



TOWN OF
VICTORIA PARK

Agenda Briefing Forum 2 August 2022



WE'RE OPEN
VIC PARK

Please be advised that an **Agenda Briefing Forum** will be held at **6:30pm** on **Tuesday 2 August 2022** in the **Council Chambers**, Administration Centre at 99 Shepperton Road, Victoria Park.

Ms Natalie Martin Goode and Ms Bana Brajanovic – Acting Chief Executive Officers

28 July 2022

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1 About the Agenda Briefing Forum

The purpose of the Agenda Briefing Forum is to ask questions and seek clarity on the draft Ordinary Council Meeting agenda, in line with the Agenda Briefing, Concept Forum and Council Workshops Policy.

The meeting is open to all members of the public, except during the consideration of matters deemed confidential in line with the *Local Government Act 1995*.

Members of the public that are directly impacted by an item on the agenda may participate in the meeting through a deputation. A deputation is a presentation made by one individual or a group up to five people affected (adversely or favourably) by a matter on the agenda. Deputations may not exceed 10 minutes. A [Deputation Form](#) must be submitted to the Town no later than 24 hours prior to the meeting and is to be approved by the Chief Executive Officer.

All others may participate in the meeting during the allotted Public Participation Time. While it is not required, members of the public are encouraged to submit their questions and statements in advance by [email](#) or by completing the [Public Question/ Statement Form on the Town's website](#). Please note that questions and statements related to an agenda item will be considered first. All those dealing with matters of a general nature will be considered in the order in which they have been received.

For any questions regarding the Agenda Briefing Forum or any item presented in the draft agenda, please contact the Governance team at GovernanceVicPark@vicpark.wa.gov.au.

Disclaimer

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Any advice provided by an employee of the Town on the operation of written law, or the performance of a function by the Town, is provided in the capacity of an employee, and to the best of that person's knowledge and ability. It does not constitute, and should not be relied upon, as a legal advice or representation by the Town. Any advice on a matter of law, or anything sought to be relied upon as representation by the Town, should be requested in writing.

Noting that the Agenda Briefing Forum is only for the purpose of seeking further information on the draft Ordinary Council Meeting Agenda, and does not constitute a decision-making forum, any person or entity who has an application or submission before the Town must not rely upon officer recommendations presented in the draft agenda. Written notice of the Council's decision, and any such accompanying conditions, will be provided to the relevant person or entity following the Ordinary Council Meeting.

2 Opening

3 Acknowledgement of country

Acknowledgement of the traditional owners

Ngany djerapiny Wadjak – Noongar boodja-k yaakiny, nidja bilya bardook.

I am honoured to be standing on Whadjuk - Nyungar country on the banks of the Swan River.

Ngany kaaditj Noongar moort keny kaadak nidja Wadjak Noongar boodja. Ngany kaaditj nidja Noongar birdiya – koora, ye-ye, boorda, baalapiny moorditj Noongar kaaditjin, moort, wer boodja ye-ye.

I acknowledge the traditional custodians of this land and respect past, present and emerging leaders, their continuing cultural heritage, beliefs and relationship with the land, which continues to be important today.

Ngany youngka baalapiny Noongar birdiya wer moort nidja boodja.

I thank them for the contribution made to life in the Town of Victoria Park and to this region.

4 Announcements from the Presiding Member

4.1 Purpose of the Agenda Briefing Forum

The purpose of this forum is to provide an opportunity for Elected Members to ask questions and obtain additional information on officer reports in the draft Ordinary Council Meeting agenda. It is not a decision-making forum, nor is it open for debate.

Members of the public that may be directly affected by an item on the agenda can make presentations, deputations, statements, and ask questions, prior to the matter being formally considered by Council at the next Ordinary Council Meeting.

4.2 Notice of recording and live-streaming

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

4.3 Conduct of meeting

All those in attendance are expected to extend due courtesy and respect to the meeting by refraining from making any adverse or defamatory remarks regarding Council, the staff or any elected member. No one shall create a disturbance at a meeting by interrupting or interfering with the proceedings through expressing approval or dissent, by conversing, or by any other means.

All questions and statements made by members of the public are not to personalise any elected member or member of staff. Questions and statements are to be directed to the Presiding Member, who may choose to call upon an officer of the Town, or another elected member, to assist with responses.

4.4 Public participation time

There is an opportunity to ask questions and make statements at the beginning and end of the meeting. The opportunity to ask questions and make statements at the end of the meeting is limited to the following:

- Those items on the agenda and
- Those members of the public who did not participate in the first public participation time at this meeting.

Public participation time will be held for 30 minutes. Any additional time must be by agreement from the meeting and will be in five-minute increments.

In line with the intended purpose of the Agenda Briefing Forum, questions and statements relating to an agenda item will be considered first. All others will be considered in the order in which they are received.

4.5 Questions taken on notice

Responses to questions taken on notice that relate to an agenda item will be presented in the officer report for the Ordinary Council Meeting agenda under the heading 'Further consideration'.

Responses to general matters taken on notice will be made available in the relevant Ordinary Council Meeting agenda under the section 'Responses to public questions taken on notice'.

5 Attendance

Mayor

Ms Karen Vernon

Banksia Ward

Deputy Mayor Claire Anderson

Cr Peter Devereux

Cr Wilfred Hendriks

Cr Luana Lisandro

Jarraah Ward

Cr Bronwyn Ife

Cr Jesvin Karimi

Cr Vicki Potter

A/Chief Executive Officer

Ms Bana Brajanovic

A/Chief Executive Officer

Ms Natalie Martin Goode

Chief Operations Officer

Ms Natalie Adams

Chief Financial Officer

Mr Duncan Olde

A/Chief Community Planner

Mr David Doy

Manager Development Services

Mr Robert Cruickshank

Manager Property Development and Leasing

Mr Paul Denholm

A/Manager Governance and Strategy

Ms Amy Noon

Manager Technical Services

Mr John Wong

Secretary

Ms Felicity Higham

Public liaison

Ms Alison Podmore

Apologies

Chief Executive Officer

Mr Anthony Vuleta

Approved leave of absence

Jarraah Ward

Cr Jesse Hamer

6 Declarations of interest

Declarations of interest are to be made in writing prior to the commencement of the meeting.

Declaration of financial interests

A person has a financial interest in a matter if it is reasonable to expect that the matter will, if dealt with by the local government, or an employee or committee of the local government or member of the Council of the local government, in a particular way, result in a financial gain, loss, benefit or detriment for the person.

A declaration under this section requires that the nature of the interest must be disclosed. Consequently, a member who has made a declaration must not preside, participate in, or be present during any discussion or decision-making procedure relating to the matter the subject of the declaration.

An employee is required to disclose their financial interest and if required to do so by the Council must disclose the extent of the interest, where they are providing advice or a report to the Council. Employees may continue to provide advice to the Council in the decision-making process if they have disclosed their interest.

Declaration of proximity interest

A person has a proximity interest in a matter if the matter concerns: a) a proposed change to a planning scheme affecting land that adjoins the person's land; b) a proposed change to the zoning or use of land that adjoins the person's land; or c) a proposed development (as defined in section 5.63(5) of the *Local Government Act 1995*) of land that adjoins the persons' land.

Land adjoins a person's land if: a) the proposal land, not being a thoroughfare, has a common boundary with the person's land; b) the proposal land, or any part of it, is directly across a thoroughfare from, the person's land; or c) the proposal land is that part of a thoroughfare that has a common boundary with the person's land. A person's land is a reference to any land owned by the person or in which the person has any estate or interest.

A member who has made a declaration must not preside, participate in, or be present during any discussion or decision-making procedure relating to the matter the subject of the declaration.

Employees are required to disclose their proximity interests where they are providing advice or a report to the Council. Employees may continue to provide advice to the Council in the decision-making process if they have disclosed their interest.

Declaration of interest affecting impartiality

Elected members (in accordance with Code of Conduct for Council Members, Committee Members and Candidates) and employees (in accordance with the Code of Conduct for employees) are required to declare any interest that may affect their impartiality in considering a matter. The declaration must disclose the nature of the interest. This declaration does not restrict any right to participate in or be present during the decision-making process.

- 7 Public participation time**
- 8 Presentations**
- 9 Deputations**
- 10 Method of dealing with agenda business**

11 Chief Executive Officer reports

11.1 Council resolutions status report - July 2022

Location	Town-wide
Reporting officer	Governance Officer
Responsible officer	Manager Governance and Strategy
Voting requirement	Simple majority
Attachments	1. Outstanding Council Resolutions Report - July 2022 [11.1.1 - 33 pages] 2. Completed Council Resolutions Report July 2022 [11.1.2 - 5 pages]

Recommendation

That Council:

1. Notes the Outstanding Council Resolutions Report as shown in attachment 1.
2. Notes the Completed Council Resolutions Report as shown in attachment 2.

Purpose

To present Council with the Council resolutions status reports.

In brief

- On 17 August 2021, Council endorsed status reporting on the implementation of Council resolutions.
- The status reports are provided for Council's information.

Background

1. On 17 August 2021, Council resolved as follows:
2. *That Council:*
 1. *Endorse the inclusion of Council Resolutions Status Reports as follows:*
 - a) *Outstanding Items – all items outstanding; and*
 - b) *Completed Items – items completed since the previous months' report to be presented to each Ordinary Council Meeting, commencing October 2021.*
 2. *Endorse the format of the Council Resolutions Status Reports as shown in Attachment 1.*

Strategic alignment

Civic Leadership	
Community priority	Intended public value outcome or impact
CL3 - Accountability and good governance.	The reports provide elected members and the community with implementation/progress updates on Council resolutions.

Engagement

Internal engagement	
Stakeholder	Comments
All service areas	Relevant officers have provided comments on the progress of implementing Council resolutions.

Legal compliance

Not applicable.

Risk management consideration

Risk impact category	Risk event description	Consequence rating	Likelihood rating	Overall risk level score	Council's risk appetite	Risk treatment option and rationale for actions
Financial	Not applicable.				Low	
Environmental	Not applicable.				Medium	
Health and safety	Not applicable.				Low	
Infrastructure/ ICT systems/ utilities	Not applicable.				Medium	
Legislative compliance	Not applicable.				Low	
Reputation	Not applicable.				Low	
Service delivery	Not applicable.				Medium	

Financial implications

Current budget impact	Sufficient funds exist within the annual budget to address this recommendation.
Future budget impact	Not applicable.

Analysis

- The Outstanding Council Resolutions Report details all outstanding items. A status update has been included by the relevant officer/s.
- The Completed Council Resolutions Report details all Council resolutions that have been completed by officers from 1 July 2022 to 27 July 2022. A status update has been included by the relevant officer/s.

Relevant documents

Not applicable.

11.2 Local Emergency Management Arrangements (LEMA)

Location	Town-wide
Reporting officer	Safety Coordinator
Responsible officer	Manager People and Culture
Voting requirement	Simple majority
Attachments	<ol style="list-style-type: none"> 1. 11.2.3 To VP Emergency Management Action Cards [11.2.1 - 66 pages] 2. Town of Victoria Park Business Continuity and Response Plan PRIVATE [11.2.2 - 38 pages] 3. 4 City of Belmont and Town of Victoria park LEMA - Adopted 26 May 2020 with Attachments PRIVATE [11.2.3 - 181 pages]

Recommendation

That Council endorses the Town of Victoria Park and City of Belmont Local Emergency Management Arrangements, as at attachment 11.2.1.

Purpose

To endorse the revised Local Emergency Management Arrangements (LEMA) following a minor review.

In brief

- A local government is required to maintain arrangements (*local emergency management arrangements*) for emergency management in the local government's district.
- The LEMA has been prepared in line with the LEMA Guideline and Model (State Emergency Management – A strategic framework for emergency management in Western Australia).
- The LEMA has been prepared by the Town of Victoria Park and City of Belmont with assistance from the Local Emergency Management Committee and risk management staff from LGIS in accordance with the Local Emergency Management Arrangements Guideline and Model.

Background

1. The *Emergency management Act 2005* requires a local government to maintain arrangements (*local emergency management arrangements*) for emergency management in the local government's district.
2. The LEMA is the collection of all emergency management strategies, plans, agreements and other documentation applicable to the local government district.
3. The *Emergency Management Act 2005* also allows local governments to maintain shared emergency management arrangements. As such the Town of Victoria Park and the City of Belmont maintain a combined Local Emergency Management Committee and a LEMA
4. In 2020 the proposed LEMA was completed in accordance with the guidelines. The document was:
 - endorsed by the Local Emergency management Committee
 - compliance checked by our District Emergency Management Advisor
 - sent to District Emergency Management Committee for noting
 - noted by the District Emergency Management Committee and sent to the State Emergency Management Committee
 - noted by State Emergency Management Committee.

5. The Town of Victoria Park and the City of Belmont maintain a combined Local Emergency Management Committee in accordance with the *Emergency Management Act 2005*
6. The Town of Victoria Park and the City of Belmont Local Emergency Management Committee prepared and endorsed the LEMA in March 2020 in accordance with the LEMA Guidelines and Model.
7. The District Emergency Management Advisor sent on the compliance checked LEMA to the District Emergency Management Committee for noting via email on 1 July 2020 in accordance with the LEMA Guideline and Model.
8. The District Emergency Management Committee noted the LEMA in accordance with LEMA Guideline and Model
9. The District Emergency Management Committee forwarded the LEMA to the State Emergency Management Committee in accordance with LEMA Guideline and Model.
10. The State Emergency Management Committee meeting of the 14 August 2020 noted the LEMA as having met the requirements of the Emergency management Act 2005.
11. Executive Officer, State Emergency Management Committee, informed the Town Chief Executive Officer of this outcome on 28 August 2020.
12. The noted LEMA has now undergone a minor review, in addition to the review "Action Cards", Attachment 11.2.3, for each service area have been developed as a tool to provide clarity, as far as reasonably practicable in an Emergency Management environment, to facilitate timely management of staff and resources as and when they may be required.

Strategic alignment

{strategic-outcomes}

The Town has prepared the LEMA in line with the *Emergency Management Act 2005*.

This preparation sits in line with the States expectation of Local Government for Planning, Preparedness, Response and Recovery in the event of an emergency management event.

The outcome of this preparedness is the Town is in a position of readiness to respond in a timely fashion to respond and recover from an emergency management event if and/or when required.

Engagement

Internal engagement	
Stakeholder	Comments
Customer Service	Update personnel and contact details
Operations (depot)	Update personnel and contact details
People & Culture	Update personnel and contact details
Stakeholder relations	Update personnel and contact details
Environmental Health	Update personnel and contact details
TDS	Update personnel and contact details
C-Suite	Update personnel and contact details

External engagement	
Stakeholder	Comments
Community	
LEMC members	Contacted to ensure contact details are up to date

Legal compliance

Part 3, Division 2 s.41 of the [Emergency Management Act 2005](#)

Risk management consideration

Risk impact category	Risk event description	Consequence rating	Likelihood rating	Overall risk level score	Council's risk appetite	Risk treatment option and rationale for actions
Financial	N/A					
Environmental	N/A					
Health and safety	N/A					
Infrastructure/ ICT systems/ utilities	N/A					
<i>Legislative compliance</i>	Not adopting LEMA would have the Town non-compliant with the <i>Emergency Management Act 2005</i>	Insignificant	Unlikely	Low	Low	TREAT risk by council adopting the LEMA
Reputation	N/A					
Service delivery	N/A					

Financial implications

Current budget impact	Sufficient funds exist within the annual budget to address this recommendation.
Future budget impact	Not applicable.

Analysis

1. It is also a requirement of the Act that LEMAs are regularly reviewed and updated. A minor review of the arrangements was carried out in 2021 to capture changes to employee names, titles, and contact details due to staff turnover.
2. The LEMA has also been linked to the Towns Local Recovery Plan and Response & Business Continuity Plan – Attachment 11.2.2
3. The identified changes have now been incorporated into the LEMA and is now submitted to the council for endorsement.

Relevant documents

[LEMA Guideline and Model \(State Emergency Management – A strategic framework for emergency management in Western Australia\)](#)

11.3 Nomination of WALGA 2022 Annual General Meeting Delegates

Location	Town-wide
Reporting officer	Governance Officer
Responsible officer	Manager Governance and Strategy
Voting requirement	Simple majority
Attachments	Nil

Recommendation

That Council:

4. Nominates two voting delegates for the 2022 Annual General Meeting of the WA Local Government Association to be held on Monday 3 October 2022 at Crown Perth.
5. Nominates two proxy voting delegates for the 2022 Annual General Meeting of the WA Local Government Association to be held on Monday 3 October 2022 at Crown Perth, in the event that Council's appointed representatives are unable to attend.
6. Requests the Chief Executive Officer to advise the WA Local Government Association of Council's nominees.

Purpose

For Council to nominate two voting delegates and two proxy voting delegates for the 2022 Annual General Meeting of the WA Local Government Association (WALGA).

In brief

- The 2022 WALGA Annual General Meeting is being held on Monday 3 October 2022 at Crown Perth.
- The Town must nominate two voting delegates by Friday 23 September 2022 to be able to participate in voting on matters.
- Two proxy delegates should be nominated in the event that the appointed representatives are unable to attend on the day.

Background

1. WALGA is the peak industry body for local government in Western Australia and advocates on behalf of 139 local governments.
2. All member Councils are entitled to be represented by two voting delegates and two proxy voting delegates at the Annual General Meeting of WALGA.
3. At the Annual General Meeting, members consider WALGA's annual financial statements, the President's annual report and any executive or member motions that are raised.
4. This year, the WALGA Annual General Meeting is being held on Monday 3 October 2022 at Crown Perth.
5. The Chief Executive Officer has received communication from WALGA requesting the Town to submit its voting delegates by Friday 23 September 2022.

6. At its Special Council Meeting held on 25 October 2021, Council appointed Cr Bronwyn Ife and Cr Peter Devereux as members to represent the Town on the WALGA South-East Metropolitan Zone. Mayor Karen Vernon and Deputy Mayor Claire Anderson were appointed as deputies for the period 25 October 2021 to 21 October 2023.
7. Cr Bronwyn Ife is the Chair of the WALGA South-East Metropolitan Zone.
8. In 2021, Council nominated Mayor Karen Vernon and Cr Bronwyn Ife as voting delegates. Cr Jesvin Karimi and Deputy Mayor Claire Anderson, were nominated as proxy voting delegates.

Strategic alignment

Civic Leadership	
Community priority	Intended public value outcome or impact
CL3 - Accountability and good governance.	<p>WALGA's constitution requires that voting delegates are registered.</p> <p>Representation at WALGA's Annual General Meeting will enable the Council to be involved in any decision-making affecting the Town.</p>

Engagement

Not applicable.

Legal compliance

WALGA's constitution requires that voting delegates are registered.

Risk management consideration

Risk impact category	Risk event description	Consequence rating	Likelihood rating	Overall risk level score	Council's risk appetite	Risk treatment option and rationale for actions
Financial	Not applicable.				Low	
Environmental	Not applicable.				Medium	
Health and safety	Not applicable.				Low	
Infrastructure/ ICT systems/ utilities	Not applicable.				Medium	
Legislative compliance	If the Town doesn't submit its voting members, it will not be able to vote on the matters being considered.	Insignificant	Unlikely	Low	Low	Treat risk by nominating voting members.

Reputation	Not applicable.	Low
Service delivery	Not applicable.	Medium

Financial implications

Current budget impact	Sufficient funds exist within the annual budget to address this recommendation.
Future budget impact	Not applicable.

Analysis

- Council should appoint two voting delegates and two proxy voting delegates for the WALGA Annual General Meeting, to ensure the Town is represented to vote on matters affecting the Town and the wider local government sector.

Relevant documents

[WALGA Constitution](#)

12 Chief Community Planner reports

12.1 No. 98-106 (Lots 1-5) Goodwood Parade, Burswood - Change of Use to 'Restaurant/Café & Tavern'

Location	Burswood
Reporting officer	Senior Planning Officer
Responsible officer	Manager Development Services
Voting requirement	Simple majority
Attachments	<ol style="list-style-type: none"> 1. Site Aerial [12.1.1 - 1 page] 2. Street View Images [12.1.2 - 3 pages] 3. Development Application - Cover Letter and Supporting Information [12.1.3 - 26 pages] 4. Development Plans [12.1.4 - 6 pages] 5. No. 98-106 Goodwood Parade, Burswood - Acoustic report [12.1.5 - 31 pages] 6. Applicant's Acoustic Consultant Response [12.1.6 - 9 pages] 7. Applicant's Acoustic Consultant Further Response [12.1.7 - 4 pages] 8. Development Application Consultation Comments [12.1.8 - 9 pages] 9. Applicant's Response to Consultation Comments [12.1.9 - 11 pages] 10. No. 98-106 Goodwood Parade, Burswood - Transport Impact Statement [12.1.10 - 30 pages] 11. No. 98-106 Goodwood Parade, Burswood - Waste Management Plan [12.1.11 - 23 pages]

Landowner	Goodwood Sky Pty Ltd
Applicant	Steven Russell
Application date	04/02/2022
DA/BA or WAPC reference	5.2021.576.1
MRS zoning	Urban
TPS zoning	Office/Residential
R-Code density	R80
TPS precinct	Precinct P2 Burswood Precinct
Use class	'Restaurant/Cafe' & 'Brewery'

Use permissibility	'P' (Permitted) and 'AA' (Discretionary)
Lot area	No. 98 Goodwood Parade, Burswood - 615m ² No. 100 Goodwood Parade, Burswood - 615m ² No. 102 Goodwood Parade, Burswood - 616m ² No. 104 Goodwood Parade, Burswood - 613m ² No. 106 Goodwood Parade, Burswood - 915m ²
Right-of-way (ROW)	Right-of-way 133 to the east (rear) of the sites
Municipal heritage inventory	Not applicable.
Residential character study area/weatherboard precinct	Not applicable.
Surrounding development	Light industrial warehouses and associated offices.

Recommendation

That Council approves the application and plans dated 4 February 2022 and 15 July 2022 submitted by Steven Russell for the proposed Change of Use to 'Restaurant/Cafe' & 'Brewery' at No. 98-106 (Lots 1-5) Goodwood Parade, Burswood, in accordance with the provisions of the Town of Victoria Park Town Planning Scheme No. 1 and the Metropolitan Region Scheme, subject to the following conditions:

1. The development, once commenced, is to be carried out in accordance with the approved plans, at all times, unless otherwise authorised by the Town.
2. This approval is valid until 16 August 2032 after which time the operation of the approved 'Restaurant/Cafe' and 'Brewery' shall cease unless further development approval has been obtained.
3. If the development, the subject of this approval, is not substantially commenced within a period of 24 months from the date of the approval, the approval will lapse and be of no further effect. For the purposes of this condition, the term "substantially commenced" has the meaning given to it in the *Planning and Development (Local Planning Schemes) Regulations 2015* as amended from time to time.
4. Unless a variation to the trading hours is approved in writing by the Town the trading hours are limited to the following:
 - (a) Restaurant - Monday to Wednesday 10:30am – 9pm, Thursday to Saturday 1:30pm to 12:00am, and Sunday 10:30am – 10:00pm.
 - (b) Bar and Alfresco - Monday - Wednesday 10.30am - 9pm, Thursday - Saturday 10.30am to 12am, and Sunday 10.30am - 10pm.
5. Prior to occupancy, either (i) Lots 1-5 are to be amalgamated into a single lot on a Certificate of Title; or (ii) the owner entering into a legal agreement with the Town prepared by the Town's Solicitors at the owner's cost agreeing to complete the amalgamation of Lots 1- 5 into a single lot within 12 months of the issue of a building permit.

6. Operation of the approved 'Restaurant/Cafe' and 'Brewery to be in accordance with the applicant's written details approved by the Council. Any changes to the operations will require lodgment of a new application for development approval for consideration by Council.
7. The development shall operate at all times in accordance with the report from Acoustic Consultants Australia dated 10 February 2022 and further acoustic information dated 7 April 2022 and 15 May 2022.
8. Prior to lodging an application for a building permit, a detailed noise management report is being prepared and submitted to the Town for approval including details of the following:
 - (a) Windows and doors which need to remain closed, at various times for compliance with the Noise Regulations. This is in addition to the acoustic performance of glazing
 - (b) Maximum Sound Power Level of each item of external building services plant at the site.
 - (c) Size, location and construction of barriers required to reduce noise levels, and to ensure that any tonality from the plant has been addressed
 - (d) Times of day and locations for deliveries and pickups at site
 - (e) Façade construction elements, including doors, glazing, roof and walls.
 - (f) Exact treatments to be used to seal gaps
 - (g) Amplified speaker locations, orientations, types of resilient mounts, noise levels at 1m from the speakers, and times of usage
 - (h) Reverberation times, and corresponding areas of, locations of and performances of acoustic absorption paneling within indoor spaces
 - (i) Additional treatments required by the applicant, in the event that residential development occurs adjacent to, or in the vicinity of the applicant's site. It is noted that under such a scenario, it is the responsibility of the Brewery to reduce their environmental noise emission to any potential nearby residential use. Note that such treatments are not needed until and unless residential or other sensitive development occurs in the immediate vicinity of the Brewery
 - (j) Documenting effective procedures for the management of noise from the site, including
 - noise monitoring
 - control of patron's behaviour entering and leaving the site,
 - signage,
 - actions to control noise from PA systems,
 - response to noise complaints,
 - staff training

Once approved, the noise management plan was be adhered to at all times for the duration of the development approval.
9. An assessment of overall noise emission from the site, under typically high patron numbers, and typically noisy activities is to be submitted by the Applicant within 6 months of opening and based on measured levels at the applicant's site to the satisfaction of the Town.
10. Prior to lodging an application for a building permit, revised plans must be submitted to and approved by the Town demonstrating safe pedestrian access from the 'entry stairs' to ROW 133 and the provision of a pedestrian path connecting the 'entry stairs' to the local pedestrian path network. The approved works shall be constructed by the Town at the cost of the applicant/owner prior to operation of the development.
11. The Traffic Impact Statement must be implemented at all times to the satisfaction of the Town.

12. Prior to lodging an application for a building permit, all plant equipment, air conditioning units, hot water systems, water storage tanks, service metres, bin storage areas and clothes drying facilities must be located to minimise any visual and noise impact on the occupants of nearby properties and screened from view from the street. Design plans for the location, materials and construction for screening of any proposed external building plant must be submitted to and approved by the Town.
13. Complete details of the proposed external colours, finishes and materials to be used in the construction of the buildings are to be provided to the satisfaction of the Town prior to submission of an application for a building permit. The development shall be constructed in accordance with the approved details and shall be thereafter maintained.
14. Prior to the occupation or use of the development, the 32 car parking spaces together with their access aisles to be clearly paved, sealed, marked and drained in accordance with AS2890.1 and thereafter maintained to the satisfaction of the Town.
15. All driveways and car parking bays to be constructed of brick paving, liquid limestone, exposed aggregate or any alternative material approved by the Town.
16. Prior to commencement of the use, the existing vehicle crossovers are to be upgraded to the Town's specifications. Any redundant crossovers (or parts thereof) are to be removed and the kerbing, verge, and footpath (where relevant) reinstated with grass or landscaping to the satisfaction of the Town, and at the owner's cost.
17. Prior to occupation of the development, the bicycle facilities must be provided in accordance with Australian Standard AS 2890.3 and to the satisfaction of the Town. The bicycle parking facilities shall be installed and remain in place permanently unless otherwise approved by the Town.
18. Prior to lodging an application for a building permit, a detailed landscaping and reticulation plan for the subject site and the adjacent road verge(s) must be submitted to and approved by the Town, and must include the following:
 - (a) The location and type of a minimum 12 'medium' trees as defined by Local Planning Policy 39 – Tree Planting and Retention
 - (b) The location, number and type of any addition proposed trees and shrubs including planter and/or tree pit sizes and planting density;
 - (c) and shrubs including planter and/or tree pit sizes and planting density;
 - (d) Any lawn to be established;
 - (e) Any existing vegetation and/or landscaped areas to be retained;
 - (d) Any verge treatments;
 - (e) The provision of soft landscaping treatments within the southern carparking area at the Goodwood Parade and Stiles Avenue corner of the site;
 - (f) The provision of additional soft landscaping adjacent or incorporated into (e.g. climbing plants/trellis) the fencing to the outdoor dining/drinking area of the development, to soften and improve the interface with the right-of-way.
19. Existing trees located within the verge are a Town asset and as such must be retained except where otherwise approved for removal by the Town.
20. Prior to the occupation of the development, all landscaping is to be completed and thereafter maintained to the satisfaction of the Town.
21. Prior to lodging an application for a building permit, a plan shall be submitted detailing the location of all external lighting, to the satisfaction of the Town. The lighting plan and subsequent lighting installed must demonstrate that any light spill to adjoining properties is minimised to acceptable levels and is in compliance with AS4282:1997. Lighting in accordance with the

approved plan is to be installed prior to occupation or strata titling of the building(s), whichever occurs first.

22. Lighting to illuminate that portion of the right-of-way adjacent to the subject land is to be provided at vehicle and pedestrian entry points.
23. Prior to the commencement of any site works, a Construction Waste Management Plan prepared by a suitably qualified person in consultation with the Town, must be submitted to the Local Government. The plan must address, but not be limited to, the following matters:
 - a. Recycling of demolition materials including concrete;
 - b. Removal of hazardous materials and disposal at any approved waste disposal facility in accordance with the requirements of the relevant legislation, codes, standards and guidelines, prior to the commencement of any building works.

Details demonstrating compliance with the relevant legislative requirements, associated with the removal of hazardous waste, particularly the method of containment and control of emission of fibres to the air, are to be submitted to the satisfaction of the Town prior to the removal of any hazardous materials.

27. Prior to lodging an application for a building permit, the applicant must submit and have it approved by the Town, and thereafter implement to the satisfaction of the Town, a Construction Management Plan addressing the following matters:
 - (a) How materials and equipment will be delivered and removed from the site;
 - (b) How materials and equipment will be stored on the site;
 - (c) Parking arrangements for contractors;
 - (d) Construction waste disposal strategy and location of waste disposal bins;
 - (e) Details of cranes, large trucks or similar equipment which may block public thoroughfares during construction;
 - (f) How risks of wind and/or water borne erosion and sedimentation will be minimised during and after the works;
 - (g) Construction traffic and pedestrian management; and
 - (h) Other matters are likely to impact on the surrounding properties.
24. The Waste Management Plan dated 4 February 2022 must be implemented at all times to the satisfaction of the Town. The development is to thereafter operate in accordance with the Waste Management Plan unless otherwise approved by the Town in writing.
25. At all times provision must be made onsite for the storage and collection of garbage and other solid waste. A waste storage and collection area must be graded, drained and screened from public view, and the garbage collected regularly, to the satisfaction of the Town.
26. Provision being made for a 1.5 metre by 1.5 metre corner lot truncation at the intersection of Stiles Avenue and right of way 133. The truncation area should remain free of any obstructions that would inhibit its provision in conjunction with any future subdivision/amalgamation of the lot.
27. Prior to lodging an application for a building permit, stormwater disposal plans, details and calculations must be submitted for approval by the Town and thereafter implemented, constructed and maintained to the satisfaction of the Town.
28. Any structure, wall or fence located within a 1.5 metre x 1.5 metre visual truncation at the intersection of any driveway and the property boundary, is not to exceed a height of 750mm with the exception of:
 - I. one brick pier (maximum dimensions 350mm by 350mm);
 - II. wrought iron or similar metal tubing style infill fencing; and/or

III. pickets or rails to be spaced a gap of at least 40mm where they are no more than 80mm in width, or shall be spaced a gap equal to at least the width of the picket or rail where they exceed 80mm in width.

29. The location and details of the sign(s), and any supporting structure, as shown on the approved plans, must not be altered without the written consent of the Town.

30. The sign(s) must be constructed and maintained to the satisfaction of the Town.

Advice Notes

AN1 The applicant/owner should refer to the Requirements of Other Council Business Units, enclosed with this development approval, which are relevant to the submission of a building permit and/or the carrying out of the development for which this approval is granted. This development approval does not remove the need to obtain licences, permits or other forms of approval that may be required under other legislation or requirements of Council.

AN2 In relation to condition 3, a further two years is added to the date by which the development shall be substantially commenced, pursuant to Schedule 4, Clause 4.2 of the Clause 78H Notice of Exemption from Planning Requirements During State of Emergency signed by the Minister for Planning on 8 April 2020. For further information regarding the Ministerial direction, please contact the Town of Victoria Park Urban Planning Department on 9311 8111 or admin@vicpark.wa.gov.au

AN3 Any amendments or modifications to the approved drawings forming part of this development approval may require the submission of an application for amendment to development approval and reassessment of the proposal.

AN4 With regards to condition 5, the applicant is advised of the future right-of-way widening and upgrade as per the Town of Victoria Park Town Planning Scheme and Local Planning Policy 40 Burswood Station East Precinct Design Guidelines and Public Realm Improvements.

AN5 With regards to condition 18, the applicant is advised that the 12 trees required shall be a species of tree that has the potential at maturity to be a minimum height of 5m and a minimum canopy width of 4m and is a minimum size of at least 35 litres when planted. The proposed tree shall be maintained via an automated irrigation system or other similar method by the landowner or developer for the first two summers after the commencement of the use. If the proposed tree is of poor health and is removed, it is to be replaced with a suitable replacement tree by the owner or developer. A Tree Growth Zone, shall be shown on the landscaping plan and shall be maintained to the satisfaction of the Town. No structure, unless water permeable, is to encroach within the Tree Growth Zone.

AN6 A demolition permit is required to be obtained from the Town prior to the demolition of the existing building(s) and/or structure(s) on the site.

AN7 A building permit is required to be obtained from the Town prior to commencement of any work in relation to this development approval.

AN8 Sound levels created are not to exceed the provisions of the Environmental Protection (Noise) Regulations 1997

AN9 This approval is for the use of the building as a 'Restaurant/Cafe' and 'Brewery' only. Any alternative use of the premises may require the submission of an application to Council for a change of use.

AN10 It should not be construed that the right-of-way will be upgraded in conjunction with development of the lot. The right-of-way will be upgraded at a future time dependent upon funding and the priority under Council's Right-of-Way Strategy.

A13 Any work involving the handling and removal of asbestos must be undertaken in accordance with the *Health (Asbestos) Regulations 1992*

A14 Any air conditioning system is to be located in such a position so as not to cause a noise problem to occupants of surrounding properties. An information sheet regarding the installation of air conditioners is available from Council's Environmental Health Services.

Purpose

For Council to consider a development application for a change of use to 'Restaurant/Cafe' and 'Brewery' and associated building works at No. 98-106 Goodwood Parade, Burswood.

In brief

- A development application has been submitted to the Town for a change of use to 'Restaurant/Cafe' and 'Brewery' at No. 98-106 Goodwood Parade, Burswood.
- The Council at the May 2022 meeting resolved to amend Town Planning Scheme No. 1 (TPS 1) by amending Schedule C 'Additional Uses' to list a 'Tavern' as an Additional Use for No. 98-106 Goodwood Parade, Burswood. The listing of a Tavern as an Additional Use at the site would enable a Tavern use on the site, despite a Tavern being a prohibited use within the zone.
- The intention of this scheme amendment and development application are to facilitate the relocation of the tenant who currently operates at No. 84-88 Goodwood Parade and if both approved the applicant's future intent would be to change the use from a Brewery to a Tavern, as a Tavern Liquor Licence would provide more flexibility to operate the business in the manner preferred by the tenant.
- The subject sites are located within the area known as Burswood Station East, which is the subject of an amended planning framework, with Scheme Amendment 82 receiving approval from the Minister in March 2022 subject to modifications.
- The application was subject to 28 days community consultation and 7 submissions were received with 2 supportive and 5 raising objections.
- Council's Urban Planning Unit are satisfied that the use is consistent with the vision for Burwood Station East and that adequate measures are in place to comply with the requirements of the proposed land use.
- Given the imminent new planning framework for Burswood Station East (BSE) and the time limited approval issued for a Tavern at No. 84-88 Goodwood Parade, Burswood, it is considered appropriate that the Scheme Amendment be considered in a consistent manner and include a time limited component of 10 years with the opportunity to extend if appropriate at a future date as informed by how the development of the precinct occurs following the implementation of the planning framework.

Background

1. At the May 2022 Ordinary Council Meeting, Council considered and resolved to initiate Amendment 91 to the Town of Victoria Park Town Planning Scheme for the subject sites as follows:

Ref No.	Land Particulars	Permitted Uses	Development Standards/Conditions
A58	58 No. 98 (Lot 5) Goodwood Parade, Burswood; No. 100 (Lot 4) Goodwood Parade, Burswood; No. 102 (Lot 3) Goodwood Parade, Burswood; No. 104 (Lot 2) Goodwood Parade, Burswood; No. 106 (Lot 1) Goodwood Parade, Burswood;	Tavern	The Additional Use of Tavern shall: 1. Be deemed to be an 'AA' use for the purposes of the Scheme; and 2. Extinguish upon the expiry of ten (10) years from the gazettal date of this amendment, except where an application(s) for planning approval has been granted for the continued operation of the use beyond this time, in which case the Additional Use shall extinguish upon the expiry of that approval(s);

2. The proposed Scheme Amendment will provide for a 'Tavern' land use to be considered on the subject site as an 'AA' (Discretionary) Use. The primary purpose of Scheme Amendment 91 and the development application which is the subject of this report is for the relocation of the existing 'Tavern' and 'Brewery' (Light Industry)' that is currently operating at No. 84-88 Goodwood Parade, Burswood.
3. It is also noted that the Council at its Ordinary Meeting on 15 March 2022 considered an application to extend the time frame for the land to be used as a 'Tavern' at No. 84-88 Goodwood Parade, Burswood with Council resolving to support an extension until 1 July 2033.
4. Under the Town of Victoria Park Town Planning Scheme No.1, a 'Brewery' is defined as -
a premises the subject of a producer's licence authorising the production of beer, cider or spirits granted under the Liquor Control Act 1988;
5. A Tavern is defined as -
means premises the subject of a tavern licence granted under the Liquor Control Act 1988;
6. Scheme Amendment 91 would facilitate the ability for a future land use approval of 'Tavern' which is required to obtain a 'Tavern' liquor licence and forms a distinguishing interplay between planning and liquor licensing legislation.
7. In the interim period and concurrently with the processing of Scheme Amendment 91, the applicant has applied for development approval for a change of use application and associated physical works to operate as a 'Restaurant/Cafe' and 'Brewery' which are capable of being approved under the existing Scheme.
8. As discussed in the Scheme Amendment report (refer to minutes of the May 2022 Ordinary Council meeting), this would allow for consideration of a 'Tavern' to operate on the sites and subsequently the applicant to obtain a 'Tavern' Liquor License rather than a 'Producer's License' which could be obtained with the approval of 'Restaurant/Cafe' and 'Brewery' if this development is given approval by Council.
9. In the event that the Scheme Amendment is approved, the owner/operator would then submit a development application to the Town for a change of use to a 'Tavern' operation at a future time.

