



TOWN OF
VICTORIA PARK

Agenda Briefing Forum

Agenda – 4 June 2019



WE'RE OPEN
VIC PARK

Please be advised that an **Agenda Briefing Forum** will be held at **6:30 pm** on **Tuesday 4 June 2019** in the **Council Chambers**, Administration Centre at 99 Shepperton Road, Victoria Park.

Mr Anthony Vuleta – Chief Executive Officer

30 May 2019

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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 any of the following methods.

1. Deputation

A deputation is a presentation made by a group of between two and five people affected (adversely or favourably) by a matter on the agenda. 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.

2. Presentation

A presentation is a submission made by an individual affected (adversely or favourably) by a matter on the agenda. A [Presentation 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

Acknowledgement of the traditional owners

I acknowledge the traditional custodians of this land on which we are meeting, the Wadjuk people of the Noongar Nation, pay my respects to their past, present and emerging elders and thank them for their continued sharing of knowledge and leadership.

3 Announcements from the Presiding Member

3.1 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.

3.2 Notice of recording

All participation in the meeting will be audio recorded. The audio recording will be archived and placed on the Town's website after the meeting.

3.3 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.

3.4 Public participation time

There are two opportunities to ask questions and make statements at the beginning and at the end of the meeting. Each 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 have been received.

3.5 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'.

4 Attendance

| | |
|---|--|
| Mayor | Mr Trevor Vaughan |
| Banksia Ward | Cr Claire Anderson Cr Julian Jacobs Cr Ronhhda Potter Cr Karen Vernon |
| Jarrah Ward | Cr Jennifer Ammons Noble Cr Bronwyn Ife Cr Brian Oliver Cr Vicki Potter |
| Chief Executive Officer | Mr Anthony Vuleta |
| Chief Operations Officer A/Chief Financial Officer Chief Community Planner | Mr Ben Killigrew Mr Luke Ellis Ms Natalie Martin Goode |
| Manager Development Services Coordinator Governance | Mr Robert Cruickshank Ms Danielle Uniza |
| Secretary | Ms Amy Noon |

4.1 Apologies

4.2 Approved leave of absence

5 Declarations of interest

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

Declaration of financial interests

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. Employees are required to disclose their financial interests where they are required to present verbal or written reports to the Council. Employees can continue to provide advice to the Council in the decision-making process if they have disclosed their interest.

Declaration of proximity interest

Elected members (in accordance with Regulation 11 of the Local Government [Rules of Conduct] Regulations 2007) and employees (in accordance with the Code of Conduct) are to declare an 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 land that adjoins the persons' land.

Land, the proposed 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.

Declaration of interest affecting impartiality

Elected members (in accordance with Regulation 11 of the Local Government [Rules of Conduct] Regulations 2007) and employees (in accordance with the Code of Conduct) are required to declare any interest that may affect their impartiality in considering a matter. This declaration does not restrict any right to participate in or be present during the decision-making process. The Elected Member/employee is also encouraged to disclose the nature of the interest.

6 Public participation time

7 Presentations

If required, presentations will be made at the time that an agenda item is considered.

8 Deputations

If required, deputations will be made at the time that an agenda item is considered.

9 Method of dealing with agenda business

10 Chief Executive Officer reports

10.1 Meeting Procedures Local Law 2019

| | |
|----------------------------|--|
| Location | Town-wide |
| Reporting officer | Liam O'Neill |
| Responsible officer | Danielle Uniza |
| Voting requirement | Absolute majority |
| Attachments | <ol style="list-style-type: none">1. Meeting Procedures Local Law 2019 [10.1.1]2. Meeting Procedures Local Law 2019 - Public Submissions [10.1.2]3. Meeting Procedures Local Law 2019 Final - Tracked Changes [10.1.3] |

Recommendation

That Council makes the *Meeting Procedures Local Law 2019* that repeals the *Standing Orders Local Law 2011* as at attachment 10.1.1.

Purpose and effect

1. The purpose of this local law is to provide rules and a set of procedures to apply to the conduct of meetings of the Council, its committees and to any meeting of electors.
2. The intended effect of this local law is—
 - a. better decision-making by the council and its committees
 - b. the orderly conduct of meetings dealing with council business
 - c. better understanding of the process of conducting meetings
 - d. more efficient and effective use of time at meetings

In brief

- At its meeting on 19 February 2019, Council resolved to give public notice of the proposed *Meeting Procedures Local Law 2019*.
- Two submissions were received from members of the public and a submission from the Department of Local Government, Sport and Cultural Industries.
- Minor amendments have been proposed to the version that was advertised to the public and is recommended for Council adoption.

Background

3. At its meeting on 19 February 2019, Council resolved to give public notice of the proposed *Meeting Procedures Local Law 2019*. This local law repeals and replaces the *Standing Orders Local Law 2011*. The proposed local law was advertised for public comment from 25 March 2019 until 10 May 2019. Two submissions were received from the public during this period and a submission from the Department of Local Government, Sport and Cultural Industries.
4. The meeting procedures local law, as per the report to Council 19 February 2019, is based upon both the WALGA model local law and other changes to improve the conduct of meetings.

Strategic alignment

| Civic Leadership | |
|--|--|
| Strategic outcome | Intended public value outcome or impact |
| CL08 - Visionary civic leadership with sound and accountable governance that reflects objective decision-making. | Revised meeting procedures will ensure smoother Council meetings and better decision making. |
| CL10 - Legislative responsibilities are resourced and managed appropriately, diligently and equitably. | Revised meeting procedures will ensure the appropriate management of Council meetings. |

Engagement

| Internal engagement | |
|-----------------------------|---|
| Stakeholder | Comments |
| Finance and Audit Committee | Provided significant input into the specific amendments made to the local law from the current standing orders and WALGA model. |

| External engagement | |
|-----------------------|--|
| Stakeholders | All residents and ratepayers |
| Period of engagement | 25 March 2019 until 10 May 2019 |
| Level of engagement | 2. Consult |
| Methods of engagement | Your Thoughts and other public submission methods |
| Advertising | Local and State Public Notices in the Southern Gazette and the West Australian |
| Submission summary | Two submissions received. |
| Key findings | Both submissions supported the proposal however, one did express concerns. |

| Other engagement | |
|---|---|
| Stakeholder | Comments |
| Department of Local Government, Sport and Cultural Industries | Provided suggested amendments and comments on the proposed local law. |

Legal compliance

[Section 3.12 of the Local Government Act 1995](#)

Risk management consideration

| Risk and consequence | Consequence rating | Likelihood rating | Overall risk analysis | Mitigation and actions |
|--|--------------------|-------------------|-----------------------|---|
| Compliance Meeting Procedures Local Law is disallowed. | Moderate | Possible | Moderate | Engage closely with Department of Local Government, Sport and Cultural Industries on development of Local Law. Seek independent external legal advice. |

Financial implications

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

Analysis

- Submissions provided by the community in Attachment 10.1.2 did not present any proposed amendments and provided qualified support for the proposal. The submission provided by the Department of Local Government, Sport and Cultural Industries suggested a few amendments to the proposed local law that have been included, along with other minor changes.
- Details of the amendments made can be found in the below table and in the tracked changes version at attachment 10.1.3.

| Section | Amendment | Justification |
|----------|--|--|
| 2 | Added commencement date of 1 August 2019 | Recommended by the Town as it is considered preferable to have a fixed commencement date rather than fourteen days after publication as it makes for a simpler transition between the local laws. |
| 5 | Deletion of definitions of: <ul style="list-style-type: none"> absolute majority employee member | Recommended by the Town as section 6 states that "Unless otherwise defined in this local law, the terms and expressions used in this local law are to have the meaning given to them in the Act and Regulations." as such these definitions are not required as they refer to the definitions in the Act. This is to simplify the local law. |
| 13 | Deleted heading "Division 1 – Presiding Member" | Recommended by the Town as no other division exists in this Part, as such the heading is not required. |
| 22(1)(g) | Added "and receipt of notes from any agenda briefing forum" | This change has been made due to the adoption of Council Policy GOV5 Agenda Briefing Forum, Concept Forum and Workshops. This is to simplify the local law. |
| 31(1) | Delete "31" | Recommended by Department as the words "this clause" are enough. |
| 31(3) | Insert "provided that the presiding member has taken all reasonable steps to have the member of the public phrase the question in a manner that is not offensive or defamatory." | Recommended by the Department based upon decisions of the Joint Standing Committee on Delegated Legislation. This amendment ensures that members of the public have the opportunity to rephrase their question appropriately rather than not ask their question at all. |
| 32(1) | Delete "32" | Recommended by department as the words "this clause" are sufficient. |
| 56 | Insert "unless the meeting resolves, without debate, that the matter before the meeting cannot otherwise be adequately considered." | Recommended by the Department based upon decisions of the Joint Standing Committee on Delegated Legislation. Allows Council members to reflect on previous Council decisions in a debate (that is not already on a revocation or change of decision motion) ensuring a measure of freedom of speech for Councillors. |
| 64 | Delete "is not to be the subject of debate or comment" | Recommended by the Department as it appears to be contrary to the idea of a motion of dissent in the chairs |

| | | |
|-----|---|--|
| | | ruling. |
| All | Replace references to "he or she" and "his or her" with "they" and "their" throughout the local law | Recommended by the Town as the introduction of gender-neutral language into local laws and policies to align with the Town's vision of being a dynamic place for everyone. |

Following Council's resolution, this local law will be published in the Government Gazette by June or early July and take effect on 1 August 2019 operating from the August Ordinary Council meeting.

Relevant documents

Not applicable.

10.2 Information for poll of electors - Town to City

| | |
|----------------------------|-----------------|
| Location | Town-wide |
| Reporting officer | Liam O'Neill |
| Responsible officer | Danielle Uniza |
| Voting requirement | Simple majority |
| Attachments | Nil |

Recommendation

That Council receives the report on the possible costs and benefits associated with a change from Town to City.

Purpose

To provide the additional information requested in relation to the change of designation.

In brief

- At its meeting held 16 April 2019, the Council resolved to hold a poll of electors at the upcoming local government elections, asking if they would support a change of name for the Town.
- Council further requested information regarding the potential costs of a change of designation and any potential benefits of the change.

Background

1. Council, at its meeting on 19 February 2019, resolved to consider the potential of holding a poll of electors at the 2019 local government elections. At its meeting on 16 April 2019, Council agreed to hold the poll, determined the question for that poll and sought a further report for information regarding the potential costs and benefits of a change of designation. Information requested relating to the potential costings for the change of designation are based upon the report provided to Council in [August 2012](#).

Strategic alignment

| Civic Leadership | |
|---|---|
| Strategic outcome | Intended public value outcome or impact |
| CL01 – Everyone receives appropriate information in the most efficient and effective way for them | Providing as much information as possible in relation to a change of designation ensures that electors make an informed decision. |

Engagement

| Internal engagement | |
|-----------------------|-------------------------------|
| Stakeholder | Comments |
| Assets | Provided costings for change. |
| Stakeholder Relations | Provided costings for change. |

| Other engagement | |
|---|--|
| Stakeholder | Comments |
| Western Australian Electoral Commission | Advised of requirements for additional information for the poll. |

Legal compliance

[Section 4.99 of the Local Government Act 1995](#)

Risk management consideration

| Risk and consequence | Consequence rating | Likelihood rating | Overall risk analysis | Mitigation and actions |
|--|--------------------|-------------------|-----------------------|---|
| Reputational Electors feel that not enough information has been provided to make an informed decision on the poll. | Moderate | Possible | Moderate | Ensuring comprehensive information including FAQs is available online for the community. Providing suitable information in background statement and arguments. |

Financial implications

| | |
|-----------------------|---|
| Current budget impact | Sufficient funds exist within the annual budget to address this recommendation. |
| Future budget impact | If Council makes an application to change its designation, there will be an estimated cost of |

Analysis

- In comparison to the report of [August 2012](#), the Town has re-examined those costings set out and identified changes that could be made to rationalise costs. Specifically, the costs identified are those that would be above and beyond normal budget allocations for asset renewal. These costs can also be spread over multiple budgets rather than just one financial year. There is currently signage throughout the Town that has the old logo on it. Other local governments also have a mix of old and new signage, resulting from a change such as designation. It is ultimately up to the Council to decide the pace of replacement through budget allocations. Based upon costing provided to Council in [April 2019](#) further consideration has been undertaken by the Town and revised costing as set out below in comparison to those provided in August 2012.

| Item | Estimated unbudgeted cost 2012 | Estimated unbudgeted cost 2019 | 2019 comment |
|--|--------------------------------|--------------------------------|--|
| Revision of corporate logo and branding guidelines | \$2000 | \$0 | Internally designed. |
| Stationery | \$TBA | \$0 | No figure was supplied in 2012. Stationery budget already allocated to service areas. Internal design team will update logos. |
| Fleet logo change | \$48630 | \$37500 | Figure includes both car decals and number plates, however number plates currently still have previous logo version so replacement would not be a high priority. |
| Street furniture | N/A | \$20000 | No figure was supplied in 2012. Replacement of most prominent street furnishings. |
| Staff uniforms | \$18000 | \$0 | Budgets already allocated annually for those staff with uniform. |
| Corporate signage | \$86410 | \$40000 | \$40,000 would be the estimated initial cost for the replacement of the significant signage at the main entrances. Other signage would be updated as it needs to be replaced. |
| External templates | \$6000 | \$0 | Will be done internally. |
| Library | \$14850 | \$500 | Internal update to all material except for 6 banners at a cost of \$500 |
| Parking meters | N/A | \$4,500 | Not included in 2012 costings. While ticket paper would not be an additional cost to replace as it would be eventually replaced the Town's logo sticker on each parking meter would need to be replaced. |
| Total | \$175,890 | \$102,500 | |

3. Based upon the above table, the estimated additional costs of change beyond what would be included in the normal Town budget is \$102,500 The Town would propose to replace other items containing references to the Town on an as required basis which would steadily convert all outstanding items over an estimated ten-year period.

4. In the below table are some identified benefits and consequences.

| Advantage | Disadvantage |
|--|--|
| <ul style="list-style-type: none"> • Coming of age: Being a City could reflect a coming of age in our history, growth and development journey, and may be seen as more reflective of where we are today. • Close community feeling: Being a close knit community doesn't need to change just because we're a City. • Population: Our current population exceeds the definition of a Town (more than 30,000 residents) and is expected to reach | <ul style="list-style-type: none"> • Unique name: Only eight "Towns" remain in Western Australia. This is considered a unique characteristic of our community. • Close community feeling: Being known as a Town could reflect our close-knit community feeling and image. • Geography: The Town has a small land area geographically in comparison to other cities being only 18km² as compared to Canning at 65km². |

| | |
|---|---|
| <p>110,000 by 2050.</p> <ul style="list-style-type: none"> • Geography: We are a crucial part of the inner city Perth metropolitan area and not a smaller regional community. • Infrastructure: Our infrastructure does not reflect that of a 'Town' with major attractions and facilities such as Optus Stadium, the Crown Casino and Curtin University. • Funding: Local governments that change their name to City have seen a general increase in government grant funding contributions over time. | <ul style="list-style-type: none"> • Well recognised brand: We are well known as the Town of Victoria Park, locally, nationally and globally. • Cost: The change of name will require money to be spent to revise signage and branding. This amount is estimated as \$102,500 which is 0.001% of the Town's Annual Budget. • Funding: The Town has seen no real barrier to receiving government grant contributions on an annual basis to date. |
|---|---|

5. It is to be noted that the above points will be used in creating the yes/no arguments that will be presented as part of the poll.

6. At the April 2019 Ordinary Council meeting, a question was raised around whether changing from a Town to a City would result in receiving more grant funding. In addressing the potential benefits in the recent designation change by the City of Kalamunda, an argument presented was that a City is more likely to obtain a greater amount of grant funding. The below table examines grant funding from the four local governments that most recently changed their designation over a four-year period, being two years prior to change and two years following.

| Name of District | Grant funding | | | | |
|------------------|---------------------|---------------------|---------|---------------------|----------------------|
| | Town/Shire | | | City | |
| Vincent | \$1,208,546 (09-10) | \$1,241,273 (10-11) | (10-11) | \$1,760,026 (11-12) | \$1,567,459 (12-13) |
| Busselton | \$3,028,276 (09-10) | \$3,160,904 (10-11) | (10-11) | \$5,106,374 (11-12) | \$6,403,843 (12-13) |
| Kwinana | \$6,218,161 (09-10) | \$7,183,542 (10-11) | (10-11) | \$8,645,891 (11-12) | \$11,016,458 (12-13) |
| Kalamunda | \$6,868,761 (14-15) | \$4,882,108 (15-16) | (15-16) | \$6,773,668 (16-17) | \$2,683,336 (17-18) |

Relevant documents

Not applicable.

10.3 Strategic Community Plan minor review

| | |
|---|--|
| Location | Town-wide |
| Reporting officer | Joshua Norris |
| Responsible officer | Danielle Uniza |
| Voting requirement | Absolute majority |
| Attachments | <ol style="list-style-type: none">1. Strategic Community Plan Text with Track Changes [10.3.1]2. Public comments [10.3.2]3. Strategic Community Plan Review Survey [10.3.3] |
| Recommendation | |
| That Council endorses the changes proposed to the Strategic Community Plan 2017-2032 resulting from the minor review conducted in accordance with <i>Section 5.56(1) of the Local Government Act 1995</i> . | |

Purpose

To present proposed changes resulting from the minor review of the Strategic Community Plan for consideration by Council.

In brief

- In accordance with *Section 5.56(1) of the Local Government Act 1995*, local governments must undertake a review of their Strategic Community Plan (SCP) every two years, alternating between a minor and major review.
- The Department Local Government Sports and Communities [IPR Framework and Guidelines](#) states that a minor review of the Strategic Community Plan is primarily a desktop exercise and usually focuses on resetting the Corporate Business Plan with consequential amendments to the core informing strategies as required.
- The Town has conducted a minor review of the Strategic Community Plan and has made minor changes.
- A major review of the Strategic Community Plan is due in 2021 with an intention to begin engagement mid-2020.

Background

1. In June 2017 the Town endorsed its Strategic Community Plan 2017-2032 (SCP). The SCP was informed through the Evolve project, which documented the community's priorities, aspirations and vision.
2. All local governments are required to plan for the future of their district under Section 5.56 (1) of the *Local Government Act 1995* (the Act). Regulations under Section 5.56 (2) of the Act outline the minimum requirements to achieve this. The minimum requirement of the plan is the development of a SCP and a Corporate Business Plan (CBP).
3. The [Department of Local Government Sports and Communities \(DLGSC\) Integrated Planning and Reporting Framework and Guidelines](#) state that every two years, local governments are required to undertake a review of the Strategic Community Plan, alternating between a minor and major review. A minor review, according to the Departmental guidelines, is "primarily a desktop exercise and usually

focuses on resetting the Corporate Business Plan.”

