



TOWN OF
VICTORIA PARK

Agenda Briefing Forum Notes – 6 July 2021



WE'RE OPEN
VIC PARK

Please be advised that an **Agenda Briefing Forum** was held at **6:30pm** on **Tuesday 6 July 2021** in the **Council Chambers**, Administration Centre at 99 Shepperton Road, Victoria Park.

Her Worship the Mayor Karen Vernon
8 July 2021

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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

Mayor Karen Vernon opened the meeting at 6:30pm.

3 Acknowledgement of country

Acknowledgement of the traditional owners

Ngany yoowart Noongar yorga, ngany wadjella yorga. Ngany djerapiny Wadjak – Noongar boodja-k yaakiny, nidja bilya bardook.

I am not a Nyungar woman, I am a non-Indigenous woman. I am honoured to be standing on Whadjuk - Nyungar country on the banks of the Swan River.

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

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

Ngany youngka baalapiny Noongar birdiya wer moort nidja boodja.

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

4 Announcements from the Presiding Member

4.1 Purpose of the Agenda Briefing Forum

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

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

4.2 Notice of recording and live-streaming

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

4.3 Conduct of meeting

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

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

4.4 Public participation time

There 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 are received.

As per the public notice of change of meeting venue to electronic Council meetings, public participation time was still to occur during these electronic meetings and questions were required to be provided to the Town by 12pm on the day of the meeting.

4.5 Questions taken on notice

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

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

5 Attendance

Mayor

Ms Karen Vernon

Banksia Ward

Cr Claire Anderson
Cr Ronhhda Potter
Cr Wilfred Hendriks
Cr Luana Lisandro

Jarrah Ward

Deputy Mayor Bronwyn Iffe
Cr Vicki Potter
Cr Brian Oliver
Cr Jesvin Karimi

Chief Executive Officer

Mr Anthony Vuleta

Chief Operations Officer

Ms Natalie Adams

Chief Financial Officer

Mr Michael Cole

Chief Community Planner

Ms Natalie Martin Goode

Manager Development Services

Mr Robert Cruickshank

Manager Governance and Strategy

Ms Bana Brajanovic

Secretary

Ms Natasha Horner

5.1 Apologies

Nil.

5.2 Approved leave of absence

Nil.

6 Declarations of interest

Declaration of financial interest

Nil.

Declaration of proximity interest

Nil.

Declaration of interest affecting impartiality

| | |
|--------------------|---|
| Name/Position | Cr Jesvin Karimi |
| Item No/Subject | 12.2 - 5.2021.225.1 119A Basinghall Street East Victoria Park |
| Nature of interest | Impartiality |
| Extent of interest | The individuals making the application, being Choon Ping Tan and Milton James Goodchild, are known to me. |

| | |
|--------------------|---|
| Name/Position | Cr Jesvin Karimi |
| Item No/Subject | 12.3 - No. 257 Berwick Street, Victoria Park - Five Single Bedroom Dwellings |
| Nature of interest | Impartiality |
| Extent of interest | I have been involved in meetings with some of the members of the My Home project via my employment. |

| | |
|--------------------|--|
| Name/Position | Mayor Karen Vernon |
| Item No/Subject | 12.3 - No. 257 Berwick Street, Victoria Park - Five Single Bedroom Dwellings |
| Nature of interest | Impartiality |
| Extent of interest | I have met with the applicant regarding the original development application submitted to the Town, which is similar to the current application. |

| | |
|--------------------|--|
| Name/Position | Mr Anthony Vuleta |
| Item No/Subject | 12.3 - No. 257 Berwick Street, Victoria Park - Five Single Bedroom Dwellings |
| Nature of interest | Impartiality |
| Extent of interest | I have been involved in meetings with some of the architects of the My Home project. |

| | |
|--------------------|--|
| Name/Position | Cr Ronhhda Potter |
| Item No/Subject | 15.1 - Adoption of Amendment (Signs on Thoroughfares) Local Law 2021 |
| Nature of interest | Impartiality |
| Extent of interest | Own a business that may be impacted by this policy. |

7 Public participation time

Nil - no public questions or statements were received prior to the meeting.

8 Presentations

Nil.

9 Deputations

Mr Choon Tan

1. Made a deputation in support of item 12.2 - 5.2021.225.1 119A Basinghall Street East Victoria Park asking Council to consider approving the development application.

Questions and responses

Cr Luana Lisandro

1. How many bedrooms are contained in the granny flat?

Mr Tan advised that it has two bedrooms and one bathroom.

2. How far is the granny flat to your property and the boundary fence?

Mr Tan advised that it is around 15 to 20 meters.

Mr Robert Fowler and Mr Richard Burt

1. Made a deputation on item 12.4 - Amendment to condition of development approval for mixed use development at No. 660 (Lot 11) Albany Highway asking Council to consider a maximum of 20 years lease on the community room.

Questions and responses

Cr Vicki Potter

1. Is it correct that the application went to the Joint Development Assessment Panel three times for the 7th storey, and knocked back three times before the community room was offered up?

Mr Fowler advised that the reason for reapplying to the Joint Development Assessment Panel room was due to the penthouse modifications.

2. Is it correct that to reach the 6 storeys there was already exceptions made? And the Joint Development Assessment Panel were looking for something else to allow it to go to 7 storeys?

Mr Fowler advised that the 6 storeys was determined by Town staff, not by the Joint Development Assessment Panel. It was an agreement that if the land was bought, it would be at 6 storeys.

3. Was the reasoning for the Joint Development Assessment Panel decision to allow 6 storeys due to the quality and because it was considered to be an exceptional building?

Mr Fowler advised that the Joint Development Assessment Panel were in support of 6 storeys and more, and that it was Town staff who were adamant for it to be 6 storeys. It was due to the agreement that if the land was bought, it would be 6 storeys.

4. If the Joint Development Assessment Panel were happy for the building to be greater than 6 storeys, then why did Joint Development Assessment Panel reject the 2 extra storeys earlier?

Mr Fowler advised that the Joint Development Assessment Panel were trying to appease the previous Town planning staff. After meeting all standards, the community room was a token action.

Cr Ronhda Potter

1. In relation to the background of the report, point 7, why hasn't there been an agreement on the community accessing this space, and why has it taken two years to get to this point?

Mr Burt advised that they have been in communication with the Town showing a willingness to allow the space to be used but Town staff have insisted resolving issues before entering into a lease.

Mr Fowler advised that it has been a drawn out matter and the community room has been available from day one and keys have been given to the Town. The Town have furnished the room and use of the room is up to the Town.

Cr Luana Lisandro

1. When was the Joint Development Assessment Panel decision was put forward, did you wrote to the Town or the Joint Development Assessment Panel to indicate that you were not satisfied with having that room available for community use for the life of the building? Any written correspondence?

Mr Fowler advised that meetings with Town staff occurred and correspondence about those meeting would need to be found.

Mayor Karen Vernon

1. From the time that the planning approval was granted, and development plans were put forward and commenced working on the build, how long did it take for the building to be completed?

Mr Fowler advised that he does not know for certain and he thinks around 18 to 20 months.

2. Do you accept point 7 in the officer's report that the building has been completed and occupied for approximately two years?

Mr Fowler advised yes.

3. How soon after the final decision of Joint Development Assessment Panel granting planning approval, how soon did you begin discussions with Ms Lavery and Mr Cruickshank?

Mr Fowler advised it was very close after but he can't recall the date.

4. As Mr Lavery left the Town's employment in December 2017, and the Joint Development Assessment Panel decision was made in 2016, would you agree with me that any meetings you had involving Ms Lavery would have been held prior to December 2017?

Mr Fowler advised that he does not know and he would provide that information to elected members.

5. At what point did you inform the Town that you sought to amend this condition variation?

Mr Fowler advised that he does not know the date and would provide that information to elected members.

6. How long have you been on board as the the Chief Executive Officer for the Fowler Group?

Mr Burt advised since October 2020.

7. After you came on board, when did you first engage with the Town on the use of the community space?

Mr Burt advised that it was when he met with Town officers.

8. Do you when that was?

Mr Burt advised that he does not recall the exact date, he could find the date but as an estimate it was three months ago.

9. To the best of your knowledge, was that the first time you raised on behalf of the Fowler Group, that you were wanting an amendment to the condition about making the community space available for the life of the building?

Mr Burt advised that yes, that was the time they approached the Town to seek the process for the amendment or to have the matter reviewed.

10. What do you say to the Town's officer's recommendation that Council should approve this amendment on the basis of a 20 year lease, given you are seeking a maximum of 20 years?

Mr Burt advised that they are similar outcomes, they are looking for that sense of reasonableness for flexibility reasons.

11. Is there any particular magic in your calculation of up to a maximum of 20 years?

Mr Burt advised that it is through a sense of balance and seeking compromise on finding a reasonable period for the lease. He advised that Fowler Group would like to use the benefit of time to reflect on it.

12. If we took your view that the life of the building of around 70 years, are you open to the prospect of a lease of 20 years, with potentially two further options of 5 years?

Mr Burt advised that their preference is the recommended lease of 20 years but are happy to discuss this further with the Town.

10 Method of dealing with agenda business

Elected members indicated that they wished to raise questions at the following items:

- 11.2 - Quarterly Reporting - April-June 2021.
- 12.1 - 32 Oswald Street, Victoria Park - Proposed Additions to Existing Primary School (Victoria Park Christian School).
- 12.3 - No. 257 Berwick Street, Victoria Park - Five Single Bedroom Dwellings.
- 12.4 - Amendment to condition of development approval for mixed use development at No. 660 (Lot 11) Albany Highway, Victoria Park.
- 12.5 - No. 45 the Circus - Home Business (Unlisted Use).
- 13.1 - Climate Emergency Plan.
- 13.3 - Edward Millen Reserve Landscape Tender Option Analysis.
- 13.4 - Edward Millen Adaptive Heritage Redevelopment Ground Lease.

11 Chief Executive Officer reports

11.1 Nomination of WALGA 2021 Annual General Meeting delegates

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

Recommendation

That Council:

1. Nominates two voting delegates for the 2021 Annual General Meeting of the WA Local Government Association to be held on Monday 20 September 2021 at Crown Perth.
2. Nominates two proxy voting delegates for the 2021 Annual General Meeting of the WA Local Government Association to be held on Monday 20 September 2021 at Crown Perth, in the event that Council's appointed representatives are unable to attend.
3. Requests the Chief Executive Officer to advise the WA Local Government Association of Council's nominees.

Purpose

For Council to nominate two voting delegates and two proxy voting delegates for the 2021 Annual General Meeting of the WA Local Government Association (WALGA).

In brief

- The 2021 WALGA Annual General Meeting is being held on Monday 20 September 2021 at Crown Perth.
- The Town must nominate two voting delegates by Friday 27 August to be able to participate in voting on matters.
- Two proxy delegates should be nominated in the event that the appointed representatives are unable to attend on the day.

Background

1. WALGA is the peak industry body for local government in Western Australia and advocates on behalf of 138 local governments.
2. All member Councils are entitled to be represented by two voting delegates and two proxy voting delegates at the Annual General Meeting of WALGA.
3. At the Annual General Meeting, members consider WALGA's annual financial statements, the President's annual report and any executive or member motions that are raised.
4. This year, the WALGA Annual General Meeting is being held on Monday 20 September 2021 at Crown Perth.

5. The Chief Executive Officer has received communication from WALGA requesting the Town to submit its voting delegates by Friday 27 August.
6. At its Special Council Meeting held on 29 October 2019, Council appointed Deputy Mayor Bronwyn Ife and Cr Ronhhda Potter to represent the Town on the WALGA South-East Metropolitan Zone. Cr Vicki Potter and Cr Claire Anderson were appointed as alternative members.
7. At the Ordinary Council Meeting held on 16 June 2020, Council appointed Mayor Karen Vernon to represent the Town on the WALGA South-East Metropolitan Zone, after Cr Ronhhda Potter stood down from the group.
8. Deputy Mayor Bronwyn Ife is the Chair of the WALGA South-East Metropolitan Zone and is also a Deputy State Councillor.
9. In 2019, Council nominated ex-Mayor Trevor Vaughan and Cr Brian Oliver as voting delegates. Deputy Mayor Bronwyn Ife and Cr Vicki Potter were nominated as proxy voting delegates.
10. In 2020, Council nominated Mayor Karen Vernon and Deputy Mayor Bronwyn Ife as voting delegates. Cr Jesvin Karimi and the Chief Executive Officer, Mr Anthony Vuleta, were nominated 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>WALGA's constitution requires that voting delegates are registered.</p> <p>Representation at WALGA's Annual General Meeting will enable the Council to be involved in any decision-making affecting the Town.</p> |

Engagement

Not applicable.

Legal compliance

WALGA's constitution requires that voting delegates are registered.

Risk management consideration

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

| | | | | | | |
|---------------------------|---|---------------|----------|-----|--------|--|
| ICT systems/ utilities | | | | | | |
| Legislative compliance | If the Town doesn't submit its voting members, it will not be able to vote on the matters being considered. | Insignificant | Unlikely | Low | Low | Treat risk by nominating voting members. |
| Reputation | Not applicable. | | | | Low | |
| Service delivery | Not applicable. | | | | Medium | |

Financial implications

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

Analysis

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

Relevant documents

[WALGA constitution](#)

There were no questions asked or presentations made in relation to this item.

11.2 Quarterly Reporting - April-June 2021

| | |
|----------------------------|--|
| Location | Town-wide |
| Reporting officer | Manager Governance and Strategy |
| Responsible officer | Chief Executive Officer |
| Voting requirement | Simple majority |
| Attachments | <ol style="list-style-type: none"> 1. Quarterly Report - Corporate Business Plan - Apr- Jun [11.2.1 - 14 pages] 2. Quarterly Report - Corporate Business Plan Report - Completed Deliverables - Apr- Jun [11.2.2 - 11 pages] 3. 2020/2021 Annual Strategic Projects Summary [11.2.3 - 4 pages] 4. Five-year capital projects work - year one [11.2.4 - 9 pages] 5. Five Year Capital Works Project Listing [11.2.5 - 3 pages] 6. Quarterly Report - EDS - Apr- Jun [11.2.6 - 9 pages] 7. Quarterly Report - EDS CAP - Apr- Jun [11.2.7 - 7 pages] 8. Quarterly Report - UFS - Apr- Jun [11.2.8 - 6 pages] 9. Quarterly Report - RAP - Apr- Jun [11.2.9 - 4 pages] 10. Quarterly Report - DAIP - Apr- Jun [11.2.10 - 5 pages] |

Recommendation

That Council receives the quarterly written progress reports, for the period April - June 2021 relating to the:

- a) Corporate Business Plan
- b) 2020/2021 Annual Strategic Project Summary
- c) Five-year capital works program
- d) Economic Development Strategy 2018-2023
- e) Urban Forest Strategy
- f) Reconciliation Action Plan
- g) Disability Access and Inclusion Plan.

Purpose

To present quarterly progress updates to Council on the actions, projects and outcomes listed within the plans and strategies included in the recommendation.

In brief

- At the Ordinary Council Meeting on 20 April 2021, Council resolved that quarterly written progress reports be presented to Council on the Corporate Business Plan, 2020/2021 Annual Strategic Project Summary, five-year capital works program and a selection of strategies and plans.
- The progress reports were requested to enable Council to confidently oversee the Town's performance, allocation of finances and allocation of resources, as well as improve transparency and accountability to the Council and community.
- All of the progress reports requested have been attached to this report to be received by Council.

Background

1. At the Ordinary Council Meeting on 20 April 2021, Council resolved as follows:

That Council:

1. Requests the Chief Executive Officer to present to Council a quarterly progress report on the actions, projects and outcomes within the 2020/2021 Annual Strategic Project Plan.
2. Receives the quarterly written progress reports, for March 2021 relating to the:
 - (a) Corporate Business Plan
 - (b) 2020/2021 Annual Strategic Project Summary
 - (c) Five-year capital works program
 - (d) Economic Development Strategy 2018 – 2023
 - (e) Urban Forest Strategy
 - (f) Reconciliation Action Plan
 - (g) Disability Access and Inclusion Plan.
2. The quarterly written progress reports were requested to enable Council to assess performance against strategies and plans, identify risks and significant variations in project performance and budgeting, receive information needed to be able to make informed decisions, and be able to take action to address any issues that arise. They were also requested to give Council and the community a higher level of transparency and accountability relating to strategic actions, plans and projects.

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 | Council are provided with the information that they have requested in the way they determined is best for them. |
| CL02 - A community that is authentically engaged and informed in a timely manner. | The community are regularly informed of progress on projects, plans and strategies undertaken by the Town. |

Engagement

| Internal engagement | |
|-------------------------|---|
| Stakeholder | Comments |
| Operations | Operations coordinate the progress reports for the 2020/2021 Annual Strategic Project Summary and Five-Year Capital Works Program. |
| Governance and Strategy | Governance and Strategy coordinate the progress reports for the Corporate Business Plan. |
| Place Planning | Place Planning coordinate the progress reports for the Economic Development Strategy 2018 – 2023, the COVID-19 Action Plan and Urban Forest Strategy. |
| Community Development | Community Development coordinate the progress reports for the Reconciliation Action Plan and Disability Access and Inclusion Plan. |

Legal compliance

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

Risk management consideration

| Risk impact category | Risk event description | Consequence rating | Likelihood rating | Overall risk level score | Council's risk appetite | Risk treatment option and rationale for actions |
|--|---|--------------------|-------------------|--------------------------|-------------------------|--|
| Financial | Not applicable | | | | Low | |
| Environmental | Not applicable | | | | Medium | |
| Health and safety | Not applicable | | | | Low | |
| Infrastructure/ ICT systems/ utilities | Not applicable | | | | Medium | |
| Legislative compliance | Not applicable | | | | Low | |
| Reputation | Negative public perception towards the Town if progress expectations are not being met. | Minor | Possible | Moderate | Low | <p>TREAT risk by providing commentary and reasoning within progress reports where expectations are not being met.</p> <p>AVOID risk by frequently reporting to Council, allowing Council and community to be informed of progress in a timely manner and potentially mitigate further progress delays.</p> |
| Service delivery | Not applicable | | | | Medium | |

Financial implications

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

Analysis

- Written progress reports will enable the Council to oversee the Town's performance and allocation of the Town's finances and resources. They will also help to inform the community about the Town's progress in relation to the plans and strategies.
- These reports on the actions, projects and outcomes, for the plans and strategies listed in the Council resolution, have been attached to this report. Further commentary for each report has also been included below.

Corporate Business Plan

- The status of actions from the CBP are as follows.
- Of those actions not started, only one action was due to commence in the 2020/2021 financial year, in June 2021. The remaining actions not started, are due to commence in July 2021.
- Actions due to commence in July 2021 will be reported on in the next quarter and are not detailed in attachment 1.

| Strategic outcome | Total actions | No. of actions completed | No. of actions in progress | No. of actions not started |
|-------------------|---------------|--------------------------|----------------------------|----------------------------|
| Social | 31 | 23 | 4 | 4 |
| Environment | 63 | 33 | 28 | 2 |
| Economic | 20 | 13 | 6 | 1 |
| Civic Leadership | 112 | 77 | 28 | 7 |
| Total | 226 | 146 | 66 | 14 |

- Actions completed within the reporting quarter are as follows.

| Completed actions |
|--|
| CL1.1.2 - Enhance functionality of the Town Intranet and Elected Member Portal |
| CL1.1.5 - Develop a Digital Marketing Plan |
| CL1.2.2 - Enhance the functionality of the website to better support e-business transactions |
| CL3.3.3 - Confirm location and prepare a Concept Design for Old Spaces New Places Project No.3 |
| CL3.3.4 - Deliver the McCallum Park Active Area detailed design |

| |
|--|
| CL5.1.4 - Implement the Leadership Competency Framework |
| CL7.1.3 - Develop a Customer Service Strategy |
| CL8.1.4 - Review the Strategic and Operational risk registers |
| CL8.1.5 - Develop an internal Decision-Making Framework |
| CL8.2.3 - Assess the Town's integrity practices against the Integrity Strategy 2020-2023 for WA Public Authorities |
| CL8.2.4 - Implement an internal audit program |
| CL8.4.6 - Improve corporate performance monitoring and reporting |
| CL8.5.1 - Conduct a review of Asset Planning's operations |
| CL8.5.13 - Conduct a review of Healthy Community's operations |
| CL8.5.21 - Conduct a review of Project Management's operations |
| EC2.3.3 - Review Parking Hotspot Zones 4 and 5 |
| EC2.3.5 - Undertake the Burswood Station East Parking Review |
| EC2.3.9 - McCallum Park Area review (Council resolution 481/2020) |
| EN1.1.4 - Implement recommendations of the Residential Character Study Area to planning framework |
| EN1.1.5 - Prepare a Streetscape Improvement Plan for Archer Street and Mint Street |
| EN1.1.8 - Update the Burswood Station East Planning Framework |
| EN1.1.10 - Review and update the Social Infrastructure Strategy |
| EN4.1.1 - Develop the Climate Change Mitigation Action Plan |
| EN4.1.2 - Develop an Environment Plan |
| EN4.1.3 - Develop a strategy and implementation plan for zero emissions vehicles |
| EN5.2.1 - Create a Fleet Training Program |
| EN5.2.4 - Review the Asset Management Plan – Fleet |
| EN6.2.2 - Develop a masterplan for Higgins Park and Playfield Reserve |
| S1.2.1 - Develop a Strategic Marketing Plan for the Town's leisure centres |
| S2.2.2 - Develop a Literacy and Learning Strategy |

S4.2.1 - Review the Municipal Heritage Inventory

2020/2021 Annual Strategic Project Summary

9. The status of projects from the Annual Strategic Project summary are as follows.

| Total projects | No. of projects on track | No. of projects for monitoring | No. of projects off track |
|----------------|--------------------------|--------------------------------|---------------------------|
| 11 | 10 | 0 | 1 |

Five Year Capital Works Program

10. The five year capital works program is currently being updated with the first year of the program being considered in the 2021/2022 annual budget process. Year two onwards will be reviewed following the adoption of the annual budget so any projects deferred in the budget consideration process can be re-listed in the five year program.

Economic Development Strategy 2018 – 2023

11. The Economic Development Strategy 2018- 2023 (EDS) outlines 50 actions required to achieve the seven pathways for sustainable economic growth over the next five years. The EDS was adopted by council in March 2019.

12. The summary table below represents the number of actions progressed and completed since the adoption of the EDS.

| Outcome | Total actions | No. of actions completed | No. of actions in progress | No. of actions not started |
|--|---------------|--------------------------|----------------------------|----------------------------|
| Pathway 1: Leadership | 4 | 2 | 2 | 0 |
| Pathway 2: Identity | 2 | 0 | 2 | 0 |
| Pathway 3: Local to Global Connections | 5 | 0 | 3 | 2 |
| Pathway 4: Smart Town-Digital Innovation | 7 | 0 | 5 | 2 |
| Pathway 5: Creating an Enabling Business Environment | 8 | 1 | 6 | 1 |
| Pathway 6: High Value Precincts | 6 | 5 | 1 | 0 |
| Pathway 7: High Value Sectors | 18 | 1 | 16 | 1 |
| Total | 50 | 9 | 35 | 6 |

COVID-19 Action Plan

13. The COVID-19 Action Plan (CAP) Edition One was endorsed by Council at the 18 August 2020 Ordinary Council Meeting.
14. The Plan is a dynamic document overseen by the COVID-19 Response Working Group (CRWG). It details the actions and projects that the Town will implement to achieve the objectives of the COVID-19 Response Strategy.
15. The CAP will continue to be updated as the recovery process evolves, and new actions and projects are identified. There are currently 62 actions included in the CAP, addressing the three phases in the COVID-19 Response Strategy.
16. The status of actions from the CAP are as follows.

| Phase | Total actions | No. of actions completed | No. of actions in progress | No. of actions not started |
|--------------|---------------|--------------------------|----------------------------|----------------------------|
| Survive | 6 | 6 | 0 | 0 |
| Revive | 28 | 10 | 18 | 0 |
| Thrive | 28 | 9 | 19 | 0 |
| Total | 62 | 25 | 37 | 0 |

Urban Forest Strategy

17. The Urban Forest Strategy (UFS) Implementation Action Plan (IAP) outlines 41 actions required to achieve the six strategic outcomes defined in the UFS over a 5-year period. The UFS was adopted by council in September 2018 and the IAP in September 2019.
18. The summary table below represents the number of actions progressed and completed since the adoption of the IAP.

| Outcome | No. of actions completed | No. of actions in progress | No. of actions not started |
|--|--------------------------|----------------------------|----------------------------|
| Strategic Outcome 1 Plant and protect sufficient trees by 2020 to achieve the 20% tree canopy target as supported by Council. | 4 | 7 | 4 |
| Strategic Outcome 2 Maximize community involvement and collaboration in its implementation. | 1 | 8 | 0 |
| Strategic Outcome 3 Increase tree diversity, whilst favoring local endemic and West Australian species that also support wildlife. | 1 | 1 | 1 |

| | | | |
|--|----------|-----------|----------|
| Strategic Outcome 4 Maintain high standard of vegetation health. | 1 | 4 | 1 |
| Strategic Outcome 5 Improve soil and water quality. | 0 | 3 | 0 |
| Strategic Outcome 6 Improve urban ecosystems. | 0 | 2 | 3 |
| Total | 7 | 25 | 9 |

19. A summary of the progress for each of the action from the UFS Implementation Action Plan is attached in a separate schedule.

Reconciliation Action Plan

20. The Town's Reflect Reconciliation Action Plan (RAP) was adopted by Council in November 2018.

21. The document outlines strategies and actions to support opportunities to strengthen the community, build strong relationships and foster greater awareness and understanding of Aboriginal culture and history.

22. The status of actions from the Reconciliation Action Plan are as follows.

| Category | No. of actions completed/ongoing | No. of actions in progress | No. of actions not started |
|-----------------------|----------------------------------|----------------------------|----------------------------|
| Relationships | 5 | 2 | 0 |
| Respect | 8 | 1 | 0 |
| Opportunities | 4 | 2 | 0 |
| Tracking and Progress | 1 | 1 | 0 |
| Total | 18 | 6 | 0 |

23. This quarter, the key progress highlights of the Reconciliation Action Plan included:

- National Reconciliation Week (NRW) was recognised and celebrated by the Town (27 May - 3 June 2021). Key celebratory events included the renaming of the Town's six meeting rooms to reflect the six Noongar seasons, the delivery of 36 books profiling Indigenous culture to the Town's nine little libraries, participating in the National Banner Project and a ceremonial staff morning tea held to launch the new naming.
- As part of the Community Benefits Strategy and the 100 player hours with West Coast Eagles (WCE), WCE players helped to promote the distribution of our 36 cultural books as part of the NRW.
- A concept forum workshop with Elected Members and Mindeera Advisory Group members was held on 25 May 2021. All parties were able to have respectful conversations around the impact on Noongar people of holding 26 January as a day of celebration as well as possible next steps for the Town around 26 January.

- Planning is extensively underway to celebrate NAIDOC week (4-11 July) including a community planting day, bushtucker cooking classes, graphic novelist at the library and a celebration event including a Welcome to Country and smoking ceremony, immersive cultural activities and live music by a Noongar artist.
- As part of the Town's community funding program, the Town has funded the Victoria Park Raiders football club to develop Indigenous art jumpers. WCE have assisted with this initiative and the jumpers are being produced for the players to wear during NAIDOC week.
- Town officers have now had discussions with Reconciliation Australia after initially officers had ongoing difficulty gathering a response and details from Reconciliation Australia. Reconciliation Australia have recently encouraged the Town to continue its reconciliation journey onto now developing an Innovate RAP.

Disability Access and Inclusion Plan

24. The Town's Disability Access and Inclusion Plan was adopted by Council in September 2017 and is a legislative requirement for all local governments.

25. The status of actions from the Disability Access and Inclusion Plan are as follows.

| Category | No. of actions completed/ongoing | No. of actions in progress | No. of actions not started |
|--------------------------|----------------------------------|----------------------------|----------------------------|
| Services and Events | 5 | 1 | 0 |
| Building and Facilities | 4 | 0 | 0 |
| Information | 3 | 3 | 0 |
| Quality Customer Service | 4 | 1 | 0 |
| Complaints | 2 | 0 | 0 |
| Public Consultation | 3 | 0 | 0 |
| Employment | 3 | 1 | 0 |
| Total | 24 | 6 | 0 |

26. This quarter, the key progress highlights of the Disability Access and Inclusion Plan included:

- Internal employment diversity survey completed in May 2021.
- Town officers have re-established the internal diversity working group that inputs towards the DAIP and the diversity space.
- The Access and Inclusion Advisory Group had their third meeting 16 June 2021. As part of the meeting, the group were able to discuss upcoming projects in the Town and ask questions concerning these projects.
- Town officers continue to work with Disability Providers/Services in the Town to circulate all job vacancies to help with meeting the 5% disability employment target.
- Monthly peer to peer NDIS group met 1 June 2021 at the Digital Hub.
- The Town held its third annual Vic Park Business Awards Ceremony on 4 June 2021 with one category being Excellence in Access and Inclusion.
- Corporate Disability Awareness Training scheduled for July/August 2021.

27. As per the Council resolution, progress reports will be presented to Council on a quarterly basis, in October, February, April and July.

Relevant documents

[Corporate Business Plan](#)

[Disability Access and Inclusion Plan](#)

[Economic Development Strategy 2018 – 2023](#)

[Reconciliation Action Plan](#)

[Urban Forest Strategy](#)

Questions and responses

Cr Claire Anderson

1. Can I have further information on the Local Business Engagement Plan and how this plan is being implemented?

The Chief Community Planner advised that Town officers are continually working cross functionally through the community development, stakeholder relations, asset management and economic development teams to engage with businesses community on ACROD bays and building accessibility through development applications or building permits. Other ways are through the Business Advisory Group, and business e-newsletters to provide more information to businesses on how to make their venues more accessible.

2. Can I have further information on the disability employment increment and plan that was discussed with the Access and Inclusion Advisory Group, when was the group consulted with?

The Chief Community Planner advised that the Town have endorsed an Employer of Choice Framework in April 2021 that has a range of initiatives to address outcomes identified in the Town's Disability and Access Inclusion Plan and Workforce Plan. The Town's People and Culture team have been working with external disability agencies around advertising, application processes and traineeship opportunities. The Access and Inclusion Advisory Group has been kept informed of this progress, however at the last June meeting there wasn't enough time to provide the update. There will be an update at the quarterly meeting.

Further consideration to be added to the Ordinary Council Meeting agenda

Nil.

11.3 Fencing Local Law 2021 - Undertakings

| | |
|----------------------------|---|
| Location | Town-wide |
| Reporting officer | Coordinator Governance and Strategy |
| Responsible officer | Manager Development Services |
| Voting requirement | Simple majority |
| Attachments | 1. CONFIDENTIAL REDACTED - Letter from the Joint Standing Committee - request for undertakings [11.3.1 - 4 pages] |

Recommendation

That Council resolves to undertake to the Joint Standing Committee on Delegated Legislation that:

1. When the *Town of Victoria Park Fencing Local Law 2021* is next reviewed and/or amended, the typographical errors in Schedules 1 and 2 will be corrected.
2. It will provide the Joint Standing Committee on Delegated Legislation with information on how the Standards referred to in the *Town of Victoria Park Fencing Local Law 2021*, can be accessed by residents without charge.
3. All copies of the *Town of Victoria Park Fencing Local Law 2021*, publicly available whether in hard copy or electronic form, will be accompanied by a copy of the undertaking above.

Purpose

To provide undertakings to the Joint Standing Committee on Delegated Legislation (the Committee) in relation to the *Town of Victoria Park Fencing Local Law 2021* (the local law).

In brief

- The local law was published in the *Government Gazette* on 31 March 2021.
- Following gazettal, in accordance with the *Local Laws Explanatory Memoranda Directions 2010*, the local law was submitted to the Committee for review.
- The Committee have considered the local law and requested the Council to give undertakings as detailed in the above recommendation.
- Town officers have considered the requested undertakings and have no objections.

Background

1. Council adopted the local law on 16 February 2021 and it was subsequently published in the *Government Gazette* on 31 March 2021.
2. Following gazettal, in accordance with the *Local Laws Explanatory Memoranda Directions 2010*, the local law was submitted to the Committee for consideration under its terms of reference.
3. The Joint Standing Committee on Delegated Legislation is a committee of the Western Australian Parliament consisting of eight members, with equal representation from the Legislative Council and Legislative Assembly.
4. Where the Committee finds that a local law offends one or more of its terms of reference, it seeks a written undertaking from the local government to amend or repeal the instrument in question.

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. | Providing the undertaking to the Committee will ensure that the new local law will continue to operate. This local law provides the public with an understanding of the fencing requirements within the Town. |

Engagement

| Internal engagement | |
|----------------------|--|
| Stakeholder | Comments |
| Development Services | Development Services was consulted on the requested undertakings and provided comments in response to free public access to the Standards referenced in the local law. |

Legal compliance

[Local Laws Explanatory Memoranda Directions 2010](#)

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

Risk management consideration

| Risk impact category | Risk event description | Consequence rating | Likelihood rating | Overall risk level score | Council's risk appetite | Risk treatment option and rationale for actions |
|--|--|--------------------|-------------------|--------------------------|-------------------------|--|
| Financial | Not applicable | | | | Low | |
| Environmental | Not applicable | | | | Medium | |
| Health and safety | Not applicable | | | | Low | |
| Infrastructure/ ICT systems/ utilities | Not applicable | | | | Medium | |
| Legislative compliance | Council don't provide undertakings to the Committee, resulting in the local law being disallowed by the Legislative Council. | | | | Low | TREAT by Council giving undertakings to the Committee as requested, within the required timeframe. |

| | | |
|------------------|----------------|--------|
| Reputation | Not applicable | Low |
| Service delivery | Not applicable | Medium |

Financial implications

| | |
|------------------------------|--|
| Current budget impact | Sufficient funds exist within the annual budget to address this recommendation and to purchase copies of the Standards referred to in the local law. |
| Future budget impact | Funds will be required to give local public notice and publication in <i>Government Gazette</i> when the local law is next reviewed and/or amended. The costs are estimated to be \$1,500 and will be presented to Council in a future budget. |

Analysis

5. The Committee has now considered the local law and requested undertakings to:
 - a. Correct the typographical errors in Schedules 1 and 2, when the local law is next reviewed and/or amended.
 - b. Provide the Committee with information on how the Standards referred to in the local law, can be accessed by residents without charge.
 - c. Ensure all copies of the local law publicly available, whether in hard copy or electronic form, be accompanied by a copy of the undertakings made.
6. The Committee has requested these undertakings be provided by 23 July 2021.
7. Once a local law is published in the *Government Gazette*, this becomes the official copy of the local law. Any typographical errors can only be corrected by enacting an amendment local law.
8. The Committee has requested that the next time the local law is reviewed and amended, the typographical errors be corrected. Until this time, the local law must include a copy of undertaking to ensure that the public is aware of the errors.
9. The Committee has also requested information on how the Standards referred to in the local law, can be accessed by residents without charge.
10. The local law refers to the following standards:
 - a. AS/NZS 1170.0:2002 Structural design actions – general principles
 - b. AS/NZS 3016-2002 Electrical installations – Electricity security fences
11. Australian Standards are published by Standards Australia and access to these documents is at cost.
12. The Town has investigated the matter of free public access to the Standards and have agreed the best way forward is to purchase a copy of each of the Standards (and any associated amendments). These Standards will be made available for viewing at the Town’s administration office, to any member of the public who requests it.
13. The purchase of an electronic copy of AS/NZS 1170.0:2002 is \$113.11 (GST inclusive) and AS/NZS 3016-2002 is \$73.51 (GST inclusive). There is no cost associated with the purchase of amendments.
14. Reference to how the public can access the Standards will be included on all publicly available copies of the local law.

