

## 11.3 Millers Crossing Advocacy Update and Town Planning Scheme Amendment No. 56

<b>Location</b>	Carlisle
<b>Reporting officer</b>	Place Leader
<b>Responsible officer</b>	Manager Place Planning
<b>Voting requirement</b>	Simple majority
<b>Attachments</b>	1. Amendment 56 Location Plan [11.3.1 - 1 page]

### Recommendation

That Council:

1. Note the progress regarding the actions taken to advocate to the Minister for Planning and the Member for Victoria Park for Miller's Crossing to be reserved as "Parks and Recreation".
2. Supports Scheme Amendment No. 56 to the Town of Victoria Parks Town Planning Scheme No. 1 (TPS1), as modified by the Minister for Planning's decision dated 2 August 2021, pursuant to Section 75 of the *Planning and Development Act 2005* (the Act) and Regulation 50(3) of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations), subject to requesting the Minister to further modify the amendment as follows:
  - a. Classifying No. 2-8 (Lot 1002) Beatty Avenue, East Victoria Park and No. 7 (Lot 1003) Raleigh Street, Carlisle as Town of Victoria Park Scheme Reserve "Parks and Recreation";
  - b. No. 6 (Lot 1004) Raleigh Street, Carlisle and No. 45 (Lot 1005) Bishopsgate Street, Carlisle being transferred to the 'Residential' zone with a density coding of R60.
  - c. Inserting the following subtitle and paragraph to the 'DEVELOPMENT STANDARDS' listed for the 'RESIDENTIAL ZONE' of Town Planning Scheme No. 1 Precinct Plan P8 Carlisle Precinct:
 

*"Residential R60 zoned area*

*A Local Development Plan is required to be adopted by the local government prior to the subdivision or development of the Residential R60 zoned land comprising Lot 1004 (No. 6) Raleigh Street, and Lot 1005 (No. 45) Bishopsgate Street, Carlisle, that were formerly partly located within the Robert's Road 'Other Regional Road' reservation under the Perth Metropolitan Region Scheme. The Local Development Plan shall address issues of vehicular access, environmental sustainability, landscaping, building setbacks and the retention and conservation of mature trees on and surrounding the land as part of any future development."*
  - d. The unzoned portions of the Rutland Avenue, Raleigh Street and Bishopsgate Street road reserves being transferred to the 'Residential' zone with a density coding of R30.
  - e. Modify the Town Planning Scheme No. 1 Precinct Plan P10 Shepperton Precinct and Precinct Plan P8 Carlisle Precinct accordingly."
3. The Scheme Amendment Report documents being modified to reflect the decision of the Minister for Planning dated 2 August 2021 and being forwarded to the Western Australian Commission for final determination by the Minister.

### Purpose

To report the outcomes of the Town's advocacy efforts regarding the future of the Miller's Crossing land.

## In brief

- Council resolved at the 18 October 2022 OCM to receive a further report regarding the advocacy efforts to the 21 February OCM.
- Council resolved to undertake further advocacy efforts in relation to the retention of the Miller's Crossing open space as public open space at the OCMs held on 21 April and 19 July 2022, with a further report to be provided on the outcomes of these efforts due by October 2022.
- The advocacy efforts relate to the Town's consideration of Amendment 56 to TPS1, as further modified in accordance with the Minister for Planning's decision to up-code the proposed residential density of the Miller's crossing lots from R30 to R60.
- Since 9 May 2022 the Town has supported the Mayor and CEO to advocate for Miller's Crossing to be reserved as "Parks and Recreation".
- While the advocacy efforts to date have reached a significant number of community members, the response has been minimal.
- The Town's deadline to provide the WAPC with a final Council resolution in relation to modified Scheme Amendment 56 was 29 October 2022.
- The Town requested an extension to the deadline on 24 October 2022. The Town has received confirmation of receipt of this request but is yet to receive any decision regarding the extension. Further clarification on the acceptance of this request was sought from DPLH officers in mid-November 2022 and January 2023 with no formal response to date.
- While no formal response to the Town's requested extension was received, DPLH have advised that the Western Australian Planning Commission's Statutory Planning Committee will likely defer providing consent to advertising Local Planning Scheme No.2 until they have an indication of the Minister for Planning's position on the Miller's Crossing Land.
- There is now a likely risk that the progression of the Town's Local Planning Scheme No.2 is dependent on a decision on the Millers Crossing Land.

