

# minutes

Elected Members Briefing  
Session



To: His Worship the Mayor and Councillors

Please be advised that an Elected Members Briefing Session commenced at **6.30pm** on **Tuesday 3 April 2018** in the **Council Chambers**, Administration Centre at 99 Shepperton Road, Victoria Park.

A handwritten signature in black ink, appearing to read "A Vuleta".

**MR ANTHONY VULETA**  
**CHIEF EXECUTIVE OFFICER**

**10 April 2018**

## 1 OPENING

Mayor Vaughan opened the meeting at 6:33pm.

## 2 ANNOUNCEMENTS FROM THE PRESIDING MEMBER

### 2.1 Recording of Proceedings

In accordance with clause 5.14 of the Town of Victoria Park Standing Orders Local Law 2011, as the Presiding Member, I hereby give my permission for only the Administration to record proceedings of this meeting.

### 2.2 Public Question & Public Statement Time

There are guidelines that need to be adhered to in our Council meetings and during question and statement time people speaking are not to personalise any questions, or statements about Elected Members, or staff or use any possible defamatory remarks.

### 2.3 No Adverse Reflection

Both Elected Members and the public when speaking are not to reflect adversely on the character or actions of Elected Members or employees.

### 2.4 Town of Victoria Park Standing Orders Local Law 2011

All meetings of the Council, committees and the electors are to be conducted in accordance with the Act, the Regulations and the *Town of Victoria Park Standing Orders Local Law 2011*.

## 3 ATTENDANCE

<b>Mayor:</b>	Mr T (Trevor) Vaughan
<b>Banksia Ward:</b>	Cr C (Claire) Anderson Cr J (Julian) Jacobs Cr R (Ronhhda) Potter Cr K (Karen) Vernon
<b>Jarrah Ward:</b>	Cr J (Jennifer) Ammons Noble Cr B (Bronwyn) Ife Cr B (Brian) Oliver Cr V (Vicki) Potter (Deputy Mayor)
<b>Chief Executive Officer:</b>	Mr A (Anthony) Vuleta
<b>Chief Operations Officer:</b>	Mr B (Ben) Killigrew
<b>Chief Financial Officer:</b>	Mr N (Nathan) Cain
<b>Chief Community Planner:</b>	Ms N (Natalie) Martin Goode
<b>Manager Development Services</b>	Mr R (Robert) Cruickshank
<b>Secretary:</b>	Mrs A (Alison) Podmore
<b>Public:</b>	10

**3.1 Apologies**

Nil

**3.2 Approved Leave of Absence**

Nil

**4 DECLARATIONS OF INTEREST****Declaration of Financial Interests**

Nil

**Declaration of Proximity Interest**

Nil

**Declaration of Interest affecting impartiality**

Nil

**5 PUBLIC QUESTION TIME**Vince Maxwell

1. Do you think that the records system has a selective black hole in it? How can anyone have confidence in the accountability of the Town, with the current way records are or are not kept? Record keeping is a statutory requirement; what are you going to do about it?  
R. The Chief Executive Officer, Mr Anthony Vuleta advised that there has been a review undertaken of the records system. There is a new system upgrade being put in place and there is a management practice associated with the record keeping system, in an endeavour to improve the way the Town's records are managed.
2. Who was the author of the Town's submission of the Local Government Act review? The submission was made on 9 March 2018, when did Council endorse the submission?  
R. The Chief Executive Officer, Mr Anthony Vuleta advised that the document came from the Administration, from the Governance Advisor and himself. Council doesn't have a position on it, they didn't lodge a formal position to the Department.

3. Was Council given the opportunity to look at the submission?
- R. The Chief Executive Officer, Mr Anthony Vuleta said that by way of report to Council they received no report from officers in relation to this, largely due to the Administration being on leave during that period. All Councillors are made aware as well as government administration officers are able to make a submission, also through professional associations, anyone had the right to make a submission.
4. Why is the City of Joondalup's submission 97% word for word identical to the Town of Victoria Park's submission? Have we now outsourced our policy making to the City of Joondalup?
- R. The Chief Executive Officer, Mr Anthony Vuleta said he suspected it was because one of the officers here, the Governance person, is a Councillor at the City of Joondalup and was also privy to what their submission was and rather than regurgitating the entire submission again, he went through, had a look at what was good in that submission and then put the Town's in.

