

PS ref: 7571
Town ref: 2021/89

27 April 2022

Town of Victoria Park
99 Shepperton Road
Victoria Park WA 6979

Attention: Robert Cruikshank, Manager Development Services

Dear Robert,

**LOTS 20 & 21 (176 & 178) SWANSEA STREET EAST, VICTORIA PARK
PROPOSED SCHEME AMENDMENT NO. 89 – REZONING TO COMMERCIAL (RAC-3)
RESPONSE TO PUBLIC SUBMISSIONS**

Planning Solutions acts on behalf of The Trustee for Swansea Markets Investment Trust, the proponents of the Swansea Street Markets redevelopment at Lots 20 & 21 (176 & 178) Swansea Street East, Victoria Park (**subject site**).

A request to formally amend the Town of Victoria Park's (**Town**) Local Planning Scheme No. 1 (**LPS1**) as it relates to the subject site was relodged with the Town on 23 March 2022. Amendment No. 89 (**A89**) seeks to rezone the subject site 'Commercial' with an applicable density code of RAC-3.

We refer to schedule of public submissions in respect to A89 received from the Town by email on 20 April 2022. We are pleased to provide the following response to the submissions received during public advertising.

RESPONSE TO SUBMISSIONS

On review of the 41 submissions received, we are pleased to note that 80% are in support / neutral. This is in accordance with the 84.12% of people who supported the amendment during public engagement undertaken by the applicant during the preparation of the scheme amendment request.

Of the 11 submissions objecting / neutral to the amendment, the key themes identified are:

- The impact of the development on surrounding residential land, including building bulk and scale, privacy, overshadowing, as well as the impact on local road networks. It is noted that these concerns are derived from the concept plan and not the amendment.
- The impact of the development on existing surrounding industrial uses.
- Jeopardising the future planning intent of the locality.
- The provision of additional retail NLA, including the classification of the site as an 'out-of-centre' development pursuant to SPP4.2.

Whilst it is considered that the above matters have been suitably addressed in the amendment request report, as well as within additional information submitted to the Town, a response to the matters raised have been provided within **Table 1** below.

Please refer to **Table 1** below for the response to the submissions received during public advertising.

Table 1: Response to public submissions

Object / Support	Comment	Planning Solutions Response
Support	The concept looks to be a major improvement compared to the existing site - overall I think the amendment is appropriate for the locality.	Noted and agreed.
Object	<p>* The proposed development does not fit within the established character of the area and is considered out of context for the locality. * The proposed development results in a substantial impact on the privacy of the surrounding area * The proposed development results in substantial overshadowing of the surrounding area. * The proposed development result in substantial view impacts as a result of the size, the height and the bulk of the proposed rezoning. It is considered that the view impacts are detrimental and will harm the aesthetic of the area. * The proposed development result in adverse traffic impact of the surrounding area Therefore we strongly do not support this rezoning request and seek consideration from the town of Victoria Park to reconsider this application. We suggest that the town of Victoria Park engage deeper with immediate rate payer of the area that would be greatly impacted by this rezoning plans</p>	<p>It is noted that the item relates to an amendment to LPS1 and not a development application. Whilst the amendment is to facilitate the redevelopment of the subject site in a manner similar to the concept plans provided – they are schematic only and any future development application will need to be in accordance with the applicable planning framework. This includes State Planning Policy 7.3: Residential Design Codes Volume 2 which provides provisions relating to overshadowing, privacy, height, as well as bulk and scale. Transport will also be considered during this time.</p> <p>Irrespective of the above, the planning report lodged as part of the amendment request, as well as additional information provided to the Town dated 1 March 2022 provided strong justification for the amendment, including the suitability of the proposed zone for establishment on the subject site.</p> <p>The current process is 'pre-initiation consultation' undertaken by the Town. Consistent with the submitter's request, initiation of the Scheme Amendment will allow for deeper engagement with the surrounding community as part of the formal consultation process.</p>
Object	<p>To whom it may concern, We have reviewed the request for scheme amendment to rezone land at no 176 Swansea st east Victoria park (rezoning to commercial R-AC3) and have put together the following summary of our concerns; * The proposed development does not fit within the established character of the area and is considered out of context for the locality. * The proposed development results in a substantial impact on the privacy of the surrounding area * The proposed development results in substantial overshadowing of the surrounding area. * The proposed development result in substantial view impacts as a result of the size, the height and the bulk of the proposed rezoning. It is considered that the view impacts are detrimental and will harm the aesthetic of the area. * The proposed development result in adverse traffic impact of the surrounding area *Therefore we strongly do not support this rezoning request and seek consideration from the town of Victoria park to reconsider this application. We suggest that the town of Victoria Park engage deeper with immediate rate payer of the area that would be greatly impacted by this rezoning plans.</p>	As above.

