

# agenda

Special Meeting of Council



To: His Worship the Mayor and Councillors

Please be advised that a **Special Meeting of Council** will be held at **6.30pm** on **Wednesday 17 January 2018** in the **Council Chambers**, Administration Centre at 99 Shepperton Road, Victoria Park.

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

**MR BEN KILLIGREW**  
**ACHIEF EXECUTIVE OFFICER**

12 January 2018

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## **1 OPENING**

Almighty God, under whose providence we hold responsibility for this Town, grant us wisdom to understand its present needs, foresight to anticipate its future growth and grace to serve our fellow citizens with integrity and selfless devotion.

And to Thee, be all blessing and glory forever.

AMEN

### Acknowledgement of Country (by Mayor)

I acknowledge the traditional custodians of this land the Noongar people and pay my respects to the Elders both past, present and future for they hold the memories, the traditions, the culture and hopes of Indigenous Australians.

## **2 ANNOUNCEMENTS FROM THE PRESIDING MEMBER**

### **2.1 Recording of Proceedings**

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

### **2.2 Public Question & Public Statement Time**

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

### **2.3 No Adverse Reflection**

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

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

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

### 3 ATTENDANCE

<b>Mayor:</b>	Mr T (Trevor) Vaughan
<b>Banksia Ward:</b>	Cr C (Claire) Anderson Cr R (Ronhhda) Potter Cr K (Karen) Vernon
<b>Jarrah Ward:</b>	Cr J (Jennifer) Ammons Noble Cr B (Bronwyn) Ife Cr B (Brian) Oliver Cr V (Vicki) Potter (Deputy Mayor)
<b>Acting Chief Executive Officer:</b>	Mr B (Ben) Killigrew
<b>Chief Financial Officer:</b>	Mr N (Nathan) Cain
<b>Manager Development Services</b>	Mr R (Robert) Cruickshank
<b>Principal Governance Advisor Secretary:</b>	Mr R (Russ) Fishwick Mrs A (Alison) Podmore
<b>Public:</b>	

#### 3.1 Apologies

<b>Banksia Ward:</b>	Cr J (Julian) Jacobs
<b>Chief Executive Officer:</b>	Mr A (Anthony) Vuleta

#### 3.2 Approved Leave of Absence

### 4 DECLARATIONS OF INTEREST

Declarations of interest are to be made in writing prior to the commencement of the Meeting, (a form to assist Elected Members and Staff is attached at the end of this Agenda).

#### **Declaration of Financial Interests**

A declaration under this section requires that the nature of the interest must be disclosed. Consequently a member who has made a declaration must not preside, participate in, or be present during any discussion or decision-making procedure relating to the matter the subject of the declaration. An employee is required to disclose their financial interest and if required to do so by the Council must disclose the extent of the interest. Employees are required to disclose their financial interests where they are required to present verbal or written reports to the Council. Employees are able to continue to provide advice to the Council in the decision making process if they have disclosed their interest.

Name/Position	
Item No/Subject	
Nature of Interest	
Extent of Interest	

### Declaration of Proximity Interest

Elected members (in accordance with Regulation 11 of the *Local Government [Rules of Conduct] Regulations 2007*) and employees (in accordance with the Code of Conduct) are to declare an interest in a matter if the matter concerns: a) a proposed change to a planning scheme affecting land that adjoins the person's land; b) a proposed change to the zoning or use of land that adjoins the person's land; or c) a proposed development (as defined in section 5.63(5)) of land that adjoins the persons' land.

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

Name/Position	
Item No/Subject	
Nature of Interest	
Extent of Interest	

### Declaration of Interest affecting impartiality

Elected Members (in accordance with Regulation 11 of the *Local Government [Rules of Conduct] Regulations 2007*) and employees (in accordance with the Code of Conduct) are required to declare any interest that may affect their impartiality in considering a matter. This declaration does not restrict any right to participate in or be present during the decision-making process. The Elected Member/employee is also encouraged to disclose the nature of the interest.

