

Our Ref: 1238
Your Ref: DA/2021/395

7 December 2021

The Chief Executive Officer
Town of Victoria Park
Locked Bag 437
Victoria Park WA 6979

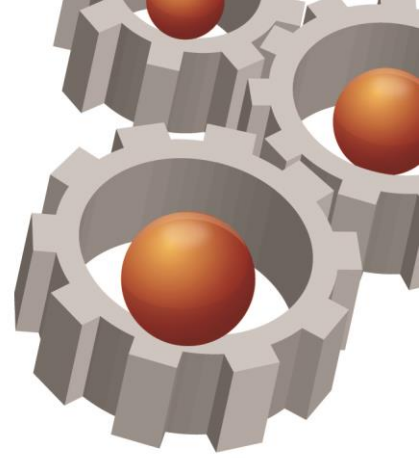
ATTN: Charlotte McClure – Senior Planning Officer

Dear Madam,

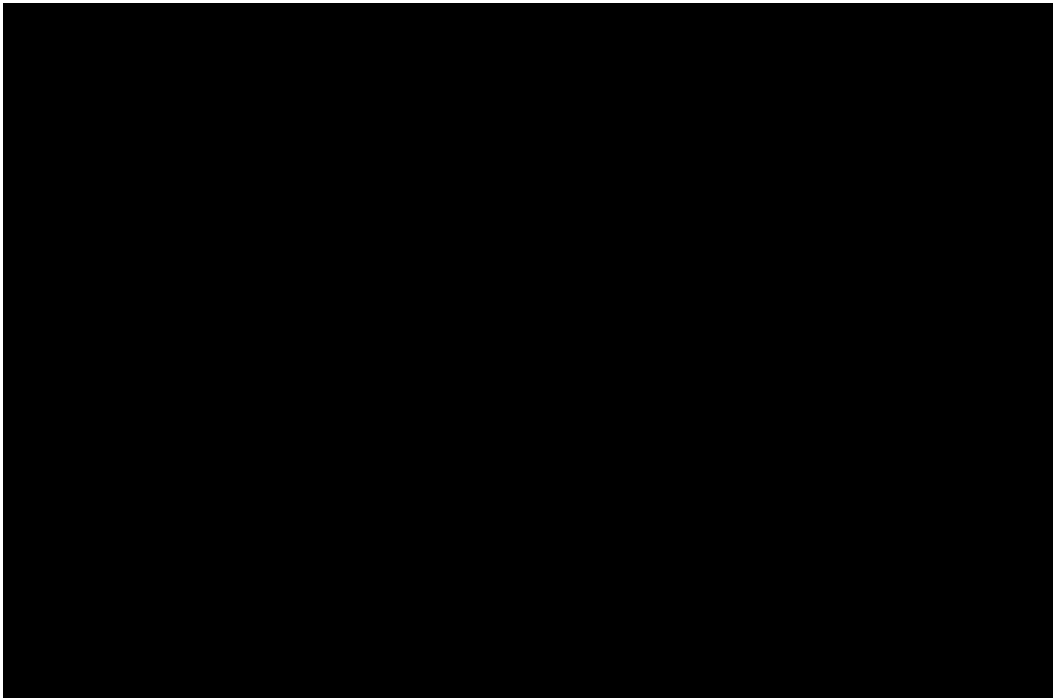
LOTS 99-101 (NO. 84-88), GOODWOOD PARADE, BURSWOOD
RESPONSE TO PUBLIC ADVERTISING COMMENTS MADE

Dynamic Planning and Developments Pty Ltd (DPD) acts on behalf of the registered proprietor of Lots 99-101 (No. 84-88) Goodwood Parade, Burswood (herein referred to as the subject site) as the applicant for a development application currently being assessed by the Town. The purpose of this letter is to provide a written response to the comments made about the application through the public advertising period.

The following pages will provide excerpts of the original objection letter, along with our written response. This response will only raise points of the objection letter requiring justification. So as to maintain clarity between comments, our responses will be highlighted in **Blue** to establish a visual difference between the respondent's objections and our responses.