Object / Support	Comment	Planning Solutions Response
Object	<p>I would prefer to see the iconic Swansea Street Markets building renovated and restored. There are many old buildings in Perth and Fremantle which have been renovated and now look really beautiful again. I believe the same could be done for the Swansea Street Markets building. Some more trees and greenery would also be really good, and maybe even an alfresco cafe. I also worry that there is not enough parking with the new plans.</p>	<p>The Swansea Street Market building has reached the end of its economic life and can not be restored. The building does not have heritage value.</p> <p>As noted above, this item relates to a scheme amendment and not a development application. The amendment will facilitate the redevelopment of the site, including the retention of the market.</p> <p>It is noted that existing vendors support the redevelopment, as do 84% of visitors who participated in the proponent's community engagement.</p> <p>Parking will be addressed as part of any development application for the site.</p>
Neutral	<p>I think if the new owners of this site are to make a windfall profit via rezoning, then they need to give something back to the community in terms of perhaps affordable housing, or giving some units to HomesWest as social housing. They may be other ways they could do this - I don't know.</p>	<p>The proposed amendment is to facilitate the redevelopment of the existing market, which cannot currently occur economically.</p> <p>The provision of community benefits can be addressed during the development application stage. It is anticipated that redevelopment of the site and retention of the much-valued markets will deliver a range of community benefits.</p>
Object	<p>This proposal outlines the construction of three significant mixed-use and residential apartment blocks in the middle of an already high density neighbourhood. The traffic is very high - foot traffic for the Oats Street train station, car traffic from the connection between Shepperton Road/Albany Hwy through to Orrong Road, and the trucks heading to Welshpool and Leach Hwy. The proposal includes at least 117 apartments and four basement parking lots - that could mean 117 cars - or double if/where residents have more than one car. This is a huge increase in occupancy and traffic - not including the traffic from the commercial interests involved in the mixed-use building. Further, these buildings would dominate the sky line. The design images are at an angle looking down on the apartment buildings, as if photographs taken from above the buildings - obviously not the view that the average resident would have while walking through the neighbourhood. Of course I support the continuation of the Swansea Street Markets as a wonderful independent grocer and deli, but not at the detriment of the peaceful enjoyment of the neighbourhood, which is already incredibly dense. If there were less, or smaller, buildings, I would support it. But this proposal aims to take every square inch possible from below the ground to the highest height allowance in a residential allotment and that is not suitable for this parcel of land. The draw of Victoria Park is that it has the charm of a</p>	<p>It is noted that the item relates to an amendment to LPS1 and not a development application. Whilst the amendment is to facilitate the redevelopment of the subject site in a manner similar to the concept plans provided - they are schematic only and any future development application will need to be in accordance with the applicable planning framework.</p> <p>The surrounding locality is not considered to be high density and comprises a mixture of industrial, commercial, and low to medium density residential.</p> <p>The amendment is consistent with the strategic planning over the last 15 years, specifically the objectives of the Central Sub-Regional Framework and the draft Local Planning Strategy, which in turn builds upon a series of local strategic planning documents that have consistently promoted more intensive development in this precinct.</p> <p>Transport considerations will be addressed during any development application on the subject site.</p> <p>The current market building has reached the end of its economic lifespan and requires redevelopment. The provision of residential uses ensures the ongoing sustainability of the development.</p>

Object / Support	Comment	Planning Solutions Response
	small comfortable neighbourhood with the metropolitan connection of the bars and cafes. A dense block of 6-story high apartment buildings is not a part of that charm.	The final design of the development will be in accordance with the provisions of the R-Codes, including its relationship to surrounding land.
Support	Looks great. Makes sense to revitalise the area for residential and commercial high density living in close proximity to rail, education and shopping.	Noted.
Support	Mixed-use is the best way to create walkable neighbourhoods, and reduce our reliance on cars. People want to be able to walk to their local shops, help when they are on the ground floor of your apartment building!	Noted.
Support	Great site with proximity to public transport. This will benefit all the locals, supermarkets etc..	Noted.
Support	I reside outside the area but frequently attend the market/greengrocer and butcher. I believe the apartments will increase business for these little guys and keep these small family owned business in strong competition against the big guys. The rezoning has the potential to create hundreds if not thousands of construction jobs that will not only stimulate the local economy but keep an energy among the local community. This may also increase property value in the area, and have other pieces of land looked into rezoning.	Noted.
Support	The Proposal for the redevelopment of this site will be a big investment into the swansea street and its a great opportunity for the locals and other people as this will provide thousands of jobs during its construction life	Noted.
Support	This development will provide hundreds of jobs during construction. This development will be a good investment into the area.	Noted.
Neutral	frequent the butcher often	Relevance noted.
Support	Positive change and elevating the locale as well as aesthetics of the area	Noted.
Support	I used to go to Swansea St as I went to Ursula Frayne Catholic College. But it is fairly worn down now and feel out of place with the new apartments and commercial area. Itll be nice to have it upgraded.	Noted.
Support	The development would provide continuity of local involvement from the butcher, grocer and deli, while at the same time introduce high quality living spaces which will increase community feel.	Noted.
Support	I am pro supporting local supermarkets which create jobs for many and in supporting small business owners who work really hard to provide the local community with local produce, keeping the supply chain active and growing. This site is	Noted.

Object / Support	Comment	Planning Solutions Response
	well placed and has excellent public transport to get to it. I support the mixed use proposed.	
Support	I visit the Swansea St Markets often, this development proposal will be a brilliant addition for East Vic Park, I am very happy the Swansea Street markets will be retained and that the development will provide many jobs and housing options.	Noted.
Support	The proposal of redevelopment of the site will have a huge investment into the area and will provide locals and thousands of people with jobs during its construction period. The lodge amendments to the existing facilitates are substantial density where it will increase in a suitable location and the lodge bulk and scales into account of keeping with the built form of the surrounding area. The proposal of new accommodation are for residential use and their addition to the site are inherently appropriate with the existing suburban area The proposed site location within the walkable catchment of both the current Oats street train station and future Oats street train station on Millford street will continue to remain so and are currently well service by public transport. The Proposed is compatible location to have a great opportunity of public services. The redevelopment will ensure that a liberated and local grocer, butcher and delicatessen are retained and capable of competing against large, uniform national supermarket operators with no real connection to their local are. The alteration to the facilitates will have development which will respond strongly to the site's unique traits as well as its historical context by facilitating the redevelopment and retention of the Swansea Street Markets. The recent circumstance with supply chain disruption has revealed the fragility of big supermarkets, and the importance of grower-direct markets to provide essential fresh food to local community.	Noted.
Support	Looking forward to the project I think it's a great idea. It is a huge investment into the area and will provide thousands of jobs during construction.	Noted.
Support	While I don't live within the area of Victoria Park. I have many friends and family who do and also go to the Swansea market & Butcher on a regular basis when I'm in the area. I support the rezoning due to the following - - The Redevelopment of the site will create a number of jobs during the construction phase of the project, as well as an investment opportunity within the area & further growth to the adjoining residence & opportunity to move within the area . - Proposed Apartments would be of residential use & inherently compatible with the surrounding residential area. -	Noted.