4. The Corporate Business Plan is an internal business planning tool that translates council priorities into operations within the resources available. The plan highlights the services, operations, projects and initiatives a local government will deliver within a defined period. It also includes the measures associated with delivering services, operations and projects and the costs associated.
5. The Integrated Planning and Reporting Framework (IPRF), the overarching umbrella which encompasses both the SCP and CBP, is a set of strategic and operational documents that the Town is required by legislation to prepare with the involvement of the community. These documents include:

| Document | Purpose |
|--------------------------|---|
| Strategic Community Plan | The Strategic Community Plan is a strategic document that provides direction for the Town (and the community) over a 10 to 15-year period. The Town’s Strategic Community Plan was last endorsed in June 2017. |
| Corporate Business Plan | The Corporate Business Plan is an operational document that activates the Strategic Community Plan over a four-year period. The Corporate Business Plan was last endorsed in September 2017. This document is currently under review. |
| Long-term Financial Plan | The Long-term Financial Plan is a document that shows how the Town will be able to pay for managing its assets, carrying out capital works, and providing services over a 10-year period. The Long-term Financial Plan was last endorsed in September 2017. In accordance with DLGSC guidelines, the plan should be reviewed annually and through both the minor and major strategic reviews. |
| Asset Management Plan | Asset planning is intended to integrate the expected cost of looking after assets with long term financial planning. The Town’s Asset Management Plan was last endorsed in June 2017. In accordance with DLGSC guidelines, the plan should be reviewed regularly. |
| Workforce Plan | Workforce planning is intended to ensure that the Town employs the right people to deliver the right asset management, service provision and capital works. The Town’s Workforce Plan was last endorsed in June 2017. In accordance with DLGSC guidelines the plan should be reviewed regularly. This document is currently under review. |

Strategic alignment

| Civic Leadership | |
|--|--|
| Strategic outcome | Intended public value outcome or impact |
| CL08 - Visionary civic leadership with sound and accountable governance that reflects objective decision-making. | Ensures legislative compliance, allows the Town to evaluate itself against the priorities set by the community and ensures the guiding document is |

| | |
|--|---------------------------------------|
| | kept up to date and remains relevant. |
|--|---------------------------------------|

Engagement

| Internal engagement | |
|------------------------|--|
| Stakeholder | Comments |
| Elected members | Information was presented at Concept Forum regarding the future approach, generally, to the review of the IPRF framework and minor review of its SCP. Following this, a draft SCP, with the proposed minor amendments, were made available to elected members to seek their proposed changes. All changes from elected members have been incorporated into the amended SCP proposed for endorsement. |
| Town employees | A total of six responses were received from staff. Most respondents felt that the SCP and its outcomes were still relevant and that it did guide and affect their daily operations. Some respondents felt that some of the outcomes were too broad, with some areas underrepresented and open to interpretation and felt that that they could do with some better definition. |
| Stakeholder Engagement | The content and wording of the SCP has been reviewed by the Stakeholder Engagement team. |

| External engagement | |
|-----------------------|---|
| Stakeholders | Evolve participants |
| Period of engagement | Two weeks, 1 April – 16 April |
| Level of engagement | 2. Consult |
| Methods of engagement | YourThoughts survey |
| Advertising | Targeted email to Evolve participants |
| Submission summary | 11 submissions, 10 submissions stated the Strategic Outcomes were still relevant. 1 stated too broad. |
| Key findings | Majority of participants stated that the Strategic Outcomes were still relevant. When asked how we were tracking towards each outcome, the majority of participants stated that they 'see some evidence' (Possible choices were see no evidence, see little evidence, see some evidence and good amount of evidence). |

| Other engagement | |
|---|---|
| Stakeholder | Comments |
| Integrated Planning and Reporting Forum | The Integrated Planning and Reporting Forum was a forum for local governments to discuss and share ideas/information on their IPRF processes. While there was a strong focus on smaller local governments who were struggling with resources, it was still a valuable forum; having confirmed the areas in which our IPRF documents were lacking and the areas in which they were strong. In terms of the engagement process most other local governments followed for a minor review, a desktop review was the common course of action, with no public or staff engagement. Some local governments were heavily dependent on a community perception survey to obtain an idea of how they were performing against their |

| | |
|---|--|
| | strategic outcomes. |
| WA Local Government Association (WALGA) | <p>WALGA outlined that there is no legislative requirement to engage or undertake anything more than a desktop review for a minor review of any document within the Integrated Planning and Reporting Framework.</p> <p>WALGA did not provide advice on the document itself and referred the Town to Department of Local Government, Sport and Communities (DLGSC) guidelines.</p> |

Legal compliance

[Section 5.56\(1\) of the Local Government Act 1995](#)

[Local Government \(Administration\) Regulations 1996 REG 19C](#)

Risk management consideration

| Risk and consequence | Consequence rating | Likelihood rating | Overall risk analysis | Mitigation and actions |
|--|--------------------|-------------------|-----------------------|--|
| <p>Reputational</p> <p>Negative public perception towards the Town may result if the review does not result in major changes.</p> | Minor | Likely | Moderate | Education on the purpose of a minor review. Focus on engaging community mid-2020 for major changes. |
| <p>Legislative</p> <p>The Town will not be able to meet the requirement of completing a minor review by July 2019.</p> | Minor | Moderate | Low | If documents not endorsed, notify DLGSC and request extension. By seeking Council endorsement of the minor changes, this risk will be mitigated. |

Financial implications

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

Analysis

- In conducting the minor review of the SCP, the Town sought advice from various industry bodies, and conducted a comparative review on the approaches taken by other local governments in conducting a minor review of their SCP. The most common approach taken by other local governments was to adhere to the requirements as set by the DLGSC guidelines which entails a desktop review for the purpose of updating content and references. Similar advice in pursuing this type of approach was received from WALGA.

7. To take a more balanced approach in its review, the Town opted to conduct not only a minor desktop review, but has also sought to engage internally with staff and elected members, conduct a survey which was sent to Evolve participants, conduct research on the best practice approaches to a SCP, and then a further desktop review.
8. Engagement began internally with staff to seek thoughts on the current Strategic Community Plan. All respondents felt that the outcomes were still relevant and that they did guide and affect daily operations. There was sentiment that some outcomes were too broad and open to interpretation and should be defined further. Following this, external engagement was undertaken by targeting those who participated in the original Evolve process. Respondents stated that the outcomes were still relevant and there was enough evidence that the Town was progressing most outcomes. The questions asked in the survey are available in attachment 10.3.3 Strategic Community Plan Review Survey. Lastly, the Town sought further feedback from elected members on the process undertaken for the SCP review, and its general approach for the review of the IPRF suite, at a Concept Forum before circulating draft amendments to the SCP to elected members for comment and to seek further proposed changes.
9. Alongside the consultative approach to the minor review, the Town conducted further research by reviewing strategic plans of other local governments in WA, interstate and internationally to determine common themes, and to identify any opportunities for improvement that may be made to the Town's SCP. The recurring themes that came of this research were that most other SCPs included '*strategic initiatives*' to support each '*strategic outcome*' and measurements that indicate the progress of each outcome. It is intended that these elements be included in the CBP as part its '*resetting*', which the next iteration of the Town's Strategic Community Plan, as part of the major review beginning mid-2020.
10. After conducting all the different types of engagement, a desktop review of the content within the Strategic Community Plan was then undertaken, giving consideration to all the feedback received from staff, elected members and the Evolve participants. Resulting from the review, minor changes have been proposed were made which centred around language corrections and updates to referenced strategies, plans and legislation. The intent of the document remains unchanged.
11. The most substantial changes made to the document are on page 45. The section explaining the Corporate Business Plan was added as there are references to the plan on page 8 and page 48 but with no explanation on its purpose or relation to the Strategic Community Plan.
12. The Corporate Business Plan outlines how the Town will progress the outcomes set within the Strategic Community Plan and contains the initiatives that will be undertaken as well as a set of measurements for the Town to report against.
13. The addition of impact measures allows the Town to better measure impact and progress for each pillar of the mission on a broader scale. Organisations such as the WA Council of Social Service (WACOSS) have investigated and implemented similar impact measures for outcome areas to measure progress.
14. The main changes to the Strategic Community Plan as a result of the minor review are tabled below.

| Page | Page section | Change made |
|--------|---|--------------------------------------|
| Page 3 | Acknowledgement and thanks | Wording and grammatical changes |
| Page 4 | Everything you need to know about this plan | Wording and grammatical changes |
| Page 6 | Mayor's message | Update to include reference to minor |

| | | |
|--------------|--|---|
| | | review. This will be completed before the final document is distributed but it is not included in the attachment. |
| Page 7 | Introduction | Wording and grammatical changes |
| Page 8 | The purpose of the Strategic Community Plan | Wording and grammatical changes |
| Page 11 | Getting ready for 40,000 new residents by 2050 | Wording and grammatical changes |
| Page 12 | Part 1 - Context | Wording and grammatical changes |
| Page 13 | A little bit about the Town | Corrections and wording changes |
| Page 15 | A snapshot of the Town of Victoria Park | Updated population figure |
| Page 16 & 17 | State and Regional Context | Updated to reflect changed plans and legislation |
| Page 23 | Community engagement | New section added for the minor review |
| Page 26 | Level of service expectations | Updated Service Area names |
| Page 32 | Glossary | Wording and grammatical changes |
| Page 33 | Our values | Wording and grammatical changes |
| Page 34 & 35 | Our vision for the future | Wording and grammatical changes |
| Page 36 | Our mission | Wording and grammatical changes |
| Page 37 | Social | Wording and grammatical changes |
| Page 42 & 43 | Civic Leadership | Wording and grammatical changes |
| Page 44 | Our way of achieving the strategic outcomes | Wording and grammatical changes |
| Page 45 | Implementation | Added section explaining the role of the Corporate Business Plan and Impact Measures |
| Page 46 | Resourcing implications | Wording and grammatical changes |
| Page 48 | Workforce requirements | Occupied FTE figure updated and updated wording |
| Page 50 | Role of our community | Wording and grammatical changes |

15. Feedback from Elected Members on the direction and approach to the review was sought through the Concept Forum and the Town's engagement platform.
16. The approach taken for reviewing the Strategic Community Plan was presented to elected members through a Concept Forum. Elected Members then had the opportunity to review the recommended changes via a tracked change document and provide feedback. All feedback received has been incorporated into the review and is visible in the tracked change document.
17. The Strategic Community Plan will be rebranded by the Communications and Engagement service area, bringing it in line with the Town's recent brand refresh.
18. As stated in DLGSC guidelines 'assuming there are no major changes proposed, community engagement is discretionary'. As the Town had significant community input during the last major review and no major changes were made during this review process, the need to engage was limited.
19. The next steps for the Town's IPRF are to undertake a review of the Corporate Business Plan by December 2019, followed by the commencement of a major review of the Strategic Community Plan through a robust community engagement process, much like Evolve; starting mid-2020.

Relevant documents

[DLGSC IPR Framework and Guidelines](#)

10.4 WALGA 2019 Annual General Meeting - Appointment of Delegates

| | |
|----------------------------|-----------------|
| Location | Town-wide |
| Reporting officer | Amy Noon |
| Responsible officer | Danielle Uniza |
| Voting requirement | Simple majority |
| Attachments | Nil |

Recommendation

That Council nominates:

1. Two voting delegates for the 2019 Annual General Meeting of the WA Local Government Association to be held on Wednesday 7 August 2019 at the Perth Convention and Exhibition Centre.
2. Two proxy voting delegates for the 2019 Annual General Meeting of the WA Local Government Association to be held on Wednesday 7 August 2019 at the Perth Convention and Exhibition Centre, in the event that Council's appointed representatives are unable to attend.

Purpose

All member Councils are entitled to be represented by two voting delegates and two proxy voting delegates at the Annual General Meeting of the WA Local Government Association (WALGA). To participate in voting on matters at the 2019 meeting, each member Council must register its voting delegates by Friday 5 July 2019.

In brief

- The 2019 WALGA Annual General Meeting is being held on Wednesday 7 August 2019.
- The Town must nominate two voting delegates by Friday 5 July 2019 to be able to participate in voting on matters.

Background

1. WALGA is the peak industry body for local government in Western Australia and advocates on behalf of 138 local governments.
2. 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.
3. This year, the WALGA Annual General Meeting is being held on Wednesday 7 August 2019.
4. The Chief Executive Officer has received communication from WALGA requesting the Town to submit its voting delegates by Friday 5 July 2019.
5. At its Special Council Meeting held on 23 October 2017, Council appointed Cr Bronwyn Ife and Cr Brian Oliver to represent the Town on the WALGA South Eastern Metropolitan Zone. Cr Karen Vernon was appointed as first alternative member and Cr Ronhhda Potter as second alternative member. Cr Brian Oliver also represents the WALGA South Eastern Metropolitan Zone on the State Council of WALGA.

6. In 2018, at the recommendation of the Finance and Audit Committee, Council appointed Mayor Trevor Vaughan and Deputy Mayor Vicki Potter as the voting delegates. Cr Bronwyn Ife and Cr Brian Oliver were appointed as proxy voting delegates.

Strategic alignment

| Civic Leadership | |
|--|---|
| Strategic outcome | Intended public value outcome or impact |
| CL10 - Legislative responsibilities are resourced and managed appropriately, diligently and equitably. | <p>Voting delegates are required to be registered, as per WALGA's constitution.</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

Voting delegates are required to be registered, as per WALGA's constitution.

Risk management consideration

| Risk and consequence | Consequence rating | Likelihood rating | Overall risk analysis | Mitigation and actions |
|--|--------------------|-------------------|-----------------------|----------------------------------|
| <p>Compliance</p> <p>If the Town does not submit its voting members, it will not be able to vote on the matters being considered.</p> | Insignificant | Likely | Low | Council appoints voting members. |

Financial implications

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

Analysis

7. 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](#)

11 Chief Community Planner reports

11.1 Policy 211 'Parklets and Alfresclets'

| | |
|--|--|
| Location | Town-wide |
| Reporting officer | Jess Gannaway |
| Responsible officer | David Doy |
| Voting requirement | Simple Majority |
| Attachments | 11.1.1 Policy 211 - Parkletss and Alfresclet Policy: Submissions Table 11.1.2 Policy 211 - Parklets and Alfresclets 11.1.3 Policy 211 – Parklets and Alfresclets Policy Guidelines |
| Recommendation | |
| That Council adopts Policy 211 – Parklets and Alfresclets as included in Attachment 11.1.2 | |

Purpose

To present Policy 221 – Parklets and Alfresclets for final adoption by Council.

In brief

- On 11 December 2018, Council endorsed the draft Parklet and Alfresclet Policy and Guidelines for public consultation.
- Public consultation was conducted from 8 April 2019 to 6 May 2019 with seven submissions received.
- Five submissions were in support of the draft Parklet and Alfresclet Policy and Guidelines, one submission was in support but with some concerns and one submission did not state a position.
- Council is now presented with the final Parklet and Alfresclet Policy and Guidelines for adoption.

Background

1. In 2014, as part of a Council initiative to create a vibrant and strong main street, the Town instigated the Albany Highway Activation! (AHA!) Project. As part of the AHA! Program, the Town funded and installed five parklets along Albany Highway.
2. A parklet is a micro public open space created by placing a temporary structure in one or two parking bays. They are an extension of the footpath that provide seating, shade and amenity for the community's enjoyment.
3. A parklet can also be used as an 'alfresclet'. An alfresclet is generally the same as a parklet but can be

formalised as an alfresco area for the use of the adjacent business, while also being available to the general public. With appropriate liquor licencing and management, an alfresclet can potentially include the service of alcohol.

4. There are several local governments in Perth that have constructed and encouraged the installation of parklets and alfresclets. They have become popular installations within communities, as they create a vibrant and inviting street scene.
5. Currently, three of the five parklets installed by Council in 2014 remain, and at present there is no guiding policy or application pathway for business or community-led parklets (hosted parklets). The Town has received requests from local businesses for approval to install a parklet adjacent to their business. Following these requests, it was determined that a clear and transparent process was required.
6. A draft Parklet and Alfresclet Policy and Guidelines were prepared and endorsed by Council for advertising at its Ordinary Council Meeting on 11 December 2018. The draft Parklet and Alfresclet Policy and Guidelines outline location criteria, design guidelines, technical guidelines, roles and responsibilities and the approvals process.
7. As outlined in the 11 December 2018 OCM report, the proposed fee structure for a parklet or alfresclet is as follows:
 - (a) Application fee: \$295
 - (b) Annual permit fee: it is proposed that the fee be waived for a 24-month period post adoption of the policy to promote the use of parklets and alfresclets, with a fee to be established post this period.
 - (c) Permits will be granted for a 24-month period with opportunity to renew after that period.

Strategic alignment

| Economic | |
|--|--|
| Strategic outcome | Intended public value outcome or impact |
| EC01 - A desirable place for commerce and tourism that supports equity, diverse local employment and entrepreneurship. | <p>The proposed Parklet and Alfresclet Policy and Guidelines give local businesses a level of certainty and transparency, ensuring that investment in and working with the Town is easy and upfront.</p> <p>Parklets and alfresclets will add to the sense of place on Albany Highway, enhancing it as a destination.</p> <p>Transparency in the decision-making process supports the equity of the Towns dealings with local businesses.</p> <p>The proposed Parklet and Alfresclet Policy and Guidelines provide a means for business owners to grow their business.</p> |
| EC02 - A clean, safe and accessible place to visit. | <p>The proposed Parklet and Alfresclet Policy and Guidelines ensure that parklets and alfresclets are accessible.</p> <p>The proposed Parklet and Alfresclet Policy and</p> |

| | |
|--|---|
| | <p>Guidelines increase the amount of usable space for pedestrians and visitors through the creation of micro public spaces.</p> <p>The proposed Parklet and Alfresclet Policy and Guidelines outline the roles and responsibilities of the business owner in maintaining the parklet.</p> |
|--|---|

Engagement

| Internal engagement | |
|--------------------------------|---|
| Economic Development Committee | Provided input and feedback on the draft Parklet and Alfresclet Policy and Guidelines |
| Street Improvement | Co-authored the technical requirements and assisted in the document review post consultation. |
| Street Operations | Provided feedback on the draft document and general technical assistance throughout the document development. |
| Compliance | |
| Finance | |
| Parking | |
| Building | |
| Strategic Projects | |
| Waste Services | |
| Urban Planning | |
| Environmental Health | |

| External engagement | |
|-----------------------|--|
| Stakeholders | Ratepayers, residents, business owners, visitors |
| Period of engagement | 4 weeks from 8 April 2019 to 6 May 2019 |
| Level of engagement | 2. Consult |
| Methods of engagement | Written submissions, Your Thoughts Online Portal - Ask a question, Submission form |
| Advertising | <ul style="list-style-type: none"> • Your Thoughts page • Your Thoughts newsletter – 26 May 2019 • Business e-news email • Core flute signage placed in existing parklets • Public noticeboard notice (library and administration) • Social media: Facebook – April 12 2019, May 3 2019 • Social media: Twitter – April 12 2019, May 2 2019 • Social media: LinkedIn - April 12 2019 • Social media: Instagram - April 12 2019 • Posters at administration office, leisure centres, library • Postcards handed out where possible • Hardcopy draft policy available at administration and library building |
| Submission summary | 7 submissions received, 1 stating no position, 1 in support with some concerns, 5 in support. |
| Key findings | <ul style="list-style-type: none"> • General feedback was supportive. • Some modifications are appropriate to address concerns |

with safety and visibility.

- Some concern over parklets occupying car bays.

Final communication (following Council determination)

| | |
|-----------------------|---|
| Stakeholders | Ratepayers, residents, business owners, visitors, internal staff |
| Period of engagement | 2 weeks following Council determination |
| Level of engagement | Inform |
| Methods of engagement | <ul style="list-style-type: none"> • Social media • Business in the Park e-newsletter • Email to all community members who made submissions • One-on-one conversations with interested businesses |

Legal compliance

[Section 2.7 \(2b\) of the Local Government Act 1995](#)

[Activities and Trading Thoroughfares Public Places Local Law 2000 Amended](#)

Risk management consideration

| Risk and consequence | Consequence rating | Likelihood rating | Overall risk analysis | Mitigation and actions |
|--|--------------------|-------------------|-----------------------|---|
| Property Parklets or alfresclets result in damage to Town assets such as footpaths. | Minor | Unlikely | Low (4) | Technical guidelines provided to avoid imposition on Town assets. |
| Compliance Parklets or alfresclets may not be compliant with the requirements of the proposed policy document | Moderate | Unlikely | Moderate (6) | The approvals process will be utilised to ensure compliance. |
| Environment High uptake of Parklet and Alfresclet applications may result in a reduction of parking and therefore accessibility to the places by car. | Minor | Unlikely | Low (4) | The Town will monitor the number of Parklet and Alfresclets approved and any impact on the occupancy rates of the immediate parking supply. |

Financial implications

| | |
|-----------------------|---|
| Current budget impact | Sufficient funds exist within the annual budget to address this recommendation. |
|-----------------------|---|

Application fee

The proposed application fee for the assessment of the parklet or alfresclet is \$295.00 which has been included in the 2019/2020 fees and charges document for approval. This fee amount is modelled on the fee currently charged for a planning application for a 'change of use'. The assessment of a Parklet would require similar internal resourcing requirements as a 'change of use' application.

The Town has estimated four applications within the 2019/2020 financial year.

Annual permit fee

The proposed permit period for parklets or alfresclets is 24 months, with potential for renewal subject to a renewal application being submitted to the Town. It is proposed that the annual permit fee be waived for the first 24-month period, with the administration committing to revisiting the need for imposing an annual permit fee after this period.

