this review, it is open for Council to consider applying the policy to all residential development, including on single coded sites. Whilst there is merit in expanding the application of the policy, this is not recommended at this time for the following reasons:

- There is a generally accepted quid pro quo between obtaining the benefit of developing to the higher density code and ensuring development achieves a higher standard of sustainable design. This relationship does not exist where development is in accordance with the singular coding of land.
- The cost of compliance with the draft policy measures is estimated as being up to \$13,000. This is an additional cost to developing within the Town that does not otherwise exist, and could be a disincentive to developing vacant lots and may run contrary to Council's previous decision to impose differential rates on vacant land.
- Future changes to the state planning framework may introduce requirements related to sustainable design for all single houses.

Rather than expand the application of the Policy, it is instead recommended that information be provided on the Town's website to encourage applicants to include sustainable design elements in future developments that are not otherwise required to comply with the policy provisions.

#### Amended Policy Provisions

##### *Increasing the kW Photovoltaic Solar Panel System*

It is considered that 3kW systems are now sufficiently affordable and are suitable for most rooftop sizes; and 1.5kW systems, as currently required by LPP 2, are now considered to be a small system. This is evidenced by the City of Fremantle which has recently increased its solar rooftop generation capacity requirement to 3kW. Amending the policy would be more reflective of contemporary standards and so it is recommended that Option 2 be updated to refer to a 3kW photovoltaic solar panel system.

##### *Retained Dwellings*

There are currently no provisions in LPP 2 that require the existing dwelling as part of a proposed grouped dwelling development to be upgraded to meet the policy standards.

Given the applicant for such an application is obtaining the benefit of additional dwellings on the existing lot via a grouped dwelling proposal, it is considered appropriate to require the existing single house (which in effect, will be converted to a grouped dwelling) to be upgraded in these circumstances.

The draft Sustainable Development LPP proposes to require the existing dwelling be upgraded to include:

- (i) a minimum 3kw photovoltaic solar panel system;
- (ii) a minimum 3000L capacity rainwater tank that is plumbed to either a toilet or laundry within the dwelling; or alternatively an approved grey-water reuse system that collects grey water from the laundry and bathrooms and re-directs it for garden irrigation / ground water recharge;
- (iii) installation of an electric vehicle charging points (3-phase power) or the capacity for electric vehicle charging points to be installed at a later time; and
- (iv) a rain garden with a minimum area of 2% of the roof cover.

Whilst amending the policy to establish the abovementioned requirements for retained dwellings will ensure the sustainability outcomes are realised, the Town has been conscious as to not be so onerous that it would encourage demolition of existing dwellings, which would adversely impact the character of the existing streetscape.

#### *Removal of the Water Sensitive Design Checklist*

LPP 3 currently provides statements on best practice water management, rather than decision making guidance on development applications. Further, the information contained in LPP 3 has since been captured in other State-level policies, manuals and guidelines, which take precedence over LPP 3:

- The State government has prepared the draft State Planning Policy 2.9 – Planning for Water (SPP 2.9), with public consultation concluding in November 2021. The flooding provisions are now captured in draft SPP 2.9;
- Landscaping requirements are already contained in Volume 1 of the R-Codes, the Town's Local Planning Policy No. 13 – Tree Retention and Provision, Verge Treatment Guidelines and educational material from the Town by the way of a Landscaping Plan Information Sheet; and
- Other provisions of LPP 3 have since been captured through alternate State subdivision planning instruments and relevant guidelines/manuals (e.g. Urban Water Management Plan and Stormwater Management Manual for Western Australia).

The Town has also prepared an Information Sheet to accompany the draft Sustainable Development LPP, which contains all of the best practice statements that are currently outlined in LPP 3. As such, LPP 3 can be revoked and the remaining policy provisions related to development captured in a new consolidated LPP.

## Roof colour

The draft policy includes provisions relating to the maximum solar absorptance of rooves, with a presumption against dark rooves so as help to mitigate the urban heat island effect and reduce cooling energy demand and costs. Importantly, this requirement is balanced against visual amenity and heritage considerations.

## Policy Consolidation

Both LPP 2 and LPP 3 have the same overarching objective of increasing sustainability in the Town. The provisions contained in LPP 3 are now captured in State-level policies, manuals and guidelines which supersede LPP 3. Given that LPP 3 does not provide guidance to decision making, the remainder of the provisions can be captured in a new Sustainable Development LPP and an Information Sheet.

The provisions in the new LPP will update and expand on those currently in LPP 2 to ensure the policy remains at the forefront of the sustainability field. Consolidation of LPPs 2 and 3 will also help to deliver a simplified and streamlined local planning framework.

## Conclusion

The previous reviews of LPP 2 and LPP 3 were in 2019 and 2016, respectively. Since then, sustainable technology and State policies, guidelines and manuals have significantly progressed. To avoid duplication of these provisions in LPP 3 and to simplify the local planning framework, it is recommended that the contents of LPP 2 and LPP 3 be integrated into a consolidated draft Sustainable Development LPP and associated Information Sheet that update and expand on the provisions of LPP 2. In doing so, Council can continue to enforce effective sustainability provisions and deliver high quality sustainability outcomes in the Town.

## **Statutory Requirements**

Should Council proceed with the draft policy, the *Planning and Development (Local Planning Schemes) Regulations 2015* require public advertising of the proposal for a minimum of 21 days.

## **Financial Considerations**

Nil.

## **Risk Management Implications**

Low. Should Council not adopt the draft policy, the Town will revert back to the existing policies, the provisions of which are either obsolete or do not provide the highest standard of sustainable development that could otherwise be required.

**Officer Recommendation – Item 12.4**

That Council pursuant to Clause 4(1) of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, advertises the draft Local Planning Policy – Sustainable Development, as contained as an attachment to this report.

**Voting requirements: Simple majority**



<b>Item No. 12.5</b>	<b>Review of Streetscape Weed Management</b>
<b>Property Address (if applicable)</b>	N/A
<b>Landowner/Applicant (if applicable)</b>	N/A
<b>Ref</b>	ENVM/MAINT/1
<b>Directorate</b>	Environment and Sustainability
<b>Authority/Discretion</b>	
<input type="checkbox"/> Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
<input checked="" type="checkbox"/> Executive	The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
<input type="checkbox"/> Legislative	Includes adopting local laws, town planning schemes & policies.
<input type="checkbox"/> Review	When the Council operates as a review authority on decisions made by Officers for appeal purposes.
<input type="checkbox"/> Quasi-Judicial	When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.
<input type="checkbox"/> Information	For the Council/Committee to note.
<b>Attachment No. 5</b>	A. Steam Weeding Monitoring Report B. Amended Streetscape Weed Management Strategy