Object / Support	Comment	Planning Solutions Response
	<p>Also the site is located close to public transport within walking distance such as the Oats Street Station at Milford Street, taking advantage of the public transport services . -The development will ensure that an independent and local grocer, butcher and delicatessen are retained in upgraded facilities - Grower-direct markets to provide essential fresh food to local areas which will also be retained - The upgraded facilities & amenities would be a positive outcome and would be in a suitable location as the proposed bulk and scale is in keeping with the built form of the surrounding area.</p>	
Support	<p>Looking forward to seeing this transformational development and investment into the site and local area as well as supporting jobs including construction, build and long term growth of the area.</p>	Noted.
Support	<p>I support the redevelopment of the site and retention of the Swansea Street Markets at its heart. It's important to keep independent markets alive and well. I would love to see the area come alive again with the redevelopment and inclusion of residential apartments to the site.</p>	Noted.
Support	<p>The area is in massive need of development. Oats St train station level crossing will commence shortly. Perfect timing to allow for more residential development adjacent the inner city train station. I really look forward to the proposed mixed used site.</p>	Noted.
Support	<p>The development will be a great investment and create thousands of job opportunities</p>	Noted.
Support	-	Noted.
Support	<p>I believe that the redevelopment of the land at 176 Swansea Street will be a huge investment for the community. In addition to creating many jobs during the construction period, it will also provide accommodation that is easily accessible by public transport and in close proximity of the markets to obtain groceries, making it an ideal place to live.</p>	Noted.
Support	<p>It is time that this land of massive land bank so close to the city and growing East Victoria Park be redeveloped</p>	Noted.
Support	<p>xxx is an aged care and disability support provider who has operated in Western Australia for more than 100 years. xxx is a not-for-profit carer of people with neurological disabilities, injury or illness and people who are ageing. xxx mission is 'Pursuing the dignity of independence'. The Oats Street Centre is a rehabilitation and research centre and medium-term home for those with an acquired brain injury. We purchased three adjacent lots on Oats Street a few years ago to accommodate future residential growth and</p>	Noted.

Object / Support	Comment	Planning Solutions Response
	<p>remain committed to serve the local and broader community from this location.</p> <p>The existing markets have been an integral part of daily life for the clients living at the Oats St centre, offering rehabilitation opportunities to participate in community interactions. Based on this relationship, xxx offers its support to the proposed scheme amendment and request the City considers in future Planning and Development Applications, the existing unique residential environment we operate on site.</p> <p>Future development of 176 (LOTS 20 AND 21) SWANSEA STREET EAST CORNER MILFORD STREET, EAST VICTORIA PARK (SWANSEA STREET MARKETS SITE) is seen as a positive infill project that will benefit the immediate community with appropriate consideration for onsite visitor, trade, and residential parking, acoustic treatments, setbacks, and probable overshadowing.</p>	
Neutral	<p>In reply to your letter re the above- I am interested in the rezoning of the above land if the continuation of the Swansea Street market site is maintained/upgraded. The markets are an asset to this area. At present the block is an eyesore and could do with cleaning up.</p> <p>Development in this area for retail/some residential etc can only be good for the area. However too many units after a time can encourage more crime which we don't want.</p> <p>Has anyone thought of the increase in traffic if this proposal goes ahead. Swansea Street is a very busy noisy road. Where can traffic be diverted from Swansea Street.</p>	<p>Noted.</p> <p>Transport will be considered during any development application on the subject site.</p>
Object	<p>With respect regarding the above Amendment being promoted as a standard amendment does not take into account the huge infrastructure changes required, for instance storm water drains already under pressure, let alone the incoming sewerage impacts; the impact of massive traffic flows on Swansea Street East, which is considered a speedway, a dangerous stretch of road, ask the WA Police, also parking in the area with an onflow of trucks serving the 3 tower's; further, the social impacts will be great as I can attest being the Building Manager of Lime Apartment's over the last 9 years does see regular intrusions of undesirables, breaking in, jumping security fences, robbing and smashing car windows on Swansea street, which will vastly increase with that many units amongst us in the immediate area, the tower's will be a magnet; also the rehabilitation centre will feel the 3 tower's intrusion with greatly increased noise, rubbish, vehicle pollution, speeding, and parking encroachment! Dare I say it TVP does not have a good track record for instance</p>	<p>It is noted that the item relates to an amendment to LPS1 and not a development application. Whilst the amendment is to facilitate the redevelopment of the subject site in a manner similar to the concept plans provided - they are schematic only and any future development application will need to address any relevant infrastructure matter, such as transport.</p> <p>Any development will be required to be designed to CPTED principles.</p> <p>The submitter's unsupported allegations about the Town's officers and Elected Members are comprehensively rejected.</p>

Object / Support	Comment	Planning Solutions Response
	<p>find this from a local resident.."I have already done that. I don't understand how council approved it. This street is already saturated with too many residents and cars and they want too add 3 buildings, each 6 storey high! Just imagine the traffic and congestion. You are right about thieves too. Vic Park Shire and Council is hopeless. Bunch of people who aren't interested in anything but filling their pockets. No care about standards or quality, only focused on quantity to increase their rates and revenue. And if you ask them for a single street light? Sorry, we don't have any money!.." I rest my case, yes you have a target of 11,320 dwellings by 2031 but please think very long and hard about shoving up tower's to reach these goals which despite the application will actually greatly impact and impair environmental, social, economic and governance areas.</p>	
Object	<p>I wish to raise a concern about this request for 176 Swansea St to become a commercial property. I am all for development but it's the height of the building that concerns me. With my father's property directly across the road, He is concerned about shadowing in the peak of winter as a 6 story building will reduce the northern direct sunlight greatly. Especially if it's built close to the street boundaries.</p> <p>His property has a large amount of established fruit trees and I was in touch with Town of VP planning last month about turning his property into a community garden. I am waiting to hear back. Our wish is to maintain it as a green block and not develop villas. If his block is shadowed for the majority of the year, it will impact these plans of a community garden greatly.</p> <p>I also would like to see computer generated shadowing images of exactly how a 6 story building will impact his block.</p>	<p>The subject site is currently zoned Industrial with a commercial land use.</p> <p>Whilst the support for the redevelopment on the subject site is noted, any development will need to be in accordance with the local planning framework, including provisions relating to building height and overshadowing.</p> <p>Notwithstanding, the item relates to an amendment to LPS1 only. The concept plans provided are not final and are an example of the development that could occur on the subject site.</p>
Object	Refer Attachment 1 for submission text.	<p>Whilst it is considered that the matters raised have been addressed in the planning report and additional information provided, the follow points are reiterated:</p> <p>The existing development is approved as a 'Shop' use.</p> <p>The intent of the scheme amendment is to facilitate the redevelopment of the subject site, including the retention and upgrading of the existing market. Whilst there is additional NLA contemplated in the concept plan, it relates to the improvement to the existing market as well as additional compatible uses. The markets have operating on the subject site for over 50 years and are considered to be an important community destination. They offer a significantly different retail offering to other shopping centres as identified by the objector.</p>