Impact on parking revenue

The income derived from parking ticket machines within the Town varies depending on location and can range anywhere from \$620 and \$2,120 per month. The installation of a parklet or alfresclet will impact upon income derived by the bay used, however the parklet or alfresclet may increase the value of the local area and drive an increase in visitation that has a positive impact on parking revenue. Therefore, the loss or potential increase in parking revenue is difficult to ascertain.

Analysis

8. The formulation of the proposed Parklets and Alfresclets Policy and Guidelines creates a pathway for local businesses and community groups to apply to host and install a parklet or alfresclet. Parklets installed by the Town under the AHA! Project have provided valuable learnings in relation to the appropriate design, materials, construction and installation of parklets which have been captured in the requirements outlined in the proposed Parklets and Alfresclets Policy and Guidelines.
9. By providing clarity and equity in the approvals process, the Town will provide business owners with a level of certainty that will encourage investment and entrepreneurship. The design and technical guidelines will also ensure that parklets and alfresclets that enhance the vitality and attractiveness of the public realm within the Town are capable of approval.
10. The proposed application fee is considered appropriate for the level of assessment being carried out by technical staff within the Town. The proposal for an annual permit fee 'waiver period' of 24 months from policy adoption for parklets will help to encourage businesses to install and host a parklet or alfresclet. After the initial 24-month waiver period, the Town can then revisit the potential need for an annual permit.
11. Following the advertising period, the following changes were made to the document to address any concerns and outstanding issues.

| | |
|---------------------------|---|
| Policy structure update | Following the adoption of Policy 001 – Policy Management and Development at the Ordinary Council Meeting dated 21 May 2019, the draft policy was updated to reflect the new style and formatting. |
| Minor grammar corrections | The document has been proof read and some minor grammatical errors have been corrected as a result. |

| | |
|---|--|
| Image changes and referencing | Two images have been replaced to provide more local examples of parklets. All images have been appropriately referenced. |
| Technical guidelines – requirements for wheel stops | <p>Following a real-life application of the technical guidelines it was found that the requirement to provide wheel stops one and a half metres from the outer edge of the parklet was overly onerous. This requirement has been replaced with the following text to still capture the overall intent of protecting the parklet from cars in adjacent parking bays:</p> <p><i>"Appropriate barriers between any car parking areas and the parklet are to be provided. This can include things such as wheel stops, large planter boxes or bollards."</i></p> |
| Technical guidelines – Traffic Management Plan | <p>Following a real-life application of the technical guidelines and feedback received during the advertising period it was found that more information was needed around the requirement for a traffic management plan. The following additional text has been added:</p> <p><i>"The traffic management plan should detail any traffic management required as part of the construction of the parklet."</i></p> |
| Technical guidelines - Permeability | <p>An additional requirement has been added to ensure that the parklet is visually permeable.</p> <p><i>"The parklet should be visually permeable above 1m to allow for visibility of shop fronts and ensure the safety of vehicle and pedestrian movements"</i></p> |
| Site plan | The site plan has been updated to reflect the above changes to the wheel stop requirements. |
| Sources of further information | <p>In section one of the document, contact details have been provided for the Department of Racing, Gaming and Liquor.</p> <p>In section eight of the document details on where to find information about the application fee have been provided. This section will direct readers to the website where up to date fee information will be placed.</p> |

Relevant documents

Not applicable.

11.2 Adoption of Revised Local Planning Policy 2 'Home Occupation'

| | |
|----------------------------|---|
| Location | Town-wide |
| Reporting officer | Leigh Parker |
| Responsible officer | Robert Cruickshank |
| Voting requirement | Simple majority |
| Attachments | 1. Draft LPP 2 - Home Occupation - Attachment for June ABF - 22 May 2019 [11.2.1] |

Recommendation

That Council adopt revised Local Planning Policy 2 'Home Occupation', as modified and contained in Attachment 1.

Purpose

For Council to adopt the revised local planning policy following community consultation and further changes made in light of the change to the definition of "Home Occupation" required as part of Amendment No. 80 to Town Planning Scheme No. 1 (TPS1).

In brief

- Council's Urban Planning Business Unit are currently undertaking a comprehensive review of all 37 Local Planning Policies (LPPs). The local planning policies are being progressively amended, adopted and/or revoked following their review and public advertising of any recommended changes.
- Existing LPP 2 has been revised to provide clearer policy objectives, clarify the circumstances where development approval is required, and better outline the range of matters to be considered by Council when assessing home occupation proposals.
- The revised policy has been advertised for public comment with one submission of support raising concerns being received.
- Further changes have been made to the revised policy in light of the instruction from the Minister for Planning, Lands and Heritage to amend the definition of Home Occupation as part of Amendment No. 80 to TPS1, which was gazetted on 18 April 2019.
- The change in definition results in some home occupation activities having to be considered as Unlisted Uses, notwithstanding that they may still comply with the provisions contained in the revised policy. This requires Council to determine such proposals following a more extensive and lengthy community consultation period, than would be required for proposals that strictly accord with the new definition for Home Occupation. It should be noted that this change in definition was not supported by Council but was required to be made by the Minister.
- Further changes have been made to reflect the change in procedures required to consider such proposals, without substantially altering the intent and content of the main policy provisions, which are considered sound, and were the subject of community consultation.

- It is recommended that the Revised LPP 2 be adopted by Council as further modified and contained in Attachment 1.

Background

1. LPP 2 'Home Occupation' formerly comprised Policy 3.4 under the TPS1 Policy Manual. Amendment 69 to TPS1, which was gazetted on 2 December 2016, removed this and all other policies contained in the Policy Manual from TPS1.
2. At the Ordinary Council Meeting on 9 February 2016, Council resolved to adopt the planning policies contained within the former TPS1 Policy Manual, those adopted as Local Planning Policies prepared under the R-Codes, and those adopted as Administrative Policies (otherwise known as PLNG Policies) as Local Planning Policies, including LPP 2, the subject of this report.
3. The review of LPP 2 is detailed in the minutes of the Ordinary Council Meeting held on 9 October 2018, where consent to publicly advertise the recommended changes to LPP 2 was granted by Council.
4. Council considered the outcomes of the community consultation and decided to defer its consideration of the draft revised policy at its Ordinary Meeting held on 16 April 2019. This was to provide the opportunity to make further changes in light of the instruction from the Minister for Planning, Lands and Heritage to amend the definition for Home Occupation as part of Amendment No. 80 to TPS1.

Strategic alignment

| Civic Leadership | |
|--|--|
| Strategic outcome | Intended public value outcome or impact |
| CL02 - A community that is authentically engaged and informed in a timely manner. | Community consultation and public advertising occurring in accordance with State legislative requirements and LPP 37 'Community Consultation on Planning Proposals.' |
| CL10 - Legislative responsibilities are resourced and managed appropriately, diligently and equitably. | The review of the Town's LPPs to ensure they remain relevant, effective and consistent with current legislative requirements and State Planning Polices. |

| Economic | |
|--|---|
| Strategic outcome | Intended public value outcome or impact |
| EC01 - A desirable place for commerce and tourism that supports equity, diverse local employment and entrepreneurship. | The development of LPPs that facilitate local employment and other economic outcomes while balancing amenity impacts and land use compatibility issues with surrounding residential uses. |

| Environment | |
|---|---|
| Strategic outcome | Intended public value outcome or impact |
| EN01 - Land use planning that puts people first in urban design, allows for different housing options for people with different housing need and enhances the Town's character. | The development of LPPs that facilitate diverse housing and employment outcomes while minimising the potential for adverse amenity impacts. |

Engagement

| External engagement | |
|-----------------------|---|
| Stakeholders | Residents, property owners, general community |
| Period of engagement | 21 days (15 January to 5 February 2019) |
| Level of engagement | 2. Consult |
| Methods of engagement | <ul style="list-style-type: none"> Hard copy displays at Council's Library and Administration Building. Online consultation and invitations to submit comments via the Town's 'Your Thoughts' consultation hub. |
| Advertising | <ul style="list-style-type: none"> Town's online social media platforms. Publication of a notice in the Southern Gazette on 15 January 2018. |
| Submission summary | <ul style="list-style-type: none"> One supporting submission noting concern. Your Thoughts page activity - 29 page visits by 28 visitors; 16 document downloads. <p>Refer to summary and response to submissions in proceeding table.</p> |
| Key findings | Comments received in submissions are not considered to warrant any further changes to the draft revised local planning policy. |

Draft revised LPP 2 Submissions

Submission 1 – Property owner and resident of Carson Street, East Victoria Park

Position: I **support** the Draft Revised Policy but have some concerns

| Concerns raised | Officer's comments |
|--|--|
| How come construction work can start at 7am but deliveries to a home business have to start at 8? Draft. Change the times to 7am to 6pm. When couriers start working. Who decides the definition of adverse in section 2a? | <p>Not supported. While construction work may start prior to 7am, it occurs for a temporary period rather than indefinitely as is the case for the operations of a home occupation.</p> <p>Council's Urban Planning Unit are required to consider the amenity of the neighbourhood and surrounding properties when considering a development application for a home occupation. This may include consideration of submissions received from surrounding properties where consultation is required or deemed necessary in accordance with Local Planning Policy 37 'Community Consultation on Planning Proposals' as well as drawing on the professional experience and qualifications held by Council Officers, when considering issues of potential adverse impact and neighbourhood amenity.</p> |

Legal compliance

[Planning and Development \(Local Planning Schemes\) Regulations 2015](#)

Policy implications

5. The draft revised LPP provides greater clarity in its objectives, application and applicable requirements, and forms part of a review of all of the Town’s LPPs.

Risk management consideration

| Risk and consequence | Consequence rating | Likelihood rating | Overall risk analysis | Mitigation and actions |
|---|--------------------|-------------------|-----------------------|--|
| Compliance Application of policies which could have a clearer rationale and contain more robust provisions to achieve their intent and objectives. | Moderate | Likely | Low | Adopt revised LPP 2 as modified. |
| Compliance Application of policies that contain superfluous or duplicated provisions which are capable of being consolidated to form shorter, more user-friendly documents. | Moderate | Likely | Low | Adopt revised LPPs 2 and 31 (as modified). |

Financial implications

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

Analysis

6. LPP 2 has been reasonably effective in dealing with Home Occupation proposals to date. The Town has very rarely received complaints or been made aware of issues regarding the effectiveness of the Policy. However, it is considered that revisions should be made to further improve the policy’s effectiveness and ease of use and understanding by members of the public.
7. The revised policy introduces more thorough provisions dealing with customers and car parking which are not addressed by the existing policy. It also formalises a range of matters that are routinely assessed and/or conditioned by Council Officers, including the booking of appointments, the restriction of the development approval to the particular applicant/operator of the activity, advertising signs and deliveries.
8. The changes to the definition of Home Occupation as part of Amendment 80 to TPS1 have resulted in the need for further changes to distinguish between how proposals that do or do not strictly accord with the amended definition of ‘Home Occupation’ will be considered by the Town.
9. The main difference between the existing/previously advertised version of the policy and the new definition of Home Occupation, is in relation to the ability for business activities to employ one other person other than a resident. Existing and revised LPP 2 allow this, while the new definition of Home Occupation does not. The old and new definitions are outlined in the following table.

| Old definition | New definition |
|---|--|
| <i>Home Occupation means the carrying on or any</i> | <i>Home Occupation means a dwelling or land around a dwelling used by an occupier of the dwelling to carry out an occupation if the carrying</i> |

| | |
|---|--|
| <p><i>business conducted in a dwelling or within the boundaries of the lot upon which a dwelling is constructed but does not include the sale or hire of any goods.</i></p> | <p><i>out of the occupation -</i></p> <ul style="list-style-type: none"> <i>(a) does not involve employing a person who is not a member of the occupier's household; and</i> <i>(b) will not cause injury to or adversely affect the amenity of the neighbourhood; and</i> <i>(c) does not occupy an area greater than 20m²; and</i> <i>(d) does not involve the display on the premises of a sign with an area exceeding 0.2m²; and</i> <i>(e) does not involve the retail sale, display or hire of any goods unless the sale, display or hire is done only by means of the Internet; and</i> <i>(f) does not-</i> <ul style="list-style-type: none"> <i>(i) require a greater number of parking spaces than normally required for a single dwelling; or</i> <i>(ii) result in an increase in traffic volume in the neighbourhood; and</i> <i>(g) does not involve the presence, use or calling of a vehicle of more than 4.5 tonnes tare weight; and</i> <i>(h) does not include provision for the fuelling, repair or maintenance of motor vehicles; and</i> <i>(i) does not involve the use of an essential service that is greater than the use normally required in the zone in which the dwelling is located.</i> |
|---|--|

10. Proposals which employ a person other than a resident will therefore need to be treated as Unlisted Uses by Council, with the Council being guided by the policy requirements detailed within the revised policy, which allow a business up to one employee other than a resident to be employed. Revised LPP 2 has been further amended to clarify these circumstances.

Relevant documents

[Existing Local Planning Policy 2 – Home Occupation](#)

11.3 No. 973 (lot 17) Albany Highway, East Victoria Park - Amendment to Development Approval (Extension of Indoor Dining Operating Hours)

| | |
|----------------------------|--|
| Location | East Victoria Park |
| Reporting officer | Alex Thamm |
| Responsible officer | Robert Cruickshank |
| Voting requirement | Simple majority |
| Attachments | <ol style="list-style-type: none"> 1. Attachment 1 - Development Plans - 973 Albany Highway [11.3.1] 2. Attachment 3 - Noise and odour statement - 973 Albany Highway [11.3.2] 3. Attachment 2 - Covering letter - 973 Albany Highway [11.3.3] 4. Attachment 4 - Site aerial - 973 Albany Highway [11.3.4] 5. Attachment 5 - Site photos - 973 Albany Highway [11.3.5] |

| | |
|---|--|
| Landowner | TPG Group Investments Pty Ltd |
| Applicant | Ali Mahmoodi |
| Application date | 12 February 2019 |
| DA/BA or WAPC reference | DA5.2019.71.1 |
| MRS zoning | Urban |
| TPS zoning | Residential/Commercial |
| R-Code density | Residential R80 |
| TPS precinct | P11 - Albany Highway Precinct |
| Use class | Fast Food Outlet |
| Use permissibility | 'P' (permitted) |
| Lot area | 709m ² |
| Right-of-way (ROW) | ROW 74 |
| Municipal heritage inventory | NA |
| Residential character study area/weatherboard precinct | NA |
| Surrounding development | Predominantly commercial and some residential along Albany Highway, with residential dwellings to the southwest. The subject site immediately abuts a mixed-use development to the northwest and a Fast Food Outlet to the southeast. Means of access is gained from Albany Highway, with vehicle egress via Right- of-Way (ROW) 74 at the rear. The ROW at the rear of the site intersects with Patricia Street and Langler Street. A sump is located directly behind the property to the south west, separated by the ROW. |

Recommendation

That Council approves the application submitted by Ali Mahmoodi (DA Ref: 5.2019.71.1) for Amendment to Development Approval (Amended Operating Hours) at 973 Albany Highway, East Victoria Park as indicated on the documents received 12 February 2019, 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. A maximum of 54 square metres is to be used for the exclusive use of sit down dining area in relation to the approved 'Fast Food Outlet' as marked in red on the approved plans.
2. A minimum of six line marked on-site car parking bays being available for use by patrons at all times.

3. The operating hours of the 'Fast Food Outlet' shall not commence prior to 7:00am and shall not exceed 12 o'clock midnight.
4. Screening and fans are to be installed as stated by correspondence provided to the Town dated 10 April 2019 by Regus Legal on behalf of the applicant to effectively mitigate any odour generated from recreational activities associated with the 'Fast Food Outlet'. Screening and fans are to be installed prior to the outdoor dining area resuming operation to the satisfaction of the Town.
5. Noise sources are to be managed as stated by correspondence provided to the Town dated 10 April 2019 by Regus Legal on behalf of the applicant to the satisfaction of the Town.
6. Condition No. 3 of development approval DA Reference No. DA5.2017.1018.1 dated 19 April 2018 being deleted.
7. Remainder of development complying with development application DA Reference No. DA5.2017.1018.1 approved on 19 April 2018, excluding the date of expiry of the approval.

Advice to Applicant:

AN1 Should the applicant be aggrieved by this decision a right of appeal may exist under the provisions of the Town Planning Scheme or Metropolitan Region Scheme and the applicant may apply for review of the determination of Council by the State Administrative Tribunal within 28 days of this decision.

AN2 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.

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

AN4 In regard to Condition 5, ambient noise levels associated with the approved land use, including but not limited to electronic entertainment systems, are to be appropriately managed to reduce impact to adjoining land owners to the satisfaction of the Town.

AN5 Your attention is drawn to the need to comply with the requirements of Part D3 of the Building Code of Australia - Access for People with Disabilities, including parking, sanitary facilities and tactile indicators in accordance with AS 1428.1, AS 1428.4, AS 1428.5 and AS/NZS 2890.6.

AN6 In addition to the disabled access and facility requirements of the Building Code of Australia, it is the responsibility of the building owner/developer to ensure the development complies with the Disability Discrimination Act 1992. Further information may be obtained from the Disability Services Commission.

AN7 Your attention is drawn to the need to comply with the requirements of Clause 107B of the Tobacco Products Control Act 2006, including smoking within designated Outdoor Eating Areas. The allocation of a smoking zone is only possible by licensing the premises under the Liquor Control Act 1988. Failure to do so may lead to investigations by the Town and the Department of Health which may result in fines if evidence of non-compliance is found.

Purpose

The application seeks to amend a previous development approval by deleting Condition 3 of the approval granted by Council at the 2018 April Ordinary Council Meeting (OCM). Condition 3 placed limitations on the operation of the indoor dining area associated with the approved 'Fast Food Outlet' land use. Due to car parking considerations, the proposed indoor dining area was limited to operate until 5pm while the associated outdoor dining area was approved with operating hours of 7am to midnight.

In brief

- The application seeks to amend the current development approval regarding the operating hours of the internal sit-down dining area, currently approved as 7am to 5pm on any day to 7am to midnight on any day.
- The intent is for the indoor dining area to be utilised in conjunction with the outdoor dining and drive through component which are approved to operate from 7am to midnight on any day.
- Community consultation concluded on 13 May 2019. Two submissions were received within the submission period. One submission was received outside the submission period objecting to the proposal. It is considered that the increase in operating hours for the internal sit-down dining area will be appropriately managed and that any amenity impacts associated with the use can be managed through conditions of approval.
- The proposal is recommended for approval subject to conditions and advice notes.

Background

1. The Town approved an application for a change of use to a Fast Food Outlet on 22 December 2016. In view of the car parking shortfall that would have otherwise resulted, Condition 3 of that approval specifically precludes sit down dining at the premises and limits all customers to drive through and walk in take away. Furthermore, the operating hours were limited to 7.00am to 3.00pm seven days a week by way of Condition 2, which reflects the operating hours requested by the applicants of the time.
2. After the submission of a development application requested by the Town in relation to compliance correspondence, a subsequent Development Application sought to amend Condition 2 of the original approval. The application sought to extend the operating times of the 'drive through' component to 7.00am to 8.00pm seven days a week. The application was approved under delegated authority on 1 May 2017.
3. Investigations by the Town identified non-compliance with the conditions of the approval granted on 1 May 2017. A letter was sent to the land owner and business owner on 18 May 2017. Compliance action was taken by the Town requesting the owner to comply with the conditions of approval and cease the unauthorised operation of the business or submit a new application to the Town.
4. The current approval, granted by Council at the 2018 April OCM, conditionally approved a further amendment which included the removal of the previous condition restricting the use of the internal sit down dining area at the subject premises and the modification of the operating times for the drive through component and outdoor dining area to 7am to midnight on any day.

5. However, Condition 3 of this approval limited the operation of the internal sit down dining area to 5pm on any day. This restricted time of operation was considered appropriate due to the nature of the approved land use and the lack of on-site car parking.
6. Additional compliance action was undertaken by the Town in December 2018. The Town identified additional sit down dining was operating at the rear of the property where the approved car parking bays were to be located. The tenants were advised to remove this unauthorised sit down dining area and comply with relevant conditions regarding operating hours and location of approved sit down dining area.