## Purpose

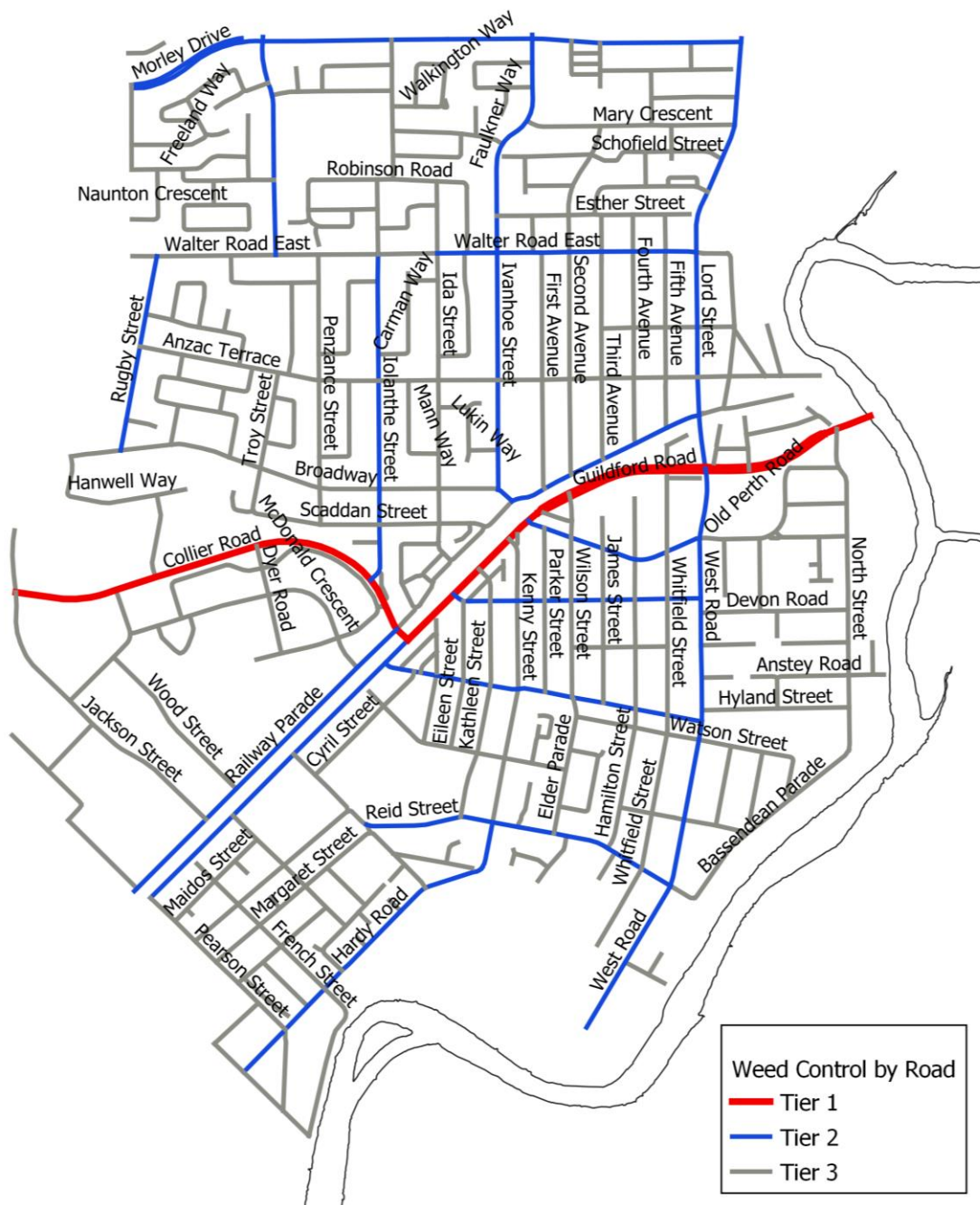
The purpose of this report is for Council to consider rescinding a previous resolution to suspend the use of glyphosate on hard surfaces in the urban environment, to enable a revised streetscape weed management approach (Attachment B) to commence in 2022/23.

## Background

Steam weeding is currently undertaken to control weeds on all hardstand areas of the streetscape, including footpaths, road kerbs, medians and islands, concreted or paved pedestrian areas and other traffic management infrastructure.

The frequency of treatment is based on a tiered system, as outlined below. Tier 1 sites are high profile major arterial routes maintained to the highest standard and frequency, Tier 2 are other major arterial routes and Tier 3 are local access roads.

Treatment Tier*	J	F	M	A	M	J	J	A	S	O	N	D
Tier 1												
Tier 2												
Tier 3												



Steam weeding is undertaken due to a previous resolution of Council at the 26 April 2016 Ordinary Council Meeting to suspend the use of glyphosate on hard surfaces in the urban environment. Prior to the suspension the Town managed weeds in these locations using Roundup Biactive (product containing glyphosate), twice annually.

The reason for the suspension as documented in the minutes of the 22 March 2016 and 26 April 2016 Ordinary Council Meetings, was the concern of potential carcinogenicity of glyphosate, with a review by the Australian Pesticides and Veterinary Medicines Authority (APVMA) pending.

In September 2016, the APVMA released a report and statement outlining their assessment of the International Agency for Research on Cancer (IARC) report, and other recent assessments of glyphosate, concluding:

*“The APVMA has completed its assessment of the IARC report and other recent assessments of glyphosate and has concluded that glyphosate does not pose a cancer risk to humans”.*

Anecdotally, an additional concern was the potential for runoff of glyphosate applied to hard surfaces to negatively impact waterways and wetlands.

An item was brought to the 23 May 2017 Ordinary Council Meeting, with an Officer Recommendation seeking to rescind the suspension on use of glyphosate on hard surfaces, and initiate use of APVMA registered glyphosate products to control weeds over footpath edges, within expansion joints, between asphalt and kerb lines and road islands. This was unsuccessful and Council resolved to uphold the previous resolution.

The Town has recently undertaken a 12 month photo monitoring trial of the effectiveness of steam weeding, which has identified significant limitations (refer Attachment A).

Due to these limitations, an alternative weed management approach is proposed for streetscapes to commence in 2022/23 (Refer Attachment B) which will utilise a combination approach.

### **Communication and Engagement**

Information on the Town’s weed management strategies is published on the Town’s website, and communication on the use of pesticides occurs as per the Pesticide Notification Plan.

Any changes to weed management strategies will continue to be communicated through these methods. Should Council rescind the suspension on the use of glyphosate, **FAQs will be developed and** the amended Weed Management Strategy and “No Spray” list will be promoted through the website, social media and printed publications e.g. Thrive.

**Through the Town’s Plants to Residents and Verge Upgrade/ Street Verge Transformation Programs, the conversion of verges to waterwise gardens is promoted. This can result in a reduction in weed seeds originating from residential verges, affecting the adjacent hard surfaces.**

## Strategic Implications

### Priority Area 2: Leading Environmental Sustainability

Direction	Potential Strategies	What Success Looks Like
Conserve, protect and enhance our natural environment and biodiversity	<ul style="list-style-type: none"> <li>Conserve, enhance and repair natural and urban areas</li> <li>Facilitate management of reserves by Friends groups</li> </ul>	<p>SHORT TERM</p> <ul style="list-style-type: none"> <li>Increased number and rate of participation of environmental volunteers</li> </ul> <p>LONG TERM</p> <ul style="list-style-type: none"> <li>Restoration and revegetation measures improve</li> </ul>

### Priority Area 4: Driving Financial Suitability

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

## Comment

### Integrated Pest Management

Weed management is undertaken by the Town to provide safe playing/ walking surfaces and recreational spaces, improve ecological value of natural areas, protect infrastructure and maintain aesthetics and amenity.

The Town follows an Integrated Pest Management approach; a risk-based decision-making tool that aims to improve the efficacy, cost effectiveness and sustainability of a pest control program while considering environmental factors and community concerns.

Weed management strategies have been developed for streetscapes, natural areas and parks and gardens and are published on the Town's website. In addition, several internal operational policies and guidelines have been developed to govern use of herbicides including:

- WHS 030 Pesticide Use and Management Policy and Operational Guidelines

- Pesticide Application Register
- Risk Assessment Template
- Pesticide Notification Plan.

Weed control primarily involves the use of the following methods:

- Herbicides (targeted, broadacre)
- Hand weeding
- Mulching alone, or with planting/ revegetation
- Brush cutting
- Steam weeding (hardstand within streetscapes)
- Caltrap program (predominantly hand weeding)

The Town also regularly trials new weed control methods to determine their effectiveness, which in the last 12 months has included LocalSafe, Beat a Weed, Solarisation and Trimmer Boss.

The Town is a member of the WALGA Local Government Herbicide Use and Integrated Weed Management Group, through which information on best management practices and new and emerging technologies is shared. **Recently the Town nominated sites for an upcoming trial of an electric weeding machine and will be meeting with the Department of Primary Industries and Regional Development in April to determine whether the nominated sites are suitable for inclusion.**

**Through the WALGA group, the Town is aware of several local governments using steam weeding on an on-going basis. The majority undertake steam weeding at city centres or adjacent to sensitive sites only (like the proposal in Attachment B). The only local governments that the Town is aware of that undertake steam weeding throughout all areas of the streetscape are City of Fremantle and City of Subiaco. The City of Fremantle applies steam to footpaths, cycle ways and road kerbs in suburban areas twice per year, while the city centre and high priority roads are treated six times per year. At City of Subiaco there are fortnightly treatments of the city centre, footpaths and paving. City of Stirling currently uses steam only adjacent to sensitive sites, however plan to phase out glyphosate within the road reserve over the next four years.**

**One other non-chemical method trialled/ utilised to control weeds on streetscapes is Pine Oil, which is an organic contact herbicide. However this is a Schedule 6 chemical (higher rating than glyphosate) and as a contact herbicide has had a low efficacy in trials conducted by other local governments. There have been reports of contact herbicides causing discolouration of concrete footpaths and kerblines and emitting strong odours during and after application, making this a less appealing option.**

**Manual control of weeds growing in hard surfaces is less effective than steam. Following brushcutting visible re-growth has occurred within a fortnight, and hand weeding is difficult to undertake and generally results in roots remaining in place. There are also the safety risks associated with manual weeding kerblines, particularly along busy roadways.**

## **Use of Glyphosate**

With regards to the use of glyphosate, the Town is guided by regulatory advice from the Department of Health and APVMA, off-label permits, product label instructions and Safety Data Sheet.