## Background

1. Amendment No. 56 to Town Planning Scheme No. 1 (TPS1) relates to the land known as 'Miller's Crossing' in Carlisle. This land is comprised of three lots being Lot 1003 (No. 7) Raleigh Street, Lot 1004 (No. 6) Raleigh Street, and Lot 1005 (No. 45) Bishopsgate Street.
2. The amendment also relates to one lot in East Victoria Park adjacent to John Bissett Reserve, which is used by the community and maintained by the Town as part of that reserve, being Lot 1002 (No. 2-8) Beatty Avenue.
3. Amendment 56 has been the subject of protracted considerations by the Western Australian Planning Commission (WAPC) in its roles both as advisory body to the Minister for Planning and landowner of the lots. The WAPC has indicated its intention to sell the Millers Crossing lots for residential development in the medium to longer term. 33 of 110
4. The decision by the Minister for Planning in August 2021 has required the Town to re-advertise and further modify Amendment 56 by increasing the proposed residential density of the Miller's Crossing lots from R30 to R60.
5. At the 12 April 2022 OCM Council resolved the following:
  - a. "That Council: 1. Continues to support the original intention of Amendment No 56 for Lots 1003 and 1004 Raleigh Street, Carlisle and Lot 1005 Bishopsgate Street, Carlisle (known as Miller's Crossing) to be reserved as "Parks and Recreation";

- b. Requests the Mayor and the Chief Executive Officer to advocate to the Minister for Planning and the Member for Victoria Park for Miller's Crossing to be reserved as "Parks and Recreation";
  - c. Requests the Chief Executive Officer to report to Council by July 2022 as to the progress of that advocacy.
  - d. Should the Minister for Planning determine to proceed with the Residential R60 zone currently proposed to also support the following modification: *A Local Development Plan is required to be adopted by the local government prior to the subdivision or development of the Residential R60 zoned land comprising Lots 1003 (No. 7) and 1004 (No. 6) Raleigh Street, and Lot 1005 (No. 45) Bishopsgate Street, Carlisle, that were formerly partly located within the Robert's Road 'Other Regional Road' reservation under the Perth Metropolitan Region Scheme. The Local Development Plan shall address issues of vehicular access, environmental sustainability, landscaping (including replacement of trees lost) , building setbacks and the retention and conservation of mature trees on and surrounding the land as part of any future development."*
6. The reasoning provided for the above decision, which was an amendment to the Officer's Recommendation, can be summarised as follows:
- a. Precedent set by a recent decision with respect to the City of Melville
  - b. The original intent of Amendment 56 to confirm additional public open space
  - c. A view that the local community has always supported and continues to support the site as becoming public open space
  - d. The need to undertake further advocacy to rezone the site to Parks and Recreation.
7. Further background information can be found in the 12 April 2022 OCM report.
8. A report on the progress of advocacy efforts was provided at the 19 July OCM, with Council resolving the following:
- a. Notes the progress regarding the actions taken to advocate to the Minister for Planning and the Member for Victoria Park for Miller's Crossing to be reserved as "Parks and Recreation".
  - b. Requests the Chief Executive Officer to bring a further report to Council by October 2022 as to the progress of the advocacy efforts.
  - c. Council is required to make a final, formal resolution in relation to Amendment No. 56 to Town Planning Scheme No. 1, as further modified by the Minister for Planning in accordance with the Act and Regulations. 34 of 110 9.
9. The Town has secured two further extensions of time to provide the WAPC with a formal resolution in relation to Amendment 56 following the Council decisions of 14 April and 19 July 2022 to continue advocacy efforts. The deadline for this to occur is 29 October 2022.
10. A report on the progress of advocacy efforts was provided at the 18 October 2022 OCM with Council resolving the following:
- a. Notes the progress regarding the actions taken to date to advocate to the Minister for Planning and the Member for Victoria Park for Miller's Crossing to be reserved as "Parks and Recreation"
  - b. Continues to support the original intention of Amendment No 56 for Lots 1003 and 1004 Raleigh Street, Carlisle and Lot 1005 Bishopsgate Street, Carlisle (known as Millers Crossing) to be rezoned as "Parks and Recreation";
  - c. Requests the Mayor and the Chief Executive Officer to continue to advocate to the Minister for Planning and the Member for Victoria Park for Miller's Crossing to be rezoned as "Parks and Recreation";

- d. Requests the Chief Executive Officer to seek a further extension of time from the Minister For Planning and/or WA Planning Commission for Council to make its recommendation on Amendment 56 until no later than 28 February 2023;
- e. Requests the Chief Executive Officer to report to Council by no later than February 2023 as to the progress of that advocacy.