Application summary

7. As a result of correspondence sent to the tenants and after further discussions with Town officers, the applicant has applied to remove Condition 3 of the current approval and in turn remove the restriction placed on the internal sit down dining area to not operate after 5pm.
8. The applicant seeks approval to operate the internal sit down dining area until midnight on any day. This would align the operation of the internal sit down dining area of the approved 'Fast Food Outlet' with the operating hours of the outdoor dining area and drive-through component of the approved land use (7am to midnight on any day).
9. As noted above, written correspondence regarding compliance with previous planning conditions was sent to the tenants associated with the current land use. Additional issues regarding noise and odour were also identified during the town's investigations.
10. These additional issues of noise and odour have been addressed by the applicant through the engagement of an external consultant. The external consultant has put forward a statement pertaining to strategies that will mitigate the noise and odour emitted from the subject site.

Applicants submission

11. A copy of the technical statement, which was provided by Rebus Legal who are assisting the applicant, forms part of this application (see Attachment 3). The statement provides the following mitigating actions to be taken by the applicant to address the odour and noise issues associated with the current use of the outdoor dining area:
 - a. The installation of fans to mitigate the effects of any smoke blowing into neighbouring properties. These fan/s will be positioned at the corner of the frontage of the premises, adjacent to the 'alley way' where presumably exhaled smoke travels toward the rear receptor;
 - b. Fencing/screening to be installed along the north western (side) boundary to prevent the smoke from travelling into neighbouring properties. Screening would include, potentially, a wall of plants, vine/s, creeper or similar that would potentially reach the gutter of the premises or slightly beyond in height.
 - c. Regarding noise from the premises, all sources of noise at the front of the property (television, music speakers) have been removed and will not be replaced by the owner.

Customers will be reminded of their obligations to be respectful to neighbouring properties and keep noise to a minimum at later hours of the evening.

12. The following information was included forming part of the technical statement explaining the nature of odour and smoke emitted from the premises:

"...As per the advice of the consultant, other than fans and screening there are no available means of mitigating the smoke exhaled from the Shisha activities, unless the activity is confined to a room where there is extraction and filtration of the exhaled smoke. The activity is essentially no different than having a smoking area outside of a public venue, albeit having smoke exhaled with a scented flora or otherwise aroma which is easy to observe and assign to the activity. If smoking is a permitted activity at the Shisha venue, then Shisha itself is usually a suitable activity for that venue..."

Relevant planning framework

| | |
|---|--|
| Legislation | Planning and Development (Local Planning Schemes) Regulations 2015 |
| State Government policies, bulletins or guidelines | None |
| Local planning policies | <ul style="list-style-type: none"> Local Planning Policy 3 - 'Non-Residential Uses in or Adjacent to Residential Areas' (LPP3) Local Planning Policy 23 - 'Parking Policy' (LPP23) |
| Other | None |

General matters to be considered

| | |
|---|--|
| TPS precinct plan statements | <p>The following statements of intent contained within the Precinct Plan are relevant to consideration of the application.</p> <ul style="list-style-type: none"> <i>"The Albany Highway Precinct will be revitalised and consolidated as a major urban/shopping commercial axis incorporating the "strip" imagery of its past development along the length of Albany Highway. The precinct has three retail nodes connected by general commercial areas. A wide range of uses serving both the local and regional populations shall be permitted, with emphasis on the consolidations and integration of existing uses."</i> <p>The text associated with the Residential/Commercial zone reads:</p> <ul style="list-style-type: none"> <i>"Careful control will be exercised over the nature of commercial uses and their site layout and design in order to minimise potential conflict with residential uses. In particular a high level of visual amenity, security and privacy is to be ensured while noise disturbance will be minimised."</i> |
| Local planning policy objectives | <p>The following objectives of LPP3 - 'Non-Residential Uses in or Adjacent to Residential Areas' are relevant in determining the application:</p> <ul style="list-style-type: none"> to ensure non-residential uses are compatible with the residential character, scale and amenity of surrounding residential properties. to minimise the impacts of non-residential development through appropriate and sufficient management of car parking and traffic |

| | |
|---|--|
| | <p>generation, noise, visual amenity and any other form of emissions or activities that may be incompatible with surrounding residential uses.</p> <ul style="list-style-type: none"> to avoid the concentration of non-residential uses where it would create a de-facto commercial area, isolate residential properties or contribute to the unplanned expansion of commercial or mixed-use zones into surrounding residential zoned land. <p>The following objectives of Local Planning Policy 23 - 'Parking Policy' are relevant in determining the application.</p> <ul style="list-style-type: none"> To ensure the adequate provision of parking for various services, facilities and residential developments and to efficiently manage parking supply and demand. To ensure that the environmental and amenity objectives of the Town Planning Scheme, as outlined in the Scheme Text, are not prejudiced. |
| Deemed clause 67 of the Planning and Development (Local Planning Schemes) Regulations 2015 | <p>The following are relevant matters to be considered in determining the application.</p> <p>(g) Any local planning policy for the Scheme area (m) The compatibility of the development with its setting (n) The amenity of the locality (y) Any submissions received on the application</p> |
| Urban forest strategy | <p>This application has no implications in regards to the Town's Urban Forest Strategy.</p> |

Compliance assessment

13. 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 Town's 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 | ✓ | |
| Car parking | | ✓ |

14. LPP 23 details car parking requirements for specified uses within the Town. The relevant car parking standard for the proposed use of Fast Food Outlet is one car parking bay for every 4.5m² of sit down dining area, plus one car parking bay for every 4m² of counter/queuing area, other than dining area. The proposed development comprises 54m² of sit down dining area (21m² within the building and 33m² in the outdoor seating area at the front of the property), and 5m² of counter queuing area. This results in a total of 13 car parking bays being required for the development. The application proposes a total of six on-site car parking bays, being a shortfall of seven car parking bays. Relevantly, the current approved use of the outdoor sit down dining area has an approved parking shortfall of 2 bays. The proposed operation of the internal sit down dining area after 5pm will increase the parking shortfall by an additional 5 bays (ie. an 2 bay shortfall to a 7 bay shortfall)

| Element | Requirement | Proposed | Variation |
|-------------|-------------|-----------------|---|
| Car Parking | 13 bays | 6 bays provided | 7 bay shortfall |
| | | | Supported, refer to supporting comments below |

15. The proposed car parking shortfall is supported for the following reasons:

- The approved land use is located along Albany Highway which provides various modes of transportation to access the site. Public bicycle parking is located north west on the corner of Albany Highway and Langer Street (56 metres) while a bus stop is located within 25 metres.
- The availability of on street parking along Albany highway and adjacent side streets
- The scale and nature of the business would not command a relatively larger parking demand compared to surrounding food businesses. As such, the expected traffic generated at the approved 'Fast Food Outlet' is considered acceptable and the impact on existing on-street car parking is considered minor.

Strategic alignment

| Environment | |
|---|--|
| Strategic outcome | Intended public value outcome or impact |
| EN01 - Land use planning that puts people first in urban design, allows for different housing options for people with different housing need and enhances the Town's character. | The proposed amendment will increase the activation along Albany Highway enhancing its image as a vibrant and active commercial strip. The actions put forward by the applicant will appropriately minimise any impact on surrounding properties by way of noise or odour. |

Engagement

| Internal Engagement | |
|----------------------------|--|
| Stakeholder | Comments |
| <i>Building department</i> | <i>No objection, no conditions required</i> |
| <i>Health Department</i> | <i>No objection, standard conditions recommended. Under the Tobacco Products Control Act 2006, Smoking may be permitted in outdoor areas (that is, those areas which are not enclosed public places), including outdoor areas used for dining.</i> |

| External Engagement | |
|----------------------|--|
| Stakeholders | Owners and Occupiers of Surrounding properties |
| Period of engagement | 29 April 2019 – 13 May 2019, 14 day advertising period as per Local Planning Policy 37 'Community Consultation on Planning Proposals'. |
| Level of engagement | 2. Consult |

| | |
|-----------------------|---|
| Methods of engagement | Written Submissions; Your Thoughts |
| Advertising | Letters |
| Submission summary | <p>Submission 1: Supports the activation along Albany Highway. Provides more passive surveillance to the public realm. Note the parking shortfall however also acknowledge the proximity to a bus stop and is within 1km catchment of the Oats Street Train Station. Proposal should not be considered to have overreliance on private vehicles to access the site.</p> <p>Submission 2: Observes a large number of cars already park nearby on Patricia street, particularly in the evenings and weekends.</p> <p>Submission 3 received outside submission period: Operating hours are too noisy for the area, the business will negatively impact on available parking lots.</p> |
| Key findings | <p>Acknowledge the concerns raised during community consultation.</p> <p>While the business may generate a greater number of cars accessing the site, the on-site car parking along with multiple transport options will lessen the burden on public car parking. Additionally, the nature of the business would not generate enough vehicle movement to substantially impact the availability of on-street parking for other patrons or residents when required.</p> <p>The increase in operating hours will most likely increase overall activity until midnight. However, as the main source of activity is located at the front half of the premises it is considered that the impact of noise to the residential dwellings to the south west is minimal.</p> <p>The addition of activity until midnight also generates positive contributions to passive surveillance and enhances the night time economy along Albany Highway leading to an increase in vibrancy along the strip.</p> |

Legal compliance

[Planning and Development \(Local Planning Schemes\) Regulations 2015](#)

Risk management considerations

| Risk and Consequence | Consequence rating | Likelihood rating | Overall risk analysis | Mitigation and Actions |
|--|--------------------|-------------------|-----------------------|--|
| Compliance Non-compliance with the conditions of approval may result in complaints from adjoining property owners. | Moderate | Likely | High | Ensure that appropriate conditions are placed on the approval to ensure mitigation of any amenity impacts to surrounding landowners. |
| Reputation The applicant / owner has a right of review to the State Administrative Tribunal (SAT) in relation to any conditions of approval, or if the application was refused by the Council. | Moderate | Likely | High | Ensure that Council is provided with information to make a sound recommendation based upon relevant planning considerations including the Scheme and applicable Local Planning Policies. |

Financial implications

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

Analysis

16. Council is required to exercise discretion when considering the impact of the proposed extension to operating hours of the approved 'Fast Food Outlet' and the associated traffic generated from such proposal, taking into consideration the amenity impact on surrounding properties.
17. As demonstrated by the assessments above, the proposal does not comply with the Town's LPP23 requirement for minimum car parking bays provided on site. However, it has been acknowledged previously that the car parking ratios applicable within the Town are under review. It is likely that the Town's car parking ratios for new developments will be reduced taking into account such factors as

proximity to public transport, public parking facilities, siting within an Activity Centre, and the inclusion of end-of-trip facilities. Accordingly the sole reliance on private vehicle car parking is reduced.

18. An extension of trading times has the potential to result in increased noise complaints, however as this application relates to the internal sit down dining area, it is not considered that there will be any additional noise impact. As stated by the applicant, in relation to noise resulting from the current approved outdoor dining area actions will be taken to mitigate any ancillary noise generated by patrons. These actions can be enforced through conditions of approval.
19. It is considered that there is no need to restrict the hours of operation for the seating aspect of the business as any potential amenity or noise impacts will be minimal as they will either occur within the building or adjacent to Albany Highway and other commercial properties. The location of activity away from residential land associated with the approved land use is consistent with the objectives of LPP3.
20. Additionally it is noted that Council has generally not restricted the operating times of other businesses along Albany Highway with a sit down dining component.
21. Having regard to the above, it is recommended that the application be conditionally approved.

Relevant documents

None.

11.4 Tree Protection Local Law

| | |
|----------------------------|----------------------|
| Location | Town-wide |
| Reporting officer | Liam O'Neill |
| Responsible officer | Natalie Martin Goode |
| Voting requirement | Simple majority |
| Attachments | Nil |

Recommendation

That Council receives the report on the potential for the development of a tree protection local law and the potential timeline for the development.

Purpose

To respond to the Council resolution regarding whether the Town can make a tree protection local law and the associated timeline for making such a local law.

In brief

- At its Ordinary Council Meeting on 16 May 2019, Council resolved to receive a report to the June 2019 Ordinary Council Meeting regarding if a local law to protect trees on private property could be made and the timeline for making such a local law.
- Council officers used their best endeavours to respond to this request.
- Advice has been sought from WALGA, the Joint Standing Committee on Delegated Legislation, the Department of Local Government, Sports and Cultural Industries and the Town's legal advisers.
- Legal advice has not been received at the time of writing this report.

Background

1. At its meeting on 21 May 2019, Council resolved to request a report on the possibility of creating a local law to protect trees on private property and a timeline for the implementation of that local law.
2. Research indicates that no local law that protect trees on private property is currently in effect in any other local government in Western Australia however, in Queensland and Victoria, local governments make local laws relating to the protection of trees. The Brisbane City Council [Natural Assets Local Law 2003](#) and City of Darebin [Tree Protection Local Law 2019](#) are examples.
3. However in 1998 the Town of Claremont made the Local Law: Tree Preservation which can be found on page 28 of this [Government Gazette](#). This local law was reported on by the Joint Standing Committee on Delegated Legislation in Hansard [here](#). Then it was disallowed by the Legislative Council as set out in Hansard [here](#).
4. The Joint Standing Committee on Delegated Legislation released the following [report](#) in 2003 regarding the powers of local governments to make local laws that effect private property.
5. The *Planning and Development Act 2005*, a local planning scheme and local planning policies are the current legislative framework used by local governments to provide for the protection of trees and other vegetation on private property.
6. Any new local law would be scrutinised by the Joint Standing Committee on Delegated Legislation in

the WA Parliament. The committee examine the proposed law against the criteria set out in its terms of reference which are:

In its consideration of an instrument, the Committee is to inquire whether the instrument –

- (a) is within power;*
- (b) has no unintended effect on any person's existing rights or interests;*
- (c) provides an effective mechanism for the review of administrative decisions; and*
- (d) contains only matter that is appropriate for subsidiary legislation.*

7. The Town has sought advice from the Department of Local Government, Sport and Cultural Industries, the Joint Standing Committee on Delegated Legislation, WALGA and the Town’s legal advisors. The advice received at the time of writing this report is included in the engagement section of this report.

Strategic alignment

| Civic Leadership | |
|--|--|
| Strategic outcome | Intended public value outcome or impact |
| CL08 - Visionary civic leadership with sound and accountable governance that reflects objective decision-making. | Seeking advice prior to making a local law demonstrates sound decision making. |

Engagement

| Internal engagement | |
|---------------------|--|
| Stakeholder | Comments |
| Urban Planning | Urban Planning advice has been sought in relation to the possible approaches under the Town Planning Scheme and those undertaken at other local governments. |

| Other engagement | |
|---|---|
| Stakeholder | Comments |
| Department of Local Government, Sport and Cultural Industries | <p>The Department provided the following general advice in response to the question of “whether a local law can be made for the protection of trees on private land?”:</p> <p><i>“It would be contentious.</i></p> <p><i>The general law-making power is designed for matters of good governance. It is debatable whether this extends to removing the rights of property owners to dispose of trees they own.</i></p> <p><i>Even if the law is valid in a legal sense, the Parliament can still disallow the law if they deem it inappropriate. If the law isn’t disallowed, it could still be challenged in court.</i></p> <p><i>I’m aware that many kinds of local laws apply over private property and restrict the rights of owners to do as they please (e.g. dog local</i></p> |

| | |
|---|---|
| | <p><i>laws, nuisance local laws, health local laws and dust local laws).</i></p> <p><i>However, in those cases the local law is either explicitly allowed by legislation (Dog Act, Health Act) or deals with something that can directly harm other people (e.g. noise and dust pollution).</i></p> <p><i>The Town might want to get independent legal advice on the issue if it wishes to go ahead."</i></p> |
| Joint Standing Committee on Delegated Legislation | <p>A conversation with staff supporting the joint standing committee indicated that no local law of this nature has been previously been made. The Committee does not provide advice on local laws before they are made.</p> |
| Western Australian Local Government Association | <p>In response to the question "whether a local law can be made for the protection of trees on private land?" WALGA provided the following advice:</p> <p><i>"Although I cannot provide a definitive response to your question, WALGA is aware that the Joint Standing Committee on Delegated Legislation has previously reported upon Local Government powers to make local laws under the Local Government Act that affect private property (attached). This Report may still be persuasive in the current Committee's attitude to any local law that relates to trees on private property. A summation of the Committee's view (at 4.17) follows:</i></p> <p><i>The Committee's view, when performing its scrutiny function, is that the power to make a local law under section 3.5(1) of the Act affecting private property is restricted by sections 3.25 and 3.27, and matters listed in Schedules 3.1 and 3.2. That is, a local law made under section 3.5(1) of the Act that attempts to deal with matters concerning private land beyond those provided for in Schedules 3.1 or 3.2 will not be authorised or contemplated by the Act because it is inconsistent with the Act. Such a local law will be void and inoperative to the extent of that inconsistency due to the operation of:</i></p> <ul style="list-style-type: none"> <i>• section 3.7 of the Act; and</i> <i>• section 43(1) of the Interpretation Act 1984."</i> |

Legal compliance

The Town has sought legal advice on this matter but due to the short amount of time between the reporting deadline and the May OCM, this advice has not been received. A significant amount of legislation is otherwise cited in this report.

Risk management consideration

| Risk and consequence | Consequence rating | Likelihood rating | Overall risk analysis | Mitigation and actions |
|---|--------------------|-------------------|-----------------------|---|
| Compliance Tree Protection Local Law is disallowed for not being within power. | Moderate | Likely | High | Engage closely with Department of Local Government, Sport and Cultural Industries on development of Local Law. Seek independent external legal advice. |
| Financial The Town pursues development of a Tree Protection Local Law without being certain of its validity resulting in potential waste of ratepayers money. | Moderate | Likely | High | Seek appropriate legal advice to reduce chance of disallowance and wasted funds. |

Financial implications

| | |
|-----------------------|--|
| Current budget impact | Sufficient funds exist to address this recommendation. |
| Future budget impact | Should Council resolve to proceed with the further development of this local law, Council would need to consider an increased allocation for legal expenses in the 2019/2020 budget. Should this local law be made, funds would also have to be allocated to provide for its enforcement. |

Analysis

- In making a tree protection local law, the tests set out in the Joint Standing Committee on Delegated Legislation terms of reference are those that the Council would need to be able to meet in order to ensure the local law remains enforceable and not be disallowed.

Test one - Is the instrument within power?

- The first test is 'is the instrument within power?' This test comprises three parts, was the local law validly made from a process perspective and did the local government have the power to make a local law of this nature and is the local law inconsistent with other State legislation.
- The first check is a matter of ensuring that the Town strictly adheres to the process set out in section 3.12 of the *Local Government Act 1995*.

11. The second check of within power is if the local government has the power to make a local law on this matter in the first place. The first head of power to make a local law is contained in section 3.5 of the *Local Government Act 1995* which states:

"A local government may make local laws under this Act prescribing all matters that are required or permitted to be prescribed by a local law, or are necessary or convenient to be so prescribed, for it to perform any of its functions under this Act."

12. This statement must be additionally considered in relating to sections 1.3(3) and 3.1 of the *Local Government Act 1995*:

"1.3 Content and intent

(3) In carrying out its functions a local government is to use its best endeavours to meet the needs of current and future generations through an integration of environmental protection, social advancement and economic prosperity.

3.1 General Function

(1) The general function of a local government is to provide for the good government of persons in its district.

(2) The scope of the general function of a local government is to be construed in the context of its other functions under this Act or any other written law and any constraints imposed by this Act or any other written law on the performance of its functions.

(3) A liberal approach is to be taken to the construction of the scope of the general function of a local government."

13. The reading of these three sections has been commented on by the Joint Standing Committee on Delegated Legislation. A summary of their view is to say that a local government may make local laws for the good government of persons in its district, even though the issue may generally fall into the function of the State. In its [2012 report](#) on the City of Fremantle Plastic Bag Reduction Local Law, the Joint Standing Committee on Delegated Legislation provided the following opinion on the power of a local government to make local laws:

"2.16 The Committee is of the view that, with the exception of clause 6 [of the City of Fremantle Plastic Bag Reduction Local Law 2012] (a range of views as to whether it is within power are set out below), the Local Law is within power of the Act for the following reasons.