Applicants submission

10. The applicant has provided the following by way of summary of the proposal (see attachment 2 for the development submission in full):

Background

In 2017, Blasta Brewing Company lodged a Development Application with the Town seeking approval for the change of existing Non-Conforming Uses at Lots 99-101 (No. 84-88) Goodwood Parade, Burswood from 'Showroom' and 'Light Industry (Factory)' to 'Tavern' and 'Light Industry (Micro Brewery)'. Council approved the proposed change of use at its October 2017 meeting and following the granting of approval, arrangements associated with the lease of the site were finalised.

Despite the operators' aspirations to lease the site for the duration of the approval period as a minimum (ie: 10 years), the lessor only agreed to a lease for a maximum of six (6) years, which is to expire at the end of June 2023. Discussions with the landowner to extend the lease have been unsuccessful and it is not to be renewed.

In response to the above and to ensure the continued operation of the venue for the long term, the proponent has sought to secure an alternative site. This process has resulted in an agreement being reached with the owners of the subject Lots 1-5 which provides for the following:

- The immediate relocation and operation of Blasta Brewing Co in the short-term, subject to*
- modifications as proposed within the subject application; and*
- The retention and inclusion of Blasta Brewing Co within the landowners' intended development aspirations, which is anticipated to be in a form consistent with the future development envisaged for*
- the Burswood Station East Precinct as administered through the Town's Local Planning Policy No.40.*

Proposed Development

This Application seeks approval from the Town for the use of the existing premises at Nos. 102-104 as a 'Restaurant/Café' and 'Brewery', and approval for patron car parking and alfresco dining at Nos. 98-100. The Application also seeks to obtain approval for the subsequent physical modifications to the existing buildings at the subject site.

We provide a breakdown of the proposed development below:

No. 98

Incorporates the proposed patron car parking area which is to be accessible from Goodwood Parade.

No. 100

Incorporates additional car parking. Contains the proposed outdoor dining/alfresco area which includes a kids play area.

No. 102

Incorporates the Beer Hall which includes: bar, cool room, brewery production area containing four (4) beer tanks and areas for patron seating. Retention of an existing space between the buildings accommodating the proposed 'Bistro' and 'Beer Hall', described as an alley in the southern portion adjacent to No. 104 which will provide further patron seating and help facilitate patron movement through the development.

No. 104

The northern and middle section of No. 104 incorporates the main bistro area with patron seating, amenity facilities, main restaurant area, kitchen, cool room, dry storeroom, freezer, bar and a second brewery production area containing six (6) beer tanks. The southern section incorporates a café, takeaway window, a staff room with an additional storeroom and more amenity facilities.

Brew House Production

The premises will produce approximately 2000 barrels of product per year based on the current forecasts which would result in deliveries to local wholesalers and authorised liquor merchants. Blasta Brewing

Company propose to employ three (3) staff at the premises on production days when the site is closed to the public and up to 12 staff on days of normal service. There will be at least two (2) staff members operating in the brewery area at any one time. Beers sold through distribution will be collected in bulk at no more than two (2) pickups per week. The pickup and delivery of goods will be facilitated via a ute or a small truck at the southern portion of the subject site from the existing delivery dock.

Relevant planning framework

Legislation	<ul style="list-style-type: none"> • <i>Planning and Development Act 2005</i> • <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> • Metropolitan Region Scheme (MRS) • Town Planning Scheme No.1 (TPS1) • TPS1 Precinct Plan P2 – ‘Burswood’
State Government policies, bulletins or guidelines	N/A
Local planning policies	<ul style="list-style-type: none"> • Local Planning Policy 23 – Parking Policy • Local Planning Policy 35 – Development in Burswood Station East • Draft Local Planning Policy 40 - Burswood Station East Precinct Design Guidelines & Public Realm Improvements • Local Planning Policy 37 – Community Consultation on Planning Proposals
Other	<ul style="list-style-type: none"> • Town of Victoria Park Local Planning Strategy

General matters to be considered

TPS precinct plan statements	<p>The following statements of intent contained within the current TPS 1 Precinct Plan are relevant to consideration of the application.</p> <ul style="list-style-type: none"> • This area should be redeveloped from industrial use to an area of mixed office and residential activities together with other uses which serve the immediate needs of the work force and residents. Residential and office uses may be developed independently. <p>TPS 1 Amendment 82 proposes to amend the Statement of Intent for the Precinct, with the following being relevant:</p> <p><i>“The land incorporated in Sheet A of Precinct Plan P2 Burswood Precinct comprises the Burswood Station East Sub-Precinct. Burswood Station East should be redeveloped primarily as an area of high quality and medium to high density residential, office and commercial uses, reflective of an eclectic urban village that fosters activity, connections and vibrant public life for residents. In particular:</i></p> <p><i>b) Uses and public facilities that promote pedestrian interest, activity, safety and connectivity at street level are encouraged throughout Burswood Station East.</i></p> <p><i>c) Ground floor design will provide vibrant, human-scale, fine grain streetscapes that contribute to the overall character of the precinct.</i></p>
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e) Development should be designed to allow spaces to be adapted over time, particularly at the ground-floor level. Adaptive re-use is encouraged where this contributes to interest, vibrancy and improved building façade and public realm outcomes.

Local planning policy objectives

The following objectives of Local Planning Policy 35 'Policy Relating to Development in Burswood Station East' are relevant:

- Each and every application is required to be considered on its individual merit, however this Policy outlines that Council will not approve or support an application which is likely to prejudice the future planning and long-term objectives for the Precinct.

The following objectives of draft Local Planning Policy 40 'Burswood Station East Precinct Design Guidelines & Public Realm Improvements' are relevant in considering this development application:

- The Burswood Station East Precinct should be redeveloped primarily as an area of high-quality medium to high density residential, office and commercial uses, reflective of an eclectic urban village that fosters activity, connections and vibrant public life for residents.

Deemed clause 67 of the Planning and Development (Local Planning Schemes) Regulations 2015

The following are relevant matters to be considered in determining the application.

- a) The aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;
- b) the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the *Planning and Development (Local Planning Schemes) Regulations 2015* or any other proposed planning instrument that the local government is seriously considering adopting or approving;
- g) Any local planning policy for the Scheme area;
- m) The compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;
- n) The amenity of the locality including the following -
 - i. The character of the locality;
 - ii. Social impacts of the development.
- s) The adequacy of -
 - i. The proposed means of access to and egress from the site; and
 - ii. Arrangements for the loading, unloading, maneuvering and parking of vehicles;

	<p>t) The amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;</p> <p>u) The availability and adequacy for the development of the following - Access by older people and people with disability;</p> <p>x) The impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;</p> <p>z) Any other planning considerations the local government considers appropriate.</p>
<p>Council Policy 451 'Transitional Use'</p>	<p>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, (e.g., 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:</p> <ul style="list-style-type: none"> 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 the 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. <p>2. Where a development meets the criteria in (1) above, Council may vary relevant development standards and provisions at the Scheme or Local Planning Policies in order to facilitate development including exercising discretion under Clause 29 'Determination of Non-Complying Applications' of Town Planning Scheme No.1.</p>

Compliance assessment

The table below summarises the planning assessment of the proposal against the provisions of the Town of Victoria Park Town Planning Scheme No.1, the Towns local planning policies, the Residential Design Codes and other relevant documents, as applicable. In each instance where the proposal requires the discretion of Council, the relevant planning element is discussed in the detailed assessment section following from this table.

Change of use application		
Planning element	Permissibility/deemed-to-comply	Requires the discretion of the Council

Land use	'Restaurant/Cafe' - "P" (Permitted)	'Brewery' - "AA" (Discretionary)
Car parking		X
Signage	X	
Landscaping		X

Based upon the above table, the following development standards require the discretion of Council.

Element	Permissibility	Recommendation
Land use	'Brewery' - "AA" (Discretionary)	Supported

- Under Town Planning Scheme No.1, the 'Brewery' land use is a discretionary ('AA') use with the Office/Residential Zone. The site is within an area subject to a number of changes to the existing planning framework including Scheme Amendment 82 and draft Local Planning Policy 40 –Burswood Station East Precinct Design Guidelines and Public Realm Improvement.
- The vision for the precinct is to facilitate redevelopment of ageing industrial and commercial building stock to a vibrant urban neighborhood. The proposed use of the site satisfies a number of the objectives for the Precinct as proposed by Scheme Amendment 82 and draft Local Planning Policy 40, including those related to pedestrian safety, activity, vibrancy and the adaptive re-use of existing buildings, in which case a 'Brewery' could be considered as an appropriate land use within the Precinct. This is discussed in more detail in the Analysis section of the report.

Element	Requirement	Proposed	Variation
Carparking	198 bays	32 bays	166 bays
			Supported (see analysis section of report)

- The Town's Local Planning Policy 23 – Parking Policy requires car parking for the proposed land uses of Restaurant/Cafe and Brewery as follows:

Element	Requirement	Required
Number of Parking Bays	<u>Brewing Area</u> 3 bays for the first 150 square metres of net floor area and thereafter 1 for every 75 square metres of net floor area.	4

<u>Restaurant/Cafe</u> 1 bay per 4.5m ² of sit down area	179
<u>Bar Area</u> 1 bay for every 2m ² of drinking area	14.55
Total – 198 bays	

Element	Requirement	Proposed	Variation
Landscaping	25%	6.9%	18.1%
			Supported

14. The above requirement is from the Town's Planning Scheme No.1 Precinct Plan 'Burswood Precinct' (P2)

Landscaping: (i) Office/Residential Development. Twenty five percent of a site developed for office/commercial uses, mixed office and residential use, must be developed as landscaped area. The proportion of the site to be landscaped should predominantly include areas between the building and any street or public open space to which the building has an entry or frontage. Landscaping must consist of mature permanent (in ground) vegetation. Any existing substantial vegetation should be retained, or relocated on-site if redevelopment necessitates its removal. If relocation on-site is not possible replacement of trees with mature varieties is required.

15. The extent of landscaping as required by the precinct plan is considered difficult to achieve when retrofitting existing buildings which occupy a large majority of the sites. This requirement is geared towards new building and development and given the nature and scale of the development and existing building located on site the landscaping component proposed is considered appropriate to support.

16. Furthermore, Local Planning Policy 38 'Tree Planting and Retention' prescribes minimum tree planting requirements inclusive of the following which has been indicatively met and will be the subject of further assessment as part of the condition requiring a detailed landscaping plan to be provided:

An application for a new non-residential development or additions to a non-residential development which increase the existing net floor area and with a value exceeding \$200,000:

(a) 'Medium Trees' are to be provided at a rate of one (1) tree for every 300m² of lot area (rounded to the nearest whole number), or 1 per 'tree worthy of retention' that is removed (whichever is the greater).

17. In terms of landscaping and the interface with the planned redevelopment of the adjacent Stiles/ Griffiths Reserve, a condition of planning approval has been recommended to require additional landscaping treatments to the eastern side of the Alfresco area to assist with improving the interface and treatment of the development adjacent to this planned active reserve area.

Strategic alignment

Civic Leadership	
Community priority	Intended public value outcome or impact
CL2 - Communication and engagement with the community.	Community Consultation was undertaken in accordance with Council's Consultation Policy to assist in informing the community's position regarding the proposed development

Economic	
Community priority	Intended public value outcome or impact
EC1 - Facilitating a strong local economy.	The development would facilitate the relocation of a currently operating land use that encourages activation of the precinct and economic diversity and investment as a facility for current and future residents.
EC2 - Connecting businesses and people to our local activity centres through place planning and activation.	The development provides for a facility within the precinct that activates the area and provides for local and future residents.

Environment	
Community priority	Intended public value outcome or impact
EN3 - Enhancing and enabling liveability through planning, urban design and development.	The proposed development will make a positive contribution to the Burswood Station East precinct whilst ensuring compatibility with the developing precinct as it evolves as a medium to high density residential and commercial locality.

Engagement

Internal engagement	
Stakeholder	Comments
Environmental Health	Review of Acoustic Information and recommended conditions and advice.
Engineering	Review of Traffic Impact Statement, Waste Management Plan and civil works proposed.
Parks	Recommended conditions and advice relating to proposed landscaping.
Place Planning	Supportive of the proposal and encouraging of further activation of the frontage adjacent to Stiles/ Griffiths Reserve.
Building	Review of internal fit out and building works associated with the proposal.

External engagement	
Stakeholders	Owners and Occupiers within a 200 metre radius of the subject sites
Period of engagement	28 days 26 May 2022 to 24 June 2022
Level of engagement	2. Consult
Methods of engagement	Letters
Advertising	Newspaper Advertisements (Public Notices – Perth Now Southern) Signs on Site
Submission summary	2 submissions of support 5 submissions with objections
Key findings	<p>A copy of the submissions can be found in attachment 8 with a copy of the applicant's response to submissions found in attachment 9.</p> <p>A summary of the key findings are as follows:</p> <ul style="list-style-type: none"> • Objection to the same and/or similar land use occurring within close proximity to the proposal. • Concerns with crime and security, antisocial behaviour and drug and alcohol use within the area. • Integration with residential amenity of existing residents. • Car parking and traffic concerns (existing) and to be furthered by the development. • Noise and nighttime activity and litter.

Risk management considerations

Risk impact category	Risk event description	Consequence rating	Likelihood rating	Overall risk level score	Council's risk appetite	Risk treatment option and rationale for actions
Financial	Not Applicable.					
Environmental	Not Applicable.					
Health and safety	Not Applicable.					
Infrastructure/ ICT systems/ utilities	Not Applicable.					

Legislative compliance	The applicant has a right of review to the State Administrative Tribunal against Council's decision, including any conditions.	Moderate	Unlikely	Medium	Low	Accept by providing Council with all relevant information to make an informed decision.
Reputation	Negative public perception towards the Town if development approval is or is not granted	Moderate	Likely	Medium	Low	Accept and ensure the rationale for Council's decision is documented.
Service delivery	Not Applicable.					

Financial implications

Current budget impact	Not applicable.
Future budget impact	Not applicable.

Analysis

Site

18. The subject site comprises five lots and has frontages to Goodwood Parade to the west, Stiles Avenue to the south, and laneway 133 to the east (rear of the sites) – see Attachment 1. The subject site is located within the Burswood Precinct, or the area also known as Burswood Station East (BSE), bounded by the Graham Farmer Freeway, Great Eastern Highway, and the Armadale passenger railway line.
19. The lots are currently occupied by existing Warehouse and Office development which will largely be converted within the existing building footprint with the alfresco area being an addition and carparking extending into vacant land to the north of the site.

Proposed Scheme Amendment 82

20. Amendment 82 to TPS 1 establishes the BSE Sub-Precinct within Burswood Precinct Plan P2 Sheet A, providing high level development standards and objectives for the redevelopment of BSE to occur in accordance with the Local Planning Policy 40 – Burswood Station East Precinct Design Guidelines and Public Realm Improvements adopted for BSE.

21. The vision for the BSE area is to facilitate redevelopment of aging industrial and commercial building stock to a vibrant urban neighbourhood with Amendment 82 proposing the following new Statement of Intent for the BSE Sub Precinct:

“The land incorporated in Sheet A of Precinct Plan P2 Burswood Precinct comprises the Burswood Station East Sub-Precinct. Burswood Station East should be redeveloped primarily as an area of high quality and medium to high density residential, office and commercial uses, reflective of an eclectic urban village that fosters activity, connections and vibrant public life for residents. In particular:

- a) Public places such as parks, reserves, streets and lanes should be used, maintained and enhanced so that they create a high level of public amenity.*
- b) Uses and public facilities that promote pedestrian interest, activity, safety and connectivity at street level are encouraged throughout Burswood Station East.*
- c) Ground floor design will provide vibrant, human-scale, fine grain streetscapes that contribute to the overall character of the precinct.*
- d) Multi-storey development should be designed and proportioned to break up the visual presence of the development and provide a ‘human scale’ of development at street level.*
- e) Development should be designed to allow spaces to be adapted over time, particularly at the ground-floor level. Adaptive re-use is encouraged where this contributes to interest, vibrancy and improved building façade and public realm outcomes.*
- f) Buildings should be designed to maximise solar access and minimise the impact of wind on the public realm.*
- g) Development design will contribute to creation of a highly functional transit-oriented development, including through housing and land use mix, building façade design and car parking provision.*
- h) All buildings should strive to be innovative and reflect and accommodate modern business premises and offer a wide range of housing types and price points.*
- i) All new development should be designed in accordance with ‘Crime Prevention Through Environmental Design’ principles.*
- j) Buildings should be designed to achieve best practice for environmental sustainability through innovative design, construction and management.*
- k) Office and Commercial land uses should be the predominant land use in development fronting Great Eastern Highway.*
- l) Public spaces, local roads, pathways and development should include opportunities for urban greening.”*

22. On 11 March 2022, the Minister for Planning determined to approve Amendment 82 subject to modifications which have been made by the Town’s Place Planning team and is now awaiting the Minister’s final approval.

23. Driven by road intersection capacities and proximity to the Burswood train station and the development of the precinct as a transit oriented the development, a component of Scheme Amendment 82 that is relevant to the subject development is the proposed change in methodology for car parking, with there being a maximum number of car bays per site. The amendment proposes that the carparking requirement for the precinct would be a maximum of 0.06 bays per m² of parent lot area.

Local Planning Policy 40 - Burswood Station East Precinct Design Guidelines & Public Realm Improvements (LPP40)

24. LPP 40 was adopted by Council at the OCM held on 16 March 2021, subject to the gazettal of Amendment 82 to TPS 1 and provides detailed objectives and design guidelines for the transition and

redevelopment of BSE from a light-industrial and general commercial area to a high density mixed used environment, functioning primarily as a transit-oriented development (TOD) precinct.

25. The statement of intent for the Precinct as outlined in LPP40 is as follows:

"The Burswood Station East Precinct should be redeveloped primarily as an area of high-quality medium to high density residential, office and commercial uses, reflective of an eclectic urban village that fosters activity, connections and vibrant public life for residents."

26. This policy is designed to provide guidance for applicants and decision makers with respect to that envisaged transition via the provision of built form design standards, and guidance as to how discretion to vary those standards may be exercised in certain circumstances.

27. The Administration has also reviewed the modifications outlined by the Minister for Scheme Amendment 82 and considered if there is any refinement required to LPP40 to ensure the vision and proposed outcomes for BSE are not compromised.

28. Notably, in undertaking the review of LPP 40, Council officers are considering establishing an interim minimum car parking requirement for non-residential land uses within BSE, as a generally acceptable variation to the requirements of existing LPP 23, until such time as minimum car parking requirements have been formally adopted or removed for the sub-precinct through revised local planning framework provisions. This is discussed in more detail in the car parking and traffic sections of the report.

Car parking Shortfall & Traffic

29. As indicated, based upon the minimum parking standards of LPP23 there is a proposed on-site shortfall for the site of 166 car parking bays which Council must consider as part of the development application. It is noted that the calculated shortfall differs from what the applicant has provided in their submission of a 132 bay shortfall due to omission of some of the restaurant/cafe areas in their calculation and the 'bar areas' parking requirement not being included in the applicant's shortfall figure.

30. The applicant has provided the following by way of justification for the on site car parking shortfall:

"1. Given the nature of the proposed use involves the consumption of alcohol, many patrons will choose responsible methods of travel to and from the venue which would consist of:

- a) Public transport options, including Burswood Station which is approximately 100m from the site.*
- b) Use of a taxi or car share service (such as Uber, Ola, DiDi etc);*
- c) Walking to the venue (ie: residents of surrounding apartments);*
- d) Carpooling/use of a designated driver.*

With respect to a) above it is the experience of Blasta that during the sporting season and when events are held at Optus Stadium, a very high number of patrons will attend the venue prior to/following the event, with these patrons generally utilising public transport and specifically the train service to attend the venue.

With respect to b) above, based upon its experience of operating at the current existing venue the management of Blasta confirm that a very high percentage of people utilise rideshare options to access the premises during all operation hours.

2. There is considerable public parking available in the following locations:

a) Goodwood Parade, Griffiths Street, Stiles Avenue and also within the railway reserve adjacent to Goodwood Parade which is not utilised by other businesses during weekend peak periods; and b) Parking is available at Crown, for patrons who intend visiting multiple venues during their outing.

For the reasons outlined in 1. above, it is envisaged that the actual parking demand associated with the development will be considerably less than prescribed within the Town's parking standards, with sufficient parking to be available on site and through other public parking options."

31. As mentioned, the Town's Place Planning team are currently undertaking a review of LPP 40 as a consequence of changes required by the Minister to Amendment 82 to TPS 1 prior to its gazettal.
32. This review includes the recommended insertion of additional clauses to clarify car parking requirements for new development. In particular, to emphasise the cap on parking within the precinct and to clarify that the minimum car parking requirements of LPP 23 do not apply to new development within the precinct, as supported by the previous master planning investigations for BSE commissioned in the lead up to preparation of Amendment 82.
33. This approach is consistent with the intended transition of BSE to a high-density mixed-use environment that functions as a TOD with a diversified local transport network that supports modal shift away from private vehicles and instead relies upon high quality pedestrian and cyclist connectivity and high frequency bus and rail transit.
34. The current draft provisions only include the recommended 'cap' or maximum car parking requirement for the precinct to avoid unacceptable traffic congestion and intersection levels of service once the precinct was fully built out, given entry/exit for the precinct is constrained by the rail line, Great Eastern Highway and Graham Farmer Freeway.
35. Car parking provision for development that nears this 'cap' is neither an intended or desirable outcome, however the existing on-site car parking requirements of LPP 23 result in new developments in the precinct being likely to approach or even exceed this cap, and risks compromising the intended development and high-quality amenity outcomes that are hoped to be achieved for BSE.
36. Such outcomes are in direct contradiction to the Town's adopted transport and strategic planning objectives, and it is not considered reasonable for the Town to support the continued application of LPP 23 minimum car parking ratios (within BSE), notwithstanding their applicability to new development by 'default' in the absence of reviewed/amended local planning instrument provisions for the area.
37. The review of LPP 23 and the Town's car parking provisions generally is a key short term action identified within the Local Planning Strategy (Action 6.4) within the next 1 to 2 years to align with the Town's strategic objectives, including those contained in the Integrated Transport Strategy and Parking Management Plan.
38. In considering the subject application, it is considered reasonable that due regard be given to the Department of Transport's TOD minimum car parking requirement of 1 bay per 75m² per net lettable area as an interim measure. This parking requirement was recommended by the Town's transport consultant Arup prior to preparation of Scheme Amendment 82. Application of this requirement to the development generates an onsite car parking requirement of 27 bays, which is less than the 32 bays proposed by the applicant.

39. The site's proximity to Burswood Station and its active land uses (and propensity for patrons not to be driving to a licensed drinking premises) mark it as the pre-eminent site within the precinct where a TOD approach should be adopted. In this regard it is considered that the proposed technical on-site shortfall arising as a result of the continued application of LPP 23 (which is anticipated to be removed from applicability to the precinct) is acceptable.
40. The Town's Engineering team are satisfied with the Traffic Impact Statement prepared by the applicant. However, it is noted that there have been concerns raised with the applicant regarding the proposed pedestrian access from the entry stairs onto right of way 133 at the rear of the sites. However, from a place planning perspective, this right of way activation and access point is encouraged, particularly being adjacent to the Griffiths/Stiles Reserve which under the LPP 40 is planned to be an active pedestrian plaza. Therefore, a condition of planning approval has been recommended that amended plans be submitted to the Town's Engineering team for approval to demonstrate a safe entry and integration point with the existing path network for people entering a live traffic zone.

Noise & Amenity

41. An acoustic report was submitted as part of the information required to be submitted for development approval. As part of this assessment, the report was subject to a peer review process by an independent acoustic consultant.
42. As part of the Town's assessment of the acoustic report, the noise control measures proposed are adequate in ensuring compliance with the *Environmental Protection (Noise) Regulations 1997*.
43. In order to ensure that the recommendation of the report is implemented, a condition of planning approval is recommended that requires all physical and noise management measures to be incorporated into the development as part of a clearly defined Noise Management Plan to be provided to the Town.
44. In particular, the requirements of this Plan ensure that the onus is on the applicant to ensure that noise emitted from the site remains compatible with the requirements for noise for residential development that occurs on any adjacent sites. This is relevant given that it is anticipated that the development of BSE will occur in accordance with the strategic planning framework and medium to high rise density will realistically occur in proximity to the site in the future.
45. Further to noise, a condition of approval is also recommended to be included that requires assessment of overall noise emission from the site within 6 months of commencing the use to ensure that the noise mitigating measures and noise emissions from the site are in accordance with the legislation and complying with the forecasted acoustic emissions.
46. In terms of other social and amenity impacts, it is noted that many of the submissions cite existing issues relating to crime, anti-social behaviour, littering and consumption of alcohol and drugs. Whilst the consideration of the application should not be prejudiced via conjecture, it is recognised that this land use could correlate with these matters, albeit some matters be lessened through activation of this part of the precinct.
47. Whilst not a land use planning matter in terms of land use permissibilities, in applying for a liquor licence in order to operate in a manner similar to how the development exists at 84-88 Goodwood Parade, Burswood a public interest test by the licensing authority may take into account the following:
 - The harm or ill-health that might be caused to people, or any group of people, due to the use of liquor.
 - Whether the amenity, quiet or good order of the locality in which the licensed premises or proposed licensed premises are, or are to be, situated might in some manner be lessened.

- Whether offence, annoyance, disturbance or inconvenience might be caused to people who reside or work in the vicinity of the licensed premises or proposed licensed premises.
 - Any effect the granting of the application might have in relation to tourism, or community or cultural matters.
 - Any other matter stipulated in the *Liquor Control Regulations 1988*.
48. Council could request that the applicant submit a Management Plan with regards to security, crowd control measures, antisocial and criminal behaviour etc. which would inform the Town of any measures that are in place from an operational perspective to deter and respond to these matters. Regardless, it would also be within the Town's and greater community interest to maintain clear lines of communication with the operator/s of the premises to ensure that any antisocial or disruptive behaviour is reported appropriately and that the various authorities and/or the Town's Safer Neighbourhoods Officer is able to take a collaborative and multidisciplinary approach to addressing any concerns that are raised.

Time Limitation

49. Previously several development approvals issued within the BSE precinct have included a time limitation. The rationale for the original 10 year time limitation for No. 84-88 Goodwood Parade, Burswood was that it would allow the site to be activated and deliver good social and economic benefits in the short-term, while ensuring that it would not continue in the longer term and be potentially incompatible with the likely higher density development planned for the precinct. At the time of this approval, the Town was still developing the new planning framework for the future of the Burswood Station East area.
50. In determining a recent application for a further time extension of the Tavern use at No. 84-88 Goodwood Parade, Council agreed to the request but with the retention of a time restriction. The following paragraph from the report is of particular relevance:

"On balance, it is considered that a time limited approval is appropriate so as to allow the Town to undertake further work in developing LPS 2 and determining the appropriateness of the use into the future. This further work is likely to result in one of two outcomes, either:

(a) it is determined that Taverns are an incompatible use with the high density residential and commercial developments planned for the area, in which case the approved Tavern will need to cease operating at the expiry of its approval period; or

b) it is determined that Taverns are compatible use with the existing and future surrounding development, potentially then allowing the applicant to seek an ongoing indefinite approval rather than a time limited approval."

51. Similarly, a time limitation was applied with respect to the consideration of Scheme Amendment 91 for the subject sites. Therefore, to maintain consistency with the Town's decisions on the Tavern use at Nos. 84-88 Goodwood Parade and Scheme Amendment 91 it is recommended that a time limitation be placed upon the development proposed at Nos. 98-106 Goodwood Parade.
52. A 10 year time limitation on the approval is also considered appropriate to ensure that any amenity impacts arising from the use of the site, particularly noise and parking impacts, can be monitored and

restricted to minimise any land use conflict with the potential development of surrounding sites for mixed use and residential developments.

53. In addition, part of the criteria for considering and application as per Council Policy 451 'Transitional Use' is that the *g) the use does not replicate a similar use permanently approved in proximity to the proposed use*. A similar use by way of 'Tavern' and 'Brewery' is operating at No. 84-88 Goodwood Parade, but on a time limited rather than permanent basis.
54. The intention of this development application and associated Scheme Amendment is to relocate the current operators to No. 98-106 Goodwood Parade and would result in the replication of a similar land use in the proximity of the existing premises.
55. However, it is noted that the previous approval at No. 84-88 Goodwood Parade and the recommendation for this development application is with a time limitation and therefore neither are permanently approved and are considered to not comply with this requirement of the policy when considering transitional uses in the BSE precinct.
56. Should the finalisation of the strategic planning framework and development of the precinct determine that a 'Restaurant/Cafe' & 'Brewery' is an appropriate use of the land into the longer term future and the use remain compatible and appropriate within the precinct as it continues to evolve, then it would be open to Council to agree to removal of the time limitation at a future time.

Relevant documents

[Minutes of the March 2022 Ordinary Council Meeting](#)

[Minutes of the May 2022 Ordinary Council Meeting](#)

12.2 Proposed Amendment No. 2 to Burswood Lakes Structure Plan

Location	Burswood
Reporting officer	Manager Development Services / Coordinator Urban Planning
Responsible officer	Chief Community Planner
Voting requirement	Simple majority
Attachments	<ol style="list-style-type: none"> 1. Attachment 1 - Proposed Amendment No. 2 to Burswood Lakes Structure Plan - Applicant's Report [12.2.1 - 218 pages] 2. Attachment 2 - Existing Burswood Lakes Structure Plan [12.2.2 - 98 pages] 3. Attachment 3 -Burswood Lakes Structure Plan Review Report 2020 Final [12.2.3 - 41 pages] 4. Attachment 4 - Summary of Proposed Amendment No. 2 to Burswood Lakes Structure Plan [12.2.4 - 2 pages] 5. Attachment 5 - Location Plan showing structure plan area [12.2.5 - 1 page] 6. Attachment 6 - Schedule of submissions [12.2.6 - 22 pages] 7. Attachment 7 - Applicant's response to schedule of submissions [12.2.7 - 48 pages] 8. Attachment 8 - Dwelling yield table [12.2.8 - 1 page] 9. Attachment 9 - Dwelling yield plan [12.2.9 - 1 page] 10. Attachment 10 - DRP Notes - Final Meeting [12.2.10 - 3 pages] 11. Attachment 11 - Schedule of Recommended Modifications [12.2.11 - 2 pages]

Recommendation

That Council:

1. Recommends to the Western Australian Planning Commission that proposed Amendment No. 2 to the Burswood Lakes Structure Plan be approved, subject to the modifications listed in the Schedule of Modifications at Attachment 11.
2. Revokes Local Planning Policy 9 – Design Guidelines for Burswood Lakes.
3. Requests the CEO to arrange for publication of a notice of revocation of Local Planning Policy 9 in a newspaper circulating in the district.
4. Requests the CEO to provide written advice of Council’s resolution to those persons and agencies who lodged a submission on proposed Amendment No. 2 to the Burswood Lakes Structure Plan.

Purpose

To consider an application seeking to amend the Burswood Lakes Structure Plan.

Council is required to consider the merits of amending the Burswood Lakes Structure Plan in the manner proposed and resolve a recommendation to the Western Australian Planning Commission who will determine the application.

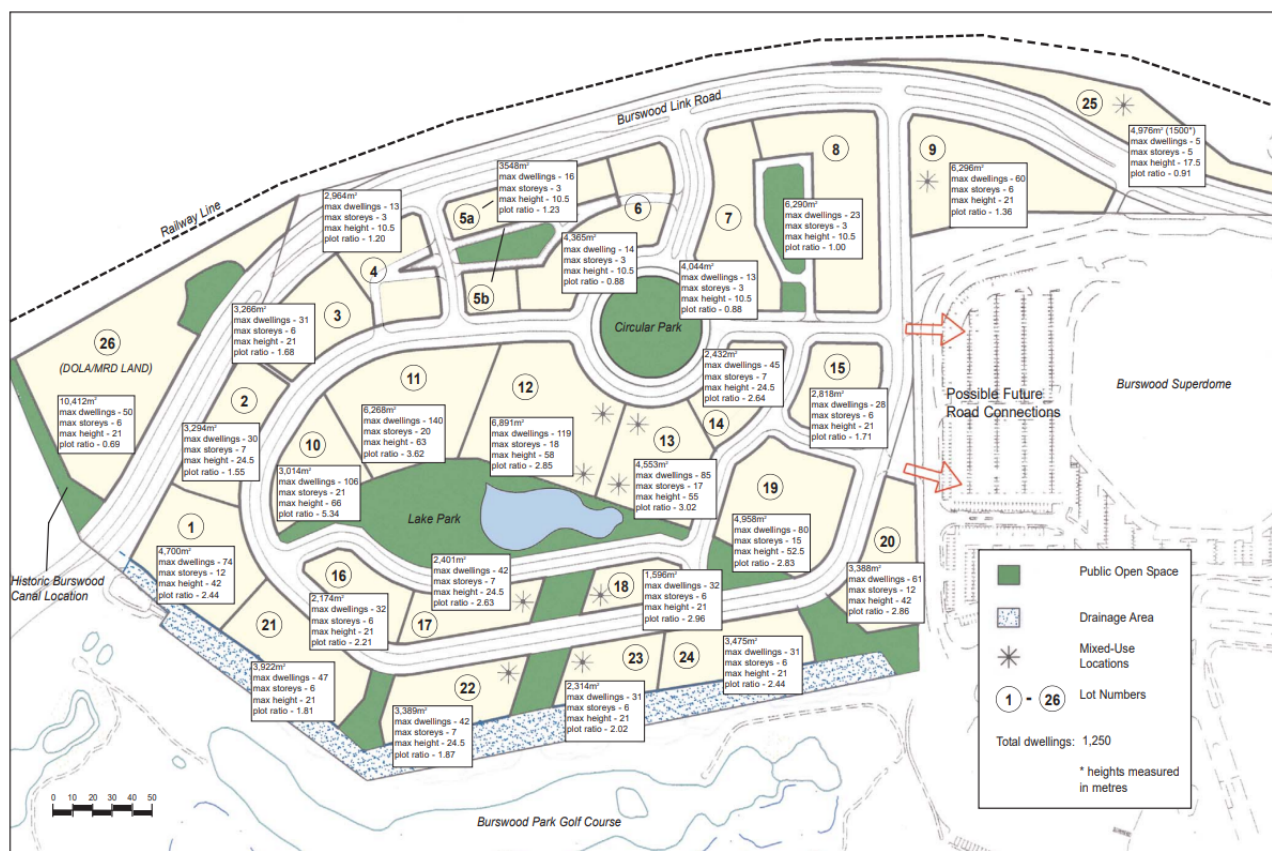
In brief

- The Town has received an application from Rowe Group (planning consultancy) on behalf of Mirvac, to amend the Burswood Lakes Structure Plan, which was first approved in 2003 and previously amended in 2014 & 2017.

- The amendment primarily focuses on Mirvac’s undeveloped land at Lot 9001 Bow River Crescent, Burswood (referred to in the structure plan as Lots 1 & 21). See Attachment 4 for a map of the Structure Plan area.
- Community consultation on the proposed structure plan amendment occurred in late April to early June 2022. A total of 30 submissions were received of which five (5) are in support, two (2) are unsure and 23 object to the amendment.
- Following review, Town officers recommend that the proposed Amendment No. 2 to the Burswood Lakes Structure Plan is approved, subject to modifications.
- The ultimate decision-maker for this structure plan amendment is the Western Australian Planning Commission.

Background

1. The Burswood Lakes Structure Plan was supported by Council on 17 December 2002 and approved by the Western Australian Planning Commission (WAPC) on 22 April 2003. The purpose of the Structure Plan is to guide the future subdivision and development of land within the Structure Plan area. The land subject to the Structure Plan comprises primarily the land being developed by Mirvac known as ‘The Peninsula’, and other surrounding land parcels (identified as Lots 9, 25 and 26).
2. The Structure Plan depicts there being 26 superlots to be developed, as well as roads, easements, public open space and drainage areas. Figure 19 of the Structure Plan (below) outlines the primary development standards that apply to all of the superlots, being density, plot ratio and building height.



3. There has been no comprehensive review of the Structure Plan since its approval in April 2003, although two amendments have been approved.
4. The following amendments to the Structure Plan have been approved:

Date of Amendment Approval	Subject Lot(s)	Purpose of Amendment
11 March 2014 – Ordinary Council Meeting	Lot 10	Increased dwelling yield and inclusion of "Office" use
27 September 2017 – Western Australian Planning Commission	Lots 9 & 25 (also known as Lot 9525)	Modified the land use permissibility and increased dwelling yield, building height and plot ratio

5. The amendment for Lots 9 and 25 (Amendment 1) was not supported by the Council but was approved by the Western Australian Planning Commission. This approval has relevance to the current application (Amendment 2) particularly in relation to the total dwelling density across the estate. The following was approved for Lots 9 and 25:

	Structure Plan provision – Lot 9	Amendment (Jul 2016) - Lot 9	Structure Plan provision – Lot 25	Amendment (Jul 2016) - Lot 25
Maximum dwellings	60 dwellings	353 dwellings (incl. 13 townhouses)	5 dwellings	208 units/hotel rooms
Maximum storeys	6 storeys	Podium - 2-4 storeys Tower 1 - 10 storeys Tower 2 – 24 storeys	5 storeys	Podium – 2 storeys Tower – 16 storeys
Maximum height	21 metres	75 metres	17.5 metres	51 metres
Plot ratio	1.36	4	0.91	2.3
Land Use	Dwelling permitted. Hotel & Serviced Apartment uses prohibited.	Dwellings (Permanent accommodation)	Dwellings permitted. Hotel & Serviced Apartment uses prohibited.	To permit Hotel and Serviced Apartments use

Vehicular Access	Not designated	Victoria Park Drive	Not designated	Victoria Park Drive
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6. While the WAPC approved an increase in the dwelling yield across Lots 9 and 25 by 496 units (from 65 dwellings to 561 dwellings), there was no corresponding increase made to the dwelling density cap for the whole precinct (being 1250 dwellings).
7. During the Town’s subsequent assessment of development applications for land within the Structure Plan area, it was identified that as a result of the WAPC’s approval for Lots 9 and 25 and the constructed and projected development for the other sites, that at some time the 1250 dwelling density cap would likely be exceeded. Acknowledging the need for a comprehensive review of the Burswood Lakes Structure Plan in recent Development Assessment Panel (DAP) determinations, the following advice note has been included on approvals:

“The Town notes that based upon dwelling yields constructed, approved and estimated across the Burswood Lakes Structure Plan area, that the maximum total dwelling yield requirement of 1250 dwellings is anticipated to be exceeded.

Accordingly, the owners of undeveloped land within the Precinct are to note that the Town will not support any development application which will result in the total dwelling yield exceeding 1250 dwellings, unless a comprehensive review of the Burswood Lakes Structure Plan has been completed and approved.”