## Strategic alignment

Civic Leadership	
Community priority	Intended public value outcome or impact
CL2 - Communication and engagement with the community.	The local community feels well informed that their concerns have been genuinely considered by the Town's administration and Elected Members as part of the decision-making process.

## Engagement

External engagement	
Stakeholders	Residents residing within 2km of the Millers Crossing space.
Period of engagement	Advocacy has been ongoing since 9 May 2022
Level of engagement	1. Inform
Methods of engagement	<ul style="list-style-type: none"> <li>• Community engagement efforts have utilised the Town's social media channels,</li> <li>• Your Thoughts website and Town e-newsletter (eVIBE).</li> <li>• Advocacy efforts have been focused on meetings and requests for meetings with Hannah Beazley MLA and Rita Saffioti MLA.</li> </ul>
Advertising	No further community engagement activity has been carried out since October 2022
Submission summary	The primary call to action is for community members to send a letter in support of retaining Miller's Crossing to the Member for Victoria Park using the template provided.
Key findings	Community interest in the campaign has been low, no submissions from residents have been made to the Ministers Office.

Other engagement	
Stakeholder	Comments
Hannah Beazley MLA	The Town has been in regular contact with Hannah Beazley MLA about Miller's Crossing advocacy.
Rita Saffioti MLA	The Town met with the Minister for Planning's Policy Officer in January 2023. The Town is awaiting a follow up from the Minister's office.
Department of Planning, Lands and Heritage	<p>On 24 October 2022, the Town requested an extension to the 29 October 2022 deadline for a final Council resolution to be passed in relation to modified Scheme Amendment 56.</p> <p>The Town has received confirmation of receipt of this request but is yet to receive any decision regarding the extension. Further clarification on the acceptance of this request was sought from DPLH officers in mid-November 2022 and January 2023 with no formal response to date.</p> <p>While no formal response to the Town's requested extension was received, DPLH have advised that the Western Australian Planning Commission's Statutory Planning Committee will likely defer a decision to advertise Local Planning Scheme No.2 until they have an indication of the Minister for Planning's position relating to the Miller's Crossing Land.</p>

## Legal compliance

[Planning and Development Act 2005 - \[04-p0-00\].pdf \(legislation.wa.gov.au\)](#)

[Planning and Development \(Local Planning Schemes\) Regulations 2015 - \[00-l0-00\].pdf \(legislation.wa.gov.au\)](#)

## 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	<i>Not applicable</i>	<i>Nil</i>	<i>Nil</i>	<i>Nil</i>	<i>Nil</i>	<i>Not applicable</i>
Environmental	Potential loss of trees	Moderate	Somewhat likely	Medium	Medium	Treat Risk by supporting modified Amendment 56 subject to the requirement for a Local Development Plan to encourage

						retention of mature trees.
Environmental	<i>Not applicable</i>	<i>Nil</i>	<i>Nil</i>	<i>Nil</i>	<i>Nil</i>	<i>Not applicable</i>
Health and safety	<i>Not applicable</i>	<i>Nil</i>	<i>Nil</i>	<i>Nil</i>	<i>Nil</i>	<i>Not applicable</i>
Infrastructure/ ICT systems/ utilities	<i>Not applicable</i>	<i>Nil</i>	<i>Nil</i>	<i>Nil</i>	<i>Nil</i>	<i>Not applicable</i>
Legislative compliance	Council not resolving a finalised resolution in respect to modified Amendment 56 to TPS1 prior to 29 October 2022 deadline.	Moderate	Somewhat likely	Low	Low	Treat Risk by requesting an extension to the deadline from the DPLH.
Reputation	Negative public perception if WAPC/Minister for Planning does not support requirement for a LDP.	Moderate	Likely	Medium	Low	Treat Risk by developing a communications plan based on the final decision and all efforts made to advocate to retain the land and trees.
Reputation	The Carlisle community perception that there is a lack of direct engagement with the impacted residents	Moderate	Likely	Medium	Low	Treat Risk by communicating the activity taken and the related outcomes.
Service delivery	Negative public perception if the progress of Local Planning Scheme No.2 is affected by a decision to continue to advocate efforts relating to Amendment No.56.	Moderate	Almost Certain	High	Medium	Treat Risk by recommending to Council to make a resolution to Amendment No.56.