- The Act describes the functions and powers of a local government in sections 3.1 and 3.5(1) in an extremely broad manner and in the widest possible terms.
- It is the clear intention of Parliament that a liberal approach should be taken to the construction of the scope of these functions by virtue of section 3.1(3) of the Act.
- The subject matter, purpose and scope of the Local Law comes within the ambit of the powers conferred on local governments under the Act. The reference to "environmental

protection" in section 1.3(3) of the Act is an important factor in this regard.

14. In the debate in the Legislative Council in 1998 the following comments of note were made:

In introducing the report of the Committee into the Council:

"The purpose of the local law is to preserve trees within the Town of Claremont and prescribe the manner in which ratepayers may make application to remove a tree from their private property. This matter had been handled by way of a policy document but because of pressures within the community, it was felt that a policy document was not sufficient to ensure tree preservation and that a local law was needed. The Town of Claremont went to considerable lengths to hold discussions within the community and with ratepayers prior to introducing this local law. The committee had absolutely no problems with the intent of the local law, and some people expressed the view that it is a very good move to ensure trees are preserved within municipalities. However, having looked at the way in which the local law was drafted and presented, the committee had considerable concerns about the way things were done under the local law which is currently in operation."

and on the commencement of the debate on the disallowance motion:

"It is the view of the committee that this local law offends against two areas which are the concern of the committee under its terms of reference; namely, that the regulation unduly trespasses on established rights, freedoms or liberties and unduly makes rights dependent upon administrative as distinct from judicial decisions."

15. As set out in WALGA's advice, the Committee has previously produced [a report](#) in 2003 regarding the rights of a local government to take actions on private land, relating to local laws and rights of entry. The Committee's report in this case is the most significant matter for consideration on this matter. The findings of the committee in this report are as follows:

"7.1 The Committee has concluded that:

- the local law-making power provided by section 3.5(1) of the Act is constrained by sections 3.25 and 3.27; and accordingly
- where a local government relies on section 3.5(1) for making a local law in relation to entry onto private land, the local government:
 - is restricted to the matters specified in Schedules 3.1 and 3.2; and
 - must comply with the procedures for entering private land set out in Part 3, Division 3, Subdivision 3 of the Act.
- any local law made under the Act inconsistent with the above is not authorised or contemplated by the Act"

16. Sections [3.25](#) and [3.27](#) in addition to [Schedule 3.1](#) and [Schedule 3.2](#) of the *Local Government Act 1995*

consider the directions that the Town may give to an owner to correct something on their property and the matters for which we may enter onto private property under the Act to correct. As is stated in the committees report the restrictions of these sections only apply to “making a local law in relation to entry onto private land”.

17. The third and final check of within power is if it is inconsistent with State legislation. The power of a local government to make local laws is additionally supplemented by section 3.2 of the Act which set out below allows for the local government to carry out a function that may be a function of the State:

“3.2 Relationship to State Government

The scope of the general function of a local government in relation to its district is not limited by reason only that the Government of the State performs or may perform functions of a like nature.”

18. In order to establish if a local law of this nature would be inconsistent with state legislation, it is necessary to establish if state legislation already exists on this matter. The legislation that would provide for such information could include the *Planning and Development Act 2005*, the *Building Act 2011* and the *Environmental Protection Act 1986*.
19. The *Planning and Development Act 2005* and its subsidiary legislation allow for a local government to prescribe in its Local Planning Scheme and local planning policies for the protection of trees on private property. The Council has recently resolved to advertise a new planning policy regarding trees in order to have consideration given to trees in development applications. Sections 123 and 129 of the *Planning and Development Act 2005* provide that any local laws made by a local government must be consistent with the region planning scheme and any interim development orders for that area.
20. The Town’s current Town Planning Scheme does not provide for any form of tree protection. If it were to adopt the new planning policy for trees, the current Town Planning Scheme only states that local planning policies be taken into consideration in responding to a development application. Planning policies however are not as binding as a form of written law but can only form a consideration in determining if to approve or not approve a development application. The Town may consider making amendments to the Town Planning Scheme No.1 in order to provide for some measures to protect trees.
21. The power of a local government to make local laws under the *Building Act 2011* does not extend to matters relating to trees based upon the definitions of building work, demolition work and incidental structures contained in section 3 of the *Building Act 2011*.
22. A local government does not have express power to make local laws under the *Environmental Protection Act 1986*. If a decision was made to proceed with the development of this local law, legal advice would need to be sought to ensure that the local law is not inconsistent with that Act.

Test two - are there any unintended effects on any person's existing rights or interests?

23. This test examines if the local law has any unintended effects on the rights of a person (including both natural persons and body corporates). This is measured in three ways, firstly the wording of the legislation, secondly if this form of local law was ever intended to be made and then finally if this local law would diminish the rights of a person under the common law.

24. In relation to the first measurement, this is one that can only be measured once a local law has been drafted.
25. The second measurement is if this was a form of local law that could ever have been intended for a local government to make. This is similar to that which has been discussed in relation to test one and is later discussed in relation to test four.
26. The third measurement is if this form of local law would affect a person's rights under the common law. The common law is the term for the rights of a person that have been established through decisions of the judiciary. Property rights under the common law are significant. In its [interim report number 127](#), the Australian Law Reform Commission examined property rights under the common law. Among their conclusions are that "The common law has long regarded a person's property rights as fundamental." and "that regulation of native vegetation clearing on private property can result in a loss of value for the landholder.". The report of the Joint Standing Committee on Delegated Legislation in the report previously discussed regarding rights of entry also discusses common law rights to property.

Test three - provides an effective mechanism for the review of administrative decisions?

27. This test relates to if there is a mechanism for appeal/review of decision making. This is resolved by ensuring that the local law contains a provision for review of decision making under Part 9 – Division 1 of the *Local Government Act 1995*.

Test four - contains only matter that is appropriate for subsidiary legislation?

28. This final test is whether the regulation of trees on private property is an issue for a local government or the State Parliament. State Parliament will decide whether in making the local law, the Town is exceeding its role as a local government.

Potential court challenge

29. Should the Parliament not disallow the local law, there is then the possibility that this local law could be annulled by a court following a court challenge. The reason for such annulment would depend upon the nature of what challenge is made in court.

Other considerations

30. A significant question raised in considering this issue is how such a local law would work. At this time without having received legal advice, the method of how such a local law would function it is suggested that this would be on a permit for pruning or removal basis as is employed in other states. The issuing of such permits would be on a quasi-judicial basis that must be based upon the facts of each application. The decision to issue that permit would then be subject to review by the State Administrative Tribunal. Persons who without a permit destroy or prune a tree would then be subject prosecution and the potential for a modified penalty through an infringement notice.
31. However, consideration would need to be given to the extent of the regulation given by this law. For example, if a property owner or occupier fails to appropriately water the trees on their property and that tree dies, would they be prosecuted for destroying a tree. Additionally, the role that a landlord would play compared to a tenant, in responsibility for the maintenance of trees on private property, would need to be considered. Consideration would also need to be given to accidental damage to

trees or storm damage that a person could have reasonably prevented with appropriate preparation.

32. The Town would also have to consider how to enforce this local law. The Town currently employs one planning compliance officer. Currently compliance staff investigate matters in response to formal complaints received.

Timeline for creation of this local law

33. The development of a timeline for this local law is set out in [departmental guideline number 16](#).

34. Should Council resolve to proceed to develop this local law, the proposed timeline for its creation is as follows:

| Action | Date |
|--|---------------------------------------|
| Council resolution to commence development | June OCM |
| Draft version presented to concept forum | August OCM |
| OCM report to Council to publicly advertise local law | November OCM |
| Public consultation period | End of November 2019 to February 2020 |
| Council resolves to make local law effective from 1 January 2021 | March 2020 OCM |

35. It would further be proposed that such a local law should have a period of time following its passage to allow for it to be subject to disallowance and properly inquired into by the Parliament before it commences. Likewise, this period would allow the Town time to prepare to enforce any such local law.

Recommendation

36. The information provided in this report is general advice that has been ascertained by reading the reports of the Joint Standing Committee on Delegated Legislation and by considering advice given by WALGA and the Department of Local Government, Sport and Cultural Industries. No definitive yes or no answer can be provided as no attempt has previously been made to make a local law of this nature. It is encouraged that further legal advice be sought.

37. The purpose of this report is to provide information to Council, to inform whether the Town should or should not seek to legislate to protect trees on private property. The Council is recommended to give consideration to this report and make a resolution as to if it should proceed to develop a tree protection local law.

Relevant documents

[Urban Forest Strategy](#)

12 Chief Operations Officer reports

12.1 Review of Strategic Waste Management Plan

| | |
|----------------------------|--|
| Location | Town-wide |
| Reporting officer | Jonathan Horne |
| Responsible officer | John Wong |
| Voting requirement | Simple majority |
| Attachments | 12.1.1 1. Strategic Waste Management Plan Final (draft amendment May 2019) [12.1.1] |

Recommendation

That Council endorses the attached Strategic Waste Management Plan 2018-2023 (SWMP) which has been revised by adding a Strategic Waste Statement (SWS) to the executive summary of the SWMP.

Purpose

The recommendation is made in response to a Council resolution dated 11 September 2018 and the subsequent CEO Key Performance Indicator requirement to provide a waste strategy to guide the implementation of the adopted Strategic Waste Management Plan.

In brief

Following a Council resolution dated 11 September 2018 and the subsequent establishment of a goal in the CEO's key performance Indicator (KPI) requesting such, a Waste Strategy has been developed in the form of a Strategic Waste Statement (SWS) and incorporated into the Town's current Strategic Waste Management Plan to provide overarching strategic direction and guidance for the implementation of the Strategic Waste Management Plan (SWMP).

1. In September 2018, Council endorsed the SWMP, but also required "preparation of a Waste Strategy to guide the implementation of the SWMP". Link to the Council report item is provided as follows [https://www.victoriapark.wa.gov.au/About-Council/Council-meetings/Minutes-Agendas?dlv_OC%20CL%20Public%20Meetings=\(keyword=waste\)\(dd_OC%20Year=2018\)](https://www.victoriapark.wa.gov.au/About-Council/Council-meetings/Minutes-Agendas?dlv_OC%20CL%20Public%20Meetings=(keyword=waste)(dd_OC%20Year=2018))
2. Adoption of a suitable waste strategy has been based around the need to set strategic direction for the Town in its waste management activities. In liaison with the Town's waste management consultant on the content of the strategy, it is considered that this direction may be incorporated as a SWS into the SWMP as amendments within the Executive Summary, and then be referenced to specific actions to guide implementation of that plan.

3. At the same time as reviewing the need for inclusion of a SWS, the current SWMP was also assessed against new information – including
 - (a) the recently released State Waste Strategy 2030,
 - (b) future functions of the Mindarie Regional Council,
 - (c) future functions of the Neerabup Resource Recovery Facility and
 - (d) recent research into the collection and processing of Food Organics and Garden organics (FOGO).

However, as the SWMP had already anticipated these new developments, no material changes are required within the SWMP.

4. The options of either having the Waste Strategy provided as separate document or incorporated into the SWMP was evaluated by officers and Elected Members’ feedback in this regard was also sought through the Elected Members Hub.

Strategic alignment

| Environment | |
|---|--|
| Strategic outcome | Intended public value outcome or impact |
| EM04 – A clean place where everyone knows the value of waste, water and energy. | To incorporate a Strategic Waste Statement into current waste management plans to provide a strategic direction and guidance for implementing the SWMP which will deliver a clean and healthy environment for the benefit of the community |

| Civic Leadership | |
|---|--|
| Strategic outcome | Intended public value outcome or impact |
| CL01 – Everyone receives appropriate information in the most efficient and effective way for them | To ensure that updated information is provided and made available to the community |

| Economic | |
|---|---|
| Strategic outcome | Intended public value outcome or impact |
| EC02 - A clean, safe and accessible place to visit. | Sustainable waste and recycling management is crucial for maintaining a clean and healthy environment for the community |

Engagement

| Internal engagement | |
|--|--|
| Stakeholder | Comments |
| Technical Services | Review and liaison with external consultant on content of Strategic Waste Statement. |
| Elected member portal | Listed for review and comment by elected members. All respondents indicated their preference to include the SWS in the SWMP instead of preparing a separate waste strategy document. |
| Mindarie Regional Council Councillor representing the Town | Face to face meetings and communications via emails. Many strategic waste issues were discussed and it was understood by officers that the SWS needs to reflect a high level waste strategy to guide the implementation of the SWMP. The Councillor also |

mentioned the importance of seeking comments from all other Elected Members prior to finalising the Waste Strategy.

Legal compliance

Not applicable.

Risk management consideration

| Risk and consequence | Consequence rating | Likelihood rating | Overall risk analysis | Mitigation and actions |
|---|--------------------|-------------------|-----------------------|--|
| Reputational SWMP not aligned with current practices of the industry resulting in community disengagement and loss of ownership | Moderate | Likely | High | Success of the SWMP relies largely on having updated and meaningful information within the document. The review of the entire SWMP and the addition of the strategic waste statement to the executive summary was intended to provide high level clarity of the objectives of the Town and to better guide the implementation of the SWMP actions with consideration of the rapid changes experienced in the waste and recycling industry. |

Financial implications

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

Analysis

- Attachment 1 details the proposed amendments to the SWMP based on incorporating a SWS into that plan. In line with the responses received through the Elected Members Hub, this is considered to be preferable to the creation of a separate overall strategy statement in order to avoid cross referencing and any inconsistencies between the two documents.
- Upon endorsement of the revised SWMP, infographic materials containing the Strategic Waste Statement will be prepared and promoted to the public through the Town's website and social media platforms.

Relevant documents

[https://www.victoriapark.wa.gov.au/About-Council/Council-meetings/Minutes-Agendas?dlv_OC%20CL%20Public%20Meetings=\(keyword=waste\)\(dd_OC%20Year=2018\)](https://www.victoriapark.wa.gov.au/About-Council/Council-meetings/Minutes-Agendas?dlv_OC%20CL%20Public%20Meetings=(keyword=waste)(dd_OC%20Year=2018))

12.2 John Macmillan Precinct Project Business Case

| | |
|----------------------------|--|
| Location | East Victoria Park |
| Reporting officer | Jack Bidwell |
| Responsible officer | Ben Killigrew |
| Voting requirement | Simple majority |
| Attachments | 1. Project Business Case - John Macmillan Precinct [12.2.1] |

Recommendation

That Council:

1. Receives the John Macmillan Precinct Project Business Case.
2. Endorse the preparation of a Precinct Masterplan as per option 1 of the John Macmillan Precinct Project Business Case.

Purpose

To present for Council's consideration and determination, options regarding the future planning and development of the John Macmillan Precinct. This project has been identified as a Council priority requiring further planning to inform the Long Term Financial Plan.

In brief

- In 2018, during strategic planning related to the Long-Term Financial Plan, Elected Members undertook a priority process to determine the future delivery of major projects by the Town. The 'John Macmillan Precinct' project was identified in this process.
- A business case has been prepared outlining three options regarding the future planning and development of the site. This business case is contained in **Attachment 12.2.1**.
- The recommended option for the precinct is option 1: Precinct Masterplan. This option provides the greatest overall benefits to the precinct and will be used to guide long-term land use and development within the precinct.
- The progression of the project will be informed by two other priority strategic projects, the Higgins Park Masterplan and the Aqualife/Leisurelife Project. The John Macmillan Precinct project will not be able to progress until the outputs of these two projects are available.
- It is recommended that Council endorse option 1 from the John Macmillan Precinct Project Business Case to prepare a Precinct Masterplan for the John Macmillan Precinct.

Background

1. Since 2001, the John Macmillan Park precinct has been subject to the investigation and planning of an identifiable 'Town Centre' with various recommended plans and proposals being prepared and determined by Council.

2. The precinct is approximately 5.7 hectares in size and includes major facilities such as the Leisurelife Centre, Town Library, Billabong Child Care Centre, Sussex Street Law Centre and Vic Park - Carlisle Bowling Club.
3. In 2018, the 'John Macmillan Precinct' project was included in the list of the top five priority strategic projects for future Long Term Financial Planning consideration. Each of these top five priority projects were required to have a business case submitted to Council for consideration by June 2019.
4. The locality has been identified in the Town's draft Local Planning Strategy as the 'Town Centre Sub-Precinct' of the 'Albany Highway Secondary Centre'.
5. This area is seen as strategically significant to the Town's future planning framework and a comprehensive design theme should be created for the sub-precinct.
6. The recommended option – Option 1 Precinct Masterplan – will inform and influence the Town's activity centre planning framework for the precinct.
7. Given the size and significance of the precinct within the context of the Town's future planning framework, consideration is now being given to the future direction of the precinct and the facilities that exist within it.
8. A business case has been prepared outlining three options regarding the future planning and development of the site. The business case is contained in **Attachment 12.2.1**.

Strategic alignment

| Civic Leadership | |
|--|---|
| Strategic outcome | Intended public value outcome or impact |
| CL01 – Everyone receives appropriate information in the most efficient and effective way for them | Updates on the project (including this business case) will be distributed by appropriate communication channels to ensure Elected Members and community members receive the relevant information. |
| CL02 - A community that is authentically engaged and informed in a timely manner. | Community engagement stages have been established in each business option and will form a core part of the deliverables for the project. |
| CL03 - Well thought out and managed projects that are delivered successfully. | The project will be delivered through the Town's draft Project Management Framework. |
| CL06 - Finances are managed appropriately, sustainably and transparently for the benefit of the community. | The costs associated with maintenance and reactive works for the existing facilities are forecast to increase over the next 15 years, therefore increasing the financial liability to the Town if long term planning for the precinct is not established. |

| Economic | |
|--|--|
| Strategic outcome | Intended public value outcome or impact |
| EC01 - A desirable place for commerce and tourism that supports equity, diverse local employment and entrepreneurship. | Option 1 and option 2 will allow for a potential increase in commercial, office and retail space therefore providing opportunities for increased local employment. |
| EC02 - A clean, safe and accessible place to visit. | The project will include significant accessibility and inclusion upgrades to the precinct through all three options. |

| Environment | |
|---|---|
| Strategic outcome | Intended public value outcome or impact |
| EN01 - Land use planning that puts people first in urban design, allows for different housing options for people with different housing need and enhances the Town's character. | The project will provide co-ordinated land-use planning across the precinct. |
| EN05 - Appropriate and sustainable facilities for everyone that are well built, well maintained and well managed. | All three options of the project will increase the ability for facilities to be built/upgraded to current Australian Standards and conform to the Town's Disability Access and Inclusion Program. |
| EN06 - Appropriate, inviting and sustainable green spaces for everyone that are well maintained and well managed. | The project outcomes will influence the relationship of John Macmillan Park and the surrounds and how they are maintained or upgraded in the future. |

| Social | |
|---|--|
| Strategic outcome | Intended public value outcome or impact |
| S02 - An informed and knowledgeable community. | Regular points along the project timeline have been scheduled for community notification and Councillor decision making. |
| S03 - An empowered community with a sense of pride, safety and belonging. | The community engagement will heavily influence the vision of the project and provide the community with an identity for the precinct. |

Engagement

| Internal engagement | |
|----------------------------|--|
| Stakeholder | Comments |
| Project Management Office | Provided project management oversight for the delivery of the business case in accordance with the Town's draft Project Management Framework |
| Place Planning | Provided input into the business case relating to the Town's draft Local Planning Scheme and best approach options for future |

| | |
|---------------------------|---|
| | planning framework application. |
| Asset Planning | Review and input of the business case relating to asset condition assessments and building audits. |
| C-Suite & Elected Members | Presentations have been conducted with C-Suite and Elected Members to provide updates on the business case progress and workshop the project options. |

Legal compliance

Not applicable.

