



TOWN OF
VICTORIA PARK

Ordinary Council Meeting Minutes – 18 May 2021



WE'RE OPEN
VIC PARK

Please be advised that an **Ordinary Council Meeting** was held at **6:30pm** on **18 May 2021** in the **Council Chambers**, Administration Centre at 99 Shepperton Road, Victoria Park.

Her Worship the Mayor Karen Vernon
20 May 2021

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1 Declaration of opening

Mayor Karen Vernon opened the meeting at 6.30pm.

Acknowledgement of Country

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

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

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

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

Ngany youngka baalapiny Noongar birdiya wer moort nidja boodja.

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

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.

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 Announcements from the Presiding Member

A sincere thank you to the members of our community who attended the final Vic Vision workshop on Saturday 15 May for giving up their time and sharing their reflections and passions about our Town, both at present and in the future. Their contributions, along with all those who have participated in Vic Vision through surveys, workshops and activities, will help our Council in the important task of completing the first major review in four years of the Strategic Community Plan 2017 – 2032.

A special mention of thanks to the Town's staff for their work on this project, and in particular Ms Amy Noon for managing this project with enthusiasm and determination.

A final reminder that our community only has until 31 May to provide feedback on the Town's Draft Local Planning Strategy, which is an important new document the Town is required to have to inform future Town planning for development, population increases and place activation. So I would encourage everyone to take this opportunity to read the draft and have a say about what the life of your suburb and this Town should look like.

The Town's 2021 Business Awards have been rescheduled to 4 June 2021 with tickets on sale now.

2.6 Mayor's report – April to May 2021

On 21 April, I was the guest speaker at the Victoria Park Probus Club's monthly meeting and morning tea, talking about the future vision for Victoria Park and our draft Local Planning Strategy. That was followed by attending a meeting of SECCA at the City of Gosnells where the four member councils of Armadale, Canning, Gosnells and Victoria Park signed our official memorandum of understanding, and began working on our next joint advocacy project.

Later that afternoon the CEO and I met with the Shadow Federal Minister for Infrastructure, Catherine King MP and Patrick Gorman, Member for Perth, to outline for the Shadow Minister our major projects for

Victoria Park – McCallum Park Active Zone, MacMillan Precinct Master Plan, Lathlain Park Zone 1 and Edward Millen Precinct.

That evening Deputy Mayor Ife and I attended the WALGA South East Metropolitan Zone meeting.

By the end of that week, WA was entering lockdown and over the next couple of weeks, Town events were again sadly being cancelled, including our much anticipated Anzac Day Dawn Service and Business Awards Ceremony.

On 7 May, Cr Oliver and I met with Hames Sharley, the architects appointed by Council in April to design the new community sport and recreation facility and grandstand at Zone 1 of the Lathlain Precinct Redevelopment Project together with the Town's Project Manager to discuss the process for involvement of the Lathlain Park Advisory Group.

On 9 May, I attended the Town's first Dog's Breakfast held at Zone 2X, Carlisle where I got to help judge the pooch parade. Thanks to Deputy Mayor Ife for being the MC and Cr Oliver for bringing his pooch to enjoy the fun, since Deputy Mayor Ife and I had to leave ours at home. Compliments to the Town's Community events team for delivering a great event that was well attended by over 500 people.

On 10 May, I met with Sgt Santoro, the new Officer in Charge of Kensington Police Station and we discussed her approach to community policing and issues impacting on the Town.

On 12 May, Cr Hendriks and I attended the Parks & Leisure Australia Awards of Excellence where the Town was nominated for Park of the Year for Zone 2X, Carlisle. Although we didn't win, it was great to be amongst such strong contenders in the Cities of Joondalup, Kalamunda, Perth, Stirling and Swan, with Stirling taking home the win for the Bina Parkland.

On 14 May, I joined Cr Anderson at her graduation from Leadership WA's Signature Leadership Program, where her peers in the program reflected highly on her contributions.

On 15 May, along with most councillors, I attended a part of the final Vic Vision community workshop, as part of the major review of our Strategic Community Plan.

3 Attendance

Mayor	Ms Karen Vernon
Banksia Ward	Cr Claire Anderson Cr Ronhhda Potter Cr Wilfred Hendriks Cr Luana Lisandro
Jarraah Ward	Deputy Mayor Bronwyn Ife Cr Vicki Potter Cr Brian Oliver Cr Jesvin Karimi
Chief Executive Officer	Mr Anthony Vuleta
A/Chief Operations Officer	Ms Nicole Anns
Chief Financial Officer	Mr Michael Cole
Chief Community Planner	Ms Natalie Martin Goode
Manager Development Services	Mr Robert Cruickshank
Manager Governance and Strategy	Ms Bana Brajanovic
Secretary	Ms Amy Noon
Public liaison	Ms Natasha Horner
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3.1 Apologies

Chief Operations Officer	Ms Natalie Adams
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3.2 Approved leave of absence

Nil.

4 Declarations of interest

Declaration of financial interest

Nil.

Declaration of proximity interest

Nil.

Declaration of interest affecting impartiality

Name/Position	Cr Wilfred Hendriks
Item No/Subject	12.3 - Albany Highway Precinct Structure Plan - Consultant Procurement
Nature of interest	Impartiality
Extent of interest	Part owner of a property along Albany Highway.

Name/Position	Cr Luana Lisandro
Item No/Subject	12.4 - Petition relation to development application for redevelopment of concrete batching plant at No. 12 (Lot 310) Cohn Street, Carlisle
Nature of interest	Impartiality
Extent of interest	Friends with the petitioner.

Name/Position	Cr Ronhhda Potter
Item No/Subject	13.1 - Sump to Park Project
Nature of interest	Impartiality
Extent of interest	One of the sumps identified on the list (6 Paltridge Avenue) is on the same street as her residence.

Name/Position	Cr Wilfred Hendriks
Item No/Subject	13.1 - Sump to Park Project
Nature of interest	Impartiality
Extent of interest	Owns a property in Planet Street which is where one of the sumps being considered for a park is located.

Name/Position	Mr Anthony Vuleta, Chief Executive Officer
Item No/Subject	15.1 - Standards for CEO Recruitment, Performance and Termination
Nature of interest	Impartiality
Extent of interest	Affects his conditions of employment.

Name/Position	Cr Ronhhda Potter
Item No/Subject	15.1 - Standards for CEO Recruitment, Performance and Termination
Nature of interest	Impartiality
Extent of interest	Close associate of the submitter of the petition.

5 Public question time

5.1 Response to previous public questions taken on notice at the Ordinary Council Meeting on 20 April 2021

Steve Walker

1. How many more years does the mobile phone tower lease for 134 Oats Street, Carlisle last for?

The infrastructure is on land not owned by the Town of Victoria Park, therefore the lease agreement is between the private landowner and telecommunications service provider. Neither party to this lease agreement have an obligation to report the term of the lease to the local authority.

2. When was the lease for the mobile tower at 134 Oats Street, approved, and re-approved?

Council's records indicate that the mobile phone tower at 134 Oats Street has been in place since at least 1998. The terms of the lease are a matter between the landowner and the lessee and is not a matter involving the Town. Enquiries have been made with officers of the Department of Planning, Lands and Heritage (the Department), who have confirmed the need for the West Australian Planning Commission (WAPC) to approve leases of land for a period of more than 20 years. Officers of the Department have advised that they have no record of having approved a lease at the subject property, and it may be the case that given the age of the facility WAPC approval for the lease was not required at the time the facility was installed. Any further enquiries relating to this issue can be directed to the Department.

3. What is the number of nearby residents or property owners that commented on the request for the mobile phone tower lease at 134 Oats Street?

To the Town's knowledge community consultation was not required in relation to the lease.

Vince Maxwell

1. In regards to 12.2, in paragraph 40, it refers to a rejected applicant Vic Park Squash club due to no approval or support from the facility owner. What building is being referred to and who is the owner?

The four squash courts used by the Vic Park Squash Club are located upstairs at the Leisurelife complex and are prone to extreme heat, creating an unsuitable environment for participants. This limits the capacity of the club to operate, and affects any session held where the outside temperature is above 25 degrees. The location of the courts is such that all of the heat produced within the basketball court area rises, underneath the tin roof and is funneled towards the open, upper floor of the courts, where there is no opportunity for the heat to escape, or for cool air to enter. The temperature within the upstairs squash court area is quite often within 2-4 degrees of the outdoor temperature. ie. if it is 40 outside, it is 36-38 indoors. We aim to modify the area so that this hot air can escape, and that cool air can be introduced to the area, for the benefit of all users - not just the club and its programs. Current playing conditions are uncomfortable and can be unsafe on days of extreme heat. Many players choose not to participate on such days. This further impacts on the capacity and capability of the club. The modifications recommended are installation of whirlybirds to allow for air escape and reverse cycle air conditioning units.

4. *Can I get a figure for that item 'functions in general' and what other items expended from that for that financial year?*

The budget that funded the staff Christmas function was the CEO's Refreshment and Receptions budget, which normally funds:

- groceries for catering required for Council meetings and workshops
- drycleaning of linen
- staff tea and coffee supplies
- catering for internal staff meetings and workshops
- staff Christmas function

Total budget 2020/21 = \$21,505.00.

Rose Bianchini

1. *Following up on the roads on Archdeacon Street and if there could be permit parking there?*

The Town provides permits to residents who have limited onsite parking, with an exemption to access parking near their properties that have sign-posted restrictions.

The criteria and the application process is available on the Town's website. With the exception of those living next to Optus stadium, there is no provision within the permit policy for permits to be provided to residents in busy or high traffic areas.

Noting that there is a need to balance the interests of those dropping children to educational facilities and those that live near educational facilities, parking is managed through limited, time specific restrictions.

Mike Lanternier

1. *Has the Camfield paid their rates, and all backdated rates due, and what is the total dollar figure?*

The Camfield rates are still outstanding and subject to SAT decision due in May 2021. The rates and emergency service levy for The Camfield are approximately \$170,000 per annum.

5.2 Public question time

Sam Zammit

1. When is the AGM taking place?

Mayor Karen Vernon advised that an update can't be given as the Town is still waiting for the audited financial statements to be approved by the Auditor General. The Town will give public notice when the meeting can be called. It is hopeful that it will be in first or second week of June. The date of the meeting will be set when the annual report is considered.

2. Is there nothing in the regulations for when meeting has to be held?

Mayor Karen Vernon advised that it must be held by December unless an audit hasn't been received. The meeting must also be held within 56 days after the adoption of the annual report. The Town is compliant.

3. Are sumps being subdivided and sold by tender?

Mayor Karen Vernon advised that she is aware of one in St James that has been subdivided and is being sold to public.

4. Is that sump in Berwick Street?

Mayor Karen Vernon advised that it is in Boundary Road.

5. Is the Town selling the front part of the sump?

Mayor Karen Vernon advised that it is.

6. How will the Town gain access to the sump?

Mayor Karen Vernon advised that there will be a driveway down the side of the front block.

7. How much money the Town will receive?

Mayor Karen Vernon advised that she didn't know.

Vince Maxwell

1. When can I expect the answer to the other half of my question from the April Agenda Briefing Forum?

The Manager Governance and Strategy advised that she will review what was sent and send the response to the second part of the question if it wasn't received, by the end of this week.

2. How many meetings have elected members had about the budget (workshops, concept forums etc.) that has led them to proposing a 6.7% increase in rates?

The Chief Financial Officer advised that five workshops have been held so far with two more planned over the next two weeks. Differential rating was canvassed on two occasions.

3. *Why wasn't the surname of the staff member that received two payments, listed as Ms B I, included in the schedule of accounts?*

The Chief Financial Officer advised that the staff member's surname is I.

John Gleeson, Carlisle

1. *How much extra money is the Town getting for infill development over the last five years?*

The Chief Financial Officer advised that the Town budgets \$250,000 in interim rates for additional revenue from property developments over the year.

2. *Does that include when a house is knocked over and more houses are built on same block?*

Mayor Karen Vernon advised that is a house is knocked over and three are built on it, it creates three ratepayers. Each year the budget estimates \$250,000 for these new ratepayers. The actual number of ratepayers is calculated at the end of a financial year. Can give precise amount at end of year for what is gained. Mayor Karen Vernon took on notice the actual figure for the last five years.

3. *What is the \$47,077.47 amount in the accounts for the sale of my favourite block of land?*

Mayor Karen Vernon advised it was a payment to McLeod's lawyers.

The Chief Financial Officer advised that it was a payment for legal services to McLeod's lawyers for settlement of the sale of land. Settlement hasn't concluded but is being finalised. The deposit is being held in trust.

Mayor Karen Vernon advised that there are conditions on the sale of land and answers about the time it is taking to receive payment have been given at previous Council meetings.

4. *Why are we doing all the searching for this bit of land when someone is asking the Town to sell them a specific bit? Why aren't they doing it?*

Mayor Karen Vernon advised that the Town is doing their bit and it is taking the time it is taking.

6 Public statement time

Sam Zammit

1. *Made a statement about the workshop held at Lathlain on Saturday and thanked staff for organising it.*

Carol Keay and Linda Hadleigh, East Victoria Park

1. *Made a statement regarding the requested upgrades to Rouse Lane and provided the reasons why it needs to be upgraded.*

Vince Maxwell

1. *Made a statement in opposition of rate increases.*

Noel McCombe

1. Made a statement in opposition of Hatch Roberts Day being appointed as the consultant for the Albany Highway Structure Plan.

2. Made a statement in opposition of the logo proposed for Edward Millen.

John Gleeson

1. Made a statement in opposition of selling Town assets.

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

COUNCIL RESOLUTION (84/2021):

Moved: Cr Claire Anderson

Seconded: Cr Ronhhda Potter

That Council:

1. Confirms the minutes of the Ordinary Council Meeting held on 20 April 2021.
2. Receives the notes of the Agenda Briefing Forum held on 4 May 2021.
3. Receives the notes of the Mindeera Advisory Group meeting held on 14 April 2021.
4. Receives the notes of the Urban Forest Strategy Implementation Working Group meeting held on 19 April 2021.

Carried (9 - 0)

For: Mayor Karen Vernon, Cr Claire Anderson, Cr Vicki Potter, Cr Ronhhda Potter, Cr Brian Oliver, Cr Luana Lisandro, Cr Wilfred Hendriks, Cr Bronwyn Ife, Cr Jesvin Karimi

Against: nil

8 Presentation of minutes from external bodies

COUNCIL RESOLUTION (85/2021):

Moved: Mayor Karen Vernon

Seconded: Cr Luana Lisandro

That Council receives the minutes of the WALGA South-East Metropolitan Zone meeting held on 21 April 2021.

Carried (9 - 0)

For: Mayor Karen Vernon, Cr Claire Anderson, Cr Vicki Potter, Cr Ronhhda Potter, Cr Brian Oliver, Cr Luana Lisandro, Cr Wilfred Hendriks, Cr Bronwyn Ife, Cr Jesvin Karimi

Against: nil

9 Presentations

9.1 Petitions

Nil.

9.2 Presentations

Nil.

9.3 Deputations

COUNCIL RESOLUTION (86/2021):

Moved: Cr Bronwyn Ife

Seconded: Cr Vicki Potter

That Council receives a deputation from Mr Darren Montgomery in relation to item 12.2 – 23 the Circus, Burswood, Change of Use from Restaurant to Unlisted Use (Small Bar).

Carried (9 - 0)

For: Mayor Karen Vernon, Cr Claire Anderson, Cr Vicki Potter, Cr Ronhhda Potter, Cr Brian Oliver, Cr Luana Lisandro, Cr Wilfred Hendriks, Cr Bronwyn Ife, Cr Jesvin Karimi

Against: nil

Mr Darren Montgomery made a deputation on item 12.2 – 23 the Circus, Burswood, Change of Use from Restaurant to Unlisted Use (Small Bar) and requested Council to consider a change to the recommended opening hours.

10 Method of dealing with agenda business

COUNCIL RESOLUTION (87/2021):

Moved: Cr Vicki Potter

Seconded: Cr Claire Anderson

That the following items be adopted by exception resolution, and the remaining items be dealt with separately:

- a) 12.3 - Albany Highway Precinct Structure Plan – Consultant Procurement
- b) 14.2 - Schedule of Accounts ending March 2021
- c) 15.2 - Internal Audit Report: Conflicts of Interest and Gifts

Carried (9 - 0)

For: Mayor Karen Vernon, Cr Claire Anderson, Cr Vicki Potter, Cr Ronhhda Potter, Cr Brian Oliver, Cr Luana Lisandro, Cr Wilfred Hendriks, Cr Bronwyn Ife, Cr Jesvin Karimi

Against: nil

PROCEDURAL MOTION

Moved: Mayor Karen Vernon

Seconded: Cr Vicki Potter

That the items under section 17 – Motion of which previous notice has been given, be moved forward to be dealt with prior to item 11 – Chief Executive Officer reports.

Carried (9 - 0)

For: Mayor Karen Vernon, Cr Claire Anderson, Cr Vicki Potter, Cr Ronhhda Potter, Cr Brian Oliver, Cr Luana Lisandro, Cr Wilfred Hendriks, Cr Bronwyn Ife, Cr Jesvin Karimi

Against: nil

11 Chief Executive Officer reports

12 Chief Community Planner reports

12.1 Blue Tree Project Investigation

Location	Town-wide
Reporting officer	Katie Schubert
Responsible officer	Paul Gravett
Voting requirement	Simple majority
Attachments	1. Proposed Tree for Blue Tree [12.1.1 - 1 page]

Recommendation

That Council supports the Town to participate in the Blue Tree Project by painting a tree as part of Mental Health Week 2021.

Purpose

The purpose of this report is for Council to consider the findings of an investigation into the options relating to how the Town could participate in the Blue Tree Project.

In brief

- The Town actively supports positive mental health initiatives and reducing stigma associated with mental illness as highlighted in the Town's Healthy Vic Park Plan 2017 - 2022.
- It is recommended that the Town to be involved in the Blue Tree Project as part of Mental Health Week (9-16 October) 2021.

Background

1. At the November 2020 Ordinary Council Meeting, a notice of motion was submitted where Council requested the Chief Executive Officer to:
 - a. Investigate options for how the Town could participate in the Blue Tree Project;
 - b. Present a report back to Council by May 2021 of the findings in point 1 for Council to consider how it may wish to participate in the Blue Tree Project, including an indicative budget, for consideration in its 2021/2022 Budget.
2. The Blue Tree Project was inspired by Jayden White, who one night in 2014 painted a dead tree blue on his family's farm in Mukinbudin, WA. Jayden tragically took his own life in November 2018. The Blue Tree Project was born to raise awareness around mental health and suicide prevention.
3. The Blue Tree Project's mission is to help spark difficult conversations and encourage people to speak up when battling mental health concerns. There are currently 612 trees painted as part of the Blue Tree Project.
4. The Town actively supports positive mental health initiatives and reducing stigma associated with mental illness as highlighted in the Town's Healthy Vic Park Plan 2017 - 2022. As the Blue Tree Project is a well-established and reputable initiative, Town officers have previously investigated delivery of this project.

Strategic alignment

Social	
Strategic outcome	Intended public value outcome or impact
S01 - A healthy community.	By supporting this reputable initiative, the Town is encouraging positive mental health and reducing stigma associated with mental illness.
S03 - An empowered community with a sense of pride, safety and belonging.	The project development and delivery will include partners and community involvement to encourage a sense of pride and belonging.

Engagement

Internal engagement	
Stakeholder	Comments
Project Management	Site visit and discussions have occurred concerning proposed location in relation to lease agreement and any other areas of concern.
Parks Operations	Internal consultation has occurred concerning the current state of the dead tree to ensure it is suitable for the project. The tree is recommended subject to a detailed arboricultural assessment for safety.

Other engagement	
Stakeholder	Comments
West Coast Eagles (WCE)	Several conversations have occurred with WCE and partnership delivery will continue to be explored, as proposed location is around Lathlain Park oval two.

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	NA				Low	
Environmental	NA				Medium	
Health and safety	Painting of the tree utilising a boom lift or similar	Major	Unlikely	Medium	Low	TREAT – Contracting an artist or other

	equipment may be required and would potentially be unsafe for community members.					professional to facilitate and manage the painting above ground level.
Infrastructure/ ICT systems/ utilities	NA				Medium	
Legislative compliance	NA				Low	
Reputation	Potential negative reputational risk, if the Town is not seen to support positive mental health initiatives and reducing associated stigma.	Low	Unlikely	Low	Low	TREAT - Town to actively investigate local opportunities to support stigma reduction and positive mental health promotion.
Service delivery	NA				Medium	

Financial implications

Current budget impact	Not applicable.
Future budget impact	Sufficient funds exist within the requested annual budget to address the proposed participation as part of Mental Health Week up to the officer's recommended \$6,500.

Analysis

5. Some local governments have been involved in the Blue Tree Project with examples including:
 - a. City of Cockburn cut a tree into logs and painted them as part of a small community event as they didn't have a suitable dead tree in the area.
 - b. City of Melville initially participated in the Blue Tree Project 12 months ago and have painted a tree at Point Walter Reserve and one at their operations centre. In Mental Health Week last year, they also ran a project 'Blue trees in the burbs' and asked people to create their own version of a blue tree (could be a twig in pot). They also ran a free yoga class opposite their Blue Tree during Mental Health Week, and they have painted the blue tree logo on some rubbish trucks.
 - c. City of South Perth have participated in the Blue Tree Project by approving the Manning Bowling Club to install a blue tree outside their club facility in 2020. The club was responsible for all installation activities with some assistance provided by the Parks and Environment team.