#### Eugenie Stockman

1. In relation to trees and landscaping in Item 11.3, is a development that is unable to comply with minimum landscaping requirements, how does that comply with increasing vegetation and tree canopy? How come that a proposal, that can't meet minimum landscaping requirements, can they claim that planting four (4) extra trees, two (2) on the setback and two (2) on council's land, increases vegetation and tree canopy cover?
- R. The Manager Development Services, Mr Robert Cruickshank advised that on page 39 of the report, it acknowledges that the development does not meet the deemed-to-comply standard and requires a Design Principles assessment, which means it requires an assessment on its merits. With regard to whether the alternative is acceptable or not, the report has been authored by a planning consultant, expresses the view that the landscaping that is now provided is satisfactory.
2. If I look at the facts, how can the report claim that it meets two (2) of the three (3) principles – one being whether it would be like if Council would approve such an application again if it came before them and the second being whether the development has substantially commenced; if you consider those two (2) principles then it would be incorrect to assume that this Council would make the decision again?
- R. The Manager Development Services, Mr Robert Cruickshank said that with respect to the two (2) principles, the first one mentioned was whether the development would receive approval now, the Administration can only speculate whether it would receive approval now or not, however, as mentioned in the report, there really hasn't been any material changes to the planning framework, since the last approval was granted. Yes, there has been a strategic community plan adopted by the Council, but it has not filtered through into the planning framework. Yes, there is an Urban Forest Strategy that has been prepared, however it is in draft form and hasn't been to Council for consent to go out for advertising. So I would suggest, but again only speculating, that if the same development was to come in today, it would receive approval. That would be a decision of Council to make, but suggests that the Administration's recommendation would be for approval, for those very reasons.

In terms of the comments, whether the planning framework has substantially changed, Ms Stockman made some comments about whether the development had substantially commenced, the actual test is about whether the planning framework had substantially changed, not whether or not the development had substantially commenced. It is acknowledged that the development hasn't commenced and it is for that very reason that the applicant has applied for an extension of time.

3. The report clearly states there is three (3) principles that need to be met, you responded to one (1) principle, the other is whether the work has substantially commenced and the other whether it is likely that the Council would make the same decision. The report clearly says 'and, and, and'.
- R. The Manager Development Services, Mr Robert Cruickshank said he needed to correct that statement. On page 44 it makes reference to the three tests.

The first bullet point states:

- *Whether the planning framework has substantially changed since the development approval was granted;* Mr Cruickshank believes he answered that question.

Second point:

- *Whether the development would likely receive approval now;* Mr Cruickshank believes he answered that question.

The third matter:

- *Whether the Applicant has actively and relatively pursued the implementation of the development approval.* Mr Cruickshank had not been asked to answer that, but there is commentary in the report that touches on it.

4. Why does this Council propose or have a general practice of a 24 month extension?
- R. The Manager Development Services, Mr Robert Cruickshank said that it has been the Council's standard to grant a 24 month approval, but that is not to say that this Council can't consider alternative time periods, if it considered that appropriate, but that is a decision for this council to make.

## 6 PUBLIC STATEMENT TIME

### Eugenie Stockman

Made a statement regarding Item 11.3 on the agenda and is at the meeting tonight as she is the adjoining property owner. Ms Stockman expressed her concerns and encouraged the need for change.

## **7 CONFIRMATION OF MINUTES**

### **RESOLVED:**

**Moved: Cr V Potter**

**Seconded: Cr Vernon**

**That the minutes of the Elected Members Briefing Session meeting held on Tuesday, 6 March 2018 be confirmed.**

**The Motion was Put and**

**CARRIED (9-0)**

**In favour of the Motion: Mayor Vaughan; Cr Ammons Noble; Cr Anderson; Cr Ife; Cr Jacobs; Cr Oliver; Cr R Potter; Cr V Potter; and Cr Vernon**

## **8 PRESENTATIONS**

### **8.1 Petitions**

Nil

### **8.2 Presentations (Awards to be given to the Town)**

Nil

### **8.3 Deputations (Planning / External Organisations)**

Item 11.1 Steve Allarding from Allarding & Associates was in attendance to discuss this application.

Item 11.2 Daniel Martinovich from Mirvac CLE Town Planning and Design, the applicant, were in attendance to discuss this application.

Item 11.3 Julia Moffatt Planning consultant was in attendance to discuss this application.