The advice of the APVMA is that products containing glyphosate are safe to use in accordance with the label instructions. The 2016 APVMA review considered the 2015 International Agency for Research on Cancer (IARC) assessment and *“concluded that exposure to glyphosate does not pose a carcinogenic risk to humans”*.

The IARC assessments consider the intrinsic toxic potential or hazard only, and do not consider actual use and exposure. Other compounds assessed by IARC classified in the same category (2A probable carcinogen) as glyphosate include consumption of red meat, emissions from high temperature frying and night shift work. Materials classified as group 1 (carcinogenic to humans) includes solar radiation, outdoor air pollution, consumption of processed meats and diesel exhaust.

The only product containing glyphosate used by the Town is Roundup Biactive. This formulation is specifically designed for use in environmentally sensitive areas and can be applied in aquatic areas according to label directions and the relevant off-label permit (PER13333). Spraying is not undertaken over water and application near waterways and the foreshore follows the recommendations of Water Note 22 (State Government): Herbicide use in wetlands. The advice of this Water Note is that *“Glyphosate is strongly adsorbed and inactivated by soil and by organic and mineral suspended particles in water bodies, so leaching and contamination of runoff is negligible”*.

## **Steam Weeding Monitoring**

The 12 month monitoring of streetscape weed control identified that the effectiveness of steam treatment is limited, with only seedlings and weeds without storage structures controlled. Rhizomatous grasses, some clumping grasses and plants with established tap roots re-grew after treatment (the roots were not affected).

Photo monitoring along Guildford Road and Collier Road indicated that monthly treatments over a period of five months was not sufficient to kill the mature rhizomes and clumping grasses.

In comparison, glyphosate is a more effective weed control method as is translocated through the plant to growing points and inhibits a plant enzyme required to produce essential amino acids. This will lead to the death of the plant, though some species are resistant or developing resistance to glyphosate. **Despite this resistance a wider range of weed species occurring in the streetscape can be successfully controlled with glyphosate, in comparison to steam.**



In addition to being ineffective at controlling grasses and mature weeds, steam weeding requires a high frequency of treatment, is significantly more expensive than alternatives and involves the use of a considerable amount of water and energy (diesel generator). Diesel exhaust has been classified as a known carcinogen (Group 1) by IARC.

Since the suspension on the use of glyphosate on hard surfaces in the urban environment was introduced, there has been a demonstrated increase in weeds in public open space and garden beds originating from nearby streetscapes. This has resulted in an increase in herbicide weed control required within these areas. For example, at Jubilee Reserve, Ashfield Reserve, Success Hill Reserve and BIC Reserve a second application of Jolt (selective herbicide) is now required annually to control weeds such as Fleabane, Costic weed and Portulaca.

One other weed that has become problematic is Parramatta Grass in the active reserves (sports fields). There is no herbicide for this that can be applied without affecting the turf. The method of controlling this weed is to cut the infested area extremely low to avoid the plant seeding and encourage the kikuyu turf to smother it. Cutting the turf lower can cause it to stress in extreme heat therefore increased watering is required, which is not ideal as we need to meet our water allocations.

There are several locations where deterioration of built assets has occurred. One example includes Watson Street, where grass has grown into the road and cracked the asphalt, damaging the water resistance layer. This will reduce the service life of the road due to water infiltration causing damage.

### **Alternative Streetscape Weed Management**

Due to the limitations of steam weeding identified above, an alternative weed management approach is proposed for streetscapes to commence in 2022/23 (Refer Attachment B). Please note that this is a proposition only, alternative configurations of steam/glyphosate treatment can be proposed. Estimated costs savings provided in this report have been based on the treatment approach proposed in Attachment B.

The Streetscape Weed Management Strategy will be subject to regular monitoring and review, however will initially involve:

- Vehicle application of steam in high traffic pedestrian areas (i.e. Old Perth Road) and sensitive sites such as near schools and childcare centres, in February, May, August, October & December. Additional spot spraying with Roundup Biactive may also be undertaken by Parks staff if required;
- Vehicle application of glyphosate (Roundup Biactive) in other areas in May, August & October. Three applications are currently recommended due to the high weed and weed seedbank burden in Town of Bassendean streetscapes. During the regular monitoring and review of the strategy, the potential to reduce chemical weed control events to two treatments annually, as per the pre glyphosate suspension schedule, will be assessed;
- Reinstatement of 'No-spray' list (subject to conditions); and

- Ongoing trials of new technologies (i.e. electric weeding, technology to reduce glyphosate use **such as chlorophyll sensing units**).

It is proposed that steam weeding of all hard surfaces will continue until 30 June 2022, to enable sufficient time for a new tender for streetscape weed management to be developed and a Contractor appointed. **Criteria will be included as part of the procurement process to prioritise methodologies that minimise the use of herbicide, with a requirement to demonstrate practices that avoid spray drift. For example, use of shrouds.**

This will also provide an extended period to promote the “No Spray” List, where property owners can register for the verge adjacent to their property to remain untreated by herbicides (subject to conditions). Further details on the “No Spray” List are included in Attachment B.

### **Guildford Road Median**

Currently, the Town undertakes weed control in the Guildford Road median, after a request to Main Roads WA (MRWA) in 2017 to cease the use of glyphosate in the treatment of hardstand areas was declined. The Town and MRWA reached an agreement in 2020 for the Town to conduct weed control along Guildford Road according to the Town’s weed management strategy, with MRWA contributing the value of its typical chemical weed control for the area (\$5,580 per annum). If the glyphosate suspension is lifted, it is proposed to request MRWA to take back maintenance of the Guildford Road median.

The Town will remain responsible for maintenance of Guildford Road verges (as applies for all main roads), and MRWA will be responsible for the area from kerb to kerb.

Should the Town retain maintenance responsibility for Guildford Road median, MRWA will require the Town to enter into a new three-year Vegetation Maintenance Agreement for this location.

The open landscaped areas of Guildford Road median are not irrigated, so establishment of streetscape landscaping (apart from trees) is difficult to achieve without significant investment (i.e. directional drilling to install irrigation) and ongoing traffic management requirements involving lane closures during maintenance activities.

### **Statutory Requirements**

*Health (Pesticides) Regulations 2011*  
*Agricultural and Veterinary Chemicals Code Act 1994.*

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



## Financial Considerations

The current annual cost to undertake steam weeding of hardstand areas is approximately \$150,000 (ex GST) per year, excluding ad hoc treatment requests. This is expected to rise to ~\$165,500 per year in 2022/23, based on recent quotes received.

Due to steam weeding being less effective than use of herbicides, additional costs are also incurred over the longer term due to:

- Faster deterioration of assets due to water intrusion into joins (paving, kerbs and expansion joints);
- Increased costs to achieve similar aesthetic outcome to ~~herbicide steam~~ weed treatment;
- Increased cost for weed control in adjacent public open space and garden beds, due to seeds blown in from hardstand areas; and
- Trip hazards in hardstand areas (e.g. uneven paving or weeds themselves).

The estimated cost of the proposed alternative weed management approach in **Attachment B** is \$50,000 per year, representing an annual saving of \$100,000 excluding the indirect costs noted above.

However, cost is not the driver for recommendation of an amended Streetscape Weed Management Strategy.

The comparative cost per single line kilometre (both sides of the road) is summarised below:

	*Cost per single line kilometre (per application)	Number of treatments per year	Annual cost per single line kilometre
Steam (Tier 1)	\$875.00	7	\$6,125.00
Steam (Tier 2)	\$669.86	5	\$3,349.30
Steam (Tier 3)	\$452.78	2	\$905.56
Roundup Biactive	\$53.00	3	\$159.00

\*Note: Steam weeding costs are based on 2022 quote, and Roundup Biactive is mid-range of estimates received in 2022.

## Risk Management Implications

Based on the findings of the APVMA in 2016, the documented reason for the Council resolution to suspend the use of glyphosate on hard surfaces in the urban environment (potential carcinogenicity) has been addressed.

The limitations in effectiveness of steam weeding have resulted in a reduction in streetscape amenity, increase in weeds in nearby public open space and garden beds and a potentially greater rate of asset deterioration. These represent reputational and financial risks to the Town.

The suspension on the use of glyphosate on hard surfaces in the urban environment limits available options for weed control, and the resultant use of steam weeding of all hardscape areas does not appear to be justified or demonstrate responsible use of municipal funds. **The inability to apply glyphosate to hard surfaces under any circumstances is problematic, particularly in instances where weeds are causing damage to infrastructure.**

Existing measures to protect human health and the environment, as documented in operational policy and guidelines will apply should Council rescind the suspension on the use of glyphosate on hard surfaces in the urban environment. This includes considering sensitive uses e.g. schools, childcare centres, the Pesticide Notification Plan and reintroduction of a “No Spray” List.

