



TOWN OF
VICTORIA PARK

Ordinary Council Meeting Agenda – 17 May 2022



**WE'RE OPEN
VIC PARK**

Please be advised that an **Ordinary Council Meeting** will be held at **6:30pm** on **Tuesday 17 May 2022** as an **electronic meeting**.

Mr Anthony Vuleta – Chief Executive Officer
12 May 2022

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1 Declaration of opening

Acknowledgement of Country

Ngany djerapiny Wadjak – Noongar boodja-k yaakiny, nidja bilya bardook.

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.

2 Announcements from the Presiding Member

2.1 Recording and live streaming of proceedings

In accordance with clause 39 of the *Town of Victoria Park Meeting Procedures Local Law 2019*, as the Presiding Member, I hereby give my permission for the administration to record proceedings of this meeting.

This meeting is also being live streamed on the Town's website. By being present at this meeting, members of the public consent to the possibility that their image and voice may be live streamed to public. Recordings are also made available on the Town's website following the meeting.

2.2 Public question time and 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.

In accordance with clause 40 of the *Town of Victoria Park Meeting Procedures Local Law 2019*, a person addressing the Council shall extend due courtesy and respect to the Council and the processes under which it operates and shall comply with any direction by the presiding member.

A person present at or observing a meeting shall not create a disturbance at a meeting, by interrupting or interfering with the proceedings, whether by expressing approval or dissent, by conversing or by any other means.

When the presiding member speaks during public question time or public statement time any person then speaking, is to immediately stop and every person present is to preserve strict silence so that the presiding member may be heard without interruption.

For this electronic meeting, registrations to attend this electronic meeting are required to be made [online](#). Questions and statements that are received by members of the public prior to the meeting and who are not in attendance will be read by the presiding member and a relevant senior staff member will be called on to provide answers if required. 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.

2.3 No adverse reflection

In accordance with clause 56 of the *Town of Victoria Park Meeting Procedures Local Law 2019*, 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 Meeting Procedures Local Law 2019*

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 Meeting Procedures Local Law 2019*.

2.5 Mayor's report

3 Attendance

Mayor

Ms Karen Vernon

Banksia Ward

Deputy Mayor Claire Anderson

Cr Peter Devereux

Cr Wilfred Hendriks

Cr Luana Lisandro

Jarrah Ward

Cr Jesse Hamer

Cr Bronwyn Ife

Cr Jesvin Karimi

Cr Vicki Potter

Chief Executive Officer

Mr Anthony Vuleta

Chief Operations Officer

Ms Natalie Adams

A/Chief Financial Officer

Mr Luke Ellis

Chief Community Planner

Ms Natalie Martin Goode

Manager Development Services

Mr Robert Cruickshank

Manager Governance and Strategy

Ms Bana Brajanovic

Manager Property Leasing and Development

Mr Paul Denholm

Manager People and Culture

Mr Graham Olson

A/Finance Manager

Ms Grace Ursich

Meeting Secretary

Ms Natasha Horner

Meeting Support

Ms Alex Louise

3.1 Apologies

3.2 Approved leave of absence

4 Declarations of interest

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

Declaration of financial interests

A person has a financial interest in a matter if it is reasonable to expect that the matter will, if dealt with by the local government, or an employee or committee of the local government or member of the Council of the local government, in a particular way, result in a financial gain, loss, benefit or detriment for the person.

A declaration under this section requires that the nature of the interest must be disclosed. Consequently, a member who has made a declaration must not preside, participate in, or be present during any discussion or decision-making procedure relating to the matter the subject of the declaration.

An employee is required to disclose their financial interest and if required to do so by the Council must disclose the extent of the interest, where they are providing advice or a report to the Council. Employees may continue to provide advice to the Council in the decision-making process if they have disclosed their interest.

Declaration of proximity interest

A person has a proximity interest in a matter if the matter concerns: a) a proposed change to a planning scheme affecting land that adjoins the person's land; b) a proposed change to the zoning or use of land that adjoins the person's land; or c) a proposed development (as defined in section 5.63(5) of the *Local Government Act 1995*) of land that adjoins the persons' land.

Land adjoins a person's land if: a) the proposal land, not being a thoroughfare, has a common boundary with the person's land; b) the proposal land, or any part of it, is directly across a thoroughfare from, the person's land; or c) the proposal land is that part of a thoroughfare that has a common boundary with the person's land. A person's land is a reference to any land owned by the person or in which the person has any estate or interest.

A member who has made a declaration must not preside, participate in, or be present during any discussion or decision-making procedure relating to the matter the subject of the declaration.

Employees are required to disclose their proximity interests where they are providing advice or a report to the Council. Employees may continue to provide advice to the Council in the decision-making process if they have disclosed their interest.

Declaration of interest affecting impartiality

Elected members (in accordance with Code of Conduct for Council Members, Committee Members and Candidates) and employees (in accordance with the Code of Conduct for employees) are required to declare any interest that may affect their impartiality in considering a matter. The declaration must disclose the nature of the interest. This declaration does not restrict any right to participate in or be present during the decision-making process

5 Public question time

5.1 Response to previous public questions taken on notice at Ordinary Council Meeting held on 12 April 2022

Steve Walker

- 2. [Regarding 12 April Ordinary Council Meeting agenda item 12.2 Transport Strategy and Parking Management] Please detail the date, time, and method that your claimed requests for comment on the draft 2021 Transport Strategy were made to City of Belmont, City of Canning, and City of Perth?*

The City of Canning was notified of the Town's preparation of the Draft Transport Strategy and subsequent public comment period via their involvement in the South East Corridor Council Alliance (SECCA) - meeting held 22 July 2021.

The City of Perth were similarly notified via their involvement in the Inner City Working Group (ICWG) - meeting held 24 June 2021.

The City of Belmont were also notified in the early stages of the project, provided with details on strategic transport issues for the Town and its process for developing the strategy as part of the Curtin Regional Transport Alliance – meeting date unknown.

- 3. Who exactly from City of Canning got the coffee chat where an informal, verbal request for comment on the Town of Victoria Park draft 2021 Transport Strategy was asked?*

The Town is unable to verify the details of the 'coffee chat' Mr Walker refers to.

Lisa Holland

- 1. How many events have been or are likely to be cancelled as a result of COVID-19, how much cost saving will be to the ratepayer and what will this saving be directed to in the future?*

Six events have been cancelled due to COVID-19 in 2021-22.

To offset cancelled events, a series of smaller, reduced risk events / activations occurred including:

- Busker/ Street Performers program
- Stringed Symphony
- Online/video content was substituted in lieu of events to commemorate/celebrate (ANZAC Day, Harmony Week).

It is estimated that approximately \$135,000 savings will be returned to consolidated revenue in 2021-22 for future budget deliberations by Council as they deem most appropriate.

5.2 Response to previous public questions taken on notice at Agenda Briefing Forum held on 3 May 2022

Amy Holdsworth

- 2. If a Town employee is injured as a result of having a COVID-19 vaccination in order to keep their job, and subsequently seeks damages from the Town, has the Town's insurance provider confirmed that the Town will be covered for payout of any medical costs, and what provisions are in place to ensure that any and all associated costs are not passed to ratepayers?*

Liability for the effects of COVID-19 vaccinations is a matter for the relevant State and Federal authorities.

- 3. In preparing their recommendation to Council in response to the elector's resolutions numbered 6, 7, 8 & 9, did the officer consult with or refer to any related resolutions or voted outcomes from any other councils in the State or other States, or receive advice or direction from any State government departments?*

In preparing their recommendation to council the Officer has reviewed what other Local Governments have done to any related resolutions and have liaised with the WA Local Government Association regarding resolutions 6 and 8.

In preparing their recommendation to Council the Officer did not consult with or refer to any related resolutions or voted outcomes from any other councils in the State or other States or receive advice or direction from any State government departments in relation to resolution 7. As stated in the Officer's recommendation any person that wishes to obtain copies of the documents can do so by making a request to the relevant government agency.

In preparing their recommendation to Council the Officer did not consult with or refer to any related resolutions or voted outcomes from any other councils in the State or other States or receive advice or direction from any State government departments in relation to resolution 9. As stated in the Officer's recommendation the Chief Executive Officer will continue to support the community by continuing with the implementation of services and projects that address social cohesion and aim to improve the wellbeing of our entire community.

5.3 Public question time

6 Public statement time

7 Confirmation of minutes and receipt of notes from any agenda briefing forum

Recommendation

That Council:

1. Confirms the minutes of the Ordinary Council Meeting held on 12 April 2022.
2. Receives the notes of the Agenda Briefing Forum held on 3 May 2022.
3. Receives the notes of the Hockey Working Group meeting held on 17 March 2022.
4. Receives the notes of the Mindeera Advisory Group meeting held on 13 April 2022.

8 Presentation of minutes from external bodies

Recommendation

That Council receives the minutes of the Tamala Park Regional Ordinary Council Meeting held on 21 April 2022.

9 Presentations

9.1 Petitions

9.2 Presentations

9.3 Deputations

Item	Presenter
12.1 - Request for Amendment to Town Planning Scheme No. 1 to rezone land at Nos. 176 and 178 (Lots 20 and 21) Swansea Street East, East Victoria Par	Mr Aaron Lohman from Element WA in support of the officer's recommendation.

10 Method of dealing with agenda business

11 Chief Executive Officer reports

11.1 Council Resolutions Status Report

Location	Town-wide
Reporting officer	Coordinator Governance and Strategy
Responsible officer	Manager Governance and Strategy
Voting requirement	Simple majority
Attachments	1. Outstanding Council Resolutions Report - April 2022 [11.1.1 - 34 pages] 2. Completed Council Resolutions Report - April 2022 [11.1.2 - 7 pages]

Recommendation
That Council: <ol style="list-style-type: none">Notes the Outstanding Council Resolutions Report as shown in attachment 1; andNotes the Completed Council Resolutions Report as shown in attachment 2.

Purpose

To present Council with the Council resolutions status reports.

In brief

- On 17 August 2021, Council endorsed status reporting on the implementation of Council resolutions.
- The status reports are provided for Council's information.

Background

- On 17 August 2021, Council resolved as follows:

That Council:

- Endorse the inclusion of Council Resolutions Status Reports as follows:*

a) Outstanding Items – all items outstanding; and

b) Completed Items – items completed since the previous months' report to be presented to each Ordinary Council Meeting, commencing October 2021.

- Endorse the format of the Council Resolutions Status Reports as shown in Attachment 1.*

Strategic alignment

Civic Leadership	
Strategic outcome	Intended public value outcome or impact
CL01 – Everyone receives appropriate information in the most efficient and effective way for them	The reports provide elected members and the community with implementation/progress updates on Council resolutions.

Engagement

Internal engagement

Stakeholder	Comments
All service areas	Relevant officers have provided comments on the progress of implementing Council resolutions.

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	
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 Outstanding Council Resolutions Report details all outstanding items. A status update has been included by the relevant officer/s.

3. The Completed Council Resolutions Report details all Council resolutions that have been completed by officers from 31 March 2022 to 27 April 2022. A status update has been included by the relevant officer/s.

Relevant documents

Not applicable.

11.2 Resolutions from the 2022 Annual Meeting of Electors

Location	Town-wide
Reporting officer	Corporate Strategy and Risk Advisor
Responsible officer	Manager Governance and Strategy
Voting requirement	Simple majority
Attachments	Nil

Recommendation

That Council:

1. Receives the nine motions carried at the Annual Meeting of Electors held on 29 March 2022.
2. Endorses the following recommendations response to the resolutions.

Electors' resolution	Recommendation
<p>a) RESOLUTION 1</p> <p>1. That council, instead of quoting federal legislation and various telecommunication codes for any telecommunication poles as justification for the 5G upgrade of the one at 54 Devenish Street, and they actually read the legislation and investigate if the current monopole at 54 Devenish Street, on private property, actually still legally according to current legislations and codes, can be actually still be deemed 'as low impact' to its surrounding residential area currently and if it is still considered to be after the new 5G upgrade that is suggested is installed.</p> <p>2. That council supports the deconstruction of the monopole at 54 Devenish Street in a highly residential area, and then investigates its relocation and reconstruction in a commercial area with less impact on its residents in East Vic Park – say the Bently Shops, ALDi, shops on Etwell Street.</p> <p>3. That the council investigates how long and to what extent these so-called upgrades can continue to occur on the monopole at 54 Devenish Street and notifies all the surrounding residents of their findings.... we want to know how long can it keep being upgraded without any approval – when is the end date? When will it end 2022, 2025 or never?? And when is this federal legislation</p>	<p>That Council:</p> <ol style="list-style-type: none"> 1. Acknowledges the electors' concerns about the monopole tower at 54 Devenish Street. 2. Acknowledges that no further action can be taken by the Council.

	up for review so we can write our objections then.	
b)	<p>RESOLUTION 2</p> <p>Council investigates current compliance regulations for running Residential Homes for the Mentally Ill and ensure that Devenish Lodge complies to all of these or has their commercial business license revoked – this includes investigating residents continually smoking illegal drugs, no privacy screens on second, third story windows, delinquent behaviors and abuse that families and kids receive when going to and from school (as the Lodge is currently situated in between 3 of our local schools).</p>	That Council requests the Chief Executive Officer to review the use of the Devenish Lodge site to ensure compliance with the development approval.
c)	<p>RESOLUTION 3</p> <p>That Elected members be provided with full copies of all submissions in addition to the summary and officers report for any items brought to Council for a decision.</p>	That Council notes the Chief Executive Officer will continue to provide Council with documents relevant to the performance of their functions under section 5.92(1) of the <i>Local Government Act 1995</i> .
d)	<p>RESOLUTION 4</p> <p>That Council adopt as a policy the "Joint Statement of Principles to support proactive disclosure of government-held information" – developed by All Australian Information Commissioners and Ombudsmen that was released on 24 September 2021.</p>	That Council requests the Chief Executive Officer to list an action in the Corporate Business Plan for 2023-2024, to investigate supporting and implementing the "Joint Statement of Principles to support proactive disclosure of government-held information."
e)	<p>RESOLUTION 5</p> <p>That the Council direct the Town to cease responsibility for the management and maintenance of all the Non Western Power Decorative street lighting in the Peninsula Development Stage 2A in Burswood.</p>	That Council notes the Chief Executive Officer will continue managing and maintaining non-Western Power decorative streetlights within the peninsula stage 2A area in Burswood to the extent that it is legally bound to do so.
f)	<p>RESOLUTION 6</p> <p>We request that the Town of Victoria Park advocates for the removal the COVID-19 vaccination mandates and adopt an advocacy position statement called the 'COVID-19 Vaccination Pro-Choice Statement' with the content:</p> <p>a) prevented from performing work or receiving income on the basis of COVID-19 vaccination status;</p> <p>b) discriminated against on the basis of COVID-19 vaccination status;</p>	<p>That Council:</p> <ol style="list-style-type: none"> 1. Acknowledges the request for the Town of Victoria Park to advocate for the removal of the COVID-19 vaccination mandates and adopt an advocacy position statement called the 'COVID-19 Vaccination Pro-Choice Statement'. 2. Does not add the requested advocacy to its advocacy priorities.

- c) coerced or manipulated into the need for COVID-19 vaccination for any reason;
- d) deprived of any Statutory and Regulatory benefits on the basis of COVID-19 vaccination status;
- e) restricted access to premises on the basis of COVID-19 vaccination status;
- f) restricted in any form of community participation on the basis of COVID-19 vaccination status;
- g) required to provide evidence for any reason of COVID-19 vaccination status; and / or,
- h) subject to anything under written law that a person who differs in COVID-19 vaccination status is not.

g)	<p>RESOLUTION 7</p> <p>That Council respectfully request the following persons to provide the full modelling report and the adequate scientific, medical and legal evidence for the justification for our state of emergency as this is the legal basis of the COVID-19 restrictions.</p> <ul style="list-style-type: none"> a) the Premier of Western Australia; b) the Minister for Health; c) Minister for Emergency Services; d) the Minister for Police; e) the Police Commissioner; f) the Chief Health Officer. 	<p>That Council:</p> <ol style="list-style-type: none"> 1. Acknowledges the request for Council to obtain the full modelling report and evidence related to the COVID-19 state of emergency. 2. Does not make the request as any person that wishes to obtain copies of the document can do so by making a request to the relevant government agency.
h)	<p>RESOLUTION 8</p> <p>We request that the Town of Victoria Park support local business by advocating for the removal the following COVID-19 restrictions:</p> <ul style="list-style-type: none"> a) masks requirements; b) density and capacity limits; c) proof of vaccination requirements; and, d) vaccine mandates. 	<p>That Council:</p> <ol style="list-style-type: none"> 1. Acknowledges the request for Council to advocate for the removal of mask requirements, density and capacity limits, proof of vaccination requirements and vaccine mandates, in relation to COVID-19. 2. Does not add the requested advocacy to its advocacy priorities. 3. Continues to support local business through the Town's economic development and place programs.
i)	<p>RESOLUTION 9</p> <p>That Council:</p> <ol style="list-style-type: none"> 1. Develops an acknowledgement and reconciliation action program (ARAP) once the WA pandemic state of emergency ends to increase social 	<p>That Council:</p> <ol style="list-style-type: none"> 1. Acknowledges the electors' request to develop an acknowledgment and reconciliation action program (ARAP), support experiences affected by vaccines and request funding from the State Government to pay for development of the ARAP.

cohesion and heal the rifts in our Town caused by the COVID mandates.

2. Supports the lived experiences and trauma faced by the those who remain uninjected and those injected and injured by the COVID vaccines, as part of trauma healing, who will guide the ARAP as the two major stakeholder parties in the process.
3. Requests funding from the State government, who imposed these mandates, to pay for the ARAP in the Town of Victoria Park.
2. Does not request the Chief Executive Officer to develop an ARAP.
3. Does not request funding from the State Government to pay for the development of the ARAP.
4. Requests the Chief Executive Officer to support the community by continuing with the development and implementation of already identified social plans to address social cohesion, social isolation, and bring together community around shared interests and goals.
5. Requests the Chief Executive Officer to support the community by continuing with the implementation of services and projects that address social cohesion and aim to improve the wellbeing of our entire community.
6. Requests the Chief Executive Officer to continue to proactively explore grant and funding opportunities that the Town is eligible for to enhance social cohesion and wellbeing.

Purpose

For Council to receive the resolutions from the Annual Meeting of Electors held on 29 March 2022 and consider the resulting actions.

In brief

- The Annual Meeting of Electors was held on 29 March 2022.
- Nine resolutions were carried by electors at the meeting.
- These resolutions and their resulting actions are being presented to Council, as per Policy 053 – Meetings of electors.

Background

1. The Annual Meeting of Electors was held on 29 March 2022.
2. There were 27 electors present at the meeting.
3. Nine resolutions were carried by electors.
4. These resolutions and their resulting recommendations are being presented to Council, as per Policy 053 – Meetings of electors.

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.	The Annual Meeting of Electors provides electors with the opportunity to raise motions that are related to the responsibilities and functions of local government.
CL09 - Appropriate devolution of decision-making and service provision to an empowered community.	The resolutions included in this report were raised by electors of the Town. For these items to be resolved, the majority of electors present were required to vote in favour of the item.