Name/Position	
Item No/Subject	
Nature of Interest	
Extent of Interest	

**5 PUBLIC QUESTION TIME (ITEMS RELATING TO THE AGENDA ONLY)**

**6 PUBLIC STATEMENT TIME (ITEMS RELATING TO THE AGENDA ONLY)**

## 7 REPORTS

### 7.1 No. 6-8A (Lots 137-141) Basinghall Street, East Victoria Park – 36 Multiple Dwellings

<b>File Reference:</b>	PR4636
<b>Appendices:</b>	No
<b>Landowner:</b>	L Kargotich
<b>Applicant:</b>	MJA Studio
<b>Application Date:</b>	20 September 2017
<b>DA/BA or WAPC Ref:</b>	DA 5.2017.754.1
<b>MRS Zoning:</b>	Urban
<b>TPS Zoning:</b>	Residential
<b>TPS Precinct:</b>	Precinct P12 'East Victoria Park'
<b>Use Class:</b>	Multiple Dwellings
<b>Use Permissibility:</b>	Permitted under Additional Use provisions

<b>Date:</b>	12 January 2018
<b>Reporting Officer:</b>	J. Gonzalez/R. Cruickshank
<b>Responsible Officer:</b>	R. Cruickshank
<b>Voting Requirement:</b>	Simple Majority

#### **Executive Summary:**

**Recommendation – That Council supports the recommendation contained in the Officer's draft Responsible Authority Report dated 12 January 2018 that the application be Approved.**

- The application seeks to construct 36 Multiple Dwellings on the site, in a building of up to four (4) storeys height.
- Amendment 67 to Town Planning Scheme No. 1 (TPS 1) was gazetted in May 2017 and allows for the development of the site with Multiple Dwellings, and includes site specific development standards that are to apply to redevelopment of the site.
- The application is to be determined by the Metropolitan Central Joint Development Assessment Panel (JDAP). Council's role is to make a recommendation to the JDAP.
- A draft report has been prepared by Council Officers which recommends to the JDAP that the application be approved. In accordance with the Development Assessment Panel Regulations, the report that will be presented to the JDAP will be that of the Council's professional staff.
- Council is requested to review the draft Officer's report and form its own view on the application. The JDAP will be informed of the Council's resolution, notwithstanding that the recommendation that will be presented to the JDAP for consideration is the Officer's recommendation.

#### **TABLED ITEMS:**

Nil

#### **BACKGROUND:**

Refer to the 'Background' section in the draft Responsible Authority Report.

**DETAILS:**

Refer to the 'Details: outline of development application' section in the draft Responsible Authority Report.

**Legal Compliance:**

Relevant General Provisions of Town Planning Scheme No. 1  
Compliance with Development Requirements

Refer to the 'Legislation and policy' section in the draft Responsible Authority Report.

**Submissions:**Community Consultation:

Refer to the 'Consultation – Public Consultation' section in the draft Responsible Authority Report.

**Policy Implications:**

Nil

**Strategic Plan Implications:**Environment

En1 – Land use planning that puts people first in urban design, allows for different housing options for people with different housing needs and enhances the Town's character.

**Risk management considerations:**

<b>Risk &amp; Consequence</b>	<b>Consequence Rating</b>	<b>Likelihood Rating</b>	<b>Overall Risk Analysis</b>	<b>Mitigation Actions /</b>
In this instance, Council provides a recommendation only, and the JDAP is the responsible decision-maker. The proponent has the right of review against the JDAP's decision, including any conditions included therein, in accordance with the <i>State Administrative Tribunal Act 2004</i> and the <i>Planning and Development Act 2005</i> .	Moderate	Likely	High	Ensure that Council and the JDAP is provided with information to make a sound recommendation based upon relevant planning considerations including the Scheme and applicable Local Planning Policies.



**Sustainability Assessment:**External Economic Implications:Social Issues:Cultural Issues:Environmental Issues:

Refer to the applicable sections in the draft Responsible Authority Report.

**COMMENT:**

Refer to the 'Comment' section in the draft Responsible Authority Report.

As described, at the time of writing the draft Responsible Authority Report, the Town is awaiting the submission of amended drawings from the applicant addressing the setback of the carports from the residential boundaries, increasing the width of the landscaping strip along these boundaries, and reviewing the potential to convert some residential car bays to landscaping.