15. Where a local government does not comply with the Committee's request for an undertaking, the Committee may, resolve to report to the Parliament recommending the disallowance of the local law in the Legislative Council.
16. A local law will cease to have effect from the date on which it is disallowed. Where the local law repealed another local law, the earlier local law will be re-enacted on and after the day of disallowance.
17. It is recommended that Council provide the undertaking to the Committee within the requested timeframe to ensure a motion of disallowance is not progressed through the Legislative Council.

Relevant documents

[Town of Victoria Park Fencing Local Law 2021](#)

There were no questions asked or presentations made in relation to this item.

12 Chief Community Planner reports

12.1 32 Oswald Street, Victoria Park - Proposed Additions to Existing Primary School (Victoria Park Christian School)

| | |
|----------------------------|---|
| Location | Victoria Park |
| Reporting officer | Planning Officer |
| Responsible officer | Manager Development Services |
| Voting requirement | Simple majority |
| Attachments | <ol style="list-style-type: none"> 1. Attachment 1- Plans and Documentation (final)- 32 Oswald Street [12.1.1 - 7 pages] 2. Attachment 2 - Merged TIA and Technical Memorandum - 32 Oswald Street [12.1.2 - 55 pages] 3. Attachment 3 - Acoustic Report - 32 Oswald Street [12.1.3 - 14 pages] 4. Attachment 4- Community Consultation Submission Table - 32 Oswald Street [12.1.4 - 7 pages] 5. Attachment 5 - Applicant Response to consultation results - 32 Oswald Street [12.1.5 - 7 pages] |

| | |
|---|--|
| Landowner | Australasian Conference Association |
| Applicant | Sally Matthews |
| Application Date | 21 December 2020 |
| DA/BA or WAPC Reference | 5.2020.704.1 |
| MRS Zoning | Urban |
| TPS Zoning | Residential |
| R-Code Density | R30 |
| TPS Precinct | P5 – Raphael Precinct |
| Use Class | Educational Establishment |
| Use permissibility | 'AA' (discretionary) |
| Lot Area | 1013m ² |
| Right-of-Way (ROW) | N/A |
| Municipal Heritage Inventory | N/A |
| Residential Character Study Area/Weatherboard Precinct | Residential Character Study Area |
| Surrounding Development | Subject lot is surrounded by existing low scale medium density residential dwellings to the south-east, south and south-west. Another school (Regent College) is located in close proximity to the east with commercial and mixed-use development located nearby to the north. |

Recommendation

That Council:

- A. Approve the application submitted by Sally Matthews on behalf of Australasian Conference Association (DA Ref: 5.2020.704.1) for Additions to the Existing Educational Establishment and increase to permitted student numbers at No. 32 (Lot 137) Oswald Street, Victoria Park as indicated on the plans dated received 21 December 2020 and 16 June 2021, in accordance with the provisions of the Town of Victoria Park Town Planning Scheme No. 1 and the Metropolitan Region Scheme, subject to the following conditions:
1. The total number of enrolled students shall not exceed 150. Further approval will be required from the Town for any future increase in enrolled students.
 2. Prior to the submission of an application for a building permit, the applicant is to prepare and submit an updated Traffic Impact Statement to the satisfaction of the Town, reflecting the amended proposal and inclusive of:
 - A reduction in the maximum number of students to 150;
 - The provision of 10 additional on-site car bays;
 - Removing reference to a possible future proposal for up to 230 students;
 - The implementation of the measures required by condition 5 below.
 - Deleting reference to retention of the existing kiss and drop bays within the existing on-site car parking.
 3. The following traffic management measures as outlined in the Cardno Traffic Impact Statement and additional Technical Memorandum dated 15 March 2021 and 4 May 2021 respectively, are to be implemented to the satisfaction of the Town at all times, inclusive of but not limited to the following traffic management measures:
 - The proposed kiss and drop arrangement along Oswald Street during school hours;
 - Staggered start and finish times for year groups;
 - Further encouragement of the private bus use;
 - Further encouragement of the use of public and active transport modes.
 4. A Memorandum of Understanding between the School and the Town is to be prepared and executed by both parties to the satisfaction of the Town, which includes commitments from the school to implement the required traffic management measures, to inform and educate staff and parents of the required traffic management measures and to work with the Town to resolve any issues that may arise (see Advice note 5) and any recommended additional or modified measures for the future.
 5. The wall of classroom 4 fronting Oswald Street shall be provided with windows to the satisfaction of the Town (see related advice note).
 6. No kiss and drop/collection or bus drop off/collection is to occur within the existing car park and is to be restricted to Oswald Street only.
 7. A minimum of 30 car parking bays, including an ACROD bay, shall be provided on site in accordance with the approved plans. These bays shall be marked and allocated in accordance with the approved plans.
 8. Prior to the first occupation of the development hereby approved, all approved car parking spaces together with their access aisles shall be clearly paved, sealed, marked and drained in accordance with Australian Standards AS2890.1 and arranged so that all vehicles may at all times leave or enter

the street in a forward gear. All parking bays and access aisles shall thereafter be maintained to the satisfaction of the Town.

9. The required acoustic screening treatment as stated at Part 5, Note 1 the Acoustic Assessment (Attachment 3) provided to the Town on 24 June 2021 is to be implemented prior to occupation of the building, to the satisfaction of the Town.
10. A maximum of 50 children are permitted to attend classes within the new 'Early Teaching Block' at any one time, consistent with the amended Acoustic Assessment, date stamped 24 June 2021 (Attachment 3). Changes to the maximum number of students permitted within the new 'Early Teaching Block' will require further approval from the Town in addition to the provision of an amended Acoustic Assessment.
11. Existing trees identified on the approved site plan must be retained and protected in accordance with AS 4970-2009 and to the satisfaction of the Town.
12. The proposed trees (shown on the site plan dated 16/06/21) shall be a species of tree that has the potential at maturity to be a minimum height of 5m and a minimum canopy width of 4m and is a minimum size of at least 35 litres when planted. The proposed tree shall be maintained via an automated irrigation system or other similar method by the landowner or developer for the first two summers after the occupation of the dwelling. If the proposed tree is of poor health and is removed, it is to be replaced with a suitable replacement tree by the owner or developer to the satisfaction of the Town.
13. A Tree Growth Zone, as shown on the approved plans shall be maintained to the satisfaction of the Town. No structure, unless water permeable, is to encroach within the Tree Growth Zone.
14. Complete details of the proposed external colours, finishes and materials to be used in the construction of the buildings are to be provided to the satisfaction of the Town prior to submission of an application for building permit. The development shall be constructed in accordance with the approved details and shall be thereafter maintained to the satisfaction of the Town.
15. Prior to the submission of an application for building license for this development, Lots 139, 140 158 & 159 are to (a) be amalgamated into a single lot on a Certificate of Title; or (b) the Owner entering into a legal agreement with the Town prepared by the Town's Solicitors at the owner's cost requiring amalgamation to be completed within twelve months of the issue of a building license (refer to related advice note)
16. The development, once commenced, is to be carried out in accordance with the approved plans at all times, unless otherwise authorised by the Town.
17. This approval does not include approval for any signage. Signage is to be the subject of separate approval from the Town.
18. All stormwater must be contained and disposed of on-site at all times, to the satisfaction of the Town (refer to related Advice Note).

19. Prior to lodging an application for a building permit, the applicant must submit and have approved by the Town, and thereafter implement to the satisfaction of the Town, a construction management plan addressing the following matters:
- i. How materials and equipment will be delivered and removed from the site;
 - ii. How materials and equipment will be stored on the site;
 - iii. Parking arrangements for contractors;
 - iv. Construction waste disposal strategy and location of waste disposal bins;
 - v. Details of cranes, large trucks or similar equipment which may block public thoroughfares during construction;
 - vi. How risks of wind and/or water borne erosion and sedimentation will be minimised during and after the works;
 - vii. Construction traffic and pedestrian management; and
 - viii. Other matters likely to impact on the surrounding properties.
20. All plant, equipment and external fixtures, including but not restricted to airconditioning units, satellite dishes and non-standard television aerials, but excluding solar collectors, are to be located such that they are not visible from the primary street or secondary street.
21. All building works to be carried out under this development approval are required to be contained within the boundaries of the subject lot.
22. This approval is valid for a period of twenty four months only. If the subject development is not substantially commenced within the twenty four month period, the approval shall lapse and be of no further effect.

Advice Notes:

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 - Stormwater drainage design is to cater for a 1:100 year storm event. All stormwater drainage for commercial developments shall be designed and signed by a practicing Hydraulic Consultant. An overland flow path is to be included in the design to ensure diversion of stormwater from the developments during storm events.

AN3 - Crossover location and construction shall comply with the Town's Specifications for Crossover Construction. A separate application must be made to the Town's Street Life Sub Program (tel 9311 8115) for approval prior to construction of a new crossover.

AN4 - Any modifications to the approved drawings, other than those authorised by this approval, may require the submission of an application for an Amendment to Planning Approval and reassessment of the proposal.

AN5 – In relation to Condition 4, the Memorandum of Understanding should include the following commitments:

- To implement the traffic management measures referred to in Condition 3;

- To submit relevant documentation referred to in conditions 2 and 3;
- The measures that the school employ to inform and educate staff and parents of the traffic management measures that have been implemented and need to adhere to these;
- To provide evidence of total enrolment and actual attendance numbers for students when requested by the Town;
- To work with the Town to resolve any traffic related concerns that may arise from the operation of the school; and
- To continually monitor the management of traffic in and around the school and where necessary implement any modified or additional measures.

AN6 – In relation to condition 5, in order to meet this condition and satisfy the needs for the teaching space, the removal of windows from the wall facing the south-west boundary is supported.

AN7 - The direction of traffic should only be undertaken by suitably qualified individuals and should only be considered after a formal risk evaluation has been undertaken. Direction of traffic resulting in a collision/incident could lead to the individuals involved being held liable. The Town does not recommend, endorse or encourage school staff directing traffic. The Town does, however, recommend parents of students being informed/educated/reminded of traffic rules.

AN8 - 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.

AN9 - 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.

AN10 - Unauthorised verge tree pruning or removal is subject to a penalty under the Activities on Thoroughfares and Public Places Local Law 2000, Division 1 – General, 2.1 General Prohibitions.

AN11 - Sound levels created are not to exceed the provisions of the Environmental Protection (Noise) Regulations 1997.

B. Request the Chief Executive Officer to inform submitters of the Council's decision on the application.

Purpose

For Council to consider an application for additions to the existing Educational Establishment at No. 32 Oswald Street, Victoria Park (Victoria Park Christian School) including an increase in permitted student numbers.

In brief

- The application seeks approval for a new addition (teaching block) to the existing Educational Establishment (Victoria Park Christian School) and increase the maximum number of students to 150 (100 currently permitted).

- The subject site falls within the Residential zone of the Raphael Precinct. The land use 'Educational Establishment' is a discretionary 'AA' land use.
- The purpose of the addition is to provide a new teaching block to accommodate Kindergarten, Pre-Primary and Year 1 students in a specialist building.
- Car parking and traffic management were identified as major concerns from the community as part of the community consultation process stemming from the proposed increase in student numbers (originally proposed and advertised as an increase to 180 students with no increase in on-site car parking).
- Following consideration of public submissions and feedback from Town Officers, the applicant has reduced the number of proposed students to a maximum of 150 and has accommodated an addition 10 on-site car bays, thereby lessening the impact of the proposal on existing public car parking infrastructure.

Background

1. Development Approval (DA09/0251) was granted by Council on 29 April 2009 for Additions to the Existing Educational Establishment. As part of the approval, Condition 5 stated the following:
"Student enrolment shall not exceed 100 children without seeking approval from Council."
2. Due to the wording of the above condition, the Town has no delegation to approve the proposed increase in student numbers forming part of the current application, and the decision is the responsibility of Council.
3. Subsequently, further development approval was granted on 4 December 2009 for Modifications to Planning Approval. As part of the approval, Condition 1 stated the following:
"A minimum of 20 car parking bays being provided within the modified car park for the exclusive use of staff and visitors to the site."
4. Other relevant development approvals related to the educational establishment issued after the two above approvals have not modified the permitted maximum number of students nor the minimum number of car parking bays required on site.

Application Summary

5. The application seeks approval for a new addition (teaching block) to the existing Educational Establishment.
6. Associated with the new classroom block, the original application proposed an increase in the maximum number of students from 100 to 180 and increase in staff from 10 to 14, with no additional on-site car bays (herein referred to as 'the original application').
7. The applicant on 8 June 2021 and 16 June 2021 subsequently amended the proposal to be an increase to the maximum student and staff numbers to 150 and 14 respectively, with an additional 10 car parking bays on-site (herein referred to as 'the amended application').
8. The development plans at Attachment 1 show the new teaching block, the size and height of the building and new tree planting located internally on the subject site to account for existing trees shown to be removed. The development plans indicate the following:
 - The new teaching block measures 499m² in area;
 - Is low scale with a maximum wall height of 2.7 metres;
 - Demonstrates a lot boundary (side) setback of 3.6 meters to the closest south-west residential dwelling (34 Oswald);

- A setback of 3.0 metres to Oswald Street;
- A new landscaped play space bordered by the new teaching block;
- Four new trees planted on site to compensate for the four existing trees shown to be removed due to the proposed development.

Applicants' summary

9. The applicant has provided the following information in support of the proposal (see Attachment 1):
- The school has been in Victoria Park for over 90 years and on the current site since the 1960s. Therefore, this is a well-established use of the site for educational purposes of young children for over 60 years within the Town of Victoria Park.
 - The school has currently approximately 135 students enrolled and with the addition of this new building and further future planned improvements, the school looks to expand to 180 students, with the addition of the new teaching block, in the medium term (2-5 years).
 - The school caters to students from the local area as well as the wider metropolitan area. The school has a dedicated student bus service for out of area students and a functioning kiss and drop area accommodated within the school grounds carpark area.
 - The proposed teaching block is to be located in the current playground area to the west of the school site. The building proposed is single storey with a skillion roof of brick and metal roof sheet construction. The new playground will be to the east of the new block adjacent to the current open grassed play area.
 - Existing mature trees have sought to be retained for shade with a minimum amount being removed within the building footprint. All removed trees will be replaced by 1 medium new trees on the site per tree removed. The school promotes play and nature experiences and is proposing a nature playground adjacent to the new teaching block. Note that as per the survey attached 23 trees are to be retained on the site.
10. On 8 June 2021, the applicant has provided additional information in support of the proposal, in response to submissions collected during community consultation:

Schools are active in regards to increase traffic movements focused around pick up and drop off times. These times are,

- 8.30 am – 8.40am; and
- 3pm – 3.30pm.
- *The majority of traffic movement is very short-term pulling up to allow students to exit/ enter the car. Younger years i.e. Kindy to Preprimary may require the parking of cars to walk students into the school, though a drop off and pick up flow through service is offered by Victoria Park Christian School.*
- *The school has and proposes a range of differing approaches to minimise traffic impact on the surrounding area, these are:*
 1. *Providing increased onsite parking, an additional 10 bays, increasing total car bays on site to 31.*
 2. *Continuing to provide kiss and drop area 1*
 3. *Providing kiss and drop area 2*
 4. *Continuing to provide a student bus service*
 5. *Continuing staggered school pick up times*
 6. *Further encouraging students walking to school.*
 7. *Continuing to provide school event parking.*

Further explanation on the above points is contained within Attachment 5 supplied by the applicant as part of their response to comments received during community consultation.

11. On 16 June 2021, the applicant has provided additional information in support of the proposal:

- *The Victoria Park Christian Primary School proposes the addition of a new teaching block to accommodate the existing years Kindergarten, Pre- Primary and Year 1 in a specialist building that is designed to cater for these younger years with a fenced nature playground for the exclusive use of these years. In association with this new building is the refurbishment of the existing carpark to increase parking facilities from the current amount to 31 car bays.*
- *The school has currently approximately 135 students enrolled and with the addition of this new building, the school looks to expand to 150 students, with the addition of the new teaching block, in the medium term (2-5 years).*
- *It is noted that the capacity of the school is under Council control. The applicant seeks to cease the Council control of enrolment numbers as the capacity of the school is adequately managed by the Town Planning Scheme and the Town of Victoria Park Planning department. The removal of this council capacity approval requirement would negate the current parallel approval regimes and reduce duplicated red tape processes.*

Relevant planning framework

| | |
|---|---|
| Legislation | Town Planning Scheme No. 1 <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> |
| State Government policies, bulletins or guidelines | WAPC Transport Impact Assessment Guidelines - Volume 4 individual developments |
| Local Planning Policies | Local Planning Policy 3 – Non-Residential Uses in or Adjacent to Residential Areas (LPP3) Local Planning Policy 23 – Parking (LPP23) Local Planning Policy 37 – Community Consultation on Planning Proposals (LPP37) Local Planning Policy 39 – Tree Planting and Retention Policy (LPP39) |
| Other | Not applicable. |

General matters to be considered

| | |
|--|-----------------|
| Town Planning Scheme No. 1 Provisions Scheme Text | Not applicable. |
|--|-----------------|

| | |
|---|---|
| <p>TPS precinct plan statements/structure plan</p> | <p>The statement of intent within Precinct Plan P5 state the following in respect to non-residential development and traffic:</p> <p>“Further non-residential uses will only be permitted where they are small in scale, maintain the residential character and provide for day-to-day local needs...”</p> <p>Council will endeavor to discourage the movement of commercial traffic into residential streets from main roads adjacent to the precinct. Safe, accessible movement for pedestrians, cyclists, public transport and private vehicles is an important aim for the precinct.”</p> |
| <p>Local Planning Policy objectives</p> | <p>The following objectives of LPP3 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 generation, noise, visual amenity and any other form of emissions or activities that may be incompatible with surrounding residential uses. • To ensure that the appearance and design of non-residential development is compatible with surrounding residential properties and the streetscape in terms of building size and scale, the provision of adequate landscaping treatments, the retention of existing mature trees and the suitable design and location of advertising signage. <p>The following objectives of LPP23 are relevant in determining the application:</p> <ul style="list-style-type: none"> • To ensure that adequate provision of parking for various services, facilities and residential developments and to efficiently manage parking supply and demand. <p>The following objectives of LPP39 are relevant in determining the application:</p> <ul style="list-style-type: none"> • To ensure appropriate ‘medium’ or ‘large’ trees are planted which are suited to their environment and location where ‘trees worthy of retention’ have been removed or do not exist on private land. • To assist with achieving the Town of Victoria Park’s objective to increase tree canopy coverage to 20% by increasing tree canopy coverage on public and private land. |
| <p>Deemed Clause 67 of Planning and Development (Local Planning Scheme) Regulations 2015</p> | <p>The following are relevant matters to be considered in determining the application :</p> |

- a) The aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;
- g) Any local planning policy for the Scheme area;
- m) The compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development.
- n) the amenity of the locality including the following
 - (i) environmental impacts of the development;
 - (ii) the character of the locality;
 - (iii) social impacts of the development;
- (s) the adequacy of —
 - (i) the proposed means of access to and egress from the site; and
 - (ii) arrangements for the loading, unloading, manoeuvring and parking of vehicles;
- (t) the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;
- (y) any submissions received on the application;

Urban Forest Strategy

The following strategic outcome is relevant to the application:
 SO1 – Plant and protect sufficient trees by 2020 to achieve the 20% tree canopy target as supported by Council.

Compliance assessment

The table below summarises the planning assessment of the proposal against the provisions of the Town of Victoria Park Town Planning Scheme No.1, the 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.

Additions to Existing Educational Establishment and Increase to Maximum Student Numbers

| Land Use | Educational Establishment | 'AA' (discretionary) land use |
|---------------|--|--|
| Car Parking | Educational Establishment (private school) – minimum of 14 bays per 100 students, plus staff car parking at a rate of 0.07 bays per student. | <p>Noting the previous approval of 2009 which required a minimum of 20 car bays for 100 students :</p> <p><i>Original application</i></p> <ul style="list-style-type: none"> • 180 students required an additional 17 on-site car bays ie. total of 37 on-site car bays; • 21 existing on-site car bays (1 bay surplus); • No additional on-site car bays proposed. • Therefore proposed parking shortfall of 16 bays. <p><i>Amended application</i></p> <ul style="list-style-type: none"> • 150 students requires an additional 10 on-site car bays ie. total of 30 on-site car bays; • 21 existing on-site car bays (1 bay surplus); • 10 additional on-site car bays proposed, being a total of 31 on-site car bays. • Therefore proposed 1 bay parking surplus. |
| Tree Planting | Four 'trees worthy or retention' shown to be removed. | 4 'medium' trees with a minimum pot size of 35L shown to be planted on the site plan, compensating for the removal of the 4 existing trees (as shown on the site plan forming part of 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 | Community consultation was undertaken for the proposal to provide the community with an opportunity to make comments regarding the proposal. |
| Environment | |
| Strategic outcome | Intended public value outcome or impact |

| | |
|--|--|
| EN02 - A safe, interconnected and well maintained transport network that makes it easy for everyone to get around. | The proposal may impact travelling through this particular area of Victoria Park given the existing traffic issues. However, it is considered the traffic mitigation measures proposed and number of onsite car parking bays reduces the potential impact of additional vehicle movements through this area around school times. |
| EN07 - Increased vegetation and tree canopy. | The proposal is maintaining the number of trees on site by replacing removed trees at a 1-for-1 ratio and has the possibility to maintain or increase the tree canopy area, depending on tree species selected. |

| Social | |
|-------------------|---|
| Strategic outcome | Intended public value outcome or impact |

| | |
|--|--|
| S02 - An informed and knowledgeable community. | Ensure sufficient information is provided regarding the application to allow the community to be appropriately informed. |
|--|--|

Engagement

| Internal engagement | |
|----------------------|--|
| Environmental Health | Standard conditions and advice notes recommended. Noise Management Plan is acceptable. |
| Engineering | <p>The Street Improvement team support the proposed Victoria Park Christian school expansion to 150 students. This is based on a revised car park to allow 31 parking spaces including 1 ACROD bay. The following parking management measures are also to be implemented:</p> <ul style="list-style-type: none"> • That school staff actively manage the existing "Kiss n Ride" zone in the schools car park. The temporary closure of parking bays 19, 20, 28 and 29 would improve car park circulation however the relevant Australian Standard does not require this and it would result in four bays not being available at the peak time they will be used by the school community. • The school provide a new "Kiss n Ride" zone along the schools Oswald Street boundary and is actively managed; • The school staggers start and finishing times for different year levels. |
| Parking | <p>Traffic flow and parking within the area are very high at peak times for school pick-up and drop-off times. There are three schools within close proximity competing for parking and traversing the local streets.</p> <p>A review of the submitted plans shows;</p> <ul style="list-style-type: none"> • no designated student pickup and drop-off areas. |

- no management plan for the orderly collection and drop-off of students.

As a result it can be expected that any expansion of the school & its student numbers within the area will increase demand for parking and the associated issues with traffic flow that will result in further local resident complaints and negative interactions between motorists.

External engagement

| | |
|-----------------------|--|
| Stakeholders | Town of Victoria Park Residents |
| Period of engagement | Consultation was undertaken from 7 May 2021 to 21 May 2021. |
| Level of engagement | Consult |
| Methods of engagement | <ul style="list-style-type: none"> • Letters to owners and occupiers along Colombo, Hordern and Oswald Streets; and • Sign on site; |
| Advertising | As above. |
| Submission summary | 14 submissions were received. All were objections from a mix of owners and occupiers within close proximity of the subject site. |
| Key findings | <p>A summary of the submissions received during community consultation period, along with the Town's response, can be found in Attachment 4. The main issues raised relate to existing traffic and parking conditions around the school and in nearby streets, and concerns that this will be exacerbated by the proposed development.</p> <p>It should be noted that consultation occurred on the original application (ie. proposed 180 students and no additional on-site car parking).</p> |

Risk management consideration

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

| | | | | | | |
|---|---|----------|----------|--------|-----|---|
| Infrastructure / ICT systems/ utilities | Not applicable. | | | | | |
| Legislative compliance | The proponent has a right of review to the State Administrative Tribunal against Council's decision including any conditions. | Moderate | Unlikely | Medium | Low | Accept – Ensure the Council has all relevant information to make an informed decision. |
| Reputation | Negative public perception towards the Town if development approval is granted given the objections received. | Moderate | Unlikely | Medium | Low | Accept - ensure that the public submissions have been adequately considered in determining the application. |
| Service delivery | Not applicable. | | | | | |

Financial implications

| | |
|------------------------------|---|
| Current budget impact | Sufficient funds exist within the annual budget to address this recommendation. |
| Future budget impact | The applicant has a right of appeal to SAT against any conditions of approval or refusal. Should the applicant appeal to SAT there may be costs for the Town to engage legal and/or other representation. |

Analysis

Proposed addition (new student block)

12. The school has two road frontages being Colombo Street and Oswald Street. The proposed addition is adjacent to the Oswald Street frontage and proposes a formalised pedestrian entry off this street as an alternative to the Colombo Street frontage. Access to the on-site car park remains from Colombo Street.
13. The proposed development sits appropriately within the lot. From the street, the setback of 3.0m is approximately in line with existing residential development found further down Oswald Street to the south-east, respecting the established street setback pattern.

14. The proposed teaching block is to be located in the current playground area to the west of the school site. The building is single storey in height with a skillion metal roof and face brick walls.
15. In terms of the classroom design and materials, the proposal generally compliments the surrounding development. While a skillion roof form is not a traditional roof form for development in the area, in this instance the roof form is considered acceptable as the proposal is a non-residential development. Additionally, existing trees, as shown on the site plan, would screen some of the development. The change in roof pitch also helps delineate the building as forming part of the school instead of another residential property.
16. It is noted that the façade treatment of the building to Oswald Street largely comprises blank walls, with windows to an office space only. Opportunity exists for additional windows to be provided in the portion of the classroom 4 wall facing Oswald Street, while potentially removing the windows of Classroom 4 facing the south-west boundary to meet functional teaching needs. It is considered that the inclusion of windows fronting Oswald Street would not only improve the presentation of the building to Oswald Street but also improve interaction/surveillance between the building and the street. The applicant has indicated some reservations about this, including the safety of students in this area with reduced visibility. However, the area is secured from public access and a number of windows exist along this elevation of the building. Accordingly, condition 5 recommends the inclusion of additional windows facing Oswald Street.
17. The proposed building setback of 3.6m from the adjoining lot (side) boundary exceeds the typical setback for a single storey residential building (1-1.5m). As such, it is not considered to create an undue impact in respect to building bulk near that particular lot boundary.
18. The building's active frontages face inwards, reducing the effect of noise onto neighbouring properties directly adjoining the subject site.
19. With respect to the potential noise impact, the Acoustic Report submitted by the applicant (see Attachment 3) states the following:
 - (a) The proposed early learning centre would only operate during school hours, thus the centre would only be open during the day period on weekdays (excluding Public Holidays). From the information provided, we understand that the number of children attending the early learning centre would be limited to 50.
 - (b) Noise generated from children playing is within acceptable limits prescribed by the *Environmental Protection (Noise) Regulations 1997* within the Educational Establishment's operating times;
 - (c) Air Conditioning condenser units located on the side of the building are shown to be screened to ameliorate any noise produced by the machines and demonstrate compliance with the respective noise requirements; and
 - (d) Considering the noise from the children playing and the condenser units, the proposal demonstrated potential noise levels within acceptable noise limits set under the *Environmental Protection (Noise) Regulations 1997*.
20. In summary, the proposed addition (new student block) is appropriately located and is of a size and scale that would not detrimentally impact the surrounding properties, with the building's orientation also reducing the impact of noise on adjoining residential properties.

Proposed increase in student numbers

21. As previously stated in this report, a condition of the previous 2009 development approval (DA09/0251) limited student numbers to a maximum of 100 with any increase in student numbers to be approved by Council. The figure of 100 was indicated by the applicant as the number of students proposed and was imposed to limit the parking and traffic impacts.
22. In the applicant's correspondence of 6 April 2021, the applicant notes that there are currently 135 enrolled students, and that they request an increase in the maximum number of students to 180 from the previously approved 100 students.
23. In regards to noise, the Acoustic Assessment (Attachment 3) submitted in support of the original application found the proposed increase in noise levels to be within acceptable limits. It is noted that the maximum possible noise generated from the proposal was based on the assumption that the total number of students occupying the new building would be 50.
24. Subsequently, further information provided to the Town on 16 June 2021 reduced the maximum number of students from 180 to 150.
25. An increase in student numbers can be considered provided that noise, traffic and car parking impacts resulting from the increase in students is appropriately managed or addressed.
26. To ensure the proposal complies with the acceptable noise limits as stated in the attached acoustic report. A condition has been recommended to limit total occupancy of students within the new teaching block to 50. This condition would ensure the noise generated from activities from this new noise source are within acceptable limits. Further increases to student numbers could be contemplated through another development application.
27. Fundamentally, in considering the increase to student numbers, consideration must be given to the intensification of the non-residential land use in a primarily residential zone and if the level of intensification is appropriate given the current existing traffic and car parking problems localised in this part of Victoria Park.

Car Parking and Traffic Management

28. The applicant has submitted a Traffic Impact Statement (Attachment 2) addressing the traffic generated by the increase in student numbers proposed as part of the original application (total of 180 students) as well as a possible future scenario with up to 230 students. Key findings of the report are as follows:
 - Currently verge parking is available for parents/visitors of the school along the southern frontage of the school (along Colombo Street) as well as on-street bays along the northern frontage of the school (along Oswald Street).
 - The school operates a private bus service to transport students to and from school. Approximately 30 students currently use this service (which is approximately 22% of the current student population).
 - Bike parking for staff and students is provided by the school (approximately 10 bike bays).
 - Given the availability of parking within the surrounding area of the School as well as initiatives aimed at reducing parking demand (e.g. the private bus service), the current parking arrangement would be sufficient enough to accommodate the increase in student numbers.
 - The proposed development represents a trip generation of approximately 46 vehicles during the AM and PM peak hours for 45 additional students and 96 vehicles during the AM and PM peak hours for 95 additional students. Note that the actual traffic generated is likely to be lower given that a proportion of students use the private bus service operated by the school or walk/cycle if they live nearby.

- The SIDRA assessment shows that the nearby intersections will operate at an acceptable level of service for all scenarios analysed.
 - Overall, the number of crashes occurring near the site is low.
29. In response to comments raised by the Town, an additional technical memorandum (page 50-55 of Attachment 2) has been prepared by the applicant's traffic consultant, including the following:
- (a) Existing on-street bays along Oswald Street can be utilised as a proposed drop off/pick up zone for Kindy to Year 2 families. The area would be staffed each morning and afternoon to supervise the area between 8:30-8:45am and 3:00-3:30pm to ensure cars are not parked for prolonged periods.
 - (b) Parents will be educated on the appropriate use of the kiss and drop area.
 - (c) Based upon existing bus use (22%), an existing ratio of approximately 1.5 students per family/vehicle and a proposed maximum of 180 students, the number of anticipated vehicle trips is approximately 94 in the morning and 94 again in the afternoon. [Note – using the same assumptions, this would reduce to approximately 78 vehicles at both the AM and PM peak for a maximum of 150 students].
 - (d) The school surrounds (including surrounding streets) has the capacity to service more vehicles during drop off/pick up periods than the estimated demand.
 - (e) The following additional parking management measures will be considered by the school to reduce parking impacts:
 - staggered start and finishing times for certain year level;
 - verge parking along Colombo Street on school frontage.
 - encouraging further use of school bus service.
30. Having reviewed the Traffic Impact Statement, Final plan set and additional technical memorandum, the Town's Engineering team have provided the following comments:
- "The Street Improvement team support the proposed Victoria Park Christian school expansion from 135 enrolled students to 150 students. This is based on a revised car park to allow 31 parking spaces including one ACROD bay. The following parking management measures are also to be implemented:*
- *That school staff actively manage the existing "Kiss n Ride" zone in the schools car park. This includes temporary closure of parking bays 19,20,28,29 to allow car park circulation during peak times;*
 - *That school staff actively manage the existing "Kiss n Ride" zone in the schools car park. The temporary closure of parking bays 19, 20, 28 and 29 would improve car park circulation however the relevant Australian Standard does not require this and it would result in four bays not being available at the peak time they will be used by the school community.*
 - *The school provide a new "Kiss n Ride" zone along the schools Oswald Street boundary and is actively managed;*
 - *The school staggers start and finishing times for different year levels."*
31. Having regard to the above comments from the Town's Engineering team, for the modified car park to function properly from a vehicle circulation perspective, it is necessary for the 2 bay kiss and drop bays in the existing car park to be removed, with all kiss and drop areas to be along Oswald Street, and in addition the school bus should also collect and drop off students in this location also. Recommended condition 6 of approval covers this matter.
32. The concerns of many submitters relating to the traffic impact of the development are acknowledged. Many of the concerns centre around existing traffic and parking impacts generated by the School and other nearby schools, and a contention that this would be exacerbated by approval of the development.
33. It is noted that the public submissions related to the original application. Not only has the applicant now reduced the number of students to 150 (previously 180) and provided 10 additional on-site car bays (now compliant), it is apparent that while the original proposal was advertised as being for an additional 80 students (180 students proposed minus 100 students permitted) the reality is that the amended

application only proposes an additional 15 students (150 students proposed minus 135 currently enrolled).

34. In the context of the amended application proposing an additional 15 students from that currently occurring, it is considered that the implementation of the following measures will improve the parking and traffic situation from that currently experienced:
- 10 additional on-site car bays;
 - A new kiss and drop facility along Oswald Street;
 - Staggered start and finish times for certain year levels;
 - Encouraging further use of public transport.
35. Considering the above, and having regard to the relevant provisions of LPP3 and clause 67(s) and (t) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, the proposal is not expected to have an adverse impact on the safety of road users or traffic conditions in the area. This being said, recommended conditions 2-4 seek to ensure the effective management of traffic and parking resulting from the development.

Summary:

36. The proposed new addition (teaching block), forming the 'works' component of the proposed development, is of a form and scale that is complementary to the school and the surrounding area and is considered to not pose an issue of building bulk towards neighbouring properties nor the street. As such, the new addition (teaching block) is considered acceptable.
37. It is considered that the proposed traffic management strategies contained in the applicant's supporting documentation (Attachment 3) along with the refurbished car parking area will manage the increase of student numbers to 150 students. Conditions relevant to the proposed car parking area, associated car bays and traffic management strategies are considered necessary to ensure the landowner takes the necessary action to reduce the impact of traffic and car parking generated from the intensification of the existing educational establishment.