Social	
Strategic outcome	Intended public value outcome or impact
S03 - An empowered community with a sense of pride, safety and belonging.	Through having their ideas or concerns considered by Council, electors may feel empowered and part of the community, as they were involved in the process.

Engagement

Internal engagement	
Stakeholder	Comments
Governance and Strategy	Provided comments and recommendations on the resolutions of the Annual Meeting of Electors.
Urban Planning	
Infrastructure Operations	
Communications and Engagement	
Place Planning	
Community Development	

External engagement	
Stakeholders	Electors
Period of engagement	Tuesday 29 March 2022 from 6.30pm to 9.13pm.
Level of engagement	Involve

Methods of engagement	Annual Meeting of Electors
Advertising	The Annual Meeting of Electors was advertised using the following methods: <ol style="list-style-type: none"> 1. Public notice in Perth Now Southern 2. Social media posts 3. Town of Victoria Park website – public notice and event 4. Public noticeboard at the administration building
Submission summary	Nine motions were raised at the meeting. All motions were carried.
Key findings	The summary of information is provided in the analysis below.

Legal compliance

[Part 5, Subdivision 4 of the *Local Government Act 1995*](#)

[Part 3 of the *Local Government \(Administration\) 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	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 and reduction in willingness to engage with the Town if resolutions are not supported by Council.	Minor	Likely	Moderate	Low	TREAT risk by providing reasons and justification for why items are not supported.
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

5. Each resolution from the Annual Meeting of Electors has been considered by the Town. Officer comments and recommendations for further action are listed below.

Resolution 1

- That council, instead of quoting federal legislation and various telecommunication codes for any telecommunication poles as justification for the 5G upgrade of the one at 54 Devenish Street, and they actually read the legislation and investigate if the current monopole at 54 Devenish Street, on private property, actually still legally according to current legislations and codes, can be actually still be deemed 'as low impact' to its surrounding residential area currently and if it is still considered to be after the new 5G upgrade that is suggested is installed.
- That council supports the deconstruction of the monopole at 54 Devenish Street in a highly residential area, and then investigates its relocation and reconstruction in a commercial area with less impact on its residents in East Vic Park – say the Bently Shops, ALDi, shops on Etwell Street.
- That the council investigates how long and to what extent these so-called upgrades can continue to occur on the monopole at 54 Devenish Street and notifies all the surrounding residents of their findings.... we want to know how long can it keep being upgraded without any approval – when is the end date? When will it end 2022, 2025 or never?? And when is this federal legislation up for review so we can write our objections then.

FOR: 18 AGAINST: 0

Officer comment	Recommended action
<p>According to the Council's records, the existing monopole tower and ground equipment building was installed at No. 54 Devenish St in 1994, "...at which time planning approval was not required under the exemption provisions of the exemption Telecommunication Act as they applied at that time".</p> <p>It is acknowledged that under current requirements, a new telecommunication tower would require planning approval. However, such legislation cannot be retrospectively applied to development that was lawfully installed at the time of construction.</p>	<p>That Council:</p> <ol style="list-style-type: none"> 1. Acknowledges the electors' concerns about the monopole tower at 54 Devenish Street. 2. Acknowledges that no further action can be taken by the Council.

The existing monopole hosts telecommunications equipment belonging to Optus, Telstra and Vodafone.

From time to time, the phone carriers upgrade their telecommunication equipment attached to the existing monopole tower. In accordance with the *Federal Telecommunications (Low Impact Facilities) Determination 2018*, telecommunication carriers are allowed to deploy certain kinds of equipment on existing telecommunications facilities without requiring development approval. This legislation applies throughout Australia.

When upgrading mobile facilities, telecommunication carriers are required to carry out public notification under the C564:2020 Mobile Phone Base Station Deployment Code. Under this Code, the Town, as the local authority, is notified of the proposed upgrade and reviews the carrier's assessment that the upgrade meets the applicable low-impact facilities exemption criteria.

The telecommunications tower at No. 54 Devenish Street, is located on land that is privately owned. Council does not have the jurisdiction to require the relocation of this structure.

Any future upgrades to equipment on the telecommunication tower would be considered against the relevant legislation and associated codes, policies and standards, which apply at the time of the upgrade works.

The last significant review of the legislation occurred in 2018, with the *Federal Telecommunications (Low-impact Facilities) Determination 2018*. The Federal Department of Infrastructure, Transport, Regional Development and Communications is responsible for this legislation.

Resolution 2

Council investigates current compliance regulations for running Residential Homes for the Mentally Ill and ensure that Devenish Lodge complies to all of these or has their commercial business license revoked – this includes investigating residents continually smoking illegal drugs, no privacy screens on second, third story windows, delinquent behaviors and abuse that families and kids receive when going to and from school (as the Lodge is currently situated in between 3 of our local schools).

FOR: 20 AGAINST: 0

Officer comment

Recommended action

Town officers can review to ensure compliance with the relevant development approval for the use of the site. However, the matters raised in respect to alleged illegal activities and the behaviour of residents, are not within the responsibility of the Town. These matters should be addressed to other bodies such as the facility operator, the WA Police and the Department of Health.

That Council requests the Chief Executive Officer to review the use of the Devenish Lodge site to ensure compliance with the development approval.

Resolution 3

That Elected members be provided with full copies of all submissions in addition to the summary and officers report for any items brought to Council for a decision.

FOR: 19 AGAINST: 0

Officer comment

Recommended action

A Council member is entitled to have access to a Town document only if it is relevant to the performance by the council member of any of his or her functions under the *Local Government Act 1995* (the Act) section 5.92(1). A council member is not entitled to a document simply because it is a Town document.

That Council notes the Chief Executive Officer will continue to provide Council with documents relevant to the performance of their functions under section 5.92(1) of the *Local Government Act 1995*.

The Chief Executive Officer (CEO) has legislative responsibility for the Town's documents under section 5.41(h) of the Act. It is the CEO who determines whether a Council member's access to a particular document would be relevant to the performance by the Council member of any of his or her functions under the Act or any other written law.

Council policy 117 applies to business grants. The policy sets transparent and effective guidelines for the administration of grants to local businesses and business groups. As per the policy, the CEO is responsible for the operational management of Business Grants. Grant assessment is an operational process carried out by an assessment panel that comprises staff and should not involve elected members. Grant assessments are carried out in accordance with the policy that was set by the council.

It is appropriate for officers to provide details of grant applications within Council reports to enhance the decision making and deliberation process of Councillors, as long as it is not seen as duplicating the process of assessment, and or disregarding the assessment and evaluation undertaken by the Town's assessment panel.

Clause 19 of the Code of Conduct for Council Members, Committee Members and Candidates states that an elected member must not undertake a task that contributes to the administration of the local government. The elected member's role is to make decisions based on the information received from the administration. A decision must be made based on merit, in the public interest, and according to statutory obligations and principles of good governance and procedural fairness.

Resolution 4

That Council adopt as a policy the "Joint Statement of Principles to support proactive disclosure of government-held information" – developed by All Australian Information Commissioners and Ombudsmen that was released on 24 September 2021.

FOR: 20 AGAINST: 0

Officer comment	Recommended action
<p>The "Joint Statement of Principles to support proactive disclosure of government-held information" encourages governments and public institutions "to commit to being open by design by building a culture of transparency and by prioritising, promoting and resourcing proactive disclosure." It "promotes open government and advances our system of representative democracy."</p> <p>The principles align to the Town's newly adopted objectives of having streamlined, modern governance and an engaged and empowered community.</p> <p>The adoption of a policy would state Council's position on the matter but it would not include investigations into existing data to understand what our community wants to know and what should be more proactively available. Listing this as an action in the Corporate Business Plan would</p>	<p>That Council requests the Chief Executive Officer to list an action in the Corporate Business Plan for 2023-2024, to investigate supporting and implementing the "Joint Statement of Principles to support proactive disclosure of government-held information."</p>

allow for the investigation to be planned and resourced to allow for a more meaningful result.

It is suggested to be undertaken in 2023-2024 as there are already many existing commitments next financial year for the lead service area in the draft Corporate Business Plan.

Read the principles on the [Office of the Australian Information Commission's website](#).

Resolution 5

That the Council direct the Town to cease responsibility for the management and maintenance of all the Non Western Power Decorative street lighting in the Peninsula Development Stage 2A in Burswood.

FOR: 19 AGAINST: 0

Officer comment

The Town has management and maintenance responsibility for all non-Western Power decorative streetlights within the area of Peninsula Stage 2A in Burswood due to the deed of agreement between the Town and BL Development Pty Ltd as executed on 23 December 2005.

Recommended action

That Council notes the Chief Executive Officer will continue managing and maintaining non-Western Power decorative streetlights within the peninsula stage 2A area in Burswood to the extent that it is legally bound to do so.

Resolution 6

We request that the Town of Victoria Park advocates for the removal the COVID-19 vaccination mandates and adopt an advocacy position statement called the 'COVID-19 Vaccination Pro-Choice Statement' with the content:

- a) prevented from performing work or receiving income on the basis of COVID-19 vaccination status;
- b) discriminated against on the basis of COVID-19 vaccination status;
- c) coerced or manipulated into the need for COVID-19 vaccination for any reason;
- d) deprived of any Statutory and Regulatory benefits on the basis of COVID-19 vaccination status;
- e) restricted access to premises on the basis of COVID-19 vaccination status;
- f) restricted in any form of community participation on the basis of COVID-19 vaccination status;
- g) required to provide evidence for any reason of COVID-19 vaccination status; and / or,
- h) subject to anything under written law that a person who differs in COVID-19 vaccination status is not.

FOR: 15 AGAINST: 2

Officer comment

The Town of Victoria Park has been consistent in its support of COVID –19 mandates and guidelines as set by the State Government. Resourcing of this advocacy program would redirect efforts away

Recommended action

That Council:

1. Acknowledges the request for the Town of Victoria Park to advocate for the removal of the COVID-19 vaccination mandates and

from core work to undertake and would be dependent on a Council position.

This advocacy doesn't fall within the adopted annual advocacy priorities, nor does it align to any social advocacy strategies endorsed by Council (homelessness, RAP, DAIP etc.).

adopt an advocacy position statement called the 'COVID-19 Vaccination Pro-Choice Statement'.

2. Does not add the requested advocacy to its advocacy priorities.

Resolution 7

That Council respectfully request the following persons to provide the full modelling report and the adequate scientific, medical and legal evidence for the justification for our state of emergency as this is the legal basis of the COVID-19 restrictions.

- a) the Premier of Western Australia;
- b) the Minister for Health;
- c) Minister for Emergency Services;
- d) the Minister for Police;
- e) the Police Commissioner;
- f) the Chief Health Officer.

FOR: 15 AGAINST: 1

Officer comment

The Town does not require documents listed in this resolution to follow Directions introduced by the State Government to prevent the spread of COVID-19. Like many businesses and premises within Western Australia, the Town has a legislative obligation to comply with the relevant Directions that the State Government introduces.

It is not the Town's role to request these documents, so it is therefore recommended that if any person wishes to obtain copies of these documents, they make a request to the relevant government agency.

Under the Western Australian *Freedom of Information Act 1992* (the FOI Act), any person has a right to be given access to documents held by Western Australian State and local Government agencies, subject to some limitations.

The FOI Act applies to Western Australian government agencies:

- government departments
- Ministers
- local councils
- public hospitals

Recommended action

That Council:

1. Acknowledges the request for Council to obtain the full modelling report and evidence related to the COVID-19 state of emergency.
2. Does not make the request as any person that wishes to obtain copies of the document can do so by making a request to the relevant government agency.

- public schools, universities and TAFEs
- statutory authorities.

Applications for documents under the FOI Act should be made directly to the agency that holds the documents.

More information on how to submit the FOI is available on the WA government’s website.

Resolution 8

We request that the Town of Victoria Park support local business by advocating for the removal the following COVID-19 restrictions:

- a) masks requirements;
- b) density and capacity limits;
- c) proof of vaccination requirements; and,
- d) vaccine mandates.

FOR: 13 AGAINST: 1

Officer comment	Recommended action
<p>The Town of Victoria Park has been consistent in its support of COVID –19 mandates and guidelines as set by the State Government. Resourcing of this advocacy program would redirect efforts away from core work to undertake and would be dependent on a Council position.</p> <p>This advocacy doesn’t fall within the adopted annual advocacy priorities, nor does it align to any social advocacy strategies endorsed by Council (homelessness, RAP, DAIP etc).</p> <p>The Town is already supporting local businesses in a number of ways, including promotion of the local business community and activation of its places to bring vibrancy.</p>	<p>That Council:</p> <ol style="list-style-type: none"> 1. Acknowledges the request for Council to advocate for the removal of mask requirements, density and capacity limits, proof of vaccination requirements and vaccine mandates, in relation to COVID-19. 2. Does not add the requested advocacy to its advocacy priorities. 3. Continues to support local business through the Town’s economic development and place programs.

Resolution 9

That Council:

1. Develops an acknowledgement and reconciliation action program (ARAP) once the WA pandemic state of emergency ends to increase social cohesion and heal the rifts in our Town caused by the COVID mandates.
2. Supports the lived experiences and trauma faced by the those who remain uninjected and those

injected and injured by the COVID vaccines, as part of trauma healing, who will guide the ARAP as the two major stakeholder parties in the process.

3. Requests funding from the State government, who imposed these mandates, to pay for the ARAP in the Town of Victoria Park.

FOR: 12 AGAINST: 1

Officer comment	Proposed Council action
<p>The Town already delivers a wide variety of programs and services that aim to address social cohesion, social isolation, and bring together community around shared interests and goals. These programs and services are guided by strategic plans such as the Public Health Plan, Disability Access and Inclusion Plan, Safer Neighbourhoods Plan, Reconciliation Action Plan, Youth Action Plan, Literacy and Learning Plan, Community Benefits Strategy, draft Events Strategy, Place Plans, and the soon to be developed Community Development Strategy.</p> <p>The Commonwealth Government has implemented the COVID-19 vaccine claims scheme to support individuals who have had an adverse reaction to a vaccine. There are a variety of psychologists, counsellors, and support agencies in the Town and surrounding areas that provide assistance to individuals.</p> <p>The Town actively seeks funding and grants from a range of State, Federal, and other agencies to enhance existing services or projects, or to implement new services and projects as required. Any grant funding that the Town is eligible for will be investigated and applied for if relevant.</p>	<p>That Council:</p> <ol style="list-style-type: none">1. Acknowledges the electors' request to develop an acknowledgment and reconciliation action program (ARAP), support experiences affected by vaccines and request funding from the State Government to pay for development of the ARAP.2. Does not request the Chief Executive Officer to develop an ARAP.3. Does not request funding from the State Government to pay for the development of the ARAP.4. Requests the Chief Executive Officer to support the community by continuing with the development and implementation of already identified social plans to address social cohesion, social isolation, and bring together community around shared interests and goals.5. Requests the Chief Executive Officer to support the community by continuing with the implementation of services and projects that address social cohesion and aim to improve the wellbeing of our entire community6. Requests the Chief Executive Officer to continue to proactively explore grant and funding opportunities that the Town is eligible for to enhance social cohesion and wellbeing.

Relevant documents

[Policy 053 – Meeting of electors](#)

[Annual Meeting of Electors minutes – 29 March 2022](#)

Further consideration

6. The following information was requested at the Agenda Briefing Forum held 3 May 2022.

7. Provide further information on when Devenish Lodge first came to operate on the site.

The building was constructed in the 1960s. Officers have been unable to determine when the building commenced use for its current purpose.

8. Provide further information on whether the Town has received written/formal complaints about Devenish Lodge and/or the residents.

The Town has not directly received any written or formal complaints about Devenish Lodge or the residents in the last five years.

9. Provide further information on whether the Town been contacted by WA Police about any issues/concerns with regard to the residents and/or visitors to Devenish Lodge.

No, the Town has not been contacted by WA Police regarding this locality. When the Town reached out to WA Police, it was identified that a number of visits have been undertaken by Police to this address since the beginning of April 2022. This has been to undertake welfare checks, or to attempt a number of arrests.

10. Provide further information on who the appropriate authority is with regard to concerns about Devenish Lodge, its residents, and its visitors.

Devenish Lodge is funded by the Mental Health Commission, who ultimately have responsibility for its operation. The Manager of Devenish Lodge may also be able to provide some feedback to concerned community members. If a community member is concerned for their own welfare, or the matter is of a law and order nature, then it is recommended they contact WA Police in the first instance on 131 444.

11.3 Annual Review of Delegations

Location	Town-wide
Reporting officer	Coordinator Governance and Strategy
Responsible officer	Manager Governance and Strategy
Voting requirement	Absolute majority
Attachments	1. Town of Victoria Park Delegation Register - 2022 Council Review [11.3.1 - 109 pages]

Recommendation

That Council:

1. Reviews its delegations to the Chief Executive Officer and other employees as detailed in the attachment, in accordance with Section 5.46(2) of the *Local Government Act 1995*.
2. Adopts the amended delegations of authority to the Chief Executive Officer as detailed in the attachment, to come into effect on 1 July 2022, in accordance with Section 5.42(1) of the *Local Government Act 1995*.

Purpose

To present the delegations of Council for review and adoption of proposed amendments.

In brief

- Council are required to review its delegations each financial year, under various legislation.
- Council last reviewed its delegations on 15 June 2021.
- No new delegations are proposed, only minor administrative amendments.

Background

1. In accordance with Section 5.46(2) of the *Local Government Act 1995*, delegations made under the *Local Government Act 1995* are required to be reviewed each financial year. Similar provisions are provided under Section 10AB(2) of the *Dog Act 1976* and Section 47(2) *Cat Act 2011*.
2. Although an annual review of delegations made under other legislation is not required, it is considered good governance to review all delegations annually.
3. Council last conducted its review of its delegations at its meeting on 15 June 2021.

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.	Maintaining effective and practical delegations ensures Council remains strategically focused.
CL10 - Legislative responsibilities are resourced and managed appropriately, diligently and equitably.	Reviewing its delegations annually ensures Council has complied with its legislative responsibility.

Engagement

Internal engagement

Stakeholder	Comments
C-Suite	C-Suite were asked to provide feedback in relation to their delegations and if any amendments were required.
Managers	Managers were asked to provide feedback in relation to their delegations and if any amendments were required.
Service Area Leaders	Service Area Leaders were asked to provide feedback in relation to their delegations and if any amendments were required.

Legal compliance

[Section 5.42\(1\) of the Local Government Act 1995](#)

[Section 5.46\(2\) of the Local Government Act 1995](#)

[Section 10AB\(2\) of the Dog Act 1976](#)

[Section 47\(2\) Cat Act 2011](#)

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 fails to review their delegations within the prescribed timeframe.	Minor	Unlikely	Low	Low	TREAT risk by Council reviewing its delegations prior to 30 June 2022.
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

4. An internal review of the current Register of Delegations and Sub-delegations has been conducted in consultation with C-Suite, Managers and Service Area Leaders.
5. It is considered that the current delegations from Council are sufficient, and no new delegations are required.
6. The following administrative amendments have been made to ensure references are correct and are marked in the attachment.

Delegation	Action	Proposal	Reason
All	Amend	Replace reference to TRIM with CM9 under Record Keeping.	To reflect the Town's current recordkeeping system.
1.1.11	Amend	Replace reference to Delegation 1.3.3 with 1.2.3 under Compliance Links.	To reflect the correct delegation reference.
1.1.13	Amend	Replace reference to Delegation 1.3.4 with 1.2.4 under Compliance Links.	To reflect the correct delegation reference.