Risk management consideration

Option 1: Precinct Masterplan

| Risk and Consequence | Consequence rating | Likelihood rating | Overall risk analysis | Mitigation and Actions |
|---|--------------------|-------------------|-----------------------|--|
| Financial Long Term Financial Planning delayed for this project. | Major | Possible | High | Financial modelling is included within the concept exploration stage |
| Reputational Negative community feedback | Major | Possible | High | Significant levels of community engagement established early in the project lifecycle |
| Property Delayed decisions regarding major maintenance of buildings may lead to further degradation of facilities | Moderate | Likely | High | Asset Plans are maintained with required expenditure, timed to the delivery of the masterplan outputs to minimise short-term expenditure |
| Service Interruption Delayed outputs of informing projects delays this project | Major | Unlikely | Moderate | All projects are planned together in the implementation phase to ensure cohesive timelines |

Option 2: Major Refurbishment or Redevelopment

| Risk and Consequence | Consequence rating | Likelihood rating | Overall risk analysis | Mitigation and Actions |
|--|--------------------|-------------------|-----------------------|---|
| Financial Long Term Financial Planning delayed for this project. | Major | Possible | High | Financial modelling is included within the concept exploration stage to inform the feasibility report |
| Reputational Negative Community Feedback | Major | Possible | High | Significant levels of community engagement established early in the |

| | | | | |
|--|----------|----------|----------|--|
| | | | | project lifecycle |
| Property Delayed decisions regarding major maintenance of buildings may lead to further degradation of facilities | Moderate | Likely | High | Asset Plans are maintained with required expenditure, timed to delivery of outputs to minimise spend |
| Service Interruption Delayed outputs of informing projects delays this project | Major | Unlikely | Moderate | All projects are planned together in the implementation phase to ensure cohesive timelines |
| Financial/Reputational Opportunities for best land use within the precinct are restricted/reduced | Major | Likely | High | Council informed of the impact of delivering a redevelopment option over masterplan option |
| Financial/Reputational/Service Interruption Needs analysis may determine that the footprint is too small to achieve required service provision in the future | Major | Possible | High | Needs and Options analysis from Aqualife/Leisurelife project will be completed before this project commences |

Option 3: Do Nothing

| Risk and Consequence | Consequence rating | Likelihood rating | Overall risk analysis | Mitigation and Actions |
|---|--------------------|-------------------|-----------------------|--|
| Financial Facilities degraded beyond usefulness | Major | Possible | High | Long-term implementation plans are in place for upgrades as and when required |
| Reputational Facilities no longer service functional needs of the Community | Major | Possible | High | Detailed needs assessments undertaken for service provisions of the existing facilities for future planning. |
| Property Delayed decisions regarding major maintenance of buildings may lead to further degradation of facilities | Moderate | Likely | High | Asset Plans are maintained with required expenditure, timed to budget submissions. |

Financial implications

| | |
|-----------------------|---|
| Current budget impact | Option 1, Option 2 and Option 3 will have no impact on the 2018/19 budget. |
| Future budget impact | The impact that each option would have on the 2019/20 budget is outlined below. Option 1: Total budget \$150,000 Option 2: Total budget \$150,000 |

Option 3: No additional project related cost

Note:

1. The financial impact relates to the outputs for each option and does not include future capital expenses required to deliver further works derived from the project outputs. E.g. Option 1 is to deliver a Precinct Masterplan not the capital works identified from the Masterplan.
2. The total budget for Option 1 and Option 2 can be budgeted for in FY19/20 but require a partial carry-over to FY20/21 due to the option being delivered across multiple years.
3. The \$150,000 budget has been included in the draft annual budget for FY19/20.

Analysis

9. The recommended option for the project is Option 1: Precinct Masterplan. Option 1 will provide a co-ordinated approach to future land-uses and development to meet the future needs of the community within the precinct.
10. Option 1 will also deliver the implementation plan required to plan and scope the capital works activities derived from the Masterplan and will provide the Town with detailed costs estimates for future Long-Term Financial Planning.
11. The scope and objectives of the Precinct Masterplan will be dependent on the outputs of two informing projects, the Higgins Park Masterplan and the Aqualife/Leisurelife projects and deliverables of this Precinct Masterplan will be scheduled based on the completion of these two projects.
12. Cost estimates for delivery of the works derived from the Masterplan will not be known until the Concept Exploration and Draft Masterplan stages. This will impact the ability to fulfil the Council priority to inform the Long Term Financial Plan in November 2019.
13. **Attachment 12.2.1** provides further detail regarding the justification for this option, an overview of the process, benefits, dis-benefits, risks, estimated timeframes and costs.
14. The Business Case contained in **Attachment 12.2.1** also outlines two alternate options. These include 'Major Refurbishment or Redevelopment' and 'Do Nothing'. These are considered inferior options.
15. It is recommended that Council endorse Option 1 from the John Macmillan Precinct Project Business Case to prepare a Precinct Masterplan for the entire John Macmillan Precinct.

Relevant documents

Not applicable.

12.3 Proposed Lease of the Town's Leisure Facilities Café Spaces to Hospitality Industry Service Provider (HISP)

| | |
|----------------------------|--|
| Location | East Victoria Park |
| Reporting officer | Terry McCarthy |
| Responsible officer | John Wong |
| Voting requirement | Simple majority |
| Attachments | <ol style="list-style-type: none"> 1. TRIM D 19-30883 CAFELIFE (HIS P) PROPOSAL AQUALIFE CENTRE [12.3.1] 2. TRIM D 19-30886 CAFELIFE (HIS P) PROPOSAL LEISURELIFE CENTRE [12.3.2] 3. TRIM D 19-31201 Valuation 22 May 2019 Aqualife Cafe Somerset Street PWE Valuers [12.3.3] 4. TRIM D 19-31202 Valuation 22 May 2019 Gloucester Street 248 East Vic Park Cafe - Leisurelife - PWE V [12.3.4] |

Recommendation

That Council:

1. Approves the lease of the café at Aqualife Centre, of area approximately 60m², to Hospitality Industry Service Providers (HISP) of ABN 65 167 755 188 for a term of twelve (12) months from 1 July 2019 at a rental rate of \$6,250 per annum (exclusive of GST) with an option of four further terms of twelve (12) months each with the first option year at a rental rate of \$12,500 per annum (exclusive of GST) and further term options at a rental rate of \$12,500 per annum (exclusive of GST) plus annual rent review increases of 3%, subject to the proposed lease being advertised in accordance with the requirements of section 3.58 of the *Local Government Act 1995*.
2. Approves the lease of the café at Leisurelife Centre, of area approximately 24m², to Hospitality Industry Service Providers (HISP) for a term of twelve (12) months from 1 July 2019 at a rental rate of \$6,250 per annum (exclusive of GST) with an option of four further terms of twelve (12) months each with the first option year at a rental rate of \$12,500 per annum (exclusive of GST) and further term options at a rental rate of \$12,500 per annum (exclusive of GST) plus annual rent review increases of 3%, subject to the proposed lease being advertised in accordance with the requirements of section 3.58 of the *Local Government Act 1995*.
3. Authorises the giving of local public notice of the above proposed leases.
4. Requests that, in the event that any submissions are received in response to the local public notice of the proposed disposition of the subject sites, in the manner prescribed and within the time specified for the making of any submission, the matter be referred back to Council for consideration of any submissions received, in compliance with Section 3.58(3) of the *Local Government Act 1995*.
5. Authorises the Mayor and the Chief Executive Officer to execute the subject lease documents on behalf of the Town if no submissions are received in response to the local public notice of the proposed disposition of the subject sites.

Purpose

It is proposed to lease the Aqualife Café and the Leisurelife Café to Hospitality Industry Service Provider (HISP) in order to provide café services to clients at both Aqualife and Leisurelife.

In brief

- The café spaces within Aqualife and Leisurelife are imperative to the holistic customer experience and marketability of the Town's Leisure facilities. Prior to ceasing Aqualife café operations in April 2017, the cafés across Leisurelife and Aqualife were operating at a loss to the Town. The decision was made to test the market for interest in the lease opportunities within the facilities.
- The Town previously advertised the Aqualife Café and Leisurelife Café lease opportunity on two occasions, the first received two non-compliant submissions and the second received no submission.
- The previous proponent that expressed its interest to lease both cafes last year declined to take up the lease offer after further negotiations with the Town subsequent to Council having resolved to provide local public notice of the proposed disposition of the subject sites.
- A written offer to lease both the Aqualife and Leisurelife Cafés has been submitted by Hospitality Industry Service Provider (HISP) Pty Ltd.

Background

1. The Town's Leisure Facilities attract over 750,000 visits per annum and provide the community with various aquatic leisure and fitness activities.
2. The proposed lease area within the Aqualife building is 60m². Additionally, access is provided to indoor and outdoor seating areas which are not within the lease area. There is no direct access to the lease area from the exterior of the building. Included in the lease area are a cool room, dry storage room, hot water system, fixed benches, commercial exhaust wall fans, tables and chairs.
3. The proposed lease area within the Leisurelife building is 24m². Additionally, access is provided to indoor and outdoor seating areas which are not within the lease area. There is no direct access to the café lease area from the exterior of the building. The café is a fully equipped café facility with all kitchen facilities including benches and sink. There is a servery onto the public seating area adjacent to the basketball arena.
4. HISP presents as a professional company specialising in business within the Hospitality Industry. Over the years HISP has specialised in the area of leisure centre cafés.
5. HISP has successfully operated the café space at Craigie Leisure Centre, (Cafelife) for the past six years and it has recently launched Cafelife within the new Armadale Recreation Centre. The café operations managed by HISP have been considered best practice for leisure café operations in WA.
6. The accounting firm nominated by HISP as a referee has been contacted and has advised that HISP has been a client of that company for approximately four years and is a solid company with no financial difficulties.
7. At the Ordinary Council Meeting held 14 August 2018, Council resolved to lease the Aqualife Café and the Leisurelife Café and commercial kitchen to Onca Enterprises Pty Ltd, subject to the provisions of section 3.54 of the *Local Government Act 1995*. Following protracted discussion with the proponent, Onca Enterprises Pty Ltd, the Town was advised in December 2018 that Onca Enterprises Pty Ltd did not wish to proceed with executing the lease documents and did not wish to lease the

cafes and commercial kitchen. Because of the current zoning of the Leisurelife property, the commercial kitchen contained therein can be utilised only for the preparation of food to be consumed within the Leisurelife complex.

Strategic alignment

The proposed disposition by lease of the subject properties will be in accordance with the asset management plans referred to in the *Strategic Community Plan 2017-2032*.

| Economic | |
|---|---|
| Strategic outcome | Intended public value outcome or impact |
| EC02 - A clean, safe and accessible place to visit. | Café facilities will be available within a clean, safe, accessible environment. |

| Environment | |
|---|--|
| Strategic outcome | Intended public value outcome or impact |
| EN05 - Appropriate and sustainable facilities for everyone that are well built, well maintained and well managed. | The café areas are in compliance with EN05 and HISP is required to maintain the cafes at a high standard to the benefit of community members who visit the facilities. |

Engagement

| Internal engagement | |
|------------------------------------|---|
| Stakeholder | Comments |
| Leisure Facilities Program Manager | A lessee for the cafes is needed to meet customer expectations. |

| External engagement | |
|-----------------------|--|
| Stakeholders | Comments |
| Stakeholders | Patrons at Aqualife and Leisurelife. |
| Period of engagement | 2017 - 2019 |
| Level of engagement | Directly with customers. |
| Methods of engagement | Customer feedback – expressing the need for cafes to be operational. |
| Advertising | Nil |
| Submission summary | Respondents expressed support for the cafes to be operating. |
| Key findings | Anecdotally, there is majority support for both cafes to be operating. |

| Other engagement | |
|-------------------------------------|--|
| Stakeholders | Comments |
| HISP as the proponent of the leases | Discussions held. A copy of the draft lease document has been forwarded to HISP. Verbal agreement to the terms and conditions has been provided by HISP. |

Legal compliance

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

Risk management consideration

| Risk and consequence | Consequence rating | Likelihood rating | Overall risk analysis | Mitigation and actions |
|--|--------------------|-------------------|-----------------------|---|
| Financial Failure of Lessee to meet rent payment obligation or damages to the Town's branding or properties due to wilful acts of the proponent. | Moderate | Low | Low | Debt collection action to recover outstanding rents and execution of the relevant clauses of the agreement including termination of lease on the first or subsequent anniversaries without further options to extend. |
| Financial HISP's café operation becoming financially unsustainable due to over commitment to reduction of single use plastic. | Moderate | Low | Low | HISP will be approached throughout the lease period and encouraged to reduce the use of single use plastic where feasible and practical. |
| Reputational Failure to secure a suitable lessee to meet customer expectations. | Moderate | Medium | Moderate | Secure a suitable Lessee to ensure service provision for customers. |

Financial implications

| | |
|-----------------------|--|
| Current budget impact | Sufficient funds exist within the annual budget to address this recommendation. |
| Future budget impact | Revenue of \$6,250 (exclusive of GST) for the first year of each lease, with a projected \$12,500 for the second, third, fourth and fifth year of each lease with annual rent review increases of 3% if those further term options are exercised, is anticipated to be generated by the proposed leases. |

Analysis

- The proponent (HISP) has been provided a copy of the draft lease document and has indicated agreement to the terms and conditions including the payment of an annual rent for the first year of each lease of \$6,250, with rent for the second and successive years rent being \$12,500 (exclusive of GST) with an annual rent review increase of 3%.

9. A licensed valuer has determined the market rental value of each cafe as \$12,500 (plus GST) per annum. However, due to both cafés having been out of operation for more than two years, the Leisure Facilities Operations Manager supports the proponent being offered a lease at a rate for the first year of the lease lower than the market rental value as determined by a licensed valuer on the basis that there have been no other submissions from reputable operators, café service has not been available to patrons at the facility for a considerable time which will require extensive time to build business branding and customer patronage number, and the intent is to provide a service to patrons without incurring cost to the Town in the utilisation of Town staff providing that service. There has been very little interest shown by others in operating the Aqualife or Leisurelife café on a lease basis. The cafés have not had a Lessee in occupation for some time and if the current proponent is not able to agree to the terms of a lease with the Town, the café may continue to remain without a Lessee for some time.
10. Because the *Commercial Tenancy (Retail Shops) Agreement Act 1985* gives tenants of retail shops an entitlement to a minimum five year lease term should they so desire it, this matter is presented to Council for consideration of whether to enter lease arrangements in the knowledge that a minimum five year term is entirely at the tenant's option. The recommendation is therefore presented acknowledging that entitlement.
11. The proponent, Hospitality Industry Service Provider (HISP) Pty Ltd, has provided full detail of the company's experience, organisational structure, business registration, insurance cover and financial referees. HISP has current active ABN 65 167 755 188, registered 28 January 2014, with next review date 28 January 2020.
12. The commercial kitchen at Leisurelife does not form part of the area proposed to be leased although its inclusion into a lease with a previous prospective lessor had been envisioned.
13. HISP will be encouraged to minimise the use of single use plastics.

Relevant documents

[Policy ADM8 - Leasing Policy](#)

12.4 Higgins Park Master Plan Business Case Report

| | |
|----------------------------|---|
| Location | East Victoria Park |
| Reporting officer | Pierre Quesnel |
| Responsible officer | David Doy |
| Voting requirement | Simple Majority |
| Attachments | 1. Higgins Park Master Plan Business Case [12.4.1] |

Recommendation

That Council:

1. Receives the Higgins Park Master Plan Business Case: and
2. Endorse the preparation of a Master Plan as per option 1 of the Higgins Park Master Plan Business Case.

Purpose

To present, for Councils consideration and determination, options regarding the future planning and development of Higgins Park, Playfield Reserve and Fred Bell Drive. This project has been identified as a Council priority requiring further planning to inform the Long Term Financial Plan.

In brief

- In 2018, during the planning process for the Long-Term Financial Plan, Elected Members undertook a priority process to determine the future delivery of major projects by the Town. The 'Higgins Park Master Plan' project was identified in this process.
- Higgins Park, Fred Bell Drive and Playfield Reserve (the site) form an eight-hectare parcel of Public Open Space situated within residential East Victoria Park near its southern border with St James.
- A business case has been prepared outlining three options regarding the future planning and development of the site. This Business Case is contained in **Attachment 1**.
- The preferred option for the site is Option 1: Master Plan. Option 1 is a Master Plan for the project area to determine and guide the long-term use and development within the site to meet the needs of Victoria Park's future population.
- The scope and objectives of the Higgins Park Master Plan will be defined by the Higgins Park Recreational Needs Assessment (currently in progress and explained in detail in **Attachment 1**).
- It is recommended that Council endorse Option 1 from the Higgins Park Project Business Case to prepare a Master Plan for Higgins Park, Playfield Reserve and Fred Bell Drive.

Background

1. In 2018, during the planning process for the Long-Term Financial Plan, Elected Members undertook a priority process to determine the future delivery of major projects by the Town. The 'Higgins Park Master Plan' project was identified in this process.
2. The 'Higgins Park Master Plan' project was included in the list of the top five Council priority projects. Each of these top five Council priority projects are required to have Business Cases submitted to

Council for consideration by June 2019.

3. Higgins Park, Fred Bell Drive and Playfield Reserve (the site) form an eight-hectare parcel of Public Open Space situated within residential East Victoria Park near its southern border with St James.
4. The site is regarded as one of the Town's main formal sporting facilities as well as a key amenity for the local community.
5. Given Higgins Parks' large land size and key role as a home for formal sport and recreation in the Town, consideration is now being given to the future direction of the Park, including the neighbouring Playfield Reserve and opportunities to maximise and modernise the recreational offering of Higgins Park.
6. A Business Case has been prepared outlining three (3) options regarding the future planning and development of the site. This Business Case is contained in **Attachment 1**.

Strategic alignment

| Civic Leadership | |
|--|--|
| Strategic outcome | Intended public value outcome or impact |
| CL01 – Everyone receives appropriate information in the most efficient and effective way for them | Extensive, best practise and carefully design communication will be undertaken to ensure community members and stakeholders are well informed. |
| CL02 - A community that is authentically engaged and informed in a timely manner. | Authentic engagement with key stakeholders especially sporting groups and local community. |
| CL03 - Well thought out and managed projects that are delivered successfully. | Allowing an improved outcome through a coordinated plan for the site rather than ad hoc facility upgrades. |
| CL06 - Finances are managed appropriately, sustainably and transparently for the benefit of the community. | Improved efficiency and optimised usage to ensure maximum social return and economic sustainability from this town asset. |
| CL08 - Visionary civic leadership with sound and accountable governance that reflects objective decision-making. | Master Plan that follows a thorough Needs Assessment Project to ensure scope is based on contemporary, objective information. |

| Economic | |
|---|---|
| Strategic outcome | Intended public value outcome or impact |
| EC02 - A clean, safe and accessible place to visit. | Higgins Park services district level formal recreational needs and must be of a high quality to ensure positive visitor experience. |

| Environment | |
|---|--|
| Strategic outcome | Intended public value outcome or impact |
| EN05 - Appropriate and sustainable facilities for everyone that are well built, well maintained and well managed. | A successful master plan will ensure efficiency and maximum recreational value is obtained from the resources dedicated to the facilities. |
| EN06 - Appropriate, inviting and sustainable green | A Higgins park that is a major attractor, playing a |

| | |
|--|---|
| spaces for everyone that are well maintained and well managed. | significant role in the lives of the community |
| EN07 - Increased vegetation and tree canopy. | Explore opportunities to increase the tree and vegetation in the park to the benefit of both the park experience and the wider environment. |

| Social | |
|---|---|
| Strategic outcome | Intended public value outcome or impact |
| S01 - A healthy community. | Facilitate an active lifestyle for members of the Victoria Park community through the provision of high quality recreation opportunities. |
| S03 - An empowered community with a sense of pride, safety and belonging. | Involvement of the community and sporting clubs in the master plan design process to influence the outcomes of facilities to create a high quality recreation precinct that they are proud of and promote to visitors from outside the community. |

Engagement

| Internal engagement | |
|---------------------------|---|
| Stakeholder | Comments |
| C-Suite | Presented to C-suite and received support for the master plan approach (Recreational Needs assessment project to inform scope and direction of Master Plan Project). |
| Elected Members | Presented at Elected Members workshop and received support for the master plan approach (Recreational Needs assessment project to inform scope and direction of Master Plan Project). |
| Project Management Office | Described and refined approach with the help of Project management team and discussed influence on other strategic projects. |
| Strategic Assets | Described approach to Coordinator of Strategic Assets and discussed influence on other strategic projects. |

| External engagement | |
|-----------------------|---|
| Stakeholders | NA. Extensive engagement will commence during the Recreational Needs Assessment and through the Master Planning approach if supported by Council. |
| Period of engagement | NA |
| Level of engagement | NA |
| Methods of engagement | NA |
| Advertising | NA |
| Submission summary | NA |
| Key findings | NA |

Legal compliance

Not applicable.