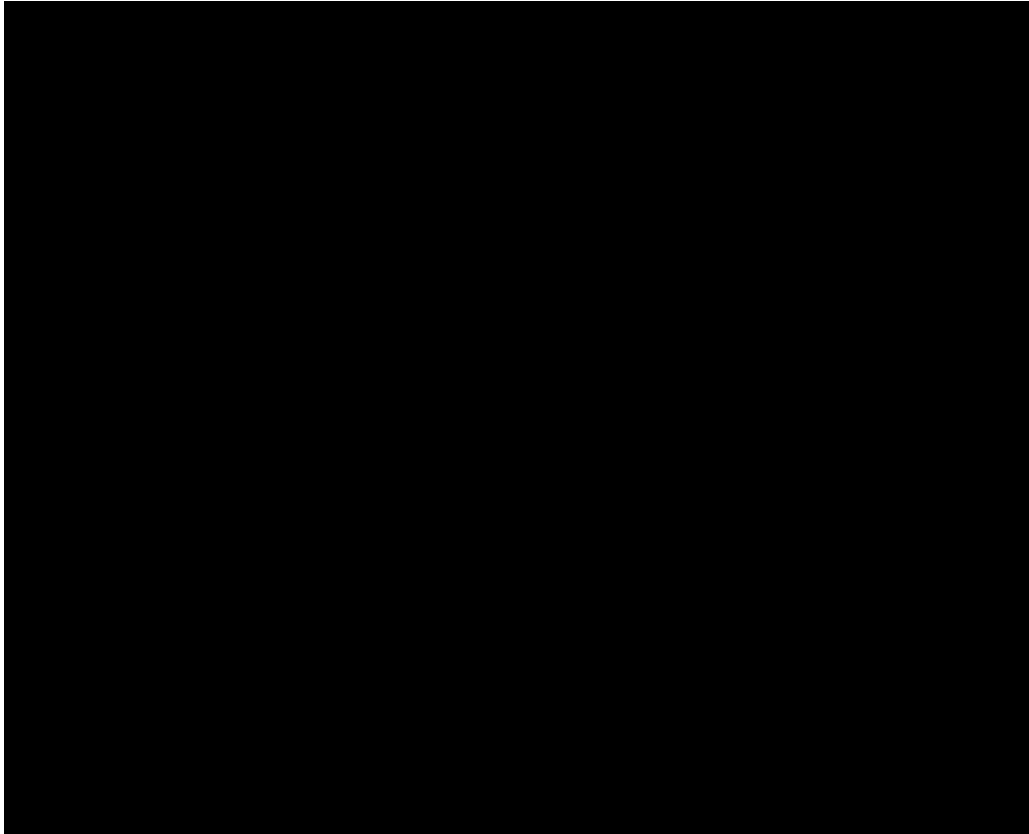
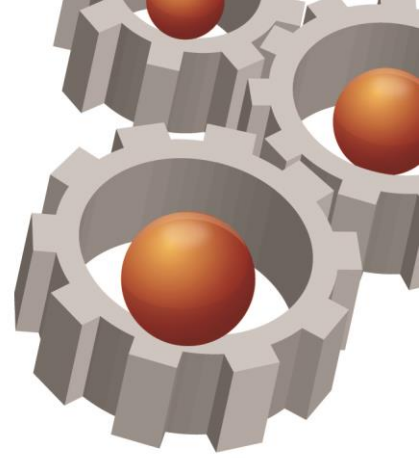
It is noted much of the submission received throughout the advertising period did not have direct relevance to the application that is currently with the Town for assessment. The submission was worded in a confusing way and, as such, there is lots of detail that does not have any relevance to the existing planning framework.



The above excerpts shown represent approximately 30% of the consultant's entire submission. They provide extensive detail of commercial discussions that are completely irrelevant to the submission, and are frankly inappropriate to disclose as a point of objection. If the above details are provided to Council as part of an Ordinary Council Meeting (OCM) agenda attachment, they have the potential to prejudice Councillor perceptions of the proposal. Details surrounding commercial leases and negotiations between the lessee and lessor are not relevant planning considerations. As such, we request that if the objection letter is provided as an attachment to any OCM agenda, the entirety of the above excerpt should be redacted so as to allow for a fair and impartial conclusion to be reached, based on the merits of the application.

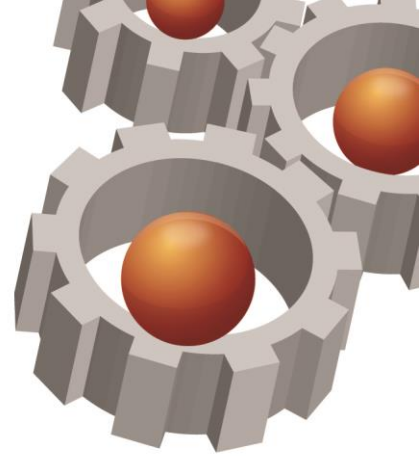


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Similar to the previous response provided, the above excerpts provide details on development applications currently being drafted for the lessee, Blasta Brewing Company (Blasta), to move to an alternate site within approximately 100 metres of the subject site. From the detail noted, it is speculated this location would be in the vicinity of 94-104 Goodwood Parade. It is submitted that this point of objection is again irrelevant to the assessment of this proposal, as the application's have not yet been submitted and, as such, can not be given proper consideration by the Town. Whilst the points noted provide a summary that the alternate site is supposedly more appropriate for a 'Tavern' operation, there were no specific details provided regarding the nature of said incoming applications.