6. Town officers have considered potential options of trees for painting across the Town. Typically, dead trees are removed on safety grounds and to provide space to plant new trees, therefore not many options currently exist. The dead trees in Lathlain Zone 2 and Zone 2x are considered the current best options by Town officers with the preference being the tree in Zone 2 based on location, size and partnership opportunities. It is important to note that if the tree does decline further, it may need to be removed at any stage for safety reasons.
7. If the Town does not have a suitable tree on Town land or Council do not want to paint a tree, the Town can still be creative and ensure it is involved in the project. For example, the Town could paint an old branch and display at Town centres, work with the community to create their own version of a blue tree or promote the message of the project to encourage local organisations /community members to become involved.
8. An indicative budget depends on the level of involvement and method of delivery for the Blue Tree Project. The project could range up to \$6,500, including the following items:
 - a. Paint – approximately \$350
 - b. Boom/scissor lift plus delivery – up to \$2,000
 - c. Artist/painter (two people, two days and at least three coats) - up to \$2,000
 - d. Additional equipment hire including spray gun, matt board for the ground, portable generator - \$1,500
 - e. Marketing, promotion and small launch - \$500
9. Sufficient funds exist within the requested annual budget to address the proposed participation as part of Mental Health Week up to \$6,500. With the support of community members, Town staff and WCE staff and players, it is proposed to limit the use of an artist at ground height, seek partnership/funding support, reduce/minimise required equipment hire as well as seeking additional quotes as part of the project delivery.
10. Officers support the proposal for the Town to be involved in the Blue Tree Project including the following:
 - a. For the project to be rolled out as part of Mental Health Week 2021 (9-16 October) and delivered as part of the current proposed budget.
 - b. Utilising the dead tree in Lathlain Park Zone 2 adjacent oval two for the project as the proposed location subject to a detailed arboricultural assessment for safety. If the assessment indicates the tree is not suitable, Town officers will investigate other suitable options within the Town. The proposed location is on Town land, and officers believe it is a prominent location to have an overall positive impact. See attached map and photo of tree location.
 - c. Follow the Blue Tree Project recommends using nontoxic paints to minimise any impact to natural habitat and wildlife.
 - d. Incorporate community and elected member involvement as much as possible in the delivery of the project while still ensuring a safe environment for all.

Relevant documents

Not applicable.

AMENDMENT:

Moved: Mayor Karen Vernon

Seconded: Cr Jesvin Karimi

The recommendation be amended to read as follows:

That Council:

1. Supports the Town to participate in the Blue Tree Project during Mental Health Week 2021;
2. Requests the Chief Executive Officer to provide a further report to Council by June 2021 outlining:
 - a) the details and estimated costs of other options for participation in the Blue Tree Project that do not involve painting a dead tree; and
 - b) the costs of the arboricultural assessment, and any other expert assessments required for painting a dead tree.

Carried (9 - 0)

For: Mayor Karen Vernon, Cr Claire Anderson, Cr Vicki Potter, Cr Ronhhda Potter, Cr Brian Oliver, Cr Luana Lisandro, Cr Wilfred Hendriks, Cr Bronwyn Ife, Cr Jesvin Karimi

Against: nil

Reason:

Council's resolution in 2020 required an investigation of the options for participation in the Blue Tree Project (Project). The officer report does not contain details of any other options the Town investigated apart from painting a dead tree, which it is acknowledged is not the only way to participate in the Project.

The officer report refers to the need for an arboricultural assessment for safety before determining the suitability of a tree in Zone 2, Lathlain. No costs have been indicated for this assessment, which are ultimately part of the cost of participation in the project.

This amendment will allow the Council to properly consider the available options, their advantages and disadvantages, comparative costs and potential for community involvement in the project.

AMENDMENT:

Moved: Cr Luana Lisandro

Seconded: Mayor Karen Vernon

That an additional point c be added to read:

That the arboricultural assessment and the wildlife expert assessment be brought forward direct to the June OCM in relation to the dead tree in Zone 2 and findings to further inform the decision-making process.

Carried (9 - 0)

For: Mayor Karen Vernon, Cr Claire Anderson, Cr Vicki Potter, Cr Ronhhda Potter, Cr Brian Oliver, Cr Luana Lisandro, Cr Wilfred Hendriks, Cr Bronwyn Ife, Cr Jesvin Karimi

Against: nil

Reason:

Believes that for Council to be fully informed they need to understand whether the tree proposed in Zone 2 is appropriate and assessment needed.

AMENDMENT:

Moved: Cr Ronhhda Potter

Seconded: Cr Luana Lisandro

That a further point d be added to read:

d. The details partnership opportunities with the West Coast Eagles and what their role would be in this project.

Carried (8 - 1)

For: Mayor Karen Vernon, Cr Claire Anderson, Cr Vicki Potter, Cr Ronhhda Potter, Cr Luana Lisandro, Cr Wilfred Hendriks, Cr Bronwyn Ife, Cr Jesvin Karimi

Against: Cr Brian Oliver

Reason:

Note in officer's report in other engagement that there have been conversations with West Coast Eagles to partner in delivery so would like to have more information about that partnership moving forward.

COUNCIL RESOLUTION (88/2021):

Moved: Cr Claire Anderson

Seconded: Cr Jesvin Karimi

That Council:

1. Supports the Town to participate in the Blue Tree Project during Mental Health Week 2021;
2. Requests the Chief Executive Officer to provide a further report to Council by June 2021 outlining:
 - a) the details and estimated costs of other options for participation in the Blue Tree Project that do not involve painting a dead tree
 - b) the costs of the arboricultural assessment, and any other expert assessments required for painting a dead tree
 - c) that the arboricultural assessment and the wildlife expert assessment be brought forward direct to the June OCM in relation to the dead tree in Zone 2 and findings to further inform the decision-making process.
 - d. the details partnership opportunities with the West Coast Eagles and what their role would be in this project.

Carried (9 - 0)

For: Mayor Karen Vernon, Cr Claire Anderson, Cr Vicki Potter, Cr Ronhhda Potter, Cr Brian Oliver, Cr Luana Lisandro, Cr Wilfred Hendriks, Cr Bronwyn Ife, Cr Jesvin Karimi

Against: nil

12.2 23 the Circus, Burswood, Change of Use from Restaurant to Unlisted Use (Small Bar)

Location	Burswood
Reporting officer	Amie Groom
Responsible officer	Robert Cruickshank
Voting requirement	Absolute majority
Attachments	<ol style="list-style-type: none"> 1. Attachment 1 - Development Plans [12.2.1 - 1 page] 2. Attachment 2 - Applicants Submission [12.2.2 - 2 pages] 3. Attachment 3 - Schedule of Submissions [12.2.3 - 11 pages] 4. Attachment 4 - Applicants Response to Submissions [12.2.4 - 16 pages] 5. Attachment 5 - Applicants response to ABF discussions [12.2.5 - 2 pages]

Landowner	APM Asset Management Pty Ltd
Applicant	APM Asset Management Pty Ltd
Application date	9 October 2020
DA/BA or WAPC reference	5.2020.563.1
MRS zoning	Urban
TPS zoning	Special Use
R-Code density	Not applicable
TPS precinct	Precinct 2 – Burswood
Use class	Unlisted Use (Small Bar)
Use permissibility	Discretionary
Lot area	4,594 square metres
Right-of-way (ROW)	Not applicable
Municipal heritage inventory	Not applicable
Residential character study area/weatherboard precinct	Not applicable

Recommendation

1. That Council approve the application and plans dated 9 October 2020 submitted by APM Asset Management Pty Ltd (DA Ref: 5.2020.563.1) for proposed change of use from Restaurant to Unlisted Use (Small Bar) at No. 23 (Lot 86) the Circus, Burswood in accordance with the provisions of the Town of Victoria Park Town Planning Scheme No. 1 and the Metropolitan Region Scheme, subject to the following conditions:
 - 1.1 This approval does not include any modifications to the existing building.
 - 1.2 A maximum of 75 patrons is permitted in the premises at any one time.
 - 1.3 The Small Bar shall be limited to the following hours of operation:
 - 7:00am to 10:00pm Monday to Thursday;
 - 7:00am to 12:00am Friday and Saturday; and
 - 7:00am to 10:00pm Sunday and Public Holidays.
 - 1.4 Prior to the use commencing, the operator is to submit and have approved by the Town, a Management Plan which addresses the following matters:
 - a. Security on the site;
 - b. Security of patrons leaving the venue;
 - c. Sale of alcohol;
 - d. Methods of patron control (including training and surveillance);
 - e. Complaints procedure;
 - f. Assistance in departure from the venue (i.e. direct availability telephone link to a taxi service); and
 - g. Noise.
 - 1.5 Any music is to be ambient only.
 - 1.6 The development, once commenced, is to be carried out in accordance with the approved plan date stamped approved at all times, unless otherwise authorised by the Town.
 - 1.7 All windows and doors to street frontages are to be provided with clear glazing and are not to be subsequently obscured by alternative window treatments, signage or internal shelves, to the satisfaction of the Town.
 - 1.8 If the development, the subject of this approval, is not substantially commenced within a period of twenty four months from the date of the approval, the approval will lapse and be of no further effect. For the purposes of this condition, the term "substantially commenced" has the meaning given to it in the *Planning and Development (Local Planning Schemes) Regulations 2015* as amended from time to time.

Advice Notes

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

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

AN3 The development approval is granted on the merits of the application under the provisions of the Town of Victoria Park Town Planning Scheme No. 1 and does not constitute approval for the purposes of the *Strata Titles Act 1985* or its subsidiary regulations nor affect any requirement under the by-laws of the body corporate in relation to a proposed development pursuant to such legislation.

AN4 This approval does not include the approval of any alterations to the front façade of the building. Any alterations to the front façade will require further development approval to be obtained from the Council.

AN5 The applicant/owner should refer to the Requirements of Other Council Business Units, enclosed with this development approval, which are relevant to the submission of a building permit and/or the carrying out of the development for which this approval is granted. This development approval does not remove the need to obtain licences, permits or other forms of approval that may be required under other legislation or requirements of Council.

2. That the Council request the CEO to inform submitters of the Council's decision on the application.

Purpose

For Council to consider an application for an Unlisted Use (Small Bar) at No. 23 The Circus, Burswood.

In brief

- The application seeks to change the use of an existing tenancy from Restaurant to Unlisted Use (Small Bar).
- The subject site falls within the Special Use zone under Precinct P2 – Burswood Precinct. A Small Bar is not a use listed within the use class table of the Special Use zone.
- As part of Scheme Amendment No. 80, a number of land uses were added to the Use Class table of the Town's Town Planning Scheme No. 1 including the Small Bar use. The amendment however did not update the Special Use zones individual use class tables. As such, whilst a Small Bar is a listed use under the Use Class table within the Scheme Text, it is not applicable to the Special Use zones.
- No modifications are proposed to the existing building.
- Community consultation concluded on 12 January 2021. 26 submissions were received including 20 letters of support and six letters of objection.

Background

1. Development Approval was granted on 18 July 2014 under delegated authority for Alterations and Additions to the existing Restaurant. The proposal included the enclosure of the alfresco area and additional seating.
2. The current maximum capacity of the restaurant is 75 patrons at any one time. No increase in patron numbers is proposed in this application.
3. The restaurant currently operates under a restaurant liquor licence which is defined by Racing, Gaming and Liquor as:

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.

In essence, the business should be focused on the regular supply of genuine meals. The supply of liquor should be secondary to this.

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.

4. The restaurant also currently operates under an extended trading permit to 'Sell liquor without a meal'. This permit type authorises the licensee to sell liquor via table service for consumption on the premises whether or not ancillary to a meal, subject to applicable conditions for this licence type.
5. A small bar licence is defined as:
A small bar licence authorises the sale and supply of liquor for consumption on the licensed premises only (such as no packaged liquor sales). It is also subject to the condition that no more than 120 persons may be present on the licensed premises at any one time.

Application summary

6. The property is located within the Special Use zone of Precinct P2 – Burswood Precinct. The Use Class table lists a number of permitted, discretionary and prohibited uses within this Special Use zone. A small bar is not listed within the use class table of this precinct.
7. A note in the precinct plan states that *"if the use of the land for a particular purpose is not specifically mentioned in the "Use Area" Table and cannot be determined as falling within the interpretation of one of the Use Area categories Council may consider it an unlisted (i.e. discretionary) use requiring that the advertising procedures referred to in clause 28 of the Scheme Text be followed"*.
8. A Small Bar is defined under the Scheme as *"means premises the subject of a small bar licence granted under the Liquor Control Act 1988"*.
9. The Burswood Lakes Structure Plan Clause 5.6 Use Classes explanation states that *"the predominant form of use and development will be for Residential purposes. Some Mixed Uses are required for the daily needs of residents at each stage of development but the decision as to which uses are appropriate should remain in the discretion of Council"*.

Applicants submission

10. The applicant has provided the following information in support of the proposal:

Description of proposed business activity / operations

"The application is a change of use from the existing approved "restaurant" use to "small bar" use. The premises currently operate 7-days per week as a restaurant; however, we have been granted a Small Bar Liquor Licence from Racing, Gaming and Liquor (DLGSC). The small bar licence enables us to serve alcohol to patrons with or without a meal, although we still intended to operate our kitchen and restaurant (meals) services. The other change is that patrons can enjoy a drink standing up without the current requirements to be seated."

Operating hours

In line with current restaurant operations, we will continue to operate 7-days per week from 7am. Closing hours will vary depending upon the day of the week as follows:

Day	Opening Time	Closing Time
Monday	7am	12 midnight
Tuesday	7am	12 midnight
Wednesday	7am	12 midnight
Thursday	7am	12 midnight
Friday	7am	2am
Saturday	7am	2am
Sunday	7am	12 midnight

Numbers

The business currently operates and will continue to operate on a roster system with a total of 4 full time staff (including the business owner) and 3-4 casual staff. The venue capacity will not change, this remains at 75 persons.

Parking

The premises are located on the Burswood Peninsula, with at least 60 legal on-street parking bays on The Circus alone. There are also many legal on-street parking bays in the streets and roads around The Circus, in addition to the Crown Complex free parking located between Park Road, Victoria Park Drive and Bolton Drive. Staff and customers have access to the on-street parking bays excepting on stadium event dates when parking is restricted on the Peninsula and staff and customers use the Crown Complex free parking.

Relevant planning framework

Legislation	Town Planning Scheme No. 1 Burswood Lakes Structure Plan Planning and Development (Local Planning Schemes) Regulations 2015 Liquor Control Act 1988
State Government policies, bulletins or guidelines	Not applicable.
Local planning policies	Local Planning Policy 3 – Non-Residential Uses in or Adjacent to Residential Areas Local Planning Policy 23 – Parking (LPP23)

	Local Planning Policy 37 – Community Consultation on Planning Proposals (LPP37)
Other	Not applicable.

General matters to be considered

Town Planning Scheme No. 1 Provisions	<p>The following provisions contained within the Town’s Town Planning Scheme No. 1 are relevant to consideration of the application:</p> <p>Clause 16 ‘Unlisted Uses’ and Clause 28 ‘Determination of an Unlisted Use’</p>
TPS precinct plan statements/structure plan	<p>The following statement is contained within the Burswood Lake Structure Plan and is relevant for consideration of the application:</p> <ul style="list-style-type: none"> <i>The predominant form of use and development will be for Residential purposes. Some Mixed Uses are required for the daily needs of residents at each stage of development but the decision as to which uses are appropriate should remain in the discretion of Council.</i>
Local planning policy objectives	<p>The following objectives of Local Planning Policy 23 - Parking are relevant in determining the application.</p> <ul style="list-style-type: none"> <i>To ensure that adequate provision of parking for various services, facilities and residential developments and to efficiently manage parking supply and demand.</i>
Deemed clause 67 of the Planning and Development (Local Planning Schemes) Regulations 2015	<p>The following are relevant matters to be considered in determining the application.</p> <ul style="list-style-type: none"> a) The aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area; g) Any local planning policy for the Scheme area; m) The compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development. n) the amenity of the locality including the following <ul style="list-style-type: none"> (i) environmental impacts of the development; (ii) the character of the locality; (iii) social impacts of the development;
Urban forest strategy	Not applicable.

Compliance assessment

The table below summarises the planning assessment of the proposal against the provisions of the Town of Victoria Park Town Planning Scheme No.1, the Towns local planning policies, the Residential Design Codes and other relevant documents, as applicable. In each instance where the proposal requires the discretion of

Council, the relevant planning element is discussed in the detailed assessment section following from this table.

Change of use application		
Land use	Unlisted Use	Discretionary
Car parking	<p>Licensed drinking areas: Bar areas – 1 for every 2 square metres of net drinking area - Nil</p> <p>Lounge and outdoor areas – 1 for every 4.5 square metres of net seating area = 44 car bays</p> <p>Total = 44 car bays No change from existing restaurant land use</p>	No discretion required
Signage	Not applicable	

Strategic alignment

Civic Leadership	
Strategic outcome	Intended public value outcome or impact
CL02 - A community that is authentically engaged and informed in a timely manner.	Community consultation was undertaken for the proposal to provide the community with an opportunity to make comments regarding the proposed change of use.
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 change of use of the site has the potential to increase commerce and tourism for the area.

Social	
Strategic outcome	Intended public value outcome or impact

S02 - An informed and knowledgeable community.	Ensure sufficient information is provided regarding the change of use to allow the community to be appropriately informed.
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Engagement

Internal engagement	
Health	Conditions and advice notes applied.
Building	No comment.
Engineering	No comment.
Parks	No comment.

External engagement	
Stakeholders	Town of Victoria Park residents
Period of engagement	Consultation was undertaken from 9 December 2020 to 12 January 2021.
Level of engagement	2. Consult
Methods of engagement	<ul style="list-style-type: none"> Letters to owners and occupiers within a 100 metre radius of the site; Sign on site; and Southern Gazette Newspaper Notice.
Advertising	As above.
Submission summary	26 submissions received including 20 letters of support and six letters of objection. Of the submissions received, 18 submissions were from owners/occupiers within a 100 metre radius of the site, seven submissions were from owners/occupiers within a 200 metre radius of the site and one submitter provided no address.
Key findings	A summary of the submissions received during the community consultation period can be found in Attachment 3.

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		Not applicable.							
Environmental		Not applicable.							
Health and safety		Not applicable.							
Infrastructure/ ICT systems/ utilities		Not applicable.							
Legislative compliance		The proponent has a right of review to the State Administrative Tribunal against Council's decision, including any conditions.		Moderate	Unlikely	Medium	Low	Accept	
Reputation		Negative public perception towards the Town if development approval not granted.		Moderate	Likely	Medium	Low	Accept	
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

Land Use

11. A Small Bar is an Unlisted Use within the Special Use Zone of the Burswood Precinct – Precinct Plan P2. The precinct plan states that *“if the use of the land for a particular purpose is not specifically mentioned in the “Use Area” Table and cannot be determined as falling within the interpretation of one of the Use Area categories Council may consider it an unlisted (ie discretionary) use requiring that the advertising procedures referred to in clause 28 of the Scheme Text be followed”*.
12. As part of Scheme Amendment No. 80 to the Town’s Town Planning Scheme No. 1 (TPS1), several land uses were added to the Zoning Table. This included the addition of a Small Bar use. The Special Use zones were not updated to reflect the additional uses, with the permissibility of certain land uses being listed within the Precinct Plans only.
13. As per Clause 28 of TPS1, the Council cannot grant development approval for a development which involves an unlisted use unless –
*“(a) the advertising procedure referred to in deemed clause 64 has been followed; and
(b) it is satisfied, by an absolute majority, that the proposed development is consistent with the matters listed in deemed clause 67.”*
14. In accordance with deemed clause 64 and the Town’s Local Planning Policy No. 37 – Community Consultation on Planning Proposals, the application was advertised for a period of 21 days. Letters were sent to all properties within a 100 metre radius of the subject site, a sign was placed on site for the 21 days and a notice placed in the local newspaper.
15. 26 submissions were received including 20 letters of support and six letters of objection. The objections received were in relation to the potential noise from the use, the closing hours, car parking, rubbish, there already being an existing small bar within the area and strata by-laws. A response to the submissions is contained within Attachment 3 and Attachment 4.
16. The land use proposed is considered to be of a similar intensity to the approved Restaurant, as the same maximum patron numbers are proposed, and given that the premises is currently already operating under an extended trading permit granted by Racing, Gaming and Liquor, which allows alcohol to be served without purchasing a meal.

Car Parking

17. The car parking rate for a restaurant and a licensed drinking area under the Town’s Local Planning Policy No. 23 – Parking (LPP23) are the same. The required number of car parking bays therefore does not change.
18. As the parking rates and the maximum patron numbers do not change, the application does not propose an increase in the number of car bays required, and car parking is not subject to discretion.

Amenity

19. The property is currently operating as a Restaurant with hours of operation being 7:00am to 9:00pm Sunday to Thursday and 7:00am to 10:00pm Friday and Saturday.
20. The Town’s *Local Planning Policy No. 3 – Non-Residential Uses in or Adjacent to Residential Areas (LPP3)* states *“non-residential development shall only be permitted where the nature of the non-residential use will not cause undue conflict or adversely affect the amenity of the neighbourhood through the emission of light, noise, fumes, odours, dust, vibration, electrical interference, waste water, or any other form of pollution which may be undesirable in residential areas.”*
21. Whilst the amenity of the residential area was considered as part of the development of the restaurant land use, aspects of the development application have the potential to impact on amenity, in particular noise and hours of operation.

22. Noise from the restaurant land use and the small bar land use are anticipated to be similar, albeit that the small bar is proposed to operate beyond the hours of the restaurant. The hours of operation are required to be appropriately considered to ensure that noise can be effectively managed.
23. The hours of operation proposed as part of this development application are not supported and a condition is recommended to be imposed which would restrict the hours of operation to be consistent with the restaurant at No. 31 the Circus, Burswood which are currently greater than the subject site. No statement or specialist report was submitted as part of the development application regarding how noise will be prevented or appropriately managed to ensure that the amenity of surrounding residential properties is maintained. Without this information, and notwithstanding the need to comply with the provisions of the Noise Regulations, it is anticipated that the proposed hours of operation and associated noise has the potential to have a significant impact on the amenity of the residents within the immediately surrounding residential properties, with the closest residential property directly abutting the subject site.