Risk management consideration

Business Case Option 1: Master Plan

| Risk and consequence | Consequence rating | Likelihood rating | Overall risk analysis | Mitigation and actions |
|---|--------------------|-------------------|-----------------------|---|
| Reputational: Concern and opposition from existing user groups and local community | Moderate | Possible | Moderate (9) | Significant levels of community engagement are required throughout the master plan design process. |
| Reputational: That the Recreational Needs Assessment recommends actions that do not require a master plan | Minor | Possible | Moderate (6) | Through the process of the council receiving the needs assessment recommendations any significant impact on the master plan project will be immediately identified and communicated to council. |
| Service Interruption: Delayed outputs of informing work delay this project. This could push the master plan project across two financial years. | Moderate | Possible | Moderate (9) | Recreational Needs assessment will require strict adherence to deadlines. Cross over of staff for both projects so awareness of impacts. |

Business Case Option 2: Local Amenity Upgrade

| Risk and consequence | Consequence rating | Likelihood rating | Overall risk analysis | Mitigation and actions |
|--|--------------------|-------------------|-----------------------|---|
| Reputational: Lack of resolution of the overall future of the sporting facilities. This could leave user groups frustrated and impact their long-term planning. | Moderate | Likely | High(12) | Communicate with the user groups the intentions and motivations of the town. Explain that the site is already at formal recreation capacity. |
| Service Interruption: No exploration of adding Bowls or Hockey facilities to the site. This would have a direct impact on the John Macmillan precinct plan project (bowls) and the long-term issues involving the Hockey facility. | Moderate | Almost certain | High (15) | Communicate the intentions and motivations of the town. Explain that the site is already at formal recreation capacity. Inform the John Macmillan Precinct plan project to retain bowls facility. |

| | | | | |
|--|----------|----------------|-----------|---|
| Reputational: Continue with the historic pattern of fragmented upgrades to the Park leading to poor coordination between the different facilities and their functions. | Moderate | Almost certain | High (15) | Careful consideration and engagement with user groups required when planning the upgrade. |
|--|----------|----------------|-----------|---|

Business Case Option 3: Do Nothing

| Risk and consequence | Consequence rating | Likelihood rating | Overall risk analysis | Mitigation and actions |
|--|--------------------|-------------------|-----------------------|---|
| Reputational: Lack of resolution of the overall future of the sporting facilities. This could leave user groups frustrated and impact their long-term planning. | Moderate | Likely | High(12) | Communicate with the user groups the intentions and motivations of the town. Explain that the site is already at formal recreation capacity. |
| Service Interruption: No exploration of adding Bowls or Hockey facilities to the site. This would have a direct impact on the John Macmillan precinct plan project (bowls) and the long-term issues involving the Hockey facility. | Moderate | Almost certain | High (15) | Communicate the intentions and motivations of the town. Explain that the site is already at formal recreation capacity. Inform the John Macmillan Precinct plan project to retain bowls facility. |

Financial implications

| | |
|-----------------------|--|
| Current budget impact | Sufficient funds exist within the annual budget to address this recommendation. |
| Future budget impact | The impact each option would have on the 2019/20 budget is outlined below. Option 1: Total budget - \$50,000 Option 2: Total budget - \$40,000 Option 3: No cost. |

Further information is provided in **Attachment 1**.

Analysis

- The preferred option for the site is Option 1: Master Plan. Option 1 is a Master Plan for the project area to determine and guide the long-term use and development within the site to meet the needs of Victoria Park's future population.
- The scope and objectives of the Higgins Park Master Plan will be defined by the Higgins Park Recreational Needs Assessment (currently in progress and explained in detail in **Attachment 1**).

9. The Higgins Park Recreational Needs Assessment will provide high level cost estimates to inform the Long Term Financial Plan as per Council priorities.
10. A future Master Plan will focus on the future recreational needs of the community and the ability for a Higgins Park sporting precinct to meet some of this identified need. The potential of the site will be explored and considered in the context of delivering a 'balanced outcome' (local amenity and formal sporting opportunities) that benefits rather than burdens community members in close proximity to the site. **Attachment 1** provides further detail regarding the justification for this option, and overview of the process, benefits, dis-benefits, risks, estimated timeframes and cost.
11. The Business Case contained in **Attachment 1** also outlines two alternate options to undertake 'local amenity upgrades' or 'do nothing'. These are considered inferior options.
12. It is recommended that Council endorse Option 1 from the Higgins Park Project Business Case to prepare a Master Plan for Higgins Park, Playfield Reserve and Fred Bell Drive.

12.5 Extension and Variation of Lease of Residential Units, Memorial Avenue, Carlisle

| | |
|----------------------------|-----------------|
| Location | Carlisle |
| Reporting officer | Terry McCarthy |
| Responsible officer | John Wong |
| Voting requirement | Simple majority |
| Attachments | Nil |

Recommendation

That Council:

1. Approves a Deed of Variation and Extension of Lease for residential units at 4 (Lot 2) Memorial Avenue, Carlisle, to Harold Hawthorne Senior Citizens' Centre and Homes Inc. with the term of extension of the lease to expire 31 August 2037.
2. Authorises the Mayor and the Chief Executive Officer to execute, on behalf of the Town, the subject Deed of Variation and Lease for residential units at 4 (Lot 2) Memorial Avenue, Carlisle, to Harold Hawthorne Senior Citizens' Centre and Homes Inc.

Purpose

The proposed Deed of Variation and Lease provides certainty of tenure for the residents of Lot 2 and makes provision for potential future redevelopment of the site.

In brief

- The lease of Lot 2 to Harold Hawthorne Senior Citizens' Centre and Homes Inc. (HHSCC) was executed in 1997 for a term of 20 years expiring 31 August 2017, with an option for a further 20-year term if exercised within the terms of the lease.
- The second term option was not exercised within the timeframe specified in the lease.
- HHSCC has since requested an extension of the expired lease.
- A Deed of Variation and Extension of Lease expiring 31 August 2037 has been prepared by lawyers acting for the Town and has been agreed to in principle by the board of HHSCC and a lawyer acting for HHSCC.

Background

1. The Deed of Variation and Extension of Lease has been developed to encompass the accommodation requirements of existing and future tenants of the residential units, recognition of the future need for redevelopment of the property/ies and ultimately, the optimisation of the property to its highest and best use given the proximity to public transport.

Strategic alignment

| Environment | |
|---|--|
| Strategic outcome | Intended public value outcome or impact |
| EN01 - Land use planning that puts people first in urban design, allows for different housing options for people with different housing need and enhances the Town's character. | The provision of well managed housing options for the aged within the Town would be considered by the tenants as a community benefit. The occupancy rate is high. |
| EN05 - Appropriate and sustainable facilities for everyone that are well built, well maintained and well managed. | Having well defined responsibilities for the maintenance of the property by HHCSS as stipulated in the lease document will reduce the financial burden on the Town's annual maintenance budget and hence the rates payable by rate payers. |

Engagement

| Internal engagement | |
|------------------------------|---|
| Stakeholder | Comments |
| Manager Community | Interest in ensuring continuance of delivering a community benefit. |
| Property Development Manager | Interest in ensuring potential future refurbishment or redevelopment not unduly restricted. |

| External engagement | |
|-----------------------|--|
| Stakeholders | Management and Board members of HHSCC. |
| Period of engagement | 2018-2019 |
| Level of engagement | Direct meeting contact. |
| Methods of engagement | Meeting in person. |
| Advertising | Not applicable. |
| Submission summary | Not applicable. |
| Key findings | HHSCC is supportive of the draft Deed of Variation and Extension of Lease. |

Legal compliance

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

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

Risk management consideration

| Risk and consequence | Consequence rating | Likelihood rating | Overall risk analysis | Mitigation and actions |
|--|--------------------|-------------------|-----------------------|--|
| Reputational Failure to secure tenure of the property which protects the interest of all stakeholders. | Low | Unlikely | Low | Continue to progress security of tenure arrangement which protects the interest of the Town and relevant stakeholders. |

Financial implications

| | |
|-----------------------|--|
| Current budget impact | Not applicable. |
| Future budget impact | There is no impact on the Town's operating budget as it has been emphasised to HHSCC that it has to continue to be responsible for all maintenance needs of the buildings as per the lease conditions. |

Analysis

2. Negotiations have been undertaken between senior management at the Town, senior management of HHSCC and some members of the Board of HHSCC with a view to ensure the ongoing security of tenure for tenants whilst also making provision for the potential of future development of the residential units. The terms agreed and presented here are largely in line with the original lease extension available to HHSCC but not enacted. These residential units were constructed in 1981 and may require major renovation or reconstruction at some time.
3. No redevelopment proposals have been considered and any future redevelopment will have to satisfy the needs of tenants of the units in compliance with the Retirement Villages Act 1992, the Aged Care Act 1997 and the Aged Care Principles (Commonwealth). Any future development will involve consultation with HHSCC, tenants and also the wider community and may include the adjoining site leased to HHSCC (hall, day centre and administration building) in order to provide a holistic approach to the overall optimum development of the total land holding of the Town at that location.
4. HHSCC is still responsible for all maintenance works as required on the property. This clause remains the same as that of the previous lease.
5. HHSCC has indicated agreement with the draft Deed of Extension and Variation. Some elements of the expired lease have been modified to reflect current standards and requirements, and other new elements have been introduced to better provide for potential future redevelopment of the site. Other than those modifications, the Deed replicates the second option term expiring 31 August 2037 that HHSCC would have anticipated.

Relevant documents

[Policy ADM8 – Leasing Policy](#)

12.6 Proposed WALGA Zone Meeting Motion - Urban Forest grants program

| | |
|----------------------------|-----------------|
| Location | Town-wide |
| Reporting officer | Laura Sabitzer |
| Responsible officer | Ben Killigrew |
| Voting requirement | Simple majority |
| Attachments | Nil |

Recommendation

That Council puts forward a motion to the Western Australian Local Government Association (WALGA) South-East Metropolitan Zone meeting, through its appointed delegates, to request that WALGA:

1. Supports and develops an advocacy approach for the introduction of a Local Government Greener Perth grant program, funded by the State Government.
2. Writes to metropolitan local governments seeking their support for the introduction of a Local Government Greener Perth grant program, funded by the State Government.

Purpose

To seek Council's endorsement for a motion to be put forward to the Western Australian Local Government Association (WALGA) South-East Metropolitan Zone meeting, through its appointed delegates, in relation to a proposed Local Government Greener Perth grant program, funded by the State Government.

In brief

- In line with the Town's 2019 Advocacy Priorities, it has been identified that there is opportunity to advocate for dedicated funding grants to help local governments to deliver their urban forest strategies.
- In September 2018, Council adopted the Urban Forest Strategy (UFS) with a commitment to increase tree canopy coverage within the Town from 10% to 20%.
- It is recommended that Council puts forward a motion to the WALGA South-West Metropolitan Zone meeting regarding the introduction of a Local Government Greener Perth grant program, funded by the State Government.

Background

1. The Western Australian Local Government Association (WALGA) is a peak industry body that advocates on behalf of its local government members, including the Town.
2. In March 2019, Council at its Ordinary Council meeting, adopted its advocacy priorities for 2019. One of the four advocacy priorities is advocating for Urban Forest Strategy initiatives.

3. This was following Council's endorsement of the Urban Forest Strategy at its Ordinary Council meeting in September 2018, which aims to increase the Town's tree canopy to 20 per cent, which will require the planting of up to 256,000 trees.
4. An Implementation Action Plan to deliver the Town's Urban Forest Strategy, is currently being drafted.
5. The Town of Victoria Park's Advocacy Priorities 2019 document (refer to Related Links below) outlines that the Town advocates for dedicated funding grants to help local governments deliver their Urban Forest Strategies. Stakeholders to help achieve this advocacy priority are identified, with WALGA recognised for seeking their support in the establishing a Local Government Greener Perth grant program, funded by the State Government.

Strategic alignment

| Civic Leadership | |
|--|---|
| Strategic outcome | Intended public value outcome or impact |
| CL08 - Visionary civic leadership with sound and accountable governance that reflects objective decision-making. | Putting forward a motion to WALGA in relation to a proposed Local Government Greening Perth grant program shows the Town's leadership in advocating for key priorities, including urban forest initiatives. |

| Environment | |
|--|--|
| Strategic outcome | Intended public value outcome or impact |
| EN07 - Increased vegetation and tree canopy. | Advocating for and securing external funding to deliver Urban Forest Strategy initiatives will assist in increased vegetation and tree canopy in the Town. |

Engagement

Not applicable.

Legal compliance

The following sections of the *Local Government Act 1995* are applicable:

[Section 2.7 - Role of council](#)

[Section 2.10 - Role of councillors](#)

Risk management consideration

| Risk and consequence | Consequence rating | Likelihood rating | Overall risk analysis | Mitigation and actions |
|---|--------------------|-------------------|-----------------------|--|
| Reputational While the Town may advocate its position to the WALGA Zone | Moderate | Likely | High | Ensure that the Town's position is effectively communicated to the WALGA Zone Meeting. |

| | | | | |
|---|----------|--------|------|---|
| Meeting, the decision will still be up to that group, and the WALGA State Council. | | | | |
| Reputational If Council opts to not proceed with the proposed motion to WALGA South East Zone meeting, this may result in negative public perception towards the Town, as it would be inconsistent with the Town's endorsed Advocacy Priorities 2019 and Urban Forest Strategy. | Moderate | Likely | High | Council to: a. Consent to the proposed motion to the WALGA Zone meeting for the introduction of a Local Government Greener Perth grant program, funded by the State Government, or b. Provide detailed reasons if does not proceed with the recommendation. |
| Financial Missed opportunities for funding and influencing support to effect change. Increased pressure on budget planning, without external and/or innovative funding option to implement Urban Forest actions. | Moderate | Likely | High | That the opportunities identified in the Town of Victoria Park's Advocacy Priorities 2019 document are actioned and that alternate funding sources for Urban Forest Strategy actions are explored when further opportunities present. |

Financial implications

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

Analysis

- The Town's Urban Forest Strategy aims to increase the Town's tree canopy from 10 to 20 per cent, which will require the planting of up to 256,000 trees. This ambitious tree canopy target will require dedicated resources and significant financial investment to achieve.
- The Town of Victoria Park's Advocacy Priorities 2019 document outlines that the Town advocates for dedicated funding grants to help local governments deliver their Urban Forest Strategies. To achieve this, it is recommended that the State Government establishes a Local Government Greener Perth

grant program, similar to what is currently provided by the NSW State Government.

8. In NSW, the Five Million Trees for Greater Sydney Grant from the NSW State Government supports local councils in Greater Sydney to enhance urban tree canopy by co-funding tree planting projects in public spaces such as streets, parks and plazas.
9. The Town of Victoria Park's Advocacy Priorities 2019 document seeks for the State government to provide \$10 - \$20 million annually for local governments to access via a grant program to increase tree canopy.
10. In 2016, the canopy cover of the Greater Perth region was 19.95%, as documented in the "Better Urban Forest Planning" guiding document (November 2018) published by the Western Australian Planning Commission (WAPC) in conjunction with the Western Australian Local Government Association (WALGA). This was a decline of 2.32% canopy cover from the previous survey in 2009.
11. It is recommended that Council puts forward a motion to the WALGA South-West Metropolitan Zone meeting regarding the introduction of a Local Government Greener Perth grant program, funded by the State Government.

Relevant documents

[Town of Victoria Park Advocacy Priorities 2019](#)

12.7 Aqualife and Leisurelife Master Plan

| | |
|----------------------------|---|
| Location | East Victoria Park Victoria Park |
| Reporting officer | Alison Braun |
| Responsible officer | Ben Killigrew |
| Voting requirement | Simple majority |
| Attachments | 1. Aqualife and Leisurelife Master Plan - Business Case [12.7.1] |

Recommendation

That Council:

1. Receives the Aqualife and Leisurelife Masterplan Project Business Case.
2. Endorse the proposed Aqualife and Leisurelife Masterplan process as per option 1 of the Aqualife and Leisurelife Business Case.

Purpose

To seek endorsement of the continuation of Stage One (1) and provide a further report to Council prior to commencement of Stage Two (2) of the 5 Stage Master Plan outlined in **Attachment 12.8.1**. This project has been identified as a Council priority requiring further planning to inform the Long Term Financial Plan.

In brief

- To present, for Councils endorsement to continue with Stage One (1) of a Master Plan to provide options for functional design and engage internal and external stakeholder consultation and community engagement for the future planning of the Town's Leisure facilities.
- Stage 2 will engage consultants to further develop the functional design and engage in internal and external stakeholder consultation to inform decision making, generate options and guide the provision of leisure facilities within the 5 Stage Master Plan.

Background

1. The Town owns and operates two leisure facilities, Leisurelife and Aqualife. These facilities are community hubs delivering community programs and services that improve physical, mental and general health and wellbeing.
2. During the planning process to review the Long-Term Financial Plan (LTFP), consideration was given to the inclusion of a series of major new projects, services and facility upgrades. Elected Members undertook a prioritisation process to determine the future focus of the projects.
3. Elected Members requested business cases for the top five priority projects to determine the best approach for delivery of each project. The 'Aqualife and Leisurelife Master Plan' project was included

in the list of top five priority projects. Each of these top 5 priority projects are required to have Business Cases submitted to Council for consideration by June 2019.

4. The Aqualife and Leisurelife 5 Stage Master Plan will allow for a range of conceptual options to be explored, deliver functional designs, internal and external consultation, community engagement, final detail design, costings to inform the Long Term Financial Plan (LTFP), procurement and options on build and operating.
5. Stage One (1) of the Master Plan to determine community facility needs analysis, required components and scale and location has been initiated. This will in detail identify key sites, constraints and potential opportunities for consideration, alternative locations and analyse current usage and undertake targeted consultation with key stakeholders to inform the current and future needs of the facilities.
6. This will provide a suite of recommendations to be reported to elected members and provide direction in considering the appropriate mix of facilities and potential development sites, including exploring potential partnership and development options. It is expected that the needs analysis of Aqualife and Leisurelife will be completed by 31st July 2019 and a presentation to the Elected Members will be scheduled in August 2019.
7. Stage Two (2) of the Master Plan is to engage consultants to further develop the functional design and engage internal and external stakeholder and community consultation to inform decision making, generate options and guide the provision of leisure facilities within the 5 Stage Master Plan. The overview of proposed 5 Stage Master Plan is contained in **Attachment 12.8.1**.
8. A Business Case has been prepared outlining Two (2) options regarding the future planning and of the Towns Leisure Centres. This Business Case is contained in **Attachment 12.8.1**.

Strategic alignment

| Civic Leadership | |
|---|---|
| Strategic outcome | Intended public value outcome or impact |
| CL03 - Well thought out and managed projects that are delivered successfully. | A coordinated plan and established business case for both facilities rather than ad hoc facility upgrades |

| Economic | |
|---|--|
| Strategic outcome | Intended public value outcome or impact |
| EC02 - A clean, safe and accessible place to visit. | Services to ensure positive customer experience. |

| Environment | |
|---|---|
| Strategic outcome | Intended public value outcome or impact |
| EN05 - Appropriate and sustainable facilities for everyone that are well built, well maintained and well managed. | A successful master plan will ensure efficiency and maximum recreational value is obtained from the resources dedicated to the facilities |

| Social | |
|----------------------------|---|
| Strategic outcome | Intended public value outcome or impact |
| S01 - A healthy community. | Facilitate an active lifestyle for members of the |

| | |
|---|--|
| | Victoria Park community through the provision of quality recreation facility and programming |
| S03 - An empowered community with a sense of pride, safety and belonging. | Community and Club engagement to deliver outcomes to create a community hub and healthy community that they are proud of and promote to visitors from outside the community. |

Engagement

| Internal engagement | |
|---------------------------|--|
| Stakeholder | Comment |
| C-Suite | Presented to C-suite and received support for the master plan approach. |
| Project Management Office | Described and refined approach with the help of the project management team and discussed influence on other strategic projects. |
| Strategic Assets | Described approach to Coordinator of Strategic Assets and discussed impact on other strategic projects. |

| External engagement | |
|-----------------------|--|
| Stakeholders | External engagement with community will be conducted as an integral component of the Master Plan design process |
| Period of engagement | Engagement is outlined in Attachment 12.8.1 with the first stage allocating a period of engagement from May 2019 |
| Level of engagement | 3. Involve |
| Methods of engagement | Pop-up engagement sessions at Leisure Centres Facilitated design workshops with stakeholder and reference groups Online survey of broader community. |
| Advertising | Social media, physical advertising, postcards in neighbouring residents letterboxes. |
| Submission summary | NA |
| Key findings | NA |

Legal compliance

Not applicable.