Relevant documents

[Local Planning Policy 3 – Non-Residential Uses in or Adjacent to Residential Areas \(LPP3\)](#)

[Local Planning Policy 23 – Parking \(LPP23\)](#)

[Local Planning Policy 39 – Tree Planting and Retention Policy \(LPP39\)](#)

Questions and responses

Cr Jesvin Karimi

1. Given that the school has been operating outside of the previously approved student number maximum of 100, with 135 enrolled students currently enrolled, what comfort does the Town have that the proposed limit of 150 will be adhered to?

The Manager Development Services advised it is concerning that it has been the case that the school has been operating with numbers in excess of that permitted under the Council's previous approval. In this instance, proposed condition 4 requires a Memorandum of Understanding between the Town and the school, and a commitment from the school to provide evidence of enrolled and actual student numbers

when requested by the Town. Following the community concerns and the comments from the Town's Parking team, Officers intend to now proactively monitor numbers.

2. Are there any measures being put into place such as making use of the private bus service mandatory for students, so as to reduce further parking congestion in the surrounding residential streets?

The Manager Development Services advised the applicant's proposed measures are outlined in the report. In regards to a private bus service, there are not any measures in place to his knowledge.

Deputy Mayor Bronwyn Ife

1. What other schools in the area does council decide maximum enrolment numbers for?

The Manager Development Services advised that Council or the Town can impose or recommend conditions on maximum enrolment numbers for any school. Conditions imposing a limit on student enrolments are currently in place for Regent College and Perth Montessori School.

2. The applicant argues to remove Council control of enrolment numbers, is this supported by staff?

The Manager Development Services advised that Town supports the applicant's position in relation to any future increase in student numbers being able to be considered by staff rather than requiring a Council determination and recommended condition 1 reflects this.

3. Is the parking on verges on Colombo Street permitted? Are these parking spaces included in the assessment of sufficient parking on nearby streets?

The Manager Development Services advised that parking on those verges are permitted and it is understood that those bays and on-street parking bays have been included in the assessment.

Cr Wilfred Hendriks

1. Is it possible that the Vic Park Christian School could start and finish at earlier times?

Mayor Vernon advised that that is question for the school and that this item is about a development application.

2. In regards to the early learning center, what would the extra classroom be used for?

The Manager Development Services advised that he does not know, the plans just refer to it as classroom use.

3. On the Regent College website it states 247 students, and how can they allow that when Victoria Park Christian School allows only 150?

The Manager Development Services advised that he does not know and can provide it. He added that it was Joint Development Assessment Panel decision for the expansion of Regent College and similarly to this application the impact on amenities was considered and conditions on numbers was imposed.

Mayor Karen Vernon

1. Is the Memorandum of Understanding (MOU) binding on the school?

The Manager Development Services advised that the need to prepare an Memorandum of Understanding is binding on the school as there it is a condition of approval but the commitment to it is not legally binding.

2. Is the Memorandum of Understanding an undertaking to tell the Town school numbers? And if were not to be binding, what would be the consequences if a breach occurred? What use would the Memorandum of Understanding be at that stage?

The Manager Development Services advised that the condition of a maximum of 150 students is binding. The Memorandum of Understanding is intended to deal with a range of matters, even if it is not binding, the Town would still seek for the school to honour it.

3. Is it the case that the Town relies on schools to self-report their compliance to planning approvals, and is that approach generally taken for local governments?

The Manager Development Services advised that applicants should be ensuring that they comply with the conditions of the approval. The Town and most local government do not have the resources to monitor conditions for every application, the Town's approach has largely been a reactive rather than proactive approach. Given the school's past issues, a more proactive approach is intended through a Memorandum of Understanding for the future.

4. With the permitted parking on verges on Colombo Street and on street parking, if we were to approve the application noting the current parking issues, is that likely to preclude future parking restrictions along this street if they were to be considered by Council, say by a petition?

The Manager Development Services advised that the Town's parking team would need to be consulted but if in the future it was to be considered by Council then Council would have to be satisfied that if those bays were to be lost that sufficient parking would be available elsewhere.

5. For the purposes of this application, what streets in the immediate area that staff are considering as near-by available parking?

The Manager Development Services will provide that information under further consideration.

Further consideration to be added to the Ordinary Council Meeting agenda

1. Include information on why there are different maximum student numbers for Regent College and Victoria Park Christian School.

2. Include information on which streets in the immediate area that are considered as near-by available parking.

12.2 5.2021.225.1 119A Basinghall Street East Victoria Park

| | |
|----------------------------|--|
| Location | East Victoria Park |
| Reporting officer | Planning Officer |
| Responsible officer | Manager Development Services |
| Voting requirement | Simple majority |
| Attachments | <ol style="list-style-type: none"> 1. Attachment 1 - Development Plans - 119A Basinghall Street East Victoria Park [12.2.1 - 13 pages] 2. Attachment 2 - Management Plan - 119A Basinghall Street East Victoria Park [12.2.2 - 5 pages] 3. Attachment 3 - Applicant Written Statement - 119A Basinghall Street East Victoria Park [12.2.3 - 1 page] 4. Attachment 4 - Summary of Submissions - 119A Basinghall Street East Victoria Park [12.2.4 - 1 page] |

| | |
|---|---|
| Landowner | Choon Ping Tan and Milton James Goodchild |
| Applicant | Choon Ping Tan and Milton James Goodchild |
| Application date | 21 April 2021 |
| DA/BA or WAPC reference | DA5.2021.225.1 |
| MRS zoning | Urban |
| TPS zoning | Residential |
| R-Code density | R20 |
| TPS precinct | East Victoria Park |
| Use class | Residential Building (Short Term Accommodation) |
| Use permissibility | AA (Discretionary) Use |
| Lot area | 721m ² |
| Right-of-way (ROW) | No |
| Municipal heritage inventory | No |
| Residential character study area/weatherboard precinct | No |
| Surrounding development | Single houses and grouped dwellings surrounding subject site. |

Recommendation

That Council:

1. Refuse the application submitted by Choon Ping Tan and Milton James Goodchild (DA5.2021.225.1) for a Change of Use from Single House and Ancillary Dwelling to Single House and Residential Building (Short Term Accommodation) at 119A (Lot 109) Basinghall Street, East Victoria Park in accordance with the provisions of the Town of Victoria Park Town Planning Scheme No.1 and the Metropolitan Region Scheme, for the following reasons:
 - a) The location of the proposed use is considered to be incompatible with the surrounding residential development and contrary to objectives a) and d) of Local Planning Policy 3 'Non-Residential Uses in or Adjacent to Residential Areas' and objectives a), d) and e) of Local Planning Policy 31 'Serviced Apartments and Residential Buildings including Short Term Accommodation'.
 - b) The proposed use is considered to be inconsistent with matters a), g), m), n) and y) of deemed clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
2. Request the Chief Executive Officer to advise those persons who lodged a submission on the application of Council's decision.

Purpose

For Council to consider an application seeking to change the use of 119A Basinghall Street, East Victoria Park from a 'Single House with Ancillary Dwelling' to a 'Single House and Residential Building (Short Term Accommodation)'.

As the application is for a change in land use which in this instance is not supported, staff do not have the delegation to determine the application, and accordingly, the matter is referred to Council for determination.

In brief

- The application seeks to change the use of the property from 'Single House and Ancillary Dwelling' to 'Single House and Residential Building (Short Term Accommodation)'.
- Community consultation concluded on 21st May 2021. A total of one submission was received objecting to the proposal (refer to schedule of submissions at Attachment 4).
- It is considered that the location of the proposed Residential Building (Short Term Accommodation) is inappropriate, as it does not meet the location criteria for Short Term Accommodation as outlined in the Town's Local Planning Policy 31- Serviced Apartments and Residential Buildings including Short Term Accommodation.
- On this basis the proposal is recommended for refusal.

Background

1. A review of the Town's historical aerial imagery indicates the site had been occupied by a single dwelling since prior to 1953 (earliest available aerial imagery) until early 2020.
2. On 13 March 2019 the Town issued an exemption from Development Approval for development of a two-storey dwelling with below ground swimming pool and ancillary dwelling to be located on the subject site.

3. Subsequently, the Town issued permits for demolition of the existing (pre-1953) dwelling (31 January 2020), construction of the two-storey dwelling with ancillary dwelling (27 May 2020), and for a below ground swimming pool (3 July 2020).
4. On 21 April 2021, the Town received an application for development approval from the owner of 119A Basinghall Street proposing to change the use of the ancillary dwelling located at the rear of the subject site to 'Residential Building (Short Term Accommodation)'.

Application summary

5. The Development Application proposes a change of use from 'Single House with Ancillary Dwelling' to 'Single House and Residential Building (Short Term Accommodation)' at 119A Basinghall Street. The categorisation of the application as being both 'Single House' and 'Residential Building' reflects the continued use of the main dwelling for residential purposes, with the ancillary dwelling proposed to be changed for short term accommodation use.
6. The applicant states that their intention is to target guests travelling from outside metropolitan Perth, interstate and overseas, promoted primarily through online services such as AirBnB.
7. The accommodation is proposed to be operated and managed by the owners, who live on the subject site in the main dwelling.
8. The submitted development plans depict a single-storey two-bedroom ancillary dwelling located at the rear of the subject site to be used as short term accommodation. Access to the residential building is via a side walkway from the street.
9. Car parking for the ancillary dwelling consists of parking in the driveway in a tandem arrangement in front of the double garage provided to the main dwelling.
10. One double bed is provided to each bedroom with a maximum of four (4) guests allowed at any given time. Guests are permitted up to 4 visitors total, but visitors are not permitted to stay overnight.
11. The applicant states the subject site is in close proximity to the CBD (10-15 mins drive), the Albany Highway café strip (10-15 mins stroll) and Curtin University (4 bus routes within 5 mins walk), making it an attractive location for visitors.

Applicants submission

12. A copy of a management plan was provided to the Town as part of the application (refer to Attachment 2). The objective of the management plan is to "set out the manner in which the short-term accommodation will be managed so all stakeholders including potential guests, Town of Victoria Park Council and neighbours have a clear understanding of processes including resolution in the unlikely event of disturbances to neighbours."
13. The management plan provides information in relation to the following:
 - Contact details of owner/manager;
 - Check in/check out times: 10.00am and 2.00pm respectively;
 - Mitigation and complaints procedure;
 - Use and maintenance of the premises;
 - Safety, hygiene and security;
 - Car parking.
14. With regarding to mitigation and complaints the applicant notes that the manager/owner lives on site and will be available to respond to issues immediately. Outdoor areas are not to be used after 9.30pm. A complaints management form is to be made available to adjoining property owners and tenants.

Relevant planning framework

| | |
|---|---|
| Legislation | Town Planning Scheme No. 1 <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> |
| State Government policies, bulletins or guidelines | State Planning Policy 7.3 – Residential Design Codes Volume 1 |
| Local planning policies | Local Planning Policy 3 – Non-Residential Uses in or Adjacent to Residential Areas (LPP3) Local Planning Policy 23 – Parking Policy (LPP23) Local Planning Policy 31 – Serviced Apartments and Residential Buildings including Short Term Accommodation (LPP31) |
| Other | Not applicable. |

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 East Victoria Park Precinct will be enhanced and consolidated as a residential neighbourhood in which a range of housing types of low scale is predominant.</i> <i>Other types of accommodation, and some non-residential uses to serve the day-to-day needs of local residents are appropriate to these localities.</i> |
| Local planning policy objectives | <p>The following objectives of Local Planning Policy 3 – 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 generation, noise, visual amenity and any other form of emissions or activities that may be incompatible with surrounding residential uses; To maintain and enhance the amenity of residential environments through ensuring appropriate landscaping treatments, location of car parking and vehicular access legs, and the protection of visual privacy when considering applications for non-residential development. |
| | <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. |
| | <p>The following objectives of Local Planning Policy 31 – Serviced Apartments and Residential Buildings including Short Term Accommodation are relevant in determining the application.</p> |

- To facilitate the development of appropriately located and high-quality accommodation other than permanent residential dwellings within the Town of Victoria Park;
- To protect the residential amenity of permanent and long-term residents and minimise the perceived negative impacts that may be caused by the transient nature of alternative forms of accommodation;
- To ensure various forms of accommodation, particularly where they are to be located within existing residential areas, are of a compatible scale and design with surrounding development.
- To locate Residential Buildings and Serviced Apartments in a coordinated manner that provides accessibility and convenience for guests/occupants while minimising potential adverse amenity impacts, particularly within low density residential areas and local neighbourhood streets.

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

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

- a) The aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;

- g) Any local planning policy for the Scheme area;

- m) The compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;

- n) The amenity of the locality including the following –
 - i. The character of the locality;
 - ii. Social impacts of the development;

- s) The adequacy of –
 - i. The proposed means of access to and egress from the site; and
 - ii. Arrangements for the loading, unloading, maneuvering and parking of vehicles;

- t) The amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;

- u) The availability and adequacy for the development of the following - Access by older people and people with disability;

- x) The impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;

y) Any submissions received on the application;

z) Any other planning considerations the local government considers appropriate.

Compliance assessment

15. 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 | 'Residential Building' (Short Term Accommodation) – 'AA' use | Yes |

16. A 'Residential Building (Short Term Accommodation)' land use is a discretionary (AA) use within the 'Residential' zone.

17. Under TPS1, a 'Residential Building' is defined as follows:

"A building or portion of a building, together with rooms and outbuildings separate from such building but incidental thereto; such building being used or intended, adapted or designed to be used for the purpose of human habitation:

a. Temporarily by two or more persons; or

b. Permanently by seven or more persons, who do not comprise a single family, but does not include a hospital or sanatorium, a prison, a hotel, a motel or a residential school. "

18. Under LPP31, 'Short Term Accommodation' is defined as a type of 'Residential Building,' as follows:

"means a Residential Building occupied on a short term/temporary basis by no more than 6 persons that do not comprise a single family at any one time; and excludes a Lodging House, Bed and Breakfast Accommodation and Serviced Apartments."

19. The Statement of Intent of Precinct Plan 12 – East Victoria Park identifies that other accommodation options are appropriate and can be considered in the residential locality. Notwithstanding, additional locational criteria for such accommodation types are outlined in LPP31.

20. The following policy provisions of LPP31 are relevant:

1.1 Residential Buildings [short term accommodation] and Serviced Apartments should be appropriately located to ensure they are in convenient, easily accessible locations for their guests, and to minimise potential adverse impacts on the amenity of surrounding residential properties, particularly within low density, suburban environments.

1.2 To achieve 1.1 above, Residential Buildings and Serviced Apartments will only be supported by the Council where they are located on sites which meet at least two or more of the following criteria:

- a) Are on a Primary, District or Local Distributor road;
- b) Are within 400 metres of a train station or high frequency bus route stop;
- c) Are within 400 metres of an area of tourist potential as determined by the Town, such as adjacent to the Swan River foreshore and major sporting/entertainment complexes;
- d) Are within 400 metres of a District Centre zone, Commercial zone or other location providing convenience shopping and access to everyday goods and services; and/or
- e) Are within 800 metres of a higher education provider (TAFE or University campus), where the proposal is for Short Term Accommodation to house students.

21. The application was assessed against the above criteria and was found to satisfy only item b). The site is located approximately 100m from Etwell Street with high frequency routes 72 and 75, and approximately 400m from Kent Street with high frequency route 960. Basinghall Street is a local access road and the site is located approximately 1km from the Albany Highway District Centre zone. The proposal is not to be used for student accommodation and therefore Clause 1.2 e) is not applicable.

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. | Diversifies the existing accommodation offering in the Town, enhancing tourism potential. |

| 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. | Provides for alternative housing options within the Town in particular to meet needs for short term housing. |

Engagement

| Internal engagement | |
|---------------------------------|---|
| Stakeholder | Comments |
| Environmental Health Department | Do not object – Recommend conditions related to compliance with the <i>Environmental Protection (Noise) Regulations 1997</i> (Noise Regulations). |

| External engagement | |
|---------------------|---|
| Stakeholders | |
| | Owners and occupiers of adjoining properties. |

| | |
|------------------------------|--|
| Period of engagement | Fourteen (14) day advertising period (7 th May 2021 to 21 st May 2021) as per Local Planning Policy 37 – Community Consultation on Planning Proposals. |
| Level of engagement | Consult |
| Methods of engagement | Letters provided to owners and occupiers of adjoining properties outlining the proposed change of use and provision of relevant documents and information on the Town’s website. |
| Advertising | Letters provided to owners and occupiers of adjoining properties outlining the proposed change of use and provision of relevant documents and information on the Town’s website. |
| Submission summary | One (1) submission received objecting to the proposal. Refer to Attachment 4 for summary of submission. |
| Key findings | Concerns related to the land use in general not being appropriate for the locality particularly in relation to noise and privacy impacts for adjoining residents. |

Risk management considerations

| Risk impact category | Risk event description | Consequence rating | Likelihood rating | Overall risk level score | Council’s risk appetite | Risk treatment option and rationale for actions |
|---|---|--------------------|-------------------|--------------------------|-------------------------|---|
| Financial | Not applicable | | | | | |
| Environmental | Not applicable | | | | | |
| Health and safety | Not applicable | | | | | |
| Infrastructure / ICT systems/ utilities | Not applicable | | | | | |
| Legislative compliance | The applicant has a right of review to the State Administrative Tribunal (SAT) in relation to any conditions of approval, or if the application was | Minor | Unlikely | Low | Low | Accept |

| | | | | | | |
|------------------|--|-------|----------|-----|-----|--------|
| | refused by Council. | | | | | |
| Reputation | Negative public perception towards the Town may result if the use is approved, taking into consideration the objection received by the adjoining property owner. | Minor | Unlikely | Low | Low | Accept |
| Service delivery | Not applicable | | | | | |

Financial implications

| | |
|------------------------------|--|
| Current budget impact | Not applicable |
| Future budget impact | Should the applicant be aggrieved by the Council's decision they have a right of review to the State Administrative Tribunal. If the applicant were to exercise this right, then there may be financial implications for the Town in terms of representation to defend Council's decision. |

Analysis

22. Town Planning Scheme No. 1 requires the exercise of discretion when considering the appropriateness of the proposed 'Residential Building (Short Term Accommodation)' use on a 'Residential' zoned lot, taking into consideration Council policies and the potential amenity impact on surrounding properties.
23. The proposal is inconsistent with Local Planning Policy 31 (LPP31) with respect to not satisfying the required minimum two locational criteria for the land use, and as a result not satisfying policy objective a). It is considered that by not satisfying the requisite minimum two locational criteria, the development is not appropriately located.
24. With regard to car parking, on the basis of the 2 bedrooms provided, the parking provision is compliant as one car bay is required for the proposed land use. It is noted that the proposed parking arrangement allows for visitors' vehicles to be parked in a tandem arrangement in front of the garage for use by the main dwelling. While not an ideal arrangement, ultimately the owners can manage this.
25. In terms of the appropriateness of the use and potential amenity impacts, the applicant in their management plan outlines management strategies and a mitigation and complaints procedure to lessen any amenity impacts on neighbouring properties.
26. The applicant's intended measures to manage the property are noted, and given the owner lives on-site it is expected that the property will be well managed and that any adverse impacts upon adjoining properties will be addressed promptly.

27. Additionally it is noted that in an alternative scenario where the ancillary dwelling were to be rented out for a period of six months or more (ie. permanent accommodation), thereby still being classed as a dwelling, this would not require further development approval. The need for development approval arises in this instance because the occupancy period is proposed to be for a temporary period (ie. less than six months, and in this instance opportunity exists for turnover of occupants to be occurring every few days).
28. On balance, and having regard to Council's Policy, the land use is not considered appropriate at this location. In particular, the location in a low-density residential area, without proximity to activity nodes / other points of tourist potential/interest, is contrary to the provisions of LPP3, LPP23 and LPP31. There is sufficient land elsewhere in the Town, better suited to the proposed use.
29. While the use of the premises is likely to be well managed in this instance, approval of the development would undermine the intent of the Policy to only permit such land uses to be located in areas which meet at least two of the locational criteria in the policy.
30. On balance of the analysis conducted above and giving due regard to the relevant planning requirements, the proposal is considered to be unacceptable given its location and is recommended for refusal.

Relevant documents

[Town of Victoria Park Town Planning Scheme No.1](#)

[Town of Victoria Park Precinct Plan 12 – East Victoria Park](#)

[Local Planning Policy 3 – Non-Residential Uses in or Adjacent to Residential Areas](#)

[Local Planning Policy 23 – Parking Policy](#)

[Local Planning Policy 31 – Serviced Apartments and Residential Buildings including Short Term Accommodation](#)

[State Planning Policy 7.3 – Residential Design Codes Volume 1](#)

[Transperth Bus Network Map](#)

There were no questions asked or presentations made in relation to this item.

12.3 No. 257 Berwick Street, Victoria Park - Five Single Bedroom Dwellings

| | |
|----------------------------|--|
| Location | Victoria Park |
| Reporting officer | Senior Planning Officer |
| Responsible officer | Manager Development Services |
| Voting requirement | Simple majority |
| Attachments | <ol style="list-style-type: none"> 1. Attachment 1 - 257 Berwick Street - Development Plans [12.3.1 - 10 pages] 2. Attachment 2 - 257 Berwick Street - Applicants Submission [12.3.2 - 7 pages] 3. Attachment 3 - Schedule of Submissions - 257 Berwick Street [12.3.3 - 5 pages] |

| | |
|---|---|
| Landowner | Western Australian Planning Commission |
| Applicant | My Home |
| Application date | 2 February 2021 |
| DA/BA or WAPC reference | DA 5.2021.67.1 |
| MRS zoning | 'Urban' and 'Other Regional Road Reserve' |
| TPS zoning | Residential |
| R-Code density | Residential R30 |
| TPS precinct | Precinct Plan 12 – East Victoria Park |
| Use class | 'Single Bedroom Dwelling' |
| Use permissibility | 'P' Permitted Use |
| Lot area | 895 square metres |
| Right-of-way (ROW) | Not applicable |
| Municipal heritage inventory | Not applicable |
| Residential character study area/weatherboard precinct | Weatherboard Precinct |
| Surrounding development | Residential development to the north-west, north-east, east and south of the subject site. Service Station to the south on the opposite side of Kent Street. Rotary Residential College adjoining the property to the west. |

Recommendation

That Council:

- A. Approves the application for development approval submitted by My Home (DA Ref: 5.2021.67.1.1) for the Construction of Five Single Bedroom Dwellings at No. 257 (Lot 1) Berwick Street, Victoria Park as indicated on the plans dated received 2 February 2021, in accordance with the provisions of the Town of Victoria Park Town Planning Scheme No. 1 and the Metropolitan Region Scheme, subject to the following conditions:
1. The development, once commenced, is to be carried out in accordance with the approved plans at all times, unless otherwise authorised by the Town.
 2. The development to operate in accordance with the applicant's submission received 2 February 2021.
 3. The dwellings shall be located on the site for a maximum period of 15 years from the date of this approval, with the site being made good to the Town's satisfaction following their removal.
 4. External colours, finishes and materials of the building(s) are to be in accordance with the approved plans, unless otherwise approved in writing by the Town. Prior to the occupation of the development, the building(s) must be finished, and thereafter maintained, in accordance with the schedule provided and approved by the Town.
 5. Vehicle access to and from the property shall be left-in/left-out access to Kent Street only.
 6. All stormwater must be contained and disposed of on-site at all times, to the satisfaction of the Town.
 7. All building works to be carried out under this development approval are required to be contained within the boundaries of the subject lot.
 8. Prior to lodging an application for a building permit, a detailed landscaping and reticulation plan for the subject site and the adjacent road verge(s) must be submitted to and approved by the Town, and must include the following:
 - a. The location, number and type of proposed trees and shrubs including planter and/or tree pit sizes and planting density;
 - b. Any lawn to be established;
 - c. Any existing vegetation and/or landscaped areas to be retained;
 9. Prior to the occupation or use of the development, the approved landscaping and reticulation plan must be fully implemented and maintained thereafter, to the satisfaction of the Town.
 10. Prior to lodging an application for a building permit, a detailed Noise Management Plan is to be submitted and approved by the Town, which demonstrates that the development has been

designed to meet the relevant requirements of State Planning Policy 5.4 'Road and Rail Transport Noise and Freight Considerations in Land Use Planning' (SPP5.4). The report must be prepared by a suitably qualified and competent person in accordance with the SPP5.4 Guidelines. Any recommended mitigation or design measures are to be incorporated into the drawings and submitted for a building permit and the development shall be constructed in accordance with the approved details (refer to related Advice Note).

11. Prior to lodging an application for a building permit, the applicant must submit and have approved by the Town, and thereafter implement to the satisfaction of the Town, a construction management plan addressing the following matters:
 - i. How materials and equipment will be delivered and removed from the site;
 - ii. How materials and equipment will be stored on the site;
 - iii. Parking arrangements for contractors;
 - iv. Construction waste disposal strategy and local of waste disposal bins;
 - v. Details of cranes, large trucks or similar equipment which may block public thoroughfares during construction;
 - vi. How risks of wind and/or water borne erosion and sedimentation will be minimised during and after the works;
 - vii. Construction traffic and pedestrian management; and
 - viii. Other matters likely to impact on the surrounding properties.
12. Prior to lodging an application for a building permit, a Waste Management Plan must be submitted to and approved by the Town. The plan must include the following details to the satisfaction and specification of the Town:
 - i. The location of bin storage areas and bin collection areas;
 - ii. The number, volume and type of bins, and the type of waste to be placed in the bins;
 - iii. Details of the future ongoing management of the bins and the bin storage areas;
 - iv. Frequency of bin collections.
 - v. The Waste Management Plan must be implemented at all times to the satisfaction of the Town.
13. Prior to the occupation or use of the development, all car parking spaces together with their access aisles to be clearly paved, sealed, marked and drained in accordance with AS2890.1 and thereafter maintained to the satisfaction of the Town.
14. If the development, the subject of this approval, is not substantially commenced within a period of 24 months from the date of the approval, the approval will lapse and be of no further effect. For the purposes of this condition, the term "substantially commenced" has the meaning given to it in the *Planning and Development (Local Planning Schemes) Regulations 2015* as amended from time to time.

Advice Notes

AN1 Any amendments or modifications to the approved drawings forming part of this development approval may require the submission of an application for amendment to development approval and reassessment of the proposal.

AN2 With regards to the condition for a detailed Noise Management Plan, should modifications be required to the plans as a result of a recommendation of the Noise Management Plan requiring noise attenuation structures and/or changes to the external appearance of the dwellings, an amended development application may be required to be lodged and determined prior to these recommendations being implemented.

AN3 With regards to the condition for a detailed landscaping plan, the Town recommends use of Water-wise plant species and will consider the selected plant species at mature height, to ensure that vehicle sightlines at the adjacent intersection are not affected.

AN4 The proposed crossover to Kent Street will require approval, prior to installation, by both the Town of Victoria Park and Main Roads (WA).

AN5 A Work Zone Permit application is to be submitted to and approval issued the Town, prior to any works or temporary storage on a public thoroughfare (including roads, parking bays, footpaths or verges). To download an application form and for further information, please refer to the Towns website or contact the Town's Street Improvement business unit on (08) 9311 8111. It is noted that a Work Zone permit may not be permitted along some sections of Kent Street and Berwick Street.

AN6 A building permit is required to be obtained from the Town prior to commencement of any work in relation to this development approval.

AN7 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.

AN8 Any required excavation or filling greater than 150mm below or above existing ground levels is to be retained along any boundary by a retaining wall system designed by a practising Structural Engineer. Council approval is required for all proposed retaining wall systems greater than 150mm in height or depth.

AN9 Sound levels created are not to exceed the provisions of the Environmental Protection (Noise) Regulations 1997.

B. Request the Chief Executive Officer to advise those persons who lodged a submission of Council's decision.

Purpose

For Council to consider an application seeking development approval for five 'Single Bedroom Dwellings' for a temporary period of up to 15 years at No. 257 Berwick Street, Victoria Park.

The subject site is predominately reserved as 'Other Regional Roads' under the Metropolitan Region Scheme (MRS) and a portion of the site is zoned 'Residential R30' under the Town's Town Planning Scheme No. 1. Under the *Planning and Development Act 2005* – Instrument of Delegation, the local government has delegation to determine an application on land reserved under the MRS on behalf of the Western Australian Planning Commission (WAPC).

In brief

- The site is predominately reserved 'Other Regional Roads' (528.1m²) under the Metropolitan Region Scheme and partially zoned 'Residential R30' (369.3m²) under the Town's Town Planning Scheme No. 1 (TPS1).
- The application seeks development approval for five 'Single Bedroom Dwellings' for a period of 15 years or until such time as the land is required for road widening.
- Each site can be specifically targeted for particular homeless cohorts, for example over-55 women, with appropriate support services provided.
- The proposed use of 'Single Bedroom Dwellings' is listed in the TPS1 Zoning Table as a 'P' (permitted) use in the Residential Zone.
- The application is recommended for approval, subject to conditions and advice notes.

Background

1. On 23 April 2004, the Town issued a demolition permit for a Single House on the subject lot. The site has remained vacant since this time.
2. The Town received a development application for the construction of eight temporary dwellings for occupation by homeless persons on 4 November 2019. The application was subsequently withdrawn by the applicant.

Application summary

3. The application seeks development approval for five 'Single Bedroom Dwellings'.
4. The dwellings would each only be on the site for a maximum period of 15 years, or until such time as the land is required for road widening purposes.
5. The land has been leased from the Western Australian Planning Commission for a period of 15 years. This lease includes a clause which requires the dwellings to be removed off the site, if the land is required by the Commission.
6. Houses 1 and 2 are located on land zoned Residential R30, and Houses 3, 4 and 5 are fully located on land reserved Other Regional Roads.
7. Each dwelling would be 30 square metres in area and include a bedroom, kitchen, living and bathroom spaces.
8. The overall development proposes four shared car bays.
9. The units have been designed and are proposed to be built to Passivhaus principles which includes thermal and acoustic insulation, double glazing, sealing of the building envelope to minimise air leakage, cross ventilation, solar panels and rainwater collection tanks.

10. A registered Community Housing Provider will be the manager of the property and tenancies. The organisation will have established policies and procedures in place which span all stages of tenancy and property management, and which are currently being used for low-income affordable housing.
11. The tenants will be able to live in the dwellings for as long as they need to become self-sufficient in the private housing sector. This could be for the time it takes for skills training, financial stability, rehabilitation and personally resilient to manage their life.
12. As part of the Town's assessment of the application, legal advice was received in relation to the dwelling density and the standards to apply to the development, particularly the dwellings located on the land reserved for regional road purposes. In short, the legal advice is that the proposed five single bedroom dwellings can be approved and that the development standards of the R-Codes that would ordinarily apply to development on zoned land (ie. Minimum site area requirement; setback requirements; open space etc), do not apply to development on reserved land. It should be noted that in accordance with the R-Codes, the minimum site area requirement for a Single Bedroom Dwelling can be reduced by 1/3 from that required for a Grouped Dwelling.
13. Applicants submission
14. The applicant's submission states:
15. "My Home" is a new initiative to provide housing for homeless people at no cost to government. "My Home" is a proposed three-way partnership between government, not-for-profit and the private sector, and is based on the Housing First model. The Housing First model is guided by the principle that a homeless individual's primary need is to obtain stable housing firstly, followed by the provision of support services that can help the individual re-engage with the community and ultimate become self-sufficient. "
16. Key elements of the "My Home" project are as follows:
 - "Government provides vacant land at no cost that has been identified for long term future use such as road widenings, railway expansions etc. A number of sites has already been offered by the WAPC, including Lot 1 (257) Berwick Street.
 - Private sector funds the construction of housing – small demountable homes that can be constructed quickly and can be easily relocated to other sites if the land is needed for future government projects.
 - A Community Housing Provider (CHP) leases the land at peppercorn rent for 15 years (nom.). During this time, the CHP maintains the property and provides ongoing management of the tenants along with providing access to employment, health, legal and social support services. The CHP takes a percentage of the tenants' Centerline payment to fund this ongoing management.
 - Each site can be specifically targeted for particular homeless cohorts, for example over-55 women, with appropriate support services provided.
 - Private sector contributions are tax deductible and provide opportunities to promote brand identity and corporate social responsibility.
 - Architect designed homes will be sympathetic to surrounding developments to minimise community opposition and respond sensitively to local planning policies.
 - Can be used as a pilot project to trial new innovations in low-cost sustainable building practices (e.g. alternative construction methods, energy efficient design, solar panels, water recycling, new construction materials etc.).
 - The model has proven success in other parts of Australia and around the world, e.g. Harris Transportable Housing Project by Launch Housing, Melbourne."
17. The applicant's submission also provides the following information for supply and demand of accommodation for homeless people in Western Australia:

- “Accordingly, the many homeless people are not sleeping rough (primary homelessness) but are in some other form of insecure housing tenure such as couch surfing, sleeping in their car or staying with relatives. Many people who are on the State Government social housing waitlist are homeless.
- In recent years, arising principally from a sharp decrease in affordability and accessibility in the private rental market, the number of people of WA’s social housing waitlist has declined. However, there remains approximately 15,000 households on the waitlist. This number will likely rise as the private rental market rebalances and predicted little growth in social housing in WA. Organisations working with the homeless services sector generally agree that financial stress from the impact of Covid-19 restrictions will also add to the demand for low income affordable housing and a significant increase in numbers of homeless people in Western Australia.
- Over 50% of waitlist applicants are single person households. Single occupant housing is in high demand for the homes.
- Homes building under the “My Home” project will be fully self-contained which is preferable to dormitory or lodging house accommodation as the houses can truly be called “My Home”.

18. The development plans indicate the following:

- A bedroom per dwelling;
- A bathroom and laundry area per dwelling;
- A shared living and kitchen area per dwelling;
- A rainwater tank per dwelling;
- Six vegetable gardens;
- Four shared car bays including one universal accessible bay; and
- Communal bin storage area.