Object / Support	Comment	Planning Solutions Response
		<p>The planning report provides strong justification in respect to the timing of the amendment before the finalisation of the local planning strategy. It is likely that detailed planning for the area will not be completed for several years, impacting the viability of the project. As detailed within the report, it is considered that the amendment would not jeopardise the future planning intent for the area. The site is at the periphery of the industrial zone, and is adjacent to existing residential uses. Further, the site has strong strategic value in its proximity to Oats Street Station and the city centre.</p> <p>The site was operating for its existing use prior to the current Industry zoning. Whilst the amendment removes the current Industry zoning, it allows the current functions and activities of the site to continue, albeit with additional, compatible uses and activities. Irrespective, the loss of the site as Industrial is not considered to result in any externalities noting that industrial areas of this nature within the Perth metropolitan region are currently diversifying. It is likely that the locality will ultimately transition into light commercial / mixed use, similar to other previous industrial areas like Burswood.</p> <p>If required, a Retail Needs Assessment can be undertaken as part of any future development application on the subject site. A Commercial zone allows for a range of non-retail uses which could be accommodated on the subject site.</p> <p>Whilst the surrounding locality is zoned Industry, it comprises commercial and light industrial uses and activities. The Commercial zone is considered entirely appropriate in that it provides a sufficient buffer and transition between adjacent residential uses and industrial uses. Any future residential uses would have to comply with relevant legislation including the <i>Environmental Protection (Noise) Regulations 1997</i> and would comprise sufficient noise attenuation measures to protect from nearby land uses.</p>
Object	Refer Attachment 1 for submission text.	<p>As detailed above, the proposed amendment is not considered to jeopardise the planning and development of the precinct.</p> <p>The subject site is within several strategic planning document areas, which envision the transition of the locality. Irrespective, the subject site is on the periphery of the industrial area, adjacent to existing residential uses and is considered to act as an appropriate transition and buffer.</p> <p>Further to the above, the subject site comprises existing retail uses. The intent of the amendment is to facilitate</p>

Object / Support	Comment	Planning Solutions Response
		<p>the redevelopment of the site to allow the existing uses and activities to continue to operate, as well as additional compatible uses. The intent is to not create a new neighbourhood centre, rather the continuation of a use which has operated for over 50 years. The market has a different function and community base to traditional neighbourhood centres. This is not intended to change.</p> <p>As noted, it is considered that detailed planning for the locality would not be finalised for several years. This would impact the viability of the project and result in the closure of the markets. In its isolation, the redevelopment of the site has several strong benefits and enjoys the support of the community. Perceived impacts to the broader locality in respect to future planning intent of the area is not sustained and addressed in the planning report.</p> <p>The amendment is not considered to be an encroachment of the industrial area noting the site's current and existing use and function. The amendment will allow the current use and function to continue.</p> <p>A retail assessment will be undertaken as part of any development application for the subject site.</p>
Neutral	Refer Attachment 2 for submission text.	<p>The provision of sensitive land uses in close proximity to existing industrial uses is acknowledged. However, any development is required to comply with the <i>Environmental Protection (Noise) Regulations 1997</i> at all times.</p> <p>Any development on the subject site will require appropriate noise attenuation measures, including the location of dwellings, openings, and materials.</p>

CONCLUSIONS

We thank the Town for the opportunity to provide comment on the submissions received during public advertising, noting the significant support rate of 80% received.

Whilst the matters raised by objectors is acknowledged, it is respectfully noted that the matters have been suitably addressed in the amendment request report, as well as additional information lodged with the Town. This includes the amendments relationship with the strategic framework.

Further consultation will occur as part of the formal Scheme Amendment process, and also in relation to any Development Application that may be lodged. As such, there are several further opportunities for community involvement in the planning for the site, as the matter progresses.

Accordingly, we respectfully request the Town recommend that the amendment be initiated by the Council at its meeting 3 May 2022.

Should you have any queries or require further clarification in regard to the proposal, please do not hesitate to contact the writer.

Yours faithfully,



BEN DOYLE
DIRECTOR

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Additional Public Submissions (1)

Submission 38

Background

It is proposed to rezone Lots 20 and 21 (176-178) Swansea Street, East Victoria Park from Industrial 1 to Commercial (R-AC3). The intent is to facilitate the development of the site for Mixed Use purposes.

A Concept Plan was prepared to support the proposal. The proposal foreshadows a commercial / retail tenancy of 2,300m² of floor space. This is an increase from the current 1,600m² of floor space occupied by the existing Market.

The Applicant suggests that the Scheme Amendment should be considered a 'standard amendment'. It is considered that should Council proceed with the Scheme Amendment it must be considered a 'complex amendment'.

The proposal is considered a 'complex amendment' in accordance with the Clause 34 of the *Planning and Development (Local Planning Schemes) Regulations 2015*. This is because the Scheme Amendment is contained within the following categories:

- (a) *an amendment that is not consistent with a local planning strategy for the scheme that has been endorsed by the Commission;*
- (b) *an amendment that is not addressed by any local planning strategy;*
- (c) *an amendment relating to development that is of a scale, or will have an impact, that is significant relative to development in the locality;*

In respect to the above, we are not aware of an existing endorsed Local Planning Strategy and the proposal is not consistent with the draft LPS as the Scheme Amendment site is designated for Industrial purposes.