8. Valid development approvals are in place for the following vacant sites:
- Lot 10 – 197 dwellings within a 31 storey building (in lieu of Structure Plan provision for maximum 176 dwellings within a maximum 21 storey building).
 - Lot 22 – 88 dwellings within an 8 storey building (in lieu of Structure Plan provision for maximum 42 dwellings within a maximum 7 storey building).
 - Lot 29 – landscaping of public open space.
9. The Town’s Corporate Business Plan (2017 - 2022) identified the following actions, with the latter also being listed in the 2023-2027 Plan :
- in the 2019/20 financial year the Town will review the Burswood Lakes Structure Plan
 - in the 2021/22 financial year the Town will amend the Town Planning Scheme provisions related to the Burswood Lakes Structure Plan

10. An internal review of the Burswood Lakes Structure Plan was undertaken in 2020 by Town officers – see Attachment 3. The report concluded as follows:

- “It is apparent from this review that the Structure Plan needs to be amended to*
- a) ensure its alignment with strategic planning work undertaken by the State and the Town.*
 - b) reflect changes in the statutory planning framework.*
 - c) reflect the changing and evolving nature of surrounding development; and*
 - d) address matters that have arisen with the current Structure Plan.*

This is not unexpected given that the Structure Plan has not been the subject of a comprehensive review since its adoption over 17 years ago.

A key issue that requires attention as part of an amendment to the Structure Plan is total dwelling yields across the subdivision and for each lot, noting that this report highlights that there is a significant likelihood that the 1250 maximum dwelling density under the Structure Plan will be exceeded. It is accepted that in light of the strategic planning work undertaken by the State and the Town that the 1250 maximum may no longer be appropriate. However, a significant increase in the dwelling yield to the extent now estimated, or greater, needs to be considered as part of a comprehensive amendment to the Structure Plan, supported by relevant technical reports and studies such as an urban design analysis and traffic assessment. This issue alone is a compelling reason for the Structure Plan to be amended.

The preparation of an amended plan addressing the above issues will avoid ad-hoc planning and provide the Town, the landowners and the community with greater clarity moving forward as to the likely built form outcomes for the remaining undeveloped land within the area.

Accordingly, it is recommended that the Structure Plan be amended with specific attention being required to the following matters amongst others:

- *Total dwelling yields across the subdivision and for each lot;*
- *Building heights;*
- *Building envelopes;*
- *The need for LPP9 'Design Guidelines for Burswood Lakes' to be amended or revoked.*
- *Infrastructure servicing and road capacities;*
- *Public art contributions;*
- *Maintenance and handover of roads, public open space, landscaped areas and other infrastructure.*

Proposal

11. Consistent with the above identified need for amendments to the Structure Plan, Amendment No. 2 to the Burswood Lakes Structure Plan was lodged with the Town in February 2022, by Rowe Group (planning consultancy) on behalf of Mirvac, who have been a major stakeholder in the planning and development of the Burswood Lakes area (now known as The Peninsula).
12. Attachment 1 contains the applicant's Structure Plan Amendment Report (amended April 2022) comprising the following:
 - Part One – Implementation section.
 - Part Two – Explanatory Section.
 - Appendix 1 – Burswood Lakes Structure Plan (2003).
 - Appendix 2 – Amendment No. 1 to Burswood Lakes Structure Plan (2017) - relating to Lots 9 and 25.
 - Appendix 3 – Traffic Impact Statement.
13. Additional information supplied by the applicant includes:
 - Summary of proposed Amendment – see Attachment 4.
 - Dwelling yield table and plan – see Attachments 8 and 9 respectively.

14. The amendment, while reviewing the whole Structure Plan area, has principally focused on the undeveloped land owned by Mirvac known as Lots 1 and 21. In relation to the other undeveloped lots within the Structure Plan area, Amendment 2 reflects the following:

- For Lots 10, 22 and 29 – development consistent with the development approval for the site;
- For Lots 9 and 25 – the provisions approved by Amendment 1.
- For Lot 26 – no changes.

15. Amendment No. 2 seeks approval for a number of amendments to the provisions of the current Burswood Lakes Structure Plan. The amendments are described in further detail in the Analysis section of this report (see below), inclusive, but not limited to the following:

- Increase in dwelling density for Lots 1 (from 74 to 220) and 21 (from 47 to 125), and removal of a maximum dwelling density (currently 1250 dwellings).
- Increase in building heights for Lots 1 and 21 – see image below.
- Increase in plot ratio for Lots 1 and 21 – see image below
- Increased public open space and publicly accessible space across the area (from 14.8% to 15.18%).
- A capped public art contribution of \$500,000 per site.
- Removal of the maximum resident bay parking requirement that would apply under the R-Codes.
- Removal of a visitor parking requirement that would otherwise apply under the R-Codes.
- Alternative requirements relating to Ecologically Sustainable Development (ESD).
- Removal of a pedestrian link from Victoria Park Drive to Bow River Crescent, between Lots 1 and 2, and its replacement with a view corridor.
- An additional view corridor through Lot 21.
- Change to maintenance obligations for new areas of public open space, being for the developer to construct and maintain for two summers, in lieu of the developer maintaining until the completion of all development on Lots 1 to 25.

16. Amendments to the primary built form controls for Lots 1 and 21 are best illustrated in the image below:

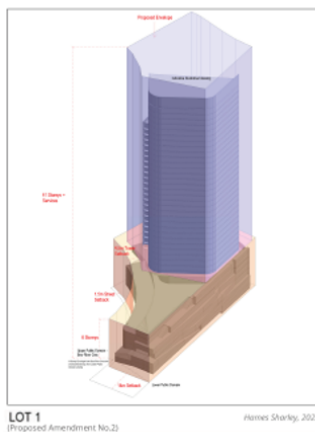
Lot 1 (Tower 7)

Current - 2003 Structure Plan

Max. Storeys: 12
Max. Height: 42m
Max Plot Ratio: 2.44

Proposed – Amendment No. 2

Max. Storeys: 41
Max. Height: 143m
Max Plot Ratio: 8.75



Lot 21

Current - 2003 Structure Plan

Max. Storeys: 6
Max. Height: 21m
Max Plot Ratio: 1.81

Proposed – Amendment No. 2

Max. Storeys: 8
Max. Height: 32.85m
Max Plot Ratio: 3.3

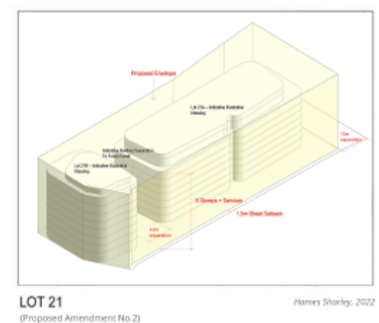


Image 1 – Comparison of built form envelopes

Relevant planning framework

Legislation	<ul style="list-style-type: none"> • <i>Planning and Development Act 2005</i> • <i>Planning and Development (Local Planning Scheme) Regulations 2015</i> • Metropolitan Region Scheme • Town of Victoria Park Town Planning Scheme No.1 (TPS1) • TPS1 Precinct Plan P2 - Burswood
State Government policies, bulletins or guidelines	<ul style="list-style-type: none"> • Directions 2031 and Beyond • Perth and Peel @ 3.5 million • Liveable Neighbourhoods • State Planning Policy No. 3 – Urban Growth and Settlement • State Planning Policy No. 3.6 – Infrastructure Contributions • State Planning Policy No. 4.2 – Activity Centres for Perth and Peel • State Planning Policy No. 5.4 – Road and Rail Noise • State Planning Policy No. 7.0 – Design of the Built Environment • State Planning Policy No. 7.3 – Residential Design Codes (RDC), Volumes 1 & 2 • Development Control Policy 1.6 – Planning to Support Transit Use and Development
Local planning policies	<ul style="list-style-type: none"> • Local Planning Policy No. 9 – Design Guidelines for Burswood Lakes • Local Planning Policy No. 23 – Parking Policy • Local Planning Policy No. 29 – Public Art Private Developer Contributions (LPP29) • Local Planning Policy No. 37 – Community Consultation on Planning Proposals (LPP37)
Other	<ul style="list-style-type: none"> • Burswood Lakes Structure Plan (Including Amendment No.1) • Burswood Peninsula District Structure Plan • Town of Victoria Park Local Planning Strategy • Town of Victoria Park Social Infrastructure Strategy • Town of Victoria Park Integrated Transport Strategy

Legal compliance

17. A structure plan can be prepared for a variety of planning purposes, but generally indicates the way in which an area is proposed for development as well as providing a broad framework to guide Council when it considers subdivision and development proposals.
18. When the Burswood Lakes Structure Plan was first approved in 2003 it was considered to be read in conjunction with the Town's Town Planning Scheme No.1 and had statutory weight. However, the introduction of the *Planning and Development (Local Planning Schemes) Regulations 2015* changed the weight and status afforded to structure plans in Western Australian, such that they no longer form part of the Town Planning Scheme. Since 2015, decision makers have been required to have due regard to but are not bound by a structure plan when determining an application for development or subdivision approval.
19. Schedule 2, Part 4 of the *Planning and Development (Local Planning Schemes) Regulations 2015* contains the relevant statutory provisions relating to the preparation, adopting and amending of structure plans.
20. The ultimate decision-maker for this structure plan amendment is the Western Australian Planning Commission.

Strategic alignment

Environment	
Community priority	Intended public value outcome or impact
EN3 - Enhancing and enabling liveability through planning, urban design and development.	The proposed amendments reflect the changed built and strategic environment since 2003, and inclusive of further modifications, will result in high quality design outcomes.
EN4 - Increasing and improving public open spaces.	The proposed amendments further increase the extent of public open space and publicly accessible space throughout the Precinct.

Engagement

Internal engagement	
Stakeholder	Comments
Place Planning	<p>The proposed increase in dwelling yield aligns with the objectives of the Town's Local Planning Strategy (May 2022) particularly:</p> <p><i>"Housing and Neighbourhoods Objective - 2.3 To encourage a diversity of housing across the Town to cater for diverse and changing housing needs.</i></p> <p><i>Burswood Peninsula Objective - BP.2 To develop socially inclusive and environmentally sustainable higher density, mixed use urban neighbourhoods that reflect the unique context of the Peninsula."</i></p> <p>The increased dwelling yields contributes to the Town's residential density target of an additional 18,000 dwellings by 2050 and is located in an area of high accessibility and amenity.</p> <p>We disagree with the proposal to abolish maximum parking limits for this site. Considering the broader area's diversity of uses, especially with the stadium, Crown and Burswood Park being major regional trip generators that attract visitors to the area, any excessive provision of private parking or street parking is likely to be abused and induce traffic congestion. Stadium station is expected to become operational on a daily basis from early 2023, that will improve public transport accessibility to the site significantly. The development of the Matagarup Bridge, the new Causeway Pedestrian and Cycling Bridge and additional active transport infrastructure around the peninsula, the active transport options are substantially more accessible and attractive than expected at the time of the 2003 structure plan adoption. Therefore, the active and public transport options to this site are exceptional, however any excess of parking is likely to undermine these options by attracting vehicle traffic to the precinct seeking to access the major destinations in this precinct.</p>
Street Improvement	The Town's Engineers have reviewed the applicant's Traffic Modelling Statement prepared by Flyt Consulting. It is agreed that the existing road network can

	accommodate the traffic volumes associated with the total dwelling density proposed with the structure plan amendment.
Street Operations	<p>Acknowledge that Mirvac has been maintaining areas of POS for a significant period of time and that it is industry practice for a developer to maintain areas of POS for a two-year period prior to handing it over to the local government.</p> <p>Additionally, there is concern that supporting a change in maintenance responsibilities through this Structure Plan amendment may prejudice the ongoing negotiations between the Town and Mirvac in relation to the existing POS areas within the estate.</p>
Parking and Rangers	<p>233 on-street bays have been constructed for 1,250 dwellings. The proposal seeks to increase the number of dwellings from 1,250 to 1,893 (a 51% increase). A 3% increase in on-street parking will not be sufficient, particularly that an exemption to construct any visitor parking on or off-site is being sought.</p> <p>On-street parking in the area is insufficient, as referenced in the following previous study undertaken by Officers:</p> <p><i>“Learnings from the previous consultation also suggests that there is evidence in the survey results that suggest that many residents are parking on-street which suggests that the “Residential Design Codes” (Code) requirements for off-street parking spaces are insufficient in keeping the actual parking demand off the street and in private car spaces. It is noted that the Code requirements are a minimum requirement, and it appears developers have in fact provided a greater number of parking spaces, particularly in the premium dwellings. This suggests that the reality is for a significantly higher car parking demand than recognised by the Codes.</i></p> <p><i>It is important to note that it is unlikely that the parking space requirements as required by the Code will be increased in the foreseeable future. Furthermore, adjacent development areas are likely to have parking caps imposed on them in an attempt to limit vehicular traffic demand in those areas. This is likely to result in an even greater demand for resident and visitor parking in those streets which may also impact on this area. ”</i></p> <p>It means that those new developments really need to provide off-site parking.</p> <p>With this in mind, Parking does not support the proposal for an exemption to the requirements requiring the developer to provide on or off-site visitor bays.</p>

External engagement	
Stakeholders	Landowners, residents and external government agencies
Period of engagement	21 April 2022 – 3 June 2022 (43 days)
Level of engagement	2. Consult

Methods of engagement	<ol style="list-style-type: none"> 1. Consultation letters to owners and occupiers of properties located within and in a 200m radius of the structure plan area; 2. Signage on-site; 3. Newspaper notices published in Perth Now Southern; 4. Online advertising; 5. Notification in Town's weekly outlook social media posts; 6. Notice displayed on noticeboard in Town's Administration Centre; and 7. Notice published in the Public Notices section of Council's website
Advertising	As above
Submission summary	In total 30 submissions were received from the community in which five (5) are in support, two (2) are unsure and 23 do not support the proposed amendment.
Key findings	<p>Key concerns raised by the community during the submission period were in relation to the following matters:</p> <ul style="list-style-type: none"> • Building height • Plot ratio • Parking • Traffic • Number of dwellings / density • Overshadowing • Anti-social behaviour and crime • Public open space and community amenities • Property values • Views <p>Refer to Attachment 6 for the schedule of submissions received, and Attachment 7 for the applicant's response to submissions.</p>

Other engagement	
<i>Stakeholder</i>	<i>Comments</i>
Town's Design Review Panel	<p>The Town's Design Review Panel (DRP) has had significant involvement in reviewing and commenting on the amendment both pre and post formal lodgment. The DRP had a final meeting on 13 July 2022 to consider their final recommendation – see Attachment 9 for the full notes of this meeting. In short, the DRP support the proposed amendment and has provided the following comments:</p> <p><i>"The proponent seeks an amendment of the structure plan to significantly increase yield and building heights for the remaining lots. The dwelling count has increased substantially (an increase of 643 in total – 147 in Area B and 496 in Area C) as has the building height (increase from 12 storeys to 41 storeys on Lot 1). As a result of this increase of yield and building heights, the proponent should ensure a high</i></p>

	<p><i>quality, design excellence response. This would align with the Town's LPP 33, where a higher level of design excellence is provided commensurate to the extent of variation/amendment being sought.</i></p> <p><i>As increased yield and building heights are proposed to be established through this Structure Plan amendment, then it is appropriate that the Structure Plan amendment determine the higher standards of design to be delivered in return for the amendments being sought. Leaving this to the DA stage is not acceptable as the new yields and building heights become as-of-right and limit the ability for the DRP and the Town to negotiate superior design outcomes.</i></p> <p><i>In this respect the DRP are of the view that the following issues require further resolution before approval of the Structure Plan amendment:</i></p> <ul style="list-style-type: none"> <i>• Sustainability commitments;</i> <i>• Pedestrian connection between Victoria Park Drive and Bow River Crescent in proximity of the boundary between Lots 1 and 2;</i> <i>• An additional control on the Lot 1 tower with respect to the potential shadow impact."</i>
<p>Department of Planning, Lands and Heritage (State Heritage)</p>	<p>The structure plan area contains a State Heritage listing for the <i>Old Burswood Canal</i>, a section of a disused boat canal, where cultural heritage significance has been identified.</p> <p>Pursuant to the <i>Heritage Act 2018</i>, the application was referred to DPLH for its recommendation and comments. The following advice was provided:</p> <p>It is noted that Lots 1, 21 and 26 in the Structure Plan partially affect the State Registered <i>Old Burswood Canal</i>.</p> <p>The original structure plan proposed a Heritage Agreement and interpretative signage in an area of Public Open Space adjacent Lot 26 to acknowledge the heritage significance of the canal.</p> <p>The proposed amendment includes specific development provisions for lots 1 and 21.</p> <p>As per lot 26, an area adjacent to Lots 1 and 21 should be designated as Public Open Space and include interpretative elements specific to the history and significance of <i>Old Burswood Canal</i>. The owner of the development should enter into a Heritage Agreement to ensure the implementation of the interpretation.</p>
<p>Department of Water and Environmental Regulation (Contaminated Sites)</p>	<p>The subject site is located within the 'Burswood Lakes Environmental and Geotechnical Special Control Area' as shown on Scheme Precinct Plan P2 - Burswood.</p> <p>Advice was sought in relation to a Scheme Precinct Plan requirement (Application Requirement No. 2) pertaining to excavation and an existing asbestos management plan. This requirement is related to Ministerial Statement 526 for the 'Remediation and Redevelopment of the Swan Portland Cement Site'.</p>

	<p>The Contaminated Sites division of the Department of Water and Environmental Regulation has reviewed the amendments to the structure plan and have no objections.</p>
Environmental Protection Authority	<p>The subject site is located within the 'Burswood Lakes Environmental and Geotechnical Special Control Area' as shown on Scheme Precinct Plan P2 - Burswood.</p> <p>Advice was sought in relation to a Scheme Precinct Plan requirement (Application Requirement No. 2) pertaining to excavation and an existing asbestos management plan. This requirement is related to Ministerial Statement 526 for the 'Remediation and Redevelopment of the Swan Portland Cement Site'.</p> <p>The Environmental Protection Authority (EPA) have advised that they generally do not consider or provide comment on structure plans and that the Ministerial Statement, and any previous EPA advice provided under section 48A of the <i>Environmental Protection Act</i> related to the zoning of the land is to be considered.</p>
Public Transport Authority	<p>Outline the importance of Lot 26 to the operation of special event bus services to Optus Stadium. Question whether the traffic modelling considers potential modal change towards public transport resulting from the anticipated future upgrade of Burswood Station. Note that previous comments made on Amendment 1 relating to passenger rail and the existing rail reserve are still applicable.</p>
Perth Airport	<p>Airspace associated with the Perth Airport runways falls over the Town of Victoria Park. Due to the proposed building heights, the structure planning amendment was referred to Perth Airport, where the following conditions were recommended:</p> <ul style="list-style-type: none"> • All developments within the structure plan area proposed to exceed 80m AHD must be referred to Perth Airport for assessment and approval. • Future developments shall not exceed 150m AHD in height • The applicant or responsible contractor for each development shall lodge an online application to Perth Airport's Protected Airspace Assessment Tool prior to the erection on the subject site of a crane, concrete pump or other construction equipment which is proposed at a height. Cranes may not exceed 150m AHD.
Burswood Parks Board	<p>The Burswood Parks Board is vested to manage land surrounding the structure plan area, in particular the former Burswood Park Golf Course land which is located to the west of the Peninsula Burswood Estate.</p> <p>The Board has raised concern regarding the current stormwater drainage system between the Peninsula Burswood Estate and the former golf course land. Referral comments have also been received in relation to the proposed interface and public connectivity between the landholdings.</p> <p><i>Officer comments – the issues raised are for discussion between Mirvac and the Burswood Parks Board.</i></p>

VenuesLive (Optus Stadium)	VenuesLive, as the operator of the nearby Optus Stadium has requested that consideration is given to traffic management and parking implications on both event and non-event days, increasing availability of public transport to the general Burswood Peninsula area, sound proofing future development to ensure sound proofing to minimize impact for established event programming, and impacts to increase load on service infrastructure i.e. sewer, gas, water and electricity may impact the stadium operations.
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Risk management consideration

Risk impact category	Risk event description	Consequence rating	Likelihood rating	Overall risk level score	Council's risk appetite	Risk treatment option and rationale for actions
Financial	N/A	N/A	N/A	N/A	N/A	N/A
Environmental					Medium	
Health and safety					Low	
Infrastructure/ ICT systems/ utilities	N/A	N/A	N/A	N/A	N/A	N/A
Legislative compliance	The Western Australian Planning Commission (WAPC) is ultimately responsible for approving this Structure Plan amendment. It is possible that the WAPC may make a decision contrary to the position of the Council and/or the community.	Minor	Unlikely	Low	Low	TREAT by providing the WAPC with appropriate information clearly outlining the basis for the Council's recommendation.
Reputation	Negative public perception towards the Town may result regardless of the outcome.	Minor	Unlikely	Low	Low	ACCEPT and provide Council with the relevant information to make an informed decision.
Service delivery	N/A	N/A	N/A	N/A	N/A	N/A

Financial implications

Current budget impact	Not applicable.
Future budget impact	There will likely be future budget impacts for the Town resulting from the change in maintenance obligations. Information will be provided when available.

Analysis

21. Amendment No. 2 proposes to amend the Burswood Lakes Structure Plan in relation to the following matters, principally in relation to Lots 1 and 21:

- Dwelling density and yield;
- Building envelopes – including building height, plot ratio and setbacks;
- Lot patterns and sizes;
- Public open space and publicly accessible land;
- Car parking;
- Public art contribution;
- Sustainability

22. Each of these issues is discussed in turn below, as well as other relevant considerations.

Dwelling density and yield

23. The following table identifies the proposed amendments to the current Structure Plan:

	<i>Current Structure Plan</i>	<i>Proposed Amendment</i>
Lot 1	Maximum 74 dwellings	Maximum 220 dwellings
Lot 21	Maximum 47 dwellings	Maximum 125 dwellings
Total across entire Structure Plan area	Maximum 1250 dwellings	No maximum

24. The applicant addresses this amendment in Section 3.2.2.4 and 4.6 of their report at Attachment 1, including the following:

- Within Area B, comprising the Mirvac owned land, it is currently forecast to provide 1058 dwellings, being 77 dwellings less than that permitted by the Structure Plan.
- Within Area C, comprising Lots 9 and 25, Amendment No. 1 approved an increase in dwelling yield across these lots from 65 dwellings to 561 dwellings, but without an increase in the 1250 dwelling yield maximum.
- The amendment proposes an additional 224 dwellings across Lots 1 and 21, however noting the underdevelopment of lots to date within Area A (77 less than permitted), this represents a net increase in dwelling density in Area A by 147 dwellings.
- It is proposed to remove the maximum density provision and instead apply indicative dwelling yields for each lot.
- The surrounding built form context has significantly changed.
- The area is well serviced by public transport.

- The increased dwelling yield is consistent with relevant State and local strategic planning studies, including the WAPC's Central Sub-Regional Planning Framework, the Burswood Peninsula District Planning Framework and the Town's draft Local Planning Strategy.
- Based upon a traffic analysis, the existing road network can accommodate the proposed increase in dwelling yield.

25. Attachments 8 and 9 present further information in relation to dwelling yields across the Structure Plan area. As described above, it is proposed to remove the maximum dwelling density provision across the Structure Plan area, and instead specify indicative dwelling yields for each lot. Based upon the indicative dwelling yields for each lot, it is estimated that around 1893 dwellings will be delivered. As stated above, the majority of this increase results from the WAPC's approval of Amendment No. 1 (a 496 dwelling increase), with Amendment No. 2 seeking an increase of 147 dwellings within Area A when taking into account the density of development delivered or approved to date.

26. From a review of the 2003 Structure Plan, it is evident that the 1250 maximum dwelling provision was arrived at based upon some assumptions about dwelling mix, plot ratio areas and average dwellings sizes per lot, with the 1250 figure being the total of the estimated yields per lot. There is no information available that indicates any sound rationale or constraints to limit the dwelling yield at a total of 1250 dwellings.

27. While in 2003, the delivery of 1250 dwellings within the Structure Plan area was seen as being a very high density, the site now sits within a very different context, inclusive of Perth Stadium, Crown Towers Hotel, Belmont Park racecourse redevelopment (estimated 4500 dwellings) and Burswood Station East (approximately 3,000-3500 dwellings). The following image from the Burswood Peninsula District Planning Framework highlights this.

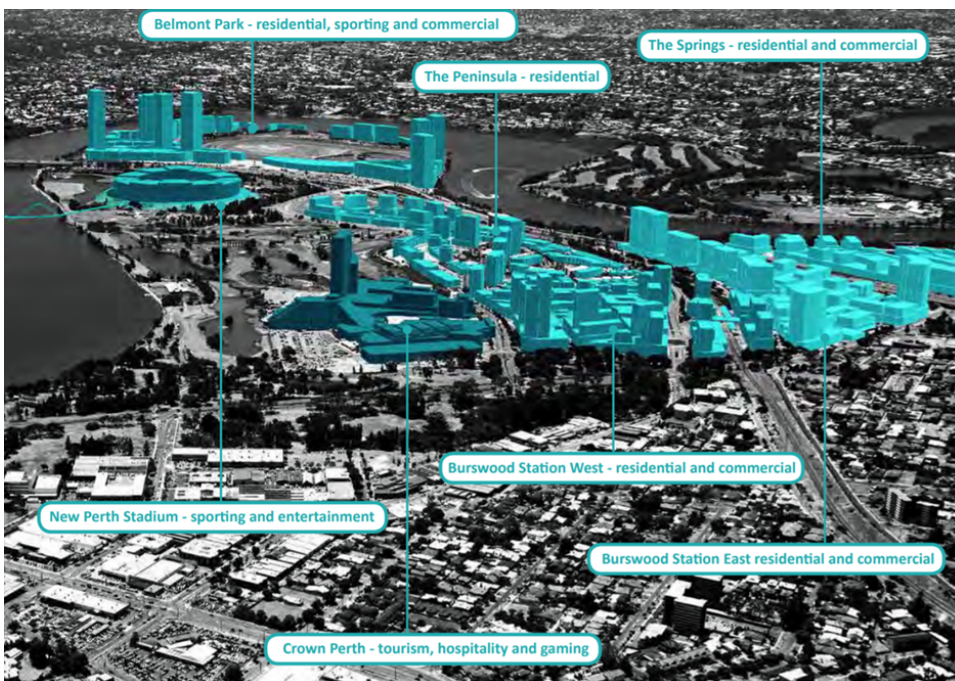


Image 2 – future development context – extract from Burswood Peninsula District Planning Framework

28. The Town's Place Planning team have commented that the proposed increase in dwelling yield aligns with the objectives of the Town's Local Planning Strategy (May 2022) particularly:

Housing and Neighbourhoods Objective - 2.3 To encourage a diversity of housing across the Town to cater for diverse and changing housing needs.

Burswood Peninsula Objective - BP.2 To develop socially inclusive and environmentally sustainable higher density, mixed use urban neighbourhoods that reflect the unique context of the Peninsula.

- 29. The increased dwelling yields contributes to the Town’s residential density target of an additional 18,000 dwellings by 2050 and is located in an area of high accessibility and amenity.
- 30. As noted, a Transport Modelling Statement has been submitted with this amendment proposal (refer to Attachment 1, Appendix 3, from page 206 onwards). This statement has been reviewed by the Town’s Street Improvement area who are in general agreeance with the methodology of the transport modelling and agree that the existing road network can accommodate the traffic volumes associated with the total dwelling density proposed with the structure plan amendment.
- 31. Based upon the above, Officers support the proposed amendments in relation to dwelling density.

Building envelopes – including building height, plot ratio and setbacks

- 32. Amendments to the matters of building height and plot ratio are best illustrated in the images below :

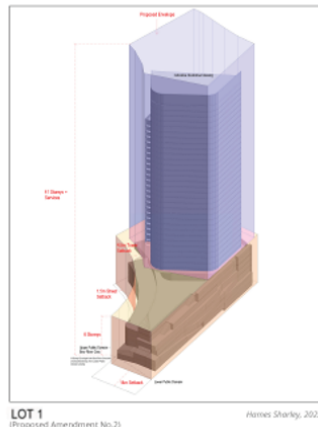
Lot 1 (Tower 7)

Current - 2003 Structure Plan

Max. Storeys: 12
Max. Height: 42m
Max Plot Ratio: 2.44

Proposed – Amendment No. 2

Max. Storeys: 41
Max. Height: 143m
Max Plot Ratio: 8.75



Lot 21

Current - 2003 Structure Plan

Max. Storeys: 6
Max. Height: 21m
Max Plot Ratio: 1.81

Proposed – Amendment No. 2

Max. Storeys: 8
Max. Height: 32.85m
Max Plot Ratio: 3.3

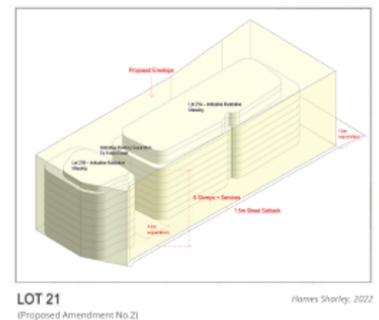
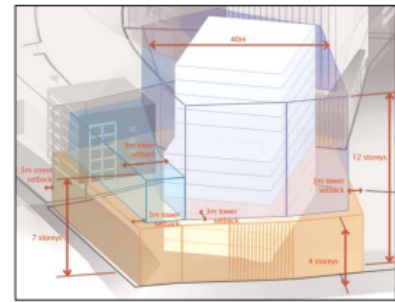
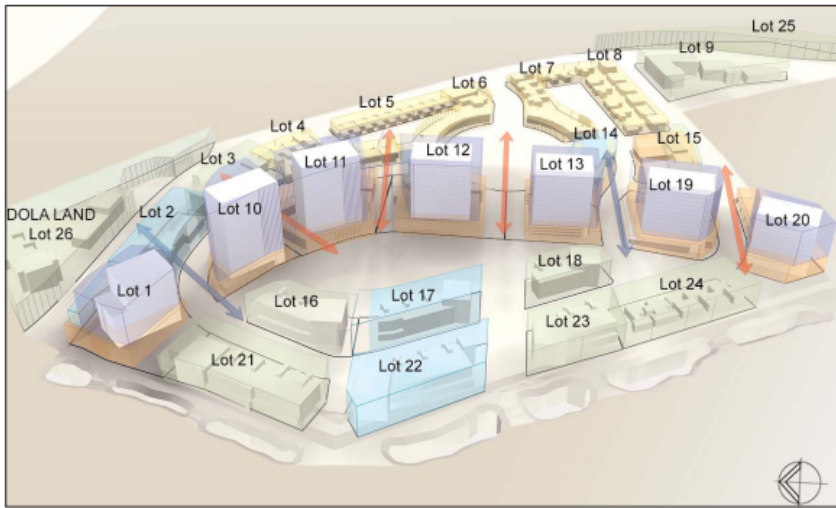
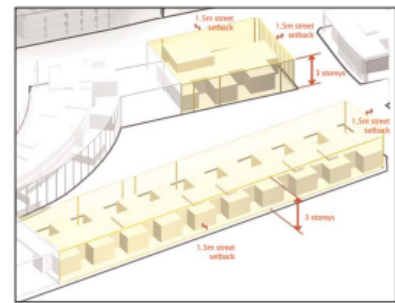


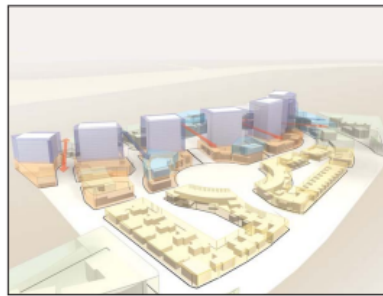
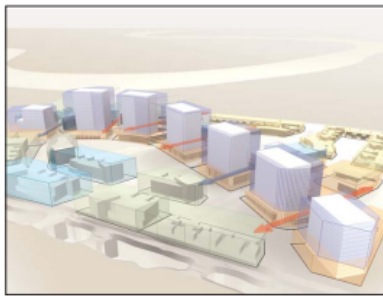
Image 3 – Comparison of built form envelopes











LOT 1



LOT 5



78   **Figure 25** Building Control Envelopes

 max 3 storeys	 max 5 storeys	 max 7 storeys
 max 4 storeys	 max 6 storeys	 max 21 storeys



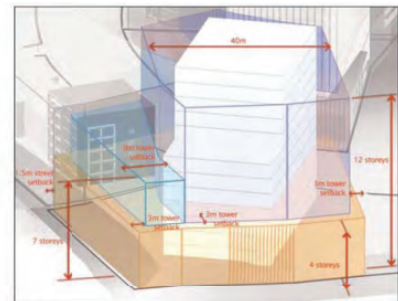
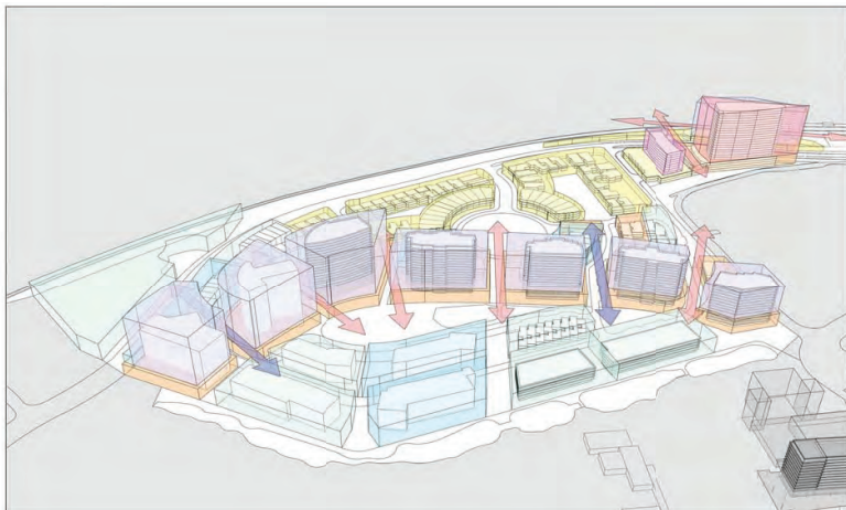
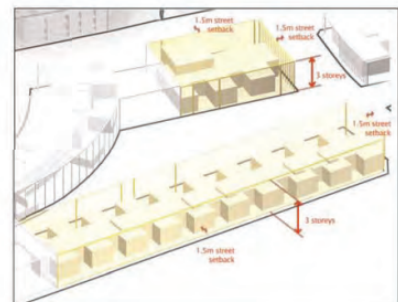
 architects planners interior designers
Burswood Lakes Structure Plan 

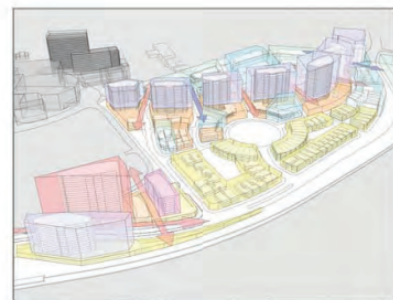
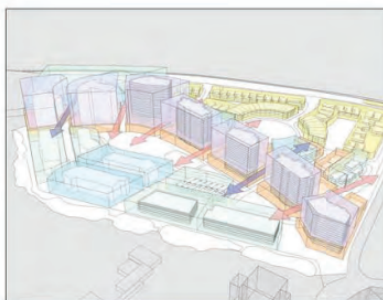
Image 4 - 2003 Structure Plan Building Envelopes



LOT 1



LOT 5



 max 3 storeys	 max 5 storeys	 max 7 storeys	 max 21 storeys
 max 4 storeys	 max 6 storeys	 max 10 storeys	 max 24 storeys

Image 5 - Building Envelopes incorporating Amendment 1 (2017)

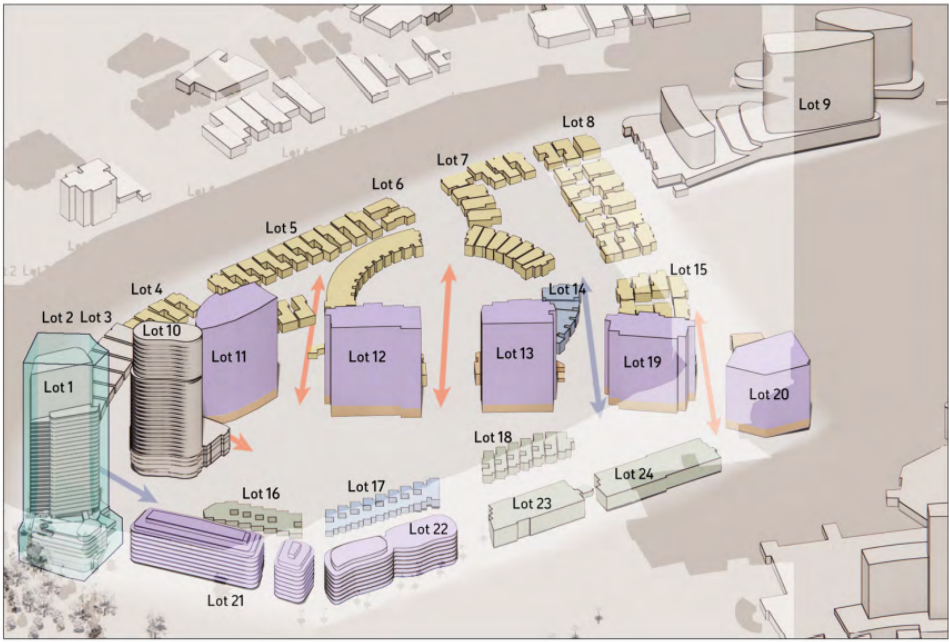


Image 6 - Building Envelopes incorporating Amendment 2

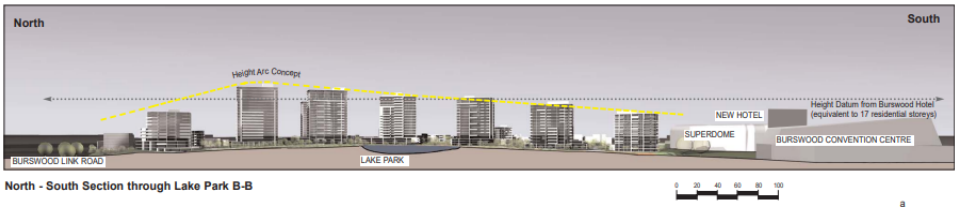


Image 7 – Height arc concept from 2003 Structure Plan

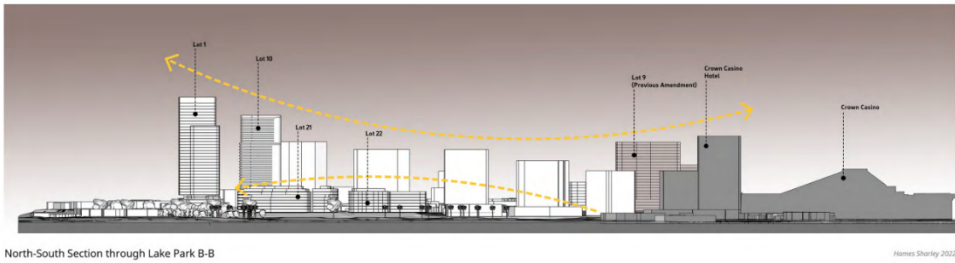


Image 8 – Amendment 2 proposed height arc concept



Image 9 – Modelled image from East Perth – Structure Plan (2003)



Montage view of the proposed skyline from the western bank of the Swan River

Homes Sharkey 2022

Image 10 – Modelled image from East Perth – with Amendment 2

Setback	Current Requirement				Proposed Structure Plan Amendment Modification	
	Structure Plan			Precinct Plan (RDC)	Ground to Level 6	Level 7 above
	Ground to Level 4	Level 5 to Level 7	Level 8 above			
Northern	1.5m	1.5m	10.5m -21m	Nil	Nil	Nil
Eastern	Nil	3m	3m	Nil	14m	45m
South-East	1.5m	-	3m	2m	1.5m	4.5m
Southern	20m	63m	23m	Nil	Nil	6m
Western	Nil	3.0m	3m	Nil	Nil	3m

Image 11 – Lot 1 setback comparison (Note - reference to 63m in table is incorrect and should be 23m)

	Current Requirement		Proposed Amendment
	Structure Plan	Precinct Plan (RDC)	
Northern	Nil	Nil	12m
Eastern	1.5m	2m	1.5m
South-East	Nil	Nil	Nil
Southern	Nil	Nil	Nil
Western	Nil	Nil	Nil

Image 12 – Lot 21 setback comparison

33. The applicant addresses this amendment in Sections 4.1, 4.2 and 4.4 of their report at Attachment 1, including the following:

- The proposal to increase the building height is based on a sound and considered architectural and land use planning rationale.
- The design response for the remaining stages is a response to the changing nature of the Burswood Peninsula and the evolution of the character of the precinct, including a number of buildings of similar or greater scale either completed, underway or proposed in the immediate neighbourhood.
- The rationale for building heights in the 2003 Structure Plan was based upon a height arc principle with a graduated increase in the height of towers towards the north of the site and then a stepping down. This was also influenced by airport height control limitations of the time. The height arc principle has lost its relevance given the changes in built form in the area and the strategic planning for the area.
- Lot 1 now takes on the role of an important gateway and landmark identifying the corner of Victoria Park drive and the former golf course and being an architectural bookend to balance the height of Crown towers.
- The 2003 height arc, in the 2022 context, now inverts with high points at Victoria Park Drive and the Crown towers.
- The proposed new building heights sit comfortably within this new site context.
- The impact of increased building height on overshadowing has been considered, which has informed the building envelope for the tower on Lot 1.