Moreover, the point of objection noted the development application and scheme amendment process provides an opportunity for consideration of the submission by the Town and the broader community, unlike the current application at the subject site. However, this development application has provided both the Town and the broader community with sufficient opportunity to assess the proposal through a detailed planning assessment and public advertising period of fourteen (14) days. This consideration is presumably identical to what would be given to a development application at the alternate site. Therefore, it is submitted that the above excerpts should be redacted from any OCM agenda attachment, given its irrelevance to the merits of this development application and the incorrect comments made which have the potential to prejudice the opinions of Councillors.



Implications of the proposed extension to the Approval Timeframe

As previously noted, the Town's Local Planning Policy PLNG10 – Transitional Use Policy provides the ability for uses will be considered for approval for a temporary period of up to 10 years. The relevant extract from the Policy is reproduced below:

1. *"In areas of the Town undergoing transition to an agreed planning direction as identified by an adopted structure plan, local development plan or Scheme provisions, (eg Burswood Peninsula and the Causeway Precinct) uses will be considered for approval for a temporary period of up to 10 years, as deemed appropriate, based on the following criteria:*
 - a. *The use provides an interim service or facility that benefits the community;*
 - b. *The use provides activation and passive surveillance;*
 - c. *The use promotes economic development of the area by utilising otherwise vacant property/building during the interim period;*
 - d. *The use promotes social interaction and community development;*
 - e. *The use is appropriate in the precinct in which it is located and is a use that Council has the ability to approve;*
 - f. *The use promotes the principles of transit oriented development and/or modal shift; and*
 - g. *The use does not replicate a similar use permanently approved in proximity to the proposed use."*

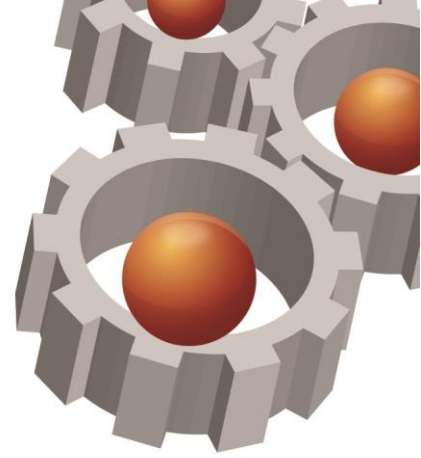
It is our view that the proposal to extend the Approval Period is inconsistent with the above, for the following reasons:

- The Policy specifies that the uses "...will be considered for approval for a temporary period of up to 10 years...", with the emphasis being that the use is interim in nature. It must be noted that the Town has already granted approval to the uses for a 10 year period, being the maximum timeframe specified under this policy, of which six (6) years is still remaining;

- The extension (if approved by Council) would potentially enable the uses to operate for up to 20 years, being a considerably greater time period than that specified within the Policy and also envisaged by Council in 2017. Arguably, it would no longer be considered a 'temporary' use in accordance with the policy;
- The request provides no indication of the ultimate development intentions for the site and the potential for this use to be suitably integrated. In any event, its non-conforming use status would result in the approval being extinguished upon demolition of the existing premises, with the Tavern use unable to be approved unless a suitable amendment is made to the Town's LPS1; and
- The request indicates that the time extension is sought in order to "...secure a new 'brewpub' tenant...". Based upon this it would appear that the intended operator is not yet known and therefore, as the ultimate operations for the site are unclear, it would not be possible to effectively assess the activity against the criteria within the policy.

In addition to the above, should Council grant approval to the time extension it would potentially result in the interim use being in place for a total of 20 years. Should the approval be extended as requested, it would potentially enable a new lease to be entered into with a prospective tenant for up to 16 years, which may detract from the Town's ability to effectively implement the development form proposed within the planning framework applicable to the locality until after the expiry of the approval.

It is also important to note that the current (temporary) approval has only been in place for 4 years, representing 40% of the total period available within the approval. It is considered to be extremely premature to seek an extension to the approval period at this early stage, particularly given that the intended operator is not known.