Further to the above, and for reasons set out later in this advice, the proposal will have a significant impact on the land currently contained within the Industry 1 zone.

Current Zoning

The subject site is currently zoned Urban under the Metropolitan Region Scheme (MRS) and Industrial 1 under Local Planning Scheme No.1 (LPS1). Furthermore, the proposal is contained within P9 Welshpool Precinct.

The Applicant advises in respect to the current Swansea Street Markets located on the site that:

It is an existing, approved retail land use consistent with current zoning under LPS1.

It is unclear from the Scheme Amendment document as to whether the Swansea Street Markets operates as a Market or Shop use. This is noting that a Market is an 'X' use, a use that it not permitted in the Industrial 1 zone. Whilst a Shop is an approvable use, an 'AA' use, this is considered to be an anomaly in the context of a contemporary town planning scheme for an industry zone.

Draft Activity Centres Strategy 2017

Under the draft Activity Centres Strategy (draft ACS) the Scheme Amendment site is contained within the Oats Street Station Activation Area.

The recommended strategies for the Oats Street Station Activation Area are as follows:

- *Include within the Local Planning Scheme, the land currently zoned Industrial within the Oats Street Station precinct south of the railway line, as Residential/Commercial.*
- *Commence negotiations with the Department of Planning regarding the future rezoning of land within the precinct between the boundary of the City of Canning and Cohn Street from General Industry to Urban under the MRS.*
- *Review the residential coding of land within the precinct with a view to introducing R30/60 with the higher code being subject to the achievement of design criteria and provision of ground floor mixed use.*

The draft ACS further concluded that:

The modelled retail floorspace potential for 2031 is shown as approximately 2,100m² which represents a small neighbourhood centre". This remains the case.

We note in reaching its conclusions the draft ACS would not have considered the Woolworths Shopping Centre proposal at 355 to 357 Shepperton Road, East Victoria Park which is within 155 metres of the Scheme Amendment site. The Woolworths proposal included the following commercial and retail floor space:

- Supermarket – 3,400m²
- BWS – 200m²
- WoW Office – 200m²
- Level 1 Commercial – 1,860m²
- Speciality and Kiosk – 1,150m²

Given the scale of the Woolworths development, and 2,300m² of floorspace proposed by the Scheme Amendment, it is queried whether there is an oversupply of retail / commercial floorspace.

The Woolworths development and the Scheme Amendment could produce two Supermarkets within 155m of each other. This is also in addition to the ALDI at 1009 Albany Highway which is approximately 280m from the Scheme Amendment Site.

Draft Local Planning Strategy

The draft Local Planning Strategy (LPS) was considered by the Town at the Ordinary Council Meeting of 15 March 2022.

The draft LPS identifies the subject site as being contained within Neighbourhood 10 - Oats Street. In terms of the future use of the land, the draft LPS comments as follows:

*The Town's draft Activity Centres Strategy notes the **potential for intensification and the possibility of rezoning the Industrial zone land (west of the Perth-Armadale railway) for mixed-use (residential and commercial land uses)**. At present, the State government's METRONET level crossing project is investigating road and rail options, including the removal and provision of a new station and identification of land redevelopment opportunities around the station.*

Bold underline is for emphasis.

The draft LPS further identifies four actions for the Oat Street Precinct. Two of the actions relevant to the proposal are provided below.

- OS.1 *Designate the Oats Street Neighbourhood as a Precinct Planning Area. **Investigate the long-term future of Industrial land (west of the railway) and opportunities for higher density mixed use development (residential and commercial). Prepare a precinct structure plan (or other suitable planning instrument) to guide future updates to the local planning framework.***
- OS.3 ***Following preparation of a Precinct Structure Plan (or other suitable planning instrument), determine whether Oat Street Station should be classified as an activity centre in accordance with State Planning Policy 4.2. Activity Centres.***
- OS.4 ***Transition the current Town Planning Scheme No.1 zones and densities to the new Local Planning Scheme No.2 until further updates are recommended via Action OS.1.***

Bold above is for emphasis.

In respect to the above, it is noted that the draft LPS requires further investigation of the long-term future of industrial land west of the railway (which includes the Scheme Amendment site). Moreover, that precinct structure planning is required to guide future planning and the current Town Planning Scheme No.1 zones should remain until further investigations are completed. The Scheme Amendment proposal seeks to pre-empt these outcomes.

Central Sub-Regional Planning Framework

The Central Sub-Regional Planning Framework (the Framework) applies to the Scheme Amendment site. In terms of industrial land the Framework advises as follows:

*As residential and commercial development has expanded and intensified and market forces and changes to products and production processes have arisen, these industrial areas have come under increasing pressure. **It is important that the existing industrial areas within the Central sub-region continue to operate effectively and allow for adaptive land use as informed by the market without the threat of encroachment or replacement by sensitive land uses such as residential or retail.***

*In the Central sub-region, **the conflict between competing uses, such as residential and commercial, is placing pressure on the stock of industrial land that, without intervention, may be dramatically reduced.***

Bold is for emphasis.

The Scheme Amendment does not contemplate the loss of industrial land that would result from

the Scheme Amendment. The loss of industrial land requires consideration in the context of the draft LPS recommendation that the long-term future of industrial land (west of the railway) be investigated. Further, industrial land within the Central Sub-Region is a significant generator of employment. Rezoning the land for residential purposes would reduce the opportunity for local employment.

Draft State Planning Policy 4.2 Activity Centres

Recognising that SPP4.2 has recently undergone a detailed review with a draft version of the policy, this submission considers the provisions of draft SPP4.2. Draft SPP4.2 was considered at the meeting of the WAPC on 23 March 2022. It is noted that the Scheme Amendment proposal does not consider draft SPP4.2.

The provisions of draft SPP4.2 seek to ensure planning and development adequately considers the distribution, function, and broad land use considerations for activity centres.