### **Officer Recommendation – Item 12.5**

That Council:

1. Rescinds Council resolution OCM 12/04/16, Part 3 which reads:  
*“Suspends the use of glyphosate on hard surfaces in the urban environment”;*
2. Rescinds Council resolution OCM 8/05/17, Part 1 which reads:  
*“Upholds the suspension of the use of glyphosate on hard surfaces in the urban environment as per the Council resolution OCM-12/4/16”;* and
3. Notes that steam weeding of hard surfaces within streetscapes will continue until 30 June 2022, following which a new integrated weed management approach will commence as summarised in Attachment B.

### **Voting requirements:**

**Points 1 and 2 - Absolute majority**

**Point 3 – Simple majority**

<b>Item No. 12.6</b>	<b>Review of Council Policies - Environmental Sustainability and Adaption to Climate Change</b>
<b>Property Address (if applicable)</b>	N/A
<b>Landowner/Applicant (if applicable)</b>	N/A
<b>Ref</b>	GOVR/POLCY/1
<b>Directorate</b>	Environment and Sustainability
<b>Authority/Discretion</b>	
<input type="checkbox"/> Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
<input type="checkbox"/> Executive	The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
<input checked="" type="checkbox"/> Legislative	Includes adopting local laws, town planning schemes & policies.
<input type="checkbox"/> Review	When the Council operates as a review authority on decisions made by Officers for appeal purposes.
<input type="checkbox"/> Quasi-Judicial	When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.
<input type="checkbox"/> Information	For the Council/Committee to note.
<b>Attachment No. 6</b>	Attachment A 2.1 Sustainable Bassendean Policy 2.2 Treatment of Weeds and Noxious Plants Policy 2.3 Natural Areas Management Policy 2.4 Local Biodiversity Policy 2.6 Foreshore Restoration Policy 2.8 Energy Use 2.9 Water Sensitive Urban Design and Water Conservation 2.10 Nutrient and Irrigation Management 2.11 Wetlands B. Policy review recommendations C. Natural Environment, Sustainability and Climate Action Statement

## Purpose

The purpose of this report is for Council to consider revocation of the following Council Policies:

- 2.1 Sustainable Bassendean Policy;
- 2.2 Treatment of Weeds and Noxious Plants Policy;
- 2.3 Natural Areas Management Policy;
- 2.4 Local Biodiversity Policy;
- 2.6 Foreshore Restoration Policy;
- 2.8 Energy Use; and
- 2.10 Nutrient and Irrigation Management.

## Background

Several Council policies under “Section 2 - Environmental Sustainability and Adaption to Climate Change” as listed below are overdue for review.

2.1 Sustainable Bassendean Policy	Responsible Officer: Director Community Development Last Review Date: 7 July 2009 Version 2 Next Review due by: December 2016
2.2 Treatment of Weeds and Noxious Plants Policy	Responsible Officer: Director Operational Services First Adopted: OCM - 11/6/99 Last Reviewed: March 2014 Version Next Review due by: December 2016
2.3 Natural Areas Management Policy	Responsible Officer: Director Operational Services First Adopted: June 2011 Last Reviewed: March 2014 Version Next Review due by: December 2016
2.4 Local Biodiversity Policy	
2.6 Foreshore Restoration Policy	
2.8 Energy Use	
2.9 Water Sensitive Urban Design and Water Conservation	
2.10 Nutrient and Irrigation Management	
2.11 Wetlands	

A review has been undertaken to determine the relevance of each policy and provide recommendations for retention/replacement with alternatives, and is summarised in Attachment J.

## Communication and Engagement

Nil.

## Strategic Implications

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

Direction	Potential Strategies	What Success Looks Like
Reinforce a culture of collaboration, trust and demarcation between Council, administration and the community	<ul style="list-style-type: none"> <li>Build understanding and support for the vision and Strategic Community Plan</li> <li>Demonstrate clear connections between the Strategic Community Plan, project and business as-usual services and operations</li> <li>Create an organisational culture of performance, innovation and excellence</li> <li>Develop shared values between Council, administration and the community</li> </ul>	<b>SHORT TERM</b> <ul style="list-style-type: none"> <li>Openness and transparency of decision making</li> <li>Enhanced staff morale</li> <li>Staff have appropriate strategic direction</li> <li>Agreement on the link between projects and Strategic Community Plan</li> <li>General alignment regarding values</li> </ul>

## **Comment**

Due to the last review date being > 7 years ago, the content of many of the policies is no longer current, and in several cases, has been superseded by commitments within other documents, such as the Strategic Community Plan, Waterwise Council Action Plan and 10 Year Management Plans for natural areas.

Several policies are advisory and/or administrative in nature, and there are no discretionary decisions available for which the policies would otherwise provide guidance on.

As explained in Attachment J, seven of the policies are recommended for revocation. A further two policies, while outdated, are recommended to be retained until the Waterwise Bassendean Strategy is developed in 2022/23. These are Policies 2.9 - Water Sensitive Urban Design and Water Conservation and 2.11 – Wetlands. Following finalisation of this Strategy (which is a Corporate Business Plan action), the applicability of these two policies can be reconsidered:

It is recommended that a more effective method of communicating the Town's commitments (both internally and externally) is through a Natural Environment, Sustainability and Climate Action Statement (refer Attachment K), to be approved by the CEO and published on the Town's website.

Reducing the number of Council policies and consolidation of commitments, strategies/ actions into one document will assist staff, Councillors and the community in understanding the Town's position on the natural environment, sustainability and climate action.

## **Statutory Requirements**

The *Local Government Act 1995* allows Council to determine its policies.

## **Financial Considerations**

Nil

## **Risk Management Implications**

Low. It is open to Council to retain the Policies but it may represent a reputational risk associated with Council's policy suite containing unnecessary / outdated policies.

## **Officer Recommendation – Item 12.6**

That Council:

1. Pursuant to the Local Government Act 1995, revokes the following Council Policies:
  - 2.1 Sustainable Bassendean Policy;
  - 2.2 Treatment of Weeds and Noxious Plants Policy;
  - 2.3 Natural Areas Management Policy;
  - 2.4 Local Biodiversity Policy;
  - 2.6 Foreshore Restoration Policy;
  - 2.8 Energy Use;
  - 2.10 Nutrient and Irrigation Management; and
2. Notes that the following policies will be reconsidered upon development of the Waterwise Bassendean Strategy in 2022/23:
  - 2.9 Water Sensitive Urban Design and Water Conservation; and
  - 2.11 Wetlands.

### **Voting requirements:**

**Point 1 - Absolute majority**

**Point 2 – Simple majority**

<b>Item No. 12.7</b>	<b>Proposed Cats Amendment Local Law 2022</b>
<b>Property Address</b>	N/A
<b>Landowner/Applicant</b>	N/A
<b>Ref</b>	LAWE/LOCLWS/2
<b>Directorate</b>	Community Planning
<b>Authority/Discretion</b>	<input type="checkbox"/> <input checked="" type="checkbox"/>
<input type="checkbox"/> Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
<input type="checkbox"/> Executive	The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
<input checked="" type="checkbox"/> Legislative	Includes adopting local laws, town planning schemes & policies.
<input type="checkbox"/> Review	When the Council operates as a review authority on decisions made by Officers for appeal purposes.
<input type="checkbox"/> Quasi-Judicial	When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building permits, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.
<input type="checkbox"/> Information	For the Council/Committee to note.
<b>Attachment No. 7</b>	Draft Cats Amendment Local Law 2022

## Purpose

The purpose of this report is for Council to consider making the *Cats Amendment Local Law 2022*.

## Background

On 25 August 2021, Council resolved to make the Local Law, which was then gazetted on 15 October 2021. In accordance with s. 3.12(7) of the *Local Government Act 1995*, a copy of the Local Law was sent to the Joint Standing Committee on Delegated Legislation for review. The Committee determined that an amendment was required and requested that, by 29 December 2021, Council provide an undertaking that the amendment will be made within six months.

On 21 December 2021, Council resolved to provide the undertaking as well as advertise the draft *Cats Amendment Local Law 2022* in accordance with section 3.12 of the *Local Government Act 1995*.

## Proposal

The Town has reviewed the *Cats Local Law 2021* in line with the undertaking to the Committee and proposes the adoption of the *Cats Amendment Local Law 2022* to amend the principal local law, as required.