7. Following resolution by Council, the Chief Executive Officer will review the delegations and sub-delegations to Town employees.

Relevant documents

[Town of Victoria Park – Register of Delegations and Sub-delegations](#)

[Department of Local Government, Sport and Cultural Industries – Operational Guideline 17 - Delegations](#)

11.4 Sponsorship Funding 2022/23

Location	Town-wide
Reporting officer	Communications Advisor
Responsible officer	Manager Stakeholder Relations
Voting requirement	{voting-requirement}
Attachments	1. Event Sponsorship Program 2022-2023 Evaluation Summaries [11.4.1 - 5 pages] 2. TOVP Event Sponsorship Program 2022-2023 [11.4.2 - 7 pages]

Recommendation

That Council endorse the following sponsorship funding applications:

1. Movies by Burswood (Inc) t/as Telethon Community Cinemas - \$17,500
2. John Curtin Gallery, Curtin University - \$10,900
3. WestCycle Incorporated - \$10,000.

Purpose

To provide Council with oversight of the sponsorship applications and assessments for Council endorsement.

In brief

- The Town's sponsorship funding program enhances opportunities for collaboration and partnerships between the Town, private enterprise, and community to complement the Town's strategic objectives and increase economic vibrancy by raising the profile of the Town.
- The sponsorship round opened on 1 February 2022 and closed 1 March 2022.
- The Town received nine applications for sponsorship funding valued at \$130,600.
- The Town's Sponsorship Assessment Panel has assessed all submissions.
- Three applications are recommended for Council approval valued at \$38,400 (\$34,750 cash and \$3,650 in-kind).

Background

1. In December 2019, the Town undertook a review of all funding round practices and procedures to improve efficiencies and transparency of the Vic Park Funding Program. This review initiated a project to procure a funding platform to manage the Town's funding rounds.
2. At the December 2020 Ordinary Council meeting, Policy 116 – Sponsorship was adopted by Council.
3. Further to the adoption of Policy 116 – Sponsorship at the December 2020 Ordinary Council meeting, Council endorsed the Chief Executive Officer to establish a panel of no less than three members to assess all eligible sponsorship application submissions. The panel is to assess applications against the requirements and assessment criteria and present a report to Council for endorsement.
4. In making a recommendation to Council, the Sponsorship Assessment Panel (SAP) will provide the following information to ensure Council can make accurate, timely and transparent decisions:
 - a. Details of all applications inclusive of title, project scope, amount of assistance applied for (ex GST), evaluation and score.

b. Information provided will be inclusive of successful, unsuccessful and ineligible applications.

5. To ensure that the SAP continues to be fit-for purpose and remain meaningfully engaged, membership for the panel positions were recruited via direct approach to ensure the appropriate skills, knowledge and experience could be applied to the assessment process.
6. To align to the annual budget cycle, the timeframes calling for applications was changed from previous years to align to informing the annual budget adoption and financial years. This enables budget amounts to be informed and fit for purpose and longer lead times.

Strategic alignment

Civic Leadership	
Strategic outcome	Intended public value outcome or impact
CL03 - Well thought out and managed projects that are delivered successfully.	Town sponsorship funds are maximised by seeking the greatest possible benefit to the community within the available monetary resources with the longest lead time available.
CL07 - People have positive exchanges with the Town that inspires confidence in the information and the timely service provided.	We can build a partnership and planner with the third party organisations over the financial year.

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.	Events are an important part of the Town's destination brand. To market the Town as a desirable tourism destination we need to have a product offering that can draw visitors.

Engagement

Internal engagement	
Stakeholder	Comments
Sponsorship Funding Assessment Panel	Panel evaluation
Place Planning	Economic Development and destination marketing
Community Development	What events are being run by the Town in the 22/23 financial year.
Elected members	Discussions relating to changes in timeframe, objectives and approach.

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	Loss of funds if selected events are cancelled and funds spent are not redirected or used for the intended purpose.	Minor	Unlikely	Low	Low	TREAT – Ensure the evaluation of sponsorship requests are robust and provide elected members sufficient information in their decision-making process.
Environmental	Not applicable.				Medium	
Health and safety	Organisations support anti vaccine message.	Moderate	Likely	Medium	Low	TREAT – support of organisations that align to the Towns messaging on community vaccinations.
Infrastructure/ ICT systems/ utilities	Not applicable.				Medium	
Legislative compliance	Not applicable.				Low	
Reputation	The community perceives there is little or no return on investment.	Moderate	Possible	Medium	Low	TREAT – Ensure the evaluation of sponsorship requests are robust and provide elected members sufficient information in their decision-making process.
Service delivery	COVID risk management plans were not required of applicants.	Minor	Unlikely	Low	Medium	TREAT – future impacts of COVID to be considered prior to each event and in line with the State Government requirements at

Financial implications

Current budget impact	Not applicable.
Future budget impact	Passing this recommendation will require commitment of \$34,750 to be included in 2022/23 operating budget.

Analysis

7. The Event Sponsorship Program was widely promoted across various platforms and used a range of communications methods to reach target audiences. This included:
 - a. The Town's website
 - b. Digital advertising – Facebook and Google ads
 - c. Organic social media – Facebook, Instagram and LinkedIn
 - d. Media – RTRFM radio ad, media release, newspaper ad
 - e. EDM – emails to event database contacts
8. The sponsorship program was accessible via the online SmartyGrants platform for applications on the Town's website.
9. The Town produced an Event Sponsorship Program document, which included information about our mission and vision, eligibility and assessment criteria, and other important information (see attachment two). This was widely distributed as part of the above promotional activities.
10. The application form consisted of five questions with a maximum weighting score of five points per question. With four panel members scoring across the five criteria, the maximum score available is 100.
11. The Town's internal Event Sponsorship Assessment Panel consisted of four Town officers:
 - a. Manager Stakeholder Relations
 - b. Communications Advisor
 - c. Coordinator Events, Arts and Funding
 - d. Place Leader – Economic Development
12. Applications were assessed individually and then reviewed within a formal panel meeting by the Town's Event Sponsorship Assessment Panel members as per Policy 116 – Sponsorship, and the criteria outlined for the sponsorship program.
13. The assessment questions and criteria are outlined in the tables below.

Assessment Criteria Questions	Risk event description
<p>Question 1 – Collaboration Does the application maximise opportunities for collaboration between the Town and organisation or individual?</p>	<p>20% weighting</p> <ul style="list-style-type: none"> • Five points per panel member • Total of 20 points available
<p>Question 2 – Council’s Strategic Objectives Does the application assist in meeting the Town's strategic objectives as set out in the Strategic Community Plan?</p>	<p>20% weighting</p> <ul style="list-style-type: none"> • Five points per panel member • Total of 20 points available
<p>Question 3 – Increase Economic Vibrancy Does the application increase economic vibrancy by raising the profile of the Town?</p>	<p>20% weighting</p> <ul style="list-style-type: none"> • Five points per panel member • Total of 20 points available
<p>Question 4 – Reciprocal Benefit Does the Town and community receive reciprocal benefit from the sponsorship beyond modest acknowledgement?</p>	<p>20% weighting</p> <ul style="list-style-type: none"> • Five points per panel member • Total of 20 points available
<p>Question 5 - Complement the Town’s Marketing and Communications Objectives Does the application complement the Town's marketing and communications objectives?</p>	<p>20% weighting</p> <ul style="list-style-type: none"> • Five points per panel member • Total of 20 points available
	<p>Total score weighting for five questions = 100% Total score available = 100 points</p>

Assessment Criteria
<p>Application has been fully completed and received by the Town in accordance with the sponsorship requirements.</p>
<p>The application is clear and includes realistic objectives and timeframes.</p>
<p>The applicants mission, vision, objectives and event does not conflict with the values and objectives of the Town.</p>
<p>The applicant is not requesting explicit endorsement of the applicant itself or product/event.</p>
<p>Any conflict of interest has been declared and assessed as reasonable.</p>
<p>The sponsorship meets all funding eligibility requirements (I.e. acquittal of previous grants).</p>

The applicant can obtain appropriate approvals, permits, insurances and licenses.

The Town reserves the right to discuss an application with a third party, if necessary, to assist in assessing the application.

14. The sponsorship funding attracted nine applications, requesting a combined total of \$130,600.

15. Three of the nine applications were recommended to Council for endorsement with the requested total of \$38,400 (\$34,750 cash and \$3,650 in-kind), of the \$100,000 event sponsorship funds available.

16. Please see attachment one for the event and applicant information, panel scoring and assessment details.

Recommended applications

Movies by Burswood	Funds requested: \$17,500 Panel score (out of 100): 68
John Curtin Gallery – mentoring workshops and exhibition	Funds requested: \$10,900 (\$1,000 in kind) Panel score (out of 100): 52
WestCycle – Victoria Park Criterium	Funds requested: \$10,000 (\$2,650 in kind) Panel score (out of 100): 68

Not recommended

Aus Central Performing Co – Aussie K-Popper United Concert	Funds requested: \$20,00 (\$8,000 in kind) Panel score (out of 100): 10
Potters House – Carols in the Park	Funds requested: \$2,200 (\$1,500 in kind) Panel score (out of 100): 32
Rotary Club of Ascot – Bricktober Perth	Funds requested: \$10,000 (\$500 in kind) Panel score (out of 100): 38
UniSport – UniSport Nationals	Funds requested: \$20,000 (\$2,000 in kind) Panel score (out of 100): 52
Curate – Soundscapes of Poetry concert	Funds requested: \$20,000 (\$2,500 in kind) Panel score (out of 100): 41
Conscious Living Co-Creations – creative educational workshops and community event	Funds requested: \$20,000 (\$8,600 in kind) Panel score (out of 100): 37

Relevant documents

[Policy 116 - Sponsorship](#)

12 Chief Community Planner reports

12.1 Request for Amendment to Town Planning Scheme No. 1 to rezone land at Nos. 176 and 178 (Lots 20 and 21) Swansea Street East, East Victoria Park

Location	East Victoria Park
Reporting officer	Manager Development Services
Responsible officer	Chief Community Planner
Voting requirement	Simple majority
Attachments	<ol style="list-style-type: none"> 1. Attachment 1 - Aerial Photo [12.1.1 - 1 page] 2. Attachment 2 - Report requesting Scheme Amendment [12.1.2 - 47 pages] 3. Attachment 3 - Additional Justification [12.1.3 - 19 pages] 4. Attachment 4 - Public Submissions via Your Thoughts [12.1.4 - 10 pages] 5. Attachment 5 - Public submissions via letters and emails [12.1.5 - 15 pages] 6. Attachment 6 - Applicant's Response to Public Submissions [12.1.6 - 23 pages]

Landowner	Nicheliving Capital Pty Ltd
Applicant	Planning Solutions
Application date	4 June 2021
DA/BA or WAPC reference	N/A
MRS zoning	Urban
TPS zoning	Industrial 1
R-Code density	N/A
TPS precinct	Precinct P9 'Welshpool'
Lot area	9474m ²
Right-of-way (ROW)	N/A
Local heritage survey	Not listed – the LHS does recommend that the place be considered and assessed for future inclusion
Residential character study area/weatherboard precinct	N/A

Surrounding development

Residential dwellings to the south-west on the opposite side of Swansea Street East; Rehabilitation facility to the north-west; light industrial/showroom buildings to the north-east and south-east

Recommendation

That Council resolves pursuant to Section 75 of the *Planning and Development Act 2005* to not initiate an Amendment to the Town of Victoria Park Planning Scheme No. 1 to rezone the land at Nos. 176 and 178 (Lots 20 and 21) Swansea Street East, East Victoria Park from 'Industrial 1' zone to 'Commercial (R-AC3)' for the reasons outlined in the Officer's report, most notably that rezoning of the land at this time would be inconsistent with actions OS.1, OS.3 and OS. 4 of the Town's draft Local Planning Strategy, and that the rezoning of the land in advance of actions OS.1 and OS.3 is ad-hoc, premature and would prejudice both the precinct planning work to be undertaken by the Town and the future development of land in the locality.

Purpose

To consider the request to amend the Town of Victoria Park Planning Scheme No. 1 (TPS 1) by rezoning the land at Nos. 176 and 178 (Lots 20 and 21) Swansea Street East, East Victoria Park, from 'Industrial 1' zone to 'Commercial (R-AC3)'.

Council is required to assess the merits of amending TPS 1 in this manner and formally resolve whether or not to initiate a Scheme Amendment.

In brief

- The Town has received a request from the property owners of Nos. 176 and 178 Swansea Street, East Victoria Park (Swansea Street Markets site) to rezone the site from a zoning of 'Industrial (1)' to a zoning of 'Commercial (R-AC3)'.
- The proposed rezoning is intended to facilitate the redevelopment of the Swansea Street Markets site as a mixed use development incorporating commercial and residential uses.
- In support of the request to rezone the site, concept plans have been prepared illustrating the possible redevelopment of the site should the rezoning to 'Commercial (R-AC3)' be approved.
- Preliminary community consultation has been undertaken to gauge the community's opinions on the requested rezoning. A total of 41 submissions have been received, comprising 30 supporting submissions, 9 objecting submissions and 2 neutral submissions.
- While a redevelopment of the site is supported, the requested rezoning is not supported at this time as it is inconsistent with the Town's draft Local Planning Strategy which recommends that precinct planning be undertaken to determine the desired future land uses and built form for the area.

Background

Nil.

Application summary

1. The subject site comprises two lots with a total land area of 9474m², located at the corner of Swansea Street East and Milford Street – see attachment 1.

2. Lot 20 contains the building occupied by the Swansea Street Markets and associated car parking. Lot 21 is occupied by a shed and car parking.
3. The request seeks to rezone the subject land from an 'Industrial 1' zone to 'Commercial (R-AC3)'.
4. The subject land is currently zoned 'Industrial 1' under TPS 1, which permits various light industrial and non-residential activities. Residential uses are a prohibited use of the land. The TPS 1 Precinct Plan for Precinct P9 'Welshpool' states that *"this section of the precinct shall be developed primarily for small scale industrial uses"*.
5. The requested rezoning of the site to 'Commercial' would allow a greater range of non-residential uses on the site, and notably would allow for residential units.
6. The proposed 'R-AC3' coding is a type of high residential density coding for residential development within activity centres. Under Table 2.1 of the Residential Design Codes, Volume 2, the default standards that apply to land with an 'R-AC3' coding include:
 - Maximum building height of 6 storeys;
 - Maximum plot ratio of 2.0.
 - Minimum 2m street setback for residential dwellings or nil setback for commercial development.
7. In support of the request to rezone the site, concept plans have been prepared illustrating the possible redevelopment of the site should the rezoning to 'Commercial (R-AC3)' be approved – see concept plans within attachment 2. Notable aspects of the concept plans include:
 - Three buildings across the site, with each building potentially being up to 6 levels.
 - Two of the buildings being for residential use.
 - One of the buildings containing commercial uses at ground level, with residential units above.
 - The proposed commercial use is said to be for the continuation of the Swansea Street markets on the site.
 - The redevelopment of the site being staged so that the markets continue to operate throughout.
8. While the concept plans are a useful reference and indication of the possible form of development should the rezoning to 'Commercial (R-AC3)' be approved, it should be noted that the plans are just concept plans, and the landowner is not required to develop the land in the manner illustrated in the concept plans. The landowner may ultimately choose to redevelop the land in a different way.

Applicants submission

9. A report has been prepared by a planning consultant acting for the landowners, justifying the requested rezoning (see attachment 2). This was submitted in June 2021. Notable content from the report includes the following:
 - *"Both buildings are reaching the end of their lifespan and require redevelopment.*
 - *The proposed amendment is intended to facilitate the redevelopment of the Swansea Street Markets site as a mixed-use development that retains the Markets as a ground floor commercial tenancy with 4-5 levels of apartments above.*
 - *A concept plan of the redevelopment scheme is included as Appendix 2. As shown on these plans, it is intended that the development will progress in multiple stages with the completed development to include the following:*

- *Three buildings across the site as follows:*
 - *A mixed-use building to the south of the site tenancy fronting the corner of Swansea Street and Millford Street containing:*
 - *A ground floor commercial tenancy with approximately 2,300m² of retail floor space.*
 - *4 levels containing 48 multiple dwellings.*
 - *1 level of basement parking.*
 - *A residential building in the centre of the site fronting Swansea Street containing*
 - *4 levels with 52 apartments.*
 - *2 levels of car parking.*
 - *A residential building to the north of the site fronting Swansea Street containing*
 - *5 levels with 65 apartments.*
 - *1 level with basement car parking.*
- *The proponents' intent is to allow for the retention and continued trading of the Swansea Street Markets throughout the redevelopment of the subject site.*
- *The proposed amendment is appropriately classified as a standard amendment.*
- *The subject site has been consistently located within a future Oats Street Precinct in all strategic planning documents. This means that the subject site has consistently been identified as a site suitable for redevelopment and intensification of uses.*
- *The proposed development of the subject site will include a minor expansion in the retail floorspace from approximately 1,600m² of retail floorspace to 2,300m². This expansion represents a continuation of a long-standing retail use on the subject site, albeit with expanded and modernised premises that reflect contemporary expectations for a grocer and butcher.*
- *In the absence of the proposed scheme amendment, we do not anticipate any significant change to the planning framework to occur within the next 5-6 years. In the event that the precinct planning of this area is a matter of priority—the Town could potentially bring this down to 3-4 years. Either scenario creates simply too much uncertainty around timeframes to allow for the retention of the Swansea Street Markets on the subject site.*
- *The project will create an iconic and memorable development in a key location within the Oats Street train station catchment, delivering a key land use planning objective of the State Government's METRONET initiative.*
- *The proposed amendment exhibits strong planning merit, being consistent with the relevant state and local strategic planning objectives. The amendment facilitates a development which will respond strongly to the site's unique characteristics as well as its historical context by facilitating the redevelopment and retention of the Swansea Street Markets.*
- *The retention of the Swansea Street Markets at this location is made possible by the provision of larger and more contemporary retail facilities within a mixed-use development which will contribute towards an improved revitalised, active and vibrant streetscape.*
- *The amendment will not introduce land use conflict between the subject site and surrounding residential and industrial or commercial land uses and instead creates a new "edge" to the industrial area by providing an appropriate transitional land use between the two precincts.*
- *The amendment is consistent with the strategic planning framework, specifically the objectives of the Central Sub-Regional Framework and the draft Local Planning Strategy, which in turn builds upon a series of local strategic planning documents that have consistently promoted an outcome for the subject site similar to this proposal.*
- *The proposed scheme amendment does not prejudice the outcomes of a future detailed precinct planning process for the Oats Street Neighbourhood, as the relevant considerations to be investigated are not applicable to the subject site or are capable of being addressed through the development application process."*

Relevant planning framework

Legislation	<ul style="list-style-type: none"> • <i>Planning and Development Act 2005</i> • <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> • Metropolitan Region Scheme (MRS) • Town Planning Scheme No.1 (TPS1) • TPS1 Precinct Plan P2 – ‘Burswood’
State Government policies, bulletins or guidelines	<p>State Planning Policy 4.2 ‘Activity Centres for Perth and Peel’ (SPP4.2)</p> <p>State Planning Policy 7.3 ‘Residential Design Codes’</p>
Local planning policies	<p>Local Planning Policy 37 – Community Consultation on Planning Proposals (LPP37)</p>
Other	<p>Draft Local Planning Strategy</p>

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>Non-industrial uses shall generally be discouraged from locating in this precinct except where they directly serve the area, or at to be incidental to a primary industrial use.</i> • <i>The precinct is less suited to residential use by virtue of its industrial nature.</i>
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Legal compliance

Part 5 ‘Local Planning Schemes’ of the Planning and Development Act 2005 and the Planning and Development (Local Planning Schemes) Regulations 2015, Part 5 Division 2.