Clause 7.8 of draft SPP4.2 may require the preparation of a Needs Assessment for both a local planning scheme amendment and Precinct Structure Plan. A Needs Assessment provides an information base to support decision making by including an assessment of project land use needs of the community. It would be considered that a Needs Assessment would be required as part of future consideration of the long-term future of the industrial area west of the railway as foreshadowed in the draft LPS i.e. as part of a Precinct Plan or broader rezoning proposal.

Further to the above, action OS.3 for the Oats Street Precinct of the draft LPS outlines it is yet to be determine whether Oats Street Station should be classified as an activity centre in accordance with State Planning Policy 4.2. Activity Centres.

Having regard to the above, it is considered appropriate at this juncture to consider the proposal as out of centre development under the draft SPP4.2.

A key policy outcome of draft SPP4.2 includes discouraging out of centre development that undermines the hierarchy of activity centres. It further stipulates that out of centre development should minimise negative impacts to activity centres, be supported by public transport and minimise the need for individual private vehicle trips. One of the policy outcomes under draft SPP4.2 is as follows:

The primacy of activity centres is reinforced, and out-of-centre development that undermines the hierarchy of activity centres is discouraged.

A retail development exceeding 500m², which the Scheme Amendment proposes, requires the preparation of an Impact Assessment. An Impact Assessment is required to demonstrate the proposal will:

- *not unreasonably impact upon existing, committed and planned public and private investment*
- *not unreasonably impact the activity centre hierarchy or their existing or planned activity centre functions and*
- *deliver net community benefits and not reduce the level of service to the community.*

Where out of centre development is considered necessary in accordance with draft SPP4.2:

... it should be located to support the success of activity centres, minimise negative impacts to activity centres, be supported by public transport and minimise the need for individual private vehicle trips.

It is noted that an Impact Test was not prepared to support the Scheme Amendment. Given the above, an Impact Test should be required noting the increase in commercial / retail floor space to that which already exists on site.

Draft SPP4.2 Implementation Guidelines outlines requirements for Supermarkets at Clause 4.7.

The Applicant in its submission considers potential for conflict between industrial and sensitive land uses in accordance with draft State Planning Policy 4.1 – Industrial Interface (draft SPP4.1) and concludes that the proposal is consistent with the objective of the policy.

The objectives of draft SPP4.1 are as follows:

- (a) ***protect existing and proposed industry, and infrastructure facilities from encroachment by incompatible land uses that would adversely affect efficient operations;***
- (b) ***avoid land use conflict between existing and proposed industry / infrastructure facilities and sensitive land uses; and***
- (c) ***promote compatible land uses in areas impacted by existing and proposed industry and infrastructure facilities.***

The Scheme Amendment proposal could not be reasonably construed as protecting existing industry from encroachment of incompatible land uses or avoiding conflict between industry and sensitive land uses as it introduces a high density residential development into an existing industry zone.

The residential land use has significant potential to fetter existing industry uses and rezoning the site to allow for residential development cannot be construed as avoiding land use conflict. Whilst there are residential uses adjoining the Industrial 1 zone the density applied to this area is R40, whereas the density proposed via the Scheme Amendment is RAC3 which is significantly higher and introduces 165 apartments into the Industry 1 zone.

In terms of the matters raised above, further investigation of the long-term use of the land in a wholistic manner, with consideration of appropriate management of industrial interface issues is considered the most appropriate and orderly planning process. In the absence of a broader consideration of the future of surrounding land the Scheme Amendment is considered a piecemeal approach to orderly planning and a spot rezoning.

Concomitant with the above, whilst the Applicant considers the implications of State Planning Policy 5.4 Road and Rail Noise (SPP5.4) the assessment of the implications of noise from existing industrial development along with potential noise impacts from road and rail requires further consideration in a cumulative manner rather than deferring assessment to the Development Approval stage. A detailed review of the potential noise implications for the subject site is required to determine if the land is indeed suitable for residential development.

Summary and Conclusion

Having regard to the above, the Scheme Amendment is objected to on the following grounds:

- The proposed rezoning is a spot rezoning.
- The draft LPS foreshadows the investigation of the long-term future of land west of the railway line through a Precinct Structure Plan or suitable planning mechanism. The Scheme Amendment seeks to subvert the planning process foreshadowed in the draft LPS and thus should not be supported. Any rezoning of the industrial land west of the railway line should be considered in a wholistic manner and planned appropriately through a Precinct Structure Plan or the like.
- Scheme Amendment would unduly fetter ongoing use and development of the Industry 1 zone contrary to SPP4.1 and the EPA Guidance. This is contrary to orderly and proper planning especially having regard to the introduction of a significant residential population.
- The Scheme Amendment proposes an expansion of commercial / retail floor space to 2,300m² without any limitation. Commercial / retail floorspace should be considered via future planning processes outlined within the draft LPS.

- For the reasons set out within this advice, the proposal should be considered at this juncture as an Out of Centre development and an Impact Assessment be prepared. In the absence of an Impact Assessment floorspace should be limited to the current 1,600m² on site.
- Whilst the proposal contemplates a Mixed Use outcome a Commercial zoning is proposed. It is unclear as to why the Commercial / Residential zone is not sought given the proposed land use outcome.
- Having regard to the matters raised above, the proposal is contrary to orderly and proper planning.

Submission 39

We have reviewed the proposed amendment including the Applicant's report and are concerned that the proposal is inconsistent with the existing and contemplated local and regional planning framework. The proposed amendment has the potential to jeopardise the planning and development of the Oats Street activity centre, as well as disrupting the established activity centre hierarchy.

It is respectfully requested that the Town recommend Council do not progress this amendment proposal and proceed with the orderly and proper planning of the activity centre precinct as planned.

Proposed Scheme Amendment – Our Review

It is understood the proposed amendment can be summarised as follows:

- The scheme amendment proposes to rezone a 9,474m² site from 'Industrial 1' to 'Commercial' with a density code of R-AC3. No further restrictions (built form, land use or floorspace) are proposed to be included in the scheme amendment.
- A high-level concept plan is provided with the scheme amendment, however, has no statutory weight following determination of the amendment.
 - The concept plan shows three six-storey mixed use buildings, containing predominantly residential apartments with ground level commercial uses in the form a supermarket.
 - The concept plan shows the supermarket tenancy expanding from the existing 1,600m² to 2,300m² of retail floorspace.