## Communication and Engagement

The draft amendment local law was advertised for a period of 49 days (being from 14 January 2022 to 4 March 2022). At the close of the submission period, no submissions were received.

The Department of Local Government, Sports and Cultural Industries (DLGSC) advised that they had not identified any issues with the proposed amendment local law.

## Strategic Implications

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

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

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

Direction	Potential Strategies	What Success Looks Like
Make brave decisions in line with a risk appetite	<ul style="list-style-type: none"> <li>Early identification of potential risks / issues/opportunities</li> <li>Embed opportunity cost considerations</li> </ul>	<p>SHORT TERM</p> <ul style="list-style-type: none"> <li>Efficient and effective Council meetings</li> <li>Defensible decision making that is based on the identification of opportunities and benefits as well as negative impacts</li> </ul> <p>LONG TERM</p> <ul style="list-style-type: none"> <li>Examples of being first adopters</li> </ul>
Ensure major decision making is informed by community feedback	<ul style="list-style-type: none"> <li>Ensure community engagement processes are implemented in major strategic projects</li> </ul>	<ul style="list-style-type: none"> <li>Ensure community engagement processes are implemented in major strategic projects</li> </ul>

## Comment

The gazetted local law included an offence for a cat to be in a place that is not public (i.e. private property). By including this clause and associated penalty, the Town would have had more options to deal with cats entering private property without the consent of the property owner or occupier.

The Committee has directed that clause 2.2 (and associated references) relating to cats in places that are not public be deleted. The rationale was that it may result in forcing owners to confine their cats, which could be considered inconsistent with, and not authorised by, the *Cat Act 2011*.



The subject amendments are not able to be altered in any way and as such, Council is required to make the directed modification. All other provisions of the gazetted Local Law, including nuisance provisions and Cat Prohibited Areas, were not requested to be modified by the Committee.

### **Statutory Requirements**

Section 3.12 of the *Local Government Act 1995* prescribes the process to be followed in making a local law and requires Council to consider any submissions received and allows it to make the local law as proposed or make a local law that is not significantly different from what was proposed. If the local government decides to make a local law that would be significantly different from what it first proposed, the local government is to recommence the process.

Following Council's decision, there are a number of procedural requirements that must be complied with, as follows.

- Publishing the amendment local law in the Government Gazette; and
- Giving local public notice of the adoption of the amendment local law and its commencement date. The amendment local law will come into operation 14 days after the day on which it is published in the Government Gazette.

Once the local law has been gazetted a copy of the local law, explanatory memorandum and local law checklist is to be provided to the JSCDL for its consideration.

### **Financial Considerations**

The cost of publishing the local law in the Government Gazette and providing the required statutory notices will be met from the 2021/22 budget.

### **Risk Management Implications**

Failure to undertake the required amendments will result in the Committee disallowing the principal Local Law.

Should Council not make the draft amendment local law, any disallowance of the *Cats Local Law 2021* will result in the Town having limited ability to control cats in areas of environmental significance or to manage nuisance cats. It will also require the Town to recommence the Local Law review process for the *Responsible Cat Ownership Amendment Local Law 2006*.

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

That Council, in accordance with Section 3.12(4) of the *Local Government Act 1995*, makes the Town of Bassendean *Cats Amendment Local Law 2022*, as attached, and authorises the Common Seal to be attached.

**Voting requirements: Absolute majority**

<b>Item No. 12.8</b>	<b>Audit and Governance Committee Meeting held on 9 March 2022</b>
<b>Property Address (if applicable)</b>	
<b>Landowner/Applicant (if applicable)</b>	
<b>File Ref/ROC</b>	GOVN/CCLMEET/18
<b>Previous Council Reports (if applicable)</b>	
<b>Directorate</b>	Corporate Services
<b>Authority/Discretion</b> <input type="checkbox"/> <input checked="" type="checkbox"/>	
<input type="checkbox"/> Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
<input checked="" type="checkbox"/> Executive	The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
<input type="checkbox"/> Legislative	Includes adopting local laws, town planning schemes and policies.
<input type="checkbox"/> Review	When the Council operates as a review authority on decisions made by Officers for appeal purposes.
<input type="checkbox"/> Quasi-Judicial	When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under <i>Health Act, Dog Act</i> or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.
<b>Attachment No. 8</b>	A. Minutes of the Audit and Governance Committee meeting held on 9 March 2022 B. OAG Independent Auditor's Report 2020/2021 C. Draft Report to the Minister for Local Government – Ratios D. Town of Bassendean Compliance Audit Return 2021 (updated 17 March 2022) E. Draft Amended Purchasing Policy F. Current Risk Management Policy G. Draft Risk Management Policy H. Draft Fraud and Corruption Policy
<b>Confidential Attachment No. 1</b>	A. Draft Risk Management Framework B. Risk Profile and Reporting Tool C. Draft Fraud and Corruption Control Plan D. Audit Risk Register

### Purpose

The purpose of this report is for Council to receive the report on the meeting of the Audit and Governance Committee held on 9 March 2022.

**Background**

The Town’s Audit and Governance Committee meets at least four times each year in carrying out its functions under the Instrument of Appointment and Delegation (the Instrument). The Instrument 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 9 March 2022.

**Communication and Engagement**

To ensure openness, accountability and integrity, Council has appointed two community representatives to be members of the Audit and Governance Committee.

**Strategic Implications**

Priority Area 6: Providing Visionary Leadership and Making Great Decisions

Make brave decisions in line with a risk appetite	<ul style="list-style-type: none"> <li>• Early identification of potential risks / issues/opportunities</li> <li>• Embed opportunity cost considerations</li> </ul>	SHORT TERM <ul style="list-style-type: none"> <li>• Efficient and effective Council meetings</li> <li>• Defensible decision making that is based on the identification of opportunities and benefits as well as negative impacts</li> </ul> LONG TERM <ul style="list-style-type: none"> <li>• Examples of being first adopters</li> </ul>
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**Comment**

The Committee considered the following items:

Independent Auditor’s Report 2020/2021 – Significant Adverse Trends

RSM Australia conducted the audit of the Town’s Annual Financial Report for 2020/21. The Auditor General reviewed the Annual Financial Report and provided its Independent Auditor’s Report, which was received by Council on 21 December 2021.

While the Town received an unqualified audit report, the Auditor General identified significant adverse trends in the financial position of the Town:

- The Asset Sustainability Ratio has been below the Department of Local Government, Sport and Cultural Industries (DLGSCI) standard for the last three financial years; and
- The Operating Surplus Ratio has been below the DLGSCI standard for the last three financial years.

The administration is aware of the continuing adverse movement in these two ratios, the reversal of which requires a whole of Town approach to asset management and long-term financial and operational planning. The Town has conducted a comprehensive review of its asset management plans and is undertaking a holistic review of its long-term financial plan to identify opportunities for capital renewal and replacement in the coming years. The Town will continue to explore further sources of own source revenue and is closely managing operating expenditure.

The *Local Government Act 1995*, section 7.12A, requires the Town to:

- (a) prepare a report addressing any matters identified as significant by the auditor in the audit report, and stating what action the local government has taken or intends to take with respect to each of those matters; and
- (b) give a copy of that report to the Minister within 3 months after the audit report is received by the local government.

The Town must also publish the report to the Minister for Local Government on its website within 14 days of providing the report to the Minister. The draft report to the Minister is attached.

#### Town of Bassendean Compliance Audit Return 2021

All Local Governments are required to submit a Compliance Audit Return to DLGSCI by 31 March each year for the previous calendar year. The Compliance Audit Return is used to measure the level of compliance with the *Local Government Act 1995* and associated Regulations.

In the previous reporting period, the Town disclosed five areas of non-compliance. In the current reporting period, the Town achieved compliance in all areas **except one**.

An internal review conducted by officers in the Governance Department after the Audit and Governance Committee Meeting held on 9 March 2021, identified that not all officers who had completed an Annual or Primary Return had received an acknowledgment letter. As a consequence, Question 6 relating to Disclosure of Interest in the Compliance Audit Return 2021 has been amended to reflect this situation. All officers who have completed a return have been reissued with letters of acknowledgement in accordance with the requirements of s. 5.77 of the *Local Government Act 1995*.

### Purchasing Policy – Amendment to Sole Supplier Provisions

Council resolved at the Ordinary Council Meeting in August 2021, to amend the Town's Delegations Register to reduce the delegated authority of the Chief Executive Officer to determine a sole supplier arrangement, from \$250,000 to \$50,000.