- The building control envelopes for each lot reflect the desired bulk of built form through consideration of specific elements such as height, site coverage, width and setbacks. In this context a prescribed plot ratio is less relevant as a form of building control given the existence of lot specific building control envelopes, and this is reflected in the number of plot ratio variations approved.
- The proposed amended plot ratios are formally influenced by the amended building control envelopes for the lots.

34. As noted in the applicant's justification above, the building heights for the lots as contained in the 2003 Structure Plan were determined based upon a height arc principle as well as considering the applicable airport height controls of the time. The height arc principle is described in the 2003 Structure Plan as follows:

"To ensure the creation of a landmark urban node at Burswood Lakes, the buildings have been carefully sited and arranged. The taller buildings step down to both the northern and southern boundaries acknowledging their adjoining neighbours and step up towards the centre of the site, This creates a height arc that acknowledges other important high density nodes along the Swan River. This height variation (height arc) provides the opportunity for architectural expression within a cohesive overall form ..."

35. Images 7 and 8 above demonstrate the height arc principle contained in the 2003 Structure Plan.

36. As part of the Town's assessment of the development application for Lot 10, an increase in building height was proposed from 21 storeys to 31 storeys, which required consideration of the height arc principle. The following commentary was provided by Officers in support of the proposed building height variation for Lot 10:

"The Burswood Lakes Structure Plan details the rationale for the building heights of the towers, which is based upon a 'height arc' principle, with a graduated increase in the height of the towers towards the north of the site and then a stepping down. The 'height arc' concept is expressed in Figure 2 of Attachment 5. It is acknowledged that the proposed building height of 31 storeys is not consistent with the height arc principle of the Burswood Lakes Structure Plan, however in terms of a wider site context this height arc principle has lost its relevance given the changes to the built environment and strategic planning that has occurred in the surrounding area, for example, Crown Towers (24 storeys above ground level), Perth (Optus) Stadium as well as the planned high-density Belmont Park Racecourse (maximum building heights of 53 storeys) and Burswood Station redevelopments (includes current approvals for up to 28 storeys). The proposed height is deemed acceptable in this new context.

At the time that the Burswood Lakes Structure Plan provisions were developed (approved in 2003) the tallest buildings that were anticipated on the Burswood Peninsula were to be the buildings within the Structure Plan area, with the tallest building being 21 storeys (on Lot 10). However, given the further planning work undertaken in the subsequent years for other areas on the Burswood Peninsula, the buildings within the Burswood Lakes Structure Plan area will now sit within the context of a number of other tall, and taller buildings.

Council Officers are satisfied that the proposed building height of 31 storeys sits comfortably within the wider site context when viewed from a distance and having regard to the likely future form and height of other buildings."

37. Officers remain of the view that the height arc principle has lost relevance given the changed built environment and strategic planning context. In this respect, a graduation in the stepping of building heights from the south to north now has logic and forms a bookend to balance the height of Crown Towers. The proposed 41 storey maximum height limit represents a 10 storey increase from the height

approved on Lot 10 which then represents an 11 storey increase from the tower on Lot 11. This is illustrated in the images in Figures 6 and 8 above.

38. The proposed increase in the building height limit for Lot 21 is more modest, being an increase from 6 storeys to 8 storeys. Noting that the JDAP approval for Lot 22 was for an 8 storey building in lieu of a 7 storey building, as well as the interface to a potential 41 storey building on Lot 1, an increase in building height to 8 storeys is supported for Lot 21.
39. The Town's Design Review Panel have made the following comments in relation to the proposed building heights:
 - *"Reverse arc of tower heights ensures the major built form elements have an underlying design rationale.*
 - *The sweeping arch of built form leading to a tower on Lot 1 has led to a positive change of an evolving area that has seen, a new train station, a state of the art stadium and casino tower. The new arc links all existing structures and proposes to create a soft up-turned arc that leads to the crescendo of the tower on Lot 1. Cities evolve and the requirement for the planning framework to flexibly adapt to change has been positive.*
 - *Locates the tallest tower furthest from most of the lower-scaled, longest-established, built form."*
40. Officers accept the applicants contentions that the built form envelopes defined by building heights and setbacks are more relevant controls in ensuring an appropriate built form outcome than a prescribed plot ratio. On this basis Officers support the proposed plot ratio amendments for Lots 1 and 21.
41. The proposed setbacks to boundaries are also considered acceptable in terms of street and lot boundary relationships, noting large setbacks in some instances to make provision for viewing corridors between buildings which is a positive outcome.
42. Whilst supportive of the proposed building height and plot ratio amendments in terms of these matters being acceptable within the wider context, a localised issue that requires further consideration is the matter of overshadowing resulting from the amended building envelope.
43. Figure 10 demonstrates the comparative shadow impacts between the built form permitted under the current Structure Plan and the likely shadow with the amended building height and envelope proposed by Amendment No. 2.

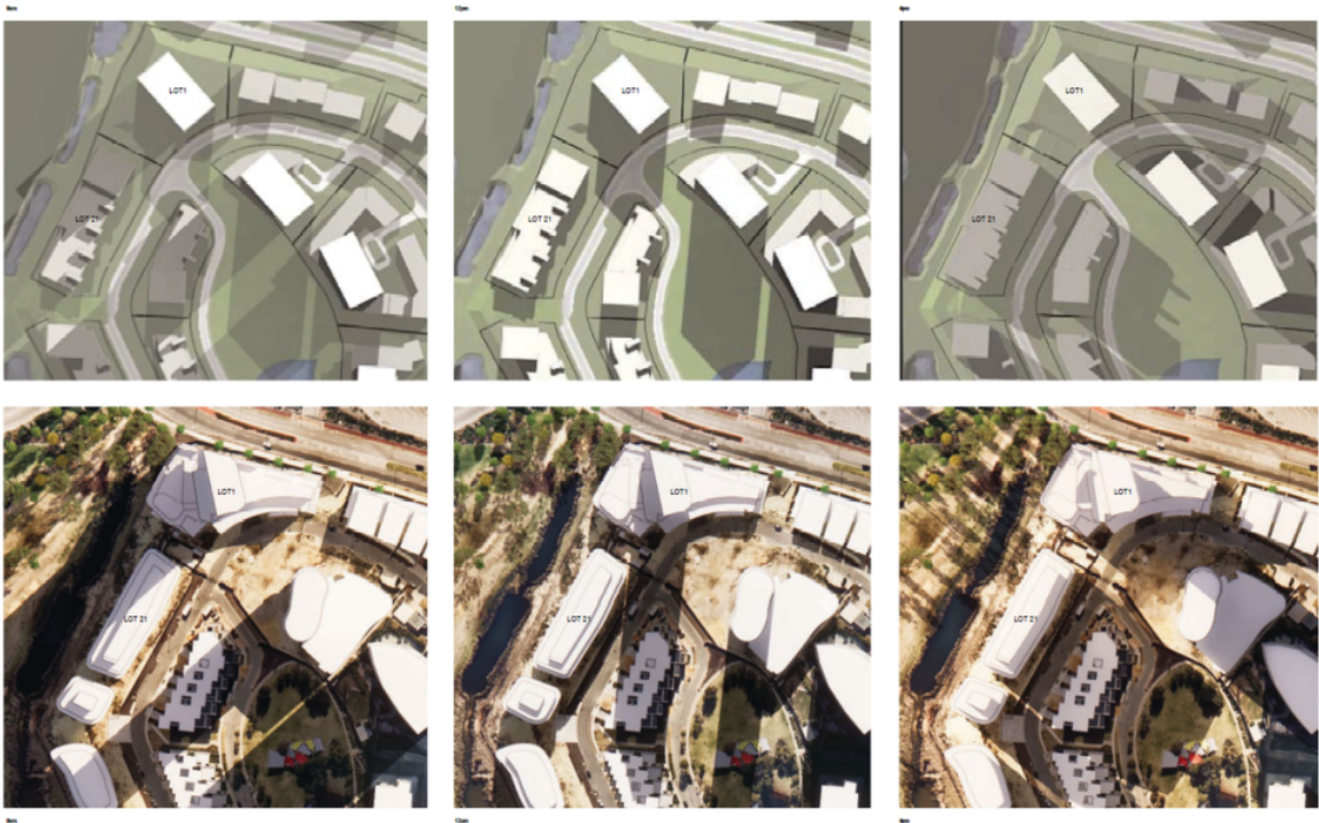


Image 13 – Overshadowing diagrams – top row from 2003 Structure Plan (21st June - 9am, 12 noon and 4pm moving from left to right); bottom row is proposed Amendment 2 (21st June - 9am, 12 noon and 3pm moving from left to right)

44. As can be seen from Image 13 being the shadow cast at the winter solstice, Amendment 2 potentially has an impact on the shadow cast upon Lot 16 containing townhouses. Whereas under the 2003 Structure Plan, Lot 16 will not be in shadow for a period during the middle of the day, Amendment No. 2 results in a longer shadow cast on Lot 16 and the site being in shadow for a greater period of time.
45. The issue has been raised by the Town’s Design Review Panel, who have recommended that an additional development control be put in place to ensure that Lot 16 is not in shadow for an extended period of time. The Design Review Panel has recommended a range of alternatives to deal with this issue including a maximum floorspace size for floors above podium level and/or a maximum width when viewed from the south, or a restriction on the extent of shadow cast.
46. The applicant has responded by saying that *“the proposed building envelope for Lot 1 provides for a level of flexibility, which is entirely appropriate at the structure planning level and is consistent with the approach taken for other sites, including the undeveloped Lots 9 and 25. The final detailed building design on Lot 1 will be assessed by the DRP and the ToVP at the Development Application stage, with specific regard to scale, overshadowing, height and interface among other elements outlined in the RDC Vol 2.”*
47. The applicant is correct that the overshadowing impact can be assessed at the development application stage. However, in this respect, the R-Codes Volume 2 would permit any future development on Lot 1 to overshadow Lot 16 without any limitation. This is not considered to be an acceptable outcome from an amenity perspective. It is considered appropriate that with an increase in the building height and envelope on Lot 1, there needs to be a provision ensuring that Lot 16 still has access to sunlight at times of the day, as the R-Codes provisions which would apply at the development application stage are insufficient.

48. While supportive of the proposed amended building heights and envelopes for Lots 1 and 21, it is considered necessary for a modification to be made to Amendment No. 2 to require that Lot 1 be designed to maintain access to sunlight for the dwellings on Lot 16.

Lot patterns and sizes

49. Amendments are proposed to Figures 22 and 23 of the Structure Plan. The amendments to Figure 23 'Indicative Subdivision Plan' reflect the actual lot sizes of the lots that have been created to date, and the indicative areas for those lots still to be created, as well as adjusting the boundaries between Lot 1 and 21, and Lot 1 and Lot 2. These amendments are acceptable.

50. Figure 23 is also to be amended by removing two areas identified as 'public access easement' within and adjacent to Lot 1 (see grey shading in image below).

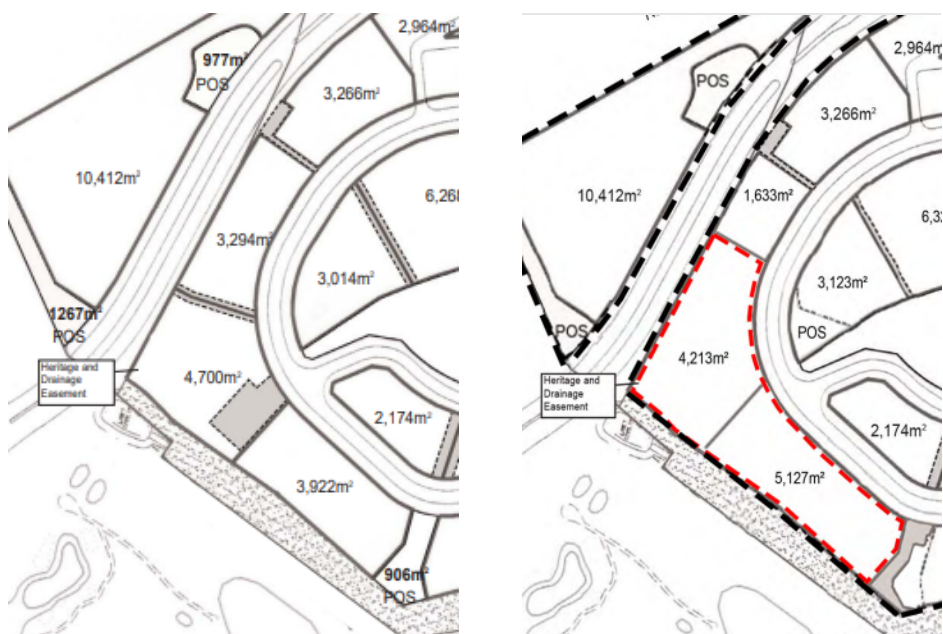


Image 14 – Extract of Figure 23 from 2003 Structure Plan (left) and Amendment No. 2 (right)

51. The larger of the two areas appears to have been proposed as a public plaza. In lieu of retaining this as a publicly accessible space, it is intended to include a view corridor in this location allowing for views from the street and northern end of the Lake Park out towards Optus Stadium (see Figure 13 below). This amendment is considered acceptable.

52. The public access easement between Lot 1 and 2 was intended to provide pedestrian connection between Bow River Crescent and Victoria Park Drive. This pedestrian access is now proposed to be removed and replaced with a view corridor between buildings out to the north-east, but without opportunity for pedestrians to walk out to Victoria Park Drive.

53. The removal of pedestrian access to Victoria Park Drive and the inclusion of three view corridors at the northern end of the estate is illustrated in the following images:

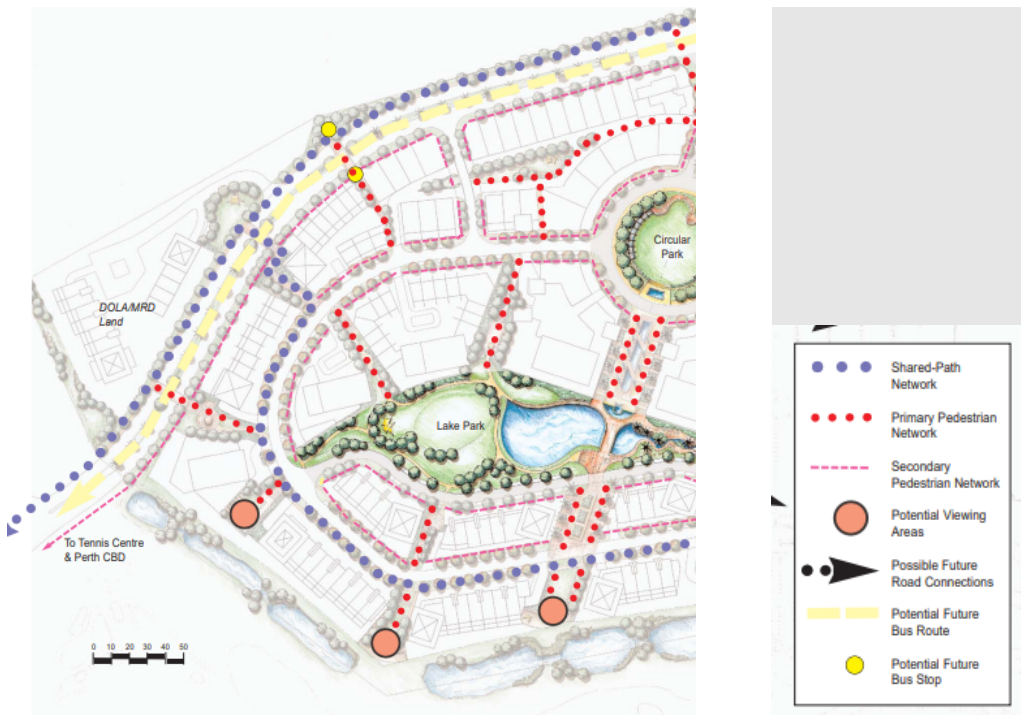


Image 15 – Extract of Figure 22 from 2003 Structure Plan

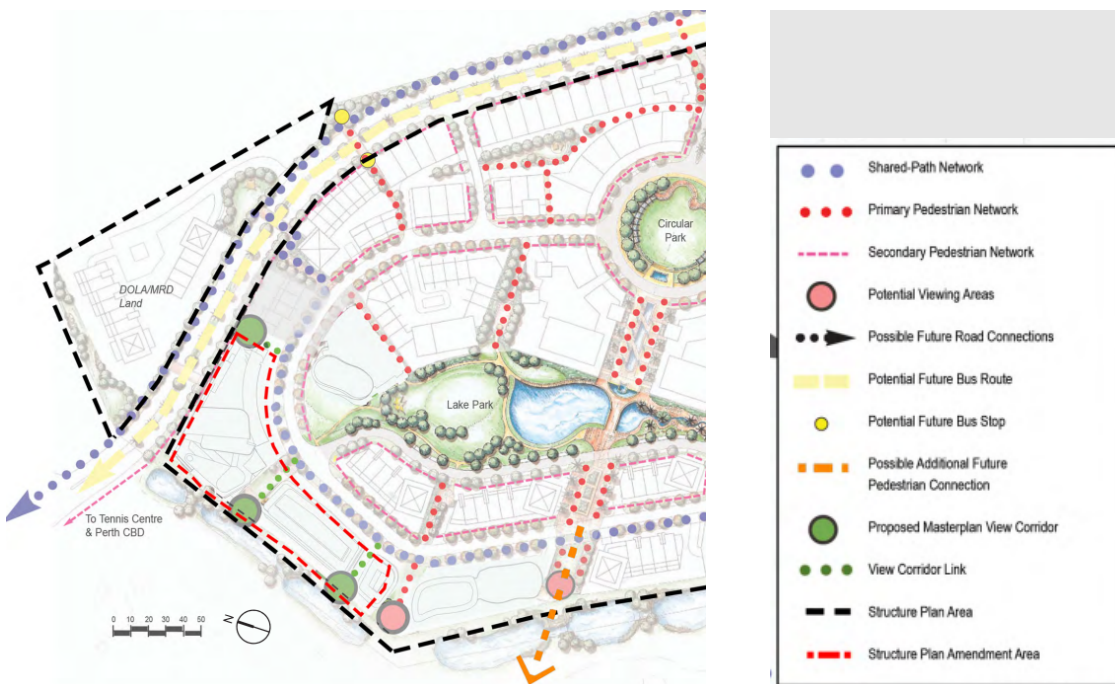


Image 16 – Amendment No. 2 proposal (Note – plan suggests links of 'share path network' and 'primary pedestrian network' between Victoria Park Drive and Bow River Crescent, however neither exist on-site)

54. The proposed view corridors out to the west/north-west are supported. However, the removal of the pedestrian connection from Bow River Crescent to Victoria Drive is considered to be a significant shortcoming of the proposed amendment. Particularly given the location of Optus Stadium and the future full-time Perth Stadium station to the north, direct pedestrian connection from the northern end of the estate to Victoria Park Drive is important. The proposed removal of this pedestrian connection is a retrograde step in terms of walkability and results in a longer (additional 440m) and more circuitous path of travel from the northern end of the estate to Optus Stadium, the Swan River foreshore and accessibility to Perth Stadium train station (which is closer for residents in the northern part of structure

plan area than Burswood train station). This is considered a poor urban design outcome and has been consistently raised by the Town's Design Review Panel as an issue of concern.

55. The applicant has responded to this issue as follows:

"It is acknowledged that opportunities for pedestrian connection and/or views to the north and to Victoria Park Drive were discussed with the DRP. Three new view corridors have been incorporated into the amendment, two to the northwest through Lot 21, and one to the northeast across Victoria Park Drive between Lot 1 and 2. As a 'View Corridor Link' each of these are intended to provide vistas to the wider surrounds including Perth Stadium and the Matagarup bridge. They are not pedestrian connections and do not require public easements. They are illustrated in Amended Figure 22 (Part One). Amended Figure 24 also recognises the inclusion of these view corridors, consistent with the original design intent for other view lines within the Structure Plan, noting they will be refined at Development Application stage.

The potential inclusion of an additional pedestrian connection through Lot 1 was raised by the DRP and also investigated in detail but does not form part of the amendment. Given significant level changes between Lots 1 / 2 and Victoria Park Drive a number of safety, security and accessibility issues indicate that public pedestrian access at this location is impractical and will deliver bad design outcomes. The amendment recognises the walkability of the catchment to the existing Burswood Station as well as established connections links such as Vasse Rise as an acceptable connection to support access to Perth Stadium Station."

We remain of the view that a dedicated pedestrian connection between Lots 1 and 2 is not desirable in light of these constraints."

56. It is acknowledged that there is a significant level difference between Victoria Park Drive and Bow River Crescent that presents a challenge to secure a pedestrian connection through this area, particularly in terms of accommodating universal access. However, the challenges in providing universal access should not dictate that no access be provided at this point, and result in a less direct path of travel for pedestrians. The Town's Design Review Panel have suggested that as a minimum a set of stairs should be provided, and that the opportunity exists for universal access to be addressed through the inclusion of a lift.

57. With reference to the area noted in Image 16 as possible 'additional future pedestrian connection' the desire of the Design Review Panel was for a physical connection to the west to be delivered in the short-term. However, the applicant has pointed out that the land to the west is separately owned by the State and there are issues. In the circumstances, it is considered acceptable that the link to the west be noted as a possible future connection.

58. Based upon the above, Officers generally support the proposed amendments in relation to pedestrian access and view corridors, subject to a modification to require retention of the pedestrian connection (with public access easement) between Victoria Park Drive and Bow River Crescent around the boundary between Lots 1 and 2.

Public open space and publicly accessible land

59. As outlined above, Figure 23 is to be amended by removing two areas identified as 'public access easement' within and adjacent to Lot 1 (see grey shading in image below). These areas (220m² and 844m²) are identified in Figure 31 of the 2003 Structure Plan as 'publicly accessible landscaped areas. In support of the removal of these landscaped areas, an audit has been undertaken on the amount of public open space (POS) and publicly accessible landscaped areas (PAL) both provided and planned within the Structure Plan area. The audit has concluded that:

- An additional 1229m² PAL has been provided.
- Approximately 26,150m² of POS/PAL has been/will be provided within the Structure Plan area, being approximately 891m² more than envisaged under the 2003 Structure Plan (25,259m²).
- This represents approximately 15.14% of the total site which exceeds that contemplated under the 2003 Structure Plan (14.8%) and the standard 10% obligation required under State Government guidelines.

(Note – the above figures are based upon an email from the applicant dated 19 July 2022, which clarifies that the figures contained in the applicant's amendment report require modification)

60. Accordingly, Figure 31 is to be amended to reflect the above. This amendment is supported, albeit the Town's view is that a publicly accessible landscaped area, containing a pedestrian connection, be maintained between Lots 1 and 2 to provide a link to Victoria Park Drive.

61. In relation to public open space, the structure plan amendment proposes to amend the maintenance obligations for public open space.

62. Section 4.12 of the 2003 Structure Plan contains commitments by the developer inclusive of the following:

"The proponent will manage and maintain all roads, public open space and landscaped areas within Burswood Lakes until the proponent has completed the development of lots 1 to 25 as shown on the indicative Structure Plan. At that time, it is the intention of the proponent that the aforementioned roads, public open space and landscaped areas will be handed over into the ownership and control of Town of Victoria Park."

63. The applicant proposes to replace this provision with the following:

"Public open space is to be developed and maintained for at least two summers in accordance with the requirements of WAPC operational policy Liveable Neighbourhoods Element 5".

64. The applicant addresses this amendment in Part Two, Sections 3.6.3 and 4.9 of the Structure Plan amendment report (see Attachment 1) with their comments including:

- Mirvac has been maintaining the POS for over 17 years.
- In accordance with State Planning Policy 3.6 'Infrastructure Contributions', it is standard industry practice for a developer to manage and maintain roads and infrastructure for a two-year period following construction completion before handing over responsibility to the local government.
- The Structure Plan amendment proposes to reflect SPP3.6, acknowledging that ongoing discussion with the Town is required to formally update the existing maintenance agreement.

65. The obligation on Mirvac to maintain all areas of public open space until development on all lots has been completed is now further complicated by the fact that Mirvac have sold Lots 9 and 25 to another party, in which case Mirvac have no control over when these lots are developed.

66. At the November 2021 Ordinary Council Meeting, Council considered a report relating to the maintenance of public open space within the estate, which if approved would have resulted in the Town taking on maintenance responsibilities for public open space ahead of the completion of development on Lots 1 to 25. Council resolved not to support this. Ongoing discussions are occurring between Mirvac and Town Officers, including obtaining legal advice.

67. It is acknowledged that Mirvac has been maintaining areas of POS for a significant period of time and that it is industry practice for a developer to maintain areas of POS for a two year period prior to handing

over to the local government. In this instance, Mirvac have proposed a maintenance period of two summers, which could result in a fifteen month maintenance period.

68. However, there is concern from the Town that supporting a change in maintenance responsibilities through this Structure Plan amendment may prejudice the ongoing negotiations between the Town and Mirvac in relation to the existing POS areas within the estate.

69. Accordingly, and until such negotiations are resolved, the Town is not in a position to support this amendment.

Car parking

70. The following parking standards are prescribed by the TPS 1 Precinct Plan and have been applied to development within the Burswood Lakes Structure Plan area to date:

- 1 bedroom apartment – minimum of 1 bay per dwelling.
- 2 bedroom apartment – minimum of 1.5 bays per dwelling.
- 3 bedroom apartment – minimum of 2 bays per dwelling.
- Visitor parking: 10% of required bays that may include, where appropriate, on street parking.

71. As context, it is noted that the above TPS1 Precinct Plan parking ratios were a concession upon the applicable R-Codes resident parking requirements at the time they were developed (i.e. the resident parking requirement under the Scheme was less demanding than that prescribed under the R-Codes). However nowadays, the minimum resident car parking requirements in the TPS1 Precinct Plan are more demanding than requirements outlined in the current R-Codes SPP7.3 Vol 2.

72. Amendment No. 2 proposes that development on Lots 1 and 21 comply with the parking standards of the R-Codes Volume 2 for Location A except that no maximum parking provision applies, and no minimum visitor requirement applies.

73. The standards of the R-Codes Volume 2 that would ordinarily apply include:

Table 3.9 Parking ratio

Parking types		Location A	Location B
Car parking ¹	1 bedroom dwellings	0.75 bay per dwelling	1 bay per dwelling
	2+ bedroom dwellings	1 bay per dwelling	1.25 bays per dwelling
	Visitor	1 bay per four dwellings up to 12 dwellings 1 bay per eight dwellings for the 13th dwelling and above	
Bicycle parking ¹	Resident	0.5 space per dwelling	
	Visitor	1 space per 10 dwellings	
Motorcycle/ Scooter parking ²	Developments exceeding 20 dwellings provide 1 motorcycle/scooter space for every 10 car bays		
¹ Calculations of parking ratios shall be rounded up to the next whole number. ² For each five motorcycle/scooter parking bays provided in accordance with Table 3.9, car parking bays may be reduced by one bay. Definitions: Location A: within 800m walkable catchment of a train station and/or 250m of a transit stop (bus or light rail) of a high-frequency route and/or within the defined boundaries of an activity centre. Location B: not within Location A.			

A 3.9.3 Maximum parking provision does not exceed double the minimum number of bays specified in Table 3.9.

Image 17 – extracts from R-Codes Volume 2

74. Officers are in support of the car parking standard for Lots 1 and 21 to revert to that contained in the R-Codes Volume 2 as this is a more contemporary standard, one that is applied to apartment development elsewhere within the Town and State and recognises the site's proximity to a train station and public transport.

75. With respect to the applicant's requested exemption from two of these standards (ie. no maximum parking provision; no visitors parking required) the applicant provides an explanation for these amendments at Section 4.12 of Attachment 1, inclusive of the following:

- While it is not expected that the maximum parking standards will be exceeded there is currently no maximum parking standard applicable under the Structure Plan. To ensure there is a reasonable degree of consistency in parking standards throughout the Structure plan area, it is appropriate that the maximum parking provision under the R-Codes Volume 2 not be applied.
- A parking audit has been undertaken comparing the number of visitors bays required under the Structure Plan against the number of visitors bays constructed (or proposed to be constructed) on site to date.
- A total of 180 visitors bays are required in Area B based upon the current Structure Plan yield. This amendment proposes an additional 224 dwellings in Area B, requiring an additional 36 visitors bays, and being a total visitor parking requirement of 216 bays.
- 235 on-street visitors bays have been constructed to date and following the construction of additional bays required as part of development approvals, there will be 248 visitors bays, being a surplus of 32 bays. Figure 20 below indicates the location of the visitors bays.
- Site inspections were also undertaken at various times of the day with their consistently being vacant visitors bays, suggesting that the current supply of visitors bays within the Structure Plan area is adequate. On this basis there will be no further visitor parking requirements for Lots 1 and 21.

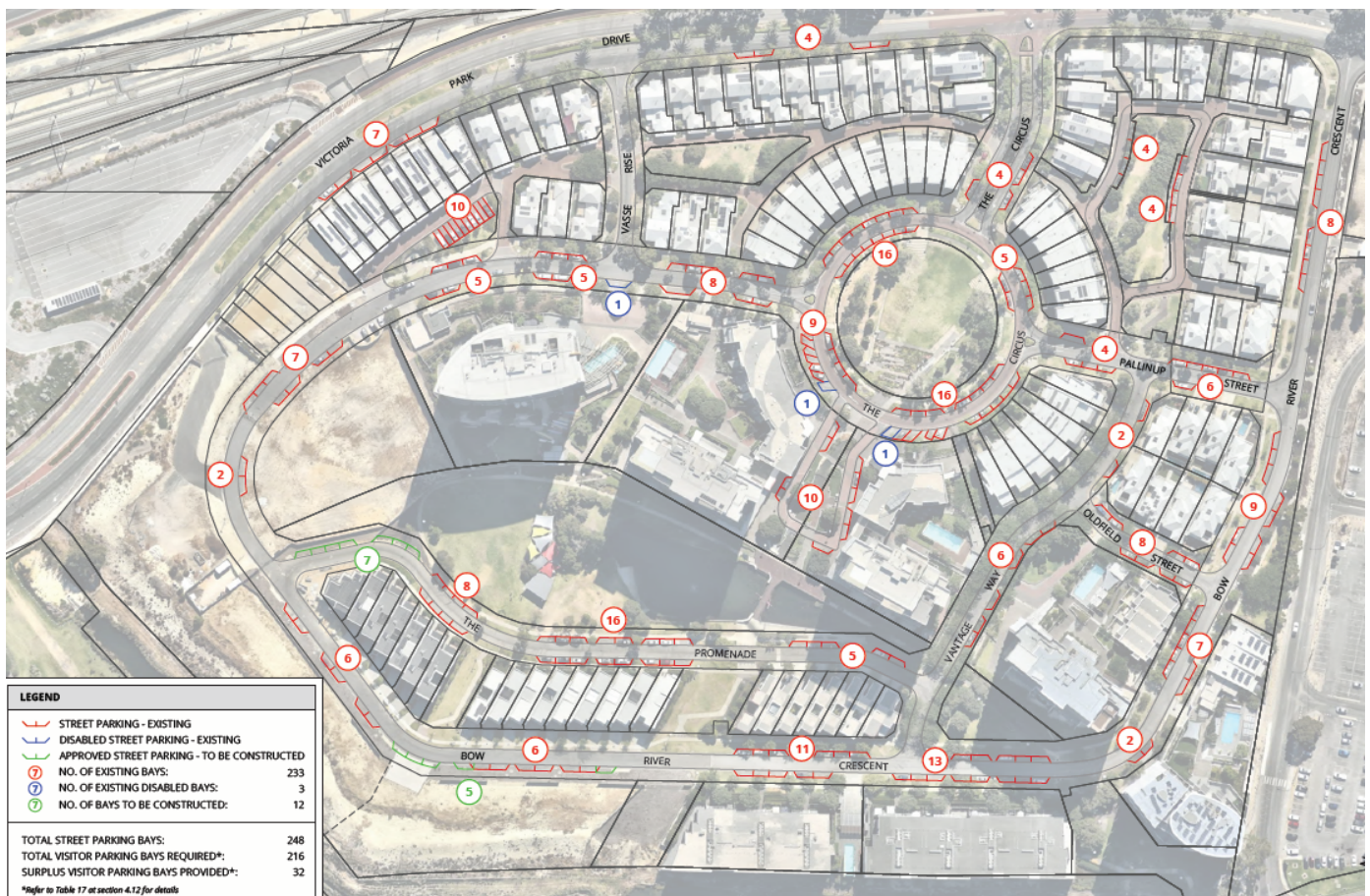


Image 18 – Visitors parking audit

76. In relation to the proposed variations to the maximum resident bay parking requirement, the applicable R-Codes requirement is that the number of resident bays not exceed double the minimum number of bays required. The applicant is correct that there is currently no maximum parking requirement under the Structure Plan, however this is reflective of the planning framework of 2003 when parking caps were not a consideration, whereas the R-Codes of today do include a parking car for apartments. Given the site's location in close proximity to public transport it is considered inconsistent with transit oriented development principles to remove a maximum parking requirement and permit more on-site car parking. As noted in the Place Planning Comments above it is considered that the active and public transport options to this site are exceptional, and that any excess of parking is likely to undermine these options. Therefore, Officers do not support the requested variation to the maximum parking requirement applying under the R-Codes Volume 2.
77. With regards to visitors parking, there appear to be inconsistencies and errors in the calculations provided by the applicant at Part 2, Section 4.12 of their report and Table 17. The errors are of little consequence, however it is noted that the calculations for Lots 1 and 21 are based upon the current Structure Plan provisions whereas the applicant is seeking for the current R-Codes Volume 2 provisions to apply, with variation. Applying the R-Codes Volume 2 standard, rather than the current Structure Plan provision, the visitors parking requirement for future development on Lots 1 and 21 would be 47 bays not 36 bays, representing a surplus of 23 bays not 32 bays.
78. The current Structure Plan provision providing discretion for visitors parking for developments to be located on-street rather than on-site is unique. Elsewhere within the Town, visitors parking for developments is required to be provided on-site. The 2003 Structure Plan provides little in the way of explanation for this other than saying that "*Parking for residents will be accommodated off-street, while ample on-street visitor and service vehicle parking will be provided.*"
79. The matter of adequacy of visitors parking for development within the estate has been raised as a significant concern in public submissions on this Amendment No. 2, as well as being consistently raised in submissions received on previous development applications within the area. Submissions cite there being an inadequate number of on-street bays to accommodate visitors parking for the estate, with the available bays being regularly occupied.
80. Comments from the Town's Parking team above is that there is evidence that many residents are parking on-street which is placing demands upon the available on-street parking for visitors. While there is a theoretical surplus of on-street parking bays for residents as presented by the applicant, this does not appear to be the reality. While the applicant has stated that they undertook site inspections to view the extent to which the on-street parking bays are occupied and they conclude that there is an adequate number, no evidence or data is provided in support of these claims.
81. The Structure Plan provisions of 2003 assumed that the provision of visitors parking on-street would be "ample" to support the needs of development within the area. However, the advice received from the Town's Parking team is that the on-street parking provision for visitors has proven to be insufficient. The Town is unable to agree with the applicant's contention that there is, and will continue to be, a surplus of on-street bays for use by visitors, and the Town cannot accept the argument that no visitors parking, either on-street or on-site, be required for the remaining developments on Lots 1 and 21.
82. The current Structure plan provision states that the 10% visitors parking requirement "*may include, where appropriate, on street parking.*" In approving development applications to date, on-street visitors parking

has been accepted fairly routinely. However, moving forward for the remaining developments on Lots 1 and 21, it appears no longer appropriate to accept exclusive on-street parking for visitors.

83. As a further point of note for not accepting the applicant's request for no visitor parking to apply to the development of Lots 1 and 21 given the surplus of bays that exist, it is noted that very few on-street visitor bays exist or are proposed to be provided at the northern end of the estate in proximity to the sites (see Figure 14 above). While density increases are proposed for lots 1 and 21, there is minimal on-street parking available for visitors within close proximity of the sites.
84. On the basis of the above, while Officers support an amendment to require parking for Lots 1 and 21 to be assessed against the R-Codes Volume 2 standards, the requested variations to the maximum residents parking bay requirement and minimum visitors bay requirement are not supported.