Relevant planning framework

| | |
|---|--|
| Legislation | <i>Town Planning Scheme No. 1 (TPS1)</i> <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> <i>Metropolitan Region Scheme (MRS)</i> |
| State Government policies, bulletins or guidelines | Residential Design Codes of WA (R-Codes) State Planning Policy 5.4 – Road and Rail Noise Guidelines (SPP5.4) Department of Communities (WA) – 10 Year Strategy on Homelessness 2020 - 2030 |
| Local planning policies | Local Planning Policy No. 25 – Streetscape (LPP25) Local Planning Policy 37 – Community Consultation on Planning Proposals (LPP37) |
| Other | Policy 113 - Homelessness (P113) |

General matters to be considered

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| TPS precinct plan statements | The following statements of intent contained within the precinct plan are relevant to consideration of the application. |
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| | <ul style="list-style-type: none"> • <i>Other types of accommodation, and some non-residential uses to serve the day-to-day needs of local residents are appropriate to these localities....Buildings shall be set in landscaped surrounds and mature trees shall be preserved. Design guidelines will apply throughout the precinct and specific controls will be progressively introduced for pockets of identifiable character housing.</i> |
| Local planning policy objectives | <p>The following objectives of Local Planning Policy No. 25 - Streetscape are relevant in determining the application.</p> <ul style="list-style-type: none"> • Sustainable designs and innovate designs are encouraged, however regard is still to be given to maintaining design compatibility with the existing and desired streetscape character. |
| 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>(c) Any approved State planning policy;</p> <p>(f) Any policy of the State;</p> <ul style="list-style-type: none"> • (g) Any local planning policy for the Scheme area • (m) The compatibility of the development with its setting... • (n) The amenity of the locality... • (s) The adequacy of - • (i) The proposed means of access and egress from the site; and • (ii) Arrangements for the loading, unloading, maneuvering and parking of vehicles • (u) The availability and adequacy for the development of the following... • (y) Any submissions received on the application |
| Urban forest strategy | <p>This application has the following impacts, in regards to the Town's Urban Forest Strategy.</p> <ul style="list-style-type: none"> • The development proposes the retention of an existing tree on-site in the Berwick Street front setback area. The submitted development plans (at Attachment 1) depict an additional seven trees to be planted across the site. • Conditions have been recommended that requires a detailed landscaping plan to be submitted prior to the issue of a building permit and prior to the occupation or use of the development the approved landscaping, including trees, to be planted and thereafter maintained. |
| Planning and Development Act 2005 – Instrument of Delegation (Del 2017/01 & 02 Powers of Local Governments and Department of Transport Metropolitan Region Scheme) | <ul style="list-style-type: none"> • In accordance with this delegation, the Town as the local government has the delegation to determine: • "Applications for developments on or abutting land that is reserved in the MRS for the purpose of a regional road, but excluding any application relating to large format digital signage". <p>Pursuant to the delegation, referral comments were sought from the Department of Planning, Lands and Heritage regarding the Other Regional Road reservation under the MRS.</p> |

Compliance assessment

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

As detailed above, for those dwellings located on the reserved portion of land (houses 3, 4 and 5), the development standards of the R-Codes do not apply. Notwithstanding this, the table below includes an assessment of Houses 3, 4 and 5 for some elements purely for comparative purposes.

| Residential development | | |
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| Land use | Single Bedroom Dwelling – Permitted Use | No discretion required. |
| Density | Residential R30 – Minimum and average lot size reduced by one third for Single Bedroom Dwellings. Minimum = 173m ² , Average = 200m ² Residential zoned land: House 1 and 2 – Minimum lot size: 175m ² , Average lot size: 447.5m ² | No discretion required. |
| Street setback | Berwick Street – Minimum setback 3 metres, with an average of 6 metres. Residential zoned land: House 1 has a minimum setback of 21.6 metres. Other Regional Road land: House 3 has a minimum setback of 4.4 metres and an average setback of 6.16 metres. Secondary street setback – Kent Street – Minimum setback of 3 metres. House 3 has a minimum setback of 4.59 metres, House 4 has a minimum setback of 2.744 metres and House 5 has a minimum setback of 2.758 metres. | No discretion required. No discretion required as setback standards do not apply to development on reserved land. |
| Building setbacks/boundary wall | House 1 and House 2 both require a 1 metre setback to the north eastern boundary. | No discretion required. |

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| | House 1 has a 1 metre side setback and House 2 has a 1.5 metre side setback. | |
| Building heights | Two storeys permitted. 1 storey proposed. | No discretion required. |
| Open space | 45% open space or 78.75m ² . House 1 and 2 both propose 82% open space or 145m ² . | No discretion required. |
| Outdoor living areas | Residential R30 requires 24m ² . House 1: 34m ² . House 2: 38.9m ² . House 3: 63m ² . House 4: 54m ² . House 5: 52m ² . | No discretion required. |
| Parking and access | 1 car bay required per dwelling. 2 car bays on residential zoned land and 2 car bays on other regional roads land. | 1 car bay shortfall. |
| Site works/retaining walls | No site works or retaining proposed. | No discretion required. |
| External fixtures | Solar collectors located on the roof. | No discretion required. |
| Surveillance | Living/Bedroom provides surveillance to the street. | No discretion required. |
| Building design and appearance | Dwellings are located within the Weatherboard Precinct of LPP25. | Some discretion required. |

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 was undertaken in accordance with Local Planning Policy No. 37. |

| Environment | |
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| 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 dwellings will provide different housing options for individuals experiencing homelessness. |

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| EN05 - Appropriate and sustainable facilities for everyone that are well built, well maintained and well managed. | The proposed dwellings include sustainable building design whilst also relying on low-cost sustainable building practices (e.g. alternative construction methods, energy efficient design, solar panels, water recycling, new construction materials etc.) |
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| Social | |
|-------------------|---|
| Strategic outcome | Intended public value outcome or impact |

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| S02 - An informed and knowledgeable community. | Community Consultation was undertaken in accordance with Local Planning Policy No. 37. |
| S03 - An empowered community with a sense of pride, safety and belonging. | The proposed dwellings will provide an opportunity for individuals within the community to provide safe accommodation which they are able to reside in until they become self-sufficient. |

Engagement

| Internal engagement | |
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| Building Department | A Building Permit is required for the proposed development. This is included as an advice note. |
| Health Department | An advice note is included noting that compliance with Noise Regulations is required. |
| Engineering Department | Comments were received regarding property levels, stormwater drainage, vehicle sightlines and crossover width. Conditions and advice notes have been recommended to address these matters. |
| Community Development | Supports the proposal. The proposed housing model contributes to ending homelessness through providing prospective tenants an affordable housing option and tailored service support. Additionally, the application aligns with the objective and aims of Policy 113 Homelessness – The Town’s role. |

| External engagement | |
|------------------------------|---|
| Stakeholders | Owners and occupiers of surrounding properties. |
| Period of engagement | 26 April 2021 to 10 May 2021 (14 days), as per Local Planning Policy No. 37 – Community Consultation on Planning Proposals. |
| Level of engagement | Consult |
| Methods of engagement | Written Submissions; Your Thoughts. |
| Advertising | As above. |

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| Submission summary | A total of seven submissions were received, six objecting to the proposal and one providing general comments. |
| Key findings | <p>A summary of the submissions received during the community consultation period can be found in Attachment 3. The main issues raised through the submissions were :</p> <ul style="list-style-type: none"> • Non-compliance with Town’s Local Planning Policy No. 25 – Streetscape; • Traffic; • Property values; • Temporary appearance of the dwellings; and • Antisocial behaviour. |

| Other engagement | |
|--|---|
| Department of Planning, Lands and Heritage – Strategy and Engagement | <p><i>“The Department of Planning, Lands and Heritage has no objection to the proposed land use and provides the following recommendations:</i></p> <ul style="list-style-type: none"> • <i>No permanent structures are supported within the ORR reservation;</i> • <i>The proposed access is via a 3 metre wide crossover from Kent Street and this restricts simultaneous vehicle entry and exit from the subject lot. A 6 metre wide crossover would assist with vehicle movements in an out of the subject lot and improve road safety;</i> • <i>The proposed access should maintain pedestrian priority across the footpath by preserving footpath connectivity;</i> • <i>It is recommended that the proposed access point complies with Austroads’ Guide to Road Design Stopping Sight Distance;</i> • <i>The proposed access has the potential to introduce vehicle conflicts within the merge area and given its location on the foot of the crest, it is recommended that a left-in/left-out access arrangement be pursued without affecting other crossovers in the area.”</i> |
| Department of Planning, Lands and Heritage – Land Use Planning | <p><i>“The Department of Planning, Lands and Heritage has no objection to the proposed use of the Other Regional Road reserve as indicated in the attached development application.</i></p> <p><i>This is based on the use being ‘temporary’ in that the lease of the site is limited to 15 years, and the lease includes the ability for the site to be cleared and made available to the WAPC at any time that is required for the purpose of road. The use of the site in a manner that is consistent with the adjoining Urban zoned land, until such time as it is required for the reserved purpose, is considered acceptable by the Department. The lease arrangement and temporary nature of the buildings remove any concern of the proposal prejudicing the future widening of Kent Street”.</i></p> |

Risk management considerations

| Risk impact category | Risk event description | Consequence rating | Likelihood rating | Overall risk level score | Council’s risk appetite | Risk treatment option and |
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| | | rationale for actions | | | | |
|---|--|-----------------------|----------|--------|-----|--------|
| Financial | Not applicable. | | | | | |
| Environmental | Not applicable. | | | | | |
| Health and safety | Not applicable. | | | | | |
| Infrastructure / ICT systems/ utilities | Not applicable. | | | | | |
| Legislative compliance | The proponent has a right of review to the State Administrative Tribunal against Council's decision, including any conditions. | Moderate | Unlikely | Medium | Low | Accept |
| Reputation | Negative public perception towards the Town either from persons who oppose or support the development. | Moderate | Likely | Medium | Low | Accept |
| Service delivery | Not applicable. | | | | | |

Financial implications

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| Current budget impact | Sufficient funds exist within the annual budget to address this recommendation. |
| Future budget impact | The applicant has a right of appeal to SAT against any conditions of approval or a refusal. Should the applicant pursue an appeal through SAT, then there may be costs associated with obtaining legal and/or other representation. |

Analysis

1. A demolition permit was issued in April 2004 for the Single House on the subject site. The site has remained vacant since this time.
2. The subject site is predominately reserved 'Other Regional Road' under the Metropolitan Region Scheme as well as being zoned 'Residential R30' under the Town's Town Planning Scheme No. 1.
3. The land has been leased from the Western Australian Planning Commission by My Home for a period of 15 years. A clause in the lease agreement allows the Western Australian Planning Commission to require the removal of the dwellings within that 15-year period, should the land be required for road widening.
4. The subject site is easily accessible by public transport and conveniently located to shopping, medical and education facilities.
5. In relation to the land use, the provision of five Single Bedroom Dwellings aligns with the Town of Victoria Park's Strategic Community Plan outcome of "*allows for different housing options for people with different housing needs and enhances the Town's character*" and the TPS1 Precinct Plan's Statement of Intent in providing for, "*Other types of accommodation, and some non-residential uses to serve the day-to-day needs of local residents are appropriate to these localities*".
6. The proposed development will provide accommodation for individuals who are currently struggling to secure permanent accommodation. The development has incorporated sustainable design methods, whilst incorporating aesthetic aspects of the surrounding Weatherboard Precinct.
7. The Town's Local Planning Policy No. 25 – Streetscape (LPP25) is applicable to single and grouped dwellings constructed on the site where it is located on Residential zoned land. As the land is predominately reserved as 'Other Regional Roads', the provisions relating to residential development (in particular to House 3, 4 and 5) are not applicable to those dwellings. House 1 and 2 have been assessed in accordance with the provisions of LPP25 and the R-Codes. It is noted that all dwellings (inclusive of the dwellings on the road reserve) have all been designed to have a consistent building appearance.
8. In accordance with LPP25, the dwellings require some discretion to be exercised in relation to the building design. The subject site is located within the Weatherboard Precinct of LPP25. The key building design characteristics of properties within the Weatherboard Precinct are a minimum roof pitch of 30 degrees, weatherboard cladding, zincalume roof cover, open eaves and wall heights of a minimum of 2.75 metres for a single storey.
9. The dwellings are all proposed to be clad in a weatherboard material with zincalume roof sheeting. A roof pitch of 12 degrees is proposed, with no open eaves, and a maximum wall height of 2.4 metres. The applicant has advised that the "*roof shape, height, pitches and materials are consistent for all five houses, and is a contemporary interpretation of the simple roof profiles of traditional weatherboard houses. Because of the small house footprint (31m²), the roof shape and pitch has been adapted to be proportionate balanced with the house size. The verandah roof allows for good orientation for solar panels. It meets the main roof above the front elevation, consistent with the traditional weatherboard model. The resultant pitch of the main roof is 12 degrees (nom.). From the primary street the roof shape reads as a simple pitched roof consistent with traditional weatherboard models*".
10. While the dwellings are not designed to the same standards that apply to other development in the Weatherboard Precinct, it should be noted that :
 - (a) the dwellings are not permanent, and are to be removed from the site within 15 years; and
 - (b) the dwellings are provided on a not-for-profit basis; and
 - (c) while having a residential neighbour to the north-west, the subject site is opposite a service station and is adjoined to the south-west by a school and student accommodation.
11. Given this context, the proposed building design is considered to be acceptable.

12. The R-Codes require one car bay to be provided for each single bedroom dwelling proposed. The development proposes four car bays at the rear of the site with access off Kent Street, resulting in a one car bay shortfall. Whilst the R-Codes do not apply to the dwellings on the reserved land, to determine the impact on the adjoining properties, an assessment has been undertaken across the entire site. Where the minimum car parking provision is not met, the proposal is assessed against the projected need related to the type, number and size of the dwellings, the availability of on-street and off-street car parking and the proximity to public transport and other facilities.
13. Three bus stops are located within 100 metres of the subject site. The bus service which runs along Kent Street is classified as a High Frequency bus meaning that as a minimum the bus will run every 15 minutes between 7am to 7pm Monday to Friday, 8am to 7pm on Saturdays and 9am to 7pm on Sundays. In addition, the applicant has advised that many of the residents are unlikely to own their own cars. Due to the type, number and size of the proposed dwellings, and the site's proximity to high frequency public transport, it is considered that adequate car parking is provided on site.
14. A condition has been recommended to be imposed which requires the development to operate in accordance with the applicant's submission. The submission provides important details regarding the management and terms of tenancies which have been relied upon when assessing the development application.
15. The subject site is located adjacent to a major transport corridor. As per Clause 3.2.1 and Table 2 of State Planning Policy 5.4 - Road and Rail Noise Guidelines, the site will be exposed to forecast noise consistent with the adjoining residential properties. A condition is recommended requiring a noise management plan to be prepared which demonstrates compliance with the noise target for this site. An advice note has also been imposed advising the applicant that modifications to the plans as a result of the noise attenuation measures may require an amended development application to be lodged.
16. Having regard to the above, it is recommended that the application be conditionally approved.

Relevant documents

Not applicable.

Questions and responses

Cr Claire Anderson

1. Do the dwellings meet disability access standards?

The Manager Development Services read a response from the applicant stating that not all units will have universal access as they do not need universal access but one unit will be.

2. When the applicant says that 'five units does not require universal access', what does that mean?

The Manager Development Services that he presumes that the applicant means that for the purposes of this planning assessment the R-Codes have no requirement for universal access for the dwellings.

Mayor Karen Vernon

1. Is that because these are five single dwelling bedrooms, and there is no requirement for a single dwelling to be universally accessible?

The Manager Development Services advised that in the case of multiple dwellings the R-Codes do require some universal access however in the case of group single dwellings there are no universal access requirements.

Further consideration to be added to the Ordinary Council Meeting agenda

Nil.

12.4 Amendment to condition of development approval for mixed use development at No. 660 (Lot 11) Albany Highway, Victoria Park

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| Location | Victoria Park |
| Reporting officer | Manager Development Services |
| Responsible officer | Manager Development Services |
| Voting requirement | Simple majority |
| Attachments | 1. Applicant's justification letter [12.4.1 - 3 pages] |

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| Landowner | Fowler Group Properties |
| Applicant | Richard Burt |
| Application date | 11 June 2021 |
| DA/BA or WAPC reference | DA 5.2021.321.1 |
| MRS zoning | Urban |
| TPS zoning | District Centre |
| R-Code density | R80 |
| TPS precinct | Precinct P11 'Albany Highway' |
| Use class | Community Purpose |
| Use permissibility | 'P' (permitted) use |
| Lot area | 5300m ² |
| Right-of-way (ROW) | N/A |
| Municipal heritage inventory | N/A |
| Residential character study area/weatherboard precinct | N/A |
| Surrounding development | Commercial development, park and vacant land |

Recommendation

That Council:

1. Approve the application submitted by Richard Burt on behalf of Fowler Group Properties (DA Ref: 5.2021.321.1) for amendment to condition of development approval for Mixed Use development at No. 660 (Lot 11) Albany Highway, Victoria Park in accordance with the provisions of the Town of Victoria Park Town Planning Scheme No. 1 and the Metropolitan Region Scheme, subject to condition 1 of development approval DA Reference No. 5.2016.151.1 dated 11 September 2017 being modified to read as follows:
 - a. For a period of 20 years from the commencement of a lease, the applicant shall provide community meeting rooms for use of the community under the supervision of the Town on the basis that no rent or occupation charges are to be levied for that community use, but the Town to meet all outgoings otherwise incurred by the applicant in respect to that use. The lease is to provide scope for the landowner and Town to agree to a lesser period at the Town's request.
2. Advise the Joint Development Assessment Panel Secretariat of Council's decision.

Purpose

For Council to consider an application for an amendment to a condition of development approval for the mixed use development at No. 660 Albany Highway, Victoria Park (known as Vic Quarter). Given the community interest in both the development generally and the required community space, Officers consider it appropriate that Council determine the application.

In brief

- Approval was granted by the Metro Central Joint Development Assessment Panel (JDAP) on 21 September 2016 for the redevelopment of the site with a mixed use development of a maximum six storey height, comprising Shops, Restaurants, Offices, Tavern, 101 Multiple Dwellings and 1 Grouped Dwelling.
- An application for an amendment to the JDAP's 2016 approval was submitted proposing the addition of a seventh storey including four additional Multiple Dwellings. This application was initially refused by the JDAP and was subsequently the subject of an application for review to the State Administrative Tribunal (SAT).
- Upon reconsideration of the application, and amended plans now incorporating a community meeting room, the JDAP at its meeting on 11 September 2017 resolved to approve the application including the following condition:

"For the life of the building the subject of this approval, the applicant shall provide community meeting rooms for use of the community under the supervision of the Town on the basis that no rent or occupation charges are to be levied for that community use, but the Town to meet all outgoings otherwise incurred by the applicant in respect to that use."
- The development has been completed and the community meeting room is not yet available to members of the public. The applicant now seeks to reduce the time that a community space is required to be provided to a maximum period of 20 years.

Background

1. Approval was granted by the Metro Central Joint Development Assessment Panel (JDAP) on 21 September 2016 for the redevelopment of the site with a mixed use development of a maximum six storey height, comprising Shops, Restaurants, Offices, Tavern, 101 Multiple Dwellings and 1 Grouped Dwelling. The approval involved the significant exercise of discretion (6 storeys proposed in lieu of a maximum of 3 storeys; plot ratio of 1.875 in lieu of a maximum of 1.0).
2. An application for an amendment to the JDAP's 2016 approval was submitted proposing the addition of a seventh storey including four additional Multiple Dwellings. This application was initially refused by the JDAP on 13 February 2017, on the basis that the additional building height and plot ratio were excessive and not consistent with the negotiated outcomes previously reached.
3. The JDAP's refusal of February 2017 was subsequently the subject of an application for review to the State Administrative Tribunal (SAT). As ordered by the SAT, the JDAP reconsidered its decision at a meeting on 27 July 2017 and reaffirmed its earlier decision to refuse the application for the same reasons as before, as well as there being no additional community benefit or residential amenity provided.
4. During subsequent SAT mediation, the applicant tabled amended plans including the provision of community meeting rooms to meet an identified need within the Town.
5. Upon reconsideration of the application, and amended plans now incorporating a community meeting room, the JDAP at its meeting on 11 September 2017 resolved to approve the application including the following condition:
"For the life of the building the subject of this approval, the applicant shall provide community meeting rooms for use of the community under the supervision of the Town on the basis that no rent or occupation charges are to be levied for that community use, but the Town to meet all outgoings otherwise incurred by the applicant in respect to that use."
6. The JDAP's approval of 11 September 2017 was contrary to the Officer's recommendation for the application and amended plans to be refused. The following reasons were recorded as being the basis of the JDAP's decision to approve:

The majority of the panel determined that the proposed development incorporating a partial 7th storey has sufficient amenity and design attributes, together with community benefits, to warrant approval to the extent of discretion requested in the application.

7. Despite the building now being occupied for almost 2 years, the community space has not yet commenced, as agreement has not been able to be reached with the landowner in respect to the form of an agreement between the Town and the landowner, as well as the length of the term.

Application summary

8. This application proposes to amend condition 1 of the JDAP's approval of 11 September 2017, by replacing the obligation to provide a community meeting space for the life of the building to a maximum period of 20 years.

Applicants submission

9. In support of the request to amend condition 1 of the JDAP's approval of 11 September 2017, the applicant has submitted a justification letter – see Attachment 1 for the content in full.
10. The following points are made by the applicant:

1. Reasonable period - FGP seeks to limit the Community Room(s) period of use from 'the life of the building' to a more reasonable period of up to a maximum of 20 years. 'For the life of the building' is not seen as reasonable due to the open-ended nature of the commitment based on Vic Quarters large scale and high-quality development.
2. Building Amenity - FGP believes that whilst the ToFVP may have had planning reservations about the Vic Quarter development (specifically the addition of the 4 apartments) in 2016/2017, the end product of a high quality mixed use residential and commercial development has both substantially improved both the Towns vision for higher density living together with providing improved amenity and services to visitors and the local community. The Vic Quarter development is a substantial improvement to the second-hand car yards that previously occupied and still currently neighbor the Albany Hwy/Miller St area.
3. Future Development – The ToFVP now encourages development and enhancement opportunities within the Town with the launch of 'Invest in Vic Park'. Whilst early adopters, FGP have complemented this type of initiative with the Vic Quarter development. If the Vic Quarter DA was lodged today, would Council still have reservations with such a positive development and expect similar open-ended tradeoffs such as the JDAP Condition 1 resolution?
4. Ongoing Expense Liability – 'For the life of the building' also commits the ToFVP to an open-ended commitment to maintain and meet financial outgoings for the same open-ended period. The JDAP resolution requires the ToFVP to meet the relevant outgoings at Vic Quarter. By reducing the period of use to 'up to a maximum period of 20 years', provides the ToFVP with the flexibility to enjoy the near term benefits of the meeting room(s) together with limiting the longer term financial liability.
5. Meeting Room(s) – as detailed above, neither the ToFVP nor FGP proposed the meeting rooms as tradeoff for the inclusion of a partial seventh story at Vic Quarter. While FGP acknowledges JDAP's compromise, it did not have the opportunity at the time to provide feedback to the open ended period.

Relevant planning framework

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| Legislation | <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> |
| State Government policies, bulletins or guidelines | State Planning Policy 7.3, Volume 2 – Residential Design Codes - Apartments |
| Local planning policies | Local Planning Policy 33 'Guide to Concessions on Planning Requirements for Mixed Use, Multiple Dwelling and Non-Residential Developments' |
| Other | N/A |

General matters to be considered

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| 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 area shall be consolidated as a centre containing retail, civic, community and recreational facilities.</i> • <i>New development shall be of a high quality and complement the existing character, style and scale of the area.</i> |
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| <p>Local planning policy objectives</p> | <p>The following objectives of Local Planning Policy 33 ' 'Guide to Concessions on Planning Requirements for Mixed Use, Multiple Dwelling and Non-Residential Developments' are relevant in determining the application.</p> <ul style="list-style-type: none"> • The amenity for multi-residential occupants and their long-term wellbeing are maximised; • New developments exhibit a well mannered response to neighbouring properties; • The Town's changing urban character is significantly enhanced. |
| <p>Deemed clause 67 of the Planning and Development (Local Planning Schemes) Regulations 2015</p> | <p>The following are relevant matters to be considered in determining the application:</p> <p>(g) any local planning policy for the Scheme area;</p> <p>(m) the compatibility of the development with its setting, including -</p> <p>(i) the compatibility of the development with the desired future character of its setting; and</p> <p>(ii) the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development.</p> <p>(n) the amenity of the locality including the following -</p> <p>(i) environmental impacts of the development;</p> <p>(ii) the character of the locality;</p> <p>(iii) social impacts of the development.</p> <p>(zb) any other planning consideration the local government considers appropriate.</p> |

Compliance assessment

11. The development approval of 11 September 2017 proposed an increase in the extent of non-compliance for two items, being the building height and plot ratio, as follows:
- (a) Building height – increase from 6 storeys (approved) to 7 storeys, in lieu of 3 storeys under Scheme.
 - (b) Plot ratio – increase from 1.875 to 1.99 in lieu of a maximum of 1.0 under Scheme.

Strategic alignment

| Environment | |
|--|--|
| Strategic outcome | Intended public value outcome or impact |
| <p>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.</p> | <p>The development is an exemplar of quality infill development in an urban environment.</p> |

Engagement

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| <p>Internal engagement</p> |
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| Stakeholder | Comments |
|----------------|---|
| Place Planning | <p>Broadly, the Vic Quarter space is unlikely to become a highly strategic site in the Town’s social infrastructure network, or be so unique as to be irreplaceable. The space is limited in its potential use and does not enjoy high visibility or easy access for the community. It is also located in walking distance from the Macmillan Precinct, which should be completed and available to the community before the Vic Quarter space is retired. Therefore, a 20 year maximum term is considered ample for the Town to utilise the space while consolidating its broader strategic social infrastructure network.</p> <p>Further clarification on how the “up to a maximum period of 20 years” condition will operate is requested. In particular, will the potential reduction of the 20 year period be at the discretion of the Town or developer, and under what circumstances? The limited utility of the space, costs to the Town, and potential need for Town staff to continually attend the site to manage it, may ultimately outweigh the benefit of having access to the space. The decision to reduce the 20 year period should provide the Town with flexibility to be released from the space should it prove overly burdensome. Conversely, if the space does perform well and/or the Town invests significant funds for fitout upfront, we would want the confidence that we will receive the full 20 year benefit.</p> <p>Further clarification on any limitations as to how the Town can use the space is also requested. Such limitations might make the space more problematic for the Town. For instance, is the expectation that the Town and its staff will occupy and manage the space, or can we sublet to a non-profit community organisation? Will late-night or after-hours access be permitted? To what degree can the proponent ‘veto’ our intended use of the space? These questions are raised now as these issues may impact our assessment of whether a 20 year period is likely to be an asset or a burden. It reinforces our view that the Town having ability to call on the “up to a maximum” aspect of the condition is desirable.</p> <p>On the basis that the “up to a maximum period of 20 years” provides the Town with both certainty that the full period will be available and flexibility to renegotiate a shorter term if desirable, we do not object to the intent of the proposed amended condition.</p> <p>More generally, the proponent asks “If the Vic Quarter DA was lodged today, would Council still have reservations with such a positive development and expect similar open-ended tradeoffs such as the JDAP Condition 1 resolution?”. Our view on amendment of the condition is based upon the utility of the subject space, relationship of the space to our broader social infrastructure approach, and potential risk to the Town. It should not be construed as the Town taking the position that the architectural quality of a development alone should be considered sufficient as a “development incentive for community benefit”. There is a possibility that the Town will pursue social infrastructure opportunities as a “development incentive” in the future, but this will be done on a strategic basis.</p> |

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| Assets | <p>Support the 20 year lease arrangement for community space, as at the expiry of this term it is expected community space could be offered in the MacMillan Precinct development. The Town has already contributed funds to the fit out of this Community room and has budgeted for operational and maintenance expense in the annual budget. There is still a need to establish a booking/management model (to establish required maintenance schedules) and discussions with owner over utility on-charging, to ensure not to over burden the Town with these costs. It is unlikely the Town will be responsible for any capital renewal costs for the room given the 20 year term and the building component useful lives will be past this time. It is recommended an asset management plan for the room be prepared to establish clear responsibilities in relation to building maintenance etc.</p> |
| Community Development | <p>The revised approach and rationale outlined is a reasonable compromise given all of the contributory factors. Ideally, the use of this space ongoing would seem the best outcome, however in order to remove the impasse the proposal presented may be a good option to consider.</p> <p>Regardless of the time period, consideration needs to how this space will be operated, cost structure, management model, financial implications etc to maximise community benefit, while minimising Town impacts – financial and human resource, implications across the Town and functional areas.</p> |
| Land and Property | <p>Support provided the 20 years is from the commencement date of the lease and not from 2 years ago.</p> <p>A defined 20 year term will allow a lease as an agreement to manage the space.</p> |

12. No external engagement has been undertaken in relation to this application for an amendment to condition 1 of the JDAP's approval of 11 September 2017.

Risk management considerations

| Risk impact category | Risk event description | Consequence rating | Likelihood rating | Overall risk level score | Council's risk appetite | Risk treatment option and rationale for actions |
|----------------------|------------------------|--------------------|-------------------|--------------------------|-------------------------|---|
| Financial | No impact | | | | | |
| Environmental | No impact | | | | | |
| Health and safety | No impact | | | | | |

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|---|---|----------|----------|--------|-----|--|
| Infrastructure / ICT systems/ utilities | No impact | | | | | |
| Legislative compliance | No impact | | | | | |
| Reputation | Possible negative impact depending upon one's perspective | Moderate | Unlikely | Medium | Low | Accept – ensure that all perspectives are adequately considered in determining the application |
| Service delivery | No impact | | | | | |

Financial implications

| | |
|------------------------------|--|
| Current budget impact | No impact |
| Future budget impact | Should the applicant be aggrieved by Council's decision the applicant has a right of appeal to the State Administrative Tribunal. If this were to occur there may be costs incurred by the Town in attending and seeking representation. |

Analysis

13. Town Officers did not support the 2017 application proposing to amend the 2016 approval, as it was considered that the proposed additional storey and plot ratio (already well in excess of the Scheme standards) were excessive and not consistent with the negotiated outcomes previously reached. Concern was also expressed about the precedent for similar proposals along Albany Highway.
14. The inclusion of a community meeting space within the development was proposed by the applicant in response to the JDAP's decision of 27 July 2017 that the amendment and inclusion of an additional storey did not deliver any additional community benefit. Feedback provided by the Town's Community Development team at the time, was that the draft Social Infrastructure Plan had identified the need for additional community meeting spaces within the Town.
15. While acknowledging the inclusion of a community meeting space would provide a benefit to the community, the Officers report to the JDAP meeting of 11 September 2017 concluded that the inclusion of this element was insufficient to warrant the additional plot ratio and building height being proposed.
16. The development, as completed, is regarded as an exemplar for high quality development in the Town. It is accepted that the additional seventh storey is discrete from view at pedestrian street level due to the setback of this storey, and that the additional storey has not had an adverse impact upon the amenity of the locality or adjoining properties.

17. The JDAP's decision to approve the additional seventh storey on the basis that the owner provides a community meeting space in return for community benefit, is a good outcome. The owner/applicant proposes to fulfill this obligation, albeit for a shorter period than approved by the JDAP.
18. In this respect it should be noted that the JDAP determination to require the space to be provided for community use for the life of the building was proposed by a JDAP member. Neither the applicant, landowner or Council Officers were provided with an opportunity at the JDAP meeting to provide comments on the merits of the condition applying for the life of the building.
19. The JDAP's intent of requiring the community space to be provided for the life of the building is understood to be based upon the landowner gaining the benefit of the additional storey for the life of the building. While this is understood, such a term creates the following difficulties :
 - Will require the agreement between the Town and the landowner to be in the form of a deed in effect for perpetuity and the subject of a caveat on title, as opposed to a lease which needs to be for a defined period and is not required to be supported by a caveat on title. The landowner has previously indicated that he is not prepared to enter into a deed because the obligations of the deed will be in perpetuity and will be the responsibility of others in the future.
 - Obligates the Town to manage and pay for outgoings for an undefined period, and potentially beyond a time that the Town or community require the space for community use. For example, noting the likely provision of new community spaces within a redevelopment of the MacMillan Precinct, the Town would still be required to manage and pay for the community space within the building at No. 660 Albany Highway even if sufficient community space exists elsewhere in the Town.
20. Options available to the Council include :
 - (a) support the requested amendment. This will enable the necessary lease to be prepared and the community use of the space to commence in the near future;
 - (b) refuse the requested amendment. If this were to occur then the applicant may choose to appeal to the State Administrative Tribunal, which would further delay the delivery of the space for community use, with an uncertain outcome and cost to the Town.
 - (c) agreeing to an alternative term for the space to be available for community use.
21. Having regard to the above, and the high quality development delivered, it is considered that a 20 year term is a reasonable compromise that will enable the community use of the space to commence in the near future without obligating the Town to use the space in perpetuity.
22. In relation to the reduced term, the applicant proposes that it be for "a maximum period of 20 years". As per the comments from the Town's Place Planning team there is ambiguity in relation to the circumstances where a lesser term may be appropriate and at who's discretion this will be. It is considered that this could be addressed through stating the period is to be 20 years or a lesser period agreed to by both the landowner and the Town. Furthermore the comments of the Town's Land and Properties team is accepted that the determined period should commence from the date of the lease commencing rather than being from the date of this amended approval or the previous JDAP approval.
23. Accordingly it is recommended that the relevant condition be reworded as follows :

"For a period of 20 years from the commencement of a lease, the applicant shall provide community meeting rooms for use of the community under the supervision of the Town on the basis that no rent or occupation charges are to be levied for that community use, but the Town to meet all outgoings otherwise incurred by the applicant in respect to that use. The lease is to provide scope for the landowner and Town to agree to a lesser period at the Town's request."

Questions and responses

Cr Luana Lisandro

1. *How will 'all outgoings' of the community room be incurred by the Town?*

The Manager Development Services will provide that information under further consideration.

2. *Does this include furnishing the room or building maintenance, painting and electricity over the 20 year period?*

The Manager Development Services will provide that information under further consideration.

3. *How is 'community use' defined?*

The Manager Development Services advised that it would be a matter to be dealt with in the lease.

4. *Will the room be only available to registered associations, charities or not-for-profit organisations?*

The Manager Development Services will provide that information under further consideration.

5. *When does the 20 year period for the community room commence?*

The Manager Development Services advised that 20 year period is proposed to commence at the commencement of the lease.

Cr Ronhhda Potter

1. *Can I seek clarification on why the community haven't had access to the community room?*

The Manager Development Services will provide that information under further consideration.

Cr Wilfred Hendriks

1. *Can I have some clarification on whether it is single or plural rooms?*

The Manager Development Services advised that 'rooms' references the wording from the Joint Development Assessment Panel decision, it is for one single room.

Cr Luana Lisandro

1. *What Town costs have been incurred to date for furnishing the room?*

The Chief Operations Officer will provide that information under further consideration.

2. *What is the size of the room and what capacity for people?*

The Manager Development Services will provide that information under further consideration.

Mayor Karen Vernon

1. In the Town's view, why has an agreement not been able to be reached with the landowner in respect to the form of an agreement between the Town and the landowner as well as the length of the term?

The Manager Development Services advised that he understands the delays to be around the applicant's drafting of the lease, seeking legal advice, seeking legal agreements in lieu of the lease, disagreements with the legal agreement, and recently delays in the applicant lodging the application to amend the development approval.

2. When did the Town first discuss with the applicant's land owner in making arrangements for the community space to be available?

The Manager Development Services will provide that information under further consideration.

3. How long has the Town been in discussions with the applicant land owner over compliance with this condition?

The Manager Development Services advised that from his memory it is around 12 months.

4. Have you continued to be a person involved in these these discussions?

The Manager Development Services advised that early discussions were with Property and Leasing team, he has been involved later in the last six months.

5. Were any discussion had with the applicant land owner regarding interim use of the space whilst the formalities were resolved?

The Manager Development Services advised that to his knowledge he was only aware around two months that the owner's representative had a willingness to make the space available to the community.

6. When did the applicant land owner first advised the Town that they wanted to vary the Joint Development Assessment Panel condition for this community space?

The Manager Development Services advised that it was around six months ago.

7. Is the proposed amendment to the condition the result of negotiations between the applicant land owner and the Town, or is it only as a result of the applicant making this application for an amendment?