Matters for Consideration and Requested Actions

Following an assessment of the proposed amendment against the applicable and seriously entertained planning framework, the proposed amendment should not be progressed for the reasons outlined below.

Due Planning Process and Precinct Planning

The subject site is identified as being within an 'activity centre' by Perth and Peel @ 3.5 million. Notwithstanding this activity centre extends over the full industrial area which the subject site is a part of and an extensive area surrounding the Oats Street Train Station. Perth and Peel @ 3.5 million is a regional level planning document, intended to guide the preparation of precinct level planning documents for a thirty year period. This document identifies that the activity centre surrounding Oats Street Train Station needs to go through a detailed planning process and does not necessarily designate the subject site as 'commercial'. Based on the above it is inappropriate to justify a spot rezoning on an area yet to go through the required precinct planning process due to a designation in a regional level, 30+ year land use document.

The proposed amendment is entirely inconsistent with the land use designation under the draft Local Planning Strategy (draft LPS), considered to be a seriously entertained and therefore relevant assessment document. The subject site is identified as 'Industrial' pursuant to the draft LPS (Figure 2 of the draft LPS) and is located outside the area around Oats Street Station, identified for future precinct planning. It is noted that the applicant report does not address this.

The subject site is located within Neighbourhood 10 – Oats Street Station of the draft LPS, an area which presents an opportunity for intensification. It notes the potential for the rezoning of the industrial land for mixed use residential and commercial development, however, notes that this requires additional investigation. Following investigation of whether this rezoning would be appropriate, the draft LPS specifies that a Precinct Structure Plan (PSP) or other suitable planning instrument be prepared to guide the future development of the area. The proposed amendment disregards these two important processes and may prejudice the future planning and development of this activity centre. Specifically:

- If, via the detailed planning process, it is determined that some of the industrial land within Neighbourhood 10 is more appropriately retained as industrial land, the proposed amendment may create land use conflict.
- If a neighbourhood centre is modelled to be the appropriate size of activity centre within Neighbourhood 10, the proposed development may fulfill that retail demand, in a location which is not proximal to the train station and may not be the optimal planning outcome for the community. This would jeopardise the planning and development of the Oats Street activity centre.

In regard to the future Oats Street activity centre the draft LSP states: *“determine a suitable classification following precinct structure planning”*. As an activity centre on the subject site is not specifically contemplated in the existing or proposed planning framework, the formalisation of an activity centre in this location must be considered as a new activity centre in the context of the draft LSP. This is addressed further below in relation to State Planning Policy 4.2 – Activity Centres for Perth and Peel (SPP4.2). On this basis, the creation of a new neighbourhood activity centre (as proposed in this scheme amendment) prior to precinct structure planning is not the correct planning process.

The draft LPS provides an extensive list of the strategic matters which need to be considered, worked through and addressed in the future planning of this activity centre and the surrounding area. The proposed amendment will proceed without this vital step in the planning process, potentially jeopardising the future development and operation of the activity centre. These relevant matters outlined in the draft LPS that should be planned and addressed by more detailed precinct planning are summarised as follows:

- Potential relocation of Oats Street Train Station as a part of the METRONET Level Crossing Removal project.
- Appropriate boundaries for the neighbourhood activity centre.
- The merits of retaining industrial land and uses.
- The potential to transition all or part of the industrial zone to mixed commercial and residential land uses.
- The need for a buffer between the residential land uses and the existing industrial land uses.

Land Use Conflict and Encroachment on Industrial Land

The proposed amendment will encroach on the industrial precinct without certainty that the remainder of the precinct will change to a mixed use zone in the future. The 'spot rezoning' nature of the proposed amendment sets a dangerous precedent for the piecemeal removal of important industrial land from this precinct over the coming years, prior to the finalisation of the planning framework. The encroachment on industrial land has the potential to create land use conflict in the future by bringing high intensity, sensitive land uses (residential dwellings) and high traffic generating uses (expanded retail) into an industrial zone. The Applicant states this is not an issue as the surrounding land will not

always be industrial, however, this is not certain. This is inconsistent with the objectives of Draft State Planning Policy 4.1 – Industrial Interface (draft SPP4.1).

Industrial land within inner city locations is required for the operation of the Perth Metropolitan Region. The subject site forms part of a valuable industrial precinct and strategic employment area for the Victoria Park community. Removal of industrial land justified by the demolition of an aging building and replacement with a new development is not valid planning justification or orderly and proper planning. The draft LPS notes the importance of the subject site within the industrial area as an employment area.

Activity Centre Planning

A draft Activity Centre Strategy (draft ACS) was prepared by the Town in 2017. This strategy built upon the earlier Activity Centre Strategy prepared in 2013 following the designation of a future Oats Street district centre under SPP4.2. The 2013 report found that the model results “*show that while being designated as a district centre it will be based on uses other than retailing, predominantly mixed commercial and residential uses. The modelled retail floorspace potential for 2031 is shown as approximately 2,100m² which represents a small neighbourhood centre*”. The 2017 report concluded that this is still relevant.

The 2017 draft ACS designates a ‘Oats Street Station Activation Area’ as opposed to a specific activity centre. This is consistent with the actual activity centre and future retail/commercial node not having been identified as a part of the 2017 draft ACS. Since the draft ACS was prepared, a Woolworths Supermarket has been proposed at the intersection of Shepperton Road, Albany Highway and Welshpool Road, approximately 200 metres from the subject site. The needs analysis for the Oats Street activity centre should be revised in light of this proposal to ensure the activity centre hierarchy is maintained and is sustainable.

The draft ACS does not provide conclusive implementation strategies, needs analysis or spatial specification for the Oats Street activity centre. On this basis, additional needs analysis, retail modelling and precinct planning is required prior to the creation of a retail activity node on the outskirts of the activity centre. The proposed amendment has the potential to fulfil the entire future retail need in the area, in a location which may not be optimal.