Public art contribution

85. The Town seeks to facilitate the provision of public art as part of the private development process through Local Planning Policy 29 - Public Art Private Developer Contribution (LPP29). Typically, LPP29 requires major developments to provide public art to the value of 1% of the estimated value of building work. However, policy provision 1.2 (a) of LPP29 outlines that development can be excluded from the above contribution amount where:

"Development within an area the subject of an approved Structure Plan, Local Development Plan or other planning instrument adopted by Council that contains alternative requirements for the provision of public art within that area"

86. In relation to public art contribution, Amendment No. 2 proposes the following development requirement within the Structure Plan:

"A public art contribution will be imposed in respect of any future Development Applications on Lots 1 and 21 to a maximum total contribution of \$500,000 for each lot. Any existing obligations for the provision of a public art contribution under current Development Approvals within the Structure Plan Area are to remain".

87. In support of this position the applicant contends that they have delivered a number of high quality public artworks within the Structure Plan area as part of an integrated approach to a high quality public realm.
88. Having regard to the above, and noting that the applicant now intends to satisfy the requirements of LPP29 albeit imposing a cap on the public art contribution, Officers support the requested amendment in relation to public art.

Sustainability

89. The 2003 Structure Plan contains provisions in Section 4.11 relating to Ecologically Sustainable Development (ESD). It is said that the provisions are intended to establish ESD benchmarks for Burswood Lakes and ensure that ESD principles are considered. The ESD principles are identified as being necessary to ensure the following outcomes:

- Reduction in CO² emissions compared to similar developments;
- Reduction in household energy demands;
- Reduction in water use;
- Reduction in use of natural (scarce) resources;
- Minimisation of waste;

- Selection of materials/equipment to minimise environmental impacts over the life of the material/equipment.
90. The inclusion of ESD provisions in the 2003 Structure Plan reflected that the planning framework of the time, including the operative R-Codes, did not contain provisions requiring the consideration of ESD principles in the design of developments.
91. The R-Codes, Volume 2 do now include provisions relating to sustainability, including attention to access to daylight and sunlight, natural ventilation, energy efficiency, and water management and conservation.
92. While the inclusion of such provisions in the R-Codes is a positive initiative, the standards are considered to be fairly basic and are now standard practice to achieve good design rather than best practice or innovative to achieve design excellence.
93. In relation to sustainability, the structure plan amendment proposes to replace Section 4.11 of the current Structure Plan with the following:

“Future developments on Lots 1 and 21 are to address the requirements at Section 4.15 of the RDC Volume 2 relating to Energy Efficiency at the Development Application stage. The developments shall also consider Part Two Section 4.15 of this amendment when considering potential ESD commitments. These provisions of the RDC Volume 2 supersede the provisions at Section 4.11 of the 2003 Structure Plan report.”

94. In turn, Part 2, Section 4.15 of the amendment document (see Attachment 1) states that the following items will be considered as part of the assessment of future development applications:

- Class 2 - Target plus 1 star increase to the average NatHERS performance requirement (against applicable National Construction Code requirement at time of Development Application).
- Class 1 - Target plus 0.5 star increase to the minimum NatHERS performance requirement (against applicable National Construction Code requirement at time of Development Application).
- Use of high-performance Double-Glazed windows and facades for all residential dwellings.
- Design of roof spaces to include Solar PV with optimised sizing and installation of Solar PV systems and consideration onsite energy storage.
- Future proofing by providing base infrastructure to allow for minimum 25% of all dwellings to allow for installation of EV chargers.
- All stormwater to be distributed to Burswood lakes stormwater infrastructure or utilised on site.
- Where possible, explore the opportunity for the landscape strategy to include for transplant mature trees.

95. The Town’s Design Review Panel have been particularly critical of the proposed amended approach to ESD, in particular that there is no commitment to implement the above measures, but rather only consider them. The DRP’s position on this matter is stated as follows: *“Lack of commitment to sustainability issues. Stating that they will ‘consider’ rather than ‘commit’ to the listed sustainability measures means they don’t have to do anything. Without a commitment, in some respects the sustainability provisions contained in the current Structure Plan could be considered to be diluted.”* The DRP’s recommendation was *“Replace ‘consider’ with ‘commit’ for suggested sustainability initiatives. If the sustainability measures listed at 4.15 are committed to, plus other items are considered, then this will be acceptable.”*
96. The applicant previously responded to the DRP’s concerns on this matter as follows:

“Acknowledging that this is a Structure Plan, that there are limited development sites remaining and that their development timeframes are not certain, site specific commitments regarding ecologically sustainable development (ESD) are not appropriate. Importantly, the structure plan requires that considerations of ESD with respect to each remaining development site be assessed against, and seek to meet and or exceed, State Planning Policy 7.3 Residential Design Codes Volume 2 – Apartments with respect to the stated

sustainability element objectives and acceptable outcomes. On this basis, we remain of the view that the current proposed wording under Part One – Provision 9 is reasonable and appropriate.

These matters are more suitably dealt with as part of the Development Application process, noting that this process requires further consideration by the DRP."

97. The applicant's response seeks for development to demonstrate compliance with the requirements of the R-Codes at the development application stage, and to consider the other matters at Section 4.15 at that time. As stated above, the Officers view is that the sustainability provisions in the R-Codes, whilst a positive initiative, are fairly basic and are now standard practice to achieve good design rather than best practice or innovative to achieve design excellence. In the content that this Structure Plan amendment seeks significant amendments from the current Structure Plan, there should be a commitment to deliver sustainability outcomes well beyond the minimum standards in the R-Codes. This is consistent with the basis of the Town's Local Planning Policy 33, where it is outlined that where a development seeks variations to the applicable development standards (ie. plot ratio; building height) then design excellence needs to be achieved, with the extent of design excellence being commensurate to the extent of the variation being sought.
98. While the applicant proposes to address this at the development application stage, it is considered that this is too late in the process, and that the sustainability outcomes should be committed to in the Structure Plan now so as to set a high benchmark for the remaining development sites, rather than start from the lower benchmark of the R-Codes at the development application stage. While it is correct that the Town and the DRP will have an opportunity to review the ESD deliverables for future development applications, the ability to negotiate for higher ESD standards is limited if working from the lower base of the R-Codes. The applicable ESD principles and need to commit to them should be set at the time that the planning framework is being amended, being through this Structure Plan amendment, rather than at the development application stage where the proposed increased building heights and plot ratios will have already been set and will be as-of-right, and therefore there will be a reduced ability for the Town and the DRP to seek superior design outcomes.
99. Additionally in the Officers view the items listed at Section 4.15 are not particularly onerous for developments of the kind expected on both lots, and it is open to the applicant at the development application stage to justify any variations to the ESD commitments, should there be some compelling case to do so.
100. Having regard to the above, it is recommended that the proposed amended ESD provisions be modified by requiring that the applicant commit to (rather than consider) the identified measures.

LPP9 'Design Guidelines for Burswood Lakes' (LPP 9)

101. A further matter that was identified in the Town's internal review of the Structure Plan (see Attachment 3) was to consider the need for retention of LPP9. Upon review of LPP9 it is considered that the ten design elements referred to in the LPP and the relevant performance criteria are now adequately covered by the provisions of the R-Codes Volume 2. Accordingly, it is recommended that LPP9 be revoked regardless of Amendment No. 2.

Scheme Amendment

102. Many of the built form provisions contained in the Structure Plan (ie. dwelling density; building heights; setbacks etc) are replicated in the TPS 1 Precinct Plan, which gives them statutory effect rather

than just being given due regard. In amending the Structure Plan, consideration has been given to the need to concurrently amend the TPS 1 Precinct Plan, so that the provisions in both documents are consistent with one another.

103. To amend the TPS 1 Precinct Plan to reflect the proposed amended Structure Plan provisions would require a separate process to be undertaken, being a Scheme Amendment, and further community consultation on the same matters that have been the subject of the Structure Plan amendment consultation. There would therefore be some degree of duplication of process.
104. An important consideration is the advanced state of the Town's new Planning Scheme, Local Planning Scheme No. 2 (LPS 2). A separate report appears on this ABF and OCM agenda, recommending that Council endorse draft LPS 2 for WAPC review and community consultation. In view of the status of draft LPS 2, it is considered more efficient to undertake any amendments to the relevant Scheme provisions for the Burswood Lakes area as part of the progression of draft LPS 2, rather than undertaking a separate TPS 1 Scheme Amendment.
105. It should be noted that should Structure Plan Amendment No. 2 be approved without a concurrent TPS 1 Scheme Amendment, then there would be a scenario where the TPS 1 provisions for Burswood Lakes are inconsistent with the amended Structure Plan provisions, by virtue of the former still reflecting the previous Structure Plan provisions. While not ideal, this is not fatal, as Clause 29 of TPS 1 provides general discretion to vary the development standards of TPS 1 in determining a development application. Therefore Clause 29 can be applied to approve a development application that seeks a variation to the development standards contained in the TPS 1 Precinct Plan, that is generally consistent with the provisions of the amended Structure Plan.
106. In view of this, Officers support Structure Plan Amendment No. 2 without a concurrent amendment to TPS 1, on the basis that draft LPS 2 will address the amended Structure Plan provisions.

Conclusion

107. The 2003 Structure Plan has served the Town well in guiding the development of land at Burswood Lakes and delivering high quality, high density development. Over the duration of the Structure Plan and the assessment of individual development applications there has been an increasing occurrence of applications seeking variations to the Structure Plan provisions. This has been reflective of changes in the surrounding built environment, market conditions, contemporary planning and design, as well as changes to the strategic planning for the area.
108. While there are few sites yet to be developed, this amendment seeks to provide greater certainty about the development outcomes for these sites, representing the final lots within the Structure Plan area.
109. The proposed amendments are generally supported, including the more significant changes to dwelling density and the built form.

110. However, there is concern that in some areas, some development outcomes for the remaining lots and the precinct are potentially being diluted, when given the significant amendments being sought, the development outcomes should be elevated. As mentioned elsewhere, while applicable to development applications, the premise of LPP33 is that where a development seeks variations to the applicable development standards (ie. plot ratio; building height) then design excellence needs to be achieved, with the extent of design excellence being commensurate to the extent of the variation being sought. Applying the same principle, this Structure Plan amendment should set up the planning framework to require the delivery of superior design outcomes, rather than defer this to a consideration at the development application stage.
111. It is recommended that modifications to the following items in particular in the Structure Plan amendment are necessary to ensure that superior design outcomes are required/committed to in recognition of the significant amendments being sought :
- o Sustainability commitments;
 - o Pedestrian connection between Victoria Park Drive and Bow River Crescent in proximity of the boundary between Lots 1 and 2;
 - o Lot 1 be designed to maintain access to sunlight for the dwellings on Lot 16.
112. These and other recommended modifications both described in the report, and those of an administrative nature, are detailed in Attachment 11.
113. Having regard to all of the above, it is recommended that the WAPC be advised that Council supports the proposed Structure Plan Amendment No. 2 with modifications.

Relevant documents

[Burswood Lakes Structure Plan \(approved 2003\)](#)

[Burswood Lakes Structure Plan - Amendment No. 1 \(approved 2017\)](#)

[Local Planning Policy 9 - Design Guidelines for Burswood Lakes](#)

12.3 METRONET Management and Maintenance Progress Update

Location	Carlisle East Victoria Park Welshpool
Reporting officer	Place Leader Transport
Responsible officer	Manager Place Planning
Voting requirement	Simple majority
Attachments	1. Letter to METRONET Future Leaseable Spaces [12.3.1 - 2 pages]

Recommendation	
That Council notes the update on recent and ongoing engagement with METRONET regarding the management and maintenance of public open space as part of the Victoria Park-Canning Level Crossing Removal Project.	

Purpose

To provide Council with an update on the Victoria Park-Canning Level Crossing Removal Project and related information regarding the management and maintenance of the planned public open spaces in the project area.

In brief

- METRONET are seeking to establish an arrangement with the Town to manage and maintain new public spaces within the rail corridor following the completion and establishment of the Victoria Park-Canning Level Crossing Removal Project.
- At the June 2022 OCM, Council requested that the Chief Executive Officer (CEO) seek further information from METRONET on the new public open space that is planned, including the estimated size of this space and the estimated cost of maintaining it.
- The Town is continuing to communicate with METRONET to gain further details in addition to the information provided in this response.

Background

1. The Town has been working closely with METRONET on the Victoria Park-Canning Level Crossing Removal Project.
2. At the June Ordinary Council Meeting, Council endorsed the following recommendation.

Requests the Chief Executive Officer prepare a further report in August 2022 outlining further progress on discussions with relations to:

- *The total estimated size of the public open spaces;*
- *Detailed plans for the public open spaces;*
- *The total estimated construction cost by METRONET for the public open spaces;*
- *Any estimated costs of future management and maintenance.*

- Any potential future leasable spaces suitable for the Town to use for revenue generation.

3. The Town of Victoria Park has progressed discussions with the State Government and their appointed contractors regarding the Victoria Park-Canning Level Crossing Removal Project.

Strategic alignment

Civic Leadership	
Community priority	Intended public value outcome or impact
CL3 - Accountability and good governance.	The Council and community are kept informed of the Town's ongoing engagement with METRONET.

Engagement

Internal engagement	
Place Planning	Leading stakeholder interface management for this project.
Street Improvement	The team has been involved in all negotiations with METRONET with a particular focus on civil, structural and utilities components of the project.
C-Suite	C-Suite has been involved in guiding negotiations with METRONET and provided regular updates on the project.
Property Development and Leasing	The property and leasing team has informed the land and leasing negotiations with METRONET and helped inform management and maintenance discussions with the state government and their contractors.
Stakeholder Relations	The Communications team has been updated on METRONET activities and coordinated METRONET related public communications.

Other engagement	
METRONET	METRONET have been engaging the Town regularly on the Level Crossing Removal project including the future management and maintenance.
South-East Corridor Council Alliance	The Town of Victoria Park has discussed maintenance and management approaches with SECCA members. While each METRONET project is different across the region there is a united view to provide in principle support to assuming management responsibility subject to conditions. It is the nature of the conditions that is being discussed with other SECCA members considering the Town's position.

Legal compliance

Not applicable.

Risk management consideration

Risk impact category	Risk event description	Consequence rating	Likelihood rating	Overall risk level score	Council's risk appetite	Risk treatment option and rationale for actions
Financial	Opportunities for future leasable spaces to provide income to the Town not supported by METRONET or PTA	<i>Moderate</i>	<i>Possible</i>	<i>Medium</i>	<i>Low</i>	Treat - Negotiate with METRONET and PTA to obtain support.
Financial	The Town does not effectively plan for the anticipated maintenance costs for new public spaces in its Long Term Financial Plan.	Moderate	Possible	Medium	Low	Treat - Continue to work with METRONET to negotiate a staggered transition to maintenance handover as well detailed anticipated costs and required management regimes.
Environmental	Not applicable.					
Health and Safety	Not applicable.					
Infrastructure / ICT systems / utilities	Not applicable.					
Legislative Compliance	Not applicable.					
Reputation	Town reputation may be impacted if public spaces do not meet community expectations.	Minor	Possible	Medium	Low	Treat - Comprehensive engagement from and with METRONET during planning and delivery.
Service delivery	Road or bicycle network interruption due to works delays.	Moderate	Likely	High	Medium	Treat - Comprehensive engagement from and with METRONET during planning and delivery.

Financial implications

Current budget impact	Preparing the principles for negotiation for the future management and maintenance of public spaces has no impact on the budget.
Future budget impact	<p>The future management and maintenance of public open space areas created through the Victoria Park-Canning Level Crossing Removal Project will have a long-term budgetary impact on the Town. The extent of the long-term costs to the Town are still to be confirmed with the Office of Major Transport Infrastructure Delivery (OMTID) and will become known as the Town furthers negotiations (should Council proceed with the Officer Recommendation).</p> <p>In addition to the anticipated long-term costs associated with maintenance and management, the Victoria Park-Canning Level Crossing Removal Project is expected to impact the Town's future fiscal position through:</p> <ul style="list-style-type: none">• Potential additional funds from METRONET for funding infrastructure and service integration (subject to negotiation).• Provision of leasable spaces for an income stream that can offset future management and maintenance costs of the public spaces (subject to negotiation).• Increased levels of development resulting in dwelling/population growth around the stations and new public open spaces. While development can be facilitated in the current planning framework, it will also be supported in the new Local Planning Scheme No.2 (currently being drafted) and the creation of an Oats St Station Precinct Structure Plan (proposed to commence in 2022/2023 - but subject to budget approval). <p>At present the Town has the following information from METRONET:</p> <ul style="list-style-type: none">• METRONET has allocated \$2.38 million for a 24-month establishment period of new public spaces across the entire Victoria Park-Canning LXR Project. When extrapolated to the Town of Victoria Park section (5.5 ha of public space) this equates to about \$300,000 to \$400,000 per year for establishment and maintenance. This is a high-level estimate and further detail will be obtained by the Town as the design progresses.

Analysis

4. METRONET have commenced fortnightly meetings with the Town specifically related to landscape design details. During these meetings the Town shares its position on the design and advocates for design modifications where necessary and the provision of leasable spaces in the project area. The Town is also seeking to understand in greater detail the extent and cost of future maintenance, management and asset renewal responsibilities expected of the Town by METRONET. Details of these conversations cannot be shared publicly due to confidentiality agreements. The Town provided a letter to METRONET with respect to the potential for leaseable spaces in the future public open spaces. This letter also included a series of questions regarding future management. The letter is contained in Attachment 1.
5. METRONET are yet to provide the Town with details of the total estimated construction cost for the public open space areas citing confidentiality. This information is unlikely to be shared until construction contracts have been formally signed and the State Government's procurement process is not at risk of

being undermined by the release of these financial details. The final construction cost is also subject to the details of design materials and type of assets to be included in the design that are yet to be finalised. This makes it very difficult for the Town to contribute to discussions regarding the financial viability of future maintenance and asset renewal of the public open space.

6. The Town is attempting to discuss with METRONET the details of the management and maintenance arrangement. This includes determining the boundaries and ownership arrangements for different areas and assets. METRONET have not (in writing) provided the Town with:
 - Boundaries of the areas METRONET are seeking the Town to maintain with accompany areas;
 - The anticipated maintenance regime and estimated costs of the future public open spaces (which are still conceptual in nature);
 - The anticipated renewal regime (life cycle costs) of the assets within the future public spaces; and
 - Any other maintenance expectations from METRONET with respect to areas delineated as the Public Transport Authority's responsibility including the elevated rail structure.
7. The instrument of the agreement remains to be determined and will help inform the legal capabilities and jurisdiction between the Town and the State Government. This agreement will cover matters such as extent of authority to approve activities, etc.
8. The Town will provide regular updates to elected members via monthly concept forums or the Elected Member Portal as required. The Town will prepare a report for the Council once METRONET provides the Town with sufficient information regarding the future maintenance, management and asset renewal for the Council to decide.

Relevant documents

Not applicable.

12.4 Consent to advertise draft Local Planning Scheme No.2

Location	Town-wide
Reporting officer	Place Leader – Strategic Planning
Responsible officer	Manager Place Planning
Voting requirement	Simple majority
Attachments	<ol style="list-style-type: none">1. Draft LPS2 - Scheme Text [12.4.1 - 75 pages]2. Draft LPS2 - Scheme Map [12.4.2 - 1 page]3. Draft LPS2 - Map of key changes between TPS1 and LPS2 [12.4.3 - 1 page]4. Draft LPS2 - Non-conforming use register [12.4.4 - 4 pages]

Recommendation

That Council:

1. Endorse the draft Local Planning Scheme No.2 for the purpose of undertaking public consultation, pursuant to section 72(1) of the *Planning and Development Act 2005* and Regulation 21 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, as included at Appendix 1 (Scheme Text) and Appendix 2 (Scheme Map).
2. Requests the Chief Executive Office to submit copies of the endorsed draft Local Planning Scheme No.2 to the Western Australian Planning Commission requesting that the commission grant approval to advertise the scheme, pursuant to Regulation 21(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
3. Directs the Chief Executive Officer to undertake community consultation and invites submission on the draft scheme for a period not less than 90 days, following approval of the Western Australian Planning Commission to advertise the draft Local Planning Scheme No.2, pursuant to Regulation 22 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
4. Endorse a general position that following the endorsement of draft Local Planning Scheme No.2 for public consultation as per item 1 above, no further amendments to Town Planning Scheme No.1 will be initiated, unless there are compelling reasons to do so.

Purpose

To gain Council endorsement of the draft Local Planning Scheme No.2 (draft LPS2) for the purpose of undertaking public advertising including requesting that the Western Australian Planning Commission (WAPC) approve draft LPS2 for public advertising.

In brief

- A Local Planning Scheme is the principal statutory document of the local planning framework and is the mechanism for achieving the Town's aims and objectives through informing decision making with respect to development.
- Draft LPS2 has been prepared to replace the existing Town Planning Scheme No.1 (TPS1) in accordance with the recommendations of the Town's Local Planning Strategy and the requirements of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations).

- The first stage of preparing the new scheme is focused on converting TPS1 to the Regulations Model Scheme Template (MST) format. For most of the Town, draft LPS2 recommends no or limited change to existing zones, residential densities and development controls.
- The Council must endorse draft LPS2 for public advertising and the WAPC must also grant permission to advertise in order for draft LPS2 to be able to proceed to public advertising.

Background

1. Local planning schemes are subject to compliance with the State Government's statutory and strategic planning framework. In particular, the *Planning & Development Act 2005* and the Regulations.
2. The Regulations provide a Model Scheme Template (MST) which local planning schemes must conform to. The Town's existing TPS1 is not written in the MST format.
3. The Regulations also provide 'Deemed Provisions' which are a series of requirements that automatically apply to all local planning schemes.
4. The Town of Victoria Park's existing TPS1 was gazetted on 30 September 1998. The Regulations require Schemes to be reviewed every five years. As such, on 20 September 2017, Council considered a report that reviewed TPS1. The review concluded a new Scheme was required to reflect contemporary strategic and legislative planning requirements.
5. The Regulations require a Local Planning Strategy to guide the preparation of a Local Planning Scheme. A Local Planning Strategy sets out the long-term planning direction for the local government and provides the rationale for the zoning and classification of land under the Scheme. Council resolved to prepare a Local Planning Strategy which, following formal consultation during 2021, was approved by Council in March 2022. The Local Planning Strategy was subsequently approved by the WAPC in May 2022.
6. The Local Planning Strategy recommends that a new Local Planning Scheme No.2 be prepared and on 15 March 2022, Council resolved: *"to prepare a new Local Planning Scheme No.2 pursuant to Regulation 19(1) of the Planning and Development (Local Planning Schemes) Regulations 2015 and Section 72(1) of the Planning and Development Act 2005."*
7. The Local Planning Strategy recommends that LPS2 develop via a staged approach. The first stage (the subject of this report) focuses on converting the Town's existing TPS1 to the MST format as required by the Regulations. Therefore, for most of the Town, draft LPS2 recommends no or limited change to existing zones, residential densities and development controls.
8. The staged approach is intended to minimise delays in adopting the new Scheme by not attempting to solve all planning issues of the Town at once.
9. The subsequent stages of preparing the new Scheme will be guided through the progressive preparation of Precinct Structure Plans (or other suitable planning instruments) for more complex areas such as the Albany Highway Activity Centre, Oats Street Station Precinct, Burswood South Activity Centre and Bentley Technology Park. The Town will also investigate the potential for change in the Future Investigation Areas identified in the Local Planning Strategy.
10. The preparation of the draft LPS2 has consisted of:
 - a) A systematic review of the provisions of the existing TPS1 text, maps and precinct plans.
 - b) A detailed review of the Town's informing strategies and local planning policies.
 - c) Audits of existing land use activity within the Town.
 - d) Best practice benchmarking against other recently adopted local planning schemes.
 - e) A legal review to ensure compliance with relevant legislation.

11. Modifications to TPS1 have been recommended where they can to:
- Address short-term actions as identified in the Local Planning Strategy.
 - Better achieve the objectives of the Town's informing strategies.
 - Maximise consistency with the Residential Design Codes (R-Codes).
 - Maximise consistency with the Regulations.
12. The local planning scheme is one element of the Town's local planning framework. As draft LPS2 progresses, a review of the Town's local planning policy framework will continue to ensure an appropriate transition in policy provisions between TPS1 and LPS2.

Strategic alignment

Civic Leadership	
Community priority	Intended public value outcome or impact
CL2 - Communication and engagement with the community.	Advertising the draft Scheme (for 90 days) provides the community with the opportunity to have their say on the planning controls for how development is intended to occur within the Town.
CL3 - Accountability and good governance.	Preparing the draft scheme and proceeding to advertising acts on recommendations of the Town's Local Planning Strategy and ensures compliance with the Regulations.

Environment	
Community priority	Intended public value outcome or impact
EN3 - Enhancing and enabling liveability through planning, urban design and development.	The draft Scheme sets out the objectives and requirements for development of land within the Town to encourage appropriate development of both the private and public realms for current and future populations.

Engagement

Internal engagement	
Elected members	Concept Forum March 2020 on Local Planning Strategy relationship to draft LPS2. Elected members updates in June and July 2022.
C-Suite / CEO	Project updates and support for key directions. Chief Community Planner review of draft LPS2.
Urban Planning	Liaison in preparation and review of draft LPS2.
Place Planning	Liaison to ensure alignment with other key strategies and plans eg Integrated Transport Strategy, Social Infrastructure Strategy, Economic Development Strategy, Public Open Space Strategy and Urban Forest Strategy.

Other Service Areas	Liaison regarding implementation of Informing Strategies through the planning framework, where relevant.
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External engagement	
Stakeholders	Residents, land owners and businesses, government agencies.
Period of engagement	Varied. March-July 2022.
Level of engagement	1. Inform
Methods of engagement	Letters and emails sent directly to residents, land owners and government agencies of properties identified for potential change to zoning or significant modifications to development controls under draft LPS2.
Advertising	Not applicable.
Submission summary	Engagement undertaken for information purposes only to notify key stakeholders of the preparation of LPS2 and to provide notice of the pending public advertising period.

Other engagement	
Department of Planning, Lands and Heritage	Ongoing liaison regarding draft LPS2 compliance with the Regulations and application of State Planning Framework and Policies.

Legal compliance

13. Draft LPS2 has been referred for legal review to ensure it complies with the Planning and Development Act 2005 and the Planning and Development (Local Planning Scheme) Regulations 2015.

14. The legal review comments have confirmed a “high level of consistency” has been achieved between draft LPS2 and the relevant legislation.

Risk management consideration

Risk impact category	Risk event description	Consequence rating	Likelihood rating	Overall risk level score	Council’s risk appetite	Risk treatment option and rationale for actions
Financial	Not applicable.					
Environmental	Not applicable.					
Health and safety	Not applicable.					

Infrastructure / ICT systems / utilities	Not applicable.					
Legislative compliance	The WAPC refuse to approve draft LPS2 for advertising or requires major changes prior to advertising.	Moderate	Possible	Low	Low	Accept - act on any further instructions from the WAPC.
Reputation	The complexity of draft LPS2 acts as a constraint to community understanding.	Moderate	Possible	Low	Low	Treat - Prepare simple and clear communications material. Clarify and respond to queries during advertising, adjust communications if required.
Reputation	The Council refuse to approve draft LPS2 for advertising or require major changes prior to advertising.	Moderate	Possible	Low	Low	Treat - Provide clear information to Council on the purpose and content of draft LPS2. Accept the risk and act on any further instructions from the Council.
Service delivery	Not applicable.					

Financial implications

Current budget impact	There will be costs in undertaking consultation on draft LPS2. Sufficient funds exist within the annual budget to address this recommendation.
Future budget impact	Not applicable.

Analysis

15. Key components of the draft LPS2 scheme text include:

- a) **Scheme Aims (Clause 9)** - Updated to maximise alignment between the scheme and the Town's strategic objectives contained within the Strategic Community Plan, Local Planning Strategy and other informing strategies such as the Integrated Transport, Public Open Space, Urban Forest and Social Infrastructure strategies.

- b) **Local Reserves (Clause 14)** - Updated to conform with MST reserve typologies, including:
- “Parks and Recreation” changing to “Public Open Space” reserves.
 - “Public Purpose – Civic Use” and “Public Purpose – Civic Use and Community Purposes” changing to “Civic and Community” reserves.
 - “Public Purpose – Primary School” changing to “Education” reserves.
 - Addition of “Environmental and Conservation” reserve, applied to Hillview Bushland (currently “Parks and Recreation”) and George Street Reserve (currently “Public Purpose - Civic Use”).
 - Addition of “Emergency Service” reserve applied to Police and Fire & Emergency Services sites in George Street, Bentley.

Each local reserve is accompanied by objectives that describe the reserves intended purpose and use. Notably the ‘Civic and Community’ and ‘Public Open Space’ reserves include added objectives that encourage the activation and use of the land to reflect the intent of the Town’s Public Open Space, Social Infrastructure and Economic Development strategies.

- c) **Local Reserves - Roads (Clause 14)** - New reserves added to offer guidance for development of road reserves including objectives that encourage street design that contributes positively to the public realm, prioritises active forms of transport and contribute positively to the Town’s green network. The objectives reflect the intentions of the Town’s Integrated Transport and Urban Forest strategies.

- d) **Zones (Clause 16)** - Updated to conform with MST zone typologies, including:

- Changing the existing TPS1 “Industrial (1)” and “Industrial (2)” zones into one ‘Light Industry’ zone,
- Generally changing the existing TPS1 “Commercial”, “Office/Residential” and “Residential/Commercial” zones to “Mixed Use” zones.
- Adding a new “Urban Development” zone that has been applied to Belmont Racecourse site (formerly a “Special Use” zone).

Each zone is accompanied by objectives that describe the zone’s intended development outcomes. The zone objectives replace the existing TPS1 Precinct Plan ‘statements of intent’ and have been prepared to reflect the relevant aims of the Town’s informing strategies.

- e) **Zoning Table (Clause 17)** - The zoning table guides land use permissibility within the different zones of the Town. Land use permissibility’s have been updated to reflect the new zone objectives and with a general view to provide a greater degree of flexibility of land use within locations of commercial activity.

- f) **Interpreting the Zoning Table (Clause 18)** - Updated to reflect the MST. “P” (permitted) and “X” (non-permitted) uses classifications remain the same as TPS1, however, discretionary land use classification have been updated to include:

- “A” use classifications - which means that the use is not permitted without development approval and must be advertised,
- “D” uses classifications - which means that the use is not permitted without development approval (for which advertising is optional as per Council policy), and,
- “I” use classifications which means that the use is permitted if it is incidental to the primary use of the land.

Changes to the existing TPS1 "AA" discretionary use class classifications to "A", "D" and "I" classifications have been applied with consideration for the Towns existing policy positions where applicable.

- g) **Additional Uses (Clause 19).** Additional uses allow for uses that would otherwise not be permitted under the zone applicable to specific properties.
- An audit of existing sites operating as non-residential uses within the residential zones of the Town (such as existing convenience stores, shops, café and offices) has seen a number of additional properties listed for additional uses. These sites have been added under draft LPS2 to encourage the re-use of existing purpose built non-residential buildings (ie. Traditional corner shops) and to support the Town's objective to be a 15min town where residents can easily access local services within their immediate locality.
 - Numerous properties that under TPS1 are listed for additional use "Motor Vehicle and Marine Sales Premises" (generally in proximity to Albany Highway and Shepperton Road) are proposed for removal. This change is recommended to better reflect the progress in the Town's strategic planning. The subject properties will be treated as 'non-conforming uses' under LPS2.
- h) **Non-Conforming Uses (Clause 22-24)** - 'non-conforming uses' are where a use that has been lawfully established in the past, however, due to subsequent changes in zoning or land use permissibility's under the scheme, would now be a prohibited land use and incapable of receiving development approval. The scheme cannot prevent the continued use of land for a non-conforming use. The primary examples of non-conforming uses within the Town relate to car yard sites that previously under TPS1 benefited from additional use rights. These sites will continue to benefit from non-conforming use rights until such a time that they redevelop to land uses more consistent with the Town's strategic framework for the area. A 'Register of non-conforming uses' has been prepared (see Appendix 4) and is recommended to be adopted by Council to complement the scheme.
- i) **Special Use Zones (Clause 21)** - Special Use Zones apply to special categories of land use which do not comfortably sit within any other zone in the Scheme.
- Under draft LPS2 the "Technology Park" and "Residential Aged Care and Special Use Facilities" special use zones within Bentley are retained from TPS1. Each special use zone's land use permissibility and development controls have been refined to conform with the MST format. Additional clauses recommending the preparation of local development plans to facilitate redevelopment of key sites to a scale consistent with the overarching Bentley-Curtin Specialised Activity Centre Plan is also recommended.
 - The following TPS1 special use zones have been removed under draft LPS2:
 - 'Belmont Park Racecourse' – changed to "Urban Development" zone.
 - 'Burswood Lakes' – normalised as "Residential" and "Mixed Use" zones and "Public Open Space" and "Local Road" reserves.
 - 'Educational Facility George Street' – changed to "Education" reserve.
 - 'Eastern Gateway' – normalised as "Residential" and "Mixed Use" zones.
- j) **Modification of the R-Codes (Clause 26)** - This clause allows fundamental provisions of the R-Codes to be modified (if approved by the WAPC). New clauses recommended in this section include:
- Clause 26(2) - recommends that the minimum number of on-site car parking spaces required to be provided for residential dwellings do not apply within the scheme area. This clause intends to

reduce car dependency and reflects the objectives of the Town's Integrated Transport Strategy and Parking Management Plan.

- Clause 26(4) - allows for the redevelopment of existing buildings where their densities are greater than those set out in the Scheme map. This clause intends to facilitate appropriate demolition and redevelopment of such buildings.

k) **Additional site and development requirements (Clause 32)** - covers sites where development requirements in addition to those set out in the R-Codes, an activity centre plan or local development plan are required. This is where many of the TPS1 Precinct Plan development standards have been absorbed into draft LPS2 and updated as required. Key sites which include bespoke development controls include:

- The 'Empire Bar' site on Great Eastern Highway between Cornwall Street and Maple Street, Lathlain.
- The 'Visibility' site on Kitchener Road, Victoria Park.
- 'Carlisle Town Centre and Station' sites on Rutland Avenue between Archer Street and Memorial Avenue.
- 'Canning Highway' sites between Gloucester Street and Berwick Street, Victoria Park.
- 'Albany Highway' sites between Canning Highway and Welshpool Road (pending the preparation of the Albany Highway Precinct Structure Plan).
- Land zoned "District Centre", "Local Centre" or "Mixed Use" where multiple dwellings are recommended not to be permitted at ground level.
- Land zoned "Light Industry" where the R-Codes do not apply therefore development controls for plot ratio, building height and setbacks are required.

l) **General terms referred to in the scheme (Part 6 Division 1)** - definitions updated and consolidated to conform with the MST. Where terms are defined under another planning instrument applicable to the scheme (such as the R-Codes or Planning Act) these terms are not reproduced within draft LPS2. Examples of bespoke general terms which apply to draft LPS2 include:

- 'research and development' to support interpreting the purpose of the Technology Park "Special Use" zone, and,
- 'sensitive land use' to support interpreting the objectives of the "Light Industry" zone.

m) **Land use terms used in the scheme (Part 6 Division 2)** - updated and consolidated to conform with the MST. Land use terms are recommended to be updated as follows:

- TPS1 'general industry', 'hazardous industry', 'noxious industry' and 'service industry' uses consolidated into the MST 'industry' and 'industry – light' definitions.
- TPS1 uses removed where they are either not MST land use definitions or are no longer relevant to the scheme including: 'massage room', 'nursing room', 'club premises' and 'motel' uses.
- TPS1 uses modified to conform with the MST definitions including: 'consulting rooms', 'convenience store' and 'motor vehicle, boat or caravan sales'.
- New definitions for 'fuel depot', 'fast food outlet/lunch bar', 'fast food outlet – drive through', 'garden centre', 'holiday apartment', 'holiday house', 'holiday unit', 'hosted accommodation', 'independent living complex', 'medical centre', 'renewable energy facility', 'residential aged care facility', 'resource recovery centre', 'temporary sales office', 'tourist development', 'trade display', 'trade supplies' and 'waste storage facility'.

- n) **Supplemental provisions to the deemed provisions (Schedule A)** - an additional clause added to deemed provision 67 "Matters to be considered by local government" to include "any advice of the Design Review Panel".
16. For most of the Town, draft LPS2 recommends no change to existing zones and residential densities in the Scheme Map. The key modifications to the scheme maps between TPS1 and draft LPS2 are indicated in Appendix 3 and include:
- a) The Burswood Lakes Structure Plan area zones being normalised, changing from a "Special Use" zone to "Residential" and "Mixed Use" zones with an R-AC0 density code as well as "Public Open Space" and "Local Road" reserves. Commercial uses for the "Mixed Use" zone are restricted as per the requirements of the Structure Plan under Clause 20 of draft LPS2.
 - b) The 'Empire Bar' site on Great Eastern Highway between Cornwall Street and Maple Street, Lathlain being adjusted from "Commercial" to "Mixed Use" with an R-AC0 density code and from "Residential R20" to "Residential - R60".
 - c) Residential land on Great Eastern Highway between Cornwall Street and Streatley Road up coded from "Residential - R20" to "Residential - R60" to facilitate medium density development within the Burswood Station catchment area.
 - d) Existing apartment development along Rutland Avenue between Midgley Street and Howick Street, Lathlain being up coded from "Residential - R20" to "Residential - R60" to reflect the existing density.
 - e) Existing commercial properties on Gallipoli Street, Lathlain changing from "Residential - R20" to "Local Centre – R40" to reflect existing land uses.
 - f) The eastern side of Lathlain Place, Lathlain changing from "Residential - R40" to "Local Centre – RAC4) to expand the existing centre and reflect the existing land uses.
 - g) The "Residential - R40/R60" split coded area contained between Bishopgate Street, Rutland Avenue and Roberts Road, Lathlain rationalised as "Residential - R60".
 - h) Land surrounding the intersection of Canning Highway and Berwick Street, Victoria Park changing from "Commerical - R80" to "Mixed Use – R80" with height limits applied to the south-east side of Canning Highway.
 - i) No.4-6 Temple Street, Victoria Park changing from "Public Purpose" reserve to "Residential - R60".
 - j) Carlisle Town Centre (along Archer Street) modified to better reflect existing land uses including:
 - Expanded "Local Centre" zone with R-AC4 density code applied to reflect existing land uses.
 - "Commercial" land adjacent to Rutland Avenue between Archer Street and Memorial Avenue, Carlisle changed to "Mixed Use - RAC0" to allow for medium-high density redevelopment in proximity to the train station.
 - "Commerical" land north-east of the right of way between Archer Street and Memorial Avenue, Carlisle changed to "Residential - R30" to reflect existing development.
 - k) Changing land on Cohn Street, Carlisle from "Commercial - R30" to "Residential - R30" to reflect existing development.
 - l) Refinement of George Street, Bentley reserves from "Special Use" to "Education" (school), "Emergency" (Police, Fire & Emergency services), "Environmental Conservation" (George Street reserve) and "Civic and Community" (Men's Shed and PCYC).
 - m) Various existing parks changing from "Residential" zones to "Public Open Space" reserves including:
 - Alday Street Reserve, St James.