## **9 METHOD OF DEALING WITH AGENDA BUSINESS**

## 10 - 14 REPORTS

### Section 1:

No questions were asked in relation to the following:

- Item 11.1 973 (Lot 17) Albany Highway, East Victoria Park – Applications for Amendment to Development Approval
- Item 11.2 Proposed Local Development Plan No.1 – Portion of Lot 9506 Victoria Park Drive, Burswood (proposed Lots 169 – 185)
- Item 11.3 No. 94 (Lot 446) Rutland Avenue, Lathlain – Amendment to Development Approval for Demolition and Construction of Six (6) Multiple Dwellings – Section 31 reconsideration
- Item 11.4 Petition Relating to Development Application for Convenience Store, Fast Food Outlet and Signage at 232 (Lot 310) Orrong Road, Carlisle
- Item 14.1 Recommendation from the Finance and Audit Committee: Schedule of accounts for 28 February 2018
- Item 14.2 Recommendation from the Finance and Audit Committee - Financial statements for the month ending 28 February 2018
- Item 14.3 Recommendation from the Economic Development Committee – Telstra Perth Fashion Festival 2017 Sponsorship Evaluation

### Section 2:

Council Agenda Modifications; Additional Information Sought; Questions and Responses – in relation to the following:

#### **Item 11.2 Proposed Local Development Plan No.1 – Portion of Lot 9506 Victoria Park Drive, Burswood (proposed Lots 169 – 185)**

#### Council Agenda Modifications:

Nil

#### Additional Information Sought:

Nil

#### Questions / Responses:

#### Cr lfe

1. There is a number of developments that already have delegated authority; is this one that needs specifically to be approved or do we already have it on the basis of our existing planning requirements?
- R. The Manager Development Services, Mr Robert Cruickshank advised that this is the first local development plan that has come before Council. Local Development Plans (LDP's) are a planning instrument that are reasonably well used in other Local Governments, but the Town hasn't had that instance happen over time. Currently in the delegations from Council to Council officers, there is no such delegation dealing with LDP, so that is the very reason this item is before Council tonight. In particular, the applicant has requested, not necessarily for a delegation for future LDP's, which

may have merits, but it is more so being clear in the Council resolution that if the applicant was to make the changes that are being requested, then the LDP would then be signed off by the Council Officers. There is some concern, unless otherwise stated, there could be the case that the Council resolution in a similar form to this is adopted for the applicant to go and make some changes and then that LDP has to come back to Council again to say 'yes, you have made your changes, now it is approved'. Certainly happy to accept that change or consider that change, ultimately it is the Council's decision, but there certainly would be merit in that from Mr Cruickshank's perspective.

#### Cr Vernon

1. Can you address the point raised by the delegate petitioner that Councils are not to place conditions on Local Development Plans (LDP's)?
- R. The Manager Development Services, Mr Robert Cruickshank said as mentioned before, this is the first LDP that the Administration has had to deal with, so the Town don't have a whole lot of experience or exposure to LDP's but would be happy to look into that further before the Ordinary Council Meeting. If I maybe could take the opportunity to respond to two (2) conditions that the applicant did request for deletion. Firstly, condition 1.1 related to the matter of noise. Mr Cruickshank said he spoke to the applicant earlier in the day about the very issue that was raised and can see that there may be some merit in that argument, so it would be fair to say, that comments are heard and the Administration would reconsider their position over the next few days and will advise as to whether they agree with the applicants position or not. The Administration will advise the applicant as well as Elected Members on whether they agree for condition 1.1 to be modified or deleted. In relation to condition 1.2, which is a condition essentially saying that the LDP should have a provision for every development facing Bow River Crescent, there is an upper floor over the garage, I did hear and note the comments from the applicant. It should be made clear that it is not mandatory that there has to be a habitable room or an upper floor over the garage, essentially what is being suggesting is that the starting point that would be going in a LDP is a presumption that there should be an upper floor over the garage. If in a particular instance the applicant proposed a single storey element facing onto Bow River Crescent, that doesn't necessarily rule that out, what that means, is that applicant then needs to apply for planning approval because they would be varying the provision of LDP and the Administration would consider each application on its merits. It wouldn't necessary preclude the applicant from having single storey it would just require a development assessment and an application to be made in each instance and considered on its merits. The Administration could agree to some units not having an upper floor over the garages in those instances. Mr Cruickshank's view would be that recommendation 1.2 should stay.