The Manager Development Services advised that is a response to the applicant making the application in response to officers following up the matter with the applicant.

8. Does the Town have information about the value (either market or social impact) of the proposed community space, either over the life of the building (assuming that to be no longer than 99 years), or over the next 20 years?

The Manager Development Services will provide that information under further consideration.

9. If the proposed lease were to start from the date the lease is signed, how is the time period that has passed since the building was ready for occupation until now, proposed to be addressed by the Town given that the community haven't been able to access the community room?

The Manager Development Services advised that no action is proposed.

10. If the Council were to refuse this recommendation or seek to vary the officer's proposed amendment to be a lease for a longer period, could the applicant land owner apply to the Joint Development Assessment Panel and/or State Administrative Tribunal in relation to opposing the Council endorsed position?

The Manager Development Services advised that as the applicant has made the application to the Town for determination, it would be the Town in the first instance. If they are not satisfied with Council's decision they have a right to appeal to the State Administrative Tribunal.

11. If the applicant land owner went to State Administrative Tribunal because they were satisfied with Council's resolution, is there scope for the Town to agree with the applicant land owner that the community room could be made available on an interim basis whilst any legal disputes were deliberated at State Administrative Tribunal?

The Manager Development Services advised that he thinks it would be a possibility but the Property and Leasing team would probably not be in favour of it as there is no agreed lease set.

Cr Vicki Potter

1. Is it correct that when the applicant originally proposed the use of a community room as a carrot in order to get approval for the 7th storey, is it correct that they were offering to fit-out that room?

The Manager Development Services will provide that information under further consideration.

2. Is it correct that the amendment was made by the Joint Development Assessment Panel to remove that fit-out option for the applicant and move it to the Town because of the extension of the lease to the life of the building from the previously suggested limited term?

The Manager Development Services will provide that information under further consideration. He can confirm that an officers report that went before Joint Development Assessment Panel recommended that the application for the 7th storey be refused and that the alternative came from a member that referenced the life of the building.

3. Is there a precedent for applicants to come to Council to question the considerations placed on them by Joint Development Assessment Panel?

The Manager Development Services advised that the Joint Development Assessment Panel legislation is structured so that if an amendment was sought, the applicant has a choice to seek consideration from either the Joint Development Assessment Panel or local government.

Further consideration to be added to the Ordinary Council Meeting agenda

1. Include information on how all outgoings will be incurred by the Town.

2. Include information on whether these incursions will include furnishing the room or building maintenance, painting and electricity over a 20 year period.
3. Include information on whether the community room will only be available to registered associations, charities or not-for-profit organisations.
3. Include information on the keys to the community room and why the community haven't had access.
4. Include information on the costs to the Town for furnishing the room.
5. Include information on the size of room and the person capacity.
6. Include information on the date when the Town first discussed with the applicant's land owner in making arrangements for the community space to be available.
7. Include information on the value of the proposed community space either over the life of the building or over the next 20 years.
8. Include information on whether the applicant offered to fit-out the room in order to get approval for the 7th storey.
9. Include information on whether the amendment was made by a member of the Joint Development Assessment Panel.

12.5 No. 45 the Circus - Home Business (Unlisted Use)

| | |
|----------------------------|--|
| Location | Burswood |
| Reporting officer | Senior Planning Officer |
| Responsible officer | Manager Development Services |
| Voting requirement | Absolute majority |
| Attachments | <ol style="list-style-type: none"> 1. Attachment 1 - Development Plans [12.5.1 - 2 pages] 2. Attachment 2 - Applicant's Written Description of Business [12.5.2 - 1 page] 3. Attachment 3 - Schedule of Submissions [12.5.3 - 5 pages] 4. Attachment 4 - Site Photos [12.5.4 - 5 pages] 5. Attachment 5 - Applicant's Response to Submissions [12.5.5 - 5 pages] |

| | |
|---|--|
| Landowner | Karen Bowen |
| Applicant | Karen Bowen |
| Application date | 10 March 2021 |
| DA/BA or WAPC reference | 5.2021.91.1 |
| MRS zoning | Urban |
| TPS zoning | Special Use |
| R-Code density | R-IC |
| TPS precinct | Precinct 2 – Burswood |
| Use class | Unlisted Use (Home Business) |
| Use permissibility | 'AA' (discretionary) |
| Lot area | 232m ² |
| Right-of-way (ROW) | Not applicable |
| Municipal heritage inventory | Not applicable |
| Residential character study area/weatherboard precinct | Not applicable |
| Surrounding development | Mixed Use Development and Grouped Dwellings. |

Recommendation

That Council:

- A. Approve the application and plans dated 10 March 2021 submitted by Karen Bowen (DA Ref: 5.2021.91.1) for proposed Unlisted Use (Home Business) at No. 45 (Lot 112) The Circus, Burswood in accordance with the provisions of the Town of Victoria Park Town Planning Scheme No.1 and the Metropolitan Region Scheme, subject to the following conditions:
1. The development, once commenced, is to be carried out in accordance with the approved plans at all times, unless otherwise authorised by the Town.
 2. The approval for the use hereby permitted allows the use to be operated by Karen Bowen. If the operator ceases to operate the use on the subject site, the approval for the use shall expire.
 3. All windows and doors to street frontages are to be provided with clear glazing, and are not to be subsequently obscured by alternative window treatments, signage or internal shelves, to the satisfaction of the Town.
 4. The Home Business hereby permitted is restricted in its hours of operation to the following:
 - a) Tuesday: Between 9:00am and 5:30pm;
 - b) Wednesday: Between 9:00am and 7:00pm;
 - c) Thursday: Between 9:00am to 5:30pm;
 - d) Friday: Between 9:00am to 5:00pm; and
 - e) Saturday: Between 9:00am to 3:00pm.
 5. Only one client is permitted to access the Home Business premises at any one time and there must be at least a 15 minute interval between each client consultation. The applicant must keep a record of clientele in the form of a diary available for viewing by the Town.
 6. All client visits to the premises shall be by appointment only.
 7. The Home Business must not employ more than two persons who are not members of the occupiers household.
 8. At all times during the permitted hours of operation of the Home Business, one of the car bays within the garage is to be for use by the occupant of the residence and the other bay is to be for use by an employee.
 9. The applicant must not erect or otherwise display on the Home Occupation premises any sign with an area exceeding 0.2 square metres.
 10. A sign erected under this condition must:
 - i) Only describe the type of Home Business;
 - ii) Be placed on a building, wall, fence or entry statement of the Home Business premises;
 - iii) Not be illuminated; and
 - iv) Comply with the Town's Local Planning Policy No. 38 – Signs.

11. At all times provision must be made onsite for the storage and collection of garbage and other solid waste. A waste storage and collection area must be graded, drained and screened from public view, and the garbage collected regularly, to the satisfaction of the Town.

Advice Notes

AN1 Any amendments, or modifications to this development approval may require the submission of an application for amendment to development approval and reassessment of the proposal.

AN2 Should the applicant be aggrieved by this decision a right of appeal may exist under the provisions of the Town Planning Scheme or the Metropolitan Region Scheme and the applicant may apply for a review of the determination of Council by the State Administrative Tribunal within 28 days of the date of this decision.

AN3 This approval does not include the approval of any alterations to the front façade of the building. Any alterations to the front façade will require further development approval to be obtained from the Council.

AN4 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.

- B. Request the Chief Executive Officer to advise those persons who lodged a submission of Council's decision.

Purpose

For Council to consider an application for an Unlisted Use (Home Business) at No. 45 The Circus, Burswood.

In brief

- The application seeks approval to operate an Unlisted Use (Home Business) from the existing Single House.
- The subject site falls within the Special Use zone under Precinct P2 – Burswood Precinct. A Home Business is not a use listed within the use class table of the Special Use zone.
- As part of Scheme Amendment No. 83, a Home Business use was added to the Use Class table of the Town's Town Planning Scheme No. 1. The amendment however did not update the Special Use zones individual use class tables. As such, whilst a Home Business is a listed use under the Use Class table within the Scheme Text, it is not applicable to the Special Use zones.
- No modifications are proposed externally to the existing building.
- Community consultation concluded on 18 May 2021. 11 submissions were received, including two letters of support, two providing general comments, and seven objecting to the proposed use.

Background

1. A building license was granted in September 2004 for the Construction of a Three Storey Dwelling at the subject site.

Application summary

2. The property is located within the Special Use zone of Precinct P2 – Burswood Precinct. The Use Class table lists a number of permitted, discretionary and prohibited uses within this Special Use zone. A home business is not listed within the use class table of this precinct.
3. A note in the precinct plan states that “if the use of the land for a particular purpose is not specifically mentioned in the “Use Area” Table and cannot be determined as falling within the interpretation of one of the Use Area categories Council may consider it an unlisted (i.e. discretionary) use requiring that the advertising procedures referred to in clause 28 of the Scheme Text be followed”.
4. A Home Business is defined under the Scheme as “means a dwelling or land around a dwelling used by an occupier of the dwelling to carry out a business, service or profession if the carrying out of the business, service or profession –
 - (a) does not involve employing more than 2 people who are not members of the occupiers household; and
 - (b) will not cause injury to or adversely affect the amenity of the neighbourhood; and
 - (c) does not occupy an area greater than 50m²; and
 - (d) 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
 - (e) does not result in traffic difficulties as a result of the inadequacy or parking or an increase in traffic volumes in the neighbourhood; and
 - (f) does not involve the presence, use or calling of a vehicle of more than 4.5 tonnes tare weight; and
 - (g) 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.”
5. The Burswood Lakes Structure Plan Clause 5.6 Use Classes explanation states that “the predominant form of use and development will be for Residential purposes. Some Mixed Uses are required for the daily needs of residents at each stage of development but the decision as to which uses are appropriate should remain in the discretion of Council”.

Applicants submission

6. The applicant has submitted the following written information in support of the proposal:
 - a) Business description is a dermal clinic. Specializing in Laser skin treatments, facial peels, and eyebrow tattooing.
 - b) Three staff. One being myself who resides at the property. One receptionist who travels by train, and one casual two days a week.
 - c) One to two clients at any given time.
 - d) Operating hours Tuesday 9am to 5.30pm, Wed 9am to 7 pm sometimes only 6 pm. Thursday 9am to 5.30pm, Friday 9am to 5pm, Saturday 9am to 3pm.
 - e) Total net lettable area is the ground floor as per plan.
 - f) Machinery used, Facial laser machine, Intense Pulsated Light (IPL) machine.
 - g) Deliveries are one a fortnight or 3 per month.

- h) Waste disposal method. Only need one green bin as we don't have a lot. We have path waste disposable bins inside our premises for any needles but that takes a year to fill.

Relevant planning framework

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| Legislation | Town Planning Scheme No. 1 Burswood Lakes Structure Plan <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> |
| State Government policies, bulletins, or guidelines | Not applicable. |
| Local planning policies | Draft Revised Local Planning Policy No. 2 – Home Based Businesses (LPP2) Local Planning Policy No. 37 – Community Consultation on Planning Proposals |
| Other | Not applicable. |

General matters to be considered

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| Town Planning Scheme No. 1 Provisions | The following provisions contained within the Town's Town Planning Scheme No. 1 are relevant to consideration of the application: Clause 16 'Unlisted Uses' and Clause 28 'Determination of an Unlisted Use'. |
| TPS precinct plan statements | The following statements of intent contained within the precinct plan are relevant to consideration of the application. <ul style="list-style-type: none"> <i>The predominant form of use and development will be for Residential purposes. Some Mixed Uses are required for the daily needs of residents at each stage of development but the decision as to which uses are appropriate should remain in the discretion of Council.</i> |
| Local planning policy objectives | The following objectives of Draft Local Planning Policy No. 2 – Home Based Businesses relevant in determining the application. <ol style="list-style-type: none"> To encourage the opportunity of low scale home-based business activities to be conducted; To ensure that the use of land for any home-based business activity is small in scale, unobtrusive and compatible with surrounding businesses and uses; To ensure that home-based business activities do not have a prejudicial effect on the amenity of their locality by reason of any form of emissions or increased numbers of vehicle movements. |
| Deemed clause 67 of the Planning and Development (Local | The following are relevant matters to be considered in determining the application. |

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| Planning Schemes) Regulations 2015 | <p>a) The aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;</p> <p>g) Any local planning policy for the Scheme area;</p> <p>m) The compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development.</p> <p>n) the amenity of the locality including the following</p> <ul style="list-style-type: none"> (i) environmental impacts of the development; (ii) the character of the locality; (iii) social impacts of the development; |
| Urban forest strategy | Not applicable. |

Compliance assessment

| | | |
|--------------------------------|------------------------------|---------------|
| Residential development | | |
| Land use | Unlisted Use (Home Business) | Discretionary |

Strategic alignment

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| 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 was undertaken for the proposal to provide the community with an opportunity to make comments regarding the proposed Home Business. |

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| 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 Home Business has the potential to create a diverse local employment within the area. |

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| 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 Home Business would allow for different housing opportunities to allow the owner to work from her home. |

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| Social | |
| Strategic outcome | Intended public value outcome or impact |

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| S02 - An informed and knowledgeable community. | Ensure sufficient information is provided regarding the Home Business to allow the community to be appropriately informed. |
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Engagement

| Internal engagement | |
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| Health | Conditions and advice notes applied. |
| Engineering | Proposed Vehicles parking outside of garage will extend out into the roadway as there is insufficient depth between the garage and the property boundary line. Recommend visitors use on street parking bays adjacent to property and not park behind garage as proposed. |
| Place Planning | No issue with proposed business and location. Slight concern over customer parking and whether off street parking will cater for the demand of customers. |

| External engagement | |
|------------------------------|---|
| Stakeholders | Town of Victoria Park residents. |
| Period of engagement | Consultation was undertaken from 22 April 2021 to 18 May 2021. |
| Level of engagement | Consult |
| Methods of engagement | <ul style="list-style-type: none"> • Letters to owners and occupiers within a 100 metre radius of the site; • Sign on site; and • Southern Gazette Newspaper Notice. |
| Advertising | As above. |
| Submission summary | 11 submissions received including two letters of support, two submissions with general comments and seven objections. |
| Key findings | <p>A summary of submissions received during the community consultation period can be found in Attachment 3. The matters raised during the consultation included :</p> <ul style="list-style-type: none"> • car parking; • commercial use within residential area; • precedent for future non-residential uses; and • noise. |

Risk management considerations

| Risk impact category | Risk event description | Consequence rating | Likelihood rating | Overall risk level score | Council's risk appetite | Risk treatment option and rationale for actions |
|---|--|--------------------|-------------------|--------------------------|-------------------------|---|
| Financial | Not applicable. | | | | | |
| Environmental | Not applicable. | | | | | |
| Health and safety | Not applicable. | | | | | |
| Infrastructure / ICT systems/ utilities | Not applicable. | | | | | |
| Legislative compliance | The proponent has a right of review to the State Administrative Tribunal against Council's decision, including any conditions. | Moderate | Unlikely | Medium | Low | Accept |
| Reputation | Negative public perception towards the Town dependent upon the decision | Moderate | Likely | Medium | Low | Accept |
| Service delivery | Not applicable. | | | | | |

Financial implications

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

Analysis

Land Use

7. A Home Business is an Unlisted Use within the Special Use Zone of the Burswood Precinct – Precinct Plan P2. The precinct plan states that *"if the use of the land for a particular purpose is not specifically mentioned in the "Use Area" Table and cannot be determined as falling within the interpretation of one of the Use Area categories Council may consider it an unlisted (i.e. discretionary) use requiring that the advertising procedures referred to in clause 28 of the Scheme Text be followed"*.
8. As part of Scheme Amendment No. 84 to the Town's Town Planning Scheme No. 1 (TPS1), the Home Business land use was added to the Zoning Table. The Special Use zones were not updated to reflect the additional uses, with the permissibility of certain land uses being listed within the Precinct Plans only.
9. As per Clause 28 of TPS1, the Council cannot grant development approval for a development which involves an unlisted use unless –
"(a) the advertising procedure referred to in deemed clause 64 has been followed; and
(b) it is satisfied, by an absolute majority, that the proposed development is consistent with the matters listed in deemed clause 67."
10. In accordance with deemed clause 64 and the Town's Local Planning Policy No. 37 – Community Consultation on Planning Proposals, the application was advertised for a period of 28 days. Letters were sent to all properties within a 100 metre radius of the subject site, a sign was placed on site for the 28 days and a notice placed in the local newspaper.
11. 11 submissions were received including two letters of support, two submissions with general comments and seven objections. The objections received were in relation to car parking, commercial use within residential area, precedent for future non-residential uses, and noise. A response to the submissions is contained within Attachments 3 and 5.
12. The Council at the 16 March 2021 Ordinary Council Meeting consented to the advertising of draft amended Local Planning Policy 2 'Home Based Businesses'. The draft Local Planning Policy is anticipated to be presented back to the August Ordinary Council Meeting for final adoption. As community consultation on the policy has occurred, the draft policy is considered to be a seriously entertained document and has guided the assessment of the current development application.
13. Draft Local Planning Policy No. 2 'Home Based Businesses', provides general provisions for all home-based businesses within the Town. Clause 1 (a) states that *"Any Home Office, Home Occupation, Home Business or Home Store must operate in strict accordance with all of the requirements set out within its respective definition at all times of operation"*. The proposed Home Business complies with the definition as defined in the policy. In addition, the operator of the business is the owner of the property and resides at the dwelling.
14. Draft LPP2 Clause 2 (a) states that a home-based business shall be small scale and unobtrusive. The business shall employ no more than 2 people excluding the occupants of the dwelling household in any instance, and the area of the business shall not exceed 50 square metres in area.
15. The home business is proposed to be operated from the existing 22 square metre guest room/lifestyle room on the ground floor of the existing dwelling. A maximum of two employees external to the residence will be employed at any one time, including a receptionist and one dermatologist/doctor who will only be at the property once a fortnight.
16. The home business will have no impact on the amenity of the adjoining properties with regards to light emissions, noise, fumes, odours, dust, vibration, electrical interference, waste water or any other form of waste.

17. No external alterations are proposed to the existing dwelling on the site. In addition, no signage is proposed as part of the development application. Recommended conditions (l) and (j) outline the parameters for any future signage.

Car Parking

18. Draft LPP2 Clause 5 b) states :

“ b) Any home-based business resulting in the attraction of customers/visitors to the site shall:

i. demonstrate how customers will park on the site, or otherwise be serviced by available on-street parking adjacent to the site; and/or

ii. confirm that visitations will occur by appointment only, and include an appropriate interval between appointments, to avoid customer overlap and minimise parking and traffic generation to the site. ”

19. The applicant has advised that there are four car parking bays on site, two within the existing garage and two in front of the existing garage. The Town’s Engineering department have reviewed the development plans and advised that the two car bays in front of the garage are under length and do not comply with the Australian Standards. A site visit has confirmed that whilst these bays are non-compliant in length on the plans, when measured on site, the car bays are 5 metres and 5.4 metres deep and capable of accommodating a car without impeding on the access road. Attachment 4 contains site photos of the existing car parking at the rear.
20. Of the four car bays, one within the garage will be relied on by the owner and operator of the business, two car bays will be available for the two other staff (one in the garage and one outside the garage) and the remaining car bay will be available for clients to the premises. It is noted that one staff member will only be on the premises once every fortnight, meaning that two car bays will mostly be available for clients at any one time.
21. A condition has been recommended which permits only one client on site at any one time, and a fifteen-minute interval between each appointment. This condition would ensure that no overlap occurs between appointments, and the car parking on the site will be available for use for clients and staff, minimising any reliance on street parking.

Summary

22. The proposed land use is considered to align with the objectives and guidelines of the Town’s amended Draft Local Planning Policy No. 2 – Home Based Businesses. Accordingly, it is recommended that the application be approved with appropriate conditions and advice notes to ensure that the amenity of the surrounding area is maintained.

Relevant documents

Not applicable.

Questions and responses

Cr Luana Lisandro

1. Is parking part of ensuring lessening an impact on amenity in relation to home businesses?

The Manager Development Services advised yes, parking is the main amenity consideration in this application.

2. Is the Town seeing an increase in applications for home based businesses?

Mayor Vernon clarified for an increase over 12 months.

The Manager Development Services advised that anecdotally he has not seen any increase in applications.

3. Is it possible to provide elected members with the information on planning reforms by the State?

The Manager Development Services will provide that information at a later date.

Further consideration to be added to the Ordinary Council Meeting agenda

Nil.

12.6 Reconciliation Action Plan Update

| | |
|----------------------------|--|
| Location | Town-wide |
| Reporting officer | Coordinator Community Development |
| Responsible officer | Manager Community |
| Voting requirement | Simple majority |
| Attachments | 1. RAP Review Report - July 2021 [12.6.1 - 24 pages] |

Recommendation

That Council approves an additional extension to the Town's existing Reflect Reconciliation Action Plan 2018 – 2020 until the new Innovate Reconciliation Action Plan is presented to Council by June 2022.

Purpose

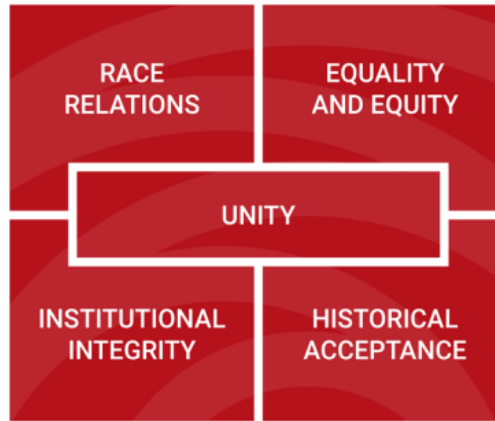
To provide an update to Council on the current position of the Town's Reconciliation Action Plan (RAP) and to seek a further extension of the current RAP while the new Innovate RAP is being developed.

In brief

- The Town established an Aboriginal Engagement Strategy Group in 2013 to build relationships and respect between members of our wider community and Aboriginal and Torres Strait Islander people.
- The Town's Reflect Reconciliation Action Plan (RAP) was adopted by Council in November 2018 after provisional approval was received from Reconciliation Australia.
- At the July 2020 Ordinary Council Meeting, Council approved a 12-month extension to the Town's existing Reflect Reconciliation Action Plan 2018-2020.
- Town officers have conducted a review of the current deliverables and actions of the Town's Reflect RAP in consultation with Reconciliation Australia.
- Reconciliation Australia have encouraged the Town to continue its reconciliation journey onto now developing an Innovate RAP.

Background

0. A Reconciliation Action Plan (RAP) is a strategic document that supports an organisation's business plan. It includes practical actions that will drive an organisation's contribution to reconciliation both internally and in the communities in which it operates.
1. The RAP Program contributes to advancing the five dimensions of reconciliation by supporting organisations to develop respectful relationships and create meaningful opportunities with Aboriginal and Torres Strait Islander peoples.
2. The five dimensions of reconciliation:



3. Each of the four RAP types (Reflect, Innovate, Stretch, Elevate) set out the minimum elements required from an organisation to build strong Relationships, Respect and Opportunities within the organisation as well as the wider community.
4. The Town established an Aboriginal Engagement Strategy Group in 2013 to build relationships and respect between members of our wider community and Aboriginal and Torres Strait Islander people.
5. In 2016, the Aboriginal Engagement Strategy Group embarked on the development of the Town's first Reflect Reconciliation Action Plan (RAP).
6. In September 2018, the group was endorsed as the Aboriginal Engagement Advisory Group, for a six-month tenure with the possibility of extension.
7. The Town's Reflect Reconciliation Action Plan (RAP) was adopted by Council in November 2018 after provisional approval was received from Reconciliation Australia.
8. The document outlines strategies and actions to support opportunities to strengthen the community, build strong relationships and foster greater awareness and understanding of Aboriginal culture and history.
9. At the July 2020 Ordinary Council Meeting, Council approved:
 - a) a 12-month extension to the Town's existing Reflect Reconciliation Action Plan 2018-2020.
 - b) The resubmission of the Town's Reflect Reconciliation Action Plan 2018-2020 to Reconciliation Australia for endorsement.
10. In November 2020, the Mindeera Advisory Group was established and had their first meeting.

Strategic alignment

| Social | |
|---|--|
| Strategic outcome | Intended public value outcome or impact |
| S02 - An informed and knowledgeable community. | Our community have an understanding and knowledge of the Town's RAP and a greater awareness and understanding of Aboriginal culture and history. |
| S03 - An empowered community with a sense of pride, safety and belonging. | Through reconciliation the Town's First Nations People have a sense of pride and belonging in the local community. |
| S04 - A place where all people have an awareness and appreciate of arts, culture, education and heritage. | The Town's community celebrates, acknowledges and has opportunities to learn about Aboriginal culture and history. |

Engagement

| Internal engagement | |
|-------------------------|---|
| Stakeholder | Comments |
| Community Development | Consultation and completion of internal Reflect RAP review and deliverables. |
| Mindeera Advisory Group | Consultation and completion of internal Reflect RAP review and deliverables. Support provided for the Town to create the Innovate RAP based on the number and level of actions completed in the current RAP. Support provided to continue activity with the current RAP until the Innovate RAP has been endorsed. |
| Human Resources | Consultation and completion of internal Reflect RAP review and deliverables. |

| Other engagement | |
|--------------------------|--|
| Stakeholder | Comments |
| Reconciliation Australia | Consultation and advice on the Town's next steps in its journey of reconciliation. |

Legal compliance

Not applicable.

Risk management consideration

| Risk impact category | Risk event description | Consequence rating | Likelihood rating | Overall risk level score | Council's risk appetite | Risk treatment option and rationale for actions |
|--|------------------------------------|--------------------|-------------------|--------------------------|-------------------------|---|
| Financial | | | | | Low | |
| Environmental | | | | | Medium | |
| Health and safety | | | | | Low | |
| Infrastructure/ ICT systems/ utilities | | | | | Medium | |
| Legislative compliance | | | | | Low | |
| Reputation | Negative public perception towards | Moderate | Possible | Medium | Low | TREAT risk by continuing to |

| | | | | | | |
|------------------|--|-------|--------|------|--------|--|
| | the Town should the Mindeera Advisory Group and broader community not see the Town progress on its journey of reconciliation. | | | | | deliver the Town's current RAP while developing the new Innovate RAP. |
| Service delivery | Inability to deliver the existing RAP actions due to limited capacity requirements to develop a new Innovate RAP at the same time. | Major | Likely | High | Medium | TREAT risk by resourcing independent development of a new Innovate RAP |

Financial implications

| | |
|------------------------------|---|
| Current budget impact | Sufficient funds have been requested within the 2021/22 annual budget to address this recommendation. |
| Future budget impact | Not applicable. |

Analysis

11. With the new appointment of Manager Community, Coordinator Community Development and Community Development Officer (Reconciliation) in late 2020 and 2021, Town officers have now:
 - a) conducted a review of the current deliverables and actions of the Town's Reflect RAP in consultation with the Mindeera Advisory Group (Attachment 1).
 - b) had discussions with Reconciliation Australia after initially officers had ongoing difficulty gathering a response and details from Reconciliation Australia.
12. The Town's Reflect RAP contains 78 deliverables separated into the following four categories:
 1. Relationships
 2. Respect
 3. Opportunities
 4. Tracking and Progress
13. Attachment 1 details the Town's progress towards each deliverable including the following:
 - a) 58 completed and/or ongoing
 - b) 13 in progress
 - c) 7 not started
14. As recognised by Reconciliation Australia, RAP deliverables are about embedding cultural change and building strong relationships, and this change may not always follow a distinct timeline for deliverables.
15. Reconciliation Australia have recently encouraged the Town to continue its reconciliation journey onto now developing an Innovate RAP.

16. The Town's current Reflect RAP was conditionally endorsed by Reconciliation Australia, and Reconciliation Australia has advised that seeking formal endorsement is not something they can accommodate. Reconciliation Australia only endorse plans for the future.
17. However, Reconciliation Australia does acknowledge that the Town's plan was taken through conditional endorsement and that the Town remains an active part of the RAP program.
18. Additional resource has been requested as part of the 2021/22 budgeting progress to develop the new Innovate RAP as well as several other plans in the Community Development service area. Therefore, for Town officers to develop the new Innovate RAP in consultation with Reconciliation Australia, the Mindeera Advisory Group and the broader community, Town officers recommend continuing delivery of the current Reflect RAP until the new Innovate RAP is presented to Council by June 2022.

Relevant documents

[Reflect Reconciliation Action Plan](#)

There were no questions asked or presentations made in relation to this item.

12.7 Hockey Working Group Terms of Reference

| | |
|----------------------------|---|
| Location | Town-wide |
| Reporting officer | Manager Place Planning |
| Responsible officer | Chief Community Planner |
| Voting requirement | Simple majority |
| Attachments | 1. Final Terms of Reference - Hockey Working Group [12.7.1 - 3 pages] |

| |
|--|
| Recommendation |
| That Council endorses the Terms of Reference for the Hockey Working Group contained in Attachment 1. |

Purpose

To endorse the Terms of Reference for the Hockey Working Group (HWG) as included in Attachment 1.

In brief

- On 14 June 2021 the HWG met for the first time, including with the newly appointed members.
- During this first meeting a Draft Terms of Reference was reviewed by the group and there was consensus to present it to Council for endorsement.
- Administration recommends that Council endorses the HWG Terms of Reference.

Background

1. At the Ordinary Council Meeting held on 16 February 2021, Council resolved to establish a Hockey Working Group, endorsed the composition of the group and endorsed the selection criteria for an expression of interest process to select the community members of the group.
2. On 19 February 2021, an expression of interest process commenced to appoint members of the community to the Hockey Working Group. This process closed on 11 March 2021 and three applications were received.
3. At the 20 April 2021 OCM, Council appointed the membership of the HWG. On 14 June 2021, the HWG met for the first time, including the newly appointed members.
4. A draft Terms of Reference was reviewed prior to this meeting by the HWG and consequently a consensus was reached that the attached Terms of Reference should be presented to Council for final endorsement.
5. The HWG is not a decision-making body. It collaborates with Administration, suggesting ideas for exploration and providing advice and feedback as research is undertaken by the Administration.

Strategic alignment

| Civic Leadership | |
|--|--|
| Strategic outcome | Intended public value outcome or impact |
| CL03 - Well thought out and managed projects that are delivered successfully. | The HWG provide a critical input of information to help investigation efforts for a potential future project of the Town. |
| CL07 - People have positive exchanges with the Town that inspires confidence in the information and the timely service provided. | The Terms of Reference clarifies the roles, responsibilities, and expectations of the members of the group. An appropriate Terms of Reference will |

| | |
|--|---|
| | help to ensure the experience of the community members within the group will be a positive one. |
|--|---|

| Social | |
|----------------------------|---|
| Strategic outcome | Intended public value outcome or impact |
| S01 - A healthy community. | The HWG is exploring potential locations/options for a hockey facility that would provide a significant contribution to active recreation in the Town of Victoria Park. |

Engagement

| External Engagement | |
|-----------------------|--|
| Stakeholders | Hockey Working Group members. |
| Period of engagement | N/A |
| Level of engagement | 4. Collaborate |
| Methods of engagement | The draft terms of reference were included in the meeting agenda for the group's 14 June 2021 meeting. This draft was reviewed by members prior to the meeting and then collaboratively reviewed during the meeting. |
| Advertising | N/A |
| Submission summary | N/A |
| Key findings | Support for the draft Terms of Reference |

Legal compliance

Not applicable.

Risk management consideration

| Risk impact category | Risk event description | Consequence rating | Likelihood rating | Overall risk level score | Council's risk appetite | Risk treatment option and rationale for actions |
|----------------------|------------------------|--------------------|-------------------|--------------------------|-------------------------|---|
| Financial | Not applicable | | | | Low | Not applicable |
| Environmental | Not applicable | | | | Medium | Not applicable |
| Health and safety | Not applicable | | | | Low | Not applicable |

| | | | |
|--|---|--------|--|
| Infrastructure/ ICT systems/ utilities | Not applicable | Medium | Not applicable |
| Legislative compliance | Not applicable | Low | Not applicable |
| Reputation | Not endorsing the teams of reference means the group will lack clarity around member roles, responsibilities and expectations reflecting poorly on the Town's ability to collaboratively work with its community. | Low | TREAT risk by adopting an appropriate terms of reference to contribute to the successful operation of the group. |
| Service delivery | Not applicable | Medium | Not applicable |

Financial implications

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

Analysis

6. The HWG met, for the first time in its full capacity, on 14 June and one of the items discussed was the draft Terms of Reference.
7. The Terms of Reference includes the following purpose for the HWG which was endorsed by Council at the 16 February 2021 OCM:
 - The purpose of the Hockey Working Group (the Group) is to provide strategic advice on the future sporting requirements of the Victoria Park Xavier Hockey Club, included but not limited to:*
 - *Locations within the Town that accommodates grass and/or synthetic hockey fields consistent with the Town's Public Open Space Strategy;*
 - *Club house requirements including storage;*
 - *Partnership opportunities with private and public institutions; and*
 - *Funding opportunities.*
8. There was consensus in the HWG to accept the draft Terms of Reference in full and present them to Council for endorsement.
9. Administration recommends that Council endorses the HWG Terms of Reference.

Relevant documents

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

There were no questions asked or presentations made in relation to this item.

13 Chief Operations Officer reports

13.1 Climate Emergency Plan

| | |
|----------------------------|--|
| Location | Town-wide |
| Reporting officer | Environment Officer |
| Responsible officer | Chief Operations Officer |
| Voting requirement | Simple majority |
| Attachments | <ol style="list-style-type: none">1. Community consultation - Town of Victoria Park - Response to public comment [13.1.1 - 15 pages]2. Plan - Emerge - Town of Victoria Park Climate Emergency Plan - Final [13.1.2 - 63 pages] |

Recommendation

That Council:

1. Receives the draft Town of Victoria Park Climate Emergency Plan.
2. Endorses the Town of Victoria Park Climate Emergency Plan.

Purpose

To present Council with the draft Town of Victoria Park Climate Emergency Plan for consideration for endorsement.

In brief

- In 2018 the Town of Victoria Park Council declared a climate emergency for the Town
- In recognition of this declaration to reduce carbon emissions within the region and reduce the adverse impacts of climate change for its residents and the associated environment, a draft Climate Emergency Plan has been prepared for the Town.
- The Climate Emergency Plan includes a Council Action Plan, Community Action Plan and Business Action Plan.
- The Climate Emergency Plan has undergone community consultation.
- The Town is now seeking Council endorsement of the Climate Emergency Plan.