Summary

24. The proposed land use is considered to be consistent with the existing approved restaurant land use. However as described above, the hours of operation are not appropriate to the context of the subject site and accordingly recommended condition 3 proposes to restrict the operating hours to a lesser period than proposed by the applicant.
25. Accordingly, it is recommended that the application be approved with appropriate conditions and advice notes to ensure that the amenity of the surrounding area is maintained.

Relevant documents

Nil

Further consideration

26. At the Agenda Briefing Forum, a submission was made by a resident within the strata complex at 23 The Circus contending that, amongst other things:
 - (a) the strata by-laws applying to the development refer to the use of the premises as being "cafe/take-way" and require the premises to be closed by 10.30pm on any night, with the alfresco area to be closed by 9.30pm;
 - (b) the by-laws are designated as Schedule 1 by-laws meaning that they can only be changed by a Resolution without Dissent of all lot owners.
 - (c) it would be appropriate that any limitation on the hours of operation imposed by the Town be consistent with the hours prescribed in the strata by-laws, so as to avoid a situation where the Town allows the business to operate in a manner not consistent with the strata by-laws.
27. While the submissions of the resident are noted, the following points are made:
 - The Town's role is to assess the application on its merits having regard to relevant planning and amenity considerations.
 - Obligations placed upon a landowner or tenant under the Strata Title Act or strata by-laws are not matters for Council's consideration as part of the development application process. These are matters that need to be satisfied by a landowner or tenant separate from a development application.
 - The following advice note is routinely imposed on development applications involving strata properties, so as to highlight that separate from obtaining development approval the landowner or tenant is still required to satisfy the requirements of the Strata Titles Act or any strata by-laws that apply :

“The development approval is granted on the merits of the application under the provisions of the Town of Victoria Park Town Planning Scheme No. 1 and does not constitute approval for the purposes of the Strata Titles Act 1985 or its subsidiary regulations nor affect any requirement under the by-laws of the body corporate in relation to a proposed development pursuant to such legislation.”

- This advice note is included in the recommendation for this application – see advice note AN3.
 - Planning approval conditions need to serve a planning purpose. A planning condition restricting the hours of operation to coincide with the allowable hours under the strata by-laws would not be serving a planning purpose.
28. Following the Agenda Briefing Forum, the applicant was contacted regarding the above issues. The applicant has responded by way of a letter dated 11 May 2021. A copy of this letter is included at Attachment 5. Notable comments from the applicant include that:
- The current operating hours of the business are in line with the strata by-laws, although on occasions the approval of the strata company is sought for extended hours for functions.
 - In order for the strata company to be able to approve a function beyond 10.30pm, the development approval needs to enable this. A 12pm approval on Friday and Saturday will enable the applicant to legally apply for an extension of trading hours from the strata company for functions.
 - An approval is requested with trading hours consistent with the strata by-laws while enabling the applicant to apply to the Strata Company for the discretionary approval of functions as currently occurs.
29. Having regard to the above, no changes are proposed by Officers to the recommended hours of operation – see condition 1.3.
30. At the Agenda Briefing Forum, questions were raised by Elected Members as to whether : (a) the nearby business known as 3B's have gone through the same licensing process; and (b) if Council were to defer consideration of the item then would this result in the application being deemed refused. In response to these questions:
- (a) according to the Town's records, development approval has been issued for 3B's to operate as a Restaurant only. Notwithstanding this it is understood that Racing, Gaming and Liquor have issued a Small Bar liquor licence.
 - (b) the application, with the applicant's agreement, has already exceeded the 90 determination period for the application. Therefore, it is already open to the applicant to seek a review of the application by the State Administrative Tribunal on the basis of the application being deemed refused.

PROCEDURAL MOTION

Moved: Cr Brian Oliver

Seconded: Cr Luana Lisandro

That clause 50 - Speaking twice of the *Meeting Procedures Local Law 2019* be suspended for the duration of the meeting, in accordance with clause 58 of the *Meeting Procedures Local Law 2019*.

Carried (9 - 0)

For: Mayor Karen Vernon, Cr Claire Anderson, Cr Vicki Potter, Cr Ronhhda Potter, Cr Brian Oliver, Cr Luana Lisandro, Cr Wilfred Hendriks, Cr Bronwyn Ife, Cr Jesvin Karimi

Against: nil

Cr Ronhhda Potter left the meeting at 8:01pm and returned at 8.03pm.

AMENDMENT:

Moved: Cr Brian Oliver

Seconder: Cr Claire Anderson

That point 1.3 be amended to read:

1.3 For a period of 12 months, the small bar shall be limited to the following hours of operation:

- 7:00am to 10:00pm Monday and Tuesday;
- 7:00am to 12:00am Wednesday to Saturday; and
- 7:00am to 10:00pm Sunday and Public Holidays,

thereafter the business shall revert to the hours of 7am to 10pm Monday to Thursday, 7am to 12pm Friday and Saturday and 7am to 10pm Monday and public holidays, or such alternative hours approved by Council.

Carried (6 - 3)

For: Mayor Karen Vernon, Cr Claire Anderson, Cr Ronhhda Potter, Cr Brian Oliver, Cr Bronwyn Ife, Cr Jesvin Karimi

Against: Cr Vicki Potter, Cr Luana Lisandro, Cr Wilfred Hendriks

Reason:

To provide a framework for the business to operate past 10pm on Wednesdays and Thursdays for a 12-month trial period.

COUNCIL RESOLUTION (89/2021):

Moved: Mayor Karen Vernon

Seconded: Cr Vicki Potter

1. That Council approve the application and plans dated 9 October 2020 submitted by APM Asset Management Pty Ltd (DA Ref: 5.2020.563.1) for proposed change of use from Restaurant to Unlisted Use (Small Bar) at No. 23 (Lot 86) the Circus, Burswood in accordance with the provisions of the Town of Victoria Park Town Planning Scheme No. 1 and the Metropolitan Region Scheme, subject to the following conditions:

1.1 This approval does not include any modifications to the existing building.

1.2 A maximum of 75 patrons is permitted in the premises at any one time.

1.3 For a period of 12 months, the small bar shall be limited to the following hours of operation:

- 7:00am to 10:00pm Monday and Tuesday;
- 7:00am to 12:00am Wednesday to Saturday; and
- 7:00am to 10:00pm Sunday and Public Holidays,

thereafter the business shall revert to the hours of 7am to 10pm Monday to Thursday, 7am to 12pm Friday and Saturday and 7am to 10pm Monday and public holidays, or such alternative hours approved by Council.

1.4 Prior to the use commencing, the operator is to submit and have approved by the Town, a Management Plan which addresses the following matters:

- a. Security on the site;
- b. Security of patrons leaving the venue;
- c. Sale of alcohol;
- d. Methods of patron control (including training and surveillance);
- e. Complaints procedure;
- f. Assistance in departure from the venue (i.e. direct availability telephone link to a taxi service); and
- g. Noise.

1.5 Any music is to be ambient only.

1.6 The development, once commenced, is to be carried out in accordance with the approved plan date stamped approved at all times, unless otherwise authorised by the Town.

1.7 All windows and doors to street frontages are to be provided with clear glazing and are not to be subsequently obscured by alternative window treatments, signage or internal shelves, to the satisfaction of the Town.

1.8 If the development, the subject of this approval, is not substantially commenced within a period of twenty four months from the date of the approval, the approval will lapse and be of no further effect. For the purposes of this condition, the term "substantially commenced" has the meaning given to it in the *Planning and Development (Local Planning Schemes) Regulations 2015* as amended from time to time.

Advice Notes

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

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

AN3 The development approval is granted on the merits of the application under the provisions of the Town of Victoria Park Town Planning Scheme No. 1 and does not constitute approval for the purposes of the *Strata Titles Act 1985* or its subsidiary regulations nor affect any requirement under the by-laws of the body corporate in relation to a proposed development pursuant to such legislation.

AN4 This approval does not include the approval of any alterations to the front façade of the building. Any alterations to the front façade will require further development approval to be obtained from the Council.

AN5 The applicant/owner should refer to the Requirements of Other Council Business Units, enclosed with this development approval, which are relevant to the submission of a building permit and/or the carrying out of the development for which this approval is granted. This development approval does not remove the need to obtain licences, permits or other forms of approval that may be required under other legislation or requirements of Council.

2. That the Council request the CEO to inform submitters of the Council's decision on the application.

Carried by absolute majority (9 - 0)

For: Mayor Karen Vernon, Cr Claire Anderson, Cr Vicki Potter, Cr Ronhhda Potter, Cr Brian Oliver, Cr Luana Lisandro, Cr Wilfred Hendriks, Cr Bronwyn Ife, Cr Jesvin Karimi

Against: nil

PROCEDURAL MOTION

Moved: Mayor Karen Vernon

Seconded: Cr Bronwyn Ife

That the meeting be adjourned for five minutes at 8.38pm.

Carried (9 - 0)

For: Mayor Karen Vernon, Cr Claire Anderson, Cr Vicki Potter, Cr Ronhhda Potter, Cr Brian Oliver, Cr Luana Lisandro, Cr Wilfred Hendriks, Cr Bronwyn Ife, Cr Jesvin Karimi

Against: nil

12.3 Albany Highway Precinct Structure Plan - Consultant Procurement

Location	East Victoria Park St James Victoria Park
Reporting officer	Jess Gannaway
Responsible officer	David Doy
Voting requirement	Simple majority
Attachments	1. TVP 21 02 - Preparation of Albany Highway Precinct Structure Plan - Request for Tender [12.3.1 - 51 pages] 2. CONFIDENTIAL - TVP 21-02 - Evaluation Report - Final [12.3.2 - 10 pages]

Recommendation

That Council

1. Awards the contract associated with TVP/21/02 Preparation of Albany Highway Precinct Structure Plan to Hatch Pty Ltd trading as Hatch | Roberts Day (ABN 59 008 630 500), for the development of Albany Highway Precinct Structure Plan(s) with the terms and conditions as outlined in the contract, for the estimated lump sum price of \$524,341 (Excluding GST).
2. Identifies \$467,948.60 (Excluding GST) in the Long-Term Financial Plan to be expended between the 2021/2022 Financial Year and the 2022/2023 Financial Year.
3. Identifies \$355,794.60 (Excluding GST) to be budgeted in the 2021/2022 Annual Budget.
4. Allocates \$112,154.00 (Excluding GST) into the Future Projects Reserve to ensure there is the appropriate balance of funds to service the stages of the project that will fall into the 2022/2023 Financial Year.

Purpose

Approval is being sought to award the contract for the lead urban planning consultant for the development of the Albany Highway Precinct Structure Plan(s) to guide the strategic vision and future planning framework for Albany Highway in accordance with the Tender brief.

In brief

- A request to tender for the preparation of the Albany Highway Precinct Structure Plan(s) was published in the local newspaper, Tenderlink, the Town's Public Notice Board and the Town's website.
- The tender submission deadline closed at 2pm on 9 March 2021.
- Tenderers were requested to provide a lump sum price for the proposed three stages of the project as follows:
 1. Lump sum price for the full scope of Stage 1;
 2. Estimated (conceptual level) lump sum price for the full scope of Stages 2 and 3; and
 3. Schedule of Rates for any variations/additional work that may be requested as part of the Project Stage.

- The approved municipal funding allocation for this item is \$255,000 (ex GST) for 2020/2021 Financial Year.
- Three (3) submission were received. All were deemed compliant.
- An evaluation of the tender submissions against the prescribed criteria has been completed and it is recommended that Council accepts the submission made by Hatch Pty Ltd trading as Hatch | Roberts Day and enters a contract to deliver the full scope of works outlined within the Tender documentation.

Background

1. The review and update of the Town of Victoria Park local planning framework as it relates to the Albany Highway activity centre is a strategically significant project, identified as a key action within the Town's Corporate Business Plan and supported by the Towns relevant Place Plans (Victoria Park, East Victoria Park and St James). The Towns Draft Local Planning Strategy identifies Albany Highway as a Precinct Planning area and therefore requires the preparation of a precinct structure plan to guide updates to the local planning framework.
2. The Town has identified that the anticipated uplift in development potential enabled by such an update is unlikely to be supported without first addressing the requirements of the recently gazetted State Planning Policy 7.2 Precinct Design (SPP 7.2). SPP 7.2 requires that a Precinct Structure Plan(s) be approved by the Western Australian Planning Commission (WAPC) prior to making significant changes to a local planning scheme where they are likely to result in significant and/or complex outcomes to an existing activity centre.
3. SPP 7.2 is a recently gazetted state planning policy which amends and consolidates the former structure planning framework through the replacement of Activity Centre Plans with Precinct Structure Plans. These are used to guide the future development, built form provisions and land use controls applicable to development within activity centres within local government local planning schemes.
4. The Albany Highway Precinct Structure Plan(s) will provide the guiding framework (strategic vision and statutory framework) for the planning and development of the study area by taking a holistic, long term approach that can be updated over time in response to contemporary issues and community aspirations. The Precinct Structure Plan(s) will guide movement and access, land use and built form within the Albany Highway Activity Centre, informing changes to the local planning framework to facilitate private development, as well as setting out the recommended servicing, infrastructure and public realm design requirements and their implementation that will be necessary to realise the vision and objectives for the activity centre.
5. The completion of Precinct Structure Planning for Albany Highway will serve as a major catalyst for development and provide potentially significant and far-reaching changes to the Town's existing local planning framework.

Compliance criteria

6. The Town's Senior Procurement Officer assessed all submissions against the compliance criteria set out in Section 4.2 of the tender documents.
7. All submissions were deemed compliant.

Evaluation process

8. Evaluation was conducted as per the Evaluation Plan that was prepared and endorsed by the Evaluation Panel prior to starting the evaluation.

9. Evaluation of the submissions was undertaken by a three staff member evaluation panel based on qualitative criteria advertised in the tender documents.
10. Pricing was evaluated separately by Procurement as per Section 6.2.5 of the Evaluation Plan.
11. Tenders were assessed against the following qualitative criteria:

<p>Relevant Experience, expertise, project team and current capability Describe your experience in completing /supplying similar Requirements. Tenderer's must, as a minimum, address the following information in an attachment and label it "Relevant Experience":</p> <ul style="list-style-type: none"> i) Provide details of similar work (specifically high-quality precinct level master planning) ii) Provide scope of the Tenderer's involvement including details of outcomes iii) Provide details of issues that arose during the project and how these were managed iv) Project Team structure- Names, functions, and departments v) Key Personnel Skills, experience and expertise (CV's to be provided) vi) Organisation's current capacity and capability 	Weighting 25%
<p>Demonstrated Understanding Tenderer's should detail the process they intend to use to achieve the Requirements of the Specification. Areas that you may wish to cover include:</p> <ul style="list-style-type: none"> i) Demonstrated understanding of the scope of work ii) Demonstrated understanding of the required scope by identifying the key issues and risks associated with delivering the project. 	Weighting 45%
<p>Methodology Tenderer's must address the following information and label it "Methodology"</p> <ul style="list-style-type: none"> i) Proposed methodology for this project to be completed on time. ii) Project delivery methodology and approach to achieve the requirements in Part 2 – Specification. iii) Community engagement approach iv) Supply details and provide an outline of your proposed methodology in an attachment labelled 	Weighting 30%

Strategic alignment

Civic Leadership	
Strategic outcome	Intended public value outcome or impact
CL03 - Well thought out and managed projects that are delivered successfully.	This procurement process will have followed all policies and procedures resulting in a project that meets all expectations.
CL06 - Finances are managed appropriately, sustainably and transparently for the benefit of the community.	The probity of the procurement process ensures that the appropriately managed and accountable.
CL08 - Visionary civic leadership with sound and accountable governance that reflects objective decision-making.	The procurement process is accountable and decisions allocating the contract have been made at the appropriate elected member level.

Engagement

Internal engagement	
Procurement	Provided advice and acted as a probity advisor throughout the process.
Financial Services	Provided advice throughout the process and for direction and management of funding mechanisms.
Urban Planning	Provided advice throughout development of the scope. Intended active involvement in the procurement process but removed due to conflict of interest.
Project Management	Actively participated in the procurement process.

Legal compliance

[Section 3.57 of the Local Government Act 1995](#)

[Part 4 Division 2 of the Local Government \(Functions and General\) 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	Insufficient budget to deliver the scope of work required as part of the tender submission.	Minor	Unlikely	Low	Low	TREAT Ensure sufficient funds are budgeted over multiple financial years via the annual budget and Long-Term Financial Plan.
Environmental	Nil	-	-	-	-	-
Health and safety	Consultant team does not comply with the Towns Occupation Health and Safety requirements.	Minor	Unlikely	Low	Low	TREAT Procurement procedures adhered to ensuring that consultant team are aware and committed to the Towns OHS standards.
Infrastructure/ ICT systems/ utilities	Nil	-	-	-	-	-

Legislative compliance	Probity of procurement process was not sufficient.	Minor	Unlikely	Low	Low	TREAT Procurement officer engaged throughout procurement process to manage probity.
Reputation	Negative public perception if the procurement process is not adhered to in a transparent manner.	Minor	Unlikely	Low	Low	TREAT Procurement officer engaged throughout procurement process to manage probity and adherence to procedures.
Service delivery	Nil	-	-	-	-	-

Financial implications

Current budget impact	<p>Council Delegation 1.1.16 – Limits on Delegations to CEO requires all tenders exceeding \$250,000 to be determined by Council.</p> <p>As the value of the contract exceeds \$250,000, the acceptance of the offer/tender and subsequent award of any such contract is to be determined by Council.</p> <p>Sufficient funds exist within the annual budget to address this recommendation for the expected spend this financial year.</p> <p>The current operational budget funding for the Albany Highway Precinct Structure Plan(s) is \$255,000. It is expected that approximately \$56,392.40 of this budget will be expended this financial year (2020/2021) with the appropriate amounts (based on the awarded contract and subject to Council approvals to proceed to identified stages) budgeted in the 2021/2022 financial year and 2022/2023 financial year as outlined below.</p>
Future budget impact	<p>The overall cost of the contract is \$524,341.00 (Excluding GST).</p> <p>Due to the size and complexity of this project, it is proposed to be delivered across three financial years, with the expected breakdown of budget:</p> <p>2021/2022 - \$355,794.60 (Excluding GST) 2022/2023 - \$112,154.00 (Excluding GST)</p>

To ensure funds remain available for delivery of the project across three financial years, officers are proposing to allocate the required additional funds in the Future Projects Reserve. This will ensure that the Council can honor its financial commitments to Hatch Pty Ltd trading as Hatch | Roberts Day, whilst also taking into account the Town's own budgeting processes. A formal request to draw from the quarantined reserve funds will be made in the relevant financial year and subject to approval of identified stages of the project.

Analysis

12. The assessment of the submissions was formally undertaken by a panel that included:
 - Manager Place Planning
 - Senior Place Leader
 - Strategic Project Manager
13. The Town received three submissions, and all were deemed compliant.
14. Pricing was evaluated separately by Procurement. Pricing for Stages 2 and 3 is estimated (conceptual lump sum) subject to refinement and agreement. **Note:** *Stages 2 & 3 are subject to Council Adoption of Stage 1 and approval to proceed to next stage.*
15. The evaluation of the submissions against the quantitative and qualitative criteria resulted in the rankings as shown below, with the first ranking scoring the highest.

Company	Ranking
Hames Sharley	2
Hatch Roberts Day Pty Ltd	1
Todddville Prospecting Pty Ltd t/a Taylor Burrell Barnett	3

16. Hatch Pty Ltd trading as Hatch | Roberts Day was considered the strongest contender as a direct result of their pricing and well-conceived submission. The submission showed clear understanding of the issues that the project will need to resolve, a good local understanding and a well thought out and genuine engagement methodology.
17. It is recommended that Council award the contract to prepare the Albany Highway Precinct Structure Plan(s) to Hatch Pty Ltd trading as Hatch | Roberts Day.

Relevant documents

[Council Purchasing Policy 301](#)

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

[State Planning Policy 7.2 Precinct Design](#)

COUNCIL RESOLUTION (90/2021):

Moved: Cr Vicki Potter

Seconded: Cr Claire Anderson

That Council

1. Awards the contract associated with TVP/21/02 Preparation of Albany Highway Precinct Structure Plan to Hatch Pty Ltd trading as Hatch | Roberts Day (ABN 59 008 630 500), for the development of Albany Highway Precinct Structure Plan(s) with the terms and conditions as outlined in the contract, for the estimated lump sum price of \$524,341 (Excluding GST).
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3. Identifies \$355,794.60 (Excluding GST) to be budgeted in the 2021/2022 Annual Budget.
4. Allocates \$112,154.00 (Excluding GST) into the Future Projects Reserve to ensure there is the appropriate balance of funds to service the stages of the project that will fall into the 2022/2023 Financial Year.

Carried by exception resolution (9 - 0)

For: Mayor Karen Vernon, Cr Claire Anderson, Cr Vicki Potter, Cr Ronhhda Potter, Cr Brian Oliver, Cr Luana Lisandro, Cr Wilfred Hendriks, Cr Bronwyn Ife, Cr Jesvin Karimi

Against: nil

12.4 Petition relation to development application for redevelopment of concrete batching plant at No. 12 (Lot 310) Cohn Street, Carlisle

Location	Carlisle
Reporting officer	{author-name}
Responsible officer	Robert Cruickshank
Voting requirement	Simple majority
Attachments	1. Petition - 12 Cohn Street [12.4.1 - 23 pages]

Recommendation

That Council receives the petition relating to the development application for No. 12 (Lot 310) Cohn Street, Carlisle and notes that Officers have referred to the petition in the Responsible Authority Report and have included a copy of the petition as an attachment in the agenda for the meeting of the Metro Inner South Joint Development Assessment Panel on 17 May 2021.