- Alec Bell Park, East Victoria Park,
 - Stile Griffiths Reserve, Buswood,
 - Devenish Reserve, East Victoria Park,
 - unnamed park on Mofflyn Circle, East Victoria Park,
 - unnamed park in Sunbury Park estate, Carlisle,
 - Carlisle Reserve, Carlisle (part),
 - Isiah Corner, East Victoria Park.
- n) The Aqualife site, East Victoria Park changing from "Public Open Space" to "Recreation" reserve to better reflect the existing land use.
 - o) The Welshpool Industrial area being rationalised from an "Industry 1" and "Industry 2" zones to one "Light Industry" zone.
 - p) Eastern Gateway Local Development Plan land between Welshpool Road and Swansea Street, east Victoria Park normalised, changing from a "Special Use" zone to "Mixed Use – R60" and "Residential - R60" with some Additional Use permissibility to reflect existing land use and the requirements of the Local Development Plan applicable to the site.
 - q) Hillview Bushland and George St reserve changing from "Public Open Space" to "Environmental Conservation" reserve to better reflect the biodiversity value of the site.
 - r) Existing shops at the corner of Albany Highway and Boundary Road, St James changing from "Residential - R40" to "Local Centre – R40" to better reflect existing use.
 - s) Converting other existing "Commercial", "Office/Residential" and "Residential/Commercial" zones to "Mixed Use" zones.
17. Should the Council resolve to endorse the draft LPS2 for the purpose of public advertising, the next step is to submit draft LPS2 to the Environmental Protection Authority for comment and to the WAPC for review and consent to advertise. The WAPC has 90 days to advise whether they consent to advertise or require modifications to the scheme prior to advertising.
 18. Following the WAPC's certification the Regulations require the Town to advertise the draft LPS2 for a minimum of 90 days. Community and stakeholders submissions will be open via the Town's online engagement portal, Your Thoughts. Communication to the public will be via traditional and digital means, including newspaper adverts as required by the Planning Regulations. Submissions will be analysed and may result in modifications to the draft LPS2, which will be presented to Council for endorsement at a future Ordinary Council Meeting.
 19. Following a decision by Council to adopt draft LPS2 for the purpose of undertaking public consultation it is advisable that any proposal for amendment to TPS1 should not be initiated by Council. Any proposal for amendment to TPS1 received following adoption of draft LPS2 should be treated as a submission on draft LPS2.

Relevant documents

[Local Planning Policy No.37 Community Consultation on Planning Proposals.](#)

12.5 Future of the Business Advisory Group

Location	Town-wide
Reporting officer	A/Place Leader (Economic Development)
Responsible officer	Manager Place Planning
Voting requirement	Simple majority
Attachments	Nil

Recommendation

That Council:

1. Renews the Business Advisory Group for the purpose of providing strategic advice to Council on:
 - a. The implementation and review of the Town's Economic Development Strategy 2018-2023;
 - b. The implementation of economic development initiatives, including events, campaigns and other economic development projects and partnerships;
 - c. Opportunities for the Town to collaborate with local businesses;
 - d. Opportunities to improve the Town's processes to make it easier for businesses to interact with the Town; and
 - e. COVID-19 economic recovery measures for local businesses.
2. Endorses membership of the group to include the following:
 - a. Three elected members.
 - b. Eight community members.
3. Advertises the establishment of the Business Advisory Group, its eight community member vacancies and seeks applications from candidates that meet the following criteria:
 - The owner or manager of a local business within the Town of Victoria Park (please note: the business does not need to have originated in the Town but can be a branch of a larger corporation).
 - Knowledge of the local economy and/or local business environment within the Town of Victoria Park.
 - An active participant in the Town's local business community.
 - Commitment to the time and effort required in joining the group (attendance of bi-annual meetings).
4. Requests that the Chief Executive Officer presents a further report back to Council by 15 November 2022 with a recommendation on community member appointments in line with point 3 above.

Purpose

To inform a decision on the future of the Business Advisory Group (BAG).

In brief

- The BAG operated between 14 October 2020 and 16 October 2021.
- At the 14 December 2021 Ordinary Council Meeting (OCM) the Town recommended that the BAG not be re-formed, and alternative engagement be undertaken with the business community. Council resolved that the future of the BAG be referred to a Concept Forum for further consideration.

- Alternative business engagement methods were presented at the 24 May 2022 Concept Forum at which a preference to renew the BAG for a further 12 months was expressed by Councillors.
- It is recommended that Council renew the Business Advisory Group for a period of 12 months and in doing so reduce the membership of the BAG to a maximum of eight community members via expressions of interest.

Background

1. Council resolved to establish a BAG on the 18 February 2020 OCM.
2. Staff recommended the postponement of the formation of the BAG on the 19 May 2020 OCM. This recommendation was based on the impact of the COVID-19 pandemic on the business community and their ability to participate in the BAG. Council resolved to continue with an expression of interest process and the preparation of a draft terms of reference.
3. The expression of interest process was undertaken during June 2020 to establish the BAG.
4. The Town recommended that eight businesses comprise the BAG. At the 18 August 2020 OCM, Council determined it wanted all the 23 eligible applicants included in the BAG.
5. The BAG held its first meeting on 14 October 2020. Three meetings in total were held during the term of the group with decreasing attendance occurring throughout. The group’s term expired on 16 October 2021.
6. On 19 October 2021, a survey was sent to all 23 businesses who participated in the BAG from which five responses were received. Four of the five respondents stated that the BAG should continue. Other key feedback from the survey included:
 - It was valuable to be given a reason to catch up with other businesses.
 - Networking or more business interaction is desired.
 - Not everyone understood the purpose of the BAG.
 - The size of the BAG membership was too big.
 - The BAG was not beneficial for all business types.
7. The Town reported to the 14 December 2021 OCM recommending that the BAG not be re-formed and alternative engagement be undertaken with the business community. Council requested that the future of the BAG be referred to a Concept Forum for further consideration.
8. At the 24 May 2022 Concept Forum alternative business engagement methods were presented to Council.
9. Following the Concept Forum, a survey was circulated to Elected Members through the Councillor Portal to inform the Town’s recommendation on the future of the BAG to which three responses were received.
10. Two of the three responses prioritised continuing the BAG for a further 12 months over alternative business engagement methods.

Strategic alignment

Civic Leadership	
Community Priority	Intended public value outcome or impact
CL2 – Communication and engagement with community.	The BAG provides representatives of the business community an opportunity to engage and provide feedback to the Town across a variety of projects.

Economic	
Community Priority	Intended public value outcome or impact
EC1 – Facilitating a strong local economy.	Businesses know they can engage with the Town simply and inform the planning of the Economic Development sub programs as well as other initiatives that have a local economic impact.

Engagement

External engagement	
Stakeholders	Former Business Advisory Group members (23 in total)
Period of engagement	From 19 October 2021 to 29 October 2021.
Level of engagement	2. Consult
Methods of engagement	YourThoughts survey
Advertising	Email
Submission summary	Five responses received: <ul style="list-style-type: none"> - Four respondents stated they thought the BAG should continue. - One supported it being restructured into something else.
Key findings	The majority of respondents stated the BAG was not what they expected, however, they found it valuable to be a part of the group.

Legal compliance

Not applicable.

Risk management consideration

Risk impact category	Risk event description	Consequence rating	Likelihood rating	Overall risk level score	Council's risk appetite	Risk treatment option and rationale for actions
Financial	Not applicable.					
Environmental	Not applicable.					
Health and safety	Not applicable.					
Infrastructure/ ICT systems/	Not applicable.					

utilities	
Legislative compliance	Not applicable.
Reputation	<p>The wider business community feel they are not engaged enough due to reduced member numbers</p> <p>Minor Possible Medium Low</p> <p>TREAT by continuing to develop the Business Communications Sub-Program and Business Events and Training Sub-Program to ensure timely information and feedback opportunities are provided to the business community via a variety of mediums.</p> <p>TREAT by including in the Terms of Reference that members are representatives for their place and industry who can provide feedback from their community.</p>
Service delivery	Not applicable.

Financial implications

Current budget impact	Sufficient funds exist within the annual budget to address this recommendation.
Future budget impact	Not applicable.

Analysis

11. The BAG is for the purpose of providing strategic advice to Council on:
 - The implementation and review of the Town's Economic Development Strategy 2018-2023;
 - The implementation of economic development initiatives, including events, campaigns and other economic development projects and partnerships;
 - Opportunities for the Town to collaborate with local businesses;
 - Opportunities to improve the Town's processes to make it easier for businesses to interact with the Town; and
 - COVID-19 economic recovery measures for local businesses.
12. The former BAG membership consisted of:
 - Three elected members
 - Twenty three community members
 - Four officers of the Town.
13. It is recommended that Council renew the BAG for a period of 12 months and in doing so reduce the number of community members to a maximum of eight.
14. The reduced community membership of the BAG is recommended to improve the effectiveness of the group by means of:
 - Encouraging higher attendance.
 - Ensuring the membership composition reflects an even representation of business from across the whole Town (ie. different places or neighbourhoods) and across different business sizes and industries.
 - Providing opportunity for more equal participation and discussion between members.
 - Providing a working group that is easier to manage for Town staff and enables more focused discussion on business-related matters.
15. To ensure a balanced composition of the BAG's community members, it is recommended that an Expressions of Interest process be undertaken to appoint the community members that meet the following criteria:
 - The owner or manager of a local business within the Town of Victoria Park.
 - Knowledge of the local economy and/or local business environment within the Town of Victoria Park.
 - An active participant in the Town's local business community.
 - Commitment to the time and effort required in joining the group.
16. The Town will assess the 'Expressions of Interest' and report to the 15 November 2022 Ordinary Council Meeting with recommendations for community members to be appointed to the renewed BAG.

Relevant documents

[Policy 101 Governance of Council Advisory and Working Groups](#)

[Terms of Reference - Business Advisory Group](#)

13 Chief Operations Officer reports

13.1 Disposal of 10 Kent Street by way of lease or licence

Location	East Victoria Park
Reporting officer	Senior Property Development and Leasing Officer
Responsible officer	Chief Operations Officer
Voting requirement	Simple majority
Attachments	<ol style="list-style-type: none">1. Property Prospectus - 10 Kent Street [13.1.1 - 19 pages]2. Floor Plan Sketch - 10 Kent Street East Victoria Park [13.1.2 - 1 page]3. CONFIDENTIAL REDACTED - Victoria Park Centre for the Arts Proposal [13.1.3 - 23 pages]4. CONFIDENTIAL REDACTED - Consolidated Qualitative Criteria Assessment - 10 Kent Street - Submitter 2 [13.1.4 - 3 pages]5. CONFIDENTIAL REDACTED - Victoria Park Centre for the Arts Response Form [13.1.5 - 3 pages]6. CONFIDENTIAL REDACTED - Consolidated Qualitative Criteria Assessment - 10 Kent Street - Submitter 1 [13.1.6 - 4 pages]7. CONFIDENTIAL REDACTED - Taybah Learning Institute Proposal [13.1.7 - 28 pages]8. CONFIDENTIAL REDACTED - Taybah Learning Institute Response Form [13.1.8 - 3 pages]9. CONFIDENTIAL REDACTED - United in Diversity Support Letter [13.1.9 - 1 page]

Recommendation

That Council:

1. Authorises the Chief Executive to negotiate with Victoria Park Centre for the Arts for a non-exclusive use licence for the Premises located at 10 Kent Street East Victoria Park consistent with the following key terms:
 - a) Land: Lot 10 on Plan 1954 (10 Kent Street, East Victoria Park).
 - b) Licensee: Victoria Park Centre for the Arts.
 - c) Term: 2 years.
 - d) Further Term: 1 year.
 - e) Fee: \$5,500.00 per annum including GST.
 - f) Commencement Date: Upon execution of the agreement by both parties.
 - g) Outgoings: The Licensee is responsible for waste removal, utility consumption charges, cleaning and garden maintenance.
 - h) Maintenance: The Licensee is responsible for general cleaning and garden maintenance. The Licensor is responsible for non-structural, preventative and structural maintenance.
 - i) Sublicence: With prior written consent from the Licensor (United in Diversity have been nominated as a sublicensee).
 - j) Permitted Use: Office.

- k) Insurance: The Licensee is responsible for \$20M Public Liability Insurance and workers compensation cover. The Licensor is responsible for Building Insurance.
 - l) Signage: With prior written consent from the Licensor.
 - m) Special Conditions: There is no guarantee that the Town will provide an operating subsidy either during the Term or Further Term. The Licence will include a Redevelopment clause.
 - n) Licence terms to be set by the Town's lawyers and to incorporate such minor variations or amendments to key terms (a) – (n) as may be agreed by the Mayor and CEO.
 - o) The recommendation makes provision for the terms of the Licence to be set by the Town's lawyers and for minor variations or amendments to the key terms to be authorised.
2. Authorise the Chief Executive Officer and the Mayor to execute all documents necessary to give effect to a licence and apply the Town's Common Seal, subject to negotiating an agreement acceptable to the Town.

Purpose

For Council to consider a new licence for Victoria Park Centre for the Arts for the Premises located at 10 Kent Street East Victoria Park, subject to further negotiations to finalise a licence on terms acceptable to the Town.

In brief

- At the Ordinary Council Meeting held on 12 April 2022, Council resolved to authorise the Chief Executive Officer to advertise by public notice the intention to dispose of 10 Kent Street East Victoria Park for a period of up to five years by way of a lease, or for a period up to three years by way of a licence. The criteria included a requirement for a use that the Council is satisfied is within the definition of "community purpose" under Town Planning Scheme No. 1.
- The Town advertised by public notice to invite expressions of interest for the disposal of 10 Kent Street East Victoria Park per Council Resolution 68/2022.
- Two submissions were received during the public submission period, which closed on 3 June 2022. Both submissions qualify as suitable service providers to operate from 10 Kent Street pursuant to licence terms acceptable to the Town.
- This item recommends Council consider approving the disposal of 10 Kent Street East Victoria Park to Victoria Park Centre for the Arts by way of licence subject to negotiating terms to the satisfaction of the Chief Executive Officer.

Background

1. 10 Kent Street East Victoria Park was previously occupied by Communicare, a not-for-profit organisation pursuant to a lease. Communicare vacated the Premises on 15 March 2019 following the termination of a government contract providing Jobactive and Work for the Dole programs. Since being vacated, the property has been refurbished, including disability access and building code compliance works.
2. In March 2022, the Town received a proposal from Victoria Park Centre for the Arts (VPCA) seeking Council consideration for a shared licence arrangement at 10 Kent Street, East Victoria Park, as a short-term measure to address issues of administrative overcrowding at 12 Kent Street, East Victoria Park being the adjacent property they currently occupy pursuant to a lease.

3. VPCA advised that they have a memorandum of understanding and formal interest in co-sharing with another local community group who is looking for meeting, storage and office space, the local community group being United in Diversity (UID).
4. At the Ordinary Council Meeting held on 12 April 2022, Council resolved to authorise the Chief Executive Officer to advertise to the public at large by public notice of the intention to dispose of 10 Kent Street East Victoria Park for a period up to five years by way of a lease, or for a period up to three years by way of a licence. The criteria included a requirement for a use that the Council is satisfied is within the definition of "community purpose" under Town Planning Scheme No. 1.
5. Town Planning Scheme No. 1 defines community purpose as a premises designed or adapted primarily for the provision of educational, social or recreational facilities or services by organisations involved in activities for community benefit.
6. The Town advertised by public notice to invite expressions of interest for the disposal of 10 Kent Street East Victoria Park in accordance with Council Resolution 68/2022. Further marketing was undertaken with promotion across social media channels, such as LinkedIn and Facebook and shared through the platform local community groups.
7. Two submissions were received during the public submission period, which closed on 3 June 2022. Both submissions qualify as suitable service providers to operate from 10 Kent Street pursuant to licence terms acceptable to the Town.
8. The Town's evaluation panel comprising officers from Property Development and Leasing, Community Development and Place Planning subsequently assessed both submissions against the following qualitative criteria:

Qualitative Criteria	Weighting
<p>Vision and Understanding</p> <p>Respondents should detail their vision for the proposed lease or licence space, including a detailed business case (labelled "Business Case"). The Business Case should address a minimum of the following:</p> <ol style="list-style-type: none"> a) Current business structure and background. b) Outline your vision for the lease or licence area. c) Proposed offering and proposed hours of operation. 	20%
<p>Detailed Lease Proposal</p> <p>Provide a detailed lease or licence proposal (labelled "Lease or Licence Proposal") which addresses, at a minimum, the Applicants proposed:</p> <ol style="list-style-type: none"> a) Agreement type. b) Term of Lease or Licence (both initial term and any further proposed term(s)). c) If the proposal relates to a lease, offered commencing rent (per annum) and rent reviews (please specify whether rent is Net or Gross). d) Special conditions (requested by the Applicant, clearly outlining an incentive requested, lessor contributions or licences required). e) Any commercial benefit outcomes intended to be achieved. f) Any community benefit outcomes intended to be achieved. g) The proposed use and its compliance with the definition of Community Purpose under Town Planning Scheme No. 1: 	35%

<p>"Community purpose means premises designed or adapted primarily for the provision of educational, social or recreational facilities or services by organisations involved in activities for community benefit."</p> <p>h) Not for profit or charitable status. Consideration may also be given to an operator that does not have this status but has provided substantial evidence satisfactory to the Town of service provision that will provide significant community benefit.</p>	
<p>Fit Out Concept Plans</p> <p>Provide high level concept plans for the Applicants proposed fit-out of the premises (labelled "Fit-Out Concept Plans") outlining at a minimum how the proposed fit-out:</p> <p>a) Caters for the proposed number and type of customer. b) Contributes towards the overall look and feel of the premises and matches the concept for the proposed business. c) Signage design and locations (both internal and external). d) Any additional relevant information.</p>	10%
<p>Relevant Experience</p> <p>Describe your experience in conducting similar Requirements.</p> <p>a) Demonstrated experience in managing, owning or operating a similar business. Include details of the location. b) Demonstrate competency and proven track record in establishing and maintaining a similar viable business. c) Provide a CV for the Respondents key personnel who will be directly involved in the management and day-to-day operations of the business including skills, qualifications, and relevant experience. d) Any additional information.</p>	20%
<p>Financial Position</p> <p>a) Provide latest audited financial statements b) Rent offered and whether any incentives or subsidy is sought.</p>	15%
<p>Referees</p> <p>Provide contact details (including names, titles, telephone numbers and/or email addresses) for a minimum of two (2) referees who can specifically attest to the applicants experience in the operation of similar or comparable business in the last 5 years.</p>	

Strategic alignment

Economic	
Community priority	Intended public value outcome or impact
EC2 - Connecting businesses and people to our local activity centres through place planning and activation.	The objective for a lease or licence will deliver a space for commerce, employment and entrepreneurship.

Environment	
Community priority	Intended public value outcome or impact
EN5 - Providing facilities that are well-built and well-maintained.	Vacant properties within the Town can attract anti-social activities and may accelerate the deterioration of the asset. The Asset Management

	Plan for the building will ensure that the asset will be able to continue to provide sustainable benefits for the Town.
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Social	
Community priority	Intended public value outcome or impact
S3 - Facilitating an inclusive community that celebrates diversity.	A lease or licence will deliver potential to engage with service providers able to increase individual and community well being.

Engagement

Internal engagement	
Stakeholder	Comments
Manager Property Development and Leasing	Comments are incorporated in the report.
Manager Community	Panel member of EOI submissions. Support the recommendation based on the application assessment process and alignment with strategic and operational intent within the Community Business Unit and the recommended submission.
Manager Place Planning	Place Planning was represented in the assessment for the tenant at 10 Kent Street and provided information regarding the emerging long-term intent for that site in the context of the MacMillan Precinct Masterplan.
Manager Development Services	No objection.

External engagement	
Stakeholders	Public at large, service providers, community and sporting organisations.
Period of engagement	18 May 2022 to 3 June 2022
Level of engagement	Consult.
Methods of engagement	Written submissions accepted.
Advertising	Notification on public notice boards, Town website and the West Australian newspaper notice.
Submission summary	Two submissions were received in total.

Key findings	Two submissions qualify as suitable service providers to operate from 10 Kent Street East Victoria Park pursuant to lease terms.
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Legal Compliance

Not applicable.

Risk management consideration

Risk impact category	Risk event description	Consequence rating	Likelihood rating	Overall risk level score	Council's risk appetite	Risk treatment option and rationale for actions
Financial	Failure of the Tenant to meet payment of outgoings and other costs associated with tenure.	Moderate	Possible	Medium	Low	TREAT risk by Taking debt recovery action to recover outstanding accounts.
Environmental	Not Applicable.					
Health and safety	Not Applicable.					
Infrastructure/ ICT systems/ utilities	Not Applicable.					
Legislative compliance	Not Applicable.					
Reputation	Not Applicable.					
Service delivery	Failure to secure a suitable Tenant to meet community expectations.	Moderate	Possible	Medium	Low	TREAT risk by securing a suitable Tenant to ensure service delivery.

Financial implications

Current budget impact	<p>The Town currently does not receive revenue from 10 Kent Street East Victoria Park as this space has remained vacant.</p> <p>Should Council accept the recommendation, the revenue for this financial year will be adjusted as required.</p>
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Future budget impact

Should the Council resolve to endorse the recommendation, the proposed licence will provide for an income to the Town of \$5,500 per annum (including GST) in revenue over a term of 3 years.

Analysis

- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9. Advertising the proposal to dispose of 10 Kent Street East Victoria Park by lease or licence under Policy 310 – Leasing has been undertaken. Notice was published in the West Australian newspaper, on the Towns website and at the Town of Victoria Park Library and Administration Centre notice boards on 18 May 2022. The expression of interest submission period was open for 17 days.
- 10. Two submissions were received during the submission period. A brief summary of each organisation that made an EOI submission is provided below. The full EOI submission for each organisation has been attached to this report.
- 11. Submissions

Submitter	Summary
Victoria Park Centre for the Arts	Victoria Park Centre for the Arts (VPCA) VPCA are a well-established local community arts and culture centre that encourage, stimulate and promote local arts and cultural activities for various established and emerging artists of all persuasions. Its mission is to improve the quality of community life through increased participation in the arts and celebrate cultural diversity. Their vision is to be a vibrant and energetic art centre, fostering a community that embraces the arts as part of daily life. VPCA's proposal seeks to co-share with United in Diversity (UID) who are a not-for-profit organisation looking for meeting, storage and office space. UID's vision is to ensure WA residents from all backgrounds and ability levels have the information, skills and networks to integrate, contribute and find belonging in their local community.
Taybah Learning Institute	Taybah Learning Institute (TLI) is a tutoring business in its third year of operation. They aim to address the needs of the Culturally and Linguistically Diverse community by offering educational programs and hosting networking events and functions to promote inclusivity and a feeling of "connection". TLI's proposal seeks to create a community hub that serves small gatherings of mothers with infants and toddlers; teenagers for small tutoring sessions, and an active group of young adults with bright ideas on how to create a space that is welcoming, supportive and permeates a sense of belonging to all its members.

12. The evaluation of the submissions against the qualitative criteria resulted in the rankings as shown below, with the first ranking scoring the highest.

Submission	Weighted Score	Ranking
Victoria Park Centre for the Arts	65.23%	1
Taybah Learning Institute	51.24%	2

13. A summary of the panel's assessment for each submission is attached to this report. Within these summaries is a consolidated analysis of the panel's considerations and deliberation of each proposal.

14. Summary of Qualitative Criteria Assessment Outcomes

Summary of Qualitative Criteria Assessment Outcomes	
Victoria Park Centre for the Arts	<p>A. Vision & Understanding</p> <ul style="list-style-type: none"> Strategic alignment with John McMillan Precinct Masterplan. Service delivery meets Social Infrastructure Strategy requirements. Sublicence opportunity with a not-for-profit aiming to facilitate positive multicultural interactions with view to promoting social cohesion. <p>B. Detailed Lease Proposal</p> <ul style="list-style-type: none"> Proposal aligns with Policy 310 – Leasing. \$5,500 incl GST fee per annum. Initial term to June 2024, with licensee option to extend subject to ongoing financial subsidy or grant support gained for the joint initiative, to a three-year term ending in 2025. Community benefit proposed aims to increase diversity, engagement, focus on youth and migrant training and employment, family focused community celebrations. <p>C. Fit Out Concept Plans</p> <ul style="list-style-type: none"> Minimal change to current condition. Signage to be reviewed and formal approval required from the Town. <p>D. Relevant Experience</p> <ul style="list-style-type: none"> Organisation is well established within the district and has a well-known brand. The submitter has been a tenant at the adjacent property for a period of over 28 years. <p>E. Financial Position</p> <ul style="list-style-type: none"> Receives a cash operating subsidy from the Town to the value of \$104,000 (ex GST) + CPI Perth All Groups. The proposal notes current operating subsidy is being provided up to 30 June 2024. The organisation also receives a peppercorn lease over 12 Kent Street, East Victoria Park, to undertake core arts and cultural activities. This in-kind contribution is valued at approximately \$30,000 and expires in October 2025. Financially sustainable.

Taybah Learning Institute	<p>A. Vision & Understanding</p> <ul style="list-style-type: none"> • Service delivery meets Social Infrastructure Strategy requirements. • A new community group who have been operating outside the district, however, would like the opportunity to establish themselves within Victoria Park and deliver a range of services through programs including but not limited to mental health. <p>B. Detailed Lease proposal</p> <ul style="list-style-type: none"> • Peppercorn lease. • 5 year term and seeking option to renew for further 5 year term. • Community benefit proposed aims to active the space by conducting events and workshops, with the intention of collaborating with other community groups. <p>C. Fit Out Concept Plans</p> <ul style="list-style-type: none"> • Minimal change to current condition. • Signage to be reviewed and formal approval required from the Town. <p>D. Relevant Experience</p> <ul style="list-style-type: none"> • Some previous experience. • Currently hires community spaces does not have track record of operating from permanent premises. <p>E. Financial Position</p> <ul style="list-style-type: none"> • Sole trader business with limited income and limited information as to sources of income. • Proposal has special condition for Operating Subsidy. • Financial viability is not clear.
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15. Summary of Key Terms

Key Terms	
Land	Lot 10 on Plan 1954 (10 Kent Street East Victoria Park).
Lease Area	As per Sketch.
Licensor	Town of Victoria Park.
Licensee	Victoria Park Centre for the Arts.
Term	To June 2024.
Further Term	Licensee option to extend subject to ongoing financial subsidy, or grant support gained for the joint initiative, to a three-year term ending in 2025.
Fee	\$5,500 per annum (including GST).
Commencement Date	Upon execution of the agreement by both parties.

Outgoings	Waste removal, utility consumption charges, cleaning and garden maintenance.
Maintenance	The Licensor is responsible for non-structural, preventative and structural maintenance. Asset Management plan annexed to licence.
Sublicence	United in Diversity subject to the Town being satisfied with the terms and conditions of the sublicence agreement.
Permitted Use	Office.
Operating Hours	Proposed hours are within planning parameters.
Insurance	The Licensee is responsible for \$20M Public Liability Insurance and workers compensation cover. The Licensor is responsible for Building Insurance.
Signage	With prior written consent from the Licensor.
Works and Fit Out	Not Applicable.
Offering	Expansion of the existing Arts Precinct and Centre and the introduction of a social enterprise supporting diverse members of the community through the delivery of training and programs.
Special Conditions	Subject to the Town of Victoria Park Council approval. Town of Victoria Park Redevelopment Clause. No guarantee is provided as to the availability of any operating subsidy or of continued availability of the premises after the end of the Further Term in 2025.

16. A licence is not subject to the requirements contained within section 3.58 of the *Local Government Act 1995* because it is not deemed a disposition of land under this legislation.
17. A new licence will be negotiated per Policy 310 – Leasing and be subject to the standard tenure guidelines for licensing of facilities used by community groups for community purposes. This will ensure the premises are appropriately managed for the residents' and ratepayers' benefit and best interest.
18. The recommendation makes provision for the terms of the licence to be set by the Town's lawyers and for minor variations or amendments to the key terms to be authorised, the intent being to accommodate reasonable and sensible minor points that may arise through detailed negotiation of the proposed licence relationship.
19. A reference check will be undertaken if the Council agrees to endorse the recommendation as contained within this report. Subject to the outcome of the reference check, a new licence will be negotiated and prepared in accordance with the key terms as noted above. The new licence will allow VPCA a licence for a period of up to 3 years.

Relevant documents

[Policy 310 - Leasing](#)

13.2 Disposal of cafe spaces at Leisurelife and Aqualife by way of lease

Location	East Victoria Park
Reporting officer	Senior Property Development and Leasing Officer
Responsible officer	Chief Operations Officer
Voting requirement	Simple majority
Attachments	<ol style="list-style-type: none"> 1. Property Prospectus - Aqualife Cafe [13.2.1 - 16 pages] 2. Floor Plan Sketch Aqualife Cafe - 42 Somerset Street East Victoria Park [13.2.2 - 1 page] 3. Floor Plan Sketch Leisurelife Cafe - 248 Gloucester Street East Victoria Park [13.2.3 - 1 page] 4. Property Prospectus - Leisurelife Cafe [13.2.4 - 15 pages] 5. CONFIDENTIAL REDACTED - Consolidated Qualitative Criteria Assessment - Aqualife Cafe - Black Bean [13.2.5 - 3 pages] 6. CONFIDENTIAL REDACTED - Consolidated Qualitative Criteria Assessment - Leisurelife Cafe - Perth Basketball Association [13.2.6 - 3 pages] 7. CONFIDENTIAL REDACTED - Perth Basketball Association Response Form [13.2.7 - 12 pages] 8. CONFIDENTIAL REDACTED - Perth Basketball Association Audited Financials [13.2.8 - 14 pages] 9. CONFIDENTIAL REDACTED - Perth Basketball Association Resume Linda Gammage [13.2.9 - 2 pages] 10. CONFIDENTIAL REDACTED - Black Bean Coffee Bar Management Report [13.2.10 - 2 pages] 11. CONFIDENTIAL REDACTED - Black Bean Coffee Bar Proposal Appendix A Supporting Information [13.2.11 - 14 pages] 12. CONFIDENTIAL REDACTED - Black Bean Coffee Bar Proposal [13.2.12 - 21 pages] 13. CONFIDENTIAL REDACTED - Black Bean Coffee Bar Response Form [13.2.13 - 3 pages] 14. CONFIDENTIAL REDACTED - Black Bean Coffee Bar Financial Statement [13.2.14 - 1 page] 15. CONFIDENTIAL REDACTED - Perth Basketball Association Certificate of Incorporation [13.2.15 - 2 pages]

Recommendation

That Council:

1. Authorises the Chief Executive to negotiate with the Perth Basketball Association for a lease for the Leisurelife Café located at 248 Gloucester Street East Victoria consistent with the following key terms:-
 - a) Land: Portion of Lot 25 on Plan 3844 (248 Gloucester Street East Victoria Park)
 - b) Lessee: Perth Basketball Association
 - c) Term: 5 years
 - d) Further Term: Nil
 - e) Fee: \$4,200 per annum plus any GST
 - f) Commencement Date: Upon execution of the agreement by both parties.

- g) Outgoings: The Tenant is responsible for all outgoings.
 - h) Maintenance: The Tenant is responsible for non-structural and preventative maintenance.
 - i) Permitted Use: Café
 - j) Operating hours: Proposed hours are in line with the Centre and lease requirements.
 - k) Insurance: The Tenant is responsible for \$20M Public Liability Insurance and workers compensation cover. The Landlord is responsible for Building Insurance.
 - l) Signage: With prior written consent from the Landlord.
 - m) Special Conditions: No operating subsidy either during the Term or Further Term will apply to this Lease. Town of Victoria Park Redevelopment Clause or if applicable, redevelopment clause compliant with *Commercial Tenancy (Retail Shops) Agreements Act 1985*. Lease terms to be compliant with *Commercial Tenancy (Retail Shops) Agreements Act 1985*.
 - n) Terms to be set by the Towns lawyers and to incorporate such minor variations or amendments to key terms as may be agreed by the Mayor and CEO.
2. Approves an exemption to section 3.58 of the *Local Government Act 1995* pursuant to Regulation 30 of the *Local Government (Functions and General) Regulations 1996* for the disposal of the Leisurelife Café by way of lease, subject to negotiating an agreement acceptable to the Town.
 3. Authorises the Chief Executive Officer and the Mayor to execute all documents necessary to give effect to a lease between the Town of Victoria Park and the Perth Basketball Association for the Leisurelife Café and apply the Town's Common Seal.
 4. Authorises the Chief Executive to negotiate with Black Bean Coffee Bar for a lease for the Aqualife Café located at 42 Somerset Street East Victoria, consistent with the key terms as follows:
 - a) Land: Portion of Lot 311 on Deposited Plan 63589 (42 Somerset Street (East Victoria Park))
 - b) Lessee: Black Bean Coffee Bar
 - c) Term: 3 years
 - d) Further Term: 2 years (to offer a 5 year tenure in accordance with the *Commercial Tenancy (Retail Shops) Agreements Act 1985*)
 - e) Rent: \$13,000 per annum plus any GST at commencement.
 - Year 1 – 100% abated rent proposed at Nil.
 - Year 2 – 50% abated rent proposed at \$6,500 pa (indexed to CPI).
 - Year 3 – full rent \$13,000 pa (adjusted per CPI index increases).
 - f) Commencement Date: Upon execution of the agreement by both parties.
 - g) Outgoings: The Tenant is responsible for all outgoings.
 - h) Maintenance: The Tenant is responsible for non-structural and preventative maintenance.
 - i) Permitted Use: Café
 - j) Operating hours: Proposed hours are in line with the Centre and lease requirements.
 - k) Insurance: The Tenant is responsible for \$20M Public Liability Insurance and workers compensation cover. The Landlord is responsible for Building Insurance.
 - l) Signage: With prior written consent from the Landlord.
 - m) Special Conditions: No operating subsidy either during the Term or Further Term will apply to this Lease. Town of Victoria Park Redevelopment Clause or, if applicable, *Commercial Tenancy (Retail*

Shops) Agreements Act 1985. Lease terms to be compliant with Commercial Tenancy (Retail Shops) Agreements Act 1985.

- n) Terms to be set by the Towns lawyers and to incorporate such minor variations or amendments to key terms as may be agreed by the Mayor and CEO.
5. Authorises the Chief Executive Officer to advertise the proposed disposal of the Aqualife Café by way of lease by public notice pursuant to section 3.58 of the *Local Government Act 1995* and subject to negotiating an agreement acceptable to the Town.
6. Authorises the Chief Executive Officer and the Mayor to execute all documents necessary to give effect to a lease between the Town of Victoria Park and Black Bean Coffee Bar for the Aqualife Café and apply the Town's Common Seal, provided that no submissions are received pursuant to 5 above.

Purpose

The purpose of this report is for Council to consider:

- a. A new lease for the Perth Basketball Association for the Leisurelife Café located at 248 Gloucester Street East Victoria Park subject to further negotiations for an agreement with terms acceptable to the Town.
- b. A new lease for Black Bean Coffee Bar for the Aqualife Café located at 42 Somerset Street East Victoria Park subject to further negotiations for an agreement with terms acceptable to the Town.

In brief

- At the Ordinary Council Meeting held on 12 April 2022, Council resolved to authorise the Chief Executive Officer to readvertise by public notice of the intention to dispose of the Leisurelife Café and Aqualife Café by lease to the public at large. The criteria were to include that the Town seeks a service provider, community or sporting organisation that would complement the services provided by the Town at the Leisurelife Recreation Centre and Aqualife Aquatic Centre.
- The Town advertised by public notice to invite expressions of interest for the disposal of the Aqualife Café and Leisurelife Café with criteria to include that the Town seeks a service provider, community or sporting organisation that would complement the services provided by the Town at the Leisurelife Recreation Centre and Aqualife Aquatic Centre.
- Two submissions were received. The first submission expressed an interest in leasing the Aqualife Café and the second submission expressed an interest in leasing the Leisurelife Café. Both submissions qualify as suitable service providers to operate from the Aqualife Café and Leisurelife Café pursuant to lease terms.
- This item recommends Council consider approving the disposal of the Leisurelife Café to Perth Basketball Association and of the Aqualife Café to Black Bean Coffee Bar by way of lease subject to negotiating terms to the satisfaction of the Chief Executive Officer

Background

1. The Aqualife and Leisurelife facilities provide a range of community recreational spaces and related services. The facilities include two cafe spaces:
 - Aqualife Café - Fully equipped 60m² café facility with all kitchen facilities and a servery onto the public seating area adjacent to the indoor pool area.
 - Leisurelife Café - Fully equipped 24m² café facility with kitchen facilities and a servery onto the public seating area adjacent to the basketball arena.