SPP4.2 identifies Oats Street as a ‘District Centre’, however, the Town’s strategic planning framework recommends it be considered a neighbourhood centre. This uncertainty requires a more detailed needs assessment, undertaken as a part of and based on a detailed precinct planning process. Without knowing the composition of the activity centre and surrounding, the need for retail and commercial uses within the activity centre cannot be determined.

The Applicant has not assessed the proposed amendment against draft SPP4.2 which is understood to be imminent. This is required prior to any further progression of the proposed amendment.

Due to the uncapped nature of the future activity centre use, development made possible by the proposed amendment may be considered Major Development pursuant to draft SPP4.2. As the Oats Street activity centre is relatively undefined and unplanned, the proposed amendment should be considered as ‘out of centre development’. Draft SPP4.2 requires the following assessments which have not been addressed or included as supporting documentation in the proposed amendment:

- A needs assessment as it may facilitate Major Development on the subject site.
- A needs assessment for the precinct structure plan.
- An impact assessment - at the discretion of the Town / WAPC.

Amendment Classification

The draft LPS has been advertised and sent to the WAPC for assessment and is therefore considered to be a seriously entertained planning document. On this basis in conjunction with the non-compliance identified above, the amendment must be considered a 'Complex' amendment pursuant to the *Planning and Development (Local Planning Scheme) Regulations 2015* (the Regulations). The Applicant's assessment on this matter is incorrect.

Amendment Content

Should the Town and Council elect to progress the proposed amendment, a retail floorspace cap and additional built form controls should be included in the amendment and subsequently within LPS1. The retail floorspace cap should be accompanied by a needs and impact assessment, due to the existing retail development on the subject site not being considered by the local or state planning framework.

The Applicant has provided a concept plan which the majority of their planning justification relies on to address the significant planning and due process non-compliance. This plan is entirely conceptual and holds no statutory planning weight. The landowner (potentially a different landowner in the future) may develop an entirely different proposal on the subject site if the proposed amendment is adopted.

Applicant Justification

The Applicant has provided the following points of justification. We have identified issues with these points, please see below:-

1. *It provides greater certainty around the timeframes for redevelopment which will allow for the retention of the Swansea Street Markets at the current location.*
 - The requirement to develop the subject site with a non-compliant development proposal and land use does not override the objective to plan the precinct in an orderly and proper way, with consideration to land use conflict and the activity centre hierarchy.
2. *The proposal is consistent with the objectives of the draft Local Planning Strategy.*
 - The proposal may be consistent with the objectives, however it is entirely inconsistent with the land use allocation in the draft LPS. This has not been addressed by the Applicant.
 - The draft LPS objectives do not encourage spot rezonings. The draft LPS contains the objective to "ensure an appropriate transition in built form and scale between future higher density development and surrounding lower scale development". As the subject site is identified as 'Industrial' pursuant to the draft LPS, there is no certainty that the proposed amendment will provide for an appropriate transition of built form and land use in the future.
3. *The amendment will not create conflict with surrounding land uses.*
 - This cannot be certain without understanding what the future planning and development of the area will entail. Several external matters will impact the outcomes of the future planning of this precinct. A spot rezoning such as this proposed amendment does not allow for the comprehensive planning and technical review required to ensure no land use conflict will occur.
 - In the current and proposed planning framework, there is no certainty that the industrial land containing and surrounding the subject site will be rezoned in the future.
4. *The amendment will not prejudice the future precinct planning of the Oats Street Station precinct.*
 - As above. Precinct wide planning and external factors need to be considered and will contribute to determining whether the proposed amendment is appropriate or not. At this preliminary stage it is not possible to say if the proposed amendment will prejudice the future planning of the precinct or not. This is primarily in relation to:
 - The activity centre hierarchy and location of retail land uses.

- Land use conflict associated with residential land uses and high traffic generating land uses such as a larger shop, within an industrial area.
- The significant State Government investment in the Metronet Level Crossing Removal Project provides an opportunity for this unplanned and undeveloped activity centre. The proposed amendment has the potential to compromise the success of this activity centre by not allowing for the required planning process.

Summary

Following a review of the proposed scheme amendment, we respectfully request the Town recommend that Council do not progress the amendment. This is based a range of inconsistencies with the existing and proposed local planning framework and the future issues the proposed amendment has the potential to cause.

The proposed amendment is a spot rezoning to create a residential and commercial neighbourhood centre, in a location where it is not provided for within the existing or proposed strategic planning framework. The proposal has the potential to create land use conflict, disrupt the activity centre hierarchy and jeopardise the planning and development of the Oats Street activity centre.

The main issues identified with the proposed amendment are summarised as follows:

- It is not orderly and proper planning and should be postponed until precinct planning for the area has been completed. The justification from the Applicant surrounding the need to remove an aging building and deliver the product to market prior to the due planning processes being undertaken is not appropriate or valid.
- The proposal is inconsistent with the seriously entertained draft LPS. The proposed amendment does not simply allow for a shop development which is already capable of approval on the site. It proposes to establish a neighbourhood centre in an unplanned location, with a significant residential, mixed use component.
- The proposal has not been assessed against draft SPP4.2 (understood to be imminent). Pursuant to draft SPP4.2 a needs assessment and potentially an impact test should be prepared for the precinct prior to any further planning of the activity centre occurring.
- The planning framework is still inconsistent on whether a district or neighbourhood centre is appropriate for Oats Street and the associated position of that centre. The proposed amendment has the potential to prejudice the future planning and delivery of this activity centre.
- The proposed shop-retail floorspace should be capped at the existing levels on site, subject to a Retail Needs Assessment / Impact Test.
- The proposed amendment is most appropriately classified as a 'Complex Amendment' pursuant to the Regulations.
- The proposed spot rezoning will remove valuable industrial land and may create a land use conflict with the surrounding industrial land. Dense residential uses in this location are not appropriate until the future of the surrounding industrial area has been determined and appropriate buffers can be established.
- The Applicant has not appropriately addressed all aspects of the planning framework with notable omissions include the draft LPS map, draft SPP4.2 and a retail or needs assessment.

Attachment 2

Additional Public Submissions (2)