## Financial implications

### Current budget

Sufficient funds exist within the annual budget to address this recommendation.

<b>impact</b>	
<b>Future budget impact</b>	<p>It is considered that the landowner be responsible for preparation of a LDP for the Miller's Crossing land prior to subdivision or development occurring, if Amendment 56 is approved subject to such a requirement as is recommended.</p> <p>This would then be subject to assessment and approval by the Town. The future development of the lots for residential purposes would generate additional rate revenue for the Town.</p> <p>The retention of the land as park land (if supported by the Minister) would continue to generate ongoing costs to the Town for its continued maintenance and/or any future investments in plantings, tree care or related park infrastructure.</p>

## Analysis

11. The Town's deadline to provide the WAPC with a final Council resolution in relation to modified Scheme Amendment 56 was 29 October 2022.
12. Following Council's decision at the 18 October 2022 OCM the Town requested an extension to the 29 October 2022 deadline on 24 October 2022. The Town has received confirmation of receipt of this request but is yet to receive any decision regarding the extension. Further clarification on the acceptance of this request was sought from DPLH officers in mid-November 2022 and January 2023 with no formal response to date.
13. While no formal response to the Town's requested extension was received, DPLH have advised that the Western Australian Planning Commission's Statutory Planning Committee will likely defer a decision to advertise Local Planning Scheme No.2 until they have an indication of the Minister for Planning's position relating to the Miller's Crossing Land.
14. There is now a likely risk that the progression of the Town's Local Planning Scheme No.2 may be dependent on a decision on the Miller's Crossing Land.
15. The strategic position and recommendation of Administration remains consistent with that contained in the report presented to Council at the 19 October 2022 OCM and 12 April 2022 OCM, which is to support Amendment 56 as modified by the Minister for Planning, subject to the requirement for a Local Development Plan for the Miller's Crossing land prior to any subdivision or development occurring. Detailed commentary on the potential development outcomes and strategic planning rationale for this position are contained in the 12 April 2022 OCM report.
16. Department of Planning, Lands and Heritage (DPLH) officers have advised Place Planning officers that the most appropriate means for the Council to advocate its position regarding the future of the Miller's Crossing land is to make a final, formal resolution in relation to modified Amendment 56, notwithstanding that this may differ to the strategic position and recommendation of Administration provided in the report at the 18 October 2022 OCM and 12 April 2022 OCM.
17. Should Elected Members seek to adopt an alternative resolution that varies from the Administration recommendation at the 18 October 2022 OCM and 12 April 2022 OCM to support the modified amendment, then Elected Members are requested to formulate the alternative resolution in a manner that:
  - a. Continues to satisfy the Town's applicable legislative obligations in respect to modified Amendment 56 ie. make a resolution relating to the proposed further modification by the Minister for the density to change from R30 to R60;

- b. Provides an opportunity for Council to resolve a recommendation requesting the WAPC's and Minister's inclusion of any additional or modified local planning scheme provisions to address previously raised issues or concerns ie. Support the inclusion of requirements for a Local Development Plan prior to any development or subdivision of the land; and
  - c. Provides certainty to the Town's officers as to how to proceed and finalise the administration/processing of Amendment 56, to facilitate its final determination, whatever the Minister for Planning's determination may be ie. comply with Regulation 62 to modify, execute and submit the executed documents.
18. The advice in point 15 above was also provided to Council at the 18 October 2022 OCM.
19. In addressing the above matters, the following minimum components for any formal resolution in relation to Amendment 56 are requested, notwithstanding the administration's recommendation provided at the 12 April 2022 OCM and 18 October 2022 OCM:
- a. For Council to resolve, pursuant to Section 75 of the Act and Regulation 50(3) of the Regulations, to either:
    - i. Support Scheme Amendment 56 in accordance with the Minister's decision of 2 August 2021 (R60) with proposed modification to require an LDP as recommended by Administration; or
    - ii. Not support Scheme Amendment 56 as modified in accordance with the Minister's decision of 2 August 2021.
  - b. Authorisation for the Amendment 56 documents to be modified and executed by the CEO and Mayor in accordance with the Minister's decision and forwarded to the WAPC for final determination by the Minister for Planning.
20. In view of the minimal community response to the efforts of the Town to advocate for the retention of the Miller's Crossing land as park land since April 2022, it is recommended that the Council formally resolve to support Amendment 56 as further modified by the Minister for Planning, consistent with the officer recommendation provided at the 12 April OCM