[Planning and Development Act 2005](#)

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

Strategic alignment

Environment	
Strategic outcome	Intended public value outcome or impact
EN01 - Land use planning that puts people first in urban design, allows for different housing options for people with different housing need and enhances the Town's character.	Ensure that the proposed zoning and potential built form outcomes are appropriate.

Engagement

Internal engagement	
Stakeholder	Comments
Place Planning	Provided comprehensive comments on the acceptability of the rezoning having regard to the draft Local Planning Strategy these are outlined in the Analysis section below.

External engagement	
Stakeholders	Owners and occupiers of properties within a 200m radius of the subject sites
Period of engagement	21 days; 24 March 2022 – 14 April 2022
Level of engagement	2. Consult
Methods of engagement	Letters
Advertising	Your Thoughts (Town's community consultation portal)
Submission summary	41 submissions received – 30 submissions in support, 9 submissions objecting, and 2 with neutral comments. Refer to Attachments 4 and 5 for the contents of the submissions. It is noted that a proportionately high number of supporting submissions were received from persons not residing in the Town. A response to the submissions from the applicant's planning consultant appears at Attachment 6.
Key findings	<p>The supporting submissions generally comment that:</p> <ul style="list-style-type: none"> • A revitalisation of the site is supported. • Mixed use development benefits from proximity to public transport. • The redevelopment will generate jobs. • Support the retention of the butcher, grocer and deli. <p>The objecting submissions include concerns around:</p> <ul style="list-style-type: none"> • The compatibility of the redevelopment with surrounding properties, including the height and bulk of the buildings. • Traffic impact. • Overshadowing and privacy. • Impact of increased density upon infrastructure.

- The requested Amendment being more appropriately classified as a complex amendment.
- The requested Scheme Amendment pre-empting the precinct structure planning foreshadowed by the Local Planning Strategy.
- The proposal may prejudice the future planning and development of the centre.
- Inadequate consideration of SPP4.2. The proposal is an out-of-centre development, which should provide an impact assessment to determine the impact on activity centres.
- Land use conflict arising from residential uses adjacent to Industrial zoned land and non-residential activities.
- If supported, a retail floorspace cap and additional built form controls should be included.

Risk management considerations

Risk category	Impact	Risk description	event	Consequence rating	Likelihood rating	Overall risk level score	Council's risk appetite	Risk option rationale	treatment and for actions
Financial		N/A		N/A	N/A	N/A	N/A	N/A	
Environmental		N/A		N/A	N/A	N/A	N/A	N/A	
Health and safety		N/A		N/A	N/A	N/A	N/A	N/A	
Infrastructure/ ICT systems/ utilities		N/A		N/A	N/A	N/A	N/A	N/A	
Legislative compliance		Should Council agree to initiate the Amendment, then the Minister for Planning, Lands and Heritage is ultimately responsible for approving Scheme Amendments. It is possible that the Minister may make a decision contrary to the position of the Council and/or the community.		Minor	Unlikely	Low	Low	Accept and provide Council with the relevant information to make an informed decision and acknowledge that if initiated, the final decision lies with the Minister to review and decide on the proposal.	
Reputation		Negative public perception towards		Minor	Unlikely	Low	Low	Accept and provide Council	

	the Town may result regardless of the outcome.					with the relevant information to make an informed decision.
Service delivery	N/A	N/A	N/A	N/A	N/A	N/A

Financial implications

Current budget impact	No impact.
Future budget impact	No impact.

Analysis

10. A request has been received for an amendment to TPS 1 to rezone the land from 'Industrial 1' zone to 'Commercial (R-AC3)'.
11. The request was received on 4 June 2021. Officers subsequently provided feedback to the owner's planning consultant on 21 June 2021 outlining some procedural matters and outlining concerns including that the requested Amendment is inconsistent with the Town's draft Local Planning Strategy, and that the proposal would constitute a complex amendment not a standard amendment. The Officers correspondence included advising of a preliminary view that the requested rezoning is not likely to be supported by Officers.
12. A response to the Town's correspondence of 21 June 2021 was received on 1 March 2022, providing additional justification for the requested rezoning of the land. A copy of this response is provided at attachment 3. It should be noted that part of the additional justification included the applicant undertaking their own community consultation in August/September 2021 – the outcomes of this consultation can be seen within attachment 3. While Officers have some reservations about the results of this consultation, the feedback received is noted, and the Town in any event undertook its own consultation in March/April 2022.

Draft Local Planning Strategy

13. At the Ordinary Council Meeting in March 2022, Council resolved to support the draft Local Planning Strategy (LPS) with modifications, and to support the preparation of a new Local Planning Scheme No. 2 (LPS 2) for the municipality. The Strategy has now been sent to the WAPC for endorsement.
14. The property is located in the Oats Street Precinct Planning Area (PPA) as defined in the draft Local Planning Strategy (adopted by Council in March 2022).

15. Three of the four recommended actions for the Oats Street Neighbourhood are relevant to the consideration of the requested Scheme Amendment, these being:
- Action OS.1 - *“Designate the Oats Street Neighbourhood as a Precinct Planning Area. Investigate the long-term future of Industrial land (west of the railway) and opportunities for higher density mixed use development (residential and commercial). Prepare a precinct structure plan (or other suitable planning instrument) to guide future updates to the local planning framework”.*
 - Action OS.3 - *“Following preparation of a Precinct Structure Plan (or other suitable planning instrument) determine whether Oats Street Station should be classified an activity centre.”*
 - Action OS.4 - *“Transition the current Town Planning Scheme No. 1 zones and densities to the new Local Planning Scheme No. 2 until further updates are recommended via Action OS.1.”*
16. While the Local Planning Strategy and Central Sub-Regional Planning Framework (WAPC, 2018) both identify land around the Oats Street train station as having potential for intensification of development, a Scheme Amendment is not supported for this property or any other single lots in the area, ahead of the Town’s commencement and substantial progress of Action OS.1. Action OS.1 is a Short-Term action of the Local Planning Strategy, and the Town will be commencing investigations into the future of the precinct, and precinct structure planning in the 2022-2023 financial year. It is intended to complete the precinct structure plan process in approximately 18 months.
17. A Scheme Amendment progressing ahead of the precinct structure planning process is not supported due to:
- (a) The long-term demand for land uses, including potential for retention of some existing light and service industry, has not been quantified. As such, the assumption that Residential land uses are the highest and best use of the property (and the wider precinct by association) cannot be made without further investigation as per the requirements of State Planning Policy 7.2 Precinct Design (WAPC 2020) and the WAPC Precinct Design Guidelines. The Town cannot assume that a Commercial zone is the most appropriate long-term zone for this property or the wider precinct without investigation and agreement on the long-term vision and use of the precinct. A key objective of SPP7.2 is to ensure that precinct planning *“accommodates growth in a coordinated manner”* and supporting a Scheme Amendment to rezone a single property from Industry to Commercial is not considered delivering growth in a coordinated manner when the long-term vision for the precinct is undefined. The retention and diversification of economic and employment generating land uses in the Town is also a key goal of the Town’s Economic Development Strategy.
 - (b) A further objective of SPP7.2 is to ensure that precinct planning delivers *“good quality built environment outcomes that provide social, economic and environmental benefits”*. Without confirmation of the desired long-term use of land within the precinct and a market analysis of demand for development, the Town is not able to provide adequate guidance on desired building types, height, density and land use mix for properties in the precinct to achieve this objective of SPP7.2. For example, would the site and precinct warrant elevated standards of environmental design being achieved in built form and management of on-site stormwater (as per the goals of the Town’s Climate Emergency Plan, Environment Plan and Water Plan)? If yes, then what is the acceptable standard of environmental performance for a particular building type? Furthermore, it is critically important that station precincts maximise development potential to deliver maximum benefits from the significant investment by the State and Town in infrastructure upgrades, as well as deliver exceptional places that will attract continuing and long-term investment in redevelopment through both infrastructure upgrades and development of contemporary, best practice planning frameworks such as Precinct Structure Plans.

- (c) The Town is not able to quantify any potential development contributions that may be warranted to assist with the long-term financial delivery of infrastructure and facilities such as paths and cycleways, sewerage and drainage connections, parks, open spaces, and community facilities etc., in accordance with the State Planning Policy 3.6 Infrastructure Contributions. The Town's current Town Planning Scheme No.1 does not include provisions to collect infrastructure contributions. These will be introduced into the Town's new Local Planning Scheme No.2 however, a thorough and accountable investigation of potential new and upgraded infrastructure is required at the precinct planning stage to provide adequate evidence of need and nexus to adequately justify contributions in an equitable manner. The recently revised SPP3.6 introduces a cap of \$5,000 per dwelling for infrastructure contributions. Should the Scheme Amendment and development application proceed without a formal contributions plan, the Town has no ability to impose infrastructure contributions.
- (d) The Swansea Street Market building is identified as a place worthy of investigation in the Town's Local Heritage Survey. In the absence of an assessment of the building, or the character of the wider precinct through a precinct structure planning process, there is a risk that potentially valuable character and distinctive architectural elements would be lost through demolition of the entire building without any consideration whether features such as the southern brick wall with steel hung doors and saw tooth roof outline should be retained and integrated into new development.
18. In the absence of a Precinct Structure Plan being prepared to determine the future of the area, the requested Amendment is considered ad-hoc, premature and pre-empting the outcomes of the precinct planning process. Additionally, in the absence of a Precinct Structure Plan being prepared, the Town is unable to consider whether the proposed zoning, land use mix, built form standards etc as proposed by the landowner's planning consultant are appropriate within the context of the required precinct structure plan and likely future development of the surrounding land.
19. Consistent with the comments at paragraph 17, Officers concur with a number of the comments raised by submitters objecting to the proposal, including the following statements:
- *The proposed zoning is a spot rezoning.*
 - *The Scheme Amendment seeks to subvert the planning process foreshadowed in the draft LPS and thus should not be supported. Any rezoning of the industrial land west of the railway line should be considered in a holistic manner and planned appropriately through a Precinct Structure Plan or the like.*
 - *The proposal is contrary to orderly and proper planning.*
 - *The proposed amendment has the potential to jeopardise the planning and development of the Oats Street activity centre, as well as disrupting the established activity centre hierarchy.*
 - *Relevant matters outlined in the draft LPS that should be planned and addressed by more detailed precinct planning are summarised as follows:*
 - *Potential relocation of Oats Street Train Station as a part of the METRONET Level Crossing Removal project.*
 - *Appropriate boundaries for the neighbourhood activity centre.*
 - *The merits of retaining industrial land and uses.*
 - *The potential to transition all or part of the industrial zone to mixed commercial and residential land uses.*
 - *The need for a buffer between the residential land uses and the existing industrial land uses.*
 - *The proposed amendment will encroach on the industrial precinct without certainty that the remainder of the precinct will change to a mixed use zone in the future. The 'spot rezoning' nature of the proposed amendment sets a dangerous precedent for the piecemeal removal of important industrial land from this precinct over the coming years, prior to the finalisation of the planning framework.*

- *Precinct wide planning and external factors need to be considered and will contribute to determining whether the proposed amendment is appropriate or not. At this preliminary stage it is not possible to say if the proposed amendment will prejudice the future planning of the precinct or not. This is primarily in relation to:*
 - *The activity centre hierarchy and location of retail land uses.*
 - *Land use conflict associated with residential land uses and high traffic generating land uses such as a larger shop, within an industrial area.*
- *The proposal is inconsistent with the seriously entertained draft LPS. The proposed amendment does not simply allow for a shop development which is already capable of approval on the site. It proposes to establish a neighbourhood centre in an unplanned location, with a significant residential, mixed use component.*
- *The planning framework is still inconsistent on whether a district or neighbourhood centre is appropriate for Oats Street and the associated position of that centre. The proposed amendment has the potential to prejudice the future planning and delivery of this activity centre.*

Amendment type

20. Notwithstanding the Officers recommendation to not support the requested Scheme Amendment, should Council have a contrary view, it is necessary for Council to determine the appropriate Amendment type (basic, standard or complex). While the landowner's planning consultant submits that the Amendment is a standard amendment, Officers consider the amendment to be a complex amendment, as having regard to the criteria defining a complex amendment, the amendment is both not addressed by the Local Planning Strategy and would result in development that is of scale, and /or would have an impact that is significant relative to development in the locality.

Redevelopment of the site

21. Officers agree with the contentions put forward by the owner's planning consultant and the supporting submissions that the site would benefit from revitalisation, create jobs and that retention of the market uses would be a good outcome. With respect, these benefits will occur whenever the site is redeveloped. While supportive of development of the site, the Officers view is that it is premature to be supporting the redevelopment of the site in advance of the further precinct planning work that needs to occur. Consistent with orderly and proper planning, the precinct planning work should occur first to determine the appropriate land uses, built form etc holistically for the whole precinct, and thereafter an application for development approval is submitted for the site for a development consistent with the new planning framework that results from the precinct planning.

22. It may be the case that the redevelopment of the site in the form indicated in the concept plans is determined to be an appropriate outcome for the site and the area, however this is uncertain until such time as the required precinct planning is completed.

Other

23. The requested Amendment is not supported for the reasons outlined in this report. Conversely a separate report on the agenda recommends support of a Scheme Amendment request for No. 98-106 Goodwood Parade. The two items involve a completely different set of circumstances, including that the latter item involves the reuse of existing buildings for a recommended time limited period of 10 years with a new planning framework about to take effect, whereas this report deals with a rezoning of land to facilitate the development of the land with buildings for permanent use, with the future planning for the area yet to occur.

Relevant documents

Nil.

12.2 Request for Amendment to Town Planning Scheme No. 1 to Permit Tavern at 98-106 Goodwood Parade, Burswood

Location	Burswood
Reporting officer	Senior Planning Officer
Responsible officer	Manager Development Services
Voting requirement	Simple majority
Attachments	<ol style="list-style-type: none"> 1. Site Aerial 2. Scheme Amendment Report 3. Submissions 4. Applicant's Response

Landowner	Goodwood Sky Pty Ltd
Application	Rowe Group
Application Date	07/12/2021
DA/BA or WAPC reference	N/A
MRS Zoning	Urban
TPS zoning	Office/Residential
R-Code density	Not applicable
TPS precinct	Precinct Plan P2 - Burswood
Use Class	Tavern
Use Permissibility	'X' (prohibited)
Lot areas	No. 98 Goodwood Parade, Burswood - 615m ² No. 100 Goodwood Parade, Burswood - 615m ² No. 102 Goodwood Parade, Burswood - 616m ² No. 104 Goodwood Parade, Burswood - 613m ² No. 106 Goodwood Parade, Burswood - 915m ²
Right-of way (ROW)	Right-of-way 133 to the east (rear) of the sites
Local Heritage Survey	Not applicable
Residential character study area/weatherboard precinct	Not applicable
Surrounding development	Light industrial warehouses and associated offices

Recommendation

That Council:

1. Resolves pursuant to Section 75 of the *Planning and Development Act 2005* to initiate an Amendment (Amendment No. 91) to the Town of Victoria Park Planning Scheme No. 1 to:
 - (a) Amend Schedule C 'Additional Uses' of the Scheme Text by listing a 'Tavern' as an Additional Use for Nos. 98-106 Goodwood Parade, Burswood as follows:

	Ref No.	Land Particulars	Permitted Uses	Development Standards/Conditions
A58	58	No. 98 (Lot 5) Goodwood Parade, Burswood; No. 100 (Lot 4) Goodwood	Tavern	The Additional Use of Tavern shall: <ol style="list-style-type: none"> 1. Be deemed to be an 'AA' use for the purposes of the Scheme; and

Parade, Burswood;
No. 102 (Lot 3) Goodwood
Parade, Burswood;
No. 104 (Lot 2) Goodwood
Parade, Burswood;
No. 106 (Lot 1) Goodwood
Parade, Burswood;

2. Extinguish upon the expiry of ten (10) years from the gazettal date of this amendment, except where an application(s) for planning approval has been granted for the continued operation of the use beyond this time, in which case the Additional Use shall extinguish upon the expiry of that approval(s);

- (b) Modifying Town Planning Scheme No. 1 Precinct Plan P2 'Burswood Precinct' by applying to the properties known as Nos. 98-106 Goodwood Parade, Burswood the notation 'A58' as the reference number for that property listed in Schedule C – Additional Uses of the Town Planning Scheme No. 1 Scheme Text.
2. Classifies Amendment No. 91 to the Town of Victoria Park Town Planning Scheme No. 1 as a 'standard amendment' in accordance with Regulations 34 of the *Planning and Development Local Planning Scheme Regulations 2015* (the Regulations) for the following reasons:
- (i) it is considered that the amendment relates to the zone and is consistent with the objectives identified in the scheme for the zone;
 - (ii) it is considered that the amendment that would have minimal impact on land in the scheme area that is not the subject of the amendment and;
 - (iii) it is considered that the amendment that does not result in any significant environmental, social, economic or governance impacts on land in the scheme area.
3. Forwards Amendment No. 91 to the Environmental Protection Authority for assessment in accordance with Section 81 of the Planning and Development Act 2005, and the Western Australian Planning Commission for information.
4. Advertises Amendment No. 91 for public comments for a period of 42 days in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*, with the following advice being included in all advertising notices and consultation letters circulated:

This proposed Amendment is available for inspection and public comment, and it should not be construed that final approval will be granted. Your written comments are welcome and will be considered by Council prior to a recommendation being made to the Western Australian Planning Commission.

Purpose

To consider the request to amend Schedule C 'Additional Uses' of the Town of Victoria Park Planning Scheme No. 1 (TPS 1) Scheme Text by listing a 'Tavern' as an Additional Use for No. 98-106 Goodwood Parade.

Council is required to assess the merits of amending TPS 1 in this manner and formally resolve whether or not to initiate a Scheme Amendment.

In brief

- The proposal seeks to amend TPS 1 by amending Schedule C 'Additional Uses' to list a 'Tavern' as an Additional Use for No. 98-106 Goodwood Parade, Burswood. The listing of a Tavern as an Additional Use at the site would enable the use to be approved, despite a Tavern being a prohibited use within the zone.
- The intention of the Scheme Amendment is to facilitate the relocation of the tenant who currently operates at No. 84-88 Goodwood Parade.
- The Town has concurrently received a development application for a change of use of the same sites to 'Restaurant/Café and 'Brewery' and associated physical works for the existing buildings on the subject sites.
- If both the development application and Scheme Amendment are approved, then the applicant's future intent would be to change the use from a Brewery to a Tavern, as a Tavern Liquor Licence would provide more flexibility to operate the business in the manner preferred by the tenant.
- The subject sites are located within the area known as Burswood Station East which is the subject of an amended planning framework that is awaiting final approval from the Western Australian Planning Commission (WAPC).
- Given the imminent new planning framework for Burswood Station East and the time limited approval issued for a Tavern at No. 84-88 Goodwood Parade, Burswood, it is considered appropriate that the Scheme Amendment be considered in a consistent manner and include a time limited component of 10 years with the opportunity to extend if appropriate at a future date as informed by how the development of the precinct and new Town Planning Scheme evolves.