2. Both the Aqualife Café space and Leisurelife Café space have been vacant since 1 April 2020, following the early surrender of lease by the previous commercial operator due to their inability to operate at a profit.
3. At the Ordinary Council Meeting held 21 April 2020, Council resolved to authorise the Chief Executive Officer to advertise by public notice within the next 12-24 months the intention to dispose of the Leisurelife Café and Aqualife Café by lease for a social enterprise to operate from the premises under Policy 114 Community Funding Policy, subsection Operating subsidy.
4. Policy 114 Community Funding Policy defines a social enterprise (also referred to as business) as:
 - a) A small business that is led by an economic, social, cultural or environmental mission consistent with a public or community benefit.
 - b) Derive a substantial portion of their income from trade.
 - c) Reinvest the majority of their profits/surplus in the fulfilment of their mission.
5. The Town advertised by public notice to invite expressions of interest for the disposal of the Aqualife Café and Leisurelife Café to a social enterprise by way of a lease.
6. Two expressions of interest were received during the public submission period, which closed on 4 March 2022. Neither of these expressions of interest evidenced qualification as a social enterprise under the definition of a social enterprise within Policy 114 Community Funding Policy.
7. At the Ordinary Council Meeting held on 12 April 2022, Council resolved to authorise the Chief Executive Officer to readvertise by public notice of the intention to dispose of the Leisurelife Café and Aqualife Café by lease to the public at large pursuant to section 3.58 of the *Local Government Act 1995*, with criteria to include that the Town seeks a service provider, community or sporting organisation that would complement the services provided by the Town at the Leisurelife Recreation Centre and Aqualife Aquatic Centre.
8. Two expressions of interest were received during the public submission period, which closed on 17 June 2022. One expressed an interest in leasing the Aqualife Café, and the other expressed an interest in leasing the Leisurelife Café. Both submissions qualify as suitable service providers to operate from the Aqualife and Leisurelife Café spaces pursuant to lease terms acceptable to the Town.
9. The Town's evaluation panel comprising officers from Property Development and Leasing, Community Development and Leisure Facilities assessed both submissions against the following qualitative criteria:

Qualitative Criteria	Weighting
<p>Vision and Understanding</p> <p>Respondents should detail their vision for the proposed lease or licence space including a detailed business case (labelled "Business Case"). The Business Case should address a minimum of the following:</p> <ol style="list-style-type: none"> a) Current business structure and background. b) Outline your vision for the lease or licence area. c) Proposed offering and proposed hours of operation. 	20%
<p>Detailed Lease Proposal</p> <p>Provide a detailed lease or licence proposal (labelled "Lease or Licence Proposal") which addresses, at a minimum, the Applicants proposed:</p> <ol style="list-style-type: none"> a) Term of Lease or Licence (both initial term and any further proposed term(s)). b) Offered commencing rent (per annum) and rent reviews (please specify whether rent is Net or Gross). 	35%

<p>c) Special conditions (requested by the Applicant, clearly outlining an incentive requested, lessor contributions or licences required).</p> <p>d) Any commercial benefit outcomes intended to be achieved.</p> <p>e) Any community benefit outcomes intended to be achieved.</p> <p>f) How will your proposal/operation complement the existing services provided by the Town at the Recreation Centre/Aquatic Centre.</p> <p>g) The proposed use and its compliance with the definition of Community Purpose under Town Planning Scheme No. 1: <i>"Community purpose means premises designed or adapted primarily for the provision of educational, social or recreational facilities or services by organisations involved in activities for community benefit"</i></p> <p>h) Not for profit or charitable status. Consideration may also be given to an operator that does not have this status but has provided substantial evidence satisfactory to the Town of service provision that will provide significant community benefit.</p>	
<p>Fit Out Concept Plans</p> <p>Provide high level concept plans for the Applicants proposed fit-out of the premises (labelled "Fit-Out Concept Plans") outlining at a minimum how the proposed fit-out:</p> <p>a) Caters for the proposed number and type of customer.</p> <p>b) Contributes towards the overall look and feel of the premises and matches the concept for the proposed business.</p> <p>c) Signage design and locations (both internal and external).</p> <p>d) Any additional relevant information.</p>	10%
<p>Relevant Experience</p> <p>Describe your experience in conducting similar Requirements.</p> <p>a) Demonstrated experience in managing, owning or operating a similar business. Include details of the location.</p> <p>b) Demonstrate competency and proven track record in establishing and maintaining a similar viable business.</p> <p>c) Provide a CV for the Respondents key personnel who will be directly involved in the management and day-to-day operations of the business including skills, qualifications, and relevant experience.</p> <p>d) Any additional information.</p>	20%
<p>Financial Position</p> <p>a) Provide latest audited financial statements</p> <p>b) Rent offered and whether any incentives or subsidy is sought.</p>	15%
<p>Referees</p> <p>Provide contact details (including names, titles, telephone numbers and/or email addresses) for a minimum of two (2) referees who can specifically attest to the applicants experience in the operation of similar or comparable business in the last 5 years.</p>	

Strategic alignment

Economic	
Community priority	Intended public value outcome or impact
EC2 - Connecting businesses and people to our local activity centres through place planning and activation.	Café facilities will be available within a clean, safe and accessible environment, activating spaces otherwise vacant.

Environment	
Community priority	Intended public value outcome or impact
EN5 - Providing facilities that are well-built and well-maintained.	The café spaces are in compliance with EN5 and any new tenant will be required to maintain the cafes at a high standard with an emphasis on sustainability and the environment.

Social	
Community priority	Intended public value outcome or impact
S3 - Facilitating an inclusive community that celebrates diversity.	The cafes will provide an all-inclusive experience and hospitality offering for all members of the community.

Engagement

Internal engagement	
Stakeholder	Comments
Manager Property Development and Leasing	Comments are incorporated in the report.
Leisure Facilities Program Manager	<p>The submission for Aqualife appeared to show good rationale to their proposal. They have experience in their field. One thing to note is that the hours of operation should be extended/modified with further discussions with the facility to ensure opening hours meet appropriate and peak times. The currently proposed hours would not be as successful.</p> <p>The submission for Leisurelife does show some limitations on hours. However, they are open to discussions on supporting Leisurelife and the community. The company has little experience, however, and has shown itself to be successful in a brief time. It currently meets the needs with its current proposal. However, it would be hesitant in a 5-year term initially.</p>
Manager Community	Support for recommended approach moving forward.
Manager Development Services	No objection.

Community Development Officer	<p>The submission for Leisurelife was brief but as they are already temporarily using the space do have the background and knowledge of the centre and what is needed. Some of the hours sounded limited over the 5 years but could be negotiated.</p> <p>The submission for Aqualife showed they know what it takes to run a successful business, a well-laid out 5-year plan. Again, the hours listed seem limiting but could be negotiated.</p> <p>Support the above recommendation for both Leisurelife and Aqualife based on the submissions and assessment process.</p>
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External engagement	
Stakeholders	Public at large, service providers, community and sporting organisations
Period of engagement	18 May 2022 to 17 June 2022
Level of engagement	Consult
Methods of engagement	Written submissions accepted.
Advertising	Notification on public notice boards, Town website and the West Australian newspaper notice.
Submission summary	Two submissions received in total. One submission for the Aqualife Café and one submission for the Leisurelife Café.
Key findings	Two submissions qualify as suitable service providers to operate from the Aqualife and Leisurelife Café spaces pursuant to lease terms.

Legal compliance

[Section 3.58 of the Local Government Act 1995](#)

[Regulation 30 Local Government \(Functions and General\) Regulations 1996](#)

[Section 6A Commercial Tenancy \(Retail Shops\) Agreements Act 1985](#)

Risk management consideration

Risk impact category	Risk event description	Consequence rating	Likelihood rating	Overall risk level score	Council's risk appetite	Risk treatment option and rationale for actions
Financial	Leaving the café spaces vacant would result in	Moderate	Almost Certain	High	Low	TREAT risk by selecting a suitable proponent to

	revenue loss for the Town.					lease the café spaces or make the café spaces available for ongoing hire.
Environmental	Not Applicable.					
Health and safety	Not Applicable.					
Infrastructure/ ICT systems/ utilities	Not Applicable.					
Legislative compliance	Failure to comply with section 3.58 of the Local Government Act 1995 and/or the Commercial Tenancy (Retail Shops) Agreements Act 1985.	Minor	Unlikely	Low	Low	TREAT risk by following the disposal of property process in accordance with section 3.58 of the Local Government Act 1995 and manage the lease in accordance with the requirements of the Commercial Tenancy (Retail Shops) Agreements Act 1985.
Reputation	Not Applicable.					
Service delivery	Failure to secure a suitable operator to meet community expectations.	Moderate	Possible	Medium	Low	TREAT risk by securing a suitable operator to ensure service provision for the community.

Financial implications

Current budget impact	<p>The Town currently does not receive any revenue from the Aqualife café as this space has remained vacant.</p> <p>The Town currently receives approximately \$3,500 per annum in revenue from the Perth Redbacks via hire fees for the Leisurelife café.</p>
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	Should the Council accept the recommendation, the revenue for this financial year will be adjusted as required.
Future budget impact	<p>The leasing of Aqualife Café will not have any impact on budget forecast for the current financial year but does serve to provide the Town with an income in subsequent years.</p> <p>The leasing of Leisurelife Café as proposed, does see an increase in forecast budgeted income for the financial year.</p> <p>If the Council accept the recommendation a budget review will be undertaken in line with forecasted income and expenditure to the Town.</p>

Analysis

10. Advertising the proposal to dispose of the Leisurelife Café and Aqualife Café by lease under Policy 310 - Leasing has been undertaken. Notice of the proposed disposition was published in the West Australian newspaper, on the Town's website and at the Town of Victoria Park Library and Administration Centre notice boards on the 18 May 2022. The expression of interest submission period was open for 31 days. Further marketing was undertaken with promotion across social media channels, such as LinkedIn and Facebook and shared through the platform local community groups.
11. Two submissions were received during the submission period. A brief summary of each organisation that made an EOI submission is provided below. The full EOI submission for each organisation has been attached to this report.
12. Submissions:

Submitter	Summary
Perth Basketball Association	Perth Basketball Association (PBA) is a not-for-profit incorporated entity that has been operating since 1964. PBA are committed to promoting the physical and personal development of young men and women as players, referees and coaches, through the medium of basketball. PBA facilitates participation across all levels of the sport and encourages the understanding that success will come as a by-product of their core values, family, community and respect. PBA currently operates from the Leisurelife Café under a hire arrangement, their proposal envisages minimal operational changes to the current café landscape ensuring no loss of service to the current users of the café.
Black Bean Coffee Bar	Black Bean Coffee Bar (BBCB) is a professional hospitality business with over 6 years experience

and a demonstrated ability to establish service at new outlets in an efficient and effective manner. BBCB currently operate from the Perth Zoo, their focus is on the provision of good quality, nutritious food and beverage options at appealing, affordable prices that suit a wide range of dietary requirements. BBCB's proposal seeks to bring the café back to life and bring visitors and members back into the centre by offering an enjoyable hospitality experience that caters for all types of customers. They would like to create a space for patrons to go before or after their fitness/recreation activities and provide a sense of belonging and community.

13. The evaluation of the submissions against the qualitative criteria resulted in the scores and rankings as shown below:

Submission	Weighted Score	Ranking
Perth Basketball Association – Leisurelife Cafe	69.96%	1
Black Bean Coffee Bar – Aqualife Cafe	79.88%	1

14. A summary of the panel's assessment for each submission is attached to this report. Within these summaries is a consolidated analysis of the panel's considerations and deliberation of each proposal.

15. Summary of Qualitative Criteria Assessment Outcomes – Leisurelife Café

Perth Basketball Association	<p>A. Vision and Understanding</p> <ul style="list-style-type: none"> Service delivery meets Recreation Centre requirements although hours of operation needs to be clarified. <p>B. Detailed Lease Proposal</p> <ul style="list-style-type: none"> \$4,200 including GST per annum. 5 year term with a further 5 year option. Profits reinvested into community groups. Further negotiation required to facilitate the inclusion of outgoings within the lease. <p>C. Fit Out Concept Plans</p> <ul style="list-style-type: none"> No changes required existing signage and fit out to remain. <p>D. Relevant Experience</p> <ul style="list-style-type: none"> Currently operating from the café under a hire arrangement, has proven to be a successful operator. <p>E. Financial Position</p> <ul style="list-style-type: none"> Financially sustainable self funded organisation. Operating subsidy not required.

16. Summary of Key Terms – Leisurelife Café

Key Terms	
Land	Portion of Lot 25 on Plan 3844 (248 Gloucester Street East Victoria Park).
Lease Area	As per Sketch.
Landlord	Town of Victoria Park.
Tenant	Perth Basketball Association.
Term	5 years.
Further Term	Nil.
Rent	\$4,200 per annum.
Rent Review	CPI increase on each anniversary date of commencement.
Commencement Date	Upon execution of the agreement by both parties.
Outgoings	The Tenant is responsible for all outgoings.
Maintenance	The Tenant is responsible for non-structural and preventative maintenance.
Permitted Use	Café.
Operating Hours	Proposed hours are in line with the Centre and lease requirements.
Insurance	The Tenant is responsible for \$20M Public Liability Insurance and workers compensation cover. The Landlord is responsible for Building Insurance.
Signage	With prior written consent from the Landlord.
Works and Fit Out	Not Applicable.
Offering	Ancillary food and beverage service offering for the community and Recreation Centre.
Special Conditions	No operating subsidy either during the Term or Further Term will apply to this Lease. Town of Victoria Park Redevelopment Clause or if applicable, redevelopment clause compliant with <i>Commercial Tenancy (Retail Shops) Agreements Act 1985</i> .

Lease terms to be compliant with *Commercial Tenancy (Retail Shops) Agreements Act 1985*.

17. Summary of Qualitative Criteria Assessment Outcomes – Aqualife Café

Key Terms	
Black Bean Coffee Bar	<p>A. Vision and Understanding</p> <ul style="list-style-type: none"> Established and experienced commercial operator intending to provide services to the community. Proposal aligns with the Aquatic Centre requirements although hours of operation needs to be clarified. <p>B. Detailed Lease Proposal</p> <ul style="list-style-type: none"> Commercial proposal. 3 year term. Market rent of \$13,000pa with abated rent Years 1 and 2. (total estimated rental income over lease term \$20,000). Emphasis on health, nutrition and sustainability. Further negotiation is required to achieve alignment with Policy 310 – Leasing. <p>C. Fit Out Concept Plans</p> <ul style="list-style-type: none"> Minimal changes to fit out. To include additions to fit out and equipment in future Signage and branding to be assessed <p>D. Relevant Experience</p> <ul style="list-style-type: none"> Proven experienced as an established business (operating in Perth Zoo and Venueswest facilities) <p>E. Financial Position</p> <ul style="list-style-type: none"> The previous financial year statement provided however, no concern with regard to financial position of the business. Panel is satisfied with the operator's ability to meet financial obligations.

18. Summary of Key Terms – Aqualife Café

Key Terms	
Land	Portion of Lot 311 on Deposited Plan 63589 (42 Somerset Street (East Victoria Park)
Lease Area	As per Sketch.
Landlord	Town of Victoria Park
Tenant	Black Bean Coffee Bar
Term	3 years

Further Term	2 years * *(5 year tenure in accordance with the Commercial Tenancy (Retail Shops) Agreements Act 1985)
Rent	\$13,000 per annum at commencement. Year 1 – 100% abated rent proposed at Nil. Year 2 – 50% abated rent proposed at \$6,500 pa (indexed to CPI). Year 3 – full rent \$13,000 pa (adjusted per CPI index increases).
Rent Review	CPI increase on each anniversary of commencement.
Commencement Date	Upon execution of the agreement by both parties.
Outgoings	The Tenant is responsible for all outgoings.
Maintenance	The Tenant is responsible for non-structural and preventative maintenance.
Permitted Use	Café.
Operating Hours	Proposed hours are in line with the Centre and lease requirements.
Insurance	The Tenant is responsible for \$20M Public Liability Insurance and workers compensation cover. The Landlord is responsible for Building Insurance.
Signage	With prior written consent from the Landlord.
Works and Fit Out	Not Applicable.
Offering	Environmentally friendly café. Ancillary food and beverage service offering for the community and recreation.
Special Conditions	No operating subsidy either during the Term or Further Term will apply to this Lease. Town of Victoria Park Redevelopment Clause or, if applicable, <i>Commercial Tenancy (Retail Shops) Agreements Act 1985</i> . Lease terms to be compliant with <i>Commercial Tenancy (Retail Shops) Agreements Act 1985</i> .

19. A disposal by way of lease is subject to the requirements contained within section 3.58 of the *Local Government Act 1995* however, a disposition of land may be exempt under regulation 30 of the *Local Government (Functions and General) Regulations 1996* if the land is disposed of to a charitable, benevolent, religious, cultural, educational, recreational or sporting body or similar, the members of which are not entitled or permitted to receive any pecuniary profit from the body's transactions. If a prospective Tenant is eligible for an exemption, advertising the disposal is no longer required under section 3.58(3) of the *Local Government Act 1995*.
20. Considering the prospective Tenant for the Leisurelife Café is a sporting body, incorporated not-for-profit association as evidenced by the compliance criteria, the disposal of the café by way of a lease qualifies for an exemption under section 30 of the *Local Government (Functions and General) Regulations 1996*.
21. A new lease for the Aqualife Café will need to comply with the requirements of section 3.58 of the *Local Government Act 1995* and be negotiated in accordance with Policy 310 – Leasing and the *Commercial Tenancy (Retail Shops) Agreements Act 1985*.
22. Both Café leases will be Retail Shop leases regulated under the *Commercial Tenancy (Retail Shops) Agreements Act 1985*, and the following must be considered when negotiating lease terms:
 - a. Form 1 – Disclosure Statement will need to be provided to Tenant and signed no less than seven (7) days prior to execution of the Lease.
 - b. Tenant Guide must be provided to the Tenant (this is an appendix to the Lease).
 - c. All legislation relevant to a Retail Shop lease must be considered in the terms, conditions and management of the tenancy. For example, a provision in a retail shop lease requiring a tenant to open the leased retail shop at specified hours or times is void.
23. Additionally, the terms of each lease agreement will also be subject to the standard tenure guidelines for leasing of facilities used for community purposes, ensuring the Cafés are appropriately managed for the benefit and best interest of the residents and ratepayers.
24. The recommendation makes provision for the terms of each Lease to be set by the Town's lawyers and for minor variations or amendments to the key terms to be authorised, the intent being to accommodate reasonable and sensible minor points that may arise through detailed negotiation of the proposed Lease relationship.
25. Perth Basketball Association have sought an initial five-year term with an option to extend for a further five-year term. Whilst a redevelopment clause can be included in the lease, it is expected that this would be on the standard terms required for in the *Commercial Tenancy (Retail Shops) Agreements Act 1995* and as such, the Town would be liable to pay compensation should the redevelopment clause be utilised to break the lease. It is therefore recommended that no option to extend for a further five-year term is granted to Perth Basketball Association.
26. Should the Council resolve to endorse the recommendation as contained within this report, reference checks will need to be undertaken. Subject to the outcome of the reference checks, new leases for the Leisurelife Café and Aqualife Café will be negotiated and prepared in accordance with the key terms as noted above. The new lease for the Leisurelife Café will allow Perth Basketball Association to secure exclusive tenure of the premises for a period of 5 years. The new lease for the Aqualife Café will allow Black Bean Coffee Bar to secure exclusive tenure of the premises for a period of 3 years with a two-year further term option.

Relevant documents

[Policy 310 - Leasing](#)

13.3 TVP/22/08 Fletcher Park Grounds Maintenance Services

Location	Carlisle
Reporting officer	Reserves and Capital Works Supervisor
Responsible officer	Chief Operations Officer
Voting requirement	Simple majority
Attachments	1. CONFIDENTIAL REDACTED - 2022-07-27 - Probity Certificate - TV P-22-08 [13.3.1 - 2 pages]

Recommendation

That Council awards the contract associated with TVP/22/08 Fletcher Park Grounds Maintenance Services, to Green Options Pty Ltd T/A Green Options (ABN: 59 002 456 797), for the maintenance of Fletcher Park active reserve, within the terms and conditions as outlined in the contract, for the lump sum price of [\$728,707.83] (excluding GST) over 3 years, with the option to extend by 2 x 12-month periods subject to CPI.

Purpose

For Council to accept the submission by Green Options Pty Ltd for the maintenance of Fletcher Park Active Reserve. As the overall value of the contract exceeds \$250,000, the acceptance of the offer and subsequent award of any such contract is to be determined by Council.

In brief

- TVP/22/08 Fletcher Park Grounds Maintenance Services was published on 1st June 2022 through the West Australian Newspaper, Tenderlink, the Towns Council Administration Centre and Library public notice boards. The tenders were to be received on or before 2pm (AWST) 22nd June 2022.
- Suppliers were requested to provide horticultural maintenance services for Fletcher Park Active Reserve. The approved municipal funding allocation for this item is \$215,000 on the 2022/2023 Parks maintenance budget. The contract is for three years with the option of two further 12-month extensions.
- After the evaluation of the tender submissions against the prescribed criteria which have been completed, it is recommended that the Council accepts the submission made by Green Options Pty Ltd and enters a contract for maintenance services for Fletcher Park.

Background

1. Fletcher Park is recognised as an A-grade regional recreation facility within the Town of Victoria Park for cricket and hockey use.
2. The site has two blocks of turf wicket comprising five pitches on each, as well as sixteen turf practice nets and three synthetic practice pitches.
3. The clubs that use the reserve are very active with a high membership base.
4. The site is expected to be kept to an extremely high standard consistent with the level for A-grade sport. The site is also used extensively for passive recreation and boasts a strong connection with the local community.

5. The tender scope of work includes all maintenance of the reserve greenspace to a high standard, including surrounds, playing surfaces, turf wickets, fertilising, application of wetting agents, pest control, renovations and managing irrigation.
6. The maintenance tender for Fletcher Park previously went to Council in October 2021. At that time, Council resolved to “accept no tender”. The Council resolution (232/2021) lost stated:
That Council awards the contract associated with TVP/21/04 Fletcher Park Grounds Maintenance Services, to Green Options Pty Ltd (ABN: 59 002 456 797), for the maintenance of Fletcher Park active reserve, with the terms and conditions as outlined in the contract, for the lump sum price of \$551,731.53 (excluding GST) over 3 years.
7. At the request of the Council, the previous tender documents, selection criteria and compliance criteria were reviewed, amended, and then included as part of TVP/22/08 Fletcher Park Grounds Maintenance Services. The following changes to Qualitative Criteria ratings were adopted;
 - Relevant Experience remained the same at 20%
 - Resourcing & Expertise was increased from 15% to 20%
 - Methodology was reduced from 25% to 15%
 - Occupational Health & Safety remained the same at 10%
 - Sustainable Procurement (Social & Economic) was added at 2.5%
 - Sustainable Procurement (Environmental) was added at 2.5%
 - Pricing remained the same at 30%

Compliance criteria

8. Tender submissions must comply with the advice provided under the compliance criteria, as indicated in section 4.2 of the tender documents.
9. The Town’s Senior Procurement Officer assessed all submissions for compliance against the compliance criteria set out in section 4.2 of the tender documents.
10. All submissions were deemed compliant.

Evaluation process

Relevant experience <ol style="list-style-type: none"> 1. Provide details of Experience working on similar work/projects undertaken, including information on: <ul style="list-style-type: none"> • Project start and end dates and extensions granted; • Role of the tenderer, tender price, variations, and final cost. • Details of personnel and subcontractors involved • Issues that arose during the project and how these were managed • Referees (minimum of 3) 	Weighting 20%
Resourcing and Expertise <ul style="list-style-type: none"> • Provide details of key personnel, staff, and sub-contractor(s) to be allocated to this project. • Technical Skills & Expertise (CV’s to be provided) • Provide details on resources to be allocated to this project including plant. 	Weighting 20%
Methodology, Key issues, and Risks	Weighting 15%

<p>Tenderers should detail the process they intend to use to achieve the Requirements of the Specification. Areas that you may wish to cover include:</p> <ol style="list-style-type: none"> 1. Proposed methodology specific and relevant to the services for the delivery of this Project 2. Demonstrate understanding of the required scope by identifying the key issues and risks associated with delivering the project and mitigation 3. A works Programme/Gantt chart to be provided including seasonal renovations 4. Weed/Pest control 5. Schedule for renovations 	
<p>Occupational Health and Safety In addition to the Questionnaire in Appendix A below (Section 4.5 and 4.6 of this Request), Tenderers should provide the following information:</p> <ol style="list-style-type: none"> 1. Details of their Occupational, Health & Safety policies and procedures 2. Does your organisation hold current certification to ISO45001- Occupational Health & Safety? If yes provide a copy. 3. Examples of Safe Work Method Statements (SWMS) or Job Safety Analysis (JSA) relevant to this type of contract 4. Safety record including Lost Time Injury (LTI)'s for last 3 years 5. Previous issues dealt with and resolution (refer to Section 4.6 of this Request for the Safety Record Form). 	<p>Weighting 10%</p>
<p>Sustainable Procurement (Social / Economic & Local Business)</p> <p>Social Sustainability (Indigenous, disabled, human rights, labour practices) Does your organisation have any Social Impact Policy and Initiatives? i.e., Indigenous, diversity, human rights, labour practices. YES / NO, if yes, please provide details.</p> <p>Economic Sustainability</p> <ul style="list-style-type: none"> • How will a contract with your organisation provide economic benefits to the geographical region of the Town of Victoria Park? • What benefits are you providing to the local community apart from employment or the payment of business rates? E.g., sponsorship of local community organisations or sporting clubs, culture initiatives, training opportunities for apprentices etc. <p>Support of Local Businesses</p> <ul style="list-style-type: none"> • Does your organisation have premises (i.e., main office / branch office / depot) located within the Town's boundaries? YES / NO, if yes, please 	<p>Weighting 2.5%</p>

<p>specify and provide street address, and duration of tenancy at this location.</p> <ul style="list-style-type: none"> • What percentage of your employees lives within the Town’s boundaries? • If your organisation is awarded this contract, will you purchase any goods / services from local businesses? YES / NO, if yes, please specify the type of goods / services required and an estimated value. 	
<p>Environmental Sustainability</p> <ul style="list-style-type: none"> • Does your organisation have an Environmental Management System (EMS) or adopt any environmental/sustainability practices? YES / NO If yes, please provide details. • Does your organisation hold current certification to ISO14001 – Environmental Management Systems? YES / NO If yes provide a copy. • Has your organisation ever received a warning or convicted of an environmental breach in Australia or overseas? YES / NO If yes, please provide details and outcome of the matter. 	Weighting 2.5%
<p>Price</p> <ul style="list-style-type: none"> ➤ Tenderers shall provide Lump-sum (1) one-year fixed pricing by completing the Price Schedule in the format provided by the Principal. ➤ Rates or prices for any variations. <p>Note:</p> <ol style="list-style-type: none"> 1. Annual Pricing will be Lump sum and rate must be fixed and firm for the duration of the Project. 2. There is no guarantee in relation to the quantities that may be required during the term of the contract. 3. The Principal may, at its discretion, disqualify any Tenderer from consideration if the rates are not supplied in the format required. <p>Tenderers may submit rates for additional services they offer that fall outside of the scope of this Project, which may be used by the Principal in case of variations to the contract at the Principal’s only discretion.</p>	Weighting 30%

Strategic alignment

Civic Leadership	
Community Priority	Intended public value outcome or impact
CL3 – Accountability and good governance	A public tender process ensures integrity in the appointment of contracts for maintaining Town assets.

Economic	
Community Priority	Intended public value outcome or impact
EC2 - Connecting businesses and people to our local activity centres through place planning and activation.	Programmed maintenance of the Towns public Open Space ensures an aesthetically pleasing and clean area for public use fostering connection within the community.

Environment	
Community Priority	Intended public value outcome or impact
EN5 – Providing facilities that are well-built and well-maintained.	Regular maintenance of the Towns Public open Space ensures they are kept to an acceptable standard for passive recreation and community sport.

Engagement

Internal engagement	
Stakeholder	Comments
Procurement	Provided advice, and utilized Wade Dunstan from Stanton's as an External Probity Advisor
Parks staff	Provided technical advice on specifications.
Community Development Officer	Provided information on bookings and club requirements.

Legal compliance

[Section 3.57 of the Local Government Act 1995](#)

[Part 4 Division 2 of the Local Government \(Functions and General\) Regulations 1996](#)

Risk management consideration

Risk impact category	Risk event description	Consequence rating	Likelihood rating	Overall risk level score	Council's risk appetite	Risk treatment option and rationale for actions
Financial	Failure to have a transparent, credible process for employing a contractor.	Moderate	Almost certain	High	Low	TREAT risk by awarding a contract with clear scope, objectives, service level agreement and KPI's to ensure Fletcher Park is

							maintained to agreed standard.
Environmental	Failure to maintain park resulting in the spread of weeds.	Moderate	Likely	High	Medium		TREAT risk by adopting a regular maintenance regime.
Health and safety	Failure to maintain playing surface to a safe standard resulting in sporting injuries.	Moderate	Possible	Medium	Low		TREAT risk by adopting a regular maintenance regime.
Infrastructure/ ICT systems/ utilities	Not applicable.					Medium	
Legislative compliance	Not applicable.					Low	
Reputation	Not applicable.					Low	
Service delivery	Failure to maintain park due to lack of resources.					Medium	TREAT risk by awarding this contract to recommended contractor.

Financial implications

Current budget impact	<p>As the value of the contract exceeds \$250,000, the acceptance of the offer/tender and subsequent award of any such contract is to be determined by Council.</p> <p>Sufficient funds exist within the annual budget to address this recommendation.</p>
Future budget impact	Funds relating to this tender will be included in future budgets.

Analysis

11. Due to the value of the tender potentially being over \$1,000,000, an external probity advisor (Stanton's) was formally engaged to provide probity oversight and compliance with relevant legislation and the Town's Procurement policy requirements. A probity certificate confirming compliance is provided as a confidential attachment.
12. The assessment of the submissions was formally undertaken by a panel that included:
 - Reserves and Capital Works Supervisor

- Streetscapes Supervisor
- Building Assets Officer

13. The Town received two submissions. Both submissions were considered compliant.

14. The evaluation of the submissions against the quantitative and qualitative criteria resulted in the rankings as shown below, with the first ranking scoring the highest.

Company	Ranking
Green Options Pty Ltd T/A Green Options	1
Turf Care WA PTY LTD	2

Relevant documents

[Policy 301 – Purchasing](#)

13.4 Citizen's Climate Assembly

Location	Town-wide
Reporting officer	Environmental Officer
Responsible officer	Chief Operations Officer
Voting requirement	Simple majority
Attachments	Nil

Recommendation

That Council notes the Town's comments on the merits of a Citizen's Assembly.

Purpose

The purpose of this report is to report back to elected members the merits of the Town holding a Citizens Assembly.

In brief

- At the 2021 Annual Meeting of Electors, Council received the following motion:
That Council convene a citizens climate assembly along the lines of those held in Lamberth/Brixton and a national assembly, both held in the United Kingdom; within the next 12 months, preferably before 31 December 2021.
- A Citizen's Assembly - also known as a Citizen's Jury - is a deliberative democratic process where citizens are randomly selected (from a representative sample) to form a committee to make decisions surrounding an issue affecting governments (such as climate change).
- The issues flagged by the community members who brought the motion that could be dealt with through a Citizen's Jury include:
 - *Cease polluting, commence drawdown and respond to likely impacts on an emergency footing.*
 - *Urban Heat Island Effect: radically increase and accelerate the urban forestry tree canopy program to help save lives and create safe heat refuge sites for seniors and children that can stay cool through extended heat events and power blackouts.*
 - *Eliminating waste is critical. FOGO bins would help reduce waste volumes and methane pollution; and recycling would help close materials loops. Need to consider implementing Cradle to Cradle planning and design in all we do at all levels.*
- Waste is the biggest source of emissions for the Town, constituting 85% of the Town's overall emissions, as determined under the Climate Emergency Plan. A very clear goal under the Climate Emergency Plan is to reduce the Town's emissions associated with waste by 50% by 2030. Potentially, a Citizen's Jury could be called for the area of waste, if budget allows.

Background

1. At the 2021 Annual Meeting of Electors, Council received the following motion: The following was a resolution of the 2021 Annual Meeting of Electors:

That Council convene a citizens climate assembly along the lines of those held in Lamberth/Brixton and a national assembly, both held in the United Kingdom; within the next 12 months, preferably before 31 December 2021.

In response, Council:

Endorses the Chief Executive Officer to arrange a meeting after 16 October 2021 with the community members who brought this motion, to determine the details of a Citizens Assembly and seek to understand how this assembly would operate (e.g. roles, outcomes sought) relative to the implementation of the endorsed Climate Emergency Plan, and report back to Elected Members the merits or otherwise of the Town holding a Citizens Assembly.

2. A Citizen's Assembly - also known as a Citizen's Jury - is a deliberative democratic process where citizens are randomly selected (from a representative sample) to form a committee to make decisions surrounding an issue affecting governments (such as climate change).
3. It is a consensus-building process that allows a more in-depth analysis of issues and responses to them than a standard consultation or action planning process. It is particularly helpful for issues where there is a lot of contention as to the best action for all, or where the action required is politically unpopular (but necessary). More information on this process is detailed in the attachment *Citizen's* below.

4. Citizen's Jury Process:

a) Select a broadly representative group of people of our community.

Invitations to join the jury will be posted to a randomly selected subset of all households in the Town. Once a volunteer 'pool' of potential jurors is created a random draw from this pool will occur until each of the demographic quotas (based on the Census) are filled. For example, 50% men, 50% women, 30% from the 18-25 year old cohort, 20% from each Ward etc. To constitute a jury of a 30 or so (the number at which there can be confidence in the statistical likelihood of good representation) it will probably be necessary to post to 2000 to 5000 households.

NOTE: Payment of a nominal 'per diem' payment for each day of participation is recommended to encourage participation amongst residents who experience hardship or are time poor.

b) Bring them together, typically at small tables or groups, and let everyone have their say.

Once a group of people that 'look' like a cross section of residents they will be tasked with (and assisted in) conducting a deep dive into the issue.

Before the COVID-19 pandemic, this was typically achieved by bringing people face-to-face and sitting them in small groups at tables, with a trained, professional facilitator at each table

Since the pandemic, these Juries can be moved online. The principles are largely unchanged: the entire group is regularly split into break-out groups with a facilitator, so everyone gets to have their say, and collective decisions can still be made.

c) Have subject matter experts, plus those affected by the issue, address the Jury.

An important aspect of any Citizen's Jury is making sure Jury members have access to high quality and diverse information from a range of experts and other stakeholders.

Here the Jury would be given access to information relevant to issue in focus, such as Local Government responsibilities on the issue, context, important documents and current events, and best practice.

d) Get the participants to discuss, listen and talk to each other – and give reasons for their opinions.

Professional community engagement facilitators are used to design and run a Jury that alternates between plenary and small group discussions, between learning, enquiring, developing informed opinions, and finally making decisions.

This is often not a linear process but a more circular one, where participants learn and deliberate and make some decisions (such as prioritising options or people they want to hear more from) before going into more cycles of learn – deliberate - decide.

Every participant will have an equal opportunity to share their views and shape the discourse on waste. The general purpose is to find out what this representative group can agree on as they struggle to balance the costs and benefits of acting in the common good.

e) Decide on the best way forward.

Ultimately Citizen’s Juries are about making political recommendations and decisions, so at some point the assembly must finish and decisions must be made. Often the participants themselves will come up with the final list of questions to be voted on – and this list of questions should be made by consensus.

The Jury then gives their answers to the questions (participants may grade their enthusiasm for differing options).

As important as the final decisions and recommendations are, almost more important are the reasons for those recommendations. This is what sets a Citizen’s Jury apart from other engagement process - you find out what is decided, and why that decision was made.

A report is created that captures the learnings, justifications, options, criteria and recommendations that are endorsed by the Jury and formally presented to Council.

References:

- <https://www.sortitionfoundation.org/how>
- Weymouth, R (2022) A Citizens Jury on Waste for the Town of Victoria Park.

5. After initially being unable to contact the community member who brought the motion to Council, the Town liaised with citizen's assembly and deliberative democracy specialists from the Curtin University Sustainability Policy (CUSP) Institute, Janette Hartz-Karp and Rob Weymouth. Specifically, the Town wished to explore how an assembly may link to the Town's endorsed Climate Emergency Plan.
6. The CUSP team outlined that to call a Citizen's Jury, there needs to be a clear question/issue or set of questions/issues (with a potential range of solutions) that matter to the community; and there needs to be scope for the recommendations that emerge to make a difference to policy or decisions.
7. Once the Town reached the community member who brought the initial motion to Council, the context within which this motion was brought was clarified. In summary, the community-raised issues that could be dealt with through a Citizen’s Jury could include:
8. Once the Town reached the community member who brought the initial motion to Council, the context within which this motion was brought was clarified. In summary, the community-raised issues that could be dealt with through a Citizen's Jury could include:
 - (a) *Cease polluting, commence drawdown and respond to likely impacts on an emergency footing.*
 - (b) *Urban Heat Island Effect: radically increase and accelerate the urban forestry tree canopy program to help save lives and create safe heat refuge sites for seniors and children that can stay cool through extended heat events and power blackouts.*

(c) *Eliminating waste is critical. FOGO bins would help reduce waste volumes and methane pollution, and recycling would help close materials loops. Need to consider implementing Cradle to Cradle planning and design in all we do at all levels.*

Strategic alignment

Environment	
Strategic outcome	Intended public value outcome or impact
EN2 - Facilitating the reduction of waste.	A Citizen's Jury would allow our community to lead the charge in trying to solve the problem of one of our greatest emissions sources, waste (as identified in the Climate Emergency Plan) and be integral in enabling the Town to meet our organisational goal to reduce carbon emissions associated with waste by 50% by 2030.
CL2 - Communication and engagement with community	A Citizens Jury allows our community to make decisions surrounding an issue affecting the Town. It is a consensus-building process which allows a more in-depth analysis of issues and responses to them than a standard consultation or action planning process.

Engagement

Not applicable.

Legal compliance

Not applicable.

Risk management consideration

Risk impact category	Risk event description	Consequence rating	Likelihood rating	Overall risk level score	Council's risk appetite	Risk treatment option and rationale for actions
Financial	Citizens will have ability to direct waste actions and, therefore, the budget that is spent by the organisation.	Moderate	Likely	High	Low	Treat: The Citizens Jury will have access to the best current information the Town has on the subject and will have an equal opportunity to share their views and shape the discourse on waste. In doing so, the Jury will make informed

						<p>recommendations and balance the costs and benefits of acting in the common good.</p> <p>Where the Town cannot enact a recommendation of the Jury it can work with the Jury to try and implement the spirit of the recommendation.</p>	
Environmental	Not applicable.					Medium	
Health and safety	Not applicable.					Low	
Infrastructure/ ICT systems/ utilities	Not applicable.					Medium	
Legislative compliance	Not applicable.					Low	
Reputation	Potential reputational risk to the organisation if the Town were to hold a Citizens Jury, such as due to the cost.	Moderate	Likely	High		Low	Treat: Clear communication to community on the purpose and benefit of a Citizens Jury, as well as invitation to be directly engaged in the process.
Service delivery	Citizens will have ability to direct waste actions and, therefore, the level of service expected from the organisation.					Medium	Treat: The Citizens Jury will have access to the best current information the Town has on the subject and will have an equal opportunity to share their views and shape the discourse on waste. In doing so, the Jury will

	<p>make informed recommendations and balance the costs and benefits of acting in the common good.</p> <p>Where the Town cannot enact a recommendation of the Jury it can work with the Jury to try and implement the spirit of the recommendation.</p>
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Financial implications

Current budget impact	Sufficient funds do not exist within the annual budget.
Future budget impact	<p>The Town sought indicative quotations to deliver a Citizen’s Jury. The indicative cost of the facilitated process is \$44,000.</p> <p>This includes:</p> <ol style="list-style-type: none"> 1. Workshop co-design and assistance with jury recruitment 2. Three days of workshop facilitation. 3. Assistance with workshop preparation and execution 4. Workshop report <p>Further estimated costs include:</p> <ul style="list-style-type: none"> • Jurist payment (\$100/day for 30 jurists over three days) - \$9000 • Catering (\$50 for 30 jurists over three days - \$4500) <p>This equates to an estimated total cost of \$57,500.</p> <p>Should the Town hold a Citizen's Jury, then the Jury will develop outcomes or recommendations that will need to be considered by Council. These recommendations may have operational waste management cost implications for the organisation.</p>

Analysis

9. An important consideration is that the Town developed the Climate Emergency Plan in 2021, which Council subsequently endorsed. The Town has been implementing this plan accordingly.