By way of a concise summary, the above excerpt provides a number of objections to the proposed development including:

- The fact that the proposed extension of approval period is a greater time period than allowed under the *Local Planning Policy PLNG10 – Transitional Use Policy (Transitional Use Policy)* by a period of 10 years;
- The fact that if the extension of the ‘Tavern’ use is approved, it may compromise the Town’s ability to effectively implement the proposed development form as specified in the planning framework;
- The fact that any attempt to integrate the approved land use into a new development would extinguish the existing non conforming use rights at the subject site;
- The fact that there is no indication of the ultimate development intentions and operator at the site are unknown and, as such, it is not possible to assess the activity against the provisions of the Transitional Use Policy;
- It is premature to seek an extension to the approval period given only 40% of the total period has taken place.

In response to their above points of objection, we note the following comments:

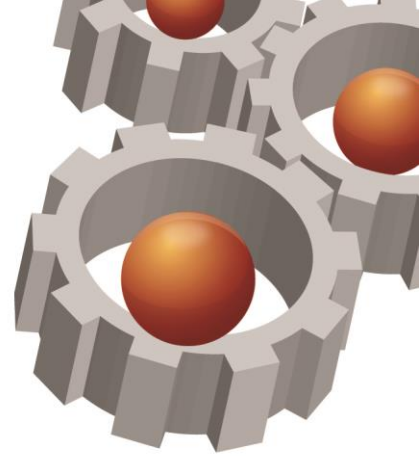
- The registered proprietor of the subject site (our client) met with planning officers at the Town of Victoria Park to seek clarification on written planning advice issued on 2nd March, 2021. The written advice stated that permanent approval of the ‘Tavern’ land use was not possible given the existing planning framework. They did note, however, that the land use represented a successful example of a transitional use and that the operation had been a positive influence on the social activation and amenity of the locality.

On the basis that there was a current lack of investment into gentrifying the existing light industrial land uses, they encouraged our client to lodge a development application seeking an extension to the existing approval period given it’s not expected the apartment market will evolve at any great pace. This point indicates that the continued operation of the existing land use at the subject site would not prejudice the Town’s ability to implement their desired ‘Office/Residential’ land use form.

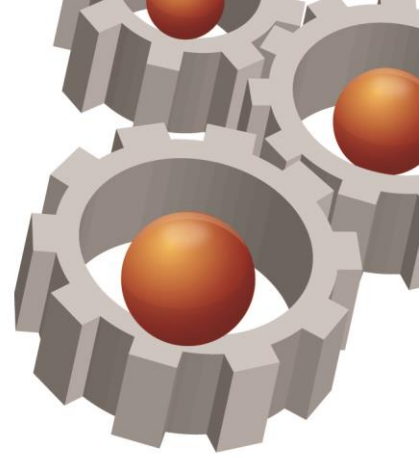
- Whilst their point that any large-scale redevelopment of the subject site would surrender the existing non-conforming use rights, it is not the intention of our client to do so prior to the approval period of the ‘Tavern’ land use expiring. Instead, our client solely intends on continuing the existing land uses at the subject site, which would allow the positive amenity and social activation impact to continue.



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- Whilst it is acknowledged that the ultimate development intentions and operator at the subject site were not disclosed in the development application, it is not considered a requirement for the Town to be able to assess the proposal against the provisions of the Transitional Use Policy. Instead, the policy relates to the use of the subject site, and its ability to stimulate the safety, and economic and social activity within the area. There is no component of the Transitional Use Policy which relates to specific requirements for tenants/operators or works components. The land use associated with the subject site is intended to remain as 'Tavern' and 'Light Industry' for the entirety of the approval period. To this extent, it is considered that the Town has enough information regarding the subject site to be able to accurately assess the proposal against the provisions of the Transitional Use Policy.
- The submission notes it is 'extremely premature' to seek an extension to the approval period, however it is not considered they have provided sufficient reasoning to justify this point. Regardless, the subject site has been noted by the Town as a successful example of a Transitional Use and, as such, it seems appropriate to implement the necessary approvals now in order for our client to secure a new tenant and ensure the land use remains successful and activating into the future.



To conclude, it is considered the objection made as part of the public advertising period have been appropriately responded to. Much of the submission involved irrelevant planning considerations, which we request is redacted from any OCM agenda attachments. We consider the development application at the subject site is wholly appropriate within its context and, as such, warrants conditional approval by the Town.

Should you have any queries or require any clarification in regard to the matters raised, please do not hesitate to contact the undersigned, or Mr Bryn Greenhalgh on 9275-4433.

Yours faithfully,

NEIL TEO
DIRECTOR

Enc.

File Ref: 211125 1238 Town of Victoria Park Advertising Comments – Response Letter