Purpose

For Council to receive the report responding to the petition.

In brief

- A development application has been received proposing additions/alterations to the existing concrete batching plant at No. 12 Cohn Street, Carlisle.
- Given the value of the development, the applicant has elected to have the application determined by the Metro Inner South Joint Development Assessment Panel (JDAP).
- The application has been advertised for public comments.
- The application is to be considered by the JDAP at its meeting on 17 May 2021.

Background

1. At the March 2021 Ordinary Council Meeting, a petition was received as follows:

"We, the undersigned, all being electors of the Town of Victoria Park do respectfully request that Council:

Refuse the application for the redevelopment of the concrete batching plant at No.12 (LOT 310) Cohn Street, Carlisle- 5.2020.708.1 on the following grounds:

- Previous expansion in 2015 from 80,000m³ to 115,000m³ was approved as temporary (24 months) yet continued for a further 4 years and is now proposed to almost double to 200,000m³.
- The incremental expansion and intensification of an 'X' land use, of the above magnitude, exploits beyond what is reasonable, the non-conforming use rights that are legally afforded to the use.
- The preservation of the amenity of the locality can no longer be assured with confidence given the lack of compliance with the 2015 approval.
- The preservation of the amenity of the locality can no longer be assured with confidence. The future demand for concrete in major CBD projects is unknown and can be reasonably expected to exceed the current proposed output in the future because the supply of concrete contracted by Holcim will come solely from Carlisle due to the closure of East Perth.

- The proposed expansion and intensification of the use will negatively impact the future growth of Oats Street Station precinct identified in the Town's Draft Local Planning Strategy.
- The proposed expansion and intensification of a noxious industry directly adjacent to a medium density area and within a walkable catchment of a train station and future TOD is not within the realm of orderly and proper planning."

2. The petition contained 146 signatures.

3. Council subsequently resolved to receive the petition.

Strategic Alignment

Social	
Strategic outcome	Intended public value outcome or impact
S02 - An informed and knowledgeable community.	Ensure that the concerns outlined in the petition are conveyed to the JDAP for their consideration of the application.

Engagement

Not applicable.

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	N/A					
Environmental	N/A					
Health and safety	N/A					
Infrastructure/ ICT systems/ utilities	N/A					
Legislative compliance	N/A					
Reputation	Negative public perception towards the Town	Moderate	Likely	High	Low	Respond to petition and ensure the JDAP

	may result if the Town doesn't properly investigate and respond to petition request.	members are aware of the petition
Service delivery	N/A	

Financial implications

Current budget impact	Not applicable
Future budget impact	Not applicable.

Analysis

- The petition requests that Council refuse the application. As outlined above, the application is to be determined by the JDAP not the Council.
- Officers have prepared a Responsible Authority Report for consideration by the JDAP at their meeting on 17 May 2021. Within the report Officers have referred to the content of the petition received and have included a copy of the petition as an attachment forming part of the agenda. This will ensure that the JDAP are aware of the petition and the concerns expressed by residents, in their deliberations on the application.

Mayor Karen Vernon resumed the meeting at 8.46pm.

AMENDMENT:

Moved: Mayor Karen Vernon

Seconded: Cr Vicki Potter

That the recommendation be amended to read as follows:

That Council notes that officers have referred the petition relating to the development application for No. 12 (Lot 310) Cohn Street, Carlisle in the Responsible Authority Report and have included a copy of the petition as an attachment in the agenda for the meeting of the Metro Inner South Joint Development Assessment Panel on 17 May 2021.

Carried (9 - 0)

For: Mayor Karen Vernon, Cr Claire Anderson, Cr Vicki Potter, Cr Ronhhda Potter, Cr Brian Oliver, Cr Luana Lisandro, Cr Wilfred Hendriks, Cr Bronwyn Ife, Cr Jesvin Karimi

Against: nil

Reason:

Elected members have already received the petition at the March Ordinary Council Meeting.

AMENDMENT:

Moved: Cr Brian Oliver

Seconded: Cr Jesvin Karimi

That Council amend the officer's recommendation so that it reads in numbered dot points, with the addition of a new dot point 2 as follows:

1. Notes that officers have referred to the petition in the Responsible Authority Report and have included a copy of the petition as an attachment in the agenda for the meeting of the Metro Inner South Joint Development Assessment Panel on 17 May 2021.

2. Requests the Chief Executive Officer to write to the lead petitioner, Ms Heather Johnstone, and advise:

- i. of the actions taken in point 1 and 2 above;
- ii. that the Council was not able to refuse the application as it was not the decision maker, and that the development application was determined by the Joint Development Assessment Panel.

Carried (9 - 0)

For: Mayor Karen Vernon, Cr Claire Anderson, Cr Vicki Potter, Cr Ronhhda Potter, Cr Brian Oliver, Cr Luana Lisandro, Cr Wilfred Hendriks, Cr Bronwyn Ife, Cr Jesvin Karimi

Against: nil

Reason:

To ensure that the lead petitioner is informed of the actions taken by Council in response to the petition submitted to Council.

COUNCIL RESOLUTION (91/2021):

Moved: Cr Vicki Potter

Seconded: Cr Bronwyn Ife

That Council:

1. Notes that officers have referred to the petition in the Responsible Authority Report and have included a copy of the petition as an attachment in the agenda for the meeting of the Metro Inner South Joint Development Assessment Panel on 17 May 2021.

2. Requests the Chief Executive Officer to write to the lead petitioner, Ms Heather Johnstone, and advise:

- i. of the actions taken in point 1 and 2 above;
- ii. that the Council was not able to refuse the application as it was not the decision maker, and that the development application was determined by the Joint Development Assessment Panel.

Carried (9 - 0)

For: Mayor Karen Vernon, Cr Claire Anderson, Cr Vicki Potter, Cr Ronhhda Potter, Cr Brian Oliver, Cr Luana Lisandro, Cr Wilfred Hendriks, Cr Bronwyn Ife, Cr Jesvin Karimi

Against: nil

6.

13 Chief Operations Officer reports

13.1 Sump to Park Project

Location	Town-wide
Reporting officer	Andrew Herwig, Pierre Quesnel
Responsible officer	John Wong
Voting requirement	Simple majority
Attachments	1. 201111 Notice of Motion Sump to Park Project Officer comments [13.1.1 - 7 pages]

Recommendation

That Council receive the information contained in this report regarding the potential use of underground stormwater units for "Sump to Park" projects.

Purpose

This report is written in response to the notice of motion submitted by Cr Oliver during the Ordinary Council Meeting of 17 November 2020 regarding the potential use of underground stormwater storage units within drainage sumps for conversion into accessible open space.

In brief

- It is feasible to utilise an underground stormwater disposal system in some drainage sump locations in the Town. However, the capital cost of installing such a system plus ongoing maintenance costs are very high and the benefits limited.
- Several existing drainage sump sites have been identified as possible sites for conversion to underground storage as mentioned in the Analysis below.
- An indicative estimate to convert an existing drainage sump at 76 Planet Street to underground stormwater storage has been prepared as follows.
 - Atlantis "Flo-Tank" \$750,000
 - Humes "Double StormTrap" \$1,000,000
- Due to the small size and context of the suitable sites the outcome is likely to be the creation of a Micro Park with low environmental value. The social purpose of a Micro Park can be achieved on these sites whilst maintaining an open basin in a manner that delivers high environmental benefit.

Background

1. A notice of motion was received from Cr Oliver on 11 November 2020 enquiring the feasibility of underground stormwater storage cells such as Atlantis cells to create parks or accessible open space above. This was then presented as a notice of motion during the 17 November 2020 Ordinary Council meeting. During this meeting, the following Council resolution (numbered 566/2020) was reached:

That Council requests the Chief Executive Officer to:

1. *Investigate the application of Atlantis Drainage Cells, or similar technology, for converting drainage sumps into parks or accessible public open space;*
 2. *resent a report back to Council by May 2021 of the findings in point 1, including:*
 - a. *the feasibility of a "Sump to Park Project" using Atlantis Drainage Cells, or similar technology;*
 - b. *identification of any Town-owned sumps suitable for inclusion in a "Sump to Park Project";*
 - c. *an indicative budget to deliver a "Sump to Park Project" for consideration in the 2021/22 Budget.*
2. The Town's officers have investigated options to facilitate underground stormwater storage in accordance with the above along with other associated requests.
 3. Officers provided an initial response as follows.
 4. The Town has approximately 100 drainage sumps in its locality. These sumps function as the main disposal agent for stormwater which falls on the Town other than the low lying parts of Victoria Park and Burswood which outlet eventually to the river. The majority of these sumps occupy one or more standard lots which are generally held in Freehold title by the Town.
 5. The Town has commissioned a number of drainage studies over the years to look at its drainage infrastructure and to determine problem areas with a view to improve the situation. The relevant reports are:
 - 2005 - URS "Stormwater Management Plan, Town of Victoria Park"
 - 2010 - Curtin Engineering "Hydrological Assessment of the Stormwater Runoff in Victoria Park Catchments"
 - 2010 - Cardno "Assessment of Drainage Hotspots"
 - 2011 - Cardno "Drainage Network Assessment"
 6. The URS study, among other things, suggested a rationalisation of the existing drainage sumps with a view to removal and/or redevelopment. The report also assessed the sumps capacity under various storm scenarios including the usual design requirement of 1% AEP (Average Exceedance Probability) or the 1 in 100 year ARI (Average Recurrence Interval). The report looked at the sumps simplistically by lumping all the sumps in a sub catchment together (they did not look at individual sumps).
 7. The Curtin Engineering Study looked at the potential for flooding using a different method from URS and Cardno but in most cases there was flooding extending out past the drainage sump lots and into surrounding land in the 1% AEP situation.
 8. The Cardno study of 2011 looked at all the Town's drainage sumps on an individual basis using field permeability testing to help determine sump capacity. It assessed the sumps' capacity to accommodate various storm conditions including the 1% AEP design scenario. 101 sumps were assessed.
- Atlantis Cells**
9. Atlantis Cells are a modular plastic structural tank system used to construct underground water storage for various applications. They are generally used where space is limited and/or land can be utilised for an additional purpose such as open space. The Town does have several examples of these installed in its jurisdiction so does have some experience of their performance and also limitations.

10. Some of the advantages of Atlantis cells include:
- The ability to use land above for other purposes with limitations
 - Visually unobtrusive
 - Lightweight
 - High storage capacity
 - Fast installation
11. Some of the disadvantages of using underground storage mediums and particularly Atlantis Cells are:
- Maintenance problems such as inability to remove suspended fines from the cells which reduce infiltration capacity.
 - Cost of maintenance when required.
 - Generally, not able to cater for heavy vehicular traffic which may occur in road verges.
 - A Gross Pollutant trap is required to capture rubbish and fines which affect the capacity of the system to infiltrate stormwater runoff. These are expensive and require regular maintenance to clean out.
 - Susceptibility to the ingress of tree roots into the system which can cause capacity and maintenance problems.
 - Susceptibility to failure from vehicle loadings. The Town has experienced a structural failure of an Atlantis System installed in Baillie Avenue adjacent Edward Millen Park.
 - The limited lifespan of such a system which is likely to require removal, cleaning and replacement at considerable cost.
 - The capital cost of installation.
 - Limited ability to construct infrastructure above installation. I.e. no trees or structures.
12. With regards to costs of installation, it is estimated that the costs of installing an Atlantis Cell system into a typical 1000m² drainage sump at a depth of 3m is approximately:

3,571 units of "Flo-tank Septa" at \$231/ea = \$824,901
 1400m² Geofabric at \$1.60/ m² = \$2,240
 Gross Pollutant Trap = \$20,000
 Sand fill over the top 450m³ @\$30/m³ = \$13,500
 Installation of the above estimated at \$50,000.

Total = \$915,000 (excluded contingencies)

13. The outcome of a project utilising this technology is likely to be mainly irrigated open lawn space given the potential issues with tree roots, structural inability to support loads and potential future need to access the cells for maintenance. This is suited to high profile public areas where public space opportunities are limited, and the space created will be of high public benefit.

List of sites investigated.

Drainage Sump Address	Design Volume	Lot Area	Design Water Depth	Feasible to Install Underground Storage Y/N	Estimated Cost Atlantis Cells	Estimated Cost Humes StormTrap
Kensington Bushland	23,499	254940	0.1	Limited Potential	\$13,600,000.00	\$18,000,000.00
68 Rutland Avenue	156	589	0.3	Yes	\$90,000.00	\$120,000.00

Parnham Park Cnr Oats St and Star Street	5,469	19574	0.3	Limited Potential	\$3,200,000.00	\$4,200,000.00
51 Streatley Street (JA Lee Reserve)	20,005	29874	0.7	Limited Potential	\$11,600,000.00	\$15,300,000.00
80 Beatty Ave, 85-89 Bank Street	9,029	8258	1.1	Limited Potential	\$5,205,037.92	\$6,905,379.20
25 Boundary Road	997	878	1.1	Limited Potential	\$5,800,000.00	\$762,505.60
137 Berwick Street	1,160	1012	1.1	Yes	\$580,000.00	\$890,000.00
76 Planet Street	1,301	1052	1.2	Yes	\$750,000.48	\$1,000,000.00
19 Ashburton Street	830	544	1.5	Yes	\$480,000.00	\$640,000.00
11 Esperance Street	1,993	1277	1.6	Yes	\$1,150,000.00	\$1,600,000.00
60 George Street (COSP)	2,218	1300	1.7	Limited Potential	\$1,300,000.00	\$1,700,000.00
763 Albany Highway	4,062	1988	2.0	Limited Potential	\$2,400,000.00	\$3,100,000.00
27 Staines Street	2,097	1012	2.1	Yes	\$1,200,000.00	\$1,600,000.00
19 State Street	2,145	1013	2.1	Yes	\$1,300,000.00	\$1,700,000.00
2 Camberwell Street	1,316	615	2.1	Yes	\$760,000.00	\$1,000,000.00
166 Rutland Avenue	1,018	367	2.8	No		
16 Stiles Street	1,366	491	2.8	No		
101 Howick Street	2,818	1012	2.8	No		
76 Canterbury Terrace	1,888	647	2.9	No		
359,368 and 374 Berwick St	5,220	1775	2.9	No		
53 solar Way	2,717	885	3.1	No		
22 Gallipoli Street	3,293	1012	3.3	No		
21 Apollo Way	5,813	1771	3.3	No		
28 Ramsden Street	2,480	749	3.3	No		
162 Orrong Road	3,092	870	3.6	No		
60 Egham Street	3,754	1012	3.7	No		
85 Westminster Street	2,698	722	3.7	No		
	3,149	837	3.8	No		
6 Sunbury Street	3,832	1013	3.8	No		

437 Berwick Street	3,107	819	3.8	No		
98 Rutland Avenue	4,939	1300	3.8	No		
57 Asteroid Way	2,061	514	4.0	No		
220 Orrong Road	7,411	1768	4.2	No		
3 Merton Street	3,810	900	4.2	No		
28 Claude Street	1,536	355	4.3	No		
93-97 Bishopsgate Street (WC)	17,523	4048	4.3	No		
10 Kennard Street (COSP)	3,846	800	4.8	No		
21 Swansea Street	4,898	1012	4.8	No		
27 Odea Street	3,710	758	4.9	No		
59 Manchester Street	5,330	1013	5.3	No		
408 Berwick Street	4,732	858	5.5	No		
245 Berwick Street	5,634	1012	5.6	No		
154 Lansdowne Street (COSP)	4,583	800	5.7	No		
6 Westmorland Street	4,096	688	6.0	No		
28 Mars Street	6,068	1012	6.0	No		
21-23 Forward Street	22,223	3506	6.3	No		
Lot 8 Jarrah Road (State land)	6,252	983	6.4	No		
218 Planet Street	2,566	401	6.4	No		
39 Esperance Street	4,115	637	6.5	No		
3 Swansea Street	8,952	1376	6.5	No		
3 Apollo Way	6,443	955	6.7	No		
2 Asteroid Way	4,464	655	6.8	No		
2 Cookham Street	7,454	1013	7.4	No		
20 Huntingdon Street	5,900	765	7.7	No		
1074 Albany Highway	8,325	1050	7.9	No		
8 Mars Street	8,045	1012	7.9	No		
54 State Street	5,110	614	8.3	No		

5-13 Beatty Avenue	41,524	4987	8.3	No		
5 Blechynden Street	12,234	1308	9.4	No		
16 Creaton Street	6,143	654	9.4	No		
39 Marcharmley Street	5,423	570	9.5	No		
14 Anketell Street (COSP)	7,893	800	9.9	No		
91 Planet Street	10,499	1052	10.0	No		
35 Wyndham Street	7,258	726	10.0	No		
59 Gallipoli Street	10,351	1012	10.2	No		
82 Hillview Terrace	7,306	688	10.6	No		
120-124 Beatty Street (WC Sump)	45,686	4208	10.9	No		
74-78 Jupiter Street	32,995	3006	11.0	No		
26 Raleigh Street	11,828	1052	11.2	No		
42 McMillan Street	11,495	1013	11.3	No		
44 Streatley Road	10,497	843	12.5	No		
10 Axon Avenue	12,701	1012	12.6	No		
205 Washington Street	4,788	374	12.8	No		
79 Dane Street	6,342	485	13.1	No		
4-6 Willis Street	5,660	427	13.3	No		
188 Star Street	28,250	2023	14.0	No		
6 Paltridge Street	19,611	1365	14.4	No		
119 Hillview Terrace	18,098	1037	17.5	No		
Lot 2715 Cnr Kent St and Hayman Rd (WC Sump)	54,493	3000	18.2	No		
82 Balmoral Street	19,551	926	21.1	No		
25 Bone Street	17,898	799	22.4	No		
47 Dane Street	9,329	395	23.6	No		
146 Sussex Street	38,925	947	41.1	No		
1 Patricia Street	20,206	394	51.3	No		

8 Lion Street	24,791	336	73.8	No		
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Strategic alignment

Environment	
Strategic outcome	Intended public value outcome or impact
EN05 - Appropriate and sustainable facilities for everyone that are well built, well maintained and well managed.	Drainage sumps are appropriately designed and maintained to accommodate 100 year storm events with place planning and UFS considerations.
EN06 - Appropriate, inviting and sustainable green spaces for everyone that are well maintained and well managed.	Any surplus space within or surrounding drainage sumps are considered for place planning and UFS initiatives.
EN07 - Increased vegetation and tree canopy.	Any surplus space within or surrounding drainage sumps are considered for vegetation planting opportunities.

Engagement

Internal engagement	
Stakeholder	Comments
Infrastructure Operations	Concerns about reduction of sump capacity to handle 100 year storm events. The recent floods in New South Wales highlighted the severity of impact to local residents and commercial activities.
Place Planning	Consider installation of usable public space where practical and feasible.
UFS team	Consider the planting of vegetation including trees where suitable.
Submission summary	It is recommended that alternative options be considered to activate the public realm without compromising the minimum capacity requirements of the Town's drainage assets.
Key findings	Avoid initiatives that will reduce the water management capacity of the Town's drainage assets to unacceptable level.

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	Reduction in sump capacity leading to flooding of the public environment and private properties during 100 year storm events and subsequent claims for damages	Major	Possible	High	Low	TREAT risk by ensuring that current sump capacity is not reduced.
Environmental	Reduction in sump capacity leading to flooding of the public environment and private properties during 100 year storm events	Major	Possible	High	Medium	Treat by ensuring that the Town's sump capacity is not reduced below the threshold level.
Health and safety	Reduction in sump capacity leading to flooding of the public environment and private properties during 100 year storm events.	Minor	Possible	Medium	Low	TREAT risk by ensuring that current sump capacity is not reduced to unacceptable level.
Infrastructure/ ICT systems/ utilities	Reduction in sump capacity leading to flooding of the public environment and private properties during 100 year storm events.	Major	Possible	High	Medium	TREAT risk by ensuring that current sump capacity is not reduced to unacceptable level.
Legislative compliance	None				Low	
Reputation	Reduction in sump capacity leading to flooding of the public environment and private properties during	Major	Possible	High	Low	TREAT risk by ensuring that current sump capacity is not reduced to

	100 year storm events.					<i>unacceptable level.</i>
Service delivery	Reduction in sump capacity leading to flooding of the public environment and private properties during 100 year storm events.	Minor	Possible	Medium	Medium	<i>TREAT risk by ensuring that current sump capacity is not reduced to unacceptable level.</i>

Financial implications

Current budget impact	No budget has been allocated for installing any below ground stormwater units.
Future budget impact	No budget has been allocated for installing any below ground stormwater units. Any additional drainage upgrade budget required for future financial years to install any underground stormwater units at suitable locations identified by Place Planners will be sought through the Town’s Strategic Asset Advisory Group.

Analysis

14. In response to resolution 1 of the notice of motion, the information below is related to the investigation of the application of Atlantis Drainage Cells or similar technology for converting drainage sumps into parks or accessible open space.

- a. As previously mentioned Atlantis drainage cells are a propriety modular plastic structural tank system used to construct underground water storage for various applications. They are generally used where space is limited and/or land can be utilised for an additional purpose such as open space. Due to the limitations and disadvantages of this type of product it is not recommended that a lightweight plastic storage medium such as Atlantis Cells is considered for providing public open space above. Instead a heavier duty storage medium could be considered for this purpose such as precast concrete tanks. The Town does have some experience with these type of products as they have been used in several locations within the Town over the years. Some of the locations where these are located are:
 - i) 55-63 Hubert Street under the carpark behind IGA
 - ii) 4 Westminster Street under the carpark adjacent the Balmoral Hotel
 - iii) 1-3 Westminster Street under the carpark between ROW 39 and the drainage sump.

15. In response to resolution 2a of the notice of motion, the information below is related to the feasibility of a “Sump to Park Project” using “Atlantis Drainage Cells” or similar technology.