10. The CUSP team identified that if the Town were to run a deliberative democracy, one or more of these concerns outlined in point 7 could be explored, provided that the Climate Emergency Plan does not steer or manipulate the deliberative discourse towards a particular outcome. The challenge is determining how a deliberative and empowering community process can be integrated with the Climate Emergency Plan whilst not influencing the direction.
11. Of the concerns outlined in point 7 – waste – is the biggest source of emissions for the Town, constituting 85% of the Town's overall emissions, as determined under the Climate Emergency Plan. There is a very clear goal under this plan to reduce our emissions associated with waste by 50% by 2030. Waste is also a unique area that is intrinsically in the control of both the community (control of their consumption, amount of waste, habits etc) and the organisation (as the Town has management responsibility over the removal and processing of our community's waste), potentially a deliberative process could be called for the area of waste.
12. Additionally, the Strategic Waste Management Plan is due for review, so the process could also inform the development of a new Strategic Waste Management Plan and the actions that the Town undertake organisationally long-term, in partnership with our community.
13. Given the above contexts, the team at CUSP suggested that if the Town were to hold a Citizen's Jury then they could be engaged to, for example, address a question similar to the below:
What should the Town of Victoria Park's new Strategic Waste Management Plan from 2023 to 2030 include?
14. A question such as the above could inform:
 - a. what the Town does in their waste management practices so it meets the carbon reduction goal of 50% by 2030. This could include prioritised actions and strategies to meet carbon goals and a system for prioritising them over the entire scope of waste operations; and
 - b. the re-creation of the Strategic Waste Management Plan. The work of renewing the plan will need to be done anyway – the Jury would add extra value to this.
 - c. The entire approach to handling waste over the next 5-10 years will be created with strong community legitimacy through the Jury process.
 - d. The Jury can be said to freely use their judgement and community values over the entirety of waste rather than be limited to certain key initiatives.
15. Further benefits from holding a Citizen's Jury include:
 - a. A Citizen's Jury will represent the Town residents more accurately than typical community engagement processes, accomplished through the use of descriptive representation (sample of people who are representative of the demographics of the Town).
 - b. Discover what is decided, and why that decision was made.
 - c. Promotes "common good" as a societal objective.
 - d. Promotes self-transformation and development.
 - e. Provides opportunities to introduce new perspectives and challenge existing ones.
 - f. More careful examination of the issue.
 - g. Promotes consensus building.
 - h. Promotes communication between government and our community.
 - i. Brings legitimacy and democratic control to non-elected public bodies.
16. Disadvantages to holding a Citizen's Jury include:
 - a. High cost.
 - b. The process is much longer and more resource intensive than other community engagement methods.
 - c. Gaining a broadly representative group of people can be challenging.
 - d. Running a citizens' assembly is a highly complex process requiring significant expertise.
 - e. The approach contains more high level and strategic thinking which can be more challenging for non-professional residents.

17. The Town believes that the cost of a Citizen's Jury is the defining consideration as to whether it could be held.
18. Should Council wish to hold a Citizen's Jury then there would need to be an allocation of funds to the 2023/24 budget.

Relevant documents

Not applicable.

14 Chief Financial Officer reports

14.1 Schedule of Accounts - June 2022

Location	Town-wide
Reporting officer	Financial Services Controller
Responsible officer	Finance Manager
Voting requirement	Simple majority
Attachments	1. Payment Summary - June 2022 [14.1.1 - 13 pages]

Recommendation

That Council:

1. Confirms the accounts for [date], as included in the attachment, pursuant to Regulation 13 of the *Local Government (Financial Management) Regulations 1996*.
2. Confirms the direct lodgement of payroll payments to the personal bank accounts of employees, pursuant to Regulation 13 of the *Local Government (Financial Management) Regulations 1996*.

Purpose

To present the payments made from the municipal fund for the month ended 30 June 2022.

In brief

- Council is required to confirm payments made from the municipal fund and the trust fund each month, under Section 13 of the *Local Government (Financial Management) Regulations 1996*.
- The information required for Council to confirm the payments made is included in the attachment.

Background

1. Council has delegated the Chief Executive Officer the authority to make payments from the municipal and trust funds in accordance with the *Local Government (Financial Management) Regulations 1996*.
2. Under Regulation 13(1) of the *Local Government (Financial Management) Regulations 1996*, where a local government has delegated to the Chief Executive Officer the exercise of its power to make payments from the municipal fund or the trust fund, each payment is to be noted on a list compiled for each month showing:
 - a) the payee's name
 - b) the amount of the payment
 - c) the date of the payment
 - d) sufficient information to identify the transaction
3. That payment list should then be presented at the next ordinary meeting of the Council, following the preparation of the list, and recorded in the minutes of the meeting at which it is presented.
4. The payment list and the associated report was previously presented to the Finance and Audit Committee. Given this Committee's scope has changed to focus more on the audit function, the payment listings will be forwarded to the Elected Members ahead of time. Any questions received prior to the finalisation of the report will be included along with the responses within the Schedule of Accounts report for that month.

5. The list of accounts paid in accordance with Regulation 13 of the *Local Government (Financial Management) Regulations 1996* is contained within the attachment and is summarised below.

Fund	Reference	Amounts
Municipal Account		
Automatic Cheques Drawn	608880 – 608883	\$8,743.85
Creditors – EFT Payments		\$7,371,484.64
Payroll		\$1,167,122.64
Bank Fees		\$15,214.20
Corporate MasterCard		\$4,234.79
Cancelled Creditors Cheques		(\$7,809.01)
Cancelled EFTs		(\$52,633.80)
Total		\$8,506,357.31

Strategic alignment

Civic Leadership	
Strategic outcome	Intended public value outcome or impact
CL2 – Communication and engagement with the community.	The monthly payment summary listing of all payments made by the Town during the reporting month from its municipal fund and trust fund provides transparency into the financial operations of the Town
CL3 – Accountability and good governance.	The presentation of the payment listing to Council is a requirement of Regulation 13 of <i>Local Government (Financial Management) Regulation 1996</i> .

Legal compliance

[Section 6.10\(d\) of the Local Government Act 1995](#)

[Regulation 13 of the Local Government \(Financial Management\) Regulation 1996](#)

Risk management consideration

Risk impact category	Risk event description	Consequence rating	Likelihood rating	Overall risk level score	Council's risk appetite	Risk treatment option and rationale for actions
Financial	Misstatement or significant error in Schedule of accounts.	Moderate	Unlikely	Medium	Low	Treat risk by ensuring daily and monthly reconciliations are completed. Internal and external audits.

Financial	Fraud or illegal transactions	Severe	Unlikely	High	Low	Treat risk by ensuring stringent internal controls, and segregation of duties to maintain control and conduct internal and external audits.
Environmental	Not applicable.					
Health and safety	Not applicable.					
Infrastructure/ICT systems/utilities	Not applicable.					
Legislative compliance	Not accepting schedule of accounts will lead to non-compliance.	Major	Unlikely	Medium	Low	Treat risk by providing reasoning and detailed explanations to Council to enable informed decision making. Also provide the Payment summary listing prior to preparation of this report for comments.
Reputation	Not applicable.					
Service Delivery	Not applicable.					

Financial implications

Current budget impact	Sufficient funds exist within the annual budget to address this recommendation
Future budget impact	Not applicable.

Analysis

6. All accounts paid have been duly incurred and authorised for payment as per approved purchasing and payment procedures. It is therefore requested that Council confirm the payments, as included in the attachments.

Relevant documents

[Procurement Policy](#)

14.2 Financial Statements - June 2022

Location	Town-wide
Reporting officer	Finance Manager
Responsible officer	Chief Financial Officer
Voting requirement	Absolute majority
Attachments	1. Financial Activity Statement Report - 30 June 2022 [14.2.1 - 45 pages]

Recommendation

That Council:

1. Accepts the Financial Activity Statement Report – 30 June 2022, as attached.
2. Accepts the budget amendment to increase both the grant funding and capital works budget for the Archer/Mint Street upgrade – stage 1 budget by \$548,850.

Purpose

To present the statement of financial activity reporting on the revenue and expenditure for the period ended 30 June 2022.

In brief

- The financial activity statement report is presented for the month ending 30 June 2022.
- The report complies with the requirements of Regulation 34 (financial activity statement report) of the *Local Government (Financial Management) Regulations 1996*.
- The financial information as shown in this report does not include a number of end-of-financial year adjustments that are still yet to occur, as well as the final approval by the Auditor. The figures stated should therefore not be taken as the Town's final financial position for the period ended 30 June 2022.

Background

1. Regulation 34 of the *Local Government (Financial Management) Regulations 1996* states that each month, officers are required to prepare monthly financial reports covering prescribed information, and present these to Council for acceptance. Number all paragraphs from here on, not including tables.
2. As part of the monthly financial reports, material variances are reported. Thresholds are set by Council and are as follows:

Revenue

Operating revenue and non-operating revenue – material variances are identified where, for the period being reported, the actual varies to the budget by an amount of (+) or (-) \$25,000 and, in these instances, an explanatory comment has been provided.

Expense

Operating expense, capital expense and non-operating expense – material variances are identified where, for the period being reported, the actual varies to the budget by an amount of (+) or (-) \$25,000 and in these instances, an explanatory comment has been provided.

3. For the purposes of explaining each material variance, a three-part approach has been applied. The parts are:

Period variation

Relates specifically to the value of the variance between the budget and actual figures for the period of the report.

Primary reason(s)

Explains the primary reason(s) for the period variance. Minor contributing factors are not reported.

End-of-year budget impact

Forecasts the likely financial impact on the end-of-year financial position. It is important to note that figures in this part are 'indicative only' at the time of reporting and may subsequently change prior to the end of the financial year.

Strategic alignment

Civic Leadership	
Community priority	Intended public value outcome or impact
CL2 - Communication and engagement with the community.	To make available timely and relevant information on the financial position and performance of the Town so that Council and public can make informed decisions for the future.
CL3 - Accountability and good governance.	Ensure the Town meets its legislative responsibility in accordance with Regulation 34 of the <i>Local Government (Financial Management) Regulations 1996</i> .

Engagement

Internal engagement	
Service Area Leaders	All Service Area Leaders have reviewed the monthly management reports and provided commentary on any identified material variance relevant to their service area.

Legal compliance

[Regulation 34 of the *Local Government \(Financial Management\) Regulations 1996*](#)

Risk management consideration

Risk impact category	Risk event description	Consequence rating	Likelihood rating	Overall risk level score	Council's risk appetite	Risk treatment option and rationale for actions
Financial	Misstatement or significant error in financial statements	Moderate	Unlikely	Medium	Low	Treat risk by ensuring daily and monthly reconciliations are completed.

						Internal and external audits.
Financial	Fraud or illegal transaction	Severe	Unlikely	High	Low	Treat risk by ensuring stringent internal controls, and segregation of duties to maintain control and conduct internal and external audits.
Environmental	Not applicable.					
Health and safety	Not applicable.					
Infrastructure/ICT systems/utilities	Not applicable.					
Legislative compliance	Council not accepting financial statements will lead to non-compliance	Major	Unlikely	Medium	Low	Treat risk by providing reasoning and detailed explanations to Council to enable informed decision making. Also provide the Payment summary listing prior to preparation of this report for comments.

Financial implications

Current budget impact	Commentary around the current budget impact is outlined in the Statement of Financial Activity, forming part of the attached financial activity statement report.
Future budget impact	Commentary around the future budget impact is outlined in the Statement of Financial Activity, forming part of the attached financial activity statement report.

Analysis

4. The Financial Activity Statement Report – 30 June complies with the requirements of Regulation 34 (Financial activity statement report) of the *Local Government (Financial Management) Regulations 1996*. It is therefore recommended that the Financial Activity Statement Report – 30 June 2022 be accepted.

Relevant documents

Not applicable.

15 Committee reports

15.1 Internal Audit Report - Employment Practices

Location	Town-wide
Reporting officer	Coordinator Governance and Strategy
Responsible officer	Manager Governance and Strategy
Voting requirement	Simple majority
Attachments	1. Employment Practices Internal Audit Report [15.1.1 - 16 pages]

Recommendation from the Audit and Risk Committee

That Council:

1. Notes that an internal audit on employment practices was conducted that resulted in the identification of four high-risk matters, two medium-risk matters and one low-risk matter.
2. Notes that the high and medium-risk matters will be listed on the Internal Audit Activity Confidential Report until completed.

Purpose

To inform Council of the outcome of the employment practices internal audit.

In brief

- An audit of the Town's employment practices was completed in June 2021.
- The audit identified four high-risk matters, two medium-risk matters and one low-risk matter.
- The confidential audit report details all findings and actions to improve or rectify the findings.

Background

1. An audit of the Town's employment practices was included in the 2021-2022 internal audit program, adopted by Council in September 2021.
2. Auditors were engaged to complete the audit focusing at minimum on pre-employment, selection, secondary employment and executive employment.
3. The audit began in December 2021 and was completed in June 2022.

Strategic alignment

Civic Leadership	
Community priority	Intended public value outcome or impact
CL1 – Effectively managing resources and performance.	Internal audits promote integrity and identify areas for improvement.
CL3 - Accountability and good governance.	Internal audits allow for an assessment of whether legislation, policies and practices are being followed to ensure intended outcomes are achieved.

Engagement

Internal engagement	
Stakeholder	Comments
People and Culture	Provided the information requested and comments on the draft audit report.

Legal compliance

Not applicable.

Risk management consideration

Risk impact category	Risk event description	Consequence rating	Likelihood rating	Overall risk level score	Council's risk appetite	Risk treatment option and rationale for actions
Financial	Not applicable.				Low	
Environmental	Not applicable.				Medium	
Health and safety	Not applicable.				Low	
Infrastructure/ ICT systems/ utilities	Not applicable.				Medium	
Legislative compliance	Not applicable.				Low	
Reputation	Not applicable.				Low	
Service delivery	Not applicable.				Medium	

Financial implications

Current budget impact	Sufficient funds exist within the annual budget to address this recommendation.
Future budget impact	Not applicable.

Analysis

4. The audit identified four high-risk matters, two medium-risk matters and one low-risk matter.
5. All matters identified will be addressed in accordance with management comments by the target completion date.
6. An Internal Audit Activity Report summarising the status of all medium and high-risk findings will be provided to a future Audit and Risk Committee. An action to “Implement actions from employment practices internal audit” has already been proposed in the Corporate Business Plan 2022-2027.

Relevant documents

[Internal Audit Program 2021-2022](#)

[Minutes of the Ordinary Council Meeting held on 21 September 2022](#)

[Western Australian Auditor General’s Report - Verifying Employee Identity and Credentials](#)

Further consideration

7. At the Audit and Risk Committee meeting held on 25 July 2022 the committee requested that further information be provided the response to Clause 5.3 of the Office of Auditor General audit report. The management comment in the attached confidential report has been updated.

15.2 Internal Audit Plan 2022-2023

Location	Town-wide
Reporting officer	Coordinator Governance and Strategy
Responsible officer	Manager Governance and Strategy
Voting requirement	Simple majority
Attachments	Nil

Recommendation from the Audit and Risk Committee

That Council:

1. Adopts the following internal audits as the Internal Audit Program to be undertaken in the 2022/2023 financial year:
 - (a) Procurement.
 - (b) Records Management.
2. Adopts the Information Security internal audit to be undertaken in the 2022/2023 financial year, subject to funds being available.
3. Notes that the Misuse of Assets and Resources internal audit has been delayed and will be completed in 2022/2023.
4. Notes that the Community Funding and Grants internal audit has been delayed and will be undertaken in 2022/2023.
5. Notes that the CEO Review of Systems and Procedures (Regulation 17) will take place in the 2022/2023 financial year.
6. Request the Chief Executive Officer to report to the next Audit and Risk Committee meeting on the progress and completion of the Towns actions to address the OAG cyber security report prior to the commencement of the information security internal audit referred to in point 2 above.

Purpose

To set the internal audit program for 2022/2023 and inform elected members of delays to planned audits for 2021/2022.

In brief

- Two internal audits for the 2021/2022 financial year are outstanding but will be completed in 2022/2023.
- A further three internal audits are recommended to be undertaken in 2022/2023 - procurement, records management and, if funding allows, information security.
- The CEO Review of Systems and Procedures (Regulation 17) is due to be completed once again in the 2022/2023 financial year.

Background

1. At its meeting held on 17 September 2019, Council, at the Audit Committee's recommendation, resolved to request the Chief Executive Officer (CEO) to investigate the establishment of a regular internal audit program and report back to the Audit Committee by March 2020.
2. At its meeting held on 21 April 2020, Council, on the recommendation of the Audit Committee, requested that the CEO present a report back to the Audit & Risk Committee with a proposed Internal Audit Program to be undertaken in the 2020/2021 financial year by July 2020. This was presented in July 2020 and also identified audits to be undertaken in 2021/2022 and 2022/2023.
3. To date, the following internal audits have been completed:
 - (a) Conflicts of interest.
 - (b) Gifts.
 - (c) Integrity.
 - (d) Fraud and corruption.
 - (e) Employment practices.
4. The misuse of assets and resources internal audit is currently being finalised and the community grants and funding internal audit has been initiated but not yet undertaken.
5. The Office of the Auditor General conducted a review of cyber security in local government in 2021. This was presented to the Audit and Risk Committee in February 2022.
6. The last CEO Review of Systems and Procedures was presented to the Audit and Risk Committee in 2019.

Strategic alignment

Civic Leadership	
Community priority	Intended public value outcome or impact
CL1 – Effectively managing resources and performance.	As internal audit is a key pillar of organisational governance, a robust internal audit program, with oversight from the Audit Committee, will enable the Town to have a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, internal controls, and governance processes. The business improvements that result from an effective internal audit program will ultimately add value to the way the Town runs its business.
CL3 - Accountability and good governance.	

Engagement

Internal engagement	
Stakeholder	Comments
Financial Services	Supported the procurement internal audit taking place and raised no issues.
Technology and Digital Services	Requested that timing of the internal audit doesn't take place at the same time as Authority upgrade.

Records Management No concerns raised.

Legal compliance

[Section 7.1a of the Local Government Act 1995](#)

[Regulation 16 of the Local Government \(Audit\) Regulations 1996](#)

[Regulation 17 of the Local Government \(Audit\) Regulations 1996](#)

Risk management consideration

Risk impact category	Risk event description	Consequence rating	Likelihood rating	Overall risk level score	Council's risk appetite	Risk treatment option and rationale for actions
Financial	Failure to review procurement processes could result in poor financial management.	Severe	Possible	High	Low	TREAT risk by including audit of procurement in internal audit program.
Environmental	Not applicable.				Medium	
Health and safety	Not applicable.				Low	
Infrastructure/ ICT systems/ utilities	Failure to complete a follow-up review of information security could result in low confidence that information security has improved.	Severe	Possible	High	Medium	TREAT risk by including audit of information security in internal audit program if funds allow.
Legislative compliance	Failure to review records management processes could result in legislative compliance not being met.	Moderate	Possible	Medium	Low	TREAT risk by including audit of records management in internal audit program.
Reputation	Failure to identify issues could result in negative public perception if avoidable incidents were to occur.	Moderate	Possible	Medium	Low	TREAT risk by maintaining an internal audit program.

Service delivery	Not applicable.	Medium
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Financial implications

Current budget impact	<p>As funds for the community funding and grants internal audit were not carried forward to the 2022/2023 financial year, there will be some impact to the current budget.</p> <p>There is \$44,000 budgeted for the 2022/2023 financial year. This includes funds for the CEO Review of Systems and Procedures. For the three audits proposed for the 2022/2023 internal audit plan to occur, it is estimated that an additional \$10,000 (excluding GST) will be needed.</p> <p>An internal auditor will be engaged to deliver two of the three internal audits. The third will be undertaken if funds become available.</p>
Future budget impact	Not applicable.

Analysis

7. There are several internal audit activities being proposed for the 2022/2023 financial year.

Delayed audits

8. Two of the audits adopted for the 2021/2022 financial year have been delayed – misuse of assets and resources, and community funding and grants. The internal audit program was only adopted by Council in September 2021. This meant three months of the financial year had already passed by the time the internal audit plan was known. A procurement process was undertaken to appoint an internal auditor and the program commenced once the auditors were appointed.
9. The employment practices internal audit was completed in June 2022. The misuse of assets and resources internal audit is almost complete, with only one information request outstanding. This will be presented to the Audit and Risk Committee at its next meeting. The community funding and grants internal audit has not commenced. This audit will begin as soon as the final audit report for misuse of assets and resources has been presented to the Town.

Audits proposed for 2022/2023

10. In line with the internal audit plan presented to Council in 2020 and 2021, and as adopted in the Corporate Business Plan 2022-2027, the Town recommends that internal audits of procurement and records management be undertaken in 2022/2023.
11. While scopes will be developed with the appointed auditors, relevant information about each of these is provided below.

Procurement

Poor procurement practices that ignore principles of probity, accountability and transparency expose the organisation to procurement risks and jeopardise the delivery of good outcomes for ratepayers. When procurement processes are not followed, or local governments are seen not to be acting in the best interests of their communities, they face reputational damage and expose themselves to the risk of fraud and misconduct.

Suggested minimum criteria	Strategic risk events addressed	Risk impact category	Inherent risk rating
<ul style="list-style-type: none"> • Good procurement policies and guidelines. • Procurement practices are in alignment. • Appropriate training is provided to staff. • Controls over raising and approving purchase orders. • Processes for checking goods and services when receiving them. • Appropriate segregation of duties. • Exemptions from seeking quotes are well documented and justified. • Recording of tender processes and conflicts of interests. • Supplier credentials are checked, particularly for high-risk or high value purchases, including: <ul style="list-style-type: none"> ○ confirming ABN ○ confirming directors are not bankrupt or disqualified. 	<ul style="list-style-type: none"> • Non-compliance with Council's governance obligations under the <i>Local Government Act 1995</i>. • Failure to detect and prevent occurrences of fraud and corruption. 	<ul style="list-style-type: none"> • Financial. • Reputation. • Legislative compliance. 	High

Records management

Local governments have record management responsibilities under the *State Records Act 2000*. The keeping of records assists with demonstrating accountable and transparent decision-making. Failure to maintain good records management affects a local government's ability to maintain corporate knowledge and keep a historical record.

Suggested minimum criteria	Strategic risk events addressed	Risk impact category	Inherent risk rating
<ul style="list-style-type: none"> • Implementation and adherence to Recordkeeping Plan. 	<ul style="list-style-type: none"> • Non-compliance with Council's governance obligations under the 	<ul style="list-style-type: none"> • Reputation. • Legislative compliance. • Service delivery. 	Extreme/High

<ul style="list-style-type: none"> Recordkeeping practices are in alignment. Adequate staff training. 	<p><i>Local Government Act 1995.</i></p> <ul style="list-style-type: none"> Failure to maintain and protect data and information technology systems. 		
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12. It is also proposed that an information security internal audit be undertaken if funds allow. Delays in commencing the community funding and grants internal audit mean that the audit could not be funded from the 2021/2022 financial year. This will need to be paid for in 2022/2023, reducing the amount of funds available for completing the internal audit program. There could be an opportunity to request further budget for internal audit as part of the annual budget review.

Information security

Information security and cyber risk is an increasing risk area in public organisations due to:

- changes in the threat landscape
- rapid changes in technology
- changing regulatory environments
- social change impacting on employee work behaviours
- capabilities and techniques used by hackers.

The Town was audited by the Office of the Auditor General in 2021. This audit is proposed to be a follow up audit against the audit findings.

Suggested minimum criteria	Strategic risk events addressed	Risk impact category	Inherent risk rating
<ul style="list-style-type: none"> Progress on audit findings from Office of the Auditor General audit. 	<ul style="list-style-type: none"> Failure to maintain and protect data and information technology systems. Failure to detect and prevent occurrences of fraud and corruption. 	<ul style="list-style-type: none"> Financial. Reputation. Legislative compliance. Service delivery. 	Extreme/High

CEO Review of Systems and Procedures (Regulation 17)

13. In 2013, Regulation 17 of the *Local Government (Audit) Regulations 1996* was amended to include a requirement for the CEO to review the appropriateness and effectiveness of a local government's systems and procedures in relation to risk management, internal controls and legislative compliance on a biennial basis. In 2018, Regulation 17 was amended to change the frequency of the review requirement from biennial to triennial.

14. With the last review taking place in 2019, it is now time for the Town to complete another review. This review will take place in 2022/2023.

Next steps

- Upon resolution of Council, the Town will complete the outstanding internal audits and then engage an internal auditor to complete the program for 2022/2023. This will include the CEO Review of Systems and Procedures.
- If possible, the Town will request funds as part of the annual budget review to allow for the information security audit to take place.
- Audit findings will be presented to the Audit and Risk Committee for recommendation to Council as and when they are completed.

Relevant documents

Internal audit program

[Minutes of the Ordinary Council Meeting held on 21 July 2020](#)

[Minutes of the Ordinary Council Meeting held on 21 September 2021](#)

Office of the Auditor General cyber security audit

[Minutes of the Ordinary Council Meeting held on 15 February 2022](#)

[Auditor General's Report - Cyber Security in Local Government](#)

Further consideration

18. At the Audit and Risk Committee meeting held on 25 July 2022 the committee requested a response on the information and level and detail the Town is required to provide in response to the Office of Auditor General Cyber Security report.
19. Page 19 of the [Information Systems Audit Report 2022 – Local Government Entities](#) states that:

Under section 7.12A of the Local Government Act 1995, the 45 audited entities are required to prepare an action plan to address significant matters relevant to their entity for submission to the Minister for Local Government within 3 months of this report being tabled in Parliament, and for publication on the entity's website. This action plan should address the points above, to the extent that they are relevant to their entity.
20. The report was tabled on 28 June 2022. An action plan must be submitted to the Minister for Local Government and published on the Town's website by 28 September 2022.
21. An update on progress towards the Town's findings will be provided to the next Audit and Risk Committee meeting.

15.3 Audit Activity Update

Location	Town-wide
Reporting officer	Coordinator Governance and Strategy
Responsible officer	Manager Governance and Strategy
Voting requirement	Simple majority
Attachments	1. CONFIDENTIAL REDACTED - Audit Update Report - July 2022 [15.3.1 - 5 pages]

Recommendation from the Audit and Risk Committee:

That Council receives the confidential Audit Activity Report, as at attachment 1.

Purpose

For Council to receive an update on progress related to internal audit findings.

In brief

- This report is a standard item on the agenda for the Audit and Risk Committee meeting. It reports progress against audit findings.
- There were six medium risk items outstanding since the last report presented to the committee in September 2021.
- There are now two medium risk items outstanding.
- Details about activities to address findings are included in the confidential attachment.

Background

1. Under its terms of reference, the Audit and Risk Committee assists Council in overseeing the Town's internal audit program.
2. The Town has performed internal audits into processes and systems for the management of conflicts of interest and gifts, and on the integrity snapshot and fraud and corruption.
3. Both audits identified low and medium risk findings. The risk findings and associated recommendations were addressed in accordance with management responses.

Strategic alignment

Civic Leadership	
Community priority	Intended public value outcome or impact
CL1 – Effectively managing resources and performance.	Performance of internal audits helps the Town to identify improvements to ensure ethics, integrity and probity in decision-making towards greater accountability and transparency.
CL3 - Accountability and good governance.	

Engagement

Internal engagement	
Stakeholder	Comments
Governance and Strategy	Provided updates on actions taken to address audit findings.
Community Development	
People and Culture	

Legal compliance

[Section 7.13 of the Local Government Act 1995](#)

[Regulation 17 of the Local Government \(Audit\) Regulations 1996](#)

Risk management consideration

Risk impact category	Risk event description	Consequence rating	Likelihood rating	Overall risk level score	Council's risk appetite	Risk treatment option and rationale for actions
Financial	Not applicable.				Low	
Environmental	Not applicable.				Medium	
Health and safety	Not applicable.				Low	
Infrastructure/ ICT systems/ utilities	Not applicable.				Medium	
Legislative compliance	Failure to take appropriate management action will mean poor practices in decision-making in vulnerable areas are not identified and rectified, with risks of improper conduct and fraud and corruption resulting in legal penalties.	Moderate	Possible	Medium	Low	TREAT risk by ensuring commitment to management actions to address findings.

Reputation	Failure to take appropriate management action will mean poor practices in decision-making in vulnerable areas are not identified and rectified, with risks of improper conduct and fraud and corruption resulting in brand and reputational damage, as well as community distrust.	Major	Unlikely	Medium	Low	TREAT risk by ensuring commitment to management actions to address findings.
Service delivery	Not applicable.					Medium

Financial implications

Current budget impact	Sufficient funds exist within the annual budget to address this recommendation.
Future budget impact	Not applicable.

Analysis

4. This report is a standard item on the agenda for the Audit and Risk Committee meeting. It provides a status of implementation of outstanding audit recommendations from audits undertaken.
5. There was one medium risk item outstanding in the last report presented to the committee in September 2021. A further five outstanding medium risk items have been included since the committee received the integrity snapshot and fraud and corruption internal audit.
6. Four medium risk findings remain outstanding. Comments against these have been provided in the confidential attachment.
7. Findings from the employment practices internal audit will be included in the next report presented to the committee.

Relevant documents

Not applicable.

16 Motion of which previous notice has been given

16.1 Mayor Karen Vernon - Budget Policy

In accordance with clause 4.3 of the *Town of Victoria Park Meeting Procedures Local Law 2019*, Mayor Karen Vernon has submitted the following notice of motion.

Motion

That Council:

1. Directs the Chief Executive Officer to present a draft Budget Policy for the formulation, administration and management of the annual budget to the Policy Committee by no later than November 2022.
2. Requests the Chief Executive Officer to hold a workshop with or present at a Concept Forum to Elected Members about the development of the draft Budget Policy before presentation to the Policy Committee.

Reason

For the last 5 years, we haven't taken a consistent approach to the formulation of the annual budget, and a number of issues have arisen that have impacted on the timely and efficient delivery of the budget. Issues have also arisen about the treatment of carry forwards, the treatment of unspent budget funds, how variations to the budget should be dealt with, and

We need a shared understanding of the process to be adopted, how key objectives should be treated in the budget process, how the budget is presented to the community, how budget funds are expended in the year, accounting for unspent funds, treatment of carry forwards.

A budget policy will provide a comprehensive framework to guide the Town and Council as to how the budget should be developed, a budget management timetable and guidelines for the approach to the annual budget, in order to meet statutory and Council's requirements for the annual budget.

Strategic alignment

Civic Leadership	
Community priority	Intended public value outcome or impact
CL1 – Effectively managing resources and performance.	Development of the annual budget is completed in a timely and efficient manner. The Town can allocate sufficient resources to the preparation and presentation of the budget.
CL2 - Communication and engagement with the community.	Everyone knows how the annual budget is developed, and the role the community should play in the development.
CL3 - Accountability and good governance.	The policy will ensure a framework for the development, administration and management of the annual budget which will guide the Town and Council to meet its statutory requirements.

Officer response to notice of motion

Location	Town-wide
Reporting officer	Finance Manager
Responsible officer	Chief Financial Officer
Voting requirement	Simple majority
Attachments	Nil

Officer comment

1. A Budget Policy can be drafted by Town staff.
2. To present a policy to the Policy Committee meeting being held on 28 November 2022, staff would need to gain insights from elected members to draft the policy no later than the concept forum being held on 27 September. This will allow for a policy to be drafted and further feedback to be requested on the Councillor Portal before it is presented to the November Policy Committee meeting.

Legal compliance

[Section 6.2 of the Local Government Act 1995](#)

[Part 3 of the Local Government \(Financial Management\) Regulations 1996](#)

Risk management consideration

Risk impact category	Risk event description	Consequence rating	Likelihood rating	Overall risk level score	Council's risk appetite	Risk treatment option and rationale for actions
Financial	The annual budget process and treatment of budget items could vary each year.	Moderate	Likely	High	Low	TREAT risk by requesting that a policy be drafted.
Environmental	Nil				Medium	
Health and safety	Nil				Low	
Infrastructure/ ICT systems/ utilities	Nil				Medium	
Legislative compliance	Nil				Low	

Reputation	Nil	Low
Service delivery	Nil	Medium

Financial implications

Current budget impact	Sufficient funds exist within the annual budget to address this recommendation.
Future budget impact	Not applicable.

Relevant documents

[City of Perth Strategic Financial Planning & Budgeting Policy](#)

[City of Perth Budget Variations Policy](#)

[City of Canning Budget Preparation Policy](#)

[City of Canning Budget Variations Policy](#)

[City of Cambridge Budget Implementation and Management Policy](#)

16.2 Mayor Karen Vernon - CEO Performance Review Policy

In accordance with clause 4.3 of the *Town of Victoria Park Meeting Procedures Local Law 2019*, Mayor Karen Vernon has submitted the following notice of motion.

Motion
<p>That Council:</p> <ol style="list-style-type: none"> 1. Directs the Chief Executive Officer to present a draft CEO Performance Review Policy to the Policy Committee for consideration by no later than November 2022. 2. Requests the Chief Executive Officer to hold a workshop with or present at a Concept Forum to Elected Members about the development of the draft Policy before presentation to the Policy Committee.

Reason

Section 5.38 of the Local Government Act 1995 requires Council to review the performance of the Chief Executive Officer at least once each year. Conducting this review is an important function of Council and it is through this review process that Council can also review the overall performance of the Town’s functions. It is also necessary for the Council to set annual Key Performance Indicators (KPIs) against which the CEO’s performance will be measured during the review.

The Department of Local Government recommends delegating the annual performance review to a panel, and also recommends Council develop a policy to guide the performance review process to establish the roles and responsibilities of each party involved. The Council’s CEO Performance Review Committee currently takes the lead in the conduct of the review, which involves feedback from all elected members. The process has not always followed a consistent approach in the last 5 years.

We need to establish a policy to guide how the annual review of the CEO’s performance and remuneration should be conducted, the roles and responsibilities of each party involved in the process, who will conduct the review, training for elected members, the use of consultants, the timeline for the review process, the development of KPIs, the publication of the KPIs, and the measurement of performance against the KPIs.

This policy will ensure the annual review of the CEO’s performance and remuneration is conducted in a fair, consistent and legislatively compliant manner that demonstrates accountability and good governance. The review process must be a collaborative, constructive process that is designed to enhance performance of individuals as well as the organisation.

Strategic alignment

Civic Leadership	
Community priority	Intended public value outcome or impact
CL1 – Effectively managing resources and performance.	Council has appropriate oversight of the performance of the CEO and the Town’s functions on an annual basis. The Town can allocate sufficient resources to the review process.
CL2 - Communication and engagement with the community.	Everyone knows how the CEO performance review is to be conducted.

CL3 - Accountability and good governance.	The Council will meet its statutory obligations. The annual CEO performance review is conducted through a consistent and fair process for setting CEO KPIs, and reviewing annual performance against the KPIs.
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Officer response to notice of motion

Location	Town-wide
Reporting officer	Manager People & Culture
Responsible officer	Manager People and Culture
Voting requirement	Simple majority
Attachments	Nil

Officer comment

1. A draft CEO Performance Review Policy will be developed and presented as directed.
2. The policy will be developed in conjunction with the Town of Victoria Park Standards for CEO Recruitment, Performance and Termination
3. The draft Policy will be presented to elected members prior to presentation to the Policy Committee as requested.

Legal compliance

Section 5.38 of the Local Government Act 1995 [Austlii link](#).

Risk management consideration

Risk impact category	Risk event description	Consequence rating	Likelihood rating	Overall risk level score	Council's risk appetite	Risk treatment option and rationale for actions
Financial					Low	
Environmental					Medium	
Health and safety					Low	
Infrastructure/ ICT systems/ utilities					Medium	
Legislative compliance	Noncompliance with Local Government Act CEO performance review standards	medium	Low	Low	Low	Treat by ensuring proposed policy is compliant to legislative requirements.
Reputation					Low	

Service delivery	Medium
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Financial implications

Current budget impact	Sufficient funds exist within the annual budget to address this recommendation.
Future budget impact	Not applicable.

Relevant documents

Not applicable.

16.3 Mayor Karen Vernon - Execution of Documents Policy

In accordance with clause 4.3 of the *Town of Victoria Park Meeting Procedures Local Law 2019*, Mayor Karen Vernon has submitted the following notice of motion.

Motion

That Council:

1. Directs the Chief Executive Officer to present a draft Execution of Documents Policy to the Policy Committee by no later than November 2022.
2. Requests the Chief Executive Officer to hold a workshop with or present at a Concept Forum to Elected Members about the development of the draft policy before presentation to the Policy Committee.

Reason

1. The Mayor and/or the CEO are required to sign and apply the common seal to various documents on behalf of the Town, either pursuant to a Council resolution, statutory requirements, or delegated authority to the CEO.
2. It has become apparent over time that there have been instances of a lack of clarity about who has authority to sign and execute certain types of documents. A policy governing execution of documents, including use of the common seal, is very common in local governments, as best practice governance to ensure compliance with the Local Government Act. Such policies usually set out a detailed list of the types of documents, how they are to be signed and by whom.
3. The policy should establish a framework for classifying categories of documents for signing, determining who is authorised to sign and execute such documents, and the procedure for affixing the Town's common seal to documents. This will assist Town staff to determine what classification a document falls into, and if it is unclear, how to determine the authority for signing.

Strategic alignment

Civic Leadership	
Community priority	Intended public value outcome or impact
CL1 – Effectively managing resources and performance.	Guidance is available to assist in the execution of documents, and the allocation of sufficient resources to ensure documents are executed when required.
CL3 - Accountability and good governance.	The Town and Council will ensure that it meets its statutory obligations with regards to the execution of documents.

Officer response to notice of motion

Location	Town-wide
Reporting officer	Coordinator Governance and Strategy
Responsible officer	Manager Governance and Strategy
Voting requirement	Simple majority
Attachments	Nil

Officer comment

1. An Execution of Documents Policy can be drafted by Town staff.
2. To present a policy to the Policy Committee meeting being held on 28 November 2022, staff would need to gain insights from elected members to draft the policy no later than the concept forum being held on 27 September. This will allow for a policy to be drafted and further feedback to be requested on the Councillor Portal before it is presented to the November Policy Committee meeting.

Legal compliance

[Division 3 of the *Local Government Act 1995*](#)

Risk management consideration

Risk impact category	Risk event description	Consequence rating	Likelihood rating	Overall risk level score	Council's risk appetite	Risk treatment option and rationale for actions
Financial	Nil.				Low	
Environmental	Nil.				Medium	
Health and safety	Nil.				Low	
Infrastructure/ ICT systems/ utilities	Nil.				Medium	
Legislative compliance	Documents may be executed in a way that is not legislatively compliant.	Minor	Likely	Medium	Low	TREAT risk by requesting that policy be drafted.
Reputation	Nil.				Low	
Service delivery	Documents executed improperly could	Minor	Possible	Medium	Medium	TREAT risk by requesting that policy be drafted.

delay major projects or partnerships.

Financial implications

Current budget impact	Sufficient funds exist within the annual budget to address this recommendation.
Future budget impact	Not applicable.

Relevant documents

[City of Perth Common Seal and Document Signing Authority Policy](#)

[City of Vincent Execution of Documents Policy](#)

[City of Wanneroo Execution of Documents Policy](#)

17 Public participation time

18 Questions from members without notice on general matters

19 Confidential matters

20 Closure