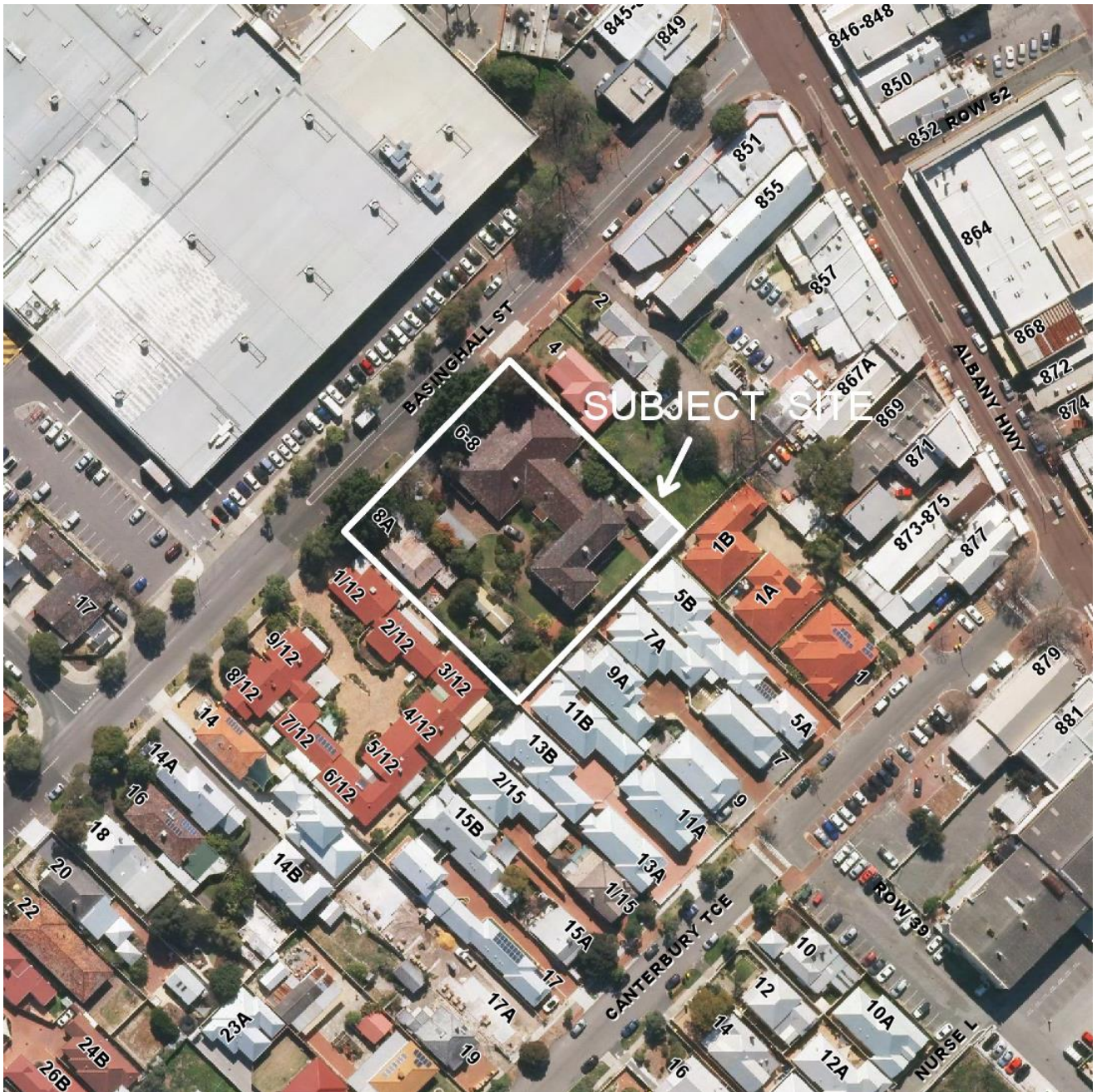
Following submission of these amended drawings, and review by both Council Officers and the Design Review Committee, additional conditions of approval may be required to be added to the draft Responsible Authority Report.