- a. Officers have looked at the feasibility of utilising an underground storage medium such as Atlantis Cells and also a precast concrete solution by Humes called “StormTrap” on an imaginary typical drainage sump lot of 1000m² in usable area. Using a depth of 2.057m this equates to a storage volume of 2057m³. The requirements and costs of installing these 2 systems would be:

Atlantis Cells:

3,571 units of “Flo-tank Penta” at \$179/ea = \$639,209

1280m² Geofabric at \$1.60/ m² =\$2,048

Gross Pollutant Trap = \$20,000

Sand fill over the top 450m³ @\$30/m³ = \$13,500

Installation of the above estimated at \$50,000.

Total = **\$750,000**. (excluded contingencies) This equates to \$352.34 per cubic metre of storage.

Humes StormTrap:

Humes StormTrap prices have been extrapolated from an estimate provided for the system that was installed at 1-3 Westminster Street in 2012. This system holds 257m³ and was estimated by Humes to cost \$118,982.51. Allowing for CPI increases between 2012 and 2020 the system would now cost \$130,892. This equates to \$509.31 per cubic metre of storage and a total price of providing 2057m³ of storage of **\$1,000,000**. (excluded contingencies)

16. In response to resolution 2b of the notice of motion, the information below is related to the identification of any Town-owned sumps suitable for inclusion in a "Sump to Park Project"
- a. The Town has 101 drainage sumps in its locality. It is possible to enlarge many of these sumps to increase their capacity. A desktop review has been done to identify the sumps that could reasonably be enlarged by utilising an underground storage system. The current maximum Humes "StormTrap" module height is 3m high so a number of sites were selected from our database on the criteria that the design volume of storage would not exceed this 3m depth over the site. The following sump sites have been identified:
 - i) 76 Planet Street
 - ii) 68 Rutland Avenue
 - iii) 137 Berwick Street
 - iv) 19 Ashburton Street
 - v) 11 Esperance Street
 - vi) 27 Staines Street
 - vii) 19 State Street
 - viii) 2 Camberwell Street

17. In response to resolution 2c of the notice of motion, the information below is related to the potential allocation of indicative budget to deliver a "Sump to Park Project" for consideration in the 2021/22 Budget.
- a. 76 Planet Street has been chosen as an example to help determine indicative costs of converting an existing drainage sump into accessible open space. Coincidentally this drainage sump lot is also currently being planned for a Micro Park in the Carlisle Micro Parks Project. It is also within a POS shortfall area as identified in the Town's POS Strategy. Using the costs above the following are indicative costs of implementing an Atlantis "Flo-Tank" or a Humes "StormTrap" system.
 - b. These estimates can be used to inform future budget allocations if required but currently, Officers do not recommend allocating any such budget due to the very low benefit to cost ratio identified.

Parameters:

- 76 Planet Street Lot Area = 1052m²
- Required drainage sump storage for the 1% AEP rainfall event = 1301m³

Humes "Double Stormtrap"

1m² of system footprint = 2.70m³ of storage:

Land area required for system = 1301m³/2.70m³ = 481m²

- "StormTrap" system supply and install costs 1301m³ @ \$509.31/m³ = \$662,612
- Drainage infrastructure modifications 30m @ \$230/m = \$6,900
- Gross Pollutant Trap = \$20,000
- Cut to spoil contaminated 186m³x2.7 = 502 t @ \$150/t = \$75,330
- Cut to spoil non contaminated 743m³ @30/m³ = \$22,290
- Roll on Turf 500m² @ \$30/m² = \$15,000
- Reticulation and water supply = \$15,000
- Landscaping 552m² @ 20/m² = \$11,040
- Contingency @ 20% = \$165,634

Total Estimate = **\$995,000** (excluded contingencies)

Atlantis "Flo-Tank"

1m² of system footprint = 2.057m³ of storage

Land area required for system = 1301m³/2.057m³ = 632m²

- Atlantis "Flo-Tank Penta" 2,259 units at \$179/ea = \$404,361
- 833m² Geofabric at \$1.60/ m² = \$1,332
- Gross Pollutant Trap = \$20,000
- Cut to spoil contaminated 186m³x2.7 = 502 t @ \$150/t = \$75,330
- Cut to spoil non contaminated 743m³ @30/m³ = \$22,290
- Installation of the above estimated at \$50,000.
- Drainage infrastructure modifications 30m @ \$230/m = \$6,900
- Roll on Turf 650m² @ \$30/m² = \$19,500
- Reticulation and water supply = \$15,000
- Landscaping 400m² @ 20/m² = \$8,000
- Contingency @ 20% = \$124,543

Total Estimate = **\$750,000** (excluded contingencies)

18. It should be noted that the above quantities and estimated costs are based on upgrading the existing sump capacity of 372m³ to 1301m³ which is the proper design standard of 1% AEP. It is not advisable to simply replicate the current inadequate capacity due to the difficulty and expense of future expansion and the risk of litigation if flooding to properties occur.
19. Officers considered various non financial criteria such as environmental, community and social benefits. The nature of the technology limits the outcomes that can be achieved in the public space that is created. Furthermore, this scale of investment could achieve greater environmental and social benefits through using other means.
20. Open lawn requiring irrigation is the likely surface above the cells with some paths, furniture and small-scale play elements. The use of fertilized lawn above drainage infrastructure could increase the nutrient load entering ground water systems. Unlike vegetated basins the underground cell systems do little to

improve the water quality of storm water as it enters the ground water system. Due to tree root invasion concerns any such outcome is likely to have minimal canopy addition. Therefore the environmental benefit of a project using this technology is considered low. From an environmental perspective a project to vegetate a sump, such as 25 Boundary Road, St James, is of far greater benefit.

21. The social and community benefit of public space is relative to their size and their location. Given the likely small size of any POS created using the cells a high profile, busy location such as a town centre, is required to achieve a high amount of community social benefit. Of the sump sites listed in paragraph 17 none are in an area considered high profile and of potential high public usage. Due to their size and context, these sites are suited to Micro-Parks rather than local or neighbourhood parks. The purpose of a micro park is defined in the POS Strategy as *"A public 'backyard'/respite point, designed to function as a small green pocket that allows for green relief; residential size passive spaces (i.e grass for kids to play, path for children to ride, dog walking) and respite points (i.e a spot to eat lunch, check your phone).*
22. Town officers believe Town sumps can be modified to achieve the purpose of a Micro Park without the use of drainage cells. The Carlisle Micro Parks projects, Gallipoli Street Micro Park and Canterbury Terrace micro park are currently being worked on to deliver the purpose of micro parks while maintaining the open drainage basins (which allows for future flexibility). These projects have been wrapped together under the UFS implementation as the Vic Park Green Basins program and will be delivered this calendar year.

Relevant documents

[Local Government Guidelines for Subdivisional Development \(Page 96\) published by Department of Planning, Lands and Heritage](#)

[Urban Water Management Plans \(page 5\) published by Department of Water](#)

["URS "Stormwater Management Plan, Town of Victoria Park"](#)

[Curtin Engineering "Hydrological Assessment of the Stormwater Runoff in Victoria Park Catchments](#)

[Curtin Engineering "Hydrological Assessment of the Stormwater Runoff in Victoria Park Catchments Part 2](#)

[Cardno "Assessment of Drainage Hotspots"](#)

[Cardno "Drainage Network Assessment"](#)

Further consideration

23. The costs of relocating and enlarging the existing drainage sump on 76 Planet Street to a capacity of 1301m³ as required by the Cardno drainage study have been determined. After further and detailed evaluation it has been found that it is possible in this instance to enlarge the sump to the required design capacity and provide some public open space amenity at the front of the lot. Two options have been considered. These are:
 - a. A simple excavation would require enlarging the existing drainage sump towards the rear of the lot. The land area required for excavation would be approximately 850m² leaving a balance of 200m² for potential public open space at the front. The cost to achieve this is estimated at **\$66,000**. Note that this essentially retains the current situation where a mesh fence is set back approximately 10m from the front boundary with about 202m² unimproved land at the front of the lot.

- b. The relocation of the sump requires the construction of a retaining wall and excavation towards the rear of the lot. The land area required for excavation would be approximately 586m² leaving a balance of land of 466m² for potential public open space at the front. The cost to achieve this is estimated at **\$138,000**.

Note the above costs allow for water reticulation and basic landscaping to the public open space areas at the front of the lot.

- 24. Atlantis cells have been installed in various locations around the Town. One of the known locations is opposite No 3 Baillie Avenue, below the grassed verge adjacent to Edward Millen Park. Structural damage has previously occurred to these cells where they collapsed under significant load. As a result, the damaged cells were replaced. Technical staff do not encourage vehicles to park directly on top of them, however loads from light vehicles such as passenger vehicles should not present any serious risk at the present time.
- 25. Officers at the Town made contact on 6/5/2021 with a Project Officer at the City of Vincent who was involved in the Sump to Park Project located at the corner of Lawler Street/Bedford Street. The total supply and installation cost of the above project was approximately \$182,000, of which \$90,000 was the approximate cost of the underground cells. This correlates with the rates used by the Town in the estimated costs. It is important to note that the storage was not intended to cater to the same design rainfall events that many of the Town sumps need to accommodate. The environmental aspects of stormwater disposal have remained unchanged as it is being disposed of in the same location and as close as possible to the source. The social aspects of the project include creating a "green, attractive and usable pocket park" that "improves neighbourhood liveability" and provides "play areas for people in the community to enjoy".
- 26. The drainage sump adjacent the IGA shop in East Victoria Park is not being considered for any future works. It resides under the large carpark adjacent to Hubert Street and the IGA store by virtue of a concrete deck which allows vehicles to park on top while providing a storage medium for the disposal of stormwater. A structural report of this decking structure was commissioned by the Town in 2014 which found no serious structural defects.

COUNCIL RESOLUTION (92/2021):

Moved: Cr Wilfred Hendriks

Seconded: Cr Luana Lisandro

That Council receive the information contained in this report regarding the potential use of underground stormwater units for "Sump to Park" projects.

Carried (9 - 0)

For: Mayor Karen Vernon, Cr Claire Anderson, Cr Vicki Potter, Cr Ronhhda Potter, Cr Brian Oliver, Cr Luana Lisandro, Cr Wilfred Hendriks, Cr Bronwyn Ife, Cr Jesvin Karimi

Against: nil

13.2 Edward Millen Adaptive Heritage Redevelopment Tender

Location	East Victoria Park
Reporting officer	Jon Morellini
Responsible officer	Nicole Anson and Jayde Robbins
Voting requirement	Absolute majority
Attachments	<ol style="list-style-type: none"> 1. 2021-03-12 - Probity Certificate - Town of Victoria Park - TV P-20-13 [13.2.1 - 2 pages] 2. CONFIDENTIAL - TV P 2013 - Edward Millen Adapti~development- Evaluation Report [13.2.2 - 34 pages] 3. 2021 - Certificate of Title - 15 Hill View Terrace - R T#119032 [13.2.3 - 2 pages] 4. CONFIDENTIAL - blackoak capital ventures_-_tvp 20.13 edward m_ [13.2.4 - 22 pages] 5. CONFIDENTIAL - 15.01.2021 DRAFT Agreement for Lease - Edward Millen (74559048 v 1) [13.2.5 - 36 pages] 6. Edward Millen Tender- Email [13.2.6 - 13 pages] 7. CONFIDENTIAL - D 21 7252 TVP 20 13 - Edward Millen Adaptive Heritage Redevelopment - Submission from Hesperia [13.2.7 - 103 pages] 8. CONFIDENTIAL - edward millen house_-_tender-_town of victori_[1] [13.2.8 - 24 pages] 9. CONFIDENTIAL - v 147-21 FINAL Report - 15 (Part Lot 9000) Hill View Terrace, East Victoria Park - 10.05.21 [13.2.9 - 71 pages]

Recommendation

That Council:

1. Accepts the submission from Blackoak Capital Ventures (ABN 38 896 928 872) for TVP/20/13 Edward Millen Adaptive Heritage Redevelopment issued through Tenderlink.
2. Approves the Agreement to Lease for the investment, redevelopment and ongoing management of the Edward Millen State Heritage listed buildings as Blackoak Capital Ventures offer has been evaluated as the most advantageous to the Town.
3. Approves the Ground Lease in accordance with the terms and conditions in the Agreement to Lease for a term of 20 years and four further 10-year options.
4. Pursuant to Section 5.42 of the *Local Government Act 1995*, delegates to the Chief Executive Officer, the following duties/powers in relation to 15 (Lot 9000) Hill View Terrace, East Victoria Park.
 - a. Authority to make and give any determination required by the Lease on behalf of the Lessor, approval, direction or order in relation to the Property;
 - b. Undertake any further commercial negotiations, as required to progress the development and commercial offer presented to the Town of Victoria Park by Blackoak Capital Venutres for TVP/20/13;
 - c. Monitor compliance with, and enforce as necessary, the provisions of the Ground Lease and all matters relating to the Agreement to 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 or Agreement to Lease.
 - e. If the Chief Executive Officer declines to give a determination (for reasons set out in part 4(d)), the Chief Executive Officer must report the matter to the Council for decision.
5. Authorises the Chief Executive Officer and Mayor, provided that no submissions of magnitude and concern are received during the public submission period required under Section 3.58 of the *Local Government Act 1995*, to execute all necessary documents on behalf of Town of Victoria Park in relation to 15 (Lot 9000) Hill View Terrace, East Victoria Park.
 6. Authorise the use of the funds from the Edward Millen Reserve to contribute to Edward Millen Adaptive Heritage and Landscape Redevelopment.
 7. Agree to use the indicative amount of \$2.5M (Ordinary Council Meeting 17/11/20) to contribute to the Edward Millen Adaptive Heritage and Landscape Redevelopment by funding the parklands redevelopment.
 8. List for consideration an additional budget request for \$1.5M to allow the provision of the additional funds required to fund the parklands redevelopment after taking into consideration the Tendered Offer by Blackoak Capital Ventures contained with the attachment.

Purpose

For Council to accept the submission by Blackoak Capital Ventures for the commercial offer contained within their proposal and for the Town to finalise commercial conclusion of the Ground Lease. This report also seeks Council approval to commit funding to the parklands redevelopment.

In brief

- Edward Millen Reserve and associated heritage buildings are owned by the Town of Victoria Park in freehold and captured within the Land Asset Optimisation Strategy. A business case was developed by the Town's Property Development and Leasing team to assess and resolve the complex problem connected with the ongoing financial implications and complications the site presents.
- The business case recommendation was to undertake a Tender to invite submissions for capital investment, hospitality expertise and heritage redevelopment experience with a Ground Lease to assist formalising the level of management required to maintain and preserve the state heritage listed buildings given the level of financial risk and commitment represented by the site.
- TVP/20/13 Edward Millen Adaptive Heritage Redevelopment was published through the newspaper, Tenderlink, Town's Public Notice Board and Town's website.
- The tender submission deadline closed at 2PM 27 January 2021.
- Tenderers were requested to provide a Ground Lease offer based on a proposed Agreement for Lease contract provided. Additionally, Tenderers were requested to consider the \$4m Federal Government Community Development Grant within their submission.
- The balance of the Edward Millen Reserve is \$2,000,000. Council also resolved to list for consideration in the revised long-term financial plan an indicative amount of \$2,500,000 for the Edward Millen Reserve as per the Edward Millen Landscape Master Plan (OCM 17/11/2020).
- An evaluation of the tender submissions against the prescribed criteria has been completed and Blackoak was scored as the preferred submission. It is recommended that Council accepts the

submission made by Black Oak Capital Ventures and enters an Agreement to Lease and contract to Ground Lease an approximate 1.5 ha portion of Lot 9000 on Deposited Plan 41207 Hill View Terrace St James.

- The Agreement for Lease is attached to this report and outlines the agreed terms to progress to the formal Ground Lease.

Background

1. The Edward Millen Adaptive Heritage and Landscape Redevelopment project is being delivered under the Land Asset Optimisation Strategy. The project aims to realise the full potential of the State heritage-listed buildings and the expansive 4.7 hectare Edward Millen Reserve to minimise the on-going cost to maintain the precinct and preserve the heritage assets as well as delivering maximum community benefits.
2. Approximately \$3.1M has already been spent by the Town on Edward Millen since 2003/2004 towards maintenance and repair. The Town also maintains an Edward Millen Reserve Fund this is "to be used to assist in improving and / or maintaining the Edward Millen Site, including the associated grounds." Currently the Town has approximately \$2M in this reserve. It is envisioned that the preferred proposal if endorsed will result in no ongoing requirement to keep funding the reserve with the required Trust replacing the reserve and the trusts income being derived through the ground lease income and rates generated directly via the redevelopment.
3. The Town has undertaken community engagement to change the allowable uses, amended the conditional tenure to allow new uses, market sounding, a feasibility review, business case, environmental Preliminary Site Investigations, a HAZMAT assessment, Heritage re-use study, Landscape Master Plan, Heritage Interpretation Strategy and has now issued and assessed a Tender for the investment in the activation, management and redevelopment of the heritage buildings.
4. The ownership of the site is a conditional tenure, under section 75 of the *Land Administration Act 1997*. The tenure provides ownership so long as the conditions on the title are met. In this instance, the title limits the use of the land to 'Community, Recreational, Civic, Entertainment, Education, Cultural and Creative Industry, Heritage and Small Scale Production'.
5. In order to attract the significant investment and expertise required, a unique Tender and marketing package was created to entice the private sector aimed at achieving the best possible outcome for the Town of Victoria Park community.
6. The commercial offer as part of Tender TVP /20/13 has a finite period of 3 months.
7. This Tender document outlined the vision, experience and commercial criteria required to divest an agreed portion of Lot 9000 Deposited Plan 41207 Hill View Terrace, St James as a Ground Lease.
8. The Ground Lease includes the historical buildings and a portion of the surrounding grounds to allow for the control and ownership necessary to invest the significant capital anticipated to bring the State Heritage listed assets back to life.
9. A Development Application will be required to be lodged with both the Town of Victoria Park and Department of Planning Lands and Heritage to make sure all works are acceptable for the State Heritage listing buildings and are appropriate within the heritage fabric of the asset.

Compliance criteria

1. The Town's Senior Procurement Officer assessed all submissions against the compliance criteria set out in Section 5.2 of the tender documents.
2. All submissions were deemed compliant.

Evaluation process

3. Evaluation was conducted as per the Evaluation Plan that was prepared and endorsed by the Evaluation Panel prior to starting the evaluation.
4. Tender submissions were assessed against the following qualitative criteria:

<p>Proposed Vision/Concept</p> <p>Tenderers were asked to submit a proposal of the concept that addresses the following:</p> <ul style="list-style-type: none"> i). Business plan including budget outlining start-up and operational costs and revenue and the total capital invested including the proposed additions in the development zone. Proposals should be funded appropriately. ii). How the concept aligns with the vision for Edward Millen Masterplan Precinct; iii). Consideration of the Heritage Interpretation report within the overall proposal iv). Respectful consideration of the Edward Millen Park Masterplan. v). How the concept will create a destination for the Town of Victoria Park community and surrounding Perth area; while complementing the existing businesses and activities with the Town of Victoria Park and along Albany Highway vi). Visual imagery showing the internal and external heritage anticipated redevelopment and new built form in the development zone. vii). Provide images of the concept and statement on the proposed design; viii) Provide details on amount of space and a breakdown of anticipated end uses. 	<p>Weighting 40%</p>
<p>Demonstrated Experience</p> <p>Tenderers were asked to provide a detailed overview of their experience relevant to the industry, with reference to the following:</p> <ul style="list-style-type: none"> i). Information on similar adaptive heritage redevelopments previously undertake and/or currently involved in; ii). Proponent is also expected to supply on-going management of the heritage buildings and tenants. Please provide examples of similar heritage redevelopment managed by your organization. iii). Provide a breakdown on the appointed team and their experiences. iv). Supply referees reports and contact information for similar projects undertaken. v). Demonstrated financial capacity of the proponent to fund the operate the proposed business. 	<p>Weighting 30%</p>
<p>Commercial Negotiations</p> <p>Tenderers should provide a detailed process of how they intend to achieve the Requirement of the Contract.</p> <ul style="list-style-type: none"> i). Tenderers are asked to provide a ground lease offer for the attached ground lease contract. ii). Offer with the \$4m Federal Government’s Community Development Grant. 	<p>Weighting 30%</p>

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 is the first major step towards the delivery of the project. This forms part of the Prince 2 Project Management principles.
CL06 - Finances are managed appropriately, sustainably and transparently for the benefit of the community.	The existing Edward Millen situation is a financial liability for the Town. To deliver a financially sustainable and ongoing outcome for the Towns rate payers, an overall heritage adaptive reuse with private sector investment needs to be achieved.
CL08 - Visionary civic leadership with sound and accountable governance that reflects objective decision-making.	The redevelopment and overall revitalisation of the Edward Millen Heritage Precinct has undergone a number of accountable and objective decision making processes inclusive of the latest Tender process.

Economic	
Strategic outcome	Intended public value outcome or impact
EC01 - A desirable place for commerce and tourism that supports equity, diverse local employment and entrepreneurship.	The overall vision and objective for the Edward Millen redevelopment will directly deliver a place for commerce, tourism, employment and entrepreneurship.
EC02 - A clean, safe and accessible place to visit.	The redevelopment of Edward Millen will aim to transform an unsafe and inaccessible asset to a safe and accessible destination place.

Environment	
Strategic outcome	Intended public value outcome or impact
EN05 - Appropriate and sustainable facilities for everyone that are well built, well maintained and well managed.	The redevelopment of Edward Millen will aim to deliver a well built, well maintained and well managed facility.

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

Engagement

Internal engagement

Stakeholder	Comments
Procurement	Provided advice, procurement support and procured external probity.