Background

1. With accelerations in global temperature rise – increasing during 2015-2019 (the warmest five-year period on record according to the World Meteorological Organisation (WMO) - and increased greenhouse gas concentrations to record levels, the potential impacts associated with human-induced climate change on the Town of Victoria Park include:
 - a. Higher risk of bushfire events during summer
 - b. More consecutive hot days and heatwaves
 - c. Lower average rainfall
 - d. Increased intensity of storms, flooding and extreme weather events

2. Carbon management will be an essential tool to reduce the overall carbon footprint of the Town's emissions to contribute to combatting human induced climate change both now and for the Town's future.
 3. On 14 August 2018, Council made the following declaration – "That Council: a) Recognizes that there is a state of climate emergency that needs to be handled by all levels of government. b) Endorses WALGA's Policy Statement on Climate Change. c) Requests that the Administration create an action plan, in line with WALGA's Policy Statement on Climate Change..."
 4. A climate emergency declaration is a global movement identifying that we collectively need to reduce our carbon emissions to prevent significant climate change and be ready to respond to the immediate and future changes to our climate.
 5. In recognition of this declaration and the need to demonstrate leadership to reduce carbon emissions within the region and reduce the adverse impacts of climate change for its residents and the associated environment, a draft Climate Emergency Plan has been prepared for the Town.
 6. The Town of Victoria Park's carbon emissions have been estimated at 23,799 tonnes per annum. Of this, waste collected by the council contributed to the largest percentage of emissions – 85% or 20,226 tonnes (Although the Town generates approximately 1% of the total waste footprint, as the Town manages and disposes of community and business waste using the Town's waste services, all waste emissions are therefore considered the responsibility of the Town) – followed by energy usage of Town facilities – 10.6% or 2,532 tonnes.
 7. Overall, the Town of Victoria Park's carbon emissions form only a small portion of Australia's overall carbon footprint. However, the Town recognises that each organisation and individual has a role to play in reducing their emissions profile.
 8. The Climate Emergency Plan aims to:
 - a. Achieve a zero-carbon target for emissions generated by the Town of Victoria Park by 2030 (The timeframe of 2030 has been chosen because it is the timeframe needed to curb emissions and limit the seriousness of climate change impacts.).
 - b. Achieve at least 40% emissions reduction through direct action (i.e. not through carbon offsets).
 - c. Support the community and businesses in working towards their own zero carbon target.
 - d. Improve the resilience of the Town in responding to immediate climate change impacts.
 9. The Climate Emergency Plan includes three core components:
 - a. **Council Action Plan** – How the council can take direct actions to reduce their carbon impact (mitigation) and adapt to the immediate impacts of climate change within the Perth context whilst providing support for the community and businesses to reduce their own carbon footprint.
 - b. **Community Action Plan** – Provides the community information on the average emissions profile for Australian households and how they can calculate their own footprint, ways residents are already reducing their emissions, and steps for individuals and households to reduce their emissions.
 - c. **Business Action Plan** – Provides the Town's local businesses with information on sources of large emissions in business operations and how they can calculate their own footprints as an organisation, information on what Australian businesses are already doing to reduce their emissions, and steps on how they can reduce their organisation's emissions.
 10. At the 16 February 2021 OCM, Council approved the release of the draft Climate Emergency Plan for community consultation.
-

Strategic alignment

| Environment | |
|---|--|
| Strategic outcome | Intended public value outcome or impact |
| EN04 - A clean place where everyone knows the value of waste, water and energy. | <ul style="list-style-type: none"> Improved design of Town streetscapes. Climate change adaptation solutions considered as part of all new infrastructure projects to ensure the most suitable materials and designs are used. Energy audits of all Town buildings and development of an energy efficiency strategy with the aim of achieving energy and cost savings for the Town. Encourage the use of recycled products including asphalt mixes consisting of rubber and other waste/recycled materials. Consider the use of alternative waste treatment options including waste to energy technology. |
| EN05 - Appropriate and sustainable facilities for everyone that are well built, well maintained and well managed. | <ul style="list-style-type: none"> As above. |
| EN06 - Appropriate, inviting and sustainable green spaces for everyone that are well maintained and well managed. | <ul style="list-style-type: none"> Implementation of water wise practices and landscapes where practical which will result in water use reduction and associated cost savings for the Town. |
| EN07 - Increased vegetation and tree canopy. | <ul style="list-style-type: none"> Consider community revegetation information and education initiatives including low water use plants. Identification and creation of green corridors within the Town as part of future reviews of Planning strategies. Where feasible for certain properties, consider the expansion of community rebate programs to integrate native plants and low water use vegetation into their gardens. |

Engagement

| Internal engagement | |
|---------------------|---|
| Stakeholder | Comments |
| Operations | Staff workshops were held on 5th May and 19th June, respectively. |

| | |
|---|---|
| Technical Services Street Improvement Assets Leisure Facilities Library Health Development Services Place Planning Community Development Safety Infrastructure Operations Natural Areas Governance and Strategy Parking Building | <p>These workshops sought input from staff from a variety of relevant Service Areas to ensure that we develop a robust and practical plan Climate Emergency Plan for the Town.</p> <p>The first workshop was focused on establishing climate mitigation and adaptation risks; the second will be on establishing climate actions to enable the Town to achieve a net zero emissions target.</p> <p>A summary of comments from Town staff on the draft CEP itself can be found in the 16 February 2021 OCM report.</p> <p>These comments were considered and, where relevant, changes made to the later iteration of the draft Climate Emergency Plan.</p> |
|---|---|

| External engagement | |
|----------------------|---|
| Stakeholders | <ul style="list-style-type: none"> • Community <ul style="list-style-type: none"> o Residents and Ratepayers. o Local business owners and operators. o Registered volunteers o Environmental and 'Friends Of' groups, including Friends of Kensington Bushland. • Government and associated agencies <ul style="list-style-type: none"> o Department of Biodiversity, Conservation & Attractions o Department of Water and Environmental Regulation o Department of Planning o MRC o EMRC o WALGA and associated network groups. o Neighbouring Local Governments (e.g. City of South Perth, City of Canning, City of Belmont) • Elected Members |
| Period of engagement | <p>13 May, 2020 - 14 June, 2020 – community survey on what they think the Town should address in a climate plan.</p> <p>30 July, 2020 – community workshop</p> <p>22 December 2020 – presentation of first full draft to Concept Forum</p> <p>22 December – 17 January 2021 – comment period for Elected Members</p> |

| | |
|-----------------------|---|
| | 19 February - 22 March 2021 – comment period for community |
| Level of engagement | 4. Collaborate |
| Methods of engagement | <ul style="list-style-type: none"> • Stage 1 – community consultation <ul style="list-style-type: none"> o LinkedIn o Social media boosted o Town’s website community consultation o Elected Members HUB update o Your Thoughts information, FAQ o Targeted emails o Southern Gazette o eNews articles § Your Thoughts § Businessnews § eVibe • Stage 2 – community workshop <ul style="list-style-type: none"> o Social media boosted o Town’s website o Your Thoughts information, FAQs o A3 Posters at Town locations and pin up boards o Elected Members HUB update o Email to survey participants o eNews articles § Your Thoughts § Businessnews § eVibe • Stage 3 – Elected Members consultation <ul style="list-style-type: none"> o Concept forum presentation o Comment period • Stage 4 – community consultation on draft plan <ul style="list-style-type: none"> o Social media boosted o Town’s website community consultation o Your Thoughts information, FAQ o Targeted emails o Southern Gazette |
| Advertising | As above. |
| Submission summary | <p>Stages 1 – 3:</p> <p>15 community representatives attended the workshop.</p> <p>65 responses to the community survey were received.</p> <p>Five (5) submissions were received from Elected Members on the draft Climate Emergency Plan.</p> <p>Details of the submissions from stages 1-3 can be found in the 16 February 2021 OCM report.</p> |

| | |
|--------------|--|
| | <p>Stage 4:</p> <p>11 community submissions received.</p> |
| Key findings | <p>Almost all submitters were supportive of the draft Climate Emergency Plan.</p> <p>These comments were considered and, where relevant, integrated into the draft Climate Emergency Plan.</p> <p>A summary of the comments received and associated Administrative response can be found in the attached to this report.</p> |

Legal compliance

Not applicable.

Risk management consideration

| Risk impact category | Risk event description | Consequence rating | Likelihood rating | Overall risk level score | Council's risk appetite | Risk treatment option and rationale for actions |
|----------------------|--|--------------------|-------------------|--------------------------|-------------------------|--|
| Financial | Impact that the proposed commitments will have on the Town's future budgets. | Moderate | Likely | High | Low | <p>The Climate Emergency Plan has been modified based upon feedback from the community.</p> <p>The Town has also assessed the extent of potential consequential impacts from implementing the proposed actions and ensure that sustainable financial management practices are adopted. This can be accommodated within the Long Term Financial Plan.</p> |

| | | | | | | |
|--|--|----------|--------|------|--------|---|
| | | | | | | Additionally, the major expense areas of lighting and Waste can be supplemented through grant programs and potential cost savings due to diversion of waste from landfill sites. |
| Environmental | Future environmental impacts due to non human activities/sources which are not yet identified at the current time. | Moderate | Likely | High | Medium | Council to consider endorsing these recommendations to manage the identified issues in an agile manner. |
| Health and safety | N/A | | | | Low | |
| Infrastructure/ ICT systems/ utilities | N/A | | | | Medium | |
| Legislative compliance | N/A | | | | Low | |
| Reputation | Risk amongst some community members that the Town may be operating outside of its remit, that climate change action is not the role of Local Government. | Moderate | Likely | High | Low | <p>The Town will attempt to bring our community along on the Town's journey through dedicated education programs and engagement in climate change initiatives.</p> <p>The Town will also review the Climate Emergency Plan in 2023, 2027 and 2030, during which time we will ensure that our community.</p> |

| | | | | | | |
|------------------|---|----------|----------------|------|--------|--|
| Service delivery | The breadth of actions within the Climate Emergency Plan will require commitment from a suite of organisational Service Areas to deliver those actions. | Moderate | Almost Certain | High | Medium | <p>Undertake targeted engagement with Town Service areas to establish:</p> <ul style="list-style-type: none"> • Lead responsibility • Support responsibility • Staged actions (e.g. staged actions to meet longer term targets) <p>This will be captured in a Service Area Operational Plan or similar and should include the establishment of an advisory board linking governance policies to actions within this Plan.</p> |
|------------------|---|----------|----------------|------|--------|--|

Financial implications

| | |
|------------------------------|--|
| Current budget impact | <p>There is no impact to the 2020/21 budget.</p> <p>Following finalisation and potential endorsement of these CEP, the next stage will be implementation of the initial/immediate actions in 2021/22. Some of these actions include:</p> <ul style="list-style-type: none"> • Develop a Service Areas Operational Plan (\$10,000) • Community education/behaviour change program (\$10,000) • Deliver a low-carbon schools program (\$5,000) • Develop a travel demand management strategy in line with the Town's Strategic Transport Plan with a focus on advocacy for better connected and safer bike paths and footpaths (\$15,000). |
| Future budget impact | It is likely that the commitments within the Climate Emergency Plan will impact significantly on the Town's future budgets. |

The estimated cost for *new* projects identified over the life of the Climate Emergency Plan to 2030 is \$8.54M.

The collective estimates from 2021/2022 through to 2029/2030 are:

- 2021/2022 - \$63,500
- 2022/2023 - \$413,550
- 2023/2024 - \$418,550
- 2024/2025 - \$1,164,550
- 2025/2026 - \$1,477,550
- 2026/2027 - \$1,230,550
- 2027/2028 - \$1,230,550
- 2028/2029 - \$1,220,150
- 2029/2030 - \$1,320,150

The bulk of this new project cost is:

- a) Waste – transitioning to a 3 bin Food Organic/Garden Organic system = \$3.7M
- b) Whole-of-Town lighting-related conversions = \$3M

Both waste and lighting transition costs may be able to be supplemented through initiatives linked to the State’s Waste Levy and future savings due to diversion of waste from landfill sites (high landfill levy) to alternative waste processing facilities such as garden organics processing plants and waste to energy plants; and Western Power lighting and infrastructure renewal programs, respectively.

Analysis

11. The Climate Emergency Plan has been reviewed following community consultation.
12. The majority of feedback received from our community were supportive of the Plan. For a summary of the comments received and associated Administrative response please see the item attached to this report.
13. The Council Action Plan component of the revised Climate Emergency Plan identifies priorities to guide the Town’s carbon reduction and adaptation actions. These priorities, and some example action that fall under each priority, include:

| Priority Area | Example Actions |
|----------------------------|--|
| Embed a low carbon culture | <ol style="list-style-type: none">1. Collaborate with neighbouring local governments on cross-council low carbon initiatives and solutions2. Ensure that the catering and materials for all community events preference minimal waste and use local produce |

| | |
|--|--|
| | <ol style="list-style-type: none"> Investigate effective approaches to ecologically sustainable development through the Local Planning Strategy, potentially partnering with WALGA |
| Reduce emissions of facilities and assets | <ol style="list-style-type: none"> By 2030, transition: <ul style="list-style-type: none"> all existing light globes in council facilities to LED (or similar energy efficient option) all existing appliances for major facilities to improved efficiency within 1.5 stars from the highest available utilising the energy efficiency rating. all council owned existing streetlights, park lights and car parking lights to LED, solar or similar energy efficiency technology. Each major facility to complete an energy audit to identify energy efficiencies and consideration of renewables. |
| Reduce waste emissions | <ol style="list-style-type: none"> Implement Garden Organics collection service to all households by 2022 Target a minimum of 50% diversion of organics from landfill by 2030. |
| Switch to low carbon and renewables | <ol style="list-style-type: none"> Through installation of solar and power purchase agreements, ensure that at least 50% of all energy used for council facilities is sourced from renewables by 2030 Conduct a feasibility assessment for the installation of a Micro-grid within the Town Transition 50% of all light vehicles to electric by 2030, if price projections continue to meet affordability parameters |
| Respond to immediate climate change impacts | <ol style="list-style-type: none"> Implement a targeted community education and awareness program for vulnerable community members during heat waves providing vulnerable community members: <ul style="list-style-type: none"> Resources to manage heatwaves in their homes Information on how to seek respite with actions to help vulnerable community members (e.g. free access to council swimming pool facilities) Conduct heat wave response mapping and strategic tree planting for increased coverage |
| Support our community/ Support our businesses | <ol style="list-style-type: none"> Partner with an organisation to offer residents free advice for reducing energy use and installing solar and battery storage technology |

| | |
|---------------------------|---|
| | <ol style="list-style-type: none"> 2. Investigate the opportunity to provide subsidies, products or similar to support organic waste recycling at home 3. Investigate the opportunity to provide an incentive-based mechanism for residents to reduce their waste footprint |
| Offset residual emissions | <ol style="list-style-type: none"> 1. Investigate the opportunity of recognising the Town's urban forest as an official offset/carbon credit 2. Partner with a research institution to estimate the carbon sequestration capacity of the Town's existing and developing urban forest. |

14. Based on the key performance indicators set out under each action within the Climate Emergency Plan, it is anticipated that the Town of Victoria Park will achieve a 49% reduction in emissions if all actions are implemented. The remainder of the emissions reductions will be achieved through offsets.

Relevant documents

Town of Victoria Park Climate Emergency Plan

Community consultation feedback

Further consideration

Questions and responses

Cr Luana Lisandro

1. In the table point 13 of the report it states 'conduct heat wave response mapping and strategic tree planting for increased coverage', has heat wave mapping been done?

The Chief Operations Officer confirmed that it has been done.

2. Will the Town provide this heat mapping data to the community?

The Chief Operations Officer advised that it will be made available.

3. Is there consideration to form a Climate Emergency Plan Implementation Action Working Group?

The Chief Operations Officer advised that this will likely be an inclusion within the Service Areas Operational Plan that the Town will develop and action 1.2 refers to it.

4. Can the document be amended to cite the WA Government 'Climate Health WA Inquiry' website link as it is stated on p.5 to 6 of the draft Climate Emergency Plan into the reference section?

The Chief Operations Officer advised that this can be amended.

Mayor Karen Vernon

1. Why is the Document Control Panel at the start of the document after the acknowledgement of country, instead of the end of the document for appearance purposes?

The Chief Operations Officer advised that it was a formatting outcome but can be changed.

2. The executive summary of the Climate Emergency Plan has a footnote to No.2 – Reduction Focus refers to an initial projections estimate of a 49% reduction in emissions, which appears to be different to No.2 – "at least 40% of our emissions reduction is achieved without carbon offsets". Can you please explain how the footnote is related to No.2 of our priorities?

The Chief Operations Officer advised that the reductions can be achieved at 49% however a conservative target was chosen for the aim of exceeding that target, that is why it was written with the percentage of 40%.

3. With regards to the conversion of the Town's fleet vehicles to lower carbon footprint models, are we being ambitious enough in trying to convert the vehicles over, given that my reading of the plan is that we won't achieve that by 2030?

The Chief Operations Officer advised that there is a target but the percentage is not as valuable as other items.

4. Is there a reason that we can't set ourselves a target of five years for the lowest possible target carbon footprint? Is there a reason for not doing it for a short term?

The Chief Operations Officer advised that it could be done but a lot more funds would be required.

5. With regards to Town's larger vehicles, like the street sweepers, how many of the Town's larger vehicles are capable of being converted to lower carbon footprint models?

The Chief Operations Officer will provide information under further consideration.

Further consideration to be added to the Ordinary Council Meeting agenda

1. Include the "Climate Health WA Inquiry" website link.
2. Change the formatting of the Document Control Panel.
3. Include information on how many of the Town's heavy fleet vehicles are capable of being converted to lower carbon footprint.

13.2 Request to dedicate ROW 33 as a road

| | |
|----------------------------|---|
| Location | Carlisle |
| Reporting officer | Land and Properties Project Officer |
| Responsible officer | Chief Operations Officer |
| Voting requirement | Simple majority |
| Attachments | 1. ROW 33 Sketch DPLH [13.2.1 - 1 page] 2. Aerial Image of Ceres Lane - July 2009 [13.2.2 - 1 page] 3. CONFIDENTIAL REDACTED - ROW 33 Probate Search [13.2.3 - 3 pages] |

Recommendation

That Council:

1. Resolves to request the Minister for Lands (WA) to dedicate Lot 673 on Plan 1740, Carlisle as a road pursuant to section 56(1)(c) of the *Land Administration Act 1997*, and regulation 8 of the *Land Administration Regulations 1998*.
2. Indemnifies the Minister for Lands (WA) against any claim for compensation that may arise, pursuant to section 56(4) of the *Land Administration Act 1997*.

Purpose

The Town is seeking a resolution from Council pursuant to section 56(1)(c) of the *Land Administration Act 1997* to lodge a formal request to the Minister for Lands (WA) for the dedication of Lot 673 on Plan 1740 as a road and to indemnify the Minister for Lands (WA) against any claim for compensation that may arise from dedicating Lot 673 on Plan 1740 as a road.

In brief

- The Town has received multiple complaints from residents regarding vehicle access issues on ROW 33, also known as Ceres Lane.
- These concerns have been ongoing and relate mainly to blocked access caused by people parking in ROW 33.
- The Town's parking officers do not have the authority to enforce the Parking Local Law because ROW 33 is privately owned by a deregistered company.
- Subsequently, the adjoining owners have requested that the Council take ownership of this ROW to enable parking officers to manage parking and assist with maintaining access.
- ROW 33 has been regularly used by the Public uninterrupted for a period in excess of 10 years which is one of the requirements to request dedication of ROW 33 as a road.
- ROW 33 provides primary vehicular access to various adjoining properties.
- The Town may request the Minister for Lands to dedicate ROW 33 based on its status as a private road, pursuant to 56(1)(c) of the *Land Administration Act 1997* and regulation 8 of the *Land Administration Regulations 1998*. This requires a Council Resolution and Indemnity.
- Once dedicated, the adjoining properties will have secure legal access by a dedicated public road and the Town will be able to enforce the Parking Local Law.

Background

1. Private ROWs are roads set out on a plan of subdivision of privately owned land which have not been dedicated for public use. They are pertinent only to those lots on the plan which abut onto the private road by providing owners with an implied right of way unless additional rights have been granted by a registered easement.
2. ROW 33 was created in 1905 by subdivision to service the lots created by the subdivision. Its intended use was as a right of carriageway to provide access to the adjoining properties as well as an access way for public use. It has been used for that purpose since its creation. The Town is aware that the public has had uninterrupted use of the ROW for the entire time since 1905. This is well in excess of the 10 year period of uninterrupted use as prescribed within section 56(1)(c) of the *Land Administration Act 1997*.
3. Given the laying out of the land as a ROW in the original subdivision in 1905, and the regular use of the ROW by the public, it is not inappropriate to see the original laying out of the ROW as an act of dedication by the original subdivider. The consistent use of the ROW by the public in the meantime can be seen as completing a common law dedication. Avoiding the need to obtain a formal recognition of the common law dedication, the proposal for dedication under section 56(1)(c) of the *Land Administration Act 1997* has historical support and has the same effect.
4. The dedication of the land in the ROW as a road is in keeping with the historical purpose and intended use of the ROW, and the historical changes over time. It will allow the adjoining properties to secure right of access, consistent with the interests of orderly and proper planning.
5. Although dedicated roads are owned by the State of Western Australia, the care, control and management of a public road other than a highway or main road is with the Local Government Authority pursuant to s3.53 of the *Local Government Act 1995* and s55(2) of the *Land Administration Act 1997*. Therefore, once dedicated the Town will be able to enforce its Parking Local Law to resolve any issues relating to access in the ROW.
6. The process of dedicating a private road as a public road is a local government function that can occur from time to time via a standard request. The dedication process exists to assist with addressing and resolving legacy planning and subdivision issues which have been inherited by local governments.
7. There are 147 ROWs in the Town of Victoria Park and 98 are still privately owned, generally by a deceased estate. Department of Planning Lands and Heritage prefer bulk requests for dedication to resolve this statewide issue. The Town will consider a bulk application and the merit of this and a potential future request to Council.
8. The road network is critically important for the Victoria Park community. Dedication of a private road guarantees and future-proofs the need for convenient public access. The Town currently maintains and repairs all private ROWs even though it does not own them, it also resolves disputes over their use.
9. ROW 33 is currently classified as a private road. Although in private ownership, the ROW landowner's rights are limited with the private road status. The land's purpose is for a right of carriageway. The land has commitments aligned with its original creation at subdivision and is an encumbered landholding with an easement burden on its title.

Strategic alignment

| Economic | |
|---|---|
| Strategic outcome | Intended public value outcome or impact |
| EC02 - A clean, safe and accessible place to visit. | The purpose of this road dedication request will allow the Town to enforce the parking local law which will have a positive impact in improving safety. |

| Environment | |
|--|---|
| Strategic outcome | Intended public value outcome or impact |
| EN02 - A safe, interconnected and well maintained transport network that makes it easy for everyone to get around. | The purpose of this road dedication request will ensure pedestrian and vehicle access is maintained for properties along the ROW, and the general public. |

Engagement

| Internal engagement | |
|----------------------------------|--|
| Property Development and Leasing | Input into the report and the process to dedicate the ROW as a road. |
| Street Operations | Consultation on Traffic Issues and Infrastructure Upgrades |
| Place Planning | Consultation on ROW Strategy |
| Parking and Rangers | Consultation on Parking Local Law |

| External engagement | |
|-----------------------|--|
| Stakeholders | ASIC, Water Corporation and adjoining land owners |
| Period of engagement | Two weeks |
| Level of engagement | 2. Consult |
| Methods of engagement | Letters sent to government authority acting on behalf of the registered proprietor, service providers and adjoining land owners. |
| Advertising | Not applicable |
| Submission summary | Not applicable |
| Key findings | Not applicable |

Legal compliance

[Section 56 of the Land Administration Act 1997](#)

[Regulation 8 of the Land Administration Regulations 1998](#)

Risk management consideration

| Risk impact category | Risk event description | Consequence rating | Likelihood rating | Overall risk level score | Council's risk appetite | Risk treatment option and rationale for actions |
|---|---|--------------------|-------------------|--------------------------|-------------------------|---|
| Financial | Not applicable | | | | | |
| Environmental | Not applicable | | | | | |
| Health and safety | Town is not able to enforce the parking local law for ROW 33. | Moderate | Possible | Medium | Low | Treat risk by beginning the process to dedicate ROW as a road. |
| Infrastructure / ICT systems/ utilities | Not applicable | | | | | |
| Legislative compliance | The Minister for Lands is ultimately responsible for determining requests for the dedication of land as a road. It is possible that the Minister may decide to refuse the road dedication request notwithstanding Council's resolution. | Insignificant | Rare | Low | Low | Treat risk by providing the required information as per Regulation 8 of the Land Administration Regulations 1998 and sufficient jurisdiction for the road dedication request. |
| Reputation | Not applicable | | | | | |
| Service delivery | Not applicable | | | | | |

Financial implications

| | |
|------------------------------|---|
| Current budget impact | Sufficient funds exist within the annual budget to address this recommendation. |
| Future budget impact | Once Lot 673 on Plan 1740 is dedicated as a road, the Town will be formally responsible for the maintenance and repair of the dedicated road. The Town's Street Operations service area has advised that this has been undertaken historically as part of the Town's maintenance and works programs and therefore this would not impact the current budget. |

Analysis

10. ROW 33 can be considered high priority given its length, the number of properties that access it and ongoing maintenance requirements. Many these ROWs still have dirt/sand as the surface so there are higher priorities for upgrades. Approximately 40% of ROW 33 is well graded, compacted gravel towards the Lion Street end and the remainder is a mix of dirt and recycled bitumen to provide a hardstand. The base is assumed to be sand.
11. Approximately three years ago the Town carried out drainage upgrades, kerb and asphalt profiling maintenance along sections of ROW 33. The Town also addresses maintenance requirements such as potholes and other issues that need particular attention as and when they arise.
12. ROW 33 has been placed on the nominal list of capital works for the 2021/2022 financial year. Its inclusion in the capital program has been endorsed by the Strategic Assets Advisory Group.
13. The Town's administration has instigated a process whereby ROW construction should follow the dedication of a ROW as a road.
14. The lot comprised within ROW 33 is in effect land dedicated by the subdivider as an access way for public use at the time of the original subdivision in 1905 and has been used by the public consistently since dedication.
15. The Town has been maintaining the ROW.
16. The Town has received multiple ongoing concerns from residents regarding people parking in the ROW and consequently blocking access.
17. The Town is unable to enforce the Parking Local Law on private property without an agreement in place. ROW 33 is privately owned by a company that was deregistered on 26 February 1915 and there is no agreement in place where the Town can legally enter the land to enforce the Parking Local Law.
18. Vehicular access currently services the adjoining properties and locality. ROW 33 allows through traffic between Archer Street and Lion Street and provides several adjoining properties with primary access.
19. The Town consulted the Water Corporation (being the only relevant service provider) who are acceptable to the dedication provided their servicing standards are adhered to. In this instance the dedication of ROW 33 as a road will not impact their servicing standards.
20. The Town consulted all 87 adjoining property owners by letter on 25 March 2021. Following the submission period eight responses were received. Five were in favor, two were in favor subject to conditions relating to the construction of the ROW and one objected because they believed the Town

did not consult with respect to the proposed upgrading of the ROW which may adversely affect the residential amenity of their property.

21. The Towns Solicitor has undertaken a probate search to trace the proprietorship of Lot 673 on Plan 1740, the results of the search concluded that the subject lot remains in the name of a defunct South Australian company named "Bickford Park Land Company Limited". A full ASIC historical company search was subsequently undertaken which concluded "Bickfork Park Land Company Limited" is deregistered and Lot 673 on Plan 1740 is now under the control of ASIC pursuant to s601AD(2) of the *Corporations Act 2001*.
22. Considering Lot 673 on Plan 1740 is now in the proprietorship of ASIC, the Town wrote to ASIC on 22 March 2021 requesting ASIC confirm they have no objection to the proposed dedication. ASIC have not yet issued a response despite several follow up attempts by the Town to obtain a response.
23. ROW 33 continues to be privately held and classified as a private road. With consideration to the status of the ROW, the Town may dedicate land in the district comprising of a private road of which the public has had uninterrupted use for a period of not less than 10 years, as road pursuant to section 56(1)(c) of the *Land Administration Act 1997* and regulation 8 of the *Land Administration Regulations 1998*.
24. Given there is significant historical evidence that supports the public having had uninterrupted use of the private road for a period not less than 10 years, and the Towns preference for the future tenure of the private road to guarantee public access. The Town proposes to proceed with the road dedication in accordance with section 56(1)(c) of the *Land Administration Act 1997*.
25. The ultimate outcome derived from the dedication process is for a publicly accessible road for the use of residents and to provide the Town with the ability to resolve any parking or safety issues that may arise. Additionally, the outcome will maintain the integrity of the public road network.
26. The Town has complied with section 56(2) of the *Land Administration Act 1997*.

Relevant documents

Not applicable.

There were no questions asked or presentations made in relation to this item.

13.3 Edward Millen Reserve Landscape Tender Option Analysis

| | |
|----------------------------|--|
| Location | East Victoria Park |
| Reporting officer | Property Development and Leasing Manager |
| Responsible officer | Chief Operations Officer |
| Voting requirement | Simple majority |
| Attachments | Nil |

Recommendation

That Council:

1. Approve the \$7.5m cost option for the Edward Millen Reserve construction budget.
2. List for consideration an additional budget amount in the 2021/22 financial year for the recommended \$7.5m option.
3. Authorise the use of the funds from the Edward Millen Reserve to contribute to the funding of the Edward Millen Reserve landscape redevelopment, as per the agreed intended use of the funds.
4. Notes the proposed funding for the Edward Millen Reserve project includes the indicative amount of \$2.5m (Ordinary Council Meeting 17/11/20) listed for consideration in the draft Long Term Financial Plan.
5. Endorse the Town to continue to advocate for additional funding sources, with the understanding that any potential additional funding is considered in the final Tender construction budget.
6. Approve the Town going to tender for the \$7.5m option and to allow the preferred tenderer to show value for money opportunities in separable portion(s) to arrive at the higher cost detailed design drawings.
7. Note that the Tender will be released at the most appropriate time to complement the Adaptive Heritage Redevelopment of the Edward Millen buildings.

Purpose

At the June Ordinary Council Meeting, Council requested a \$7.5m scope of works option to be provided for consideration for July 2021.

In brief

- On 18 May, OCM item 13.3 was provided to Council to approve the detailed design documentation of the Edward Millen Reserve.
- The cost estimate for the detailed design was provided on the 18th of May OCM report was \$9.1m, with escalation due to local and international market conditions, inclusive of labour and materials cost increases. This is now \$9.3m.
- On 18 May OCM Council requested that an options analysis be undertaken to show the impact of the total construction to cost no more than \$6m and no more than \$7m.
- The Town's landscape consultants were instructed to undertake this analysis and have provided numbered indicators on the masterplan to show what has been removed to arrive at this cost reduction.

- On 15 June 2021, OCM item 13.8 was provided to Council to presenting a \$6m, \$7m, \$8m and \$9.3m cost options. Council requested that a \$7.5m scope of work be provided.
- The \$7.5m cost option results in a standard toilet block and most likely no Changing Places facility. The \$8m cost option does result in the inclusion of the Changing Places facility.
- Since the original detailed design cost estimate, the Perth construction market has incurred price escalation. This has also been updated and incorporated into the cost analysis provided.
- The final Tender documentation will be amended to incorporate the final Council approved cost option.
- Going to Tender relies upon the successful negotiation for relocation of the State Government's Disability Services from the former Hillview Clinic building on the Edward Millen Reserve and the overall Heritage Redevelopment project reaching critical milestone to develop at the appropriate time.
- The Town aims to continue to seek additional funding contributions to allow for the original full costed option and recommends going to Tender with the approved cost option, understanding that if funding is secured, the Town will then be able to afford a higher cost option.
- A table (refer to Item 9 - Analysis) has been provided to detail the different price points and the impact on the overall detailed design.

Background

1. Tender TVP 20/13 Edward Millen Adaptive Heritage Redevelopment closed at 2pm 27 January 2021. The Tender was seeking a qualified proponent to invest and deliver an adaptive heritage redevelopment.
2. Preferred proponent status now awarded to Blackoak, with minor commercial negotiations still being finalised. It is considered an opportune time to finalise the landscape detailed design of the Edward Millen Reserve and be ready to go to Tender with an approved budget.
3. Council has since requested a \$7.5m version of this detailed design to inform the basis of the July 2021 OCM report. The Town's consultants have worked with the Town's administration to incorporate this reduction whilst being mindful of the reserve's overall vision and design intent.

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. | Extensive, best practice and carefully designed communication were undertaken during the Masterplan design process to ensure community members and stakeholder were informed. |
| CL03 - Well thought out and managed projects that are delivered successfully. | The Edward Millen Landscape Detailed Design is a significant step towards delivering the Edward Millen Adaptive Heritage and Landscape Redevelopment project. This forms part of the Prince 2 Project Management principles. |
| CL06 - Finances are managed appropriately, sustainably, and transparently for the benefit of the community. | The consideration of a range of costs to revitalise the Edward Millen Parklands provide a greater degree of financial management. |
| CL08 - Visionary civic leadership with sound and accountable governance that reflects objective decision-making. | The redevelopment and overall revitalisation of the Edward Millen Heritage Precinct have undergone |

| | |
|--|--|
| | several accountable and objective decision-making processes. |
|--|--|

| 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 overall vision and objective for the Edward Millen redevelopment and parklands will aim to deliver a place for commerce, tourism, employment, and entrepreneurship. |
| EC02 - A clean, safe and accessible place to visit. | The redevelopment of Edward Millen parklands will aim to transform an unsafe and inaccessible asset into a safe and accessible destination. |

| Environment | |
|---|--|
| Strategic outcome | Intended public value outcome or impact |
| EN06 - Appropriate, inviting and sustainable green spaces for everyone that are well maintained and well managed. | The redevelopment of Edward Millen parklands will aim to transform into a well maintained and accessible destination for everyone. |

| Social | |
|--|---|
| Strategic outcome | Intended public value outcome or impact |
| S03 - An empowered community with a sense of pride, safety and belonging. | Being a historical asset of the Town, revitalising the Edward Millen Reserve will empower the community giving a sense of pride, with a sense of safety with activation being provided. |
| S04 - A place where all people have an awareness and appreciate of arts, culture, education, and heritage. | The redevelopment will aim to deliver a portion of arts and culture, with education and heritage incorporated into the overall redevelopment. |

Engagement

| Internal engagement | |
|--|---|
| Street Operations | Provide feedback on the tender document, specifications, and current practices. |
| Community Development – Safer Neighbourhoods | Provided advice and support about lighting, CCTV, best practice, and overall feedback on safety led design response. |
| Community Development – Community Arts | Was involved and engaged with art opportunities and overall art-related consideration. |
| Town History Officer | Engaged with during the creation of the Heritage Interpretation Strategy and opportunity to rename the State Listed Heritage Buildings. |
| Communications and Engagement | Design of the Edward Millen Heritage logo. |

| | |
|----------------|--|
| Place Planning | Engaged throughout the detailed design process and provided comments and input to maintain the overall original Masterplan vision. |
|----------------|--|

| External engagement | |
|---------------------|--|
| Stakeholders | They were previously engaged through the Masterplan design development. Stakeholders included the local community, former Aboriginal Engagement Advisory Group, Public Art Advisory Group and Heritage Council. Utilised a broad consultation period, on-site consultation, multiple design reference group workshops, public life study and Your Thoughts online surveys. |

| Other engagement | |
|-------------------------------------|---|
| Department of Heritage and Planning | Engaged throughout the design process. Internal meetings to present the Heritage Interpretation Report, overall design, and incorporation of heritage within the Detailed Design Documentation. |

Legal compliance

Not applicable.