Background

1. An application to amend TPS 1 was lodged on 7 December 2021, for the purpose of introducing an Additional Use in Schedule C of the Scheme Text to permit the use of 'Tavern' at No. 98-106 Goodwood Parade.
2. Separate from this Scheme Amendment request, an application for development approval has been lodged for a change of use of the same sites to 'Restaurant/Café and 'Brewery' and associated physical works for the existing buildings. Currently, these uses are capable of being approved under TPS 1. This development application is currently undergoing assessment and will be the subject of separate consideration.
3. In combination, the two proposals are intended to facilitate the relocation of the existing 'Tavern' and 'Brewery (Light Industry)' that is currently operating at No. 84-88 Goodwood Parade, Burswood.
4. The tenant currently operates from No. 84-88 Goodwood Parade. Council approved the use of these premises as a 'Tavern and Light Industry (Brewery)' at its meeting on 10 October 2017. The Tavern, despite being prohibited use of land within the zone, was able to be approved given the site benefitted from non-conforming use rights. Additionally, a key consideration in the Town approving this application was the social and economic benefits that would result from the interim use of the site, having regard to the Town's Transitional Use policy, and the approval being time limited for an initial 10 year period until 10 October 2027.
5. The Council at its Ordinary Meeting on 15 March 2022 considered an application to extend the time frame for the land to be used as a Tavern, with Council resolving to support an extension until 1 July 2033. The Officers rationale for supporting this request included the following:

- *“Neither the anticipated amendments to the planning framework or favourable market conditions have yet transpired, however the use of the site has resulted in streetscape and activation benefits to the precinct. Officers remain of the view that the use is an excellent interim use until the redevelopment of land in the area with intensive residential and mixed use projects takes off.*
 - *While Officers can only speculate as to when a reasonable proportion of land redevelopment will occur in the Precinct, the amended planning framework is on the verge of being approved by the WAPC, and it would be reasonable to expect that approval will generate developer interest in the land in the short-medium term.*
 - *The ... statement from the 2017 development application report, commented that the proposed land uses are not the preferred long-term uses for the area. This was premised on the potential future land use and amenity conflicts that could arise between these uses and the high density residential and commercial development planned for the Precinct (ie. noise impacts). The statement was also made based upon the available information at the time.*
 - *Since this time, planning work has been undertaken by the Town, most notably the preparation of Scheme Amendment 82 and LPP40, and the Town’s Local Planning Strategy. The use of the site as a Tavern satisfies relevant objectives relating to creating a mixed use urban neighbourhood, activation and vibrancy. However, the strategic intent is broad and is not sufficiently clear as to the types of land uses considered appropriate for the area in the long-term.*
 - *This is a level of further work that needs to be undertaken by the Town in preparing a new Local Planning Scheme (LPS 2) for the Town and determining the permitted land uses for each zone.*
 - *On balance, it is considered that a time limited approval is appropriate so as to allow the Town to undertake further work in developing LPS 2 and determining the appropriateness of the use in the future. This further work is likely to result in one of two outcomes, either:*
 - (a) it is determined that Taverns are an incompatible use with the high density residential and commercial developments planned for the area, in which case the approved Tavern will need to cease operating at the expiry of its approval period; or*
 - (b) it is determined that Taverns are a compatible use with the existing and future surroundings development, potentially then allowing the applicant to seek an ongoing indefinite approval rather than a time limited approval.”*
6. The subject sites are within the Burswood Precinct which is included within the State Government’s Burswood Peninsula District Structure Plan (BPDSP), with the most recent revision having been endorsed in March 2015. The BPDSP identifies the Burswood Precinct as being suitable for redevelopment into a high density mixed-use and residential neighbourhood.
7. Reflective of this, the Town has undertaken a significant amount of strategic planning work in reviewing the planning framework and desired future for the area known as Burswood Station East. This culminated in Scheme Amendment 82 and draft Local Planning Policy 40 (LPP 40). Scheme Amendment 82 is awaiting final approval from the Minister for Planning, with LPP40 intended to take effect upon gazettal of Scheme Amendment 82. The vision for the Burswood Station East area is to facilitate redevelopment of aging industrial and commercial building stock to a vibrant urban neighbourhood.

Application Summary

8. The subject sites are identified within the map at attachment 1. Part of the subject land is occupied by unoccupied Office/Warehouse buildings, with other lots being vacant.
9. The report prepared by a planning consultant acting for the proposed tenant provides background and rationale for the proposed Scheme Amendment (see attachment 2 for submission in full) inclusive of the following:

"The present lease is to expire at the end of June 2023 and is not to be renewed. In order to ensure the continued operation of the venue for the long term, the proponent sought to secure an alternative site which resulted in an agreement being reached with the owners of the subject site.

Accordingly, a Development Application has been prepared for lodgement with the Town, seeking approval for the use of the existing premises at Nos. 98-104 for the following use classes:

- *'Restaurant/Café'; and*
- *'Brewery'*

*Under the current planning framework, the use of 'Tavern' is an 'X' (Prohibited) use. The 'Tavern' use is defined as follows within the Town of Victoria Park Local Planning Scheme No.1 (LPS 1):
'means premises the subject of a tavern licence granted under the Liquor Control Act 1988';*

The proposed amendment is seeking to include the 'Tavern' use as an additional use under LPS 1 for the subject site. The development application and Scheme Amendment are intended to provide for the following:

- *The immediate relocation and operation of Blasta Brewing Co in the short-term; and*
- *The retention and inclusion of Blasta Brewing Co within the landowners' intended development aspirations, which is anticipated to be in a form consistent with the future development envisaged for the Burswood Station East Precinct as administered through the Town's Local Planning Policy No.40.*

Subject to finalisation of the amendment and obtaining approval to the Tavern use, it would enable the transfer of the tavern licence from Lots 99 – 101 (No.84-88) Goodwood Parade, Burswood and finalise the continuation of operations at No.98-104.

The proposed Development Application and subsequent amendment is a part of a larger future redevelopment for Blasta Brewing Co to form a long-term establishment at the new location. Blasta Brewing Co has demonstrated a proven track record as a responsible and successful venue, which has made a substantial contribution to the regeneration of the Burswood Station East Precinct."

10. A key driver behind the requested Scheme Amendment is the applicant's desire for a Tavern Liquor Licence, being the liquor licence type already issued for the premises at No. 84-88 Goodwood Parade. In this regard, there is an important interplay between planning and liquor licensing legislation. For a Tavern Liquor Licence to be issued, the premises must have development approval as a Tavern. Should the current development application for a Brewery be approved, this will allow for a Producers Liquor Licence to be issued, but not a Tavern Liquor Licence.

11. In this regard, the report from the proposed tenants planning consultant outlines the key differences between relevant liquor licence types as follows:

"A comparison of the various use classes under LPS1 and the associated permissibility under the Liquor Control Act 1988 is as follows:

Restaurant Licence:

A Restaurant Licence under section 50 of the Act authorises the sale and supply of liquor to persons on the licensed premises for consumption with a meal supplied by the licensee. The premises must have a kitchen for preparing food. It must also have sufficient toilet facilities for patrons and staff. In addition, the dining area must always be set up with tables and chairs for dining.

This licence would apply to operations approved under the 'Restaurant/Café' use class within LPS 1.

Producers Licence:

Producer’s Licence under section 55 of the Liquor Control Act 1988 primarily authorises the licensee to:

- sell liquor that has actually been produced by, or under the control or direction of, that person; and
- sell or supply liquor, other than liquor produced by the licensee if the liquor is consumed ancillary to a meal in a dining area on the licensed premises or for the purpose of tastings.

This licence would typically apply to premises approved under the use class of ‘Brewery’ within LPS 1.

Tavern Licence:

A Tavern Licence authorises the sale and supply of liquor for consumption on and off the licensed premises. A holder of a tavern licence does not need to provide accommodation.

This licence would apply to operations approved under the ‘Tavern’ use class within LPS 1 which is being applied for and would reflect the current operations at the existing premises at No. 84-88 Goodwood Parade”

Relevant planning framework

Legislation	<ul style="list-style-type: none"> • Planning and Development Act 2005 • Planning and Development (Local Planning Schemes) Regulations 2015 • Metropolitan Region Scheme (MRS) • Town Planning Scheme No.1 (TPS1) • TPS1 Precinct Plan P2 – ‘Burswood’
State Government policies, bulletins or guidelines	Nil
Local planning policies	<ul style="list-style-type: none"> • Local Planning Policy 35 – Development in Burswood Station East • Draft Local Planning Policy 40 - Burswood Station East Precinct Design Guidelines & Public Realm Improvements • Local Planning Policy 37 – Community Consultation on Planning Proposals
Other	<ul style="list-style-type: none"> • Draft Local Planning Strategy • Council Policy 451 ‘Transitional Uses’

General matters to be considered

TPS precinct plan statements	<p>The following statements of intent contained within the current TPS 1 Precinct Plan are relevant to consideration of the application.</p> <ul style="list-style-type: none"> • This area should be redeveloped from industrial use to an area of mixed office and residential activities together with other uses which serve the immediate needs of the workforce and residents. Residential and office uses may be developed independently.
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TPS 1 Amendment 82 proposes to amend the Statement of Intent for the Precinct, with the following being relevant:

"The land incorporated in Sheet A of Precinct Plan P2 Burswood Precinct comprises the Burswood Station East Sub-Precinct. Burswood Station East should be redeveloped primarily as an area of high quality and medium to high density residential, office and commercial uses, reflective of an eclectic urban village that fosters activity, connections and vibrant public life for residents. In particular:

b) Uses and public facilities that promote pedestrian interest, activity, safety and connectivity at street level are encouraged throughout Burswood Station East.

c) Ground floor design will provide vibrant, human-scale, fine grain streetscapes that contribute to the overall character of the precinct.

e) Development should be designed to allow spaces to be adapted over time, particularly at the ground-floor level. Adaptive re-use is encouraged where this contributes to interest, vibrancy and improved building façade and public realm outcomes.

Local planning policy objectives

The following objectives of Local Planning Policy 35 'Policy Relating to Development in Burswood Station East', while applicable to assessing development applications, are relevant in considering this Scheme Amendment request:

- Each and every application is required to be considered on its individual merit, however this Policy outlines that Council will not approve or support an application which is likely to prejudice the future planning and long-term objectives for the Precinct.

The following objectives of draft Local Planning Policy 40 'Burswood Station East Precinct Design Guidelines & Public Realm Improvements' while applicable to assessing development applications, are relevant in considering this Scheme Amendment request:

- The Burswood Station East Precinct should be redeveloped primarily as an area of high-quality medium to high density residential, office and commercial uses, reflective of an eclectic urban village that fosters activity, connections and vibrant public life for residents.

**Council Policy 451
'Transitional Use'**

1. In areas of the Town undergoing transition to an agreed planning direction as identified by an adopted structure plan, local development plan or Scheme provisions, (eg Burswood Peninsula and the Causeway Precinct) uses will be considered for approval for a temporary period of up to 10 years, as deemed appropriate, based on the following criteria:

- a. The use provides an interim service or facility that benefits the community;
 - b. The use provides activation and passive surveillance;
 - c. The use promotes economic development of the area by utilising otherwise vacant property/building during the interim period;
 - d. The use promotes social interaction and community development;
 - e. The use is appropriate in the precinct in which it is located and is a use that Council has the ability to approve;
 - f. The use promotes the principles of transit oriented development and/or modal shift; and
 - g. The use does not replicate a similar use permanently approved in proximity to the proposed use.
2. Where a development meets the criteria in (1) above, Council may vary relevant development standards and provisions at the Scheme or Local Planning Policies in order to facilitate development including exercising discretion under Clause 29 'Determination of Non-Complying Applications' of Town Planning Scheme No.1.

Civic Leadership	
Strategic outcome	Intended public value outcome or impact
CL02 - A community that is authentically engaged and informed in a timely manner.	Preliminary Community Consultation was undertaken in accordance with Council's Policy to assist in informing the community's position on the requested Scheme Amendment.
CL08 - Visionary civic leadership with sound and accountable governance that reflects objective decision-making.	The preliminary consultation process reflects accountable decision making and governance by informing Council of the community sentiment prior to formally deciding whether or not to initiate an amendment to the Town Planning Scheme.

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 requested Scheme Amendment would facilitate the relocation of a currently operating land use that encourages activation of the precinct and economic diversity and investment as a facility for current and future residents.

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.	Ensure the suitability of the land use proposed and that it does not prejudice the future development of the Burswood Precinct.

Social	
Strategic outcome	Intended public value outcome or impact
S02 - An informed and knowledgeable community.	The community has been engaged to be aware and informed of what is envisaged for the site within the evolving Burswood Precinct.

Engagement

Internal engagement

Stakeholder	Comments
Place Planning	The use of the previous site has resulted in streetscape and activation benefits to the Precinct. In supporting the requested Scheme Amendment to allow a 'Tavern' to be considered on the site, officers are of the view that allowing this land use to remain in the vicinity as an interim use is appropriate until the redevelopment of land in the area with intensive residential and mixed use development occurs.

External engagement

Stakeholders	Owners and Occupiers within a 200 metre radius of the subject sites
Period of engagement	21 days 7 April 2022 – 6 May 2022
Level of engagement	2. Consult
Methods of engagement	Letters;
Advertising	Your Thoughts (Town's community consultation portal)
Submission summary	8 submissions (including one summary) (see Attachment 3)
Key findings	4 submissions supporting the proposal with respect to activation and vibrancy in the locality as well as the development providing food/beverage options for the area; 4 submissions not supporting the proposal citing parking, traffic and congestion concerns and antisocial behaviour; and general appropriateness of the proposal within the precinct.

Legal compliance

Part 5 'Local Planning Schemes' of the *Planning and Development Act 2005* and the *Planning and Development (Local Planning Schemes) Regulations 2015*, Regulations 50 and 51.

[Planning and Development Act 2005](#)

Financial implications

Current impact	budget	No impact.
Future impact	budget	No impact.

Analysis

Site

12. The subject site comprises five lots and has frontages to Goodwood Parade to the west, Stiles Avenue to the south, and laneway 133 to the east (rear of the sites) – see Attachment 1. The subject site is located within the Burswood Precinct, or the area also known as Burswood Station East, bounded by the Graham Farmer Freeway, Great Eastern Highway, and the Armadale passenger railway line.

Proposed Scheme Amendment 82 and draft Local Planning Policy 40

13. As identified, the site is within an area subject to a number of changes to the existing planning framework including Scheme Amendment 82 and draft Local Planning Policy 40. The vision for the precinct is to facilitate redevelopment of ageing industrial and commercial building stock to a vibrant urban neighborhood. In order to facilitate this, Scheme Amendment 82 proposes to permit more intensive development to occur within the Precinct, noting the transit oriented context given the sites proximity to Burswood train station and overall intent for the precinct.

14. Council officers are aware that Scheme Amendment 82 was presented to a recent meeting of the WAPC's Statutory Planning Committee and that a final decision from the Minister is imminent.

15. The use of the site as a Tavern satisfies a number of the objectives for the Precinct as proposed by Scheme Amendment 82 and draft Local Planning Policy 40, including those related to pedestrian safety, activity, vibrancy and the adaptive re-use of existing buildings, in which case a Tavern could be considered as an appropriate land use within the Precinct. While the use as a Tavern is in itself considered acceptable, associated matters such as noise, parking etc are relevant and will be considered as part of the development application process.

16. Having regard to general principles of orderly and proper planning, and the criteria outlined in LPP35, it is considered that a Tavern use would not prejudice the future planning for the Precinct if the use were to be time limited, particularly until draft Local Planning Scheme No. 2 has been progressed and considered the acceptability of a Tavern use for the Precinct in the longer term.

Council Policy 451 'Transitional Use Policy'

17. A significant basis for the development approval of the current operations at No. 84-88 Goodwood Parade was satisfaction of the criteria under Council Policy PLNG10 'Transitional Use' now adopted as Council Policy 451 'Transitional Use' as follows:

- a. The use provides an interim service or facility that benefits the community;
- b. The use provides activation and passive surveillance;
- c. The use promotes economic development of the area by utilising otherwise vacant property/building during the interim period;
- d. The use promotes social interaction and community development;

- e. The use is appropriate in the precinct in which it is located and is a use that Council has the ability to approve;
 - f. The use promotes the principles of transit oriented development and/or modal shift; and
 - g. The use does not replicate a similar use permanently approved in proximity to the proposed use.
18. While more applicable to the assessment of development applications, the requested use of the site as a Tavern is considered to satisfy the majority of the above criteria, in which case a Tavern is considered to be an acceptable interim use of the site.

Local Planning Strategy

19. At the Ordinary Council Meeting in March 2022, Council resolved to support the draft Local Planning Strategy with modifications, and to support the preparation of a new Local Planning Scheme No. 2 (LPS 2) for the municipality. The Strategy has now been sent to the WAPC for endorsement.
20. The Strategy recommends to transition the current planning framework to the new LPS 2. However, the strategic intent is purposely broad and is not sufficiently clear as to the types of land uses considered appropriate for the area in the long-term.
21. Work will occur as part of the development of LPS 2 to determine the acceptable uses of land within each zone.

Time Limitation

22. As outlined above, a key consideration in the Town's 2017 approval of the use of the site at No. 84-88 Goodwood Parade as a Tavern was the social and economic benefits that would result from the interim use of the site, having regard to the Town's Transitional Use policy, and the approval being time limited for an initial 10 year period until 10 October 2027.
23. The rationale for the 10 year time limitation was that it would allow the site to be activated and deliver good social and economic benefits in the short-term, while ensuring that it would not continue in the longer term and be potentially incompatible with the likely higher density development planned for the precinct. At this time, the Town was still developing the new planning framework for the future of the Burswood Station East area.
24. In determining the recent application for a time extension of the Tavern use at No. 84-88 Goodwood Parade, for the reasons outlined at paragraph 5 of this report, the Council agreed to the request but with the retention of a time restriction. The following paragraph from the report is of particular relevance:

"On balance, it is considered that a time limited approval is appropriate so as to allow the Town to undertake further work in developing LPS 2 and determining the appropriateness of the use into the future. This further work is likely to result in one of two outcomes, either:

- (a) it is determined that Taverns are an incompatible use with the high density residential and commercial developments planned for the area, in which case the approved Tavern will need to cease operating at the expiry of its approval period; or*
- b) it is determined that Taverns are a compatible use with the existing and future surrounding development, potentially then allowing the applicant to seek an ongoing indefinite approval rather than a time limited approval."*

25. This same rationale is applicable to the consideration of the requested Scheme Amendment for Nos. 98-106 Goodwood Parade. Therefore, to maintain consistency with the Town's decisions on the Tavern use at Nos. 84-88 Goodwood Parade, it is recommended that a time limitation be placed upon the use of Nos. 98-106 Goodwood Parade as a Tavern. As outlined at paragraph 25, should the development of LPS 2 determine that a Tavern is an appropriate use of the land into the longer term future, then it would be open to Council to agree to removal of the time limitation at a future time.