The Purchasing Policy was subsequently amended to align with the Delegations Register and Council adopted the amended Purchasing Policy at the Ordinary Council Meeting in September 2021.

The Town has a robust Purchasing Policy and Procurement Framework. One of the objectives of this framework is to balance the management of procurement risk, with the efficient achievement of strategic and operational objectives. The Administration considers that the current requirements of the Purchasing Policy are too restrictive to apply to the lower level of delegated authority to the CEO and may operate to inhibit the operational objectives of Council.

The proposed amendments to the Purchasing Policy remove the requirement for market testing and extend the maximum period for a sole supplier arrangement to three years. The CEO must be satisfied that, because of the unique nature of the goods or services required or for any other reason, it is unlikely there is more than one potential supplier; the requirement first having been documented in a detailed specification for approval by the CEO.

The draft amended Purchasing Policy is considered to more effectively balance procurement risk with efficient achievement of operational objectives, given a low threshold of \$50,000 over a maximum of three years.

The draft amended Purchasing Policy is attached.

### Risk Management and Policy Framework

The Town is currently looking at 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*. Risk management is important to achieving the Town's objectives through continuous review of its processes and systems. To that end, the Town is required to ensure that it establishes a risk management framework and has a formal process for managing risks. The draft Risk Management Policy and Risk Management Framework seeks to embed risk management within the Town's operational activities.

The current and proposed Risk Management Policies are attached. The draft Risk Management Framework is attached as a confidential document.

### Fraud and Corruption Control Framework

The purpose of this report to the Committee was to present a draft Fraud and Corruption Policy and draft Fraud and Corruption Control Plan for review.

The draft Fraud and Corruption Control Policy seeks to clearly state the Town's zero tolerance approach to fraud and corruption. The Policy applies to employees, Elected Members and external parties involved in the provision of goods or services to the Town.

All employees, Elected Members and external parties dealing with the Town have an obligation to support efforts to reduce the risk of fraud or corruption by demonstrating behaviors that align to the Town's values, and by acting with integrity and professionalism in undertaking their functions.

The draft Fraud and Corruption Policy and draft Fraud and Corruption Control Plan are core elements of good governance and establish an effective structure to address fraud and corruption risks and to detect and respond to incidences of suspected fraud and corruption in accordance with the best practice principles outlined in Australian Standard AS8001-2021 – 'Fraud and Corruption Control'.

The Fraud and Corruption Control Plan is a comprehensive plan to assist the Town to prevent, detect and respond to incidences of fraud or corruption. It prescribes roles and responsibilities for fraud and corruption control and details the required prevention, detection and response measures.

The draft Fraud and Corruption Policy is attached. The draft Fraud and Corruption Control Plan is attached as a confidential document.

### Audit Risk Register

The Audit Risk Register presents a summary of the audit risks and recommendations made in recent internal and external audit reports relating to the Town and provides an update on actions taken or proposed to address the identified risks.

The Audit Risk Register is updated and tabled at each meeting of the Committee.

While the Audit Risk Register was discussed in general terms in public, the Register was presented to the Committee as a confidential attachment.

### **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 Guidelines will govern any required engagements.

## **Risk Management Implications**

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

## **Officer Recommendation – Item 12.8**

That Council:

1. Receives the report on the Audit and Governance Committee meeting held on 9 March 2022;
2. Receives the draft Report to the Minister for Local Government attached to this report and provides the report to the Minister for Local Government;
3. Notes that a copy of the Report to the Minister for Local Government will be made available on the Town's website, within 14 days as prescribed;
4. Considers increasing asset renewal expenditure in relation to assets which have been earmarked for long term retention by the Town through its Asset Management Strategy;
5. Adopts the Local Government 2021 Compliance Audit Return for the Town of Bassendean for the period 1 January 2021 to 31 December 2021, attached to this report;
6. Adopts the draft Amended Purchasing Policy, attached to this report;
7. Revokes the current Risk Management Policy, attached to this report;
8. Adopts the draft Risk Management Policy, attached to this report;
9. Adopts the draft Risk Management Framework (confidential), attached to this report;
10. Notes the Risk Profile and Reporting Tool (confidential), attached to this report;
11. Adopts the draft Fraud and Corruption Policy, attached to this report;
12. Endorses the draft Fraud and Corruption Control Plan (confidential), attached to this report; and

13. Receives the Audit Risk Register (confidential) attached to this report and notes the action taken or proposed to address the identified risks.

**Voting requirements:**

**Points 1 to 5, and 8 to 13: Simple Majority**

**Points 6 and 7: Absolute Majority**



<b>Item No. 12.9</b>	<b>Australian Local Government Association Nation General Assembly Motion</b>
<b>Directorate</b>	Environment and Sustainability
<b>Property Address (if applicable)</b>	N/A
<b>Landowner/Applicant (if applicable)</b>	N/A
<b>File Ref</b>	WSTMNGT/SVPROVN/3
<b>Authority/Discretion</b> <input type="checkbox"/> <input checked="" type="checkbox"/>	
<input checked="" type="checkbox"/> Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
<input type="checkbox"/> Executive	The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
<input type="checkbox"/> Legislative	Includes adopting local laws, town planning schemes and policies.
<input type="checkbox"/> Review	When the Council operates as a review authority on decisions made by Officers for appeal purposes.
<input type="checkbox"/> Quasi-Judicial	When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licenses (e.g. under <i>Health Act</i> , <i>Dog Act</i> or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.
<b>Attachment No. 9</b>	Draft ALGA NGA Motion

## Purpose

For Council to consider endorsing a Motion for the Australian Local Government Association's (ALGA) National General Assembly (NGA) relating to the packaging coregulatory product stewardship scheme.

## Background

ALGA is the national voice of local government, representing 537 councils across the country. ALGA convenes the NGA annually providing a unique opportunity for Local Government to engage directly with the Federal Government, to develop national policy and to influence the future direction of councils and communities. The NGA will be held from 19-22 June 2022 in Canberra. Attendees can be in person or as a virtual delegate.

Local Government can submit Motions to be considered at the NGA. Motions must be submitted by Friday 25 March 2022. At Cr Hamilton's request, a Motion relating to the packaging coregulatory product stewardship scheme is attached for Council's consideration.

## Proposal

Officers have prepared the attached Motion, linked to the national objectives and with a summary of key arguments for Council's consideration.

## Communication and Engagement

WALGA's Manager Waste, Recycling and Environment has provided feedback on the attached draft Motion.

A draft version of the attached motion was circulated in the CEO Bulletin on 11 March 2022. Councillors were requested to provide feedback by Friday 18 March 2022.

As at the time of preparing this Report, no feedback from Councillors had been received.

## Strategic Implications

Direction	Potential Strategies	What Success Looks Like
Demonstrate strong leadership in waste reduction and carbon neutrality	Initiate and drive innovative waste management practices	SHORT TERM <ul style="list-style-type: none"><li>State Government targets are met</li><li>Waste generation is reduced by 10% per capita</li></ul> LONG TERM <ul style="list-style-type: none"><li>70% of waste is diverted from landfill by 2030</li></ul>

## Comment

Cr Hamilton's request to prepare a Motion calling for the Federal Government to address the poor performance of the Australian Packaging Covenant meets the Town's Strategic Community Plan Priority Area 2: Leading environmental sustainability Direction to demonstrate strong leadership in waste reduction and carbon neutrality.

The cost of recycling packaging is largely borne by Local Governments, and consequently the community, who collect this material in their kerbside collection systems. Packaging manufacturers are free to produce packaging made of ever more complex and disparate materials, making them harder to recycle. They are also free to label these products as recyclable, even when the packaging item is not widely recycled by Local Governments or other parties. There is also increasing community and political expectation regarding the management of products at the end of life.

There are various approaches to Product Stewardship being implemented currently, with legislation at a national and State/Territory level with a range of mandatory, co-regulatory and voluntary approaches. To date, Schemes have been developed with varying levels of Government direction and consistency (of approach and output). At a national level there appears to be a clear preference for the development of voluntary Schemes, and while a few may be effective, these approaches do not guarantee the outcomes that Local Government and the community need.

All types of packaging are part of a co-regulatory scheme which is facilitated by the Australian Packaging Covenant Organisation (APCO). APCO released the APC Collective Impact Report in November 2021. This report provides insight into the progress of APCO and its members in meeting their targets. The report highlights that APCO and its members have seen a reduction in the percentage of packaging that is reusable, recyclable or compostable as well as a reduction in plastic packaging being recycled or composted.

APCO also provides a breakdown of recovered material by material type. Of serious concern is the performance of plastic packaging with only 16 percent recovered according to APCO report.