Risk management consideration

| Risk impact category | Risk event description | Consequence rating | Likelihood rating | Overall risk level score | Council's risk appetite | Risk treatment option and rationale for actions |
|----------------------|--|--------------------|-------------------|--------------------------|-------------------------|--|
| Financial | Not endorsing the detailed design for the Edward Millen Reserve Landscape Detailed Design and funding will impact the overall Edward Millen Adaptive Heritage Redevelopment putting at risk an opportunity for significant investment into State Listed Heritage assets. | Moderate | Likely | High | Low | TREAT risk by endorsing the Edward Millen Reserve Landscape Detailed Design and committing the funding required. |
| Environmental | Not applicable | | | | | |
| Health and safety | Not applicable | | | | | |

| | | | | | | |
|--|--|----------|--------|------|-----|--|
| Infrastructure/ ICT systems/ utilities | Not applicable | | | | | |
| Legislative compliance | Not applicable | | | | | |
| Reputation | Not endorsing the detailed design for the Edward Millen Reserve Landscape Detailed Design and funding will impact the overall Edward Millen Adaptive Heritage Redevelopment putting at risk an opportunity for significant investment into State Listed Heritage assets. | Moderate | Likely | High | Low | TREAT risk by endorsing the Edward Millen Reserve Landscape Detailed Design and committing the funding required. |
| Service delivery | Not applicable. | | | | | |

Financial implications

| Current budget impact | Not applicable for the current (2020/21) budget. It is proposed that funding will form part of the 2021/2022 budget. | | | | | | | | | | | | |
|--|---|------------------------|--|------------------------|--|---|-------------|----------------------------|-------------|--|-------------|--------------------------------|--------------------|
| Future budget impact | It is proposed that the 2021/2022 annual budget will include the following, depending on the endorsed option. | | | | | | | | | | | | |
| | <table border="1"> <thead> <tr> <th colspan="2">Budget Analysis</th> </tr> <tr> <th colspan="2">Funding Sources</th> </tr> </thead> <tbody> <tr> <td>Landscaping potential funding by Blackoak Capital</td> <td>\$3,300,000</td> </tr> <tr> <td>Edward Millen Reserve Fund</td> <td>\$2,000,000</td> </tr> <tr> <td>LTFP indicative amount – OCM 17/11/20 New proposed loan 2021/22 Budget</td> <td>\$2,200,000</td> </tr> <tr> <td>Total funding available</td> <td>\$7,500,000</td> </tr> </tbody> </table> | Budget Analysis | | Funding Sources | | Landscaping potential funding by Blackoak Capital | \$3,300,000 | Edward Millen Reserve Fund | \$2,000,000 | LTFP indicative amount – OCM 17/11/20 New proposed loan 2021/22 Budget | \$2,200,000 | Total funding available | \$7,500,000 |
| Budget Analysis | | | | | | | | | | | | | |
| Funding Sources | | | | | | | | | | | | | |
| Landscaping potential funding by Blackoak Capital | \$3,300,000 | | | | | | | | | | | | |
| Edward Millen Reserve Fund | \$2,000,000 | | | | | | | | | | | | |
| LTFP indicative amount – OCM 17/11/20 New proposed loan 2021/22 Budget | \$2,200,000 | | | | | | | | | | | | |
| Total funding available | \$7,500,000 | | | | | | | | | | | | |

If the parklands are constructed the future budget impact will also involve ongoing maintenance. This is anticipated to be in the order of \$150,000 p.a. This will be offset by the revenue in rental income and rates received by the Town.

The existing park is beginning to age and requires upgrading. Even if the suggested construction works do not go ahead, there is existing annual maintenance costs in the order of \$35,000 p.a. and impending renewals costs, impacting future budgets.

Analysis

4. Below is a table to compare the different cost target options with the new \$7.5m option.

| ITEMS | \$6m | \$7m | \$7.5m | \$8m | *\$9.3m |
|--|------|---------|--------|------|---------|
| Cobblestone entry to Albany Hwy and Rotunda Building | X | X | X | X | ✓ |
| Feature playground stethoscope item | X | ✓ R+ | ✓ R+ | ✓ R | ✓ |
| Granite seating for amphitheatre (M=Concrete) | X | X M | X M | X M | ✓ |
| Granite seating for spectrum shelter (M=Concrete) | X | X M | X M | X M | ✓ |
| Concrete base to heritage paving | X | X | X | X | ✓ |
| Heritage stone paving for all heritage buildings (M=Exposed Aggregate) | X M | X M | X M | X M | ✓ |
| Paving and planting beds to side of Rotunda (M= Turf) | X M | X M | X M | X M | ✓ |
| Spectrum Shelter (M=Off the shelf shelter) | X M | ✓ R | ✓ R | ✓ | ✓ |
| All planting 140mm pots (M= Tube stock) | X M | X M | X M | X M | ✓ |
| Landscaping to the South of Mildred Creek building | X | X | X | X | ✓ |
| Spectrum surrounds | ✓ R+ | ✓ R+ | ✓ R+ | ✓ R | ✓ |
| Indirect path lighting (M=Direct lighting) | X M | X M | X M | X M | ✓ |

| | | | | | |
|---|-----|-----|-----|---|---|
| Architectural Toilet Block with Changing Place facility | X | X | ✓ M | ✓ | ✓ |
| Aluminium sheeting on BBQ shelters for Art Installation | X | X | X | ✓ | ✓ |
| Gravel path set back along Hillview Terrace | X | X | X | ✓ | ✓ |
| Custom wood and metal playground fence (M=Pool fencing) | X M | X M | X M | ✓ | ✓ |
| Native planting vegetation areas adjacent to Hill View Terrace | X | X | X | ✓ | ✓ |
| Native planting vegetation areas adjacent to Albany Hwy | X | X | X | ✓ | ✓ |
| BBQ Shelters | ✓ R | ✓ M | ✓ M | ✓ | ✓ |
| Wayfinding, interpretation and signage | ✓ R | ✓ | ✓ | ✓ | ✓ |
| R = Reduced size R+ = Further Reduced size M = Modified specification * Increase due to Perth construction cost escalation | | | | | |

5. Below is a more detailed table providing a more significant explanation and also an impact explanation of the removal. These impacts include maintenance, visual impact, safety and security overall heritage design intent.

| \$8 Million Target Option Cost Reduction Items | Explanation/Impact |
|--|---|
| Existing tree maintenance provided by the Town. | Removal of tree maintenance from the Tender. This could be seen as a double up with the existing parks budget. |
| Thicker stone pavement to trafficable areas due to concrete slab removal. | Concrete slab underneath allowed for a thinner pavement and also reduced maintenance. So removal of the concrete slab will be cheaper but have potential higher maintenance costs. This is in relation to the front of the Rotunda. |
| Remove concrete slab under paving and lay stone paving on compacted road base and bedding sand. | As above in relation to concrete slab removal from the front of Rotunda. |
| Replace stone paving with exposed Aggregate insitu concrete pavement. Retain stone to Rotunda forecourt. | Relates to the pathways associated with the heritage buildings. Stone paving the pathways was to have a uniform treatment to the heritage buildings. |
| Remove paving and planting beds to side of Rotunda- replace with turf. | Reduction in the extent of paving wrapping around Rotunda and replaced with grass. |

| | |
|--|--|
| Replace 140mm pots with tubes for all new planting beds. | Tube stock used for all new plantings. It will take longer to reach maturity and have a significantly lower visual impact. |
| Remove landscaping from south of the building. | Removal of landscaping treatment at the rear. Will have a visual impact to the interface between the subject site and rear development site previous the State Archives Building. |
| Reduce provisional sum for Stethoscope play element by 20%. | Will result in a smaller footprint for the Stethoscope. Unsure if any play elements on the Stethoscope will be impacted with the 20%. |
| Remove landscaping from east of the building. | Removal of this landscaping section may work well as Blackoak has nominated this area for potential loading and unloading for future tenancies. |
| Seating walls - change all seating walls (including free standing, amphitheatre and Spectrum Shelter surround) to pre-cast concrete. | Previously Granite – specification reduction to now be concrete. Reduces heritage design intent. |
| Remove works to Albany Highway entrance - retain existing crossover. Omit cobbles to drive entry and replace with omnigrip. | Entrance to the Rotunda Building was previously given a cobblestone entry. This is now replaced with omnigrip. Omnigrip is the treatment provided to the avenue. Reduces heritage design intent. |
| Omit cobbles to top of drive and replace with omnigrip. | Entrance to the Rotunda Building was previously given a cobblestone entry. This is now replaced with omnigrip. Omnigrip is the treatment provided to the avenue. Reduces heritage design intent. |
| Reduce Spectrum Shelter surrounds by 10% (retain shelter size as documented). | The surround is in reference to the podium on which the spectrum shelter sits. |
| Luminaire alternative to path lights | This is a changed from indirect lighting to direct lighting. Indirect lighting is more visually appealing however, the Town's safety officer has said this change won't have a safety impact and is happy with this outcome. |
| \$7 Million Target Option Additional Cost Reduction Items inclusive of those above | Explanation/Impact |
| Landscape works in lieu of toilet block (Mildred Creek Building to provide public toilet). | Toilet block is removed. The public will need to rely on the heritage Buildings Toilet facilities. May impact opening hours for the public. Results in no Changing Places facility. |
| Shelter - Remove aluminium sheet and name from shelters. | Removal of the aluminium sheeting used as an art installation opportunity. |

| | |
|--|--|
| Remove gravel path refer to map. | Entire pathway is removed. Refer to attached map. Reduces connectivity. |
| Replace custom fence with proprietary aluminium pool fence. | Playground fence was a custom metal and wooden creation. Has been changed to standard aluminium pool fencing. |
| Delete new planting areas from Hill View Terrace - retain existing turf. | Large planting area adjacent to Hill View Terrace now turf. Previous planted to create a more private park setting given the busy nature of Hill View Terrace. Also provided a safety buffer from Hill View Terrace. |
| Delete new planting areas from Albany Highway - retain existing turf. | Large planting area adjacent to Albany Hwy now turf. Previous planted to create a more private park setting given the busy nature of Albany Hwy. Also provided a safety buffer from Albany Hwy. |
| Reduce Stethoscope play element by 40%. | Will result in a much smaller footprint for the Stethoscope and most likely some play elements on the Stethoscope will be impacted with the 40% cost reduction. Also reduces the visual impact of the key feature play item. |
| Reduce Spectrum Shelter and surrounds by 20%. | The surround is in reference to the podium on which the spectrum shelter sits. Will result in less space for performances. |
| \$7.5 Million Target Option Additional Item on top of the \$7 Million Target Option | Explanation/Impact |
| Architectural Toilet Block reduce scope. | The existing toilet block will have a reduced specification. Most likely, the Changing Places facility will be required to be removed. The budget will be set at \$500k to achieve the best possible outcome and will consider still trying to achieve a Changing Places facility. However, this is highly unlikely to be able to be accommodated within the reduced budget. |
| \$6 Million Target Option Additional Cost Reduction Items inclusive of those above | Explanation/Impact |
| Shelter - Remove aluminium sheet, name from shelters, and reduce overall number by 2. | Removal of the aluminium sheet which was to be used as an art installation opportunity. Also, two shelters have been removed. Less opportunity for BBQ gatherings. |
| Delete Stethoscope play element. | The signature piece of the play area will be removed entirely. Impacts the landmark play feature may result in less activation and attendance in the park. |
| Remove seating walls from the amphitheatre, spectrum shelter and in front of the Rotunda. | No seating walls for an event - would be just a grassed area. Seating walls also removed from spectrum shelter which ran around the edges of the surrounds. Rotunda seating walls which were close to the beginning of the avenue also removed. |

| | |
|--|--|
| Reduce Wayfinding, Interpretation & Signage Complexity by 30%. | Will impact the overall heritage interpretation through the reserve. |
| Allowance to redesign spectrum shelter and replace with simple proprietary item. | Signature spectrum piece replaced with an off the shelf shelter. Landmark autism inspired shelter is gone. Impacts the overall heritage design intent. |

6. The above listed options and explanation of impact aim to explain the reduction in scope. It would be possible to add and delete several elements and mix and match at this stage. The quantity surveyors have listed the cost impact of each item in the attachment to this report.
7. The \$7.5m option achieves the retention of the architectural toilet block in the park setting, but with a reduced budget of \$500k.
8. There exists an opportunity to go to Tender with the approved cost option whilst at the same time requesting the different pricing levels to be considered as separable portions. This could assist the Town to continue to advocate for additional funding as it may allow the more expensive but more complete design to be achieved.
9. Blackoak has agreed to extend its validity period to incorporate the commercial negotiations. This extension is until 19 September 2021. This will allow the lease and commercial parameters to be determined and for Council to consider.

Relevant documents

Not applicable.

Questions and responses

Cr Claire Anderson

1. Can you explain how the architectural toilet block and changing facilities will be modified or is it a removal?

The Chief Operations Officer advised that the modification does still includes a toilet block with universal access but the changing place is a separate area to accommodate a modification from \$8 million to \$7.5 million.

Mayor Karen Vernon

1. Is it half a million dollars for a changing place facility?

The Chief Operations Officer advised that is correct.

Further consideration to be added to the Ordinary Council Meeting agenda

Nil.

13.4 Edward Millen Adaptive Heritage Redevelopment Ground Lease

| | |
|----------------------------|---|
| Location | East Victoria Park |
| Reporting officer | Property Development and Leasing Manager |
| Responsible officer | Chief Operations Officer |
| Voting requirement | Absolute majority |
| Attachments | <ol style="list-style-type: none"> 1. CONFIDENTIAL REDACTED - blackoak capital ventures_-_tvp 20.13 edward m_ [13.4.1 - 22 pages] 2. Edward Millen Tender- Email [13.4.2 - 13 pages] 3. CONFIDENTIAL REDACTED - v 147-21 FINAL Report - 15 (Part Lot 9000) Hill View Terrace, East Victoria Park - 10.05.21 [13.4.3 - 71 pages] |

Recommendation

That Council:

1. Accepts the revised ground lease commercial offer from Blackoak Capital Ventures Pty Ltd and Arget Ventures Pty Ltd (ABN 38 896 928 872) for TVP/20/13 Edward Millen Adaptive Heritage Redevelopment.
2. Approves the Ground Lease of approximately 1.4ha of 15 (Lot 9000 Hill View Terrace, East Victoria Park be leased to Blackoak Capital Ventures Pty Ltd and Arget Ventures Pty Ltd (ABN 38 896 928 872), or Blackoak and Arget's required special purpose entity in order to facilitate the appropriate corporate structure to deliver the redevelopment. For a term of 20 years with further optional terms of 5 x 10 years for \$122,500 net per annum exclusive of GST and outgoings commencing in year 21 with a \$2,000,000 upfront payment in consideration of the first 20-year term.
3. Accepts that a licensed valuer has provided a valuation report assessing the fair market rental of the property and the draft ground lease agreement has been sighted by the proponent.
4. Pursuant to Section 5.42 of the *Local Government Act 1995*, delegates to the Chief Executive Officer, the following duties/powers in relation to 15 (Lot 9000) Hill View Terrace, East Victoria Park.
 - a. Authority to make and give any determination required by the Lease on behalf of the Lessor, approval, direction or order in relation to the Property.
 - b. Undertake any further minor commercial negotiations, if required to progress the development and commercial offer presented to the Town of Victoria Park by Blackoak Capital Ventures for TVP/20/13.
 - c. Monitor compliance with, and enforce as necessary, the provisions of the Ground Lease and all matters relating to the Ground Lease.
 - d. In exercising this delegation of authority, the Chief Executive Officer shall not make a determination if the Chief Executive Officer believes the matter for decision is a material change to the terms and conditions of the Ground Lease.
 - e. If the Chief Executive Officer declines to give a determination (for reasons set out in part 4(d)), the Chief Executive Officer must report the matter to the Council for decision.
5. Authorises the Chief Executive Officer and Mayor, provided that if no submissions of magnitude and concern are received during the public submission period required under Section 3.58 of the *Local Government Act 1995*, to execute all necessary documents on behalf of Town of Victoria Park in relation to ground lease a portion of 15 (Lot 9000) Hill View Terrace, East Victoria Park.

Purpose

For Council to accept the revised commercial offer by Blackoak Capital Ventures and for the Town to finalise commercial conclusion of the Ground Lease.

In brief

- Edward Millen Reserve and associated heritage buildings are owned by the Town of Victoria Park as conditional freehold and captured within the Land Asset Optimisation Strategy.
- A business case was developed by the Town's Property Development and Leasing team to assess and resolve the complex risks and issues connected with the ongoing financial implications and complications the site presented.
- The business case recommendation was to undertake a Tender to invite submissions for capital investment, hospitality expertise and heritage redevelopment experience with a ground lease used to formalise the level of ownership required to make such an investment and preserve the state heritage listed buildings given the level of financial risk and commitment represented by the site.
- TVP/20/13 Edward Millen Adaptive Heritage Redevelopment was published through the newspaper, Tenderlink, Town's Public Notice Board and Town's website.
- Tenderers were requested to provide a ground lease offer based on a proposed Agreement for Lease contract provided. Tenderers were requested to consider the \$4m Federal Government Community Development Grant within their submission.
- It is recommended that Council accepts the revised commercial offer made by Blackoak Capital Ventures and undertake a public notice for the Ground Lease of an approximate 1.4 ha portion of Lot 9000 on Deposited Plan 41207 Hill View Terrace St James.
- The key terms of the Ground Lease are provided in this report and outlines the agreed terms to progress formalisation of the Ground Lease.

Background

1. The Edward Millen Adaptive Heritage and Landscape Redevelopment project is being delivered under the Land Asset Optimisation Strategy. The project aims to realise the full potential of the State heritage-listed buildings and the expansive 4.7 hectare Edward Millen Reserve to minimise the ongoing cost to the Town whilst preserving the heritage assets and delivering community benefits.
2. Approximately \$3.1M has already been spent by the Town on Edward Millen precinct since the Town received the property towards maintenance and repair. The Town also maintains an Edward Millen Reserve Fund this is "to be used to assist in improving and / or maintaining the Edward Millen Site, including the associated grounds." Currently, the Town has circa \$2M in this reserve.
3. The ground lease, if endorsed, will result in no requirement to continue to fund the Edward Millen Reserve. A State required Trust will replace the reserve with the trust's income being derived through the ground lease income and rates generated directly via the redevelopment.
4. The Town has undertaken community engagement to inform the vision and new allowable uses, amended the conditional tenure to allow those new allowable new uses, market sounding, feasibility analysis, business case development, environmental Preliminary Site Investigations, a HAZMAT assessment, Heritage re-use study, community designed Landscape Master Plan, Heritage Interpretation Strategy and Tender for the investment in the activation, management, and redevelopment of the heritage buildings.
5. The ownership is conditional freehold tenure, under section 75 of the *Land Administration Act 1997*. The tenure provides ownership so long as the conditions on the title are met. In this instance, the title now

limits the use of the land to Community, Recreational, Civic, Entertainment, Education, Cultural and Creative Industry, Heritage and Small Scale Production. Residential is not an allowable use of the site.

6. To attract the significant capital investment and expertise required, a unique Tender and marketing package was created to entice the private sector aimed at achieving the best possible outcome for the Town of Victoria Park community.
7. This Tender document outlined the vision, experience and commercial criteria required to divest an agreed portion of Lot 9000 Deposited Plan 41207 Hill View Terrace, St James as a ground lease.
8. The Ground Lease incorporates the historical buildings and a portion of the surrounding grounds to allow for the control and ownership necessary to invest the significant capital required to bring the State Heritage listed assets back to life and continue to deliver a world class destination.
9. A Development Application will be required to be lodged with both the Town of Victoria Park and Department of Planning Lands and Heritage to make sure all works are acceptable for the State Heritage listing buildings and are appropriate within the heritage fabric of the asset. A JDAP determination may also be required depending on the total value of the development.

Strategic alignment

| Civic Leadership | |
|--|---|
| Strategic outcome | Intended public value outcome or impact |
| CL03 - Well thought out and managed projects that are delivered successfully. | The Edward Millen Adaptive Heritage Redevelopment Ground Lease is a major step towards the delivery of the project. This forms part of the Prince 2 Project Management principles. |
| CL06 - Finances are managed appropriately, sustainably and transparently for the benefit of the community. | The existing Edward Millen asset is a financial liability for the Town. A ground lease to deliver a financially sustainable ongoing outcome for the Town's rate payers will appropriately manage the current financial situation. |
| CL08 - Visionary civic leadership with sound and accountable governance that reflects objective decision-making. | The redevelopment and overall revitalisation of the Edward Millen Heritage Precinct has undergone several accountable and objective decision-making processes inclusive of the latest Tender process. |

| 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 overall vision and objective for the Edward Millen redevelopment will directly deliver a place for commerce, tourism, employment, and entrepreneurship. |
| EC02 - A clean, safe, and accessible place to visit. | The redevelopment of Edward Millen will aim to transform an unsafe and inaccessible asset to a safe and accessible destination place. |

| 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 redevelopment of Edward Millen will aim to deliver a well built, well maintained and well managed facility. |

| Social | |
|---|--|
| Strategic outcome | Intended public value outcome or impact |
| S03 - An empowered community with a sense of pride, safety and belonging. | Being an historical asset of the Town, revitalising the asset will empower the community giving a sense of pride, with a sense of safety with activation being provided. |
| S04 - A place where all people have an awareness and appreciate of arts, culture, education and heritage. | The redevelopment will aim to deliver a portion of arts and culture with education and heritage being incorporated into the overall redevelopment. |

Engagement

| Internal engagement | |
|---------------------|---|
| Stakeholder | Comments |
| Procurement | Provided advice, procurement support and procured external probity. |

Legal compliance

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

Risk management consideration

| Risk impact category | Risk event description | Consequence rating | Likelihood rating | Overall risk level score | Council's risk appetite | Risk treatment option and rationale for actions |
|----------------------|--|--------------------|-------------------|--------------------------|-------------------------|--|
| Financial | Not accepting the Tender, associated financial contributions and Ground Lease divestment may result in ongoing heritage maintenance obligations. | Moderate | Likely | High | Low | <i>TREAT risk by accepting the Tender, financial contribution and Ground Lease divestment.</i> |
| Environmental | Not accepting the Tender, associated financial contributions and Ground Lease divestment may result in further deterioration of the Hazardous Materials currently constraining the site. | Moderate | Likely | High | Low | TREAT risk by accepting the Tender allowing the redevelopment to occur which will decontaminate the structure of HAZMAT materials. |

| | | | | | | |
|--|---|----------|----------|--------|-----|--|
| Health and safety | Not Applicable | | | | | |
| Infrastructure/ ICT systems/ utilities | Not Applicable | | | | | |
| Legislative compliance | Not Applicable | | | | | |
| Reputation | Not accepting the Tender, associated financial contributions and Ground Lease divestment may result in the continued reputational loss having not achieved activation and redevelopment of the Edward Millen State Heritage Listed buildings. | Moderate | Possible | Medium | Low | TREAT risk by accepting the Tender and associated investment resulting in the redevelopment and revitalisation of the Edward Millen State Heritage Listed buildings. |
| Service delivery | Not Applicable | | | | | |

Financial implications

| | |
|------------------------------|--|
| Current budget impact | Funds exits in the current budget to facilitate the approval of the Ground Lease. |
| Future budget impact | <p>Future budget impact involves the following:</p> <ul style="list-style-type: none"> • Edward Millen Heritage Buildings - Will be informed by an Asset Management Plan which will be attached the ground lease – overall given the divestment as a ground lease the Edward Millen Heritage Buildings will require limited ongoing financial commitments by the Town. • Income – The annual rental have been negotiated at \$122,000 net per annum exclusive of GST and outgoings with CPI increase set at a maximum of 2.5% and a minimum of 1%. • Income – Rates Revenue will be generated from the Ground Lease and will have a positive financial benefit to the Town. |

Analysis

10. The revised lease negotiations and main terms of the Ground Lease are as follows:

| Ground Lease | Original | Revised |
|--------------------------------|---|---|
| Heritage Works | Tenant will manage the appointment of the project manager, consultants and contractors to undertake the works at no cost to the landlord. | No required change. |
| Term | Initial term 20 years. | No required change. |
| Tenant Works | Other than the Heritage Works the Tenant shall be responsible for undertaking and paying for all other works required on Land (and to the buildings) so as to complete any remaining heritage works and to enable it to operate in accordance with the Permitted Uses for the site. | No required change. |
| Lease Commencement | Upon completion of the Heritage Works and Tenant Works. | No required change. |
| Options to Extend Ground Lease | 4 x 10 year option periods with an annual rental payment of \$100,000 p.a. (excl GST) commencing year 21 of the lease. Indexed to CPI from the lease commencement date, subject to a maximum 2.5% increase in a year. | An increase to 5 x 10 year periods with an annual rental increase to \$122,500 in receipt of the Market Valuation. Indexed to CPI from the lease commencement date subject to a maximum 2.5% increase in a year but now with an agreed minimum of 1% to protect against potential for inflation to go below 1%. |
| Rent | The Tenant will pay a one-off, "lump sum" rent payment of \$2,000,000 (excl GST) to the Landlord to be used to assist in the funding of the redevelopment of the Edward Millen Park. | Blackoak reviewed in feasibility however since the original offer costs have only increased. Unable to alter the upfront payment. |
| Outgoings | The tenants shall be responsible for the payment of all applicable outgoings, including council rates, land tax, insurance, repair and maintenance costs, security costs and utilities. | No required change. |

| | | |
|-------------|--|---------------------|
| Access Date | The Tenant will get access from the execution of the final agreements, so as to manage and coordinate the conduct of the Heritage Works and the Tenant Works. The Landlord will grant the Tenant a temporary licence to occupy the site during this period if requested. | No required change. |
| Security | The Tenant will provide the Landlord with \$2 million bank guarantee to secure the performance of its obligations to complete the Heritage Works and Tenants Work, that shall be returned to the Tenants upon Practical Completion of the all the Works. | No required change. |

11. The commercial negotiations concluded with a 22% increase in rental payments and an agreed CPI range in rental increases being achieved. Blackoak have requested in consideration of the increased rent and additional 10-year lease option. The Town is content which such a request. This allows Blackoak the security required to invest such significant capital and improving their ability to confidential invest over time. This additional tenure period is still in line with the original objectives of the Edward Millen Heritage Redevelopment Tender.
12. Below are the significant revitalisation outcomes and Community outcomes being achieved by the Blackoak ground lease proposal.

| Redevelopment offerings | |
|---|--|
| Mixed hospitality offerings | An artisan café, garden bristo dining and gastro pub. |
| Internal and external events and function spaces | Wedding, corporate and special events. |
| Vegetable and Herb Gardens, and Local Produce Store | Deliver foods grown on site. |
| Genuine "Farmers Market" | Fresh Fruit and Vegetables, meat, seafood and small goods, flowers and other freshly made produce. |
| Artisan food and craft operators | A Gelato / Ice Creamery, Kombucha Distillery, and fresh juice producer, and artists in residence |
| Woodfire Bakery | Gourmet woodfired bakery with opportunity for baking classes and local school tours |

| | |
|---|--|
| Museum and Other Community uses and Services | Incorporate a museum space reflecting local history of the buildings and local area. Potential for child care and early education. |
| Total Blackoak Investment (incl. Federal Grant) | \$15,900,000 (Excl GST) |

13. It is recommended that Blackoak Capital Ventures be awarded the Ground Lease contract subject to a public notice and submission period required under Section 3.58 of the *Local Government Act 1995* as their offer is considered the most advantageous for the Town.
14. Blackoak Capital Ventures are a Western Australian owned and operated business with combined property and investment experience of over 150 years across their executive team. They have extensive experience in developing and operating projects of the same nature, that deal with many of the same considerations and risks as the Edward Millen heritage redevelopment. These projects involve developing businesses, activating precincts and ongoing management of adaptive reuse heritage buildings, hospitality venues and markets.
15. Blackoak Capital Ventures propose to deliver the following key outcomes with consideration to the permitted uses by complimenting the parkland, providing services to the community and preserving the heritage fabric of the site. These community outcomes include:
16. Deliver a world class destination that attracts visitors from the greater community, through an innovative and creative mix of uses operating in an environmentally sustainable way.
17. Create a hub with real community purpose by providing for both for-profit and not-for-profit services, delivering community access to the arts, craft, theatre and music, and creating public green spaces accessible to all.
18. Preserve the history of the Edward Millen buildings, by the full refurbishment of the heritage buildings, sympathetic design, and incorporating a museum space into the project.
19. Contribute to realising the Edward Millen Park plan by making a \$2M up front lease payment to assist with the upgrade.
20. The proposed redevelopment includes businesses and activities directly owned and operated by Blackoak Capital Ventures as well as external specialist operators.
21. Directly operated businesses and activities include:
 - a. mixed hospitality offerings which include an artisan café, garden bistro dining and gastro pub;
 - b. internal and external events and function spaces; and
 - c. Vegetable and herb gardens, and local produce store.
22. External operators include:
 - a. Farmers market;
 - b. Artisan food and craft operators;
 - c. Woodfired bakery; and
 - d. Museum and other community uses and services.
23. The Ground Lease defines the obligations of all parties for the duration of the redevelopment and establishes the parameters upon the conclusion of the redevelopment works.
24. The Ground Lease requires the Tenant to prepare and submit a Development Application for approval in accordance with the Tenants plans as well as any applications for Heritage approval. Additionally, it

permits the Landlord to grant a licence of the Premises for the Tenant to undertake the Tenants Works to carry out the redevelopment and obligates the Tenant to obtain all the necessary consents and approvals required to undertake the Tenants Works.

25. The Ground Lease will be subject to in principle consent from the Minister for Lands if Council agrees to lease in accordance with section 75 approval of the *Land Administration Act 1997*.
26. The Valuation for the Ground Lease for a portion of 15 (Lot 9000) Hill View Terrace, East Victoria Park as outlined in the Tender is attached to the report. The rental offer has met the independent rental market Valuation.
27. Delegation to the Chief Executive Officer to manage and negotiate the Ground Lease as required will allow the disposal of land to be processed effectively and efficiently. This report recommends the delegation to the Chief Executive Officer be limited, with matters considered a material change to the terms and conditions of the Ground Lease, to be referred to Council for decision.
28. Authorisation to the Mayor and Chief Executive Officer to execute the necessary documents will allow efficiency to deliver the Edward Millen Adaptive Heritage Redevelopment as prescribed in the Tender TVP /20/13 proposal.
29. The redevelopment requires a variety of documents to be signed as the landowner, such as the Ground Lease, registration of Leases on the Certificate of Title, Development Application lodgment by Blackoak Capital Ventures, potential legal, conveyancing, and bond agreement, and management of the Federal Grant.

Relevant documents

Not applicable.

Questions and responses

Cr Wilfred Hendriks

1. *With the 2 million dollars for the lease, should some of that be put into the state-based trust?*

Note: This question was asked at item 13.3 - Edward Millen Reserve Landscape Tender Option Analysis but was intended for item 13.4 - Edward Millen Adaptive Heritage Redevelopment Ground Lease.

The Chief Operations Officer advised that the money will go towards part of the works for the project.

Mayor Karen Vernon

1. *In regards to the increase in the amount of annual rental that Blackoak are proposing to pay at \$122 thousand per annum, is there a reason why that isn't able to be paid upfront along with the 2 million dollars?*

The Chief Operations Officer advised that the Town is negotiating with Blackoak and should have an outcome soon.

Further consideration to be added to the Ordinary Council Meeting agenda

Nil.

14 Chief Financial Officer reports

14.1 Schedule of Accounts Report for May 2021

| | |
|----------------------------|---|
| Location | Town-wide |
| Reporting officer | Financial Services Controller |
| Responsible officer | Finance Manager |
| Voting requirement | Simple majority |
| Attachments | 1. Payment Summary - May 2021 [14.1.1 - 10 pages] |

Recommendation

That Council:

1. Confirms the accounts for May 2021, 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 31 May 2021.

In brief

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

Background

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

for that month.

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

| Fund | Reference | Amounts |
|--------------------------|-----------------|-----------------------|
| Municipal Account | | |
| Automatic Cheques Drawn | 608842 – 608851 | \$4,294.50 |
| Creditors – EFT Payments | | \$3,635,249.25 |
| Payroll | | \$1,122,536.79 |
| Bank Fees | | \$13,830.88 |
| Corporate MasterCard | | \$17,125.47 |
| Cancelled EFTs | | (750.00) |
| | | |
| Total | | \$4,792,286.89 |

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 the payment listing to Council is a requirement of Regulation 13 of <i>Local Government (Financial Management) Regulation 1996</i> . |

Legal compliance

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

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

Risk management consideration

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

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

Financial implications

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

Analysis

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

Relevant documents

[Procurement Policy](#)

There were no questions asked or presentations made in relation to this item.

14.2 Financial Statement for the Month Ending May 2021

| | |
|----------------------------|--|
| Location | Town-wide |
| Reporting officer | Financial Services Controller |
| Responsible officer | Finance Manager |
| Voting requirement | Simple majority |
| Attachments | 1. Financial Statements - May 2021 [14.2.1 - 45 pages] |

Recommendation

That Council accepts the Financial Activity Statement Report – 31 May 2021, as attached.

Purpose

To present the statement of financial activity reporting on the revenue and expenditure for the period ended 31 May 2021.

In brief

- The financial activity statement report is presented for the month ending 31 May 2021.
- The report complies with the requirements of Regulation 34 (financial activity statement report) of the *Local Government (Financial Management) Regulations 1996*.
- The financial information as shown in this report does not include a number of end-of-financial year adjustments that are still yet to occur, as well as the final approval by the Auditor. The figures stated should therefore not be taken as the Town's final financial position for the period ended [date].

Background

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

Revenue

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

Expense

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

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

Period variation

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

Primary reason(s)

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

End-of-year budget impact

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

Strategic alignment

| Civic Leadership | |
|--|--|
| 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 can make informed decisions for the future. |
| CL10 - Legislative responsibilities are resourced and managed appropriately, diligently and equitably. | Ensure the Town meets its legislative responsibility in accordance with Regulation 34 of the <i>Local Government (Financial Management) Regulations 1996</i> . |

Engagement

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

Legal compliance

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

Risk management consideration

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

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

Financial implications

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

Analysis

1. The Financial Activity Statement Report – 31 May 2021 complies with the requirements of Regulation 34 (Financial activity statement report) of the *Local Government (Financial Management) Regulations*

1996. It is therefore recommended that the Financial Activity Statement Report – 31 May 2021 be accepted.

Relevant documents

Not applicable.

There were no questions asked or presentations made in relation to this item.

15 Committee reports

15.1 Adoption of Amendment (Signs on Thoroughfares) Local Law 2021

| | |
|----------------------------|--|
| Location | Town-wide |
| Reporting officer | Principal Traffic and Design Coordinator |
| Responsible officer | Manager Technical Services |
| Voting requirement | Absolute majority |
| Attachments | <ol style="list-style-type: none">1. Amendment Signs on Thoroughfares Local Law 2021 Final [15.1.1 - 10 pages]2. Amendment Signs on Thoroughfares Local Law 2020 Public Submissions [15.1.2 - 1 page] |

Recommendation from the Policy Committee:

That Council:

1. Considers the submissions received in relation to the proposed *Town of Victoria Park Amendment (Signs on Thoroughfares) Local Law 2021*; and
2. Makes the *Town of Victoria Park Amendment (Signs on Thoroughfares) Local Law 2021* as at attachment 1, in accordance with section 3.12 of the *Local Government Act 1995*.