Legal compliance

[Section 3.57 of the Local Government Act 1995](#)

[Part 4 Division 2 of the Local Government \(Functions and General\) Regulations 1996](#)

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

Risk management consideration

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

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

Financial implications

Current budget impact	<p>As the value of the contract exceeds \$250,000, the acceptance of the offer/tender and subsequent award of any such contract is to be determined by Council.</p> <p>Sufficient funds do not exist within the current annual budget to progress to construction of the associated parklands. It is proposed that funding will be acquired through:</p> <ul style="list-style-type: none"> • Landscaping funding by BlackOak - \$3,300,000 • Edward Millen Reserve Fund - \$2,000,000 • Indicative amount – OCM 17/11/20 - \$2,500,000 • Additional budget request - \$1,500,000
Future budget impact	<p>Future budget impact involves the following:</p> <ul style="list-style-type: none"> • Edward Millen Heritage Buildings - Will be informed by an Asset Management Plan which will be attached the ground lease – overall given the divestment as a ground lease the Edward Millen Heritage Buildings will require less ongoing financial commitments by the Town.

- Edward Millen Parklands - With the redevelopment of the Edward Millen Parklands there will be an ongoing maintenance requirement anticipated to be in the order of \$150,000 pa.
- Income – This is commercial in confidence and is provided as an attachment to this report.
- Income – Rates Revenue will be generated from the Ground Lease and will have a positive financial benefit to the Town.

The timeline for the budget request are as follows::

- To coincide with the Project Schedule of the BlackOak Tender submission the Town will require the funds available to potentially enter into a contract for the parklands by 1st Quarter 2022 however the construction program will most likely be a 12 month program covering two financial years.

Analysis

10. Due to high value of the tender, Stantons International were appointed to provide independent oversight of the evaluation of submissions. Wade Dunstan, Senior Consultant provided Probity advice and oversight during the entire evaluation process. A Probity Certificate is provided in attachment to this report. The detailed evaluation report is also available as a confidential attachment.
11. The assessment of the submissions was formally undertaken by a panel that included:
 - Place Leader – Urban Design
 - Property Development and Leasing Manager - Property Development and Leasing
 - Land and Properties Project Officer - Property Development and Leasing
12. The Town received three (3) submissions, and all were deemed compliant.
13. The evaluation was conducted as per the Evaluation Plan.
14. A high level summary of the Ground Lease and Redevelopment vision is as follows

Ground Lease	
Heritage Works	Tenant will manage the appointment of the project manager, consultants and contractors to undertake the works at no cost to the landlord.
Term	Initial term 20 years
Tenant Works	Other than the Heritage Works the Tenant shall be responsible for undertaking and paying for all other works required on Land (and to the buildings) so as to complete any remaining heritage works and to enable it to operate in accordance with the Permitted Uses for the site.

Lease Commencement	Upon completion of the Heritage Works and Tenant Works.
Options to Extend Ground Lease	4 x 10 year option periods with an annual rental payment of \$100,000 p.a. (excl GST) commencing year 21 of the lease. Indexed to CPI from the lease commencement date, subject to a maximum 2.5% increase in a year.
Rent	The Tenant will pay a one-off, "lump sum" rent payment of \$2,000,000 (excl GST) to the Landlord to be used to assist in the funding of the redevelopment of the Edward Millen Park.
Outgoings	The tenants shall be responsible for the payment of all applicable outgoings, including council rates, land tax, insurance, repair and maintenance costs, security costs and utilities.
Access Date	The Tenant will get access from the execution of the final agreements, so as to manage and coordinate the conduct of the Heritage Works and the Tenant Works. The Landlord will grant the Tenant a temporary licence to occupy the site during this period if requested.
Security	The Tenant will provide the Landlord with \$2 million bank guarantee to secure the performance of its obligations to complete the Heritage Works and Tenants Work, that shall be returned to the Tenants upon Practical Completion of the all the Works.

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

Woodfire Bakery	Gourmet woodfired bakery with opportunity for baking classes and local school tours
Museum and Other Community uses and Services	Incorporate a museum space reflecting local history of the buildings and local area. Potential for child care and early education.
Total Blackoak Investment (incl. Federal Grant)	\$15,900,000 (Excl GST)

15. The evaluation of the submissions against the quantitative and qualitative criteria resulted in the rankings as shown below, with the first ranking scoring the highest.

Company	Ranking
Blackoak Capital Ventures	1
Hesperia Property Pty Ltd	2
Be Our Guest Holdings Pty Ltd (Dome Coffees)	3

16. A Comprehensive summary of the panels assessment and the proposals is attached to this report entitled Evaluation Report. Within this report is the analysis of each panel members considerations and deliberation of each proposal.

17. It is recommended that Blackoak Capital Ventures be awarded the Ground Lease Contract as their offer proposing to reactivate and reposition the State Heritage site is considered the most advantageous for the Town.

18. Blackoak Capital Ventures are a Western Australian owned and operated business, with combined property and investment experience of over 150 years across their executive team. They have extensive experience in developing and operating projects of the same nature, that deal with many of the same considerations and risks as the Edward Millen heritage redevelopment. These projects involve developing businesses, activating precincts and ongoing management of adaptive reuse heritage buildings, hospitality venues and markets.

19. Blackoak Capital Ventures propose to deliver the following key outcomes with consideration to the permitted uses by complimenting the parkland, providing services to the community and preserving the heritage fabric of the site. These outcomes include:

- a) Deliver a world class destination that attracts visitors from the greater community, through an innovative and creative mix of uses operating in an environmentally sustainable way.
- b) Create a hub with real community purpose by providing for both for-profit and not-for-profit services, delivering community access to the arts, craft, theatre and music, and creating public green spaces accessible to all.
- c) Preserve the history of the Edward Millen buildings, by the full refurbishment of the heritage buildings, sympathetic design, and incorporating a museum space into the project.
- d) Contribute to realising the Edward Millen Park plan by making a \$2M lease payment to assist with the upgrade.

20. The proposed redevelopment includes businesses and activities directly owned and operated by Blackoak Capital Ventures as well as external specialist operators.

21. Directly operated businesses and activities include:

- a) mixed hospitality offerings which include an artisan café, garden bistro dining and gastro pub;
 - b) internal and external events and function spaces; and
 - c) Vegetable and herb gardens, and local produce store
22. External operators include:
- a) Farmers market;
 - b) Artisan food and craft operators;
 - c) Woodfired bakery; and
 - d) Museum and other community uses and services
23. The Agreement to Lease defines the obligations of all parties for the duration of the redevelopment and establishes the parameters for a new lease that commences upon the conclusion of the redevelopment works.
24. This contract requires the Tenant to prepare and submit a Development Application for approval in accordance with the Tenants plans as well as any applications for Heritage approval. Additionally, it permits the Landlord to grant a licence of the Premises for the Tenant to undertake the Tenants Works to carry out the Redevelopment, and obligates the Tenant to obtain all the necessary consents and approvals required to undertake the Tenants Works.
25. Subject to the satisfaction of the Conditions Precedent within the Agreement to Lease, the Landlord agrees to grant and the Tenant agrees to accept a lease of the Premises in the form of a lease subject to the terms and conditions within the Agreement to Lease.
26. The Ground Lease will be subject to in principle consent from the Minister for Lands in accordance with section 75 approval of the *Land Administration Act 1997*.
27. Delegation to the Chief Executive Officer to manage and negotiate the Agreement to Lease and the Ground Lease, will allow the disposal of land to be processed effectively and efficiently. This report recommends the delegation to the Chief Executive Officer be limited, with matters considered a material change to the terms and conditions of the Ground Lease or Agreement to Lease, to be referred to Council for decision.
28. Authorisation to the Mayor and Chief Executive Officer to execute the necessary documents will allow efficiency to deliver the Edward Millen Adaptive Heritage Redevelopment as prescribed in the Tender TVP /20/13 proposal. The redevelopment requires a variety of documents to be signed as the landowner, such as the Agreement for Lease, registration of Leases on the Certificate of Title, Development Application lodgment by Blackoak Capital, potential legal, conveyancing, and bond agreement, and management of the Federal Grant.

Relevant documents

[Council Purchasing Policy 301](#)

[Section 75 Land Administration Act 1997](#)

[Section 3.58 Local Government Act 1995](#)

Further consideration

29. The final Valuation for the Ground Lease for a portion of 15 (Lot 9000) Hill View Terrace, East Victoria Park as outlined in the Tender is now attached to the report. The Valuation is within acceptable

parameters with the offer especially with consideration of the proposed capital investment and up front contribution by Blackoak Capital Ventures.

COUNCIL RESOLUTION (93/2021):

Moved: Mayor Karen Vernon

Seconded: Cr Vicki Potter

That Council:

1. Approves Blackoak Capital Ventures (ABN 38 896 928 872) to be the preferred lessee of a ground lease for the Edward Millen Adaptive Heritage Redevelopment pursuant to a proposal submitted for TVP/20/13 via Tenderlink.
2. Approves the Agreement to Lease for the investment, redevelopment and ongoing management of the Edward Millen State Heritage listed buildings as Blackoak Capital Ventures' proposal has been evaluated as the most advantageous to the Town.
3. 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. Undertake any further commercial negotiations, as required to progress the development and commercial offer presented to the Town of Victoria Park by Blackoak Capital Ventures;
 - b. Monitor compliance with, and enforce as necessary, the provisions of the Agreement to Lease.
 - c. 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 Agreement to Lease.
 - d. 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.
4. Authorises the Chief Executive Officer and Mayor, provided that no submissions of magnitude and concern are received during the public submission period required under Section 3.58 of the Local Government Act 1995, to execute all necessary documents on behalf of Town of Victoria Park in relation to 15 (Lot 9000) Hill View Terrace, East Victoria Park.
5. Requests the Chief Executive Officer to report to Council July 2021 as to the progress of the negotiations in 3a above.

Carried (9 - 0)

For: Mayor Karen Vernon, Cr Claire Anderson, Cr Vicki Potter, Cr Ronhhda Potter, Cr Brian Oliver, Cr Luana Lisandro, Cr Wilfred Hendriks, Cr Bronwyn Ife, Cr Jesvin Karimi

Against: nil

Reason:

The redevelopment of the Edward Millen Precinct is a milestone project in the Town's history. As has been said, Edward Millen House is the Town's only heritage listed asset and the jewel in our crown. Despite the length of time it has taken to get to this stage, this is a project we simply have to get right.

For this project to succeed with a corporate partner, it is apparent that any corporate partner is likely to require a significant financial concession from the Town in the form of peppercorn leases over the House and land, or potentially gifts of Town land in exchange for the tenderer's substantial capital investment in the development of the site and restoration of the House.

The Town has received a \$4 million grant from the Federal Government towards the heritage restoration of the House. It appears likely that any corporate tenderer for the redevelopment will rely upon that \$4 million

being either sufficient or primarily sufficient for covering the cost of the heritage restoration without that corporate tenderer having to apply any, or any substantial amount of their own funds to the restoration.

That leaves the corporate tenderer to apply their own funds to the construction of facilities on site which will generate long term income for the owner/operator of those businesses, not the Town. The terms of that negotiation are crucial, including the relationship to the Edward Millen Park Landscape Master Plan project.

This tender, if endorsed by Council, will be a significant and expensive undertaking that will bind future councils and the community well into the foreseeable future. Whilst many have been frustrated by the length of time it has taken for this project to progress, the fact is that it has, with a concerted effort beginning in 2018, reached the stage where in its first ever tender process, received eligible proposals from major heritage developers in WA, shows that the momentum has been created to keep interest in this project progressing.

It is therefore important that we do not rush to appoint the tender and settle all the lease terms for potentially 60 years within 2 weeks of the proposed tenders being first presented to Council. Instead we should concentrate on ensuring that we can satisfy ourselves that we have achieved the best possible financial and social outcome for the Town and our community from any lease of this key heritage asset.

It is only proposed to allow about 8 weeks (June-July) for further discussions to occur between the Town and Blackoak to determine if further improvements to the Blackoak proposed tender can be negotiated, before a report will come back to Council in August.

There is no statutory or other pressing deadline that requires a final decision to be made this month.

30.

13.3 Edward Millen Reserve Landscape Detailed Design

AdLocation	East Victoria Park
Reporting officer	Jon Morellini
Responsible officer	Nicole Anson and Jayde Robbins
Voting requirement	Simple majority
Attachments	1. CONFIDENTIAL - LANDSCAPE 201104 Draft Tender Issue [13.3.1 - 58 pages] 2. LOGO [13.3.2 - 1 page]

Recommendation

That Council:

1. Approve the Detailed Design Tender Documentation for Edward Millen Parklands with further minor amendments as required in order to progress the Adaptive Heritage and Landscape Redevelopment.
2. Approve the Town to refer the Detailed Design documentation to the Department of Planning Lands and Heritage to assess and advise on.
3. Endorses community consultation to be undertaken presenting options to rename the Edward Millen Heritage Building to incorporate Elizabeth Baillie in the naming and present those options to Department of Planning Lands and Heritage and the Heritage Council as a formal request.
4. Endorses the Edward Millen Heritage Precinct logo as attached to this report to inform discussion with the Department of Planning Lands and Heritage to inform the final Tender Documentation.
5. Authorise the Chief Executive Officer and Mayor to execute all lease documentation in relation to 15 Hillview Terrace East, Victoria Park required to achieve the relocation of Disability Services from the Hillview Clinic building to allow for the Edward Millen Adaptive Heritage and Landscape Redevelopment to progress.

Purpose

To approve the Edward Millen Reserve Landscape Detailed Design final tender package, the budget amendments and the lease negotiations required in order to progress the parklands redevelopment.

In brief

- The Edward Millen Landscape Masterplan has progressed to Detailed Design Tender Documentation stage and is ready to progress for construction funding and delivery.
- The Edward Millen Landscaping Detailed Design is a significant piece of the overall Edward Millen Adaptive Heritage and Landscape Redevelopment. The heritage-listed buildings and an area of land surrounding those buildings is part of the built form heritage redevelopment that was the subject of the Tender for proposals TVP/20/13.
- The correct timing to progress such a significant project had a symbiotic relationship to the success or lack of success after consideration of Tender TVP/20/13. With the assessment and recommendation of Tender TVP/20/13 should the Council approve the preferred proponent it makes project sense to progress with the funding and delivery of the Edward Millen Landscape Parklands Redevelopment which will complement the offer presented to the Town in Tender TVP/20/13.

- The Detailed Design is a comprehensive and significant redevelopment of a State Heritage Listed asset and has authentically corresponded to the history and significance of site. Investment into the Edward Millen Reserve to complement the investment proposed in Tender TVP/20/13 will allow the upgrade and protection, and acknowledgement of this significant Town of Victoria Park asset for future generations.

Background

1. At the 18 February 2020 Ordinary Council Meeting (OCM), elected members approved the Edward Millen Park Masterplan to proceed to detailed design, with the requirement to “include an option for a water play space/feature”.
2. On the 19 May 2020, the Council acknowledged that further investigation into a water feature for Edward Millen Park Masterplan has been completed and approved the Edward Millen Park Masterplan to proceed to detailed design without a water play/space feature.
3. The Detailed Design Tender was approved and progressed with anticipation to begin the development and delivery of a Tender for the request for a qualified proponent to invest and deliver an adaptive heritage redevelopment. The design of the parklands demonstrated the vision and the future of the precinct which helped write the narrative and inform the criteria presented in Tender TVP /20/13.
4. During 2020 Perth was responding to the COVID-19 outbreak. A Tender which required the level of investment of TVP/20/13 was not seen as the appropriate time given the hospitality activation required.
5. With the successful re-opening of the West Australian economy and renewed enthusiasm for hospitality and investment the redevelopment Tender TVP/20/13 was released and closed on 27 January 2021.
6. With a preferred proponent now recommended by Town officers for Council to consider, the Detailed Design and funding request for Edward Millen Reserve is considered the opportune time to commence such a project.

Civic Leadership	
Strategic outcome	Intended public value outcome or impact
CL02 - A community that is authentically engaged and informed in a timely manner.	Extensive, best practice and carefully designed communication was undertaken during the Masterplan design process to ensure community members and stakeholder were informed.
CL03 - Well thought out and managed projects that are delivered successfully.	The Edward Millen Landscape Detailed Design is a significant step towards the delivery of the Edward Millen Adaptive Heritage and Landscape Redevelopment project. This forms part of the Prince 2 Project Management principles.
CL06 - Finances are managed appropriately, sustainably and transparently for the benefit of the community.	The existing Edward Millen situation is a financial liability for the Town. To deliver a financially sustainable outcome, an overall heritage adaptive reuse redevelopment needs to be achieved.
CL08 - Visionary civic leadership with sound and accountable governance that reflects objective decision-making.	The redevelopment and overall revitalisation of the Edward Millen Heritage Precinct has undergone a

	number of accountable and objective decision making processes.
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Economic	
Strategic outcome	Intended public value outcome or impact
EC01 - A desirable place for commerce and tourism that supports equity, diverse local employment and entrepreneurship.	The overall vision and objective for the Edward Millen redevelopment will directly deliver a place for commerce, tourism, employment and entrepreneurship.
EC02 - A clean, safe and accessible place to visit.	The redevelopment of Edward Millen will aim to transform an unsafe and inaccessible asset to a safe and accessible destination place.

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

Engagement

Internal engagement	
Street Operations	Provide feedback on tender document, specifications, and current practices.
Community Development – Safer Neighbourhoods	Provided advice and support in relation to lighting, CCTV, best practice and overall feedback on a safety led design response.
Community Development – Community Arts	Was involved and engaged with for Art opportunities and overall, Art related consideration.
Town History Officer	Engaged with during the creation of the Heritage Interpretation Strategy and opportunity to rename the State Listed Heritage Buildings.
Communications and Engagement	Design of the Edward Millen Heritage logo
Place Planning	Engaged throughout the detailed design process and provided comments and input to maintain the overall original Masterplan vision.

External engagement

Stakeholders	Previously engaged through the Masterplan design development. Stakeholders included local community, former Aboriginal Engagement Advisory Group, Public Art Advisory Group, Heritage Council. Utilised a broad consultation period, on site consultation, multiple design reference group workshops, public life study also inclusive of Your Thoughts online surveys.
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Other engagement

Department of Heritage and Planning	Engaged throughout the design process. Internal meetings to present the Heritage Interpretation Report, overall design and incorporation of heritage within the Detailed Design Documentation.
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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	<i>Not endorsing the for the Edward Millen Reserve Landscape Detailed Design and funding will impact the overall Edward Millen Adaptive Heritage Redevelopment putting a risk a opportunity for significant investment into State Listed Heritage assets.</i>	<i>Moderate</i>	<i>Likely</i>	<i>High</i>	<i>Low</i>	<i>TREAT risk by Endorsing the Edward Millen Reserve Landscape Detailed Design and committing the funding required.</i>
Environmental	Not applicable				Medium	
Health and safety	Not applicable					
Infrastructure/ ICT systems/ utilities	Not applicable					

Legislative compliance	Not applicable					
Reputation	<i>Not endorsing the for the Edward Millen Reserve Landscape Detailed Design and funding will impact the overall Edward Millen Adaptive Heritage Redevelopment putting a risk a opportunity for significant redevelopment of the parklands.</i>	Moderate	Possible	Medium	Low	<i>TREAT risk by Endorsing the Edward Millen Reserve Landscape Detailed Design and committing the funding required.</i>
Service delivery	Not applicable					

Financial implications

Current budget impact	Sufficient funds exist within the budget to endorse the Detailed Design for the Edward Millen Parklands.
Future budget impact	If the parklands are constructed the future budget impact will involve ongoing maintenance. This is anticipated to be in the order of \$150,000 p.a. This will be offset by the revenue in rental income and rates received by the Town.

Analysis

7. The Town's Communications and Engagement design team revised a previously created Edward Millen logo and have amended to allow its use in the design package for Tender Documentation, the silhouette logo is in similar keeping with major heritage precinct around Australia.
8. The opportunity to change the name of the Edward Millen Rotund building has long had consideration. The original owner and builder of the property was Elizabeth Baille, and through the extensive Heritage Interpretation work it was advised the Town should consider such a name change.
9. With the release of Tender for the Heritage Redevelopment the option for the Café in the park was removed in order to make sure the success of the Heritage Redevelopment could be realised. There is significant retail and hospitality space to be activated within the State Heritage Buildings and additional café in such close proximity to the Heritage Building Redevelopment is not considered economically viable.
10. The landscaped pathway at the rear of the State Heritage Buildings will be further refined and informed through the potential DA for the Heritage Building and activation outcomes.
11. The Department of Planning Land and Heritage and specifically their Heritage Council have been engaged and understand the opportunity to seek a re naming. The Town will work with the Heritage

Council and the Community to consider some naming options and request back to Council their final endorsed position.

Relevant documents

Not applicable.

Further Considerations

In addition to the questions asked at the Agenda Briefing Forum 4th May 2021 the following information is provided in relation to Indigenous heritage.

12. As part of the Detailed Design Tender documentation there exists the opportunity for the Town's Community Development Team's Community Art Officer to make an assessment to potentially procure Indigenous artists to create art works for the Picnic Shelters for acknowledgement of the Indigenous historical connection to the land.

COUNCIL RESOLUTION (94/2021):

Moved: Mayor Karen Vernon

Seconded: Cr Vicki Potter

That Council:

1. Notes the Detailed Design documentation for Edward Millen Reserve Landscape Master Plan prepared by Hassell.
2. Approves the Town to refer the Detailed Design documentation to the Department of Planning Lands and Heritage to assess and advise on as soon as possible.
3. Requests the Chief Executive Officer to provide a report to Council in June 2021 outlining options for Council to consider a reduction in the scope of the works for the Detailed Design to bring the cost of construction to:
 - (a) No more than \$6 million;
 - (b) No more than \$7 million.
4. Endorses community consultation to be undertaken on a proposal to rename Edward Millen House and Park to "Elizabeth Baillie House" and "Elizabeth Baillie Park" and present that naming proposal to the Department of Planning Lands and Heritage and the Heritage Council as a formal request.
5. Defers further consideration of the Edward Millen Heritage Precinct logo as attached to this report until after receipt of the Department of Planning Lands and Heritage advice in points 2 and 4 above.
6. Authorises the Chief Executive Officer and Mayor to execute all lease documentation in relation to 15 Hillview Terrace East, Victoria Park required to achieve the relocation of Disability Services from the Hillview Clinic building to allow for the Edward Millen Adaptive Heritage and Landscape Redevelopment to progress.