**CONCLUSION:**

Refer to the 'Conclusion' section in the draft Responsible Authority Report.

**RECOMMENDATIONS:**

1. That Council notes the Officer's draft Responsible Authority Report dated 12 January 2018 prepared for the Metropolitan Central Joint Development Assessment Panel regarding the proposed development of 36 Multiple Dwellings at Nos. 6-8A (Lots 137-141) Basinghall Street, East Victoria Park.
2. That Council advises the Metropolitan Central Joint Development Assessment Panel that it supports the recommendation contained in the Officer's draft Responsible Authority Report dated 12 January 2018, that the proposed development be approved.





**Form 1 - Responsible Authority Report**  
 (Regulation 12)

**DRAFT RESPONSIBLE AUTHORITY REPORT DATED 12/1/2018**

<b>Application Details:</b>	36 Multiple Dwellings
<b>Property Location:</b>	6 – 8A (Lots 137-141) Basinghall Street, East Victoria Park
<b>DAP Name:</b>	Metro Central Joint Development Assessment Panel
<b>Applicant:</b>	MJA Studio
<b>Owner:</b>	Lois Marjorie Kargotich
<b>LG Reference:</b>	DA 5.2017.754.1
<b>Responsible Authority:</b>	Town of Victoria Park
<b>Authorising Officer:</b>	Robert Cruickshank Manager Development Services
<b>Department of Planning File No:</b>	DAP/17/01286
<b>Report Date:</b>	12 January 2018
<b>Application Receipt Date:</b>	20 September 2017
<b>Application Process Days:</b>	80 days
<b>Attachment(s):</b>	<ol style="list-style-type: none"> <li>1. Aerial photo of the site.</li> <li>2. Streetscape photos.</li> <li>3. Amended floor plans and elevations dated received 22 and 29 November 2017.</li> <li>4. Transport Assessment Report dated 17 July 2017.</li> <li>5. Waste Management Plan dated July 2017.</li> <li>6. Copy of public submissions received.</li> <li>7. Requirements of Other Council's Business Units.</li> </ol>

**Recommendation:**

That the Metro Central Joint Development Assessment Panel JDAP resolves to:

**Approve** DAP Application reference DAP/17/01286 and accompanying amended plans dated received 22 and 29 November 2017 in accordance with Clause 29 of the Town of Victoria Park Planning Scheme No. 1, Deemed Clause 67 of the *Planning and Development (Local Planning Schemes) Regulations* and Clause 30 of the Metropolitan Region Scheme subject to the following conditions:

1. A minimum of nine (9) on-site car bays being provided for residential visitors in accordance with Clause 6.3.3 C3.1 of the Residential Design Codes. The drawings submitted for the issuing of a building permit are to depict the provision of nine (9) visitors bays. These bays shall be marked for the exclusive use of visitors prior to the first occupation or commencement of the development.