Risk management consideration

Option 1 - endorse the continuation of Stage One (1) and request a report to Council prior to commencement of Stage Two (2)

| Risk and consequence | Consequence rating | Likelihood rating | Overall risk analysis | Mitigation and actions |
|---|--------------------|-------------------|-----------------------|---|
| Reputation Concern and opposition from existing user groups and local community | Moderate | Likely | High | Community consultation about the project. Community Engagement |

| | | | | |
|--|----------|----------|------|--|
| | | | | workshops. |
| Reputation Population growth and shift in the location of major population centres within the Town | Moderate | Likely | High | Needs assessment, Social Infrastructure Plan and monitoring leisure centres statistics of attendance analysis along with community consultation |
| Financial /Property Neighbouring LGA facilities refurbishment and construction activity | Moderate | Likely | High | Consultation in future developments of similar facilities within surrounding LGA – advising council as required. Assessing needs and location |
| Financial/ Reputational That the leisure needs assessment recommends actions that do not require a master plan | Moderate | Unlikely | Low | Through the process of the council receiving the needs assessment recommendations any significant impact on the master plan project will be immediately identified and communicated to Council |

Option 2 – Do Nothing

| Risk and consequence | Consequence rating | Likelihood rating | Overall risk analysis | Mitigation and actions |
|---|--------------------|-------------------|-----------------------|--|
| Financial Facilities degraded beyond usefulness | Major | Possible | High | Long-term implementation plans are in place for upgrades as and when required |
| Reputational Facilities no longer service functional needs of the Community | Major | Possible | High | Detailed needs assessments undertaken for service provisions of the existing facilities for future planning. |
| Property Delayed decisions may lead to further degradation of facilities | Major | Possible | High | Asset Plans are maintained with required expenditure, timed to budget submissions. |

Financial implications

| | |
|-----------------------|--|
| Current budget impact | <p>Recommended Option 1 – Stage one (1) Consultancy for needs analysis - \$50,000. Sufficient funds exist within the 18/19 annual budget to address Stage One (1) An RFQ produced and successful consultant nominated from allocated provisions within 18/19 Budget, the community facility needs assessment will be completed within the 18/19 budget year.</p> <p>Not Recommended Option 2 – Nil Cost</p> |
| Future budget impact | <p>A further \$50,000 has been requested within the draft 2019/20 Budget to deliver Stage Two (2) of the proposed Master Plan to deliver functional design options and proceed with internal and external stakeholder consultation and community engagement.</p> <p>Proposed stages 3 and 4 will deliver financial analysis and probable cost estimates to inform the Long Term Financial Plan.</p> <p>Not Recommended Option 2 - Based on building condition assessment</p> <ul style="list-style-type: none">• Leisurelife \$2.9M of renewals and replacements over the next 15 years• Aqualife \$5.0M of renewals and replacements over the next 15 years. |

Analysis

9. There are many unknowns within the Aqualife and Leisurelife Master Plan project and it will require many stages of robust reporting and engagement.
10. To assist in delivering options to determine these stages and future needs of Aqualife and Leisurelife the recommendation is to endorse the continuation of Stage One (1) and provide a further report to Council prior to commencement of Stage Two (2) of the Master Plan.
11. The outlined Master Plan Stages in **Attachment 12.8.1** will give an overview of the Master Plan and proposed stages and provide further detail regarding the justification for this option, overview of the process, benefits, dis-benefits, risks and estimated timeframes.
12. Cost estimates will not be known until the completion of Stage four (4) of the masterplan. This may impact the ability to fulfil the Council priority to inform the Long Term Financial Plan by November 2019.

Relevant documents

Not applicable.

13 Chief Financial Officer reports

13.1 Infringement Debt Write-off

| | |
|----------------------------|-------------------|
| Location | Town-wide |
| Reporting officer | Amadeus Rainbow |
| Responsible officer | Luke Ellis |
| Voting requirement | Absolute majority |
| Attachments | Nil |

Recommendation

That Council approves the write-off of identified unrecoverable infringement debts valued at \$767,199.13.

Purpose

To approve the write-off of unrecoverable bad debt relating to infringements.

In brief

- The Town has outstanding infringement income relating to Parking, Animal, Fire, Health and General which are unrecoverable.
- The accumulation of this debt is due to administrative failures which meant these infringements were not forwarded to the Department of Treasury Fines Enforcement Register (FER) within their statute of limitation period.
- A full review of historical infringement debt relating to all areas was subsequently conducted.
- The Town has investigated options and taken action to reduce historical infringement debt by way of a debt collection trial.
- Based on the outcome of this trial and in line with the Town's Debt Collection Policy (FIN3) and its associated management practice the Town is recommending that the bad debt be written off due to it being unviable or uneconomical to pursue.
- The total amount requested to be written off is \$767,199.13. The Town has budget allowance for the provision of this unrecoverable debt.
- The Town's Debt Collection Policy and practice have been reviewed, updated and endorsed by Council May 2019 to ensure robust management of outstanding debts (including infringements).
- Debt collection as per the newly adopted policy and management practice has been occurring, with eligible infringements being forwarded to Fines Enforcement Register at regular intervals.

Background

1. Accumulation of Unpaid Infringements
 - a. Between 2006 and 2018, infringements that remained unpaid failed to be submitted to the Fines Enforcement Registry (FER) due to failures within the administration process and oversight. These unpaid infringements were accumulating as bad debt.
 - b. Parking infringements issued prior to the implementation of paid parking in the Town were minimal, the majority of the accumulation of this debt occurred following this implementation.

- c. Following identification of the failure by the Town robust process around collection of infringement debt (as well as overall debt collection) has been implemented. The Town's Debt Collection Policy and Management Practice have also been updated. Additional reporting measures have been introduced and are reported to council on a monthly basis.
 - d. The current amount of debt relating to historical infringements which is being requested to be written off as unrecoverable across the Town totals \$767,199.13.
2. Process for collecting infringement debt
 - a. In August 2018, the Town reviewed processes, available systems and resourcing for managing unpaid infringements. The process includes the prompt lodgment of unpaid infringements with Fines Enforcement Registry as well as additional reporting within the monthly financial statements.
 - b. The process for collecting infringement debt is:
 - i. The Town provides customers 28 days to pay the initial notice, appeal the infringement or elect to have the matter heard in court.
 - ii. If the infringement remains unpaid by the due date on the initial notice, the Town sends a reminder notice, which provides another 28 days for customers to pay. This notice also advises customers of their legal options and the potential consequences of ignoring the notice.
 - iii. If the infringement remains unpaid by the due date on the reminder notice, a final demand notice is sent to the customer. The final demand notice has an additional late fee applied to the initial infringement penalty and allows the customer another 28 days to pay. This notice also advises customers of their legal options and the potential consequences of ignoring the notice.
 - iv. If the outstanding amount (the infringement penalty and additional fees) remains unpaid by the due date on the final demand notice the infringement is referred to the FER. Information on the process once a matter is registered with Fines Enforcement Registry can be found at: https://www.courts.justice.wa.gov.au/F/fines_infringements.aspx
 - v. Council writes off the infringement, including the infringement penalty and any applicable late fee only if:
 - The Town cannot obtain the offender's details (only applies to vehicle infringements),
 - A successful appeal is made to the Town,
 - A court finds the offender not guilty,
 - FER are unable to recover an unpaid infringement, or
 - It becomes unviable or uneconomical to continue to pursue the debt.
 3. Unpaid infringements issued before the change of process
 - a) Of the approximately 116,185 infringements the Town had issued before August 2018, 11,148 remained unpaid (9.6%).
 - b) 3,204 eligible infringements were forwarded to the Fines Enforcement Registry.
 - c) The remaining 7,944 infringements were ineligible to be forwarded due to the FER not accepting infringements which are outside their statute of limitation.
 - i. The statute of limitation on these infringements is either 12 months or 24 months depending on whether the original offence is under state legislation or one of the Town's Local laws. Parking infringements have a limitation of 24 months.

4. Debt collection trial

- a) In an effort to determine and explore options relating to the remaining debt and the Town’s ability to collect it, the Town’s Finance and Audit Committee requested a debt collection trial. This involved 1000 unpaid, high value infringements of the 7,944 unpaid.
- b) The trial involved forwarding a “Letter of Demand” to the registered offender requesting payment of the outstanding debt.
- c) This trial Cost \$2,900 and 27 staff hours. These costs and staff time were in relation to:
 - i) Administration, preparation and postage of 1000 letters
 - ii) Answering 104 phone calls directly relating to the demand letters being received and
 - iii) Responding to 34 appeals as a result of the letters.
 - iv) Of the 1000 letters sent, 129 were returned to sender.
- d) The outcome of the trial was 49 of the 1000 infringements were paid (a total value of \$6,617), within the 21 days stated in the letter of demand. The total value of the trial debt collection was \$135,687. This equates to a collection rate of ~5%.
- e) It is estimated that to undertake the same process for the remaining unpaid infringements would cost \$21,000 and 198 staff hours.
- f) As the value of the remaining outstanding parking infringements is \$678,917 based on the outcome of the trial the Town estimates it would recover 5%, or a value of approximately \$34,000.
- g) Based on this estimate, and the fact that most infringements had already been followed up with a reminder letter and a final demand letter when first issued, the administration recommends that to continue to attempt to collect the remaining outstanding debt would be uneconomical.

Strategic alignment

| Civic Leadership | |
|--|---|
| Strategic outcome | Intended public value outcome or impact |
| CL06 - Finances are managed appropriately, sustainably and transparently for the benefit of the community. | The Town is transparent on the number and value of infringements to be written off. |

Engagement

| Internal engagement | |
|---------------------|---|
| Stakeholder | Comments |
| Rangers Services | All internal stakeholders were engaged as part of the debt review process and relevant officers were provided training on the updated Debt collection Policy and Management practice. |
| Environment Health | Only issue infringements once they have the offender's details |
| Parking Management | |
| Building Services | |
| Asset Management | |

Legal compliance

[Section 6.12\(1\)\(b\) and \(c\) of the Local Government Act 1995](#)

Risk management consideration

| Risk and consequence | Consequence rating | Likelihood rating | Overall risk analysis | Mitigation and actions |
|---|------------------------|------------------------|------------------------|--|
| <p>Reputational</p> <p>Negative public perception towards the Town may result in the write off of debt</p> | <p>Moderate</p> | <p>Possible</p> | <p>Moderate</p> | <p>Explanatory FAQ's added to the website detailing that:</p> <ul style="list-style-type: none"> a) The Town is only writing off those debts that are unrecoverable, or unviable to recover. b) The volume of unpaid debt compared to infringements which have been collected or are being collected with FER is low (9.6%) c) It is common practice for councils with large infringement volumes to account for large amounts of doubtful debt and subsequent write off figures. |
| <p>Financial</p> <p>The council does not approve the write off of debt</p> | <p>Moderate</p> | <p>Possible</p> | <p>Moderate</p> | <p>Make it clear to Council that should they choose not to write of the debt:</p> <ul style="list-style-type: none"> a) This doubtful debt provision would remain on the Town's financial statements and continuing to have outstanding debt over 90 days with no view to collect (or unviability to collect) serves no purpose. b) With the requirement to continue to include provision of doubtful debt within our financial statements the figure would simply increase without action to rectify historical bad debt. c) The Town has researched its options into collection of the remaining debt and based on the inability to forward to Fines Enforcement as well as the outcome of the trial, it is viewed it is uneconomical to pursue. As per internal policy and management practice this is deemed acceptable practice. |

Financial implications

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

Analysis

5. Identified and Budgeted

- a) Doubtful Debt provision within the annual financials of the Town is \$774,082.78. The proposed write off is less than our predicted provision.
- b) The table below shows the breakdown of the infringement debt in relation to the particular infringement type.

| Infringement Type | No. of Infringements | Write off amount | % of total write off |
|-----------------------|----------------------|---------------------|----------------------|
| Parking Infringements | 7644 | \$678,917.82 | 88.49% |
| General Infringements | 136 | \$26,870.95 | 3.50% |
| Animal Infringements | 88 | \$50,030.76 | 6.52% |
| Fire Infringements | 26 | \$10,808.70 | 1.41% |
| Health Infringements | 1 | \$570.90 | 0.07% |
| TOTAL | 7895 | \$767,199.13 | 100% |

6. Writing-off Infringement Debt

- a) It is common practice for Local Government Authorities (LGAs) to write-off infringement debt and to report large provisions of doubtful debt within their financial statements. Councils with large infringement revenue will subsequently hold large doubtful debt provisions and write off amounts. Annual reports from other LGA's who operate paid parking programs show
 - 1.a.1. City of Perth - \$3,983,451
 - 1.a.2. City of Subiaco - \$803,131
 - 1.a.3. City of Vincent - \$286,620 with \$1,066,403 shown as non-current
 - 1.a.4. City of Canning \$385,717
- b) The \$767,199.13 of outstanding infringements identified represents over 10 years' worth of historical infringement debt, with the oldest dating back to 2006 – 2007 financial year.

7. Moving Forward

- a) The Town's Debt Collection Policy, practices and processes have been updated, to prevent a future buildup of bad debt and areas which issue infringements are ensuring management and process of their debt collection is priority.
- b) The Town will continue to make allowances for doubtful debt and future write off figures are expected to be directly related to current infringements which are being collected by Fines Enforcement Registry, who would recommend and inform the Town on any which are deemed unrecoverable.

Relevant documents

Debt Collection Policy

Debt Collection Management Policy

13.2 Schedule of Accounts for April 2019

| | |
|----------------------------|---|
| Location | Town-wide |
| Reporting officer | Bonnie Hutchins |
| Responsible officer | Ann Thampoe |
| Voting requirement | Simple majority |
| Attachments | 1. Payment Summary - April 2019 [13.2.1] |

Recommendation

That Council:

1. Confirms the accounts for 30 April 2019, 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 and the trust fund for the month ended 30 April 2019.

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) Regulation 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 no longer exists, the payment listing 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) Regulation 1996 is contained within the attachment and is summarised below.

| Fund | Reference | Amounts |
|--------------------------|-----------------|------------------|
| Municipal Account | | |
| Automatic Cheques Drawn | 608552 – 608563 | 29,388 |
| Creditors – EFT Payments | | 6,254,298 |
| Payroll | | 1,035,146 |
| Bank Fees | | 10,039 |
| Corporate MasterCard | | 4,943 |
| | | 7,333,814 |
| Trust Account | | |
| Automatic Cheques Drawn | 3660 - 3664 | 10,630 |
| | | 10,630 |

Strategic alignment

| Civic Leadership | |
|--|---|
| Strategic outcome | Intended public value outcome or impact |
| CL06 - Finances are managed appropriately, sustainably and transparently for the benefit of 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. |
| CL10 - Legislative responsibilities are resourced and managed appropriately, diligently and equitably. | The presentation of payment listing to Council is a requirement of Regulation 13 of Local Government (Finance Management) Regulation 1996. |

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 and consequence | Consequence rating | Likelihood rating | Overall risk analysis | Mitigation and actions |
|---|--------------------|-------------------|-----------------------|--|
| Compliance Council not accepting Schedule of Accounts | Moderate | Unlikely | Moderate | Provide reasoning and detailed explanations to Council to enable informed decision making. |

| | | | | |
|--|--------------|----------|----------|--|
| Financial impact Misstatement or significant error in Schedule of Accounts | Major | Unlikely | Moderate | Daily and monthly reconciliations. Internal and external audits. |
| Financial impact Fraud and illegal acts | Catastrophic | Rare | Moderate | Stringent internal controls. Internal audits. Segregation of duties. |

Financial implications

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

Analysis

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](#)

13.3 Financial statements for the month ending 30 April 2019

| | |
|----------------------------|---|
| Location | Town-wide |
| Reporting officer | Bonnie Hutchins |
| Responsible officer | Ann Thampoe |
| Voting requirement | Absolute majority |
| Attachments | 1. Financial Statements for the month ending April 2019 [13.3.1] |

Recommendation

That Council, by an Absolute Majority, approves the budget amendments and accepts the Financial Activity Statement Report – 30 April 2019, as attached.

Purpose

To present the statement of financial activity reporting on the revenue and expenditure for the period ended 30 April 2019.

In brief

- The financial activity statement report is presented for the month ending 30 April 2019.
- The report complies with the requirements of Regulation 34 (Financial activity statement report) of the Local Government (Financial Management) Regulations 1996.

Background

1. Regulation 34 of the Local Government (Financial Management) Regulation 1996 states that each month, officers are required to prepare monthly financial reports covering prescribed information, and present these to Council for acceptance.
2. As part of the monthly financial reports, material variances are reported. Thresholds are set by Council and are as follows:
 - a) 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.
 - b) 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:

- a) Period variation
 - i. Relates specifically to the value of the variance between the budget and actual figures for the period of the report.
- b) Primary reason(s)
 - ii. Explains the primary reason(s) for the period variance. Minor contributing factors are not reported.
- c) End-of-year budget impact
 - iii. 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 | |
|--|---|
| Strategic outcome | Intended public value outcome or impact |
| CL06 - Finances are managed appropriately, sustainably and transparently for the benefit of the community. | To make available timely and relevant information on the financial position and performance of the Town so that Council and public could make informed decision for the future. |
| CL10 - Legislative responsibilities are resourced and managed appropriately, diligently and equitably. | Ensure Town meets its legislative responsibility in accordance with Regulation 34 of the Local Government (Financial Management) Regulation 1996. |

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](#)

[Local Government Act 1995 Section 6.8](#)

Risk management consideration

| Risk and consequence | Consequence rating | Likelihood rating | Overall risk analysis | Mitigation and actions |
|--|--------------------|-------------------|-----------------------|------------------------------------|
| Financial impact Misstatement or | Major | Unlikely | Moderate | Daily and monthly reconciliations. |

| | | | | |
|--|--------------|----------|----------|--|
| significant error in financial statements | | | | Internal and external audits. |
| Compliance Misstatement or significant error in financial statements | Moderate | Unlikely | Moderate | Internal review of monthly financial activity statement. External audits of monthly financial statements. |
| Financial impact Fraud and illegal acts | Catastrophic | Rare | Moderate | Stringent internal controls. Internal audits. Segregation of duties. |

Financial implications

| | |
|-----------------------|--|
| Current budget impact | <p>Commentary around the current budget impact is outlined in the Statement of Financial Activity, forming part of the attached financial activity statement report.</p> <p>The following budget amendments have been included in the recommendation for approval by absolute majority with additional commentary provided within the attachment of this report:</p> <ul style="list-style-type: none"> a) Reallocate budget funds (in addition to existing approved capital budget) required for air conditioning upgrade at Harold Hawthorne Centre of \$30,000. b) Reallocate budget funds to facilitate upgrade to existing hardware to allow for live streaming from council chambers of \$34,500. c) Reallocate budget funds to facilitate additional contingency and variation inclusions for John Mactivation project of \$20,000. d) Reallocation budget funds to facilitate additional contingency and variation inclusions for ROW52 Laneway upgrade of \$40,000. |
| Future budget impact | <p>Commentary around the future budget impact is outlined in the Statement of Financial Activity, forming part of the attached financial activity statement report.</p> |

Analysis

The Financial Activity Statement Report – 30 April complies with the requirements of Regulation 34 (Financial activity statement report) of the Local Government (Financial Management) Regulations 1996. The budget amendment requests complies with the requirements of the Local Government Act 1995 Section 6.8. It is therefore recommended that the Financial Activity Statement Report – 30 April be accepted.

14 Committee reports

15 Questions from members without notice on general matters

16 Public participation time

17 Confidential matters

In accordance with Section 5.23(2)(c) of the *Local Government Act 1995*, this report will be considered behind closed doors.

Recommendation

That Council:

1. Receives the Edward Millen Redevelopment Project Business Case.
2. Endorse Option 1 from the Edward Millen Redevelopment Project Business Case to commence an Expression of Interest campaign to test private sector interest levels to redevelop the Edward Millen site.

18 Closure