Carried (9 - 0)

For: Mayor Karen Vernon, Cr Claire Anderson, Cr Vicki Potter, Cr Ronhhda Potter, Cr Brian Oliver, Cr Luana Lisandro, Cr Wilfred Hendriks, Cr Bronwyn Ife, Cr Jesvin Karimi

Against: nil

Reason:

In 2020 Council resolved to proceed to detailed design of the Landscape Master Plan, and the tender was awarded to Hassell.

In answer to questions at the ABF on 4 May 2021, Town staff advised the estimated cost of construction of the Master Plan to be approximately \$9.1 million. This is significantly higher than the estimated construction cost of \$7-7.5 million in 2020. Presently the report to Council does not refer to the costs of construction.

As yet, the Town has not obtained any external funding (or a commitment to do so apart from that mentioned in item 13.2 if successful) for delivery of the Landscape Master Plan project, despite concerted lobbying of state and federal government since 2019.

The Town simultaneously has a number of other projects approved and detailed designs completed which also require funding to be delivered, otherwise the Town will have to make a decision to deliver these projects itself.

The fortunes of this landscape plan are tied to the House redevelopment. Spending some time to clarify why the cost of the park's Master Plan have increased, and whether there is an opportunity to refine the scope of cost of the works is worthwhile. Together with the House redevelopment, this will be the Town's second biggest project after MacMillan Precinct.

14 Chief Financial Officer reports

14.1 Financial Statements ending March 2021

Location	Town-wide
Reporting officer	Grace Ursich
Responsible officer	Stuart Billingham
Voting requirement	Absolute majority
Attachments	1. Financial Statements for the month ending 31 March 2021 [14.1.1 - 47 pages]

Recommendation

That Council:

1. Accepts the Financial Activity Statement Report – 31 March 2021, as attached.
2. Approve the disposal of assets 183VPK and 1GVL028 and relevant budget amendments for proceeds and profit/loss.

Purpose

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

In brief

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

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.
2. As part of the monthly financial reports, material variances are reported. Thresholds are set by Council and are as follows:

(a) Revenue

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

(b) Expense

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

3. For the purposes of explaining each material variance, a three-part approach has been applied. The parts are:
 1. Period variation
Relates specifically to the value of the variance between the budget and actual figures for the period of the report.
 2. Primary reason(s)
Explains the primary reason(s) for the period variance. Minor contributing factors are not reported.
 3. 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.
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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

- The Financial Activity Statement Report – 30 June 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 2021 be accepted.
- The report includes proposed budget amendments to increase the sales proceeds budget by \$24,000 for the disposal of fleet assets 183VPK and 1GVL028 as these two fleet vehicles are no longer required. Given the increased demand for used vehicles, the resale value is expected to be higher than what the Town would typically receive.

Relevant documents

Not applicable.

COUNCIL RESOLUTION (95/2021):

Moved: Mayor Karen Vernon

Seconded: Cr Vicki Potter

That Council:

- Accepts the Financial Activity Statement Report – 31 March 2021, as attached.
- Approve the disposal of assets 183VPK and 1GVL028 and relevant budget amendments for proceeds and profit/loss.

Carried by absolute majority (9 - 0)

For: Mayor Karen Vernon, Cr Claire Anderson, Cr Vicki Potter, Cr Ronhhda Potter, Cr Brian Oliver, Cr Luana Lisandro, Cr Wilfred Hendriks, Cr Bronwyn Ife, Cr Jesvin Karimi

Against: nil

14.2 Schedule of Accounts ending March 2021

Location	Town-wide
Reporting officer	Grace Ursich
Responsible officer	Stuart Billingham
Voting requirement	Simple Majority
Attachments	1. Payment Listing - March 2021 [14.2.1 - 8 pages]

Recommendation

That Council:

Confirms the accounts for 31 March 2021, as included in the attachment, pursuant to Regulation 13 of the *Local Government (Financial Management) Regulations 1996*.

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 March 2021.

In brief

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

Background

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

Fund	Reference	Amounts
Municipal Account		
Automatic Cheques Drawn	608836 – 608840	\$2,982.69
Creditors – EFT Payments		\$5,884,372.55
Payroll		\$1,129,221.68
Bank Fees		\$12,030.14
Corporate MasterCard		\$5,410.77
Cancelled EFT		\$540.00
Cancelled Cheque	608826	\$879.25
Total		\$7,035,437.08

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

- 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](#)

Further consideration

At the Agenda Briefing Forum, further information on the payment to McLeod's Legal Services and to Our Community Propriety subscription was sought.

- McLeod's Legal Services – Contract of sale for 355 & 357 Shepperton Road.
- Our Community Pty Ltd – SmartyGrants annual access fee.

COUNCIL RESOLUTION (96/2021):

Moved: Cr Vicki Potter

Seconded: Cr Claire Anderson

That Council:

1. Confirms the accounts for 31 March 2021, as included in the attachment, pursuant to Regulation 13 of the *Local Government (Financial Management) Regulations 1996*.
2. Confirms the direct lodgement of payroll payments to the personal bank accounts of employees, pursuant to Regulation 13 of the *Local Government (Financial Management) Regulations 1996*.

Carried by exception resolution (9 - 0)

For: Mayor Karen Vernon, Cr Claire Anderson, Cr Vicki Potter, Cr Ronhhda Potter, Cr Brian Oliver, Cr Luana Lisandro, Cr Wilfred Hendriks, Cr Bronwyn Ife, Cr Jesvin Karimi

Against: nil

-

14.3 Advertising of Differential Rates 2021 2022

Location	Town-wide
Reporting officer	Stuart Billingham
Responsible officer	Michael Cole
Voting requirement	Simple majority
Attachments	<ol style="list-style-type: none">2021 2022 Rates modelling options new [14.3.1 - 10 pages]Statement of Objects and Reasons For Differential Rates 2020-2021 [14.3.2 - 7 pages]

Recommendation

That Council:

- Applies differential rates for the 2021/22 financial year.
- 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 2021/22 (Attachment 1) as follows:
 - Residential – Gross Rental Valuation (GRV)
 - Minimum Payment \$1,212
 - Rate in the dollar \$0.0977
 - Non-Residential – GRV
 - Minimum Payment \$1,260
 - Rate in the dollar \$0.1034
 - Vacant land - GRV
 - Minimum Payment \$1,454
 - Rate in the dollar \$0.1368
- Authorises the Chief Executive Officer to give local public notice seeking public submissions on the proposed differential rates and minimum payments for 2021/22.
- 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 2021/22 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.
- Rates in 2020/21 budget were \$43,588,067 including interim rates of \$240,000, net \$43,348,067 (rates model figure). The draft 2020/21 annual budget was prepared with a 0% increase in rates for the second year in a row. However, when adopting the budget, being mindful of the impacts of COVID-19 on the community, Council endorsed a 7.88% reduction with the reduction predominately funded from a draw on reserve funds.
- The recommended rates model for 2021/22 is a 6.7% increase and includes new rate category of 'Vacant Land -GRV' rates in the dollar, proposed to be 40% more than the residential rate in the dollar and the minimum 20% more than the residential minimum. This 6.7% increase rates model scenario provides a total rate yield of \$46,965,188, which is \$574,120 more than the 2019/20 budget rate yield. This increase takes into account growth in the rates base since 2019/20.
- The new Vacant Land - GRV category raising \$675,844 more in a 0% rate model scenario. (see separate rates modelling attachment 1 for more details).

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. It is proposed to introduce a new category for vacant land this year as an incentive to develop rather than leave land vacant.
3. If a 0% rate revenue increase was proposed, the Town would simply advertise the same rates in the dollar and minimum rates as applied in 2020/21, with the addition of the new vacant land category.
4. 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.
5. 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.
6. Preliminary indications are that residential GRVs have increased by 0.77%, whereas non-residential GRVs have increased by 0.26%.
7. Rate modelling has produced several scenarios and rates in the dollar and minimums for both residential, non-residential and vacant land properties to achieve between a 0% -7% rate revenue increase for the Town of Victoria Park.
8. Rates in the dollar and minimum rates have been updated in the recommendation and the 2021/22 Statement of Objects and Reasons. The rate model is based on the gross rental valuations for all rateable properties as at 30 April 2021. This includes all new assessments and amended assessments (interim rates) received from Landgate – Valuer General during 2020/21 to the date.
9. 17,970 as at 30 April 2021 (less 17,864 properties as at May 2020) equates to 106 additional rateable properties have been added to the rates base during 2020/21.
10. 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.
11. 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 0% - 7% rate revenue increase for the 2021/22 Annual Budget.

Engagement

Internal engagement	
Stakeholder	Comments
Elected Members	Elected members have considered the ongoing impacts of COVID-19 on our community and have 0% - 7% rate revenue increases to consider advertising.
Finance	Finance staff have assisted in the rate modelling scenarios to achieve a 0% - 7% rate revenue increase. (see separate rate modelling results attachment)

External engagement	
Stakeholders	Comments
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
Reputation	Not meeting the statutory requirement to advertise its intention to levy	Moderate	Likely	High	Low	TREAT risk by Advertising its intention to levy differential rates and minimums

	differential rates and minimums.					and Objects and Reasons including a summary of submissions in the report to Council to adopt the annual budget.
Financial	Not providing enough funds in Budget to achieve desired Financial Ratios. eg Asset Sustainability Ratio	Moderate	Likely	High	Low	Treat risk by increasing rates annually to keep pace with increase in CPI and increase in Good and Services.
Health and safety	Not applicable					
Infrastructure/ ICT systems/ utilities	Not applicable					
Legislative compliance	Not complying with the <i>Local Government Act 1995</i> statutory requirements	High	Unlikely	Moderate	Low	TREAT rick by ensuring differential rates are advertised for 21 days local public notice.
Service delivery	Not applicable					

Financial implications

Current budget impact	Nil as the recommended rates in the dollar and minimums relate to next financial year.
Future budget impact	The recommended 6.7% increase in rates in the dollar and minimum rates will achieve an 8.34% rate yield revenue increase for 2021/22 (\$46,965,188) compared to the 2020/21 budget \$43,348,067 (NB: these figures do not include interim or back rates).

Analysis

12. Nine (9) rate modelling options, ranging from a 0% - 6.7% rate revenue rise, have been prepared for Council consideration as listed in the separate attachment. These rates models include an adjustment to rates in the dollar to account for the increase of residential GRVs by 0.77% and non-residential GRVs by 0.26%.

13. Minimum payments for each rates scenario can be found in the rates modelling separate attachment.

Relevant documents

Not applicable.

Further consideration

At the May Agenda Briefing Forum a comparison between the proposed minimum rates for 2021/22 against 2020/21 was requested and is summarised as follows:

- Residential Minimum proposed for 2021/22 = \$1,212
- Residential actual Minimum for 2020/21 = \$1,136, a difference of \$76
- Non-residential Minimum proposed for 2021/22 = \$1,260
- Non-residential actual Minimum for 2020/21 = \$1,181, a difference of \$79.
- Vacant Minimum proposed for 2021/22 = \$1,454
- Vacant Minimum actual for 2020/21 = \$1,181, a difference of \$273

Note, for comparison purposes, as there was no vacant differential category in 2020/21, the comparison is with the Minimum for Non-residential in 2020/21.

The rates proposed for 2021/22 sees a return of rates to pre-COVID19 levels which, apart from the growth in the town's number of properties, is in line with the same rates yield as 2019/20.

By way of further comparison, the minimum rates for 2019/20 for residential property was \$1,233 and non-residential \$1,282, both higher than what is proposed for 2021/22.

The proposed rate yield for 2021/22 is \$46,965,188, which is \$574,120 more than the 2019/20 budget rate yield. This increase takes into account growth in the rates base since 2019/20.

COUNCIL RESOLUTION (97/2021):

Moved: Cr Brian Oliver

Seconded: Mayor Karen Vernon

That Council:

1. Notes the 2021/2022 Rates Modelling Options in attachment 1.
2. Requests the Chief Executive Officer to present the Advertising of Differential Rates 2021/2022 back to Council for consideration once elected members have been presented with a draft 2021/2022 budget.

Carried (9 - 0)

For: Mayor Karen Vernon, Cr Claire Anderson, Cr Vicki Potter, Cr Ronhhda Potter, Cr Brian Oliver, Cr Luana Lisandro, Cr Wilfred Hendriks, Cr Bronwyn Ife, Cr Jesvin Karimi

Against: nil

Reason:

As elected members have not yet seen a draft 2021/22 budget, I don't see how we can pass a rates modelling option without knowing the detail of it, and what projects and initiatives have been proposed which has delivered us with the officer's proposed rates modelling proposed.

I had considered proposing an alternate rates modelling option, but reflected that I too would be asking elected members to make a decision on an option when they too would not be able to make informed decision about and what the alternative rates modelling option would have on the draft budget and our capacity to deliver projects, services and programs.

Given the adoption of the budget is the biggest decision we make each year, I think it is important for us to be fully informed of the draft 2021/22 budget before making a decision on a rates modelling option we propose to advertise.

While this alternate motion may delay the delivery of our 2021/22 budget, it will ensure that full consideration can be given to alternate rating options and their impacts and support us to make sound, objective decision making.

I would encourage my fellow elected members to support this alternate motion.

15 Committee Reports

15.1 Standards for CEO Recruitment, Performance and termination

Location	Town-wide
Reporting officer	Graham Olson
Responsible officer	Michael Cole
Voting requirement	Absolute majority
Attachments	{attachment-list-do-not-remove}

Recommendation from the Chief Executive Officer Recruitment and Performance Review Committee:

That Council adopts the Town of Victoria Park Standards for Chief Executive Officer Recruitment, Performance and Termination as shown in Attachment 1.

Purpose

For Council to adopt the Town of Victoria Park Standards for CEO Recruitment, Performance and Termination.

In brief

- Section 5.39B (2) of the *Local Government Act 1995* requires that local governments adopt model standards for CEO recruitment, performance and termination.
- The purpose of the standards is to guide the decisions, actions and behaviours of council and committee members when dealing with matters related to the employment of a CEO.
- WALGA have provided local governments with a standards guide that incorporates the model standards required under s5.39B (2) of the LGA.
- The standards submitted for adoption by council are inclusive of the model standards and identify the Chief Executive Officer Recruitment and Performance Review Committee as the coordinating body for CEO recruitment, performance and termination matters on behalf of the Council.

Background

1. A review of the *Local Government Act 1995* (Act) led by the Department of Local Government, Sport and Cultural Industries (Department) including consultation with the community and sector stakeholders, led to the implementation of priority reforms under the *Local Government Amendment Act 2019* (Amendment Act).
2. The Amendment Act was developed in response to stakeholder feedback that there was a need for governance reforms, including the development of CEO recruitment, performance and termination Model Standards.
3. As a result, key reforms under the Amendment Act include the inclusion of Model Standards in the *Local Government (Administration) Regulations 1996* that must be adopted by local governments and applied by Council members and committee members.
4. The standards for CEO recruitment, performance and termination adopted by a Council must incorporate the Model Standards, with or without additions.

5. All local governments must adopt CEO standards that incorporate the model standards within three months, under the new s5.39B(2) of the Act. The deadline was 3 May 2021 and in accordance with s5.5.39B (5) the model standards are taken to be a local government’s adopted standards until the local government adopts its own standards.
6. In accordance with s5.5.39B (4) any provisions added to the local governments adopted standards must be consistent with the model standards.
7. The proposed standards presented for adoption are the Model Standards with the addition of 3 clauses identifying the Chief Executive Officer Recruitment and Performance Review Committee as the process coordinators on behalf of the Council.
8. The proposed Standards for CEO Recruitment, Performance and Termination for council and committee members is shown in Attachment 1.
9. Once adopted s.5.39B(6) requires the CEO to publish an up-to-date version of the standards on the Town’s official website.

Strategic alignment

Civic Leadership	
Strategic outcome	Intended public value outcome or impact
CL05 - Innovative, empowered and responsible organisational culture with the right people in the right jobs.	Resolving the recommended actions ensures that the Town of Victoria Park is compliant with governance obligations.
CL08 - Visionary civic leadership with sound and accountable governance that reflects objective decision-making.	The CEO Recruitment, Performance, and Termination Standards prescribe the processes for the management of CEO employment matters by council members and committee members.

Engagement

Other engagement	
Stakeholder	Comments
Local Government Industry	The standards and guidelines have been developed by the Department of Local Government, Sport and Cultural Industries (Department), in consultation with representatives from the Public Sector Commission, the Ombudsman, the Western Australian Local Government Association (WALGA) and Local Government Professionals WA (LGPro).

Legal compliance

[Local Government Act 1995](#)

[Local Government \(Administration\) Regulations 1996](#)

[Local Government Amendment Act 2019 \(Amendment Act\)](#)

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 not adopting the model standards will result in non-compliance with the Town's statutory obligations.	Moderate	Likely	Low	Low	Treat risks by supporting the recommendations .
Reputation					Low	
Service delivery					Medium	

Analysis

10. The proposed Standards for CEO Recruitment, Performance and Termination are consistent with the model standards as outlined in the amendments to the *Local Government Act* and the *Local Government (Administration) Regulations 1996*.
11. The proposed standards were provided by WALGA as a template administrative tool to assist local governments in developing their own standards for adoption by Council.
12. What is different in the proposed Town standards for adoption is the inclusion of clauses recognizing the involvement of the councils CEO Recruitment, Performance Review Committee in the administration of the processes for recruitment, performance, and termination of a CEO (Clause 15; 20; and 25).
13. As part of the adoption process WALGA has recommended that a review of the local governments current employment actions be carried out to identify any possible inconsistencies with the model standards.
14. Regarding *Division 2 – Standards for recruitment of CEO's*, there are no current recruitment actions under way that would be compromised by the commencement of these new standards.
15. Regarding *Division 3 – Standards for Review of performance of CEOs*, there is a current action dealing with the CEO performance review process for 2020/21. A review of the approved process for the current review has not identified any discrepancies against the requirements of the modern standards. (Clauses 16 – 20).

16. Regarding *Division 4 – Standards for termination of employment of CEOs*, there are no current termination actions under way that would be compromised by the commencement of these new standards.
17. The *Town of Victoria Park Standards for CEO Recruitment, Performance and Termination* as presented are compliant to the reforms implemented under the *Local Government Amendment Act 2019 (Amendment Act)*.

Relevant documents

'Not applicable'.

COUNCIL RESOLUTION (98/2021):

Moved: Cr Bronwyn Ife

Seconded: Cr Jesvin Karimi

That Council adopts the Town of Victoria Park Standards for Chief Executive Officer Recruitment, Performance and Termination as shown in Attachment 1.

Carried by absolute majority (9 - 0)

For: Mayor Karen Vernon, Cr Claire Anderson, Cr Vicki Potter, Cr Ronhhda Potter, Cr Brian Oliver, Cr Luana Lisandro, Cr Wilfred Hendriks, Cr Bronwyn Ife, Cr Jesvin Karimi

Against: nil

15.2 Internal Audit Report: Conflicts of Interest and Gifts

Location	Town-wide
Reporting officer	Bana Brajanovic and Natalie Ong
Responsible officer	Anthony Vuleta
Voting requirement	Simple majority
Attachments	{attachment-list-do-not-remove}

Recommendation from the Audit and Risk Committee:

That Council:

1. Notes that an internal audit on the Management of Conflicts of Interest and Gifts has been conducted and there were four medium risk and one low-medium risk matters identified that require action.
2. Notes that the 'medium' rated observations be listed on the Internal Audit Activity Confidential Report for Audit and Risk Committee review until completed.

Purpose

To inform Council of the outcome of the Management of Conflicts of Interest and Gifts Internal Audit review (with particular focus on decision-making in key administrative functions).

In brief

- The Town performed an internal audit into processes and systems for the management of conflicts of interest and gifts (with particular focus on decision-making in key administrative functions) as per the current Internal Audit Program for 2020-2021.
- Overall, the audit identified low and medium risk findings. There are some areas with significant opportunities for improvement, while adequate controls and practices were evidenced in others.
- The risk findings and associated recommendations will be addressed in accordance with management responses.

Background

1. The Town's Council-approved annual Internal Audit Program 2020/2021 outlined an audit to determine the adequacy of the Town of Victoria Park's governance controls for the management of Conflicts of Interest and Gifts, Benefits & Hospitality.
2. The review was performed by the Governance Coordinator (Audit & Risk). It was conducted in accordance with the Institute of Internal Auditors' International Standards for Professional Practice Internal Auditing.

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.	Performance of this internal audit helps the Town to identify improvements to ensure ethics, integrity and probity in decision-making towards greater accountability and transparency.

Engagement

Internal engagement	
Stakeholder	Comments
C-Suite Operational Managers	Chiefs were briefed on the scope of the internal audit and which administrative functions in their areas of responsibility would be affected.
Operational Managers	Operational managers of functions that made up the focus areas of the internal audit were briefed on the scope and findings of the internal audit and requested to provide management responses, including: <ul style="list-style-type: none"> • Manager People & Culture • Manager Governance & Strategy • Finance Manager • Manager Community • Manager Place Planning • Manager Development Services.