Purpose and effect

The purpose of this local law is to amend the *Town of Victoria Park Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2000* to more easily provide for the regulation of advertising display signage on thoroughfares.

The effect of this local law is to amend Part 3 and Schedule 1 of the *Town of Victoria Park Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2000*.

Purpose

To consider submissions received in relation to the proposed *Amendment (Signs on Thoroughfares) Local Law 2021* and make the *Amendment (Signs on Thoroughfares) Local Law 2021*.

In brief

- As required by law, consultation commenced on the proposed *Amendment (Signs on Thoroughfares) Local Law 2020* on 5 November 2020 and closed on 23 December 2020.
- It is recommended the *Amendment (Signs on Thoroughfares) Local Law 2021* be made with minor amendments.

Background

0. Council at its meeting on 20 October 2020 resolved to give notice of its proposed *Amendment (Signs on Thoroughfares) Local Law 2020*.
1. The Town of Victoria Park as a local government is responsible for the maintenance and management of approximately 180km of roads. As part of this role, local governments make local laws to manage activities on thoroughfares.

2. The Town currently manages activities on thoroughfares, including the display of advertising signs on them through the *Town of Victoria Park Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2000*. Under this local law, a person cannot display without a permit any sign that advertises something on a thoroughfare unless it is a “portable directional sign”. In 2019 this issue was brought to the Town’s attention in two cases:
 - a. An application for advertising on phone booths could not be accepted because the phone booth was located within three metres of the carriageway (kerb line) which is currently prohibited under clause 3.2 of the local law.
 - b. Businesses displaying “A-frame signs” advertising their business or stating “we’re open” with some contention as to whether they could be considered ‘portable direction signs’ under the local law.
3. Examining nearby local governments’ local laws, many have revisited and removed some of the regulations the Town currently has in place, often viewed as “red tape”. Some local laws such as those at the City of Vincent now make provision for “portable advertising signs” with a permit for local businesses.
4. Further information about the proposed law can be found in the report of 20 October 2020.

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. | Recognising that a local law may be out of date (which prevents advertising) demonstrates sound governance. |

| 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. | Removing “red tape” restrictions on businesses helps promote economic development and a vibrant business strip. |

Engagement

| Internal engagement | |
|---------------------|--|
| Stakeholder | Comments |
| Street improvement | Street improvement are supportive of the proposed amendments. |
| Assets | Assets are supportive of the proposed amendments if the Town can diversify its revenue income. |
| Place planning | Place planning are supportive of the proposed amendments as an economic development measure. |

External engagement

| | |
|-----------------------|--|
| Stakeholders | All community members |
| Period of engagement | 5 November 2020 to 23 December 2020 |
| Level of engagement | 2. Consult |
| Methods of engagement | Your thoughts and written submissions |
| Advertising | Southern Gazette Social Media Website Public notice boards Your thoughts monthly email |
| Submission summary | 1 submission received in support of the local law. |
| Key findings | The submitters support the local law. |

| Other engagement | |
|---|--|
| Stakeholder | Comments |
| Department of Local Government, Sport and Cultural Industries | The Department of Local Government, Sport and Cultural Industries provided a submission containing some brief comments regarding the proposed law. |
| Kott Gunning | The Town engaged Kott Gunning to provide legal advice in relation to the proposed law. |

Legal compliance

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

Risk management consideration

| Risk impact category | Risk event description | Consequence rating | Likelihood rating | Overall risk level score | Council's risk appetite | Risk treatment option and rationale for actions |
|----------------------|---|--------------------|-------------------|--------------------------|-------------------------|---|
| Financial | Increased administrative expenditure and loss of potential revenue due to | Moderate | Likely | High | Low | Treat risk by amending local law. |

| | | | | | | |
|--|---|----------|----------|--------|--------|---|
| | overly restrictive local law. | | | | | |
| Environmental | Not applicable. | | | | Medium | |
| Health and safety | Potential safety hazard on the footpath as a result of increased advertising signs. | Minor | Possible | Medium | Low | Treat risk by ensuring amended local law contains relevant provisions to protect access to the footpath and safety. |
| Infrastructure/ ICT systems/ utilities | Not applicable. | | | | Medium | |
| Legislative compliance | Not applicable. | | | | Low | |
| Reputation | Damage to reputation with businesses as Town's advertising law is seen as overly restrictive. | Moderate | Possible | Medium | Low | Treat risk by amending the local law to allow more signage where deemed appropriate. |
| Service delivery | Not applicable. | | | | Medium | |

Financial implications

| | |
|------------------------------|--|
| Current budget impact | Sufficient funds exist within the budget to address this recommendation. |
| Future budget impact | The Town will lose revenue from application fees for portable street signage (which currently attract a \$45 per application fee) However, given that there are few applications this would not represent a significant loss and would benefit local businesses. |

Analysis

- In accordance with section 3.12 of the *Local Government Act 1995*, prior to making any local law, the Town was required to give local public notice of the draft law and receive submissions from the public for at least six weeks. In total, the submissions period was open for 52 days. In that period, two

submissions from the public were received (Attachment 13.1.2). In addition, a submission was received from the Department of Local Government, Sport and Cultural Industries (DLGSC).

6. The DLGSC submission provided for technical amendments to the local law, which have been made.
7. With no objections received it is recommended that the Council make the amendment local law which will cut red tape for local businesses.

Relevant documents

Not applicable.

Further consideration

8. At the February 2021 Agenda Briefing Forum, Council requested further information. Answers are provided as follows.
9. Home open signs placed on Council verges generally do not require a permit given their small size and temporary nature of the placement.
10. All banner type signs require a permit given their height, placement and stability concerns within the road reserve.
11. Officers do not support any further amendments to clause 3.5(3).
12. The business owner has a duty of care to apply for the appropriate permits. Otherwise, banners may be impounded if found to be a hazard affecting pedestrians or other road users.
13. At the February 2021 Ordinary Council Meeting, an amendment was proposed to achieve the following:
 - a) Clause 3.5(2)(b) changed to read: is placed or erected on a thoroughfare on an infrequent or occasional basis to direct attention to a place, activity or event during the hours or that activity or event.
 - b) Clause 3.5 (4) - Remove the words 'direction sign and one portable advertising' so the clause reads: An owner or occupier of land, a building or part of a building may only erect, place or display one portable sign directly in front of their land or building pursuant to this clause 3.5 without first obtaining a permit.
14. Rather than consider the amendment, Council referred the item to the Policy Committee to get further clarification and advice on the local law clauses.
15. While the intent of the local law is to exempt signs similar to these home open signs from the requirement to obtain a permit (due to their size and temporary nature), it is recognised that the draft local law that was advertised did not allow for such an exemption under clause 3.5. This is based on the fact that in order to obtain an exemption from a permit requirement:
 - It is only the owner or occupier of land or buildings that may be given the exemption under clauses 3.5(2) - 3.5(4); and
 - The portable signs must be placed directly in front of the land or buildings under the same clauses.
16. As real estate agents generally do not own the land or buildings which are being advertised, they are effectively prohibited from displaying home open signage. To correct this unintended consequence, an additional sub clause 3.5(5) has been inserted into the local law to provide the necessary exemption from the requirement to obtain a permit for such advertising signage.
17. It is felt that the final local law is not significantly different from what was proposed in terms of section 3.12 of the *Local Government Act 1995*. Consequently, the requirements for local public notice etc. are not necessary, and the local law can be adopted without further advertising.

18. For clarification, this local law will apply to signs on thoroughfares only. In other instances, namely signs on private properties, the provisions of the Town's Signs Local Planning Policy will apply.

There were no questions asked or presentations made in relation to this item.

15.2 Review of Policy 014 - Appointment to outside bodies

| | |
|----------------------------|---|
| Location | Town-wide |
| Reporting officer | Coordinator Governance and Strategy |
| Responsible officer | Manager Governance and Strategy |
| Voting requirement | Simple majority |
| Attachments | 1. Policy 014 Appointment to outside bodies [15.2.1 - 1 page] |

Recommendation from the Policy Committee:

That Council repeals Policy 014 – Appointment to outside bodies as attached.

Purpose

To repeal Policy 014 – Appointment to outside bodies (Policy 014).

In brief

- Policy 014 was identified for review as part of the Council adopted policy work plan.
- The policy sets out the period of appointment to outside bodies for elected members.
- As the appointment of elected members to outside bodies is dealt with by Council resolution, it is recommended the policy be repealed.

Background

0. At its meeting on 20 April 2021, Council adopted a work plan to complete the review of a number of policies. Policy 014 was one of the policies identified for review.
1. Policy 014 was last reviewed by Council on 20 April 2021 as part of the minor review of policies. The only amendment made at this time was a change to the responsible officer.

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. | Policy 014 currently provides very little public value or guidance to Town officers. The repeal of this policy will not have a negative impact on this strategic outcome. |

Engagement

| Internal engagement | |
|----------------------------|---|
| Stakeholder | Comments |
| Elected members | Elected members were consulted on the Town's recommendation to repeal Policy 014 via the Councillor Portal. The comments received supported the repeal of Policy 014. |

Legal compliance

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

Risk management consideration

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

Financial implications

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

Analysis

2. The appointment of elected members to outside bodies is dealt with by Council resolution, usually following each ordinary election.
3. The period of appointment is set by the outside body and is included in the Council report.
4. As appointments to outside bodies are directly related to the role of an elected member, the period of appointment must be limited to the balance of the term of office of the elected member appointed.
5. As the appointment to outside bodies is adequately dealt with through the Council meeting process, it is recommended that Policy 014 be repealed.

Relevant documents

Not applicable.

There were no questions asked or presentations made in relation to this item.

15.3 Review of Policy 051 - Agenda Briefing Forum, Concept Forum and Workshops

| | |
|----------------------------|---|
| Location | Town-wide |
| Reporting officer | Coordinator Governance and Strategy |
| Responsible officer | Manager Governance and Strategy |
| Voting requirement | Simple majority |
| Attachments | <ol style="list-style-type: none">1. Policy 051 Agenda Briefing Forum, Concept Forum and workshops - final [15.3.1 - 5 pages]2. Policy 051 Agenda Briefing Forum, Concept Forum and Workshops - proposed amendments marked up [15.3.2 - 6 pages] |

Recommendation from the Policy Committee:

That Council:

1. Adopts the amended Policy 051 – Agenda Briefing Forum, Concept Forum and Workshops as attached.
2. Endorses the removal of the second public participation time at Agenda Briefing Forums, for a six-month trial.
3. Requests the Chief Executive Officer to present a report to the February 2022 Policy Committee meeting, to report the results of the six-month trial.

Purpose

To amend Policy 051 – Agenda Briefing Forum, Concept Forum and Workshops (Policy 051).

In brief

- Policy 051 was identified for review as part of the Council adopted policy work plan.
- Amendments are proposed to provide clarity on the purpose, structure and proceedings of the Town's informal (non-statutory) meetings.
- As part of the review of the *Town of Victoria Park Meeting Procedures Local Law 2019*, it has been suggested to remove the second opportunity for public participation at Council meetings. Prior to the Town undertaking the process to amend the local law, it is recommended to trial the removal of the second opportunity for public participation from Agenda Briefing Forums only, for a six-month period.

Background

0. At its meeting on 20 April 2021, Council adopted a work plan to complete the review of a number of policies. Policy 051 was one of the policies identified for review.
1. Policy 051 was last reviewed by Council on 20 April 2021 as part of the minor review of policies. Minor administrative amendments were made at this time however, a full review of the policy was not undertaken.

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. | Policy 051 sets out the Town's informal (non-statutory) meetings which aim to ensure elected members make informed decisions. |
| Social | |
| Strategic outcome | Intended public value outcome or impact |
| S02 - An informed and knowledgeable community. | Policy 051 informs and provides guidance to the public on the purpose, structure and proceedings of the Town's informal (non-statutory) meetings. |

Engagement

| Internal engagement | |
|---------------------|---|
| Stakeholder | Comments |
| Elected members | <p>Elected members were consulted on the review of Policy 051 and the proposed removal of the second public participation time at Agenda Briefing Forum's for a six-month trial, via the Councillor Portal.</p> <p>Amendments proposed have been incorporated into the draft policy. Comments received supported the trial removal of the second public participation time at Agenda Briefing Forum's for a six-month period.</p> |

Legal compliance

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

Risk management consideration

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

| | | | |
|------------------|--|--------|--|
| Reputation | Possible damage to the Town's reputation by limiting public participation to once during Agenda Briefing Forums. | Low | ACCEPT the risk for the duration of the six-month trial. |
| Service delivery | Not applicable | Medium | |

Financial implications

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

Analysis

2. The following amendments are proposed to Policy 051.

| Clause | Proposed | Reason |
|-------------------------|---|--|
| Definitions | Definition for deputations included. | To clarify that a deputation is a presentation made by up to five members of the public, on a particular item. |
| Various | Replaced the term 'meeting' with 'forum' throughout the policy. | For consistency, the term 'meeting' has been replaced with 'forum' throughout the sections relating to Agenda Briefing Forums and Concept Forums. |
| Clause 9, 10, 13 and 14 | Removed the term 'presentation'. | Presentations and deputations are listed in the order of business for Agenda Briefing Forums, in the public participation section. It is recommended that 'presentations' is removed from this section as members of the public can request to make a deputation which can include a presentation. 'Presentations' will be listed in the order of business for Agenda Briefing Forums before public participation section to allow officers to present if a request is made by an elected member. |
| Clause 15 | Removed 'and at the end'. | To enable the Town to enact a trial removal of the second public participation opportunity, 'and at the |

| | | |
|------------------|---|--|
| | | end' has been removed from clause 15 of the policy. |
| Clause 27 and 29 | Removed reference to 'the Presiding Member'. | To clarify who may invite a member of the public to attend a Concept Forum, reference to 'the Presiding Member' has been removed. |
| Clause 31 | New clause included. | Clause 31 has been included to guide Town officers on how to provide elected members with any further information that was requested at a Concept Forum. |
| Clause 34 | Included 'in consultation with the Presiding Member'. | To ensure consultation with the Presiding Member occurs in relation to the scheduling of workshops, 'in consultation with the Presiding Member' has been included. |

3. As part of the review of the *Town of Victoria Park Meeting Procedures Local Law 2019*, it has been suggested to remove the second opportunity for public participation at Council meetings.
4. The majority of local governments in Western Australia do not allow for a second opportunity for public participation at the end of the meeting.
5. Prior to the Town undertaking the process to amend the local law, it is recommended to trial the removal of the second opportunity for public participation from Agenda Briefing Forums only, for a six-month period.
6. The public will continue to have the opportunity to make deputations on an item, ask questions and make statements at the beginning of each Agenda Briefing Forum.
7. As there are no Agenda Briefing Forums held during January, the proposed trial period will commence in August 2021 and finish in February 2022.
8. The draft policy incorporates the amendments proposed by elected members during the consultation period and the amendment to enact the removal of the public participation opportunity at the end of Agenda Briefing Forums.
9. Other minor amendments are proposed and are marked up in Attachment 1.
10. The proposed amendments provide clarity to the public, elected members and Town officers, on the proceedings of the Town's informal (non-statutory) meetings.
11. It is recommended that the amended policy be adopted.
12. A report on the outcome of the trial will be provided to the Policy Committee in February 2022.

Relevant documents

[Town of Victoria Park Meeting Procedures Local Law 2019](#)

There were no questions asked or presentations made in relation to this item.

15.4 Adoption of Policy 011 - Elections

| | |
|----------------------------|--|
| Location | Town-wide |
| Reporting officer | Manager Governance and Strategy |
| Responsible officer | Acting Chief Executive Officer |
| Voting requirement | Simple majority |
| Attachments | <ol style="list-style-type: none">1. Policy 011 Elections [15.4.1 - 6 pages]2. Policy 011 Caretaker [15.4.2 - 8 pages]3. Policy 012 Street listing of owners and occupiers [15.4.3 - 2 pages]4. Policy 013 Electoral signs [15.4.4 - 2 pages] |

Recommendation from the Policy Committee:

That Council:

1. Repeals:
 - a. Policy 011 Caretaker, as at attachment 2
 - b. Policy 012 Street listing of owners and occupiers, as at attachment 3
 - c. Policy 013 Electoral signs, as at attachment 4.
2. Adopts Policy 011 Elections, as at attachment 1.

Purpose

To review Policy 011 Caretaker, Policy 012 Street listing of owners and occupiers and Policy 013 Electoral signs, and have Council adopt a consolidated policy, Policy 011 – Elections.

In brief

- At the April 2020 Ordinary Council Meeting, Council resolved for the Chief Executive Officer to conduct a review of the three policies relating to elections. The review was conducted and presented to the September Policy Committee. The Policy Committee resolved to defer the proposed policy to the November Concept Forum.
- The caretaker policy was adopted in 2016, with the other two policies being policies carried over from the City of Perth in 1994.
- It is proposed to merge the policies together into one election policy and focus on, where possible, simplifying and clarifying the policy.
- The Town's policy on electoral signs was inconsistent with its own local law in respect of electoral signage and this inconsistency needs to be addressed.
- The policy is resubmitted for consideration following discussion at November and May Concept Forums.

Background

1. At its meeting on 21 April 2020, Council adopted a work plan to complete the review of several policies. Policies 011 Caretaker, 012 Street listing of owners and occupiers and 013 electoral signs were policies identified for review.
2. At its meeting on 28 September 2020, the Policy Committee considered the proposed policy and referred it to the November Concept Forum.

3. Policy 011 Caretaker was adopted by Council at its meeting on 8 November 2016, however it previously existed as a different policy regarding publishing matters about elected members during an election year.
4. Policies 012 and 013 based upon the Council report of 28 September 1999, were part of the City of Perth Policy Manual of 1994 and have remained broadly unchanged since then.
5. The caretaker policy establishes a caretaker period prior to an ordinary election to help promote appropriate decision making and use of public resources prior to an election.
6. A street listing of owners and occupiers is also known as a ratepayer roll and can be sourced by any member of the public for a \$190 fee after they make a statutory declaration that it will not be used for commercial purposes.
7. The Town has provisions relating to electoral signs in the Activities on *Throughfares and Trading on Throughfares and in Public Places Local Law 2000*.

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. | Ensuring the appropriate use of public resources and sound decision making during an election ensures the delivery of this strategic outcome. |

| Social | |
|--|---|
| Strategic outcome | Intended public value outcome or impact |
| S02 - An informed and knowledgeable community. | Ensuring proper promotion of the election helps to inform the community of their opportunity to vote. |

Engagement

| Internal engagement | |
|-----------------------|--|
| Stakeholder | Comments |
| Stakeholder relations | Feedback, particularly in relation to media and communications was provided. |
| Street improvement | Feedback relating to electoral signs was provided. |
| Rangers and parking | Feedback relating to electoral signs was provided. |
| C-Suite | C-Suite members supplied general feedback in relation to the proposed policy. |
| Elected members | <ul style="list-style-type: none"> • Elected members provided feedback through the September 2020 Policy Committee meeting. • Elected members provided feedback through the November 2020 Concept Forum. • Elected members provided feedback through the February Policy 2021 Committee meeting. • Elected members provided feedback through the May 2021 Concept Forum. |

Legal compliance

8. The Town sought legal advice about the extent to which it could prohibit election signs. Based upon a series of court decisions and the Town's current local law it is not proper for policy to prohibit signs on thoroughfares. It can however utilise the permit system required under the *Activities on Thoroughfares and Trading on Thoroughfares and in Public Places Local Law 2000*.
9. The Town sought legal advice on whether candidates for state and federal elections should be prohibited from campaigning at Town events. Summary of the legal advice:
 - There is a constitutionally implied right to freedom of communication on matters relevant to political discussion. Because of the constitutionally implied right to freedom of communication on political discussion, there are restrictions on the ability of the local government to legislate to restrict the transmission of political advertisements and campaigning at Town events during election periods.

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

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

Risk management consideration

| Risk impact category | Risk event description | Consequence rating | Likelihood rating | Overall risk level score | Council's risk appetite | Risk treatment option and rationale for actions |
|----------------------|--|--------------------|-------------------|--------------------------|-------------------------|--|
| Financial | Not applicable. | | | | Low | |
| Environmental | An extensive amount of unregulated election signs litter thoroughfares. | Minor | Likely | | Medium | Accept - It is still a breach of the local law to display electoral signs without a permit and it would be unlikely that the Town would grant such an extensive number of permits for electoral signs. |
| Health and safety | An extensive amount of unregulated election signs creates hazards for motorists. | Minor | Likely | | Low | Accept - It is still a breach of the local law to display electoral signs without a permit and infringements can be issued if a significant hazard is created. |

| | | | | | | |
|--|--|---------------|----------|--------|-----|---|
| Infrastructure/ ICT systems/ utilities | Not applicable. | | | | | Medium |
| Legislative compliance | The resources of the Town are used for electoral purposes. | Insignificant | Possible | Low | Low | Accept - The Rules of Conduct provide that this is a minor breach. |
| Reputation | The Council makes decisions in the lead up to the election that influence the election outcome. | Moderate | Possible | Medium | Low | Treat - By maintaining a caretaker period. |
| Service delivery | Not applicable. | | | | | Medium |

Financial implications

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

Analysis

Review of Policy 011 Caretaker

0. The version of the caretaker policy adopted by Council in 2016 was a copy of the template policy produced by the Western Australian Local Government Association (WALGA). This template has since been changed by WALGA which has been considered in this review. The WALGA template policy is quite complex and in undertaking the review the opportunity was taken to simplify the policy where possible.
1. The current policy is unclear in how it applies to several digital communication methods. This has been identified as an opportunity for improvement in the current policy.
2. Queries arose this year as to if the policy applies to an extraordinary election. It is recommended to resolve this question through this review. The Town did not apply the policy to this year's extraordinary election because:
 - (a) The adopted policy did not specify that it applied to extraordinary elections and the report adopting it and clauses direct themselves at an ordinary election;
 - (b) At other levels of government, a caretaker policy does not apply to a 'by-election'.
 - (c) the primary goal of the policy is intended to prevent 'decisions that would bind an incoming council' and 'promoting the re-election of sitting members or new candidates'. There is no sitting member in an extraordinary election and the majority of members had already been elected.

Review of Policy 012 Street listing of owners and occupiers

3. In examining this policy, the Town has established that an elected member has not requested a street listing in a number of years. The street listing or rates roll is available for members of the public to buy for \$190. However, members of the public also have to supply a statutory declaration that they are not utilising it for a commercial purpose, such as a real estate agent using it to contact property owners.
4. In considering the review of this policy the Town considered if it is right for elected members to receive free of charge the ratepayers roll, without the statutory declaration. Having examined other neighbouring local governments, and those local governments created by the splitting up of the City of Perth in 1994, none of these councils have a similar policy.
5. Given that a policy such as this is not kept by other local governments and creates an entitlement for elected members that other persons have to supply payment and a statutory declaration for, it is recommended that this policy be repealed.
6. Elected members and candidates can always access a copy of the electoral roll from the CEO or Returning Officer which is updated following the close of rolls at each election. If an elected member sought a copy of a street listing/rates roll they would be able to access it on the same basis as any other member of the public.

Review of Policy 013 Electoral Signs

7. There were a number of complaints given to the Town and Returning Officer during the last ordinary election in relation to election signs. These signs were displayed along a mixture of thoroughfares as well as parks. No permit was issued to display these signs on public property.
8. In preparing the *Amendment (Signs on Thoroughfares) Local Law 2020* and preparing the review of the electoral signs policy the Town identified that the policy was inconsistent with the local law. The Town cannot have a policy that overrides a local law. In preparing both documents, legal advice was obtained that the Town could not prohibit electoral signs on thoroughfares as this would likely be struck down by the Joint Standing Committee on Delegated Legislation.

Proposed Policy 011 Elections

9. It is proposed as a result of the review to repeal the three policies and adopt one policy to replace it. This policy combines portions of the original three policies and provides one guideline for all matters relating to elections.

Caretaker period

10. This policy establishes the caretaker period is starting from the date of the opening of nominations being 44 days prior to Election Day in accordance with Section 4.49(a) of the *Local Government Act 1995*, until 6pm on Election Day.
11. The caretaker period seeks to prevent, where possible, four key things from occurring during the caretaker period:
 - Major decisions;
 - Community engagement;
 - Town events; and
 - Media and publications that promote sitting elected members
12. The caretaker period does not apply in an extraordinary election unless four or more elected members are up for election.

Major decisions

13. This section establishes how major decisions are to be dealt with in the caretaker period.

Community engagement

14. This section supports how community engagement occurs during the caretaker period.

Events and functions

15. This section sets out that elected members that are also candidates should not be permitted to make speeches or addresses at events and functions organised or sponsored by the Town during the caretaker period.

Media

16. This section sets out a number of provisions around the Town's media and communications materials during the caretaker period. It is changed from the current provisions to be clearer about what is and isn't allowed in communications materials.

Promotion of the election

17. These clauses establish that the Town should promote in a suitable and a-political way elections to remind community members to vote and promote nominating for the local government elections.

18. These clauses also establish that the promotion should reach as many people and demographic groups as possible.

19. Finally, it is expected that the Town will arrange a candidate information session for local government elections.

Use of Town resources

20. These two clauses reinforce the principle that the Town's resources are not to be used for electoral purposes. This is proposed to include federal and state elections in addition to local government elections.

Elected Member Access to Information

21. This clause notes that during the Caretaker Period, Elected Members can access Council information relevant to their role as an Elected Member. Any Council information accessed must not be used for electoral purposes.

Election signs

22. The following five clauses capture the relevant rules about elections signs, which are:

- a) They are not allowed on parks, administrative or recreational facilities;
- b) They are allowed on throughfares, with a permit;
- c) If they are in a place they are not allowed, they will be removed and if appropriate, an infringement will be issued to the person who authorised the material.
- d) The CEO will ensure this is communicated to candidates.
- e) These clauses apply to all elections including local, state, or federal.

Electoral roll and rates roll

23. These two clauses deal with the ability of candidates and other people to obtain copies of the electoral roll and rates roll.

Changes made to the Elections Policy

24. The following changes have been made to the Elections Policy as an outcome of the Policy Committee discussions from February 2021 -

| Clause / section | Change | Reason |
|--|--|---|
| Policy definitions - extraordinary circumstances | Definition for extraordinary circumstances refined so that all points are under the Chief Executive Officer's opinion. | To ensure that all 3 points under this definition are consistent. |
| Policy definitions – major decision | Definition for major decision amended to reference major trade undertaking rather than a commercial enterprise. | The change was made to include definition of the major trading undertaking. |
| Policy definitions | New definition added - community engagement events. | To provide clarity on which events are considered as community engagement events. |
| Policy definitions | New definition added – events and functions. | To provide clarity on which events are considered as events and functions. |
| Events - clause 6 | Clause 6 renamed to events and functions. | Events and functions term added under definitions to provide more clarity. |
| Events - clause 6a | <p>Clause deleted</p> <p><i>To give effect to clause 1.c, the Chief Executive Officer should: ensure that all ongoing or planned events are held prior to the caretaker period or scheduled to begin following the election.</i></p> | <p>Clause 6a has been deleted to allow for events to be scheduled during the caretaker period. Community should be able to attend events during the caretaker period. It is proposed that elected members that are also candidates are not permitted to speak at events during the caretaker period.</p> <p>If the Elections Policy is adopted by Council in August and clause 6a stays in the policy, the Town will have to cancel all events scheduled during the caretaker period (reputational risk).</p> |
| Events - clause 6b | <p>Clause deleted</p> <p><i>Where events are held, beside a meeting of Council or citizenship</i></p> | Elected members are invited to attend events in their capacity |

| | | |
|--|---|--|
| | <i>ceremony, invite all candidates for the election in addition to elected members.</i> | as councillors and not as candidates. |
| Events – clause 8 replaced with clause 7 | <p>Clause added</p> <p><i>Elected members that are also candidates are not be permitted to make speeches or addresses at events/functions organised or sponsored by the Town and community engagement events during the caretaker period.</i></p> | <p>Elected members that are also candidates should not be permitted to make speeches or addresses at events and functions organised or sponsored by the Town during the caretaker period as this could be perceived as electioneering and would not be fair to candidates who are not elected members.</p> |

Relevant documents

Not applicable.

There were no questions asked or presentations made in relation to this item.

15.5 Review of Council Policy 406 - Temporary Food Businesses and Itinerant Food Vendors

| | |
|----------------------------|---|
| Location | Town-wide |
| Reporting officer | Manager Development Services |
| Responsible officer | Acting Chief Community Planner |
| Voting requirement | Simple majority |
| Attachments | <ol style="list-style-type: none"> 1. Policy-406- Temporary- Food- Businesses-and- Itinerant- Food- Vendors [15.5.1 - 4 pages] 2. Pages from OC M-minutes-20- August-2019 (1) [15.5.2 - 10 pages] |

Recommendation from the Policy Committee:

That Council support the retention of Policy 406 – Temporary Food Businesses and Itinerant Food Vendors as contained at Attachment 1; subject to an additional point be added as follows:
 d) Ice cream trucks to be exempt from the above.

Purpose

Council Policy 406 – Temporary Food Businesses and Itinerant Food Vendors (Policy 406) was adopted at the Ordinary Council Meeting in August 2019. Council also resolved at the meeting to review the policy after 18 months *“to measure its success and consider any changes that could be made to address the needs of all stakeholders.”* This report reviews the policy as per Council’s resolution.

In brief

- The current policy permits mobile food vendors to trade at authorised events only. An earlier version of the draft policy had proposed to allow mobile food vendors, with a permit, to operate at 12 areas of public open space across the Town.
- The economic impact of COVID-19 has been significant upon existing food premises within the Town.
- Even prior to COVID-19, a number of existing food premises raised significant concerns about the financial impact of mobile food vendors on the economic viability of their business.
- These concerns would have only been compounded by the impact of COVID-19.
- On this basis, it is recommended that Policy 406 be retained in its current form, only allowing mobile food vendors to operate in association with authorised events.

Background

1. In early 2018, preliminary consultation was undertaken with the community in relation to permitting mobile food vendors, with a permit, to trade at a number of public open spaces throughout the Town.
2. Following a general level of support, a draft policy was prepared which would have allowed mobile food vendors to trade at 12 areas of public open space across the Town. This draft policy was the subject of community consultation and resulted in concerns being expressed largely by existing ‘bricks-and-mortar’ food premises.
3. Following consideration of the public submissions received, and a workshop convened with local businesses, officers reconsidered the merits of the proposed policy. Town officers made the following comments in the report presented to the August 2019 Ordinary Council Meeting:

“The workshop held with local businesses has underscored the significant financial strain that a number of local businesses within the Town find themselves under and the low confidence and outlook that a number of local businesses have within the current economic climate. On balance, the moderate amenity benefits that may be enjoyed by local residents supportive of mobile food vendors at public open spaces within the Town is not considered to offset the potentially more significant and deleterious impacts to local business confidence and customer trade in the current economic climate. Local businesses also refer to the decline of bricks and mortar businesses in established commercial strips in other metropolitan local government areas and contend that one of a number of the factors that has contributed to this, is mobile food vendors.

In view of the above, it is recommended that Council no longer progress implementation of a trial of mobile food vending at several public open spaces within the Town, and that the current practice of only allowing trading associated with authorised events continue to remain.”

4. Council supported this position at its August 2019 Ordinary Council Meeting and resolved to adopt Policy 406, and to review the policy in 18 months' time (see Attachment 2).

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. | The policy outlines the Town’s approach to mobile food vending and provides certainty and clarity to existing and prospective businesses. |

Engagement

Extensive community consultation was undertaken prior to the adoption of the current policy in August 2019. This is detailed in Attachment 2.

No consultation has been undertaken as part of this review.

Legal compliance

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

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

Risk management consideration

| Risk impact category | Risk event description | Consequence rating | Likelihood rating | Overall risk level score | Council’s risk appetite | Risk treatment option and rationale for actions |
|----------------------|------------------------|--------------------|-------------------|--------------------------|-------------------------|---|
| Financial | N/A | | | | | |
| Environmental | N/A | | | | | |
| Health and safety | N/A | | | | | |
| Infrastructure/ | N/A | | | | | |

| | |
|---------------------------|---|
| ICT systems/ utilities | |
| Legislative compliance | N/A |
| Reputation | <p>Significant concerns from existing food businesses if the Town were to allow mobile food vendors to trade in public places, particularly given the impact of COVID-19.</p> <p>Moderate Likely Medium Low</p> <p>TREAT by retaining the current policy position.</p> |
| Service delivery | N/A |

Financial implications

| | |
|------------------------------|----------------|
| Current budget impact | Not applicable |
| Future budget impact | Not applicable |

Analysis

5. Policy 406 has been effective in clarifying Council’s requirements in relation to mobile food vendors.
6. There have been no issues identified by officers in the administration and use of the policy.
7. Furthermore, officers are not aware of any feedback from mobile food vendors that the policy is unworkable or has negatively impacted upon their business viability.
8. When Council resolved in August 2019 to undertake a review of the policy in 18 months' time, it may have been expected that this would have been a comprehensive review potentially involving further consultation with both existing food business operators and mobile food vendors.
9. However, with the subsequent COVID-19 pandemic and the implications upon existing food premises, it is immediately evident that any modifications to the current policy, so as to allow greater flexibility for mobile food vendors to operate, would have a negative impact upon existing food premises and potentially further exacerbate the strain that they have already faced from COVID-19.
10. In this context, further consultation with the community is only likely to result in further concerns from the operators of existing food premises at the prospect of mobile food vendors being allowed greater reign to operate and further impact upon their business viability, or set unrealistic expectations for mobile food vendors that there is a prospect of the Town supporting more flexible arrangements for them at this point in time.

11. In conclusion, it is difficult to measure the success of the policy given the impact of COVID-19 upon both existing food premises as well as mobile food vendors. However, there have been no issues identified with the operation of the current policy, and in view of the impact of COVID-19 there is no basis for Council to depart from its current policy position, which was founded upon concerns about the impact of mobile food vendors on existing 'brick and mortar' food premises, already operating in a difficult financial climate prior to COVID-19.

12. Accordingly, it is recommended that Policy 406 be retained without modification.

Relevant documents

Nil.

There were no questions asked or presentations made in relation to this item.

16 Motion of which previous notice has been given

Nil.

17 Public participation time

Nil - no public questions or statements were received prior to the meeting.

18 Questions from members without notice on general matters

Cr Vicki Potter

1. Has a date been set for the Special Meeting of Electors? Will it be before the Ordinary Council Meeting?

Mayor Karen Vernon advised that the Special Meeting of Electors is to be rescheduled for Thursday 22 July. This was the earliest date possible following the State announcements on Friday 2 July 2021, adhering to the Local Government Act's requirement of 14 days notice and for a public notice to be placed in a newspaper. It is after the July Ordinary Council Meeting.

19 Confidential matters

Nil.

20 Closure

There being no further business, Mayor Karen Vernon closed the meeting at 8:33pm.

I confirm these minutes to be true and accurate record of the proceedings of the Council/Committee.

Signed:
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Dated this: Day of: 2021