**Item 11.3 No. 94 (Lot 446) Rutland Avenue, Lathlain – Amendment to Development Approval for Demolition and Construction of Six (6) Multiple Dwellings – Section 31 reconsideration**Council Agenda Modifications:

Nil

Additional Information Sought:

Nil

Questions / Responses:Cr lfe

1. Can I have clarity from the Town's planning staff of their interpretation on condition 1.13, on what you believe it to mean?
- R. The Manager Development Services, Mr Robert Cruickshank advised that according to the relevant table in the State Planning Policy (SPP), in particular instances, there is a need for certain noise mitigation measures to be built into the design of the development. Depending upon the extent of the noise levels there is different packages, as they are called. There is packages a, b and c. Package (a) is the lowest range of mitigation measures that need to be incorporated. The calculations are, that this development would fall into package (a). As it is understood from the SPP there are a range of different measures outlined, that if the applicant was to adopt all of package (a) measures, including things like window glazing, seals around windows, and one does talk about a 2 metre high fence on the front boundary then that would comply with the package (a) requirement and satisfies that. That is not to say that the applicant can't do other measures. Mr Cruickshank understands that if the applicant did not wish to install the 2 metre high fence as per the package (a) requirements, if they were to engage a suitable noise consultant who could justify why the requirement may not be relevant and how they have otherwise addressed the issue that an alternative could be accepted. Yes, on the face of it, to comply with package (a) there should be a 2 metre high fence, but there is an alternative path that the applicant could go down to otherwise comply.

The Chief Community Planner, Ms Natalie Martin Goode added that the SPP 5.4 is that, it is a State Planning Policy. The majority of Local Governments in WA are required to comply with that. This is not a new requirement, other Local Governments will use that as a standard condition of approval.

Cr Vernon

1. With regards to State Planning Policy 5.4, this doesn't appear to have been a requirement when this application was first presented to Council, prior to them making an extension to Council last year and again when they made their application for their application for their extension last year, this wasn't referred to; is there a reason why reference to an imposition of a requirement of SPP 5.4 was not made known to these applicants, prior to 29 March 2018, as the delegate representative indicated?

- R. The Manager Development Services, Mr Robert Cruickshank said there was no good reason and in hindsight such a condition should have been imposed, and now that the Administration has considered it, there is a SPP that applies and it should be now properly applied. The previous wording that tried to achieve some similar purposes really is not prescriptive enough and does not refer to the applicable policy.
2. In giving that answer, does that indicate that there currently no development applications that have come before Council and approved by Council in the past that have had such a requirement imposed upon them?
- R. The Manager Development Services, Mr Robert Cruickshank advised that there has been applications where applicants have provided an acoustic report at development application stage, thus demonstrating whether the development complies or not. Mr Cruickshank does not believe there have been any developments where Council have imposed such a specific condition about the SPP.

#### Cr Oliver

1. Is it at Council's discretion whether it imposes the State Policy?
- R. The Manager Development Services, Mr Robert Cruickshank said that the Administration's view is no, it is a State Planning Policy it needs to be addressed one way or the other. Either it is addressed by implementing those package (a) measures or by the applicant engaging an acoustic consultant to demonstrate how they are meeting the objectives of the policy.

#### Cr Vernon

1. Given this matter is on the Ordinary Council's agenda next week and the applicants are keen to see the matter progressed, is there any consideration of giving an allowance of time to the applicant to consider how they might respond and deal with this, given that Council doesn't really have any discretion about the application of the requirements in Condition 1.13?
- R. The Manager Development Services, Mr Robert Cruickshank said the Administration would also like to have this application dealt with. There is a timeframe from the State Administrative Tribunal (SAT) for Councils reconsideration. If there has to be a delay, then there has to be a delay, but let's hope that it can be wrapped up one way or the other between now and the Council meeting by seeking some clarity on the application of the policy.

## **15 APPLICATIONS FOR LEAVE OF ABSENCE**

Nil

## **16 MOTION OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil

## **17 QUESTIONS FROM MEMBERS WITHOUT NOTICE**

Nil

## **18 NEW BUSINESS OF AN URGENT NATURE**

Nil

## **19 PUBLIC QUESTION TIME**

Vince Maxwell

1. With regards to the Town of Victoria Park submission and with reference to removing the requirement to disclose the fact that a relevant person is receiving an income from WALGA, ALGA, Regional Council and other statutory committees; do you agree that Elected Members and staff should be able to hide the fact that they receive these allowances from statutory bodies from the public?

R. Mayor Trevor Vaughan said he doesn't think they should be hidden, no.

2. Are you going to do anything to correct that with the Department of Local Government?

R. Mayor Trevor Vaughan said that through the CEO, yes.

## **20 PUBLIC STATEMENT TIME**

Vince Maxwell

Mr Maxwell made a statement about the Local Government Act Review, the Town's submission, the role of the Local Government Advisory Board and its memberships.

## **21 MEETING CLOSED TO PUBLIC**

### **21.1 Matters for Which the Meeting May be Closed**

Nil

### **21.2 Public Reading of Resolutions That May be Made Public**

Nil

## **22 CLOSURE**

There being no further business, the meeting was closed at 7:26pm