Legal compliance

[Section 7.13 of the Local Government Act 1995](#)

[Regulation 17 of the Local Government \(Audit\) Regulations 1996](#)

[Local Government \(Model Code of Conduct\) Regulations 2021](#)

[Local Government Regulations Amendment \(Employee Code of Conduct\) Regulations 2021](#)

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	Failure to perform this audit and take appropriate management action will mean poor practices in decision-making in	Minor	Possible	Medium	Low	TREAT risk by conducting this internal audit and ensuring commitment to management

	vulnerable areas are not identified and rectified, with risks of improper conduct and fraud					actions to address findings.
Environmental	Not Applicable					
Health and safety	Not Applicable					
Infrastructure/ ICT systems/ utilities	Not Applicable					
Legislative compliance	Failure to perform this audit and take appropriate management action will mean poor practices in decision-making in vulnerable areas are not identified and rectified, with risks of improper conduct and fraud and corruption resulting in legal penalties.	Moderate	Possible	Medium	Low	TREAT risk by conducting this internal audit and ensuring commitment to management actions to address findings.
Reputation	Failure to perform this audit and take appropriate management action will mean poor practices in decision-making in vulnerable areas are not identified and rectified, with risks of improper conduct and fraud and corruption resulting in brand and reputational damage, as well as community distrust.	Major	Unlikely	Medium	Low	TREAT risk by conducting this internal audit and ensuring commitment to management actions to address findings.
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

3. This cross-functional audit included a review of relevant internal controls and processes in the following high-risk areas where decision-making may be compromised by impartiality interests:
 - Reporting of gifts (including benefits, travel and hospitality)
 - Procurement processes
 - Remuneration of personnel – payroll employees who are also contractors
 - Grants and sponsorship administration – assessment of applications (business and community)
 - Planning and development applications
 - Recruitment processes – selection panels
 - Secondary employment – declarations
 - This internal audit was conducted with regard for the principles for the Professional Practice of Internal Auditing (Institute of Internal Auditors) which include:
 - Integrity and independence
 - Competence and due professional care
 - Alignment with organisational strategy and risk management
 - Risk-based assurance
 - Insight, proactivity and future focus
 - Quality and continuous improvement.
4. The internal audit was conducted with a 'beyond compliance' focus by considering business improvements and risk management towards good governance.
5. There were four medium risk items and one low-medium risk item raised because of the internal audit, which will be addressed in accordance with management comments. Management stakeholders have been debriefed on the findings and recommendations and accordingly, they have provided management responses with timeframes for action. In several cases, actions have commenced in response to recommendations to address areas of need.
6. The audit did identify several low-risk issues regarding process improvement options and matters which may need further follow up action. These have been discussed with management and have been reported to management for their action by way of a separate "Low Risk Items Report".
7. Processes are being developed to monitor and report on the progress of management responses to audit findings, as part of the Town's governance commitment to greater accountability and transparency, in line with integrity and risk management principles. An Internal Audit Activity Report summarising the status of all medium findings and management updates will be provided to a future Audit and Risk Committee.

Relevant documents

[Town of Victoria Park Audit & Risk Committee Terms of Reference](#)

COUNCIL RESOLUTION (99/2021):

Moved: Cr Vicki Potter

Seconded: Cr Claire Anderson

That Council:

1. Notes that an internal audit on the Management of Conflicts of Interest and Gifts has been conducted and there were four medium risk and one low-medium risk matters identified that require action.
2. Notes that the 'medium' rated observations be listed on the Internal Audit Activity Confidential Report for Audit and Risk Committee review until completed.

Carried by exception resolution (9 - 0)

For: Mayor Karen Vernon, Cr Claire Anderson, Cr Vicki Potter, Cr Ronhhda Potter, Cr Brian Oliver, Cr Luana Lisandro, Cr Wilfred Hendriks, Cr Bronwyn Ife, Cr Jesvin Karimi

Against: nil

16 Applications for leave of absence

COUNCIL RESOLUTION (100/2021):

Moved: Mayor Karen Vernon

Seconded: Cr Luana Lisandro

That Council approve a leave of absence for Cr Ronhhda Potter from 9 June 2021 to 14 June 2021 inclusive.

Carried (9 - 0)

For: Mayor Karen Vernon, Cr Claire Anderson, Cr Vicki Potter, Cr Ronhhda Potter, Cr Brian Oliver, Cr Luana Lisandro, Cr Wilfred Hendriks, Cr Bronwyn Ife, Cr Jesvin Karimi

Against: nil

17 Motion of which previous notice has been given

17.1 Cr Brian Oliver – Rouse Lane – right-of-way priority schedule review

In accordance with clause 4.3 of the *Town of Victoria Park Meeting Procedures Local Law 2019*, Cr Brian Oliver has submitted the following notice of motion.

Motion

That Council:

1. Requests the Chief Executive Officer to review and reconsider the priority of Rouse Lane on the Town's right-of-way priority schedule.
2. Requests the Chief Executive Officer to identify upgrades to Rouse Lane to address lighting and aesthetics in relation to the road, kerbing and fences.
3. Requests the Chief Executive Officer to provide a report back to Council at its June Ordinary Council Meeting to report on the outcome of points one and two above.
4. Considers a budget allocation in the Council's 2021/22 annual budget to improve the safety and amenity of Rouse Lane.

Reason

On Sunday, 18 April 2021, a petition relating to Rouse Lane was submitted to the Town by Linda Hadleigh and Carol Key.

This petition was deemed non-compliant and was unable to be presented to Council.

This Notice of Motion seeks to ensure the signatories of the attached petition can have their concerns regarding lighting and amenity in Rouse Lane investigated, as per the intent of their petition.

Strategic alignment

Social	
Strategic outcome	Intended public value outcome or impact
S3 – An empowered community with a sense of pride, safety and belonging	To ensure the signatories of the petition can have their concerns regarding lighting in Rouse Lane investigated.

Environmental	
Strategic outcome	Intended public value outcome or impact
EN2 – A safe, interconnected and well-maintained transport network that makes it easy for everyone to get around.	To ensure the signatories of the petition can have their concerns regarding lighting and amenity in Rouse Lane investigated.

Civic leadership	
Strategic outcome	Intended public value outcome or impact
CL7 – People have positive exchanges with the Town that inspires confidence in the information and the timely service provided.	To ensure the signatories of the petition can have their concerns regarding lighting and amenity in Rouse Lane investigated, despite the petition being deemed non-compliant.

Officer response to notice of motion

Location	East Victoria Park
Reporting officer	Frank Squadrito
Responsible officer	Natalie Adams
Voting requirement	Simple majority
Attachments	1. Petition to Council 18.4.2021 [17.1.1 - 3 pages]

Officer comment

1. The current right of way priority program focuses on laneways that are unsealed (dirt/gravel) and was based on a listing adopted by Council in August 2003.
2. Every year, only 1 or 2 right of way projects are considered for budget adoption due to the relatively high cost of reconstruction works.
3. Rouse Lane is currently sealed with an asphalt surface and is in a reasonably good condition based on the road condition audit report undertaken in early 2020 for all road assets. The condition report has an overall rating of 3 for Rouse Lane. As an indication a score of 5 for sealed roads is considered the worst rating. Laneways that are unsealed have not been given a rating and left as "0" in the audit assessment.
4. An investigation can be undertaken in due course to determine if any renewal works are required in the short term and other needs such as lighting which was mentioned in the petition submitted to Council on the 18 April 2021.
5. A report back to the June 2021 Ordinary Council Meeting is acceptable with adequate time for the investigation to be actioned by engineering staff.
6. From a budgetary and timing perspective, mid-year 2021/2022 budget review would be the most appropriate time to consider any funding arrangements based on any investigation outcomes

Legal compliance

[Section 4.20\(4\) 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	Adopting a project in June 2021 is too late as the 2021/2022 budget would have already been finalised.	Moderate	Almost certain	High	Low	Post investigation consider funding at mid-year review in January 2022 if works are justified or endorsed by Council.
Environmental	Exposure to asbestos. Many boundary fences along ROW's in the Town are made of asbestos.	Major	Likely	High	Medium	Environmental management plans to be prepared by contractor if works are to proceed.
Health and safety	Noise/vibration and dust are all concerns that need to be mitigated if works are planned to proceed onsite.	Moderate	Almost certain	High	Low	Construction management plan to be prepared prior to any works proceeding onsite. Early engagement with ratepayers will be undertaken to notify stakeholders of impacts.
Infrastructure/ ICT systems/ utilities	Services may need to be adjusted onsite if works are planned to proceed onsite.	Minor	Likely	Medium	Medium	Detailed design will highlight any requirements. No direction on the project has been provided by Council at this stage.
Legislative compliance	Most laneways in the Town are privately owned. The Town has significantly reduced legislative powers in relation to parking controls	Minor	Almost certain	Medium	Low	Properties and Assets team investigating numerous ROW's for potential road dedication purposes.

	and road traffic code matters.					
Reputation	Expectation by ratepayers is that laneways are trafficable and lit to Australian Standards if developments are approved.	Minor	Unlikely	Low	Low	Rouse Lane is already sealed with asphalt. Lighting will be future consideration.
Service delivery	NIL	NIL	NIL	NIL	Medium	NIL

Financial implications

Current budget impact	NIL
Future budget impact	Investigation yet to determine the needs of any proposed upgrades or subsequent budget needed to progress potential lighting or other civil works.

Relevant documents

Nil.

Further consideration

Approximate costs per dome of \$4,500 - \$12,000 have already been advised in the Questions and responses. Two separate domes are required to service both sides of Rouse Lane (ie one dome per laneway section).

COUNCIL RESOLUTION (101/2021):

Moved: Cr Brian Oliver

Seconded: Cr Jesvin Karimi

That Council:

1. Requests the Chief Executive Officer to review and reconsider the priority of Rouse Lane on the Town's right-of-way priority schedule.
2. Requests the Chief Executive Officer to identify upgrades to Rouse Lane to address lighting and aesthetics in relation to the road, kerbing and fences.
3. Requests the Chief Executive Officer to provide a report back to Council at its June Ordinary Council Meeting to report on the outcome of points one and two above.
4. Considers a budget allocation in the Council's 2021/22 annual budget to improve the safety and amenity of Rouse Lane.

Carried (9 - 0)

For: Mayor Karen Vernon, Cr Claire Anderson, Cr Vicki Potter, Cr Ronhhda Potter, Cr Brian Oliver, Cr Luana Lisandro, Cr Wilfred Hendriks, Cr Bronwyn Ife, Cr Jesvin Karimi

Against: nil

17.2 Mayor Karen Vernon – Donation in aid of cyclone relief to Shire of Morawa

In accordance with clause 4.3 of the *Town of Victoria Park Meeting Procedures Local Law 2019*, Mayor Karen Vernon has submitted the following notice of motion.

Motion

That Council:

1. Approves the Town making a donation to the Shire of Morawa in support of cyclone disaster relief;
2. Approves a variation to the 2020/21 Annual Budget of the amount approved in point 1 above, to be funded from the year end budget review.

Reason

Cyclone Seroja which struck the WA mainland on 11 April 2021 caused devastation to 14 local government communities. Kalbarri and Northampton bore the brunt of the immediate impact. As the cyclone moved inland it had a major impact on the Shire of Morawa, a local government with whom the Town has an established relationship under a Memorandum of Understanding commenced in 2019. The Morawa townsite was the 3rd most impacted town.

The Shire of Morawa covers over 3,500km² and supports, at last official count, approximately 750 residents, with about 190 living in the townsite. They are a small local government in terms of resources, with a \$1.9 million rate base. Their Shire President advises that 16 homes are damaged beyond repair, families have been displaced, a major loss of trees and roads were filled with debris. The day care centre suffered roof, structural and fencing damage. It took 1 week for power to be restored to the townsite, and power was only restored to the whole Shire in the first week of May.

The most effective way we can support the Shire of Morawa in addressing the impact of Cyclone Seroja on their community is to make a donation of money.

Although the Lord Mayor's Distress Relief Fund has been activated to assist the victims of Cyclone Seroja, the Town cannot direct that Fund where to send our donation. A direct donation to the Shire of Morawa, just as we did to the Kangaroo Island Shire Council in 2020 for bushfire relief, is the most convenient and effective means of ensuring the Shire of Morawa receives our direct assistance.

Point three is to develop a policy to guide any future donation decisions that may arise for Council's consideration.

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.	Consideration of the Town's capacity to make such a donation via a report to Council assists the community to understand how this donation will be funded and why it is being made.

CL08 - Visionary civic leadership with sound and accountable governance that reflects objective decision-making.	Recognising the magnitude of this disaster, the need to help those impacted by the cyclone and being generous, demonstrates visionary civic leadership with appropriate levels of governance.
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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.	Our community is proud to belong to a local government that lives its values as a Caring organisation, and has contributed on their behalves to the assistance of other local communities impacted by natural disaster.

Officer response to notice of motion

Location	Town-wide
Reporting officer	Stuart Billingham
Responsible officer	Michael Cole
Voting requirement	Absolute majority
Attachments	Nil

Officer comment

1. There is no specific budget allocation for donations of this kind in the 2020/21 Annual Budget.
2. Council can resolve to donate funds to either the Lord Mayors Distress Relief Fund or by a donation to the Shire of Morawa by supporting this motion and adopting a budget amendment.
3. The budget amendment will need to identify the source of the funding. On this occasion, a funding option could be savings previously identified in the Sports Grants program. Accordingly, it is suggested the wording for 2. of the motion above be amended as follows:
 2. *Approves a variation to the 2020/21 Annual Budget of the amount approved in point 1 above, to be funded from savings identified in the Sports Grants program.*

Legal compliance

[Section 6.8 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	Inadequate Council funds available to make donation.	Moderate	Likely	Low	Low	TREAT risk by passing a budget amendment.
Environmental	Not applicable.					
Health and safety	Not applicable.					
Infrastructure/ ICT systems/ utilities	Not applicable.					
Legislative compliance	Not applicable.					
Reputation	Not applicable.					
Service delivery	Not applicable.					

Financial implications

Current budget impact	<p>There is no specific budget allocation for donations of this nature. Council can however, move an amendment identifying the source of funds, eg savings in the Sports Grants program.</p> <p>The annual budget for the Sports Grants program is \$50,000. Following the Council's decision on item 12.2 at the April 2021 OCM, there are savings of \$23,047 expected at the end of the financial year.</p>
Future budget impact	Not applicable.

Relevant documents

Nil.

COUNCIL RESOLUTION (102/2021):

Moved: Mayor Karen Vernon

Seconded: Cr Vicki Potter

That Council:

1. Approves the Town making a donation of \$5,000 to the Shire of Morawa in support of cyclone disaster relief;
2. Approves a variation to the 2020/21 Annual Budget of the amount approved in point 1 above, to be funded from savings identified in the Sports Grants program.
3. Requests the Chief Executive Officer to refer the development of a disaster relief donation policy to the Policy Committee by December 2021.

Carried (9 - 0)

For: Mayor Karen Vernon, Cr Claire Anderson, Cr Vicki Potter, Cr Ronhhda Potter, Cr Brian Oliver, Cr Luana Lisandro, Cr Wilfred Hendriks, Cr Bronwyn Ife, Cr Jesvin Karimi

Against: nil

18 Questions from members without notice

18.1 Response to previous questions from members without notice taken on notice at the Agenda Briefing Forum on 4 May 2021

Cr Brian Oliver

1. When will the area at Boston be available for booking?

It is understood that the question relates to the community space that is required to be provided within the Vic Quarter development. Town officers have been pursuing the matter further with the landowner's representative. The landowner seeks an amendment to the terms of the development approval issued by the Joint Development Assessment Panel. It is anticipated that an application for an amendment to the development approval will be received within the next couple of weeks and following a decision on the application and a lease being executed, then the space can be made available for community use.

Cr Wilfred Hendriks

1. What is happening to the path on Roberts Road alongside the West Coast Eagles building?

The West Coast Eagles are responsible for this path and related landscaping under their own MCJDAP approved development plans. They have been made aware of this incomplete work. No response has been received from them in that regard. Planning will make further contact with West Coast Eagles regarding the matter.

Cr Luana Lisandro

1. In relation to a property's fencing on Roberts Road that has been installed and is blocking the footpath, was it authorised for the fencing to be installed? The property is between McCartney Crescent and Howick Street.

It is understood that the fence in question is a temporary fence associated with a demolition site. Officers have contacted the demolition constructor and requested that the fence be relocated so as to not obstruct the footpath.

2. In relation to the Keith Hayes building, currently how much solar capacity being generated by the solar panels on the building?

Currently the solar panels on the Keith Hayes building support the 19.6kW roof mounted, instantaneous solar hot water system. This 160L Rheem hot water system was installed on construction of the building. The solar panels do not provide electricity to the building.

18.2 Questions from members without notice

Cr Ronhhda Potter

1. On the website it states that it can take up to seven days to collect bulk waste. Does it usually take this long? What is the average time it takes to collect?

The Acting Chief Operations Officer advised that on average it takes about five business days to collect the hard waste. Tip sites are usually closed on weekends or close early on Saturday.

2. Has there been a delay in any collections this time around?

The Acting Chief Operations Officer advised that due to the fire at the Cleanaway Welshpool facility on 24 April, the Town experienced a delay of approximately one week. The rubbish trucks had to travel to the Henderson Waste Recovery Park (an additional hour of travel time) to facilitate collection and prevent further delays. The Town has since found another tip site that meets our procurement requirements, the Bayswater tip site. This has allowed us to divert the waste, and the Town anticipates that completion of hard waste will occur by this Friday 21 May.

3. Does the Town monitor any increases in the amount of rubbish being put out?

The Acting Chief Operations Officer advised that the average tonne per round in 2018 and 2019 was around 600 tonnes. In 2020 there was a significant increase in hard waste, with the average jumping to approximately 700-750 tonnes per round.

4. Is there a limit to how much rubbish is put out on an individual verge?

The Acting Chief Operations Officer advised that the Town does not provide a limit because it would be problematic to enforce due to sub-divisions, multi-unit developments and claims of illegal dumping.

5. Has there been an increase of illegal dumping reported during this bulk rubbish collection?

The Acting Chief Operations Officer advised that illegal dumping is allegedly occurring at night time. The Town is unable to verify this information.

Cr Claire Anderson

1. Where is the Town at with the community accessing the Vic Quarter facility?

The Chief Community Planner advised that staff met with owners a couple of months ago and they indicated that they would be applying to amend the conditions of their approval.

The Manager Development Services advised that the Town is following this up on a weekly basis.

The Chief Community Planner advised that their application is in relation to potentially removing the condition to provide community access or for the condition to be for a shorter period of time.

Cr Luana Lisandro

1. What is the solar generation capacity of the solar cells on the Keith Hayes building and what is it generating back into the grid?

The Acting Chief Operations Officer asked for the question to be clarified.

2. How many kilowatts are being generated from the existing solar panels?

The Acting Chief Operations Officer took the question on notice.

3. What areas are the solar panels generating solar capacity for?

The Acting Chief Operations Officer took the question on notice.

Mayor Karen Vernon

1. Is there an update on engaging the community of Mofflyn Circle about the installation of a further park bench in the park?

The Acting Chief Operations Officer took the question on notice.

2. Is there any update on suspending parking permits in Burswood Peninsula?

The Chief Financial Officer took the question on notice.

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

Nil.

20 Public question time

Noel McCombe

1. Why wasn't community consultation allowed for the sub-division approval process for the old archives site?

The Manager Development Services advised that the sub-division application process is dealt with by the WA Planning Commission and is guided by their legislation. There is a 42 day period for local governments to provide comments on applications to the commission. There is no community consultation process built into a sub-division application.

2. Why was the community not notified when the subdivision proposal that was presented, was what the community was told wouldn't happen?

Mayor Karen Vernon advised that sub-division applications do not require community consultation.

The Manager Development Services advised that when the scheme amendment went to Council for final approval, there was a concept plan that showed 52 small lots. The concept supported the scheme amendment. Changes to the sub-division plan happened when it was submitted to the WA Planning

Commission. It changed from 52 small lots to 40 small lots and one large lot to accommodate the apartment building approved by the JDAP. There is no in-built ability for consultation to occur as part of a sub-division application.

Mayor Karen Vernon advised that the scheme amendment application wasn't required to provide Council with a detailed sub-division plan but did provide a concept plan. After this was approved, they submitted their sub-division application to the WA Planning Commission. There is no requirement to notify the public. Residents can take up their issues with this process and advocate for legislation change with their State Member of Parliament. The Town can't undertake consultation and engagement that the State doesn't require it to engage in.

Vince Maxwell

1. When will the ventilation issue at Leisurelife be fixed?

The Chief Financial Officer took the question on notice.

2. Would the Council consider giving the money to the squash club so they can fix it themselves?

Mayor Karen Vernon advised that the Town is the owner of the asset.

The Acting Chief Operations Officer advised that it wouldn't be appropriate to task a user group with the Town's asset management responsibilities.

3. Have all of the items identified in the NS Group Leisurelife building condition report been fixed?

The Acting Chief Operations Officer took the question on notice.

John Gleeson

1. Why is the Town not doing things to help small businesses?

Mayor Karen Vernon advised that the Town does do things for small businesses.

2. Why did Council not approve the small bar to be open 24 hours a day?

Mayor Karen Vernon advised that the business didn't ask for it to be open 24 hours a day. Changing the use of the business to a small bar was a planning decision. Council have to determine hours of operation that go with that. That business is in a predominately dense residential area. The State Government requires Council to consider the impact and amenity of the small bar on nearby residents.

21 Public statement time

Vince Maxwell

1. Made a statement about the condition of the Town's assets and the report provided by NS Projects about Leisurelife asset conditions.

Noel McCombe

1. Made a statement requesting elected members to make changes to the Edward Millen Reserve landscape design to maintain more open space.

22 Meeting closed to the public

22.1 Matters for which the meeting may be closed

Nil.

22.2 Public reading of resolutions which may be made public

Nil.

23 Closure

There being no further business, Mayor Karen Vernon closed the meeting at 10.14pm.

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

Signed:
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Dated this: Day of: 2021