APCO CEO, Brooke Donnelly has identified that APCO need to accelerate their efforts to meet the 2025 National Packaging Targets. APCO has over many years, focused on funding projects and packaging design. It does not address the costs of recycling packaging material or give producers any physical responsibility for their products at end of life. Instead, it relies on the Local Government and therefore the community to pay to recover their end-of-life products. Nationally, Environment Ministers have agreed that all packaging should be recyclable, re-useable or compostable by 2025 or before.

Community and political expectation are that packaging products labelled recyclable are recycled. And herein lies the problem, the parties who produce the product have no responsibility to ensure that a product is labelled correctly for recycling/disposal nor are they responsible for what happens once it leaves their manufacturing facility.

This means that Local Government has a large part of the responsibility for, and cost associated with, recycling a product but without any input into how packaging is made, what it is made from and how it is labelled for disposal/recycling.

Rather than have Local Government and their contractors playing catch up to a vast array of packaging which is produced, mandatory Product Stewardship should be introduced for all packaging. This would shift the current packaging business model of take, make and waste approach to being part of the Circular Economy funded by the manufacturer.

### **Statutory Requirements**

None.

### **Financial Considerations**

Local governments are expected to have a representative present at the NGA to move and speak to a motion if required. The cost to attend the NGA as a virtual delegate is \$689 and can be funded from existing budgets.

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

That Council endorses the attached Motion to be submitted for Australian Local Government Association's 2022 National General Assembly.

**Voting requirements: Simple majority**

<b>Item No. 12.10</b>	<b>Accounts Paid – February 2022</b>
<b>File Ref/ROC</b>	FINM/CREDTS/4
<b>Directorate</b>	Corporate Services
<b>Authority/Discretion</b> <input checked="" type="checkbox"/> <input type="checkbox"/>	
<input type="checkbox"/> Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
<input type="checkbox"/> Executive	The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
<input checked="" type="checkbox"/> Legislative	Includes adopting local laws, town planning schemes and policies.
<input type="checkbox"/> Review	When the Council operates as a review authority on decisions made by Officers for appeal purposes.
<input type="checkbox"/> Quasi-Judicial	When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (e.g. under <i>Health Act, Dog Act</i> or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.
<b>Attachment No. 10</b>	List of Payments - February 2022

## Purpose

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

## Background

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

## Proposal

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

## Communication and Engagement

Nil.

## Strategic Implications

Priority Area 6: Providing visionary leadership and making great decisions

Direction	Potential Strategies	What Success Looks Like
Reinforce a culture of collaboration, trust and demarcation between Council, administration and the community	<ul style="list-style-type: none"> <li>Build understanding and support for the vision and Strategic Community Plan</li> <li>Demonstrate clear connections between the Strategic Community Plan, project and business as-usual services and operations</li> </ul>	<b>SHORT TERM</b> <ul style="list-style-type: none"> <li>Openness and transparency of decision making</li> <li>Enhanced staff morale</li> <li>Staff have appropriate strategic direction</li> </ul>

	<ul style="list-style-type: none"><li>• Create an organisational culture of performance, innovation and excellence</li><li>• Develop shared values between Council, administration and the community</li></ul>	<ul style="list-style-type: none"><li>• Agreement on the link between projects and Strategic Community Plan</li><li>• General alignment regarding values</li></ul>
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### **Comment**

The attachments showing the listing now includes the net payments made to staff for salaries and wages.

### **Statutory Requirements**

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

### **Financial Considerations**

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

### **Risk Management Implications**

Nil.

### **Officer Recommendation – Item 12.10**

That Council receive the list of payments for February 2022.

**Voting requirements: Simple majority**

<b>Item No. 12.11</b>	<b>Monthly Financial Report – February 2022</b>
<b>File Ref/ROC</b>	FINM/AUD/1
<b>Directorate</b>	Corporate Services
<b>Authority/Discretion</b> <input checked="" type="checkbox"/> <input type="checkbox"/>	
<input type="checkbox"/> Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
<input type="checkbox"/> Executive	The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
<input checked="" type="checkbox"/> Legislative	Includes adopting local laws, town planning schemes and policies.
<input type="checkbox"/> Review	When the Council operates as a review authority on decisions made by Officers for appeal purposes.
<input type="checkbox"/> Quasi-Judicial	When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licenses, applications for other permits/licenses (eg under <i>Health Act</i> , <i>Dog Act</i> or Local Laws) and other decisions that October be appealable to the State Administrative Tribunal.
<b>Attachment No. 11</b>	Monthly Financial Report

## Purpose

The purpose of this report is for Council to receive the Monthly Financial Report for February 2022 which incorporates the Statement of Financial Activity as legislatively required.

## Background

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

The Statement of Financial Activity is to show a comparison of the budget estimates with the actual revenue and expenditure figures for the year-to-date and can be presented by nature and type classification, program or business unit. The Statement of Financial Activity hereby presented to Council is by nature and type classification.

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 to the current budget which considers the mid-year review, adopted by Council on 15 February 2022.

Each year Council is required to adopt a percentage or value to be used in statements of financial activity for reporting material variances. Council adopted \$5,000 or 10% whichever is higher, as part of its 2021/22 Budget.

## Proposal

For Council to receive the Monthly Financial Report for February 2022.

## Communication and Engagement

Nil.

## Strategic Implications

Priority Area 6: Providing visionary leadership and making great decisions

Direction	Potential Strategies	What Success Looks Like
Reinforce a culture of collaboration, trust and demarcation between Council, administration and the community	<ul style="list-style-type: none"> <li>• Build understanding and support for the vision and Strategic Community Plan</li> <li>• Demonstrate clear connections between the Strategic Community Plan, project and business as-usual services and operations</li> <li>• Create an organisational culture of performance, innovation and excellence</li> <li>• Develop shared values between Council, administration and the community</li> </ul>	<p>SHORT TERM</p> <ul style="list-style-type: none"> <li>• Openness and transparency of decision making</li> <li>• Enhanced staff morale</li> <li>• Staff have appropriate strategic direction</li> <li>• Agreement on the link between projects and Strategic Community Plan</li> <li>• General alignment regarding values</li> </ul>

## Comment

The Monthly Financial Report contains the Statement of Financial Activity, which represents the adopted 2021/22 Annual Budget and subsequent amended estimates and actual income and expenditure amounts to the month February 2022. The opening surplus position has now been amended in line with the adopted 2020/21 end-of-year Financial Statements. As noted above, the variance report considers the mid-year review, adopted by Council in February 2022.

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

The Statement of Financial Activity provides a comparison between actual and budget income and expenditure on year-to-date basis. The accompanying notes provide a detailed breakdown of the amounts and commentary is based on the February 2022 year-to-date figures.

Item	Current Budget	YTD Budget	YTD Actual	Variance to YTD Budget	Variance to YTD Budget
	\$m	\$m	\$m	\$m	%
Revenue (including General Rates)	24.0	22.2	22.4	0.2	1
Expenditure	27.6	17.3	16.8	0.5	3
Capital Works	4.6	3.2	1.8	1.4	44
Non-Operating Grants, Subsidies and Contributions	1.6	0.4	0.3	0.1	16



### Operating Revenue

Revenue year-to-date is 1.0% above budget based on the Statement of Comprehensive Income.

Operating grants, subsidies and contributions are above budget due to earlier receipt of the third quarter Federal Assistance General Grants and Seniors Commonwealth Health Support Programme Grant.

Other revenue is above budget due to a dividend of \$110,000 received in August 2021 from Eastern Metropolitan Regional Council which was not adjusted at mid-year review and higher revenue from planning fees.

### Operating Expenditure

Expenditure year-to-date is 3% under budget based on the Statement of Comprehensive Income. Identified savings were released when the mid-year review was conducted after taking into account adjustments for year-end provisions.

Employee costs are under budget by \$324K due to staff vacancies, with recruitment underway. Some positions are currently covered by contractors and reflected under materials and contracts.

Materials and contracts are slightly over budget by \$23K, due to expenditure on purchase of trees which is deemed to be a timing matter. Utility charges are under the year-to-date budget by \$3K, which is within the reporting threshold.

Other expenditure is under budget by \$17K, due to timing of operational projects and administration costs.

Loss on asset disposal is under budget by \$40K with delays in the disposal of plant and equipment.

### Non-Operating Grants

The adverse variance of \$64K is due to timing of State Government grant payments.