26. Officers flagged with the proposed tenant's planning consultant the potential of a time restriction being placed on the Tavern use. See attachment 4 for their response. In short, their response includes that:

- *"We do not consider the imposition of a time limitation on the Scheme Amendment to be necessary, given the similar potential amenity impacts between the proposed 'Tavern' use and the existing 'Brewery' use, which is presently an 'AA' use within the Office/Residential zone and capable of approval. The difference between the Brewery and Tavern land uses is that patrons attending a premises subject to a producer's licence (ie: a Brewery) would only be able to consume alcohol produced by the licensee unless it is served with a meal, whilst a Tavern would be able to sell and serve alcohol produced by the producer and other manufacturers without the service of a meal.*
- *If the operation of Blasta Brewing Co (upon relocation to the proposed new premises) was restricted to the requirements associated with a producers' licence, this would mean that patrons attending for reasons other than to obtain a meal would only be able to consume beer. Should this occur, it would result in major detrimental impacts to the operation of the venue and bring the viability of the premises into question. "*

27. While accepting that there could be similar amenity impacts between a Brewery and a Tavern, the Scheme does distinguish between the two land uses in terms of their permissibility, with the former being a discretionary use and the latter being a prohibited use. Both uses could potentially have a negative impact upon the amenity of surrounding properties and potential higher density residential development, particularly if the premises is not well managed. As part of the development of LPS 2, the appropriateness of both land uses needs to be considered.

28. For these reasons, and so as to be consistent with the Town's approach to consideration of the development applications for Nos. 84-88 Goodwood Parade, and Council's Transitional Use Policy, a 10 year time limitation is proposed, which is able to be reviewed in the future once LPS 2 has progressed.

Conclusion

29. The use of the site as a Tavern, particularly in the short-medium term, is supported while the development of the surrounding properties potentially occurs. The use as a Tavern, with appropriate controls put in place to mitigate amenity impacts such as noise etc through the development application process, would deliver many social and economic benefits to the Precinct.

30. On balance, it is considered that a time limited approval is appropriate similar to that granted for No. 84-44 Goodwood Parade, Burswood in the interest of transparency and equity and to allow the Town to undertake further work in developing LPS 2 and determining the appropriateness of the Tavern land use into the future.

Relevant documents

[Minutes of the March 2022 Ordinary Council Meeting](#)

Further consideration

31. The report has now been updated to reflect the additional submissions that were received following the Officer's completing the report that was presented to the Agenda Briefing Forum.

12.3 Vehicular Access Policy

Location	Town-wide
Reporting officer	Manager Development Services
Responsible officer	Chief Community Planner
Voting requirement	Simple Majority
Attachments	<ol style="list-style-type: none">1. Attachment 1 - Draft LPP - advertised version [12.3.1 - 9 pages]2. Attachment 2 - Report to May 2020 OCM [12.3.2 - 6 pages]3. Attachment 3 - Amended R-Codes Deemed to comply requirements [12.3.3 - 3 pages]4. Attachment 4 - Submissions [12.3.4 - 7 pages]5. Attachment 5 - LPP 42 Draft Marked up [12.3.5 - 16 pages]6. Attachment 6 - LPP 42 Draft Final [12.3.6 - 10 pages]

Recommendation

That Council:

1. Adopts the amended version of draft Local Planning Policy No. 42 'Vehicular Access for Residential Development' as contained at attachment 6 in accordance with clause 4(3) of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
2. Requests the Chief Executive Officer to arrange for publication of notice of the adoption of Local Planning Policy 42 'Vehicular Access for Residential Development' in accordance with deemed clause 87 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Purpose

To consider submissions received on draft Local Planning Policy No. 42 'Vehicular Access for Residential Development' and for Council to adopt an amended version of the policy.

In brief

- At the Ordinary Council Meeting held on 19 May 2020, Council resolved to advertise the draft Local Planning Policy No. 42 'Vehicular Access for Residential Development' for public comment for a minimum period of 42 days.
- The consultation period commenced from 25 June 2020 and ended 6 August 2020 (43 days). A total of 18 submissions were received during the consultation period, with the majority of comments opposing the policy.
- The Residential Design Codes of WA (R-Codes) were amended on 2 July 2021. The amendments changed several deemed-to-comply requirements relating to development of land, including changes to Clause 5.3.5. Vehicular Access. The draft local planning policy has since been reviewed to ensure that it remains consistent with the amended R-Codes.

Background

1. At the Ordinary Council Meeting held on 19 May 2020, Council resolved, in accordance with deemed clause 4 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, to advertise the draft Local Planning Policy No. 42 'Vehicular Access for Residential Development' for public comment for a minimum period of 42 days. A copy of the Council report can be viewed at attachment 2.

2. Following community consultation, the Department of Planning, Lands and Heritage (DPLH) advised that the R-Codes would be modified and would include changes to the deemed-to-comply requirements relating to vehicular access, which would have implications for the Town’s draft policy. The report back to Council was delayed until the changes to the R-Codes were advertised and gazetted. This was to minimise the need for the local planning policy to be amended further following the gazettal of the R-Code changes.

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.	The residential building industry and homeowners were consulted regarding the proposed draft local planning policy.

Environment	
Strategic outcome	Intended public value outcome or impact
EN01 - Land use planning that puts people first in urban design, allows for different housing options for people with different housing need and enhances the Town's character.	The proposed draft local planning policy aligns with the provisions of the R-Codes, ensuring that there is a consistent approach to vehicular access and enhancing the Town’s character through the minimisation of vehicle access points.

Social	
Strategic outcome	Intended public value outcome or impact
S02 - An informed and knowledgeable community.	The residential building industry and homeowners were consulted regarding the proposed draft local planning policy for a minimum period of 42 days.

Engagement

Internal engagement	
Stakeholder	Comments
Engineering	Support given for the proposed local planning policy and have contributed to the drafting and refinement of its provisions.
Parks	Support given for the proposed local planning policy with regards to street trees and verge treatments.
Place Planning	Support with suggested minor amendments.

External engagement	
Stakeholder	Comments
Department of	Provided advice on the draft amended policy and confirmed that the policy does

Planning, Lands and Heritage (DPLH)	not propose any amendments to the R-Codes which would otherwise require WAPC approval.
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External engagement	
Stakeholders	Town of Victoria Park residents, builders and developers.
Period of engagement	25 June 2020 to 6 August 2020 (43 days).
Level of engagement	2. Consult
Methods of engagement	<ul style="list-style-type: none"> • The Town's 'Your Thoughts' online engagement hub; • Posters displayed at Leisurelife, Aqualife, the Library and the Administration building; • Notification through half page advertisement in the Southern Gazette, local newspaper; • Social media posts; • Digital advertising; and • Direct emails to registered applicants who have submitted for planning or building applications in the last year.
Advertising	As above.
Submission summary	A total of 18 submissions were received. Of the submissions received 15 opposed the policy, two provided general comments and one supported the policy.
Key findings	<p>Common issues raised:</p> <ul style="list-style-type: none"> • Shared driveways will create conflict between landowners; • Visitor parking on driveways will be lost and will force people to rely on street parking; • Two crossovers required for subdivision development; • Reduced back yard sizes due to parking being forced to rear of properties; • Inability for people to park on verge due to increased street tree planting; • Amending deemed-to-comply requirements of the Residential Design Codes which requires WAPC approval; • Disadvantages property owners who have not already subdivided and are now not permitted multiple access points. <p>Refer to attachment 4 to view all submissions received.</p>

Legal compliance

Division 2 – Local Planning Policies, Schedule 2 'Deemed provisions for local planning schemes', *Planning and Development (Local Planning Schemes) Regulations 2015*.

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	Not applicable.					
Reputation	Not applicable.					
Service delivery	Not adopting the policy will retain some uncertainty for members of the public as to the Town's requirements.	Minor	Possible	Medium	Medium	Adopt policy to provide clarity.

Financial implications

Current budget impact	No impact.
Future budget impact	Not applicable.

Analysis

3. The following commentary was contained in the report presented to the May 2020 Ordinary Council Meeting, summarising some of the key aspects of the draft policy:

"The primary issues to be addressed by the draft local planning policy are the impact of excess hardstand generated by new crossovers on the streetscape and the loss of verge areas and street trees. These issues are commonly caused by:

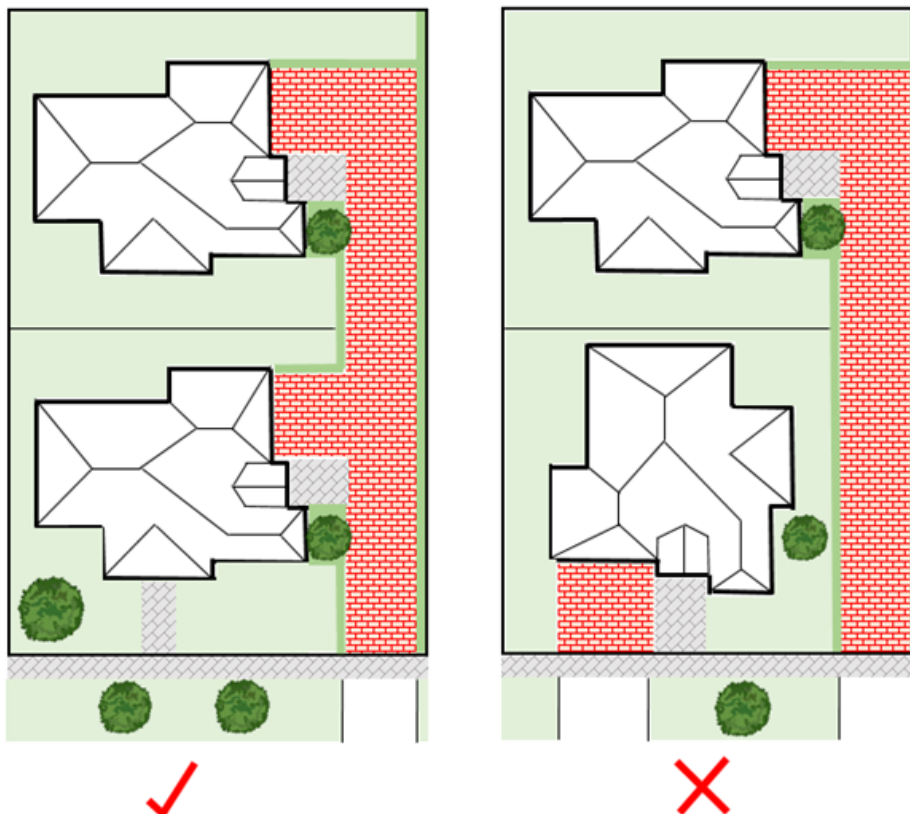
- additional new crossovers to accommodate infill lots at subdivision*
- additional crossovers to accommodate secondary access points to lots (i.e. lots seeking two access points to accommodate additional parking, boat/caravan etc.)*
- wider crossovers to accommodate changing parking and access arrangements on lots (e.g. double carports and garages), or multiple crossovers directly adjacent to one another which creates the impression of a single very wide crossover.*

The main contents of the draft local planning policy include:

- restrictions on the number of crossovers permitted for single houses, grouped dwellings in different configurations and multiple dwellings
- the design of crossovers including limitations on crossover widths and setbacks to street trees and obstructions
- the removal of redundant crossovers that are no longer connected with internal driveways
- the design of driveways including minimum widths and requirements for vehicles to enter the street in a forward gear
- on-site manoeuvring
- driveway construction materials
- driveway gradient

The draft local planning policy has placed an emphasis on grouped dwellings taking access off a common property driveway. Development applications for grouped dwellings typically apply for more than one crossover (i.e. one for the dwelling fronting the street and a second crossover for the rear dwelling(s)). Under the current planning framework, it is difficult to require applicants to use common property for access for all dwellings."

4. The R-Codes of the time did not contain provisions restricting the number of crossovers to a residential development. Accordingly, the draft policy as advertised for public comments contained a provision limiting the number of crossovers to one per site, with the intent being for the sharing of vehicle access where there are two or more dwellings. This is demonstrated in the following image:

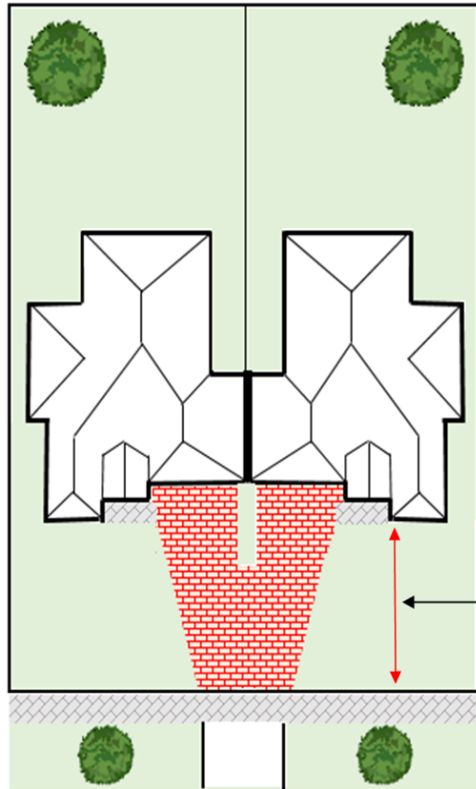


5. A number of submissions expressed concern about this provision to restrict vehicle access to one crossover per lot.
6. However, in July 2021, amendments to the R-Codes, Volume 1 were introduced, inclusive of the following deemed-to-comply provision (also see Attachment 3):

"C5.1 Access to on site car parking spaces to be provided:

- where available, from a communal street or right-of-way available for lawful use to access the relevant site and which is adequately paved and drained from the property boundary to a constructed street; or*
- from a secondary street where no right-of-way or communal street exists; or*
- from a primary street frontage where no secondary street, right-of-way, or communal street exists."*

7. The effect of this R-Codes provision is that in the first instance vehicle access to a site should be provided via a communal street (a shared accessway) or a right-of-way, where either is available. The inclusion of this provision will require any new development to take access off a communal street or common property driveway where one exists. Currently many developments propose two separate crossovers being one to the front dwelling and one to any new dwelling at the rear, regardless of whether common property is proposed or not.
8. This R-Codes provision achieves the same intent as outlined in the advertised version of the Town's draft LPP42, to the extent that the R-Codes provisions can apply without the Town's LPP42 needing to contain additional or alternative provisions. Accordingly, clause 1 of the draft amended version of LPP42 has been amended to refer to the applicable R-Codes requirement.
9. Other amendments are proposed to the version of LPP42 that was advertised for public comments. These amendments are highlighted in red at Attachment 5, with such changes generally being made to simplify the draft policy, or in response to suggestions from DPLH Officers. None of the proposed amendments change the intent of the policy.
10. Following the consideration of public comments, there are two amendments that are worthy of being highlighted:
 - (a) deleting the original proposal for there to be a shared access arrangement where there is a side-by-side development on a lot with a frontage of more than 20m (as illustrated in the image below). Upon further consideration, this provision would be inconsistent with the amended R-Codes and would require some extent of common property which is generally not favoured by landowners in a side-by-side lot configuration.



(b) Provide clarification at clause 1.1(b) of the policy, that shared access will not be required where an existing dwelling and its access is being retained, that is separate from access to the other dwellings on the lot. This provision recognises pre-existing access to a dwelling and would allow this to be retained and separate from access to the other dwellings, rather than requiring the removal of this access point and the reconfiguration of parking and access to the dwelling.

11. The community consultation period raised several recurring comments, which required further investigation. The common concerns are summarised and addressed in the table below (and appear in full at attachment 4):

Common issued raised	Officer comment
Shared driveways will create conflict between landowners.	The proposed draft local planning policy is consistent with the amended deemed-to-comply requirements of the R-Codes, which requires access to be from a communal street where one is provided.
Visitor parking on driveways will be lost and will force people to rely on street parking.	The limitation on the number of crossovers will eliminate some opportunities for visitors to park within a second driveway but will increase opportunities for visitors to park on the street in front of the development site, as well as deliver many other benefits for the streetscape.
Two crossovers required for subdivision development.	Two crossovers are not required for subdivision. Consistent with the amended R-Codes, subdivisions should be designed to have one shared access point.

Reduced backyard sizes due to parking being forced to rear of properties.	The policy does not define the location of car parking, it ensures that vehicle crossovers to the street are minimised. The location of car parking on site will be at the discretion of the developer, subject to assessment against the Town's local planning policies and the R-Codes.
Inability for people to park on verge due to increased street tree planting.	The Town's Urban Forest Strategy aims to achieve 20% canopy cover. To achieve this percentage, additional verge planting is required. The minimisation of crossovers creates usable verge planting space.
Amending deemed-to-comply requirements of the Residential Design Codes which requires WAPC approval.	The draft policy does not propose to amend aspects of the amended deemed-to-comply requirements of the R-Codes. The draft policy addresses matters either not covered by the R-Codes, or clarifies the Town's interpretation of certain deemed-to-comply standards, or provides guidance on alternatives that Council will consider to meet the relevant design principles of the R-Codes. Officers of the DPLH have reviewed the policy to ensure alignment with the R-Codes.
Disadvantages property owners which have not already subdivision and are now not permitted multiple access points.	The draft local planning policy aligns with the changes to the R-Codes which require access to be taken from a communal street where one exists.

12. It is noted that the majority of the above concerns all related to the proposed policy provision limiting the number of crossovers to a development site. The R-Codes, applying to all residential development across the State, now require this, and the Town's policy is consistent with the amended R-Codes provision. For the reasons outlined above, it is recommended that Council resolves to formally adopt draft Local Planning Policy No. 42 – Vehicular Access for Residential Development contained at attachment 6.

Relevant documents

State Planning Policy 7.3 Residential Design Codes (Volume 1)

State Planning Policy 7.3 Residential Design Codes (Volume 2)

13 Chief Operations Officer reports

13.1 Kent St Sand Pit Concept Design

Location	Town-wide
Reporting officer	Environmental Management Officer
Responsible officer	Chief Operations Officer
Voting requirement	Simple majority
Attachments	<ol style="list-style-type: none">1. Kent St Sand Pit Consultation Preceding Round 2 Draft Concept Design [13.1.1 - 3 pages]2. Kent Street Sand Pit Concept Design [13.1.2 - 1 page]3. Kent Street Sand Pit Concept Design Consultation [13.1.3 - 11 pages]

Recommendation

That Council receives and endorses the Kent Street Sand Pit Concept Design.

Purpose

To present Council with the Kent Street Sand Pit Concept Design for endorsement and the next anticipated stages.

In brief

- In February 2021, Council approved the development of a Kent St Sand Pit Concept Plan.
- The first draft of the Kent St Sand Pit Concept Options was developed and presented to Council at the 15 June OCM.
- At the June OCM, Council requested that the Administration undertake some site surveys and a geotechnical report and seek advice on the restoration and revegetation of banksia woodland.
- The outcome of the surveys and expert advice sought informed the draft design.
- The draft Kent St Sand Pit Concept Design has undergone community consultation.
- The Town is now seeking Council endorsement of the Kent St Sand Pit Concept Design.