## Relevant documents

[Public Open Space Strategy](#)

[Draft Medium Density Codes](#)

[Local Planning Policy 39 'Tree Planting and Retention'](#)

## Further consideration

21. A meeting was held between the Town's CEO and Mayor and a representative on behalf of the Minister for Planning on 8 February 2023 (following the 7 February 2023 Agenda Briefing Forum). At this meeting the Town's advocacy position regarding the Miller's Crossing land and a potential compromise with the WAPC was discussed.
22. The discussion included the potential creation of an expanded Parks and Recreation reserve across Lots 1002 and 1003, with Lots 1004 and 1005 potentially transitioning to a Residential zone with a R60 density designation to facilitate medium density development.
23. Consequently, the Council Officers have modified the Officers Recommendation from the 7 February 2023 Agenda Briefing Forum) to reflect this potential compromise, which includes retention of the requested Local Development Plan requirement for remaining Lots 1004 and 1005, which are proposed to be zoned 'Residential R60' as part of the Minister's modifications to Amendment 56.



## COUNCIL RESOLUTION (15/2023):

**Moved:** Mayor Karen Vernon

**Seconded:** Cr Jesvin Karimi

That Council:

1. Note the progress regarding the actions taken to advocate to the Minister for Planning and the Member for Victoria Park for Miller's Crossing to be reserved as "Parks and Recreation".
2. Supports Scheme Amendment No. 56 to the Town of Victoria Parks Town Planning Scheme No. 1 (TPS1), as modified by the Minister for Planning's decision dated 2 August 2021, pursuant to Section 75 of the *Planning and Development Act 2005* (the Act) and Regulation 50(3) of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations), subject to requesting the Minister to further modify the amendment as follows:
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  - b. No. 6 (Lot 1004) Raleigh Street, Carlisle and No. 45 (Lot 1005) Bishopsgate Street, Carlisle being transferred to the 'Residential' zone with a density coding of R60.
  - c. Inserting the following subtitle and paragraph to the 'DEVELOPMENT STANDARDS' listed for the 'RESIDENTIAL ZONE' of Town Planning Scheme No. 1 Precinct Plan P8 Carlisle Precinct:

*"Residential R60 zoned area*

*A Local Development Plan is required to be adopted by the local government prior to the subdivision or development of the Residential R60 zoned land comprising Lot 1004 (No. 6) Raleigh Street, and Lot 1005 (No. 45) Bishopsgate Street, Carlisle, that were formerly partly located within the Robert's Road 'Other Regional Road' reservation under the Perth Metropolitan Region Scheme. The Local Development Plan shall address issues of vehicular access, environmental sustainability, landscaping, building setbacks and the retention and conservation of mature trees on and surrounding the land as part of any future development."*
  - d. The unzoned portions of the Rutland Avenue, Raleigh Street and Bishopsgate Street road reserves being transferred to the 'Residential' zone with a density coding of R30.
  - e. Modify the Town Planning Scheme No. 1 Precinct Plan P10 Shepperton Precinct and Precinct Plan P8 Carlisle Precinct accordingly."
3. The Scheme Amendment Report documents being modified to reflect the decision of the Minister for Planning dated 2 August 2021 and being forwarded to the Western Australian Commission for final determination by the Minister.

**Carried (8 - 0)**

**For:** Mayor Karen Vernon, Deputy Mayor Claire Anderson, Cr Luana Lisandro, Cr Peter Devereux, Cr Jesvin Karimi, Cr Jesse Hamer, Cr Vicki Potter and Cr Wilfred Hendriks

**Against:** Nil