### Capital Works

Key Points to note:

- Actual spend is 39% of the current budget with a further 27% committed to date. Expenditure is expected to pick up in the coming months due to project phasing;
- Sandy Beach Playground tender was awarded in October 2021, with works well underway;
- The Request for Quote has been finalised for the replacement of the Hino Truck however the expected delivery will be in later part of 2022, with current delays experienced by fleet providers;

- Various IT Equipment upgrades are occurring however supply issues remain; and
- The Agenda Preparation and Minutes software has been purchased and is due for implementation in June 2022.

### **Monthly Investment Report**

The overall balance of the Town's investments is \$18.5 million. This is comprised of municipal investments of \$10.6 million (including restricted cash), reserve investments of \$5.6 million and trust investments (public open space) of \$0.8 million.

The administration uses *Marketforces.org.au* to assist in assessing whether a bank promotes non-investments in fossil fuel related entities. The Town currently has 32% of its funds invested in non-fossil fuel ADIs. This percentage is unusually low, due to half of the Town's invested funds being held in the Town's Commonwealth Bank online saver account, due to poor short-term interest rates available elsewhere.

### **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.

### **Budget Amendments**

No budget amendments are proposed in the Monthly Financial Report for February 2022.

### **Risk Management Implications**

Nil.

### **Officer Recommendation – Item 12.11**

That Council:

1. Notes the Explanation of Material Variances in the Statement of Financial Activity; and
2. Receives the Monthly Financial Report for the period ending 28 February 2022, which incorporates the Statement of Financial Activity for the period to February 2022.

**Voting requirements: Simple majority**

<b>Item No. 12.12</b>	<b>Use of Common Seal</b>
<b>Property Address (if applicable)</b>	Not applicable
<b>Landowner/Applicant (if applicable)</b>	Not applicable
<b>File Ref/ROC</b>	INFM/INTPROP/1
<b>Previous Council Reports (if applicable)</b>	Not applicable
<b>Directorate</b>	Chief Executive
<b>Authority/Discretion</b> <input type="checkbox"/> <input checked="" type="checkbox"/>	
<input type="checkbox"/> Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
<input checked="" type="checkbox"/> Executive	The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
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<b>Attachment</b>	Nil

### Purpose

The purpose of this report is for Council to note the documents affixed with the Common Seal during the reporting period.

### Background

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.

### Proposal

Not applicable.

### Communication and Engagement

Not applicable.

### Strategic Implications

Priority Area 6: Providing visionary leadership and making great decisions

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

**Comment**

Document Sealed	Date Sealed
Land Acquisition – Lot 304 Kenny Street, Bassendean	4 March 2022

**Statutory Requirements**

Affixing of the Common Seal is done in accordance with section 9.49A of the *Local Government Act 1995*

**Financial Considerations**

Not applicable

**Risk Management Implications**

Not applicable

**Officer Recommendation – Item 12.12**

That Council notes the affixing of the Common Seal during the reporting period.

**Voting requirements: Simple majority**

<b>Item No. 12.13</b>	<b>Calendar for April 2022</b>
<b>Property Address (if applicable)</b>	Not applicable
<b>Landowner/Applicant (if applicable)</b>	Not applicable
<b>File Ref/ROC</b>	INFM/INTPROP/1
<b>Previous Council Reports (if applicable)</b>	
<b>Directorate</b>	Chief Executive
<b>Authority/Discretion</b> <input type="checkbox"/> <input checked="" type="checkbox"/>	
<input type="checkbox"/> Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
<input checked="" type="checkbox"/> Executive	The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
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<b>Attachment</b>	Nil

### Purpose

The purpose of this report is for Council to consider the calendar for April 2022.

### Background

Nil.

### Proposal

Not applicable.

### Communication and Engagement

Not applicable.

### Strategic Implications

Priority Area 6: Providing visionary leadership and making great decisions

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

### Calendar for April 2022

Friday 15 April	Good Friday – Public Holiday			
Monday 18 April	Easter Monday - Public Holiday			
Tuesday 19 April	6.00pm	MS Teams	All Councillors Executive Staff	Briefing Session
Thursday 21 April	6.30pm	City of Belmont	Appointed Councillors	WALGA – East Metro Zone
Monday 25 April	ANZAC Day – Public Holiday			
Tuesday 26 April	6.00pm	MS Teams	All Councillors Executive Staff	Ordinary Council Meeting
Thursday 21 April (if required)	6.00pm	EMRC 1st Floor, 226 Great Eastern Highway, Ascot	Appointed Councillors	EMRC Briefing Session
Thursday 28 April (if required)	6.00pm	EMRC 1st Floor, 226 Great Eastern Highway, Ascot	Appointed Councillors	EMRC Council Meeting

### Statutory Requirements

Not applicable.

### Financial Considerations

Not applicable.

### Risk Management Implications

Not applicable.

### Officer Recommendation – Item 12.13

That Council adopt the calendar for April 2022.

**Voting requirements: Simple majority**

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

### **13.1 Notice of Motion – Cr Poliwka: Engagement with property development industry representative body to assess impacts on new or amended planning controls**

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

*“That Council:*

- 1. Acknowledges the importance of maintaining a town planning environment conducive to encouraging expedited development within the Town so that the Town Centre Masterplan (and development in the Town as a whole) may be substantially realised in the near term.*
- 2. Requests that, prior to presenting any report to Council to consider new or amended planning controls, the CEO seeks input from a peak membership organisation representing the property development industry in Western Australia.”*

#### **Comment – Cr Poliwka**

There has been recent interest in the Town’s attitude towards securing development funding. This interest ought to be met with a definitive statement by Council on the town planning environment with which potential investors called on to invest in the Town will be met.

To ensure continuity of endeavour by the Town, it is important to give full effect to the *BassenDream* project and foster an environment to facilitate its rapid implementation. One way in which this can occur is for Council to provide a supportive environment for investment and development in the Town.

Council will be able to better understand any unintended consequences caused by the implementation of planning controls and instruments.

#### **Officer Comment**

Supportive. The Town will ensure that relevant proposals are subject to consultation with a recognised representative property development industry body, to assess impacts and any unintended consequences of proposals being presented to Council.

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

**15.0 URGENT BUSINESS**

**16.0 CONFIDENTIAL BUSINESS**

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

<b>Item No. 16.1</b>	<b>Baywaste Tip Passes</b>
<b>Directorate</b>	Environment and Sustainability
<b>Property Address (if applicable)</b>	N/A
<b>Landowner/Applicant (if applicable)</b>	N/A
<b>File Ref</b>	WSTMNGT/SVPROVN/3
<b>Authority/Discretion</b> <input type="checkbox"/> <input checked="" type="checkbox"/>	
<input type="checkbox"/> Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
<input checked="" type="checkbox"/> Executive	The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
<input type="checkbox"/> Legislative	Includes adopting local laws, town planning schemes and policies.
<input type="checkbox"/> Review	When the Council operates as a review authority on decisions made by Officers for appeal purposes.
<input type="checkbox"/> Quasi-Judicial	When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licenses (e.g. under <i>Health Act, Dog Act</i> or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.
<b>Attachment</b>	Nil

**Purpose**

For Council to consider an offer from the City of Bayswater (CoB) for Town of Bassendean (ToB) property owners to redeem tip passes at Baywaste, 271 Collier Road, Bayswater.

*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 which may be entered into, by the local government and which relates to a matter to be discussed at the meeting*



<b>Item No. 16.2</b>	<b>Community Awards</b>
<b>Property Address</b>	N/A
<b>Landowner/Applicant</b>	N/A
<b>Ref</b>	COMR/AWADP/2
<b>Directorate</b>	Community Planning
<b>Authority/Discretion</b>	
<input type="checkbox"/> Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
<input checked="" type="checkbox"/> Executive	The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
<input type="checkbox"/> Legislative	Includes adopting local laws, town planning schemes and policies.
<input type="checkbox"/> Review	When the Council operates as a review authority on decisions made by Officers for appeal purposes.
<input type="checkbox"/> Quasi-Judicial	When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under <i>Health Act</i> , <i>Dog Act</i> or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.
<b>Attachment No. 12</b>	Council Policy 5.2 – Community Awards
<b>Confidential Att 2</b>	Community Award Nominations

## Purpose

The purpose of this report is for Council to determine the recipients of the 2022 Town of Bassendean Community Awards.

*This matter is to be considered with members of the public excluded from the Chamber under Clause 5.23 (2) (b) of the Local Government Act 1995, as the officer report discusses information of a personal nature.*

## **17.0 CLOSURE**

The next Briefing Session will be held on Tuesday 19 April 2022, commencing at 6pm by electronic means.

The next Ordinary Council meeting will be held on Tuesday 26 April 2022, commencing at 6pm by electronic means.