Background

1. In December 2020, Council received the Opportunities and Considerations (O&C) Report for Kent St Sand Pit. Remaining within the boundaries of the current planning framework (Parks and Recreation Reserve) and following the direction set by previous recommendations and decisions about the site, this report provides information on design options for rehabilitation of the site to inform future site planning.
2. Building on this O&C report, at its meeting on 15 December 2020, Council approved the development of a concept plan for Kent St Sand Pit.
3. The Town sought feedback from the community regarding how they would like the Kent St Sand Pit to be used. The informing staff and community survey and workshop feedback indicated a greater appetite to use the site for revegetation and passive recreational and cultural purposes.

4. Building on this community feedback, the first draft Kent St Sand Pit Concept Options were developed and presented to Council at the 15 June 2021 OCM. These options were categorised into Bronze, Silver and Gold options. These options had revegetation at their core but escalated in the level of infrastructure proposed in each higher level option.

5. On 15 June OCM Council made the resolutions below:

Requests the Chief Executive Officer to:

a) undertake detailed site surveys of the flora, fauna, water mains connections, stormwater and groundwater capacity, and obtain a geotechnical report;

b) consider whether to hold discussions or obtain advice from the WA Department of Biodiversity Conservation and Attractions, Water Corporation, SERCUL or any other professional advisers, and if so, to undertake those discussions or obtain that advice before September 2021;

c) seek advice and promote discussion with Curtin University and the Town's Mindeera Advisory Group in relation to the Kent St Sand Pit site, around culturally appropriate revegetation, and creation of a natural learning space for Noongar culture.

d) list for consideration in the 2021/22 budget sufficient funds to undertake the surveys and report referred to in 2(a), and any advice referred to in 2(b).

6. The Town then embarked on several site investigations and stakeholder and agency consultations in accordance with the above Council resolution.

7. The outcome of the detailed site surveys and the geotechnical reports can be found in the attachments to this report (Site Investigations Outcomes Summary) and in the Minutes of the 21 September 2021 OCM (Kent St Sand Pit Concept Options – Response to Council).

8. The Town also sought advice from various agencies, seeking their expertise regarding any potential issues with the proposed design elements being integrated into the site or any broader considerations of which the Town should be aware. The feedback received has been outlined in the 'Other Engagement' section.

9. The Town has since been engaging with Curtin University, which has included elder Professor Simon Forrest and Professor Dixon, and the Town's Mindeera Advisory Group concerning the Kent St Sand Pit around appropriate revegetation and creation of a natural learning space for Noongar culture. The summarised learnings from respective parties are outlined below.

a. Simon Forrest:

i. Pathways are suitable for community access.

ii. The revegetation proposed is supported. There is a need to ensure that this revegetation blends with Kensington Bushland rather than two distinct areas.

iii. Ensure that the perimeter embankments have a more gentle, natural look.

iv. Remove all fencing to the site. This will let the land breathe.

v. Allow access and open interaction with the bush.

vi. Make the site's design reflective of Noongar culture, i.e. with a view to "Cultural Restoration". This could include the integration of:

1. the six Noongar seasons referenced in the design

2. culturally significant fauna in symbolism

3. yarning circles (circles for learning). If located and designed with elders, yarning circles for knowledge exchange would be more culturally appropriate than, for instance, an amphitheatre. A small shelter could integrate with the yarning circle, but the shelter itself should not be the focal point.

- vii. Curtin University worked with elders to find the Noongar energy spot that became the Yarning circle site. The yarning circle should be centred around the Noongar energy spot. Simon offered help to locate this appropriately.
- b. Kingsley Dixon:
 - i. Could plant pecans and almonds on the verges to create a fast-growing food source for Black Cockatoos.
 - ii. The focus should be restoration rather than revegetation, as a Banksia woodland can be restored (which should be the aim as this is the shared vision of the Traditional Owners).
 - iii. Understory – this is where the biodiversity is in Banksia woodland. There are challenges such as those associated with seed propagation capability, but the Town can partner with Curtin University and others to generate a best practice restoration effort.
- c. Mindeera Advisory Group:
 - i. Mindeera Advisory Group visited the site in September and met with Town officers on 11 August and 3 November 2021. The Group was supportive of the learnings provided by Professor Forrest and Professor Dixon, as well as the latest indicative or concept design attached to this report.

10. Based on the feedback received and the survey findings at the 21 September OCM, the following resolution was passed:

1. *Receives the reported outcomes for 15 June 2021 Ordinary Council Meeting resolutions.*
2. *Requests the Chief Executive Officer to seek further input from Professor Kingsley Dixon and/or Curtin University, the Mindeera Advisory Group and the Friends of Jirdarup Bushland into the draft design for the Bronze Option presented to Council on 15 June 2021 to inform any adjustments to the draft design.*
3. *Approves the Administration to adjust the draft design for the Bronze Option in accordance with the survey findings and feedback received, to create a best practice restoration effort with a focus on:*
 - a. *1. ecological restoration of the banksia woodland and development of the understory;*
 - b. *2. Noongar cultural restoration and considerations.*
4. *Requests that the reviewed design for the Bronze Option be presented to Council by the December 2021 Ordinary Council Meeting.*

11. The Administration has subsequently developed an indicative adjusted draft design (concept design) for the Kent St Sand Pit, which was released for community consultation.

Strategic alignment

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 conversion of the site to public open space for recreational and cultural purposes, with restoration being the prime focus, would not only protect and enhance the adjacent precious remnant Kensington Bushland but also potentially create an excellent amenity for the Town's community and visitors from the wider community.

EN07 - Increased vegetation and tree canopy.	Given the size of the site, the restoration of Kent St Sand Pit would contribute significantly to the Town's canopy cover.
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Engagement

The table below summarises the outcome of the latest round of consultation that has occurred on the draft design. For details of the preceding consultation, please refer to the attached summary attached to this report.

External engagement – Round 2 – Draft Concept Design	
Stakeholders	The whole of the Town community.
Period of engagement	17 January – 7 February 2022
Level of engagement	4. Collaborate
Methods of engagement	Community survey.
Advertising	Newspaper advertisement, Town website, posters, social media, Google ads, letter drop to surrounding residents.
Submission summary	91 submissions were received.
Key findings	<p>75 of the 91 submitters voted 'Yes' to the question 'Do you support the proposed concept?'</p> <p>Some recurring themes in the feedback included:</p> <ul style="list-style-type: none"> • Include water station(s) • Reference to Aboriginal stories and history • More tall trees • Make sure there is connectivity to Kensington Bushland • Child engagement • Consider a dog exercise area <p>For a copy of the submissions and the Administration response, please see the attachment to this report.</p>

Other engagement – Round 2 – Draft Concept Design	
Stakeholder	Comments
Mindeera Advisory Group	The group were supportive of the indicative concept design.
Department of Primary Industries and Regional Development	Please refer to the minutes dated 14 December' Kent St Concept Design'.
Department of Water and Environmental Regulation	Please refer to the minutes dated 14 December' Kent St Concept Design'. As requested by the Department, the design was sent to them once finalised.
Curtin University	Professor Kingsley Dixon (John Curtin Distinguished Professor - who specialises in ecological restoration (particularly restoration of Banksia Jarrah woodlands) –

	<p>supported the draft design:</p> <p>"My first impressions are that this looks good with the restoration area being sufficient to be the major purpose for the area. Be good if the 'trees' as indicated on the plan should be named".</p>
<p>Simon and Roni Forrest; Darryl Bellotti</p>	<p>The Town sought advice from various advisors (Simon and Roni Forrest and Mindeera Advisory Group) seeking their expertise regarding any potential issues with the proposed design intent or any broader considerations of which the Town should be aware.</p> <p>Energy mapping of the site was undertaken with Simon and Roni Forrest, with a view to determining the finalised yarning space location, confirming the path alignment and mounding suitability.</p> <p>The below outlines the main feedback points:</p> <p>Confirm on the existing draft concept map the best location for the yarning space: The yarning space should be closer to the area of the water. Part of learning is getting young people accustomed to understanding that water is sacred as well as other cultural and spiritual elements that come along with that.</p> <p>Comment on the appropriateness of the proposed alignment of the walking trails on the existing draft concept. The walking trails are fine in their general layout. Need to consider the layout of the pathways and how they can be treated. Allowing them to be more flowing and winding through the landscape will help in shifting focus to particular areas of interest/significance along the way. If the path winds a little, opportunities to present something interesting/exciting just around the next bend will help tell the story of the park and ensure that opportunities for engagement are not lost along the way. Having it wind through can also help with a dreaming/song lines story.</p> <p>Confirm if the proposed mounding is appropriate. Breaking up the landscape, to an extent, will allow for greater engagement opportunities to be had. With a mound/small hill scenario, there are opportunities to bring in a different 'level' of engagement. With a raised viewing platform that the mounds will provide, the ability to speak about things higher up like trees, birds, the sky and stars become apparent. These focal points become important as part of that spiritual journey visitors and young people especially can experience. The general location of the mounds as they stand seems fine, but if we were to adapt the pathways as stated above, then there may be a need to adapt the locations of the mounds slightly.</p> <p>Please note: Elements like final path layout and mounding will be explored as part of the detailed design stage.</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	As the land is owned by the Town under a 999-year lease and was gifted to provide financial endowment, there is the potential for loss of alternative revenue and other social benefits as a result of not exploring options outside of the current Parks and Recreation Zoning.	Major	Possible	High	Medium	Seek the preference of the Town's community in terms of potential revenue generation and social outcome opportunities to offset a portion of the rates revenue.
Financial	Precedent for the State Government to take back endowment land as they required.	Major	Possible	High	Medium	Liaison and negotiation with the State and Federal Government regarding future plans for the site.
Environmental	Not applicable.					
Health and Safety	Not applicable.					
Infrastructure/ICT Systems/Utilities	Not applicable.					
Legislative Compliance	Not applicable.					
Reputation	Not applicable.					

Financial implications

Current budget impact	<p>There is no budget impact to the 2021/22 budget with the endorsement of the concept design.</p> <p>After discussions with our seed collection contractors, Tranen and other nurseries' representatives, it is anticipated that at least two-fold increase in current collections is required to set up a Best Practice Restoration Model. The Town's Natural Areas team has indicated that funds will be derived from the following cost codes:</p> <p>2021 Seed collecting Kensington \$9900 = W444 Drainage Maintenance</p>
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	Hillview Restoration	\$990 = W561 Hillview Maintenance
	UFS seed collection	\$990 = W4345 UFS
	Seed management fee	\$200 = W4345 UFS
Future budget impact	<p>Pending Council endorsement of the design, funding for construction works will be required.</p> <p>Pending approval of the concept design, a detailed design phase will be undertaken. An estimated \$40,000 has been requested for this purpose for the 2022/23 budget.</p> <p>Preliminary estimates are that the works will cost \$1.578M (see Opinion of Probable Cost attached to this report).</p> <p>The construction cost may be able to be supplemented through grant funding (e.g. Lotterywest).</p> <p>The second round of seed collection in 2022/23 is anticipated to be funded by the Natural Areas Maintenance budget. This will also encompass annual propagation research and development, estimated at \$5,000/year.</p>	

Analysis

12. Following the community consultation feedback, together with the input of Traditional Owners, the following were considered the final draft design:

- a. Yarning spaces (referenced on the concept as Knowledge exchange/central node).
- b. Feature engagement/educational nodes (e.g. for Aboriginal stories and history).
- c. Shaded areas, seating and water station.
Conceptual alignment of the walking trails in accordance with cultural mapping of the site.
- d. Conceptual appropriateness of mounding confirmed in accordance with cultural mapping of the site.

PLEASE NOTE:

- The proposed trees are just indicative at this stage. Outside of the paths and nodes indicated, the Town will be aiming to undertake vegetation restoration across the site, with all the spectrum of plant types found within Kensington Bushland (e.g. woodland vegetation, shrubland vegetation, forest vegetation, open understorey), inclusive of canopy trees.

13. The design itself can be found as an attachment to this report. See *Kent Street Sand Pit Concept Design*.

14. Given the support from the community for the indicative draft design, the Administration requests that Council endorse the Kent St Sand Pit Concept Design.

15. With the endorsement of the Kent St Sand Pit Concept Design, the Town will initiate a Request for Quotation process for the next design phase for the project, Detailed Design. Detailed Design is required in order to set a specific program of works for the site.

16. It is anticipated that the strategic staging of major works for the project is as follows:

- a) Detailed Design preparation and associated community engagement (FY 2022/23).
- b) Restoration Plan development (FY 2022/23).
- c) Tender works for construction of the parking area and paths and features (FY 2022/23).
- d) Construct parking area, paths and features (FY 2023/24).
- e) Coordinate progressive works for planting of restoration areas (from FY 2023/24)*.
- f) Complete progressive works within restoration areas (FY 2027/28).
- g) Ongoing maintenance of infrastructure and restoration areas (FY 2027/28 onwards).

* Kent St Sand Pit can proceed with weed control over the entire site after the installation of the paths. Based on the completing one hectare a stage over a four hectare site and presuming there is capital works budget to complete, the proposed staging of the weed control and planting may be:

- i. Weed control and site preparation of the entire site (FY 2022/23).
- ii. Planting one hectare stage one (FY 2023/24).
- iii. Planting one hectare stage two, backfill succession planting, weed control over all sites as required (FY 2024/25).
- iv. Planting one hectare stage three, backfill succession planting, weed control over all sites as required (FY 2025/26).
- v. Planting one hectare stage four, backfill succession planting, weed control over all sites as required (FY 2026/27).
- vi. Succession planting and ongoing environmental maintenance program (FY 2027/28).

Relevant documents

Nil.

Further Consideration

17. Please note that there was a formatting issue with the Kent Street Sand Pit Concept Design Consultation attachment to the 3 May 2022 Agenda Briefing Forum report. This attachment has been corrected and included with this report.

13.2 Edward Millen Adaptive Heritage Redevelopment Project Update

Location	East Victoria Park
Reporting officer	Senior Property Development and Leasing Officer
Responsible officer	Chief Operations Officer
Voting requirement	Absolute majority
Attachments	Nil

Recommendation

That Council:

1. Notes the information and updates contained within this report.
2. Requests the Chief Executive Officer to provide a further progress report at the August 2022 Ordinary Council Meeting.

Purpose

To present an update to Council for the Edward Millen Adaptive Heritage Redevelopment Project.

In brief

- At the Special Council meeting held on 2 August 2021, the Council considered a confidential commercial ground lease offer from Blackoak Capital Ventures Pty Ltd and Arget Ventures Pty Ltd (Blackoak) and resolved to accept that offer on the terms provided for in Council resolution 173/2021.
- At the Ordinary Council meeting held on 15 February 2022, the Council resolved to accept the \$4M (ex GST) funding contribution from the Federal Government to deliver the Edward Millen Redevelopment project and delegate authority to the Chief Executive Officer to execute all necessary documentation to formalise the \$4M (ex GST) funding contribution from the Federal Government.
- The Minister for Lands approved the Asset Maintenance Plan for the Edward Millen Heritage buildings on the 16 February 2022.
- Further to Council resolution 173/2021, officers have progressed negotiations with Blackoak Capital Ventures with regards to the terms of the Agreement for Lease and Ground Lease.
- The negotiations with Blackoak have proven to be more complex than envisaged and design changes have been introduced. An overview is provided of some of the issues and how the Town is seeking to resolve these.

Background

1. At the Special Council meeting held on 2 August 2021, the Council considered a confidential commercial ground lease offer from Blackoak Capital Ventures Pty Ltd and Arget Ventures Pty Ltd (Blackoak) and resolved as follows by Council Resolution 173/2021:

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 as per paragraph 9.*

- 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) *The final lease to include terms reflecting the following requirements for community access for the duration of the lease and any extensions thereof:*
 - a. *the tenant shall incorporate a museum space inside the Edward Millen Rotunda building reflecting on the history of the buildings and local area, to be open and accessible to the public free of entry charges;*
 - b. *the tenant shall set aside space inside the buildings suitable for use by not for profit community groups, to be available at least 2 days per week including once on a weekend at no charge;*
 - c. *save where required for security purposes, the tenant shall ensure that the majority of the grounds within the leased premises remain open to the public during business hours on weekdays, evenings and weekends;*
 - d. *the tenant shall permit members of the public who have not booked use of function spaces within the leased premises to take photos for such events as weddings or the like, within the public areas of the leased premises at no charge;*
 - e. *the tenant shall set aside space for community groups to use at no charge within the farmers' market area and other parts of the grounds within the leased premises to host stands or small events and performances.*
- 4) *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.*
- 5) *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.*
- 6) *Requests the Chief Executive Officer to bring a report back to Council following the public submission period required under Section 3.58 of the Local Government Act 1995 seeking Council approval to execute all necessary documents on behalf of the Town of Victoria Park in relation to ground lease a portion of 15 (Lot 9000) Hill View Terrace, East Victoria Park.*

1. The Department of Infrastructure, Transport, Regional Development and Communications executed the Deed of Agreement for funding in relation to the Edward Millen Redevelopment Project on 24 February 2022.
2. The Edward Millen Asset Maintenance Plan was approved by the Minister for Lands on 16 February 2022.
3. A Deed to facilitate the early surrender of lease has been prepared and issued to the Disability Services Commission. The Disability Services Commission occupied part of Lot 9000 Hill View Terrace however, vacated the premises on the 31 March 2022 to allow for the building to be demolished in accordance with the scope of work for the Edward Millen Adaptive Heritage Redevelopment.
4. As noted above, Blackoak's commercial ground lease offer is confidential. An agreement for lease with an annexed ground lease has been issued to Blackoak. The terms of these have been under negotiation, with the Town having regard to the terms of the above Council resolution. The agreement for lease is a commercially sensitive, confidential document. Release of its contents has the potential to affect delivery of the outcomes that the Town is seeking to achieve. This report therefore contains limited information as to some (and not all) of the outstanding points of negotiation.
5. The Town acquired the Edward Millen property for a nominal consideration. The property is held by the Town in terms of a conditional freehold title, which restricts the use of the property subject to the conditions that the Town and the registered proprietors from time to time of the land:
 - a. will not use, or permit or suffer the land or any part of it to be used for any purpose other than for "Community, Recreational, Civic, Entertainment, Education, Cultural and Creative Industry, Heritage and Small Scale Production";
 - b. without limiting the generality of paragraph (a), will not use, or permit or suffer the land or any part of it to be used for any illegal, improper or commercial purpose;
 - c. will apply all premiums, lease rentals, charges or other income received from all leases, subleases, licences and other use of the land to maintain, repair and renew any building, facility or structure on the land and to maintain the grounds of the land as appropriate, in accordance with the provisions of the Trust Deed entered into between the Transferee and the State of Western Australia acting through the Minister on 8 September 2020; and
 - d. will observe and perform the other conditions contained in section 75 of the LAA.
6. Section 75 of the *Land Administration Act 1997* allows the transfer of land in fee simple for a nominal price subject to such conditions concerning the use of the land, with a focus on the community benefit to be provided from the specified use. Commercial use is generally prohibited unless authorised by the Minister through approval of lease terms. Authorisation of any such commercial use is discretionary and is likely to include an assessment of complimentary benefit to the community. Blackoak has presented revised permitted use definitions to the Town for consideration and approval by the Department of Planning, Lands and Heritage (DPLH), with the intention of including these definitions in the Ground Lease. The DPLH prefers not to consider and approve the permitted use definitions until final lease documentation is available for assessment and has therefore not approved these to date.
7. Blackoak is seeking for the leasing documentation to authorise Blackoak to grant sub-leases and sub-licences within certain agreed upfront parameters without requiring ministerial approval for each sub-lease and sub-licence. Blackoak notes that it would be almost logistically impossible for every sub-lease or sub-licence to require separate ministerial approval. The nature of the project includes multiple small market stallholders and artisan retailers, often on short term arrangements. It would be administratively difficult and costly for Blackoak to seek separate Ministerial approvals for every sub-lease or sub-licence. The Town has been working with DPLH on a better outcome, with a view to developing a streamlined approach in relation to the registration process for sub-lease and sub-licence agreements.

8. Blackoak has proposed to rescope the capital works associated with the Rotunda building following a new request to demolish a portion of the existing building. The Town has requested Blackoak provide precise details, including the extent of the demolition and whether any approvals have been sought from the Heritage Council of Western Australia and the DPLH. The Town is also considering whether rescoping the project is within the terms of the Commonwealth Funding Agreement and other constraints/agreements affecting the property.
9. The Town has been liaising with various stakeholders, including Blackoak and Western Power, to facilitate the relocation of a district electricity transformer onto part of Lot 9000 Hill View Terrace to ensure it does not adversely impact the development. The key issues being reviewed involve easement requirements, including details as to the extent of any zones around the proposed easement and what can/cannot be done within those zones.
10. Blackoak is seeking a licence for non-exclusive use of the existing driveway leading from Hill View Terrace over the Hillview Bushland property (Lot 1000 on Deposited Plan 410921) to provide access for staff car parking. This is a new request not previously part of the lease negotiations and the Town is currently reviewing this request.

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 component required to facilitate the delivery of the project and is being delivered under the Town's Project Management Framework.
CL06 - Finances are managed appropriately, sustainably and transparently for the benefit of the community.	A ground lease will deliver a financially sustainable and appropriately managed outcome for an asset that is currently a financial liability for the Town.
CL08 - Visionary civic leadership with sound and accountable governance that reflects objective decision-making.	The Edward Millen Adaptive Heritage Redevelopment project has undergone several accountable and objective decision-making processes to arrive at this decision point.

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 for the Edward Millen Adaptive Heritage Redevelopment will deliver a precinct providing opportunities for commerce, tourism, employment and entrepreneurship. These uses will be managed through sub lease agreements that are consistent with the head lease.
EC02 - A clean, safe and accessible place to visit.	The ground lease will assist with managing a safe and accessible precinct.

Environment	
Strategic outcome	Intended public value outcome or impact
EN05 - Appropriate and sustainable facilities for everyone that are well built, well maintained and well	The ground lease will ensure the facility is well maintained and well managed.

managed.	
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Social	
Strategic outcome	Intended public value outcome or impact
S03 - An empowered community with a sense of pride, safety and belonging.	The activation of the facility and overall revitalisation of the Edward Millen Heritage Precinct, managed through the lease will empower the community giving a sense of pride with a sense of safety and belonging.
S04 - A place where all people have an awareness and appreciate of arts, culture, education and heritage.	The Edward Millen Adaptive Heritage Redevelopment aims to deliver services aligned with the arts, culture and education. All are permitted purposes in the ground lease.

Engagement

Internal engagement

Property Development and Leasing Manager	Input into the report and commercial negotiations.
Project Manager	Input into the report and project / design coordination
Manager Development Services	Input into the report and discussions regarding the initial concept plan.

External engagement

Stakeholders	Public at large.
Period of engagement	Not Applicable.
Level of engagement	1. Inform
Methods of engagement	Not Applicable.
Advertising	Not Applicable.
Submission summary	Not Applicable.
Key findings	Not Applicable.

Other engagement

Department of Infrastructure, Transport, Regional Development and Communications	A variation to the Funding Agreement is required to allow for rescoping and an extension to timelines.
Department of Planning, Lands and Heritage	On-going dialogue to facilitate various lease requirements.
Department of Communities	Coordination regarding the surrender of lease and vacating of 15 Hill View Terrace building.

Legal compliance

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

[Section 75 of the Land Administration Act 1997](#)

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 ground lease divestment may result in on-going heritage maintenance obligations.	Moderate	Likely	High	Low	TREAT risk by accepting the ground lease divestment.
Environmental	Not accepting the ground lease divestment may result in further deterioration of the Hazardous Materials currently constraining the site.	Moderate	Likely	High	Low	TREAT risk by allowing the redevelopment to occur which will decontaminate the structure of HAZMAT materials.
Health and safety	Without the restoration works the buildings will continue to be unsafe for use.	Moderate	Possible	Medium	Low	TREAT risk by accepting the ground lease divestment which will allow restoration works

							to be undertaken.
Infrastructure/ ICT systems/ utilities	Not applicable.						
Legislative compliance	Not applicable.						
Reputation	Not accepting the ground lease divestment may result in the 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 ground lease divestment resulting in the redevelopment and revitalisation of the Edward Millen State Heritage listed buildings.	
Service delivery	Not applicable.						

Financial implications

Current budget impact	Sufficient funds exist in the current budget to facilitate the approval of the ground lease.
Future budget impact	<p>Future budget impact involves the following:</p> <ol style="list-style-type: none"> 1. The Edward Millen Heritage buildings will require limited on-going financial commitments by the Town. These will be informed by an Asset Maintenance Plan annexed to the ground lease. 2. The negotiated annual rental income is \$122,500 net per annum excluding GST and outgoings. At the commencement of the lease, the first 20 year term will include CPI on the agreed market rent, this will compound over the 20 year term. The CPI has an agreed range set to a minimum of 1% and maximum of 2.5%. At 2.5% the rent in year 21 would be \$200,731. At 1% the rent in year 21 would be \$149,473. 3. Rates revenue income will be generated from the ground lease and will have a positive financial benefit to the Town. The anticipated rates from the existing footprint of heritage buildings once revitalised is estimated to be approximately \$43,000 per annum, this does not account for any further additional structures. Over the 20 year term it equates to \$1,020,490 inclusive of the long term 2% per annum forecasted rates increase.

Analysis

11. The lease and related commercial negotiations have proven to be complex. Significant capital is to be invested by Blackoak for commercial and public benefit. The Town's chosen development partner Blackoak is a sophisticated, well advised investor and developer. Rigorous due diligence has been applied by the investor to match the level of capital investment and the unique risks that apply to this conditional freehold property.
12. Blackoak has introduced a number of new requirements that were either not included in the confidential ground lease commercial offer considered and accepted by Council, or were addressed in general terms resulting in the need for these to be finalised through negotiation. Some of these requirements specifically relate to requests associated with the conditional freehold title of the property. These require input and authorisation through DPLH Land Management. One such requirement includes lease definitions for the permitted uses.
13. During the EOI and Tender process leading to the August 2021 Special Council meeting, the Town provided a document entitled 'New conditional tenure allowable uses definition'. Blackoak's ground lease commercial offer stated under "Permitted Uses" - "Uses as proposed in this submission, and any other use permitted pursuant to the Town Planning Scheme". Further to the Council's acceptance of Blackoak's offer, Blackoak have sought to agree a final wording of this document with the Town and with DPLH Land Management through the Town. To date, DPLH Land Management have not agreed the detailed permitted use definitions proposed by Blackoak.
14. Whilst a view can be taken that aspects of Blackoak's requirements are commercially understandable, they relate to matters that are regulated by DPLH Land Management under the LAA, and are outside of the Town's direct control. DPLH Land Management has not, as at the time of preparing this report, agreed to certain requests from Blackoak.
15. Enforcement of conditional freehold title restrictions is regulated by the *Land Administration Act 1997* (LAA) and falls under the State of W.A. (DPLH Land Management). Enforcement can, in a worst case scenario, result in forfeiture of the Town's conditional freehold title as well as re-entry and recovery of possession by the State of W.A. Whilst this is an extremely unlikely scenario, it can have significant adverse consequences for a tenant that makes a significant investment in a development of a conditional freehold property, and has become a risk that Blackoak have focused on addressing in the negotiation of the lease and commercial terms.
16. Concept designs for the development were presented to Town officers in mid-March 2022. These are yet to be presented to the Town's Design Review Panel. The concept design submission, along with progress on the development of the design, was placed on hold by Blackoak pending resolution of lease terms and related commercial matters. Two aspects of the concept designs officers noted as varying from the sketch designs in the accepted tender offer were the access to staff parking via the existing Hillview Terrace Bushland access road and the extent of demolition to existing buildings on site.
17. Proposed design changes introduced by Blackoak extend to the proposed demolition of the rear portion of the former Rotunda Hospital within the property. Blackoak proposes to replace the rear portion of the former Rotunda Hospital with a new building. This differs from the concept contained in the 'Offer' approved by Council, which depicted the retention of the rear of the former Rotunda Hospital. Blackoak has engaged Phillip Griffiths to be on their team as heritage advisor, who is the author of the site's Conservation Plan and an expert on the Edward Millen Precinct heritage and has presented this proposed design approach to officers from DPLH Heritage. The rationale for the extent of demolition has been included in the design presentations, along with advantages to the overall site outcome. As a later addition, this rear portion has a lower heritage rating, and the approach has been supported by Phillip Griffiths. The final design will need to be presented to Heritage Council for approval prior to any works proceeding.

18. Concept designs also include a staff parking area that is accessed via the existing access road along the eastern edge of the Hill View Terrace Bushland. Town officers noted this had advantages to the overall outcome by ensuring vehicle access to the site was via Hill View Terrace and no frequent use driveways accessed Baillie Avenue. Upgrades to this access road could also include long-term solutions to stormwater issues associated with this accessway in its current form.
19. It should be noted that the above comments on design refer to proposed designs. Blackoak advise that at this stage:-
 - (a) No definitive design changes have been made to the high level concept plan provided with Blackoak's Tender Submission in January 2021.
 - (b) A draft design option has been presented to the Town's project managers and to the Heritage Council for initial consideration and comment. The overall bulk and scale of the design options that Blackoak have worked on have been consistent with the original concept plan provided with Blackoak's Tender Submission.
 - (c) The final design will be consistent with the proposed vision and uses contained in Blackoak's Tender Submission and further commitments provided to the Town prior to the 21 August 2021 Special Council meeting.
20. If the final revised proposed design is acceptable to the Heritage Council, as well as the Town's Council, then consideration will also need to be given to the implications for the funding agreement entered into between the Town and Commonwealth and how these can be addressed. The delay in finalisation of commercial arrangements, the design changes coupled with the recent placing of design progress on hold by Blackoak together with longer lead in times that Blackoak are experiencing in the procurement of construction (due to labour and material constraints in the current market) are expected to require variations in the milestone timings of the funding agreement. This need has been communicated to the Commonwealth and is included in current discussions.
21. The Town is working with Blackoak to resolve these matters, with a view to presenting a commercially prudent and balanced agreement for lease and lease for Council's consideration. Further to Blackoak's approach to the local State member, a meeting has been arranged between DPLH Land Management, the Town and Blackoak and is currently scheduled to take place on 6 May 2022.
22. As noted, there are a number of stakeholders whose actions can affect the outcome of lease negotiations, and the Town does not control the actions of these stakeholders. It is considered helpful to set a time frame for a further progress report to be reported to Council. Provision for this has been made in the recommendation.

Relevant documents

Not applicable.

14 Chief Financial Officer reports

14.1 Schedule of Accounts - March 2022

Location	Town-wide
Reporting officer	Financial Controller
Responsible officer	Finance Manager
Voting requirement	Simple majority
Attachments	1. Payment Summary - March 2022 [14.1.1 - 9 pages]

Recommendation

That Council:

1. Confirms the accounts for March 2022, 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 March 2022.

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		
Creditors – EFT Payments		\$9,014,129
Payroll		\$1,163,712
Bank Fees		\$12,706
Corporate MasterCard		\$5,482
Total		\$10,196,029

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.
Financial	Fraud or illegal transactions	Severe	Unlikely	High	Low	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	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](#)

14.2 Financial Statements - March 2022

Location	Town-wide
Reporting officer	Finance Project Officer - Budget
Responsible officer	Finance Manager
Voting requirement	Absolute majority
Attachments	1. Statement of Financial Activity - March 2022 [14.2.1 - 44 pages]

Recommendation

That Council:

1. Accepts the Financial Activity Statement Report – 31 March 2022, as attached.
2. Accepts the budget amendment to increase library initiatives budget by \$12,700 for the purchase of digital scanner and microfiche reader and \$11,900 for software package items for printing solutions.
3. Accepts the budget amendment to transfer \$60,000 for Old Spaces New Places public realm project No.4 to Future Fund reserve.
4. Accepts the budget amendment to transfer \$2,422,582 to appropriate reserves to allow for project delivery in future financial years when market conditions improve.
5. Accepts the budget amendment to transfer \$55,000 from the Community Art Reserve to fund painting of a mural on the Town Administration Building.

Purpose

To present the statement of financial activity reporting on the revenue and expenditure for the period ended 31 March 2022.

In brief

- The financial activity statement report is presented for the month ending 31 March 2022.
- 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 31 March 2022.

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. Internal and external audits.
Financial	Fraud or illegal transaction	Severe	Unlikely	High	Low	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

4. The Financial Activity Statement Report – 31 March 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 March 2022 be accepted.

Relevant documents

Not applicable.

14.3 Rate Differentials

Location	Town-wide
Reporting officer	Finance Manager
Responsible officer	Chief Financial Officer
Voting requirement	Simple majority
Attachments	1. Statement of Objects and Reasons For Differential Rates 2022-2023 [14.3.1 - 5 pages] 2. Rates Modelling Option [14.3.2 - 1 page]

Recommendation

That Council:

1. Applies differential rates for the 2022/23 financial year.
2. Advertises, in accordance with section 6.36 of the *Local Government Act 1995*, for public submissions on the proposed differential rates and minimum payments as set out in the Statement of Objects and Reasons for Differential Rates 2022/23 (Attachment 1) as follows:
 - (a) Residential – Gross Rental Valuation (GRV)
 - (i) Minimum payment - \$872.00
 - (ii) Rate in the dollar - \$0.07832
 - (b) Non-Residential – GRV
 - (i) Minimum payment - \$1,260
 - (ii) Rate in the dollar - \$0.10334
 - (c) Vacant Land – GRV
 - (i) Minimum payment - \$1,600
 - (ii) Rate in the dollar - \$0.13677
3. Authorises the Chief Executive Officer to give local public notice seeking public submissions on the proposed differential rates and minimum payments for 2022/23.
4. Requests that any public submissions received relating to the above proposed differential rates and minimum payments are considered as part of the Council item proposing the adoption of the 2022/23 annual budget.

Purpose

To seek Council endorsement of proposed differential rates and minimum payments for 2021/22 for the purpose of advertising.

In brief

- In determining the annual budget, Council may impose differential general rates and minimum payments on any rateable land in its district, pursuant to section 6.33 and section 6.35 of the *Local Government Act 1995*.

- When differential rating is to be levied, the Town must give local public notice of the differential rates and minimum payments it intends to impose for a minimum 21 days and invite public submissions in accordance with section 6.36 of the Act.
- The rates budget in 2021/22 was \$44,367,425 which included a 0.88% rate increase.
- The recommended rates model for 2022/23 is a 4.6% increase across all rating categories which provides an expected yield of \$41,547,281 which includes an interim rates budget of \$99,495. This increase includes the growth in the rates base since 2021/22.
- The reduction shown between the two financial years is a result of the change to separate the residential waste charge which has been set at \$340.00 for the 2022/23 financial year. This change will make the Town consistent with the majority of local governments.

Background

1. Council may impose differential general rates and minimum payments on any rateable land in its district and is required to give local public notice of its intention to levy differential rates.
2. Every three years Landgate undertakes a general revaluation of all GRVs in the metropolitan area. This year is not the GRV revaluation year. The change in GRVs is relatively minor in non-general revaluation years and reflects interim rates received in the past 12 months for new properties as well as any additions to existing properties.
3. When GRVs increase, the rates in the dollar are adjusted downwards to achieve the same level of rates income. When GRVs reduce, the rates in the dollar are adjusted upwards to achieve the same level of rates income.
4. Rate changes for the past three financial years were;
 - a. 2019-2020 – There was no increase in rates
 - b. 2020-2021 – There was a 7.88% reduction in rates and
 - c. 2021-2022 – There was an increase in rates of 0.88%
5. Rates in the dollar and minimum rates have been updated in the recommendation and the 2022/23 Statement of Objects and Reasons. The rate model is based on the gross rental valuations for all rateable properties as at 20 April 2022. This includes all new assessments and amended assessments (interim rates) received from Landgate – Valuer General during 2021/22 to the date.
6. Rateable properties as at 20 April 2022 totals 18,051 (17,970 properties as at April 2021) equates to 81 additional rateable properties being added to the rates base during 2021/22.
7. Council is required to advertise by way of local public notice the proposed differential rates and minimum payments and consider any submissions received when adopting the annual budget.
8. Council may adopt different rates and minimum payments but must give reasons for doing so.

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.	Council to consider endorsing a 4.6% rate revenue increase for the 2022/23 Annual Budget.

Engagement

Internal engagement

Stakeholder	Comments
Elected Members	Elected members have considered the current economic climate and the Town's financial health and have 4.6% rate revenue increases to consider advertising.
Finance	Finance staff have assisted in the rate modelling scenarios to achieve a 4.6% rate revenue increase (see separate rate modelling results attachment).

External engagement

Stakeholders	Ratepayers will be invited to make submissions on the proposed rates in the dollar and minimum payments proposed for 2021/22.
Period of engagement	21 days local public notice will be given.
Level of engagement	3. Involve
Methods of engagement	Written submissions will be invited.

Legal compliance

[Section 6.33 of the Local Government Act 1995](#)

[Section 6.36 of the Local Government Action 1995](#)

[Section 6.35 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 complying with the <i>Local</i>	High	Unlikely	Moderate	Low	TREAT risk by ensuring

	<i>Government Act 1995</i> statutory requirements.					differential rates are advertised for 21 days local public notice.
Reputation	Not meeting the statutory requirement to advertise its intention to levy differential rates and minimums.	Moderate	Low	Unlikely	Low	TREAT risk by Advertising its intention to levy differential rates and minimums and Objects and Reasons including a summary of submissions in the report to Council to adopt the annual budget
Service delivery	Not applicable.					Medium

Financial implications

Current budget impact	There is no current budget impact as the recommended rates in the dollar and minimums relate to next financial year.
Future budget impact	The recommended 4.6% increase in rates in the dollar and minimum rates will achieve an expected yield of \$41,547,281 for 2022/23. This will form part of the total income received for the Town to fund next financial year's operating and capital budget.

Analysis

9. A rate modelling option of a 4.6% rate revenue rise has been prepared for Council consideration as listed in the separate attachment.
10. This is required in order to fund the operational and capital needs of the Town and is a result of the collation and investigation of the annual draft budget for 2022-2023.

Relevant documents

Not applicable.

15 Committee Reports

Nil.

16 Applications for leave of absence

Nil.

17 Motion of which previous notice has been given

Nil.

18 Questions from members without notice

19 New business of an urgent nature introduced by decision of the meeting

20 Public question time

21 Public statement time

22 Meeting closed to the public

22.1 Matters for which the meeting may be closed

22.1.1 CEO KPI 12 Personal Development Course

22.2 Public reading of resolutions which may be made public

23 Closure