2. Prior to the submission of an application for a building permit, details of the security intercom system and any security gates to the car park, pedestrian and visitor entries to the development shall be submitted to and approved in writing by the Town. The development shall be constructed in accordance with the approved details and thereafter maintained.
3. Further detail being provided of the proposed privacy screens to the south-western side of the terraces of Units 105 and 205, with the detail being compliant with the visual privacy requirements of the R-Codes, to the satisfaction of the Town.
4. The applicant submitting an Arborist's Report detailing the condition of the existing trees described as 'Retain Existing Tree' on Drawing DA1.01, and if relevant, the measures to be implemented to ensure their protection, to the satisfaction of the Town.
5. A final, detailed landscaping plan detailing size, location and type of planting to be provided to the satisfaction of the Town prior to submission of an application for building permit, with such landscaping plan to include a minimum of one tree per two car parking bays within the landscaping strips along the south-eastern and south-western boundaries.
6. The verge adjacent to the development site is to be landscaped at the owner's cost to the satisfaction of the Town.
7. Landscaping (on-site and within the verge) is to be completed prior to the occupation or strata titling of the building(s), whichever occurs first, and thereafter maintained to the satisfaction of the Town.
8. Prior to the submission of an application for a building permit, Lots 137, 138, 139, 140, and 141 Basinghall Street are to be amalgamated into a single lot on a Certificate of Title. (Refer related Advice Note)
9. Prior to the submission of an application for a building permit, the applicant/owner is to contribute a sum of 1% of the value of the total construction value towards public art, being either:
  - I. payment directly to the Town which will be placed in the Town's Community Art Reserve with the funds being used by the Town to provide public art within the same Town Planning Scheme Precinct; or
  - II. payment to the Town of a bond to the value of the contribution, on the basis that the owner/applicant is to provide public art on the development site in accordance with the procedures outlined in the Town's Developers Public Art Handbook, which includes the submission of details for approval by the Town. The public art is to be completed and installed to the satisfaction of the Town prior to the occupation of the development, at which time the bond will be refunded by Council. The public art is to be maintained thereafter by the owner/occupiers; or
  - III. the applicant/owner entering into a legal agreement with the Town prepared by the Town's solicitors at the cost of the owner/applicant, undertaking to provide public art on the development site in accordance with the procedures outlined in the Town's Developers Public Art Handbook, which includes the submission of details for approval by the Town. The public art is to be completed and installed to the satisfaction of the Town prior to the occupation of the development. The public art is to be maintained thereafter by the owner/occupiers.

10. Prior to the submission of an application for a building permit a Construction Management Plan shall be submitted to and approved in writing by the Town which includes the route that construction vehicles will take to and from the site, the temporary realignment of pedestrian access ways (including crossing points and lighting), vehicular access to the site during construction, unloading and loading areas, waste disposal, the location on site of building materials to be stored, safety and security fencing, sanitary facilities, cranes and any other details as required by the Town. Construction works shall take place in accordance with the approved details at all times.
11. Prior to the first occupation of the development hereby approved, all approved car parking spaces together with their access aisles shall be clearly paved, sealed, marked, drained and arranged within the car park so that all vehicles may at all times leave or enter the street in a forward gear. All parking bays and access aisles shall thereafter be maintained to the satisfaction of the Town.
12. The dimensions of all car parking bays and access ways being to the satisfaction of the Town, with the following minimum dimensions: 5.4 metres in length and 2.4 metres in width, unless where abutting a wall, column or pier where they must be a minimum of 2.7 metres in width. Disabled persons parking bays shall comply with current Australian Standards. All parking facilities and access ways both internal and external to the development are to comply with AS1428.1 (2009), AS/NZS1428.4 (2009), AS/NZS2890.1 (2004), AS/NZS2890.1 (2004) / Admt 1:2005 and AS2890.5 (1993).
13. All driveways and car parking bays to be constructed of brick paving, liquid limestone, exposed aggregate or any alternative material approved by the Town.
14. A 1.5 metre x 1.5 metre visual truncation to be provided at the intersection of driveway and the front property boundary.
15. Existing crossovers that are not used as part of the development or redevelopment shall be removed and the verge, footpath and kerb shall be reinstated to the satisfaction of the Town.
16. Clothes drying areas to be screened from view from all streets and public places in accordance with Clause 6.4.6 of the Residential Design Codes.
17. External fixtures, including but not restricted to airconditioning units, satellite dishes and non-standard television aerials, but excluding solar collectors, are to be located such that they are not visible from the primary street.
18. Prior to the submission of an application for a building permit, a Stormwater and Drainage Management Plan including details of on-site stormwater disposal, soakwell sizes and locations, is to be submitted to the satisfaction of the Town. The development shall be constructed in accordance with the approved details and thereafter maintained.
19. Prior to the submission of an application for a building permit, details being submitted of all proposed ventilation systems, including the location of plant equipment, vents and air conditioning units.

20. All plant, equipment and external fixtures, including but not restricted to airconditioning units, satellite dishes and non-standard television aerials, but excluding solar collectors, are to be located such that they are not visible from the primary street or secondary street.
21. The surface of the south-western boundary wall on the common boundary with 1/12 Basinghall Street to be of a matching colour to the remainder of the development, unless otherwise approved in writing by the Town. All exposed surfaces of the boundary wall(s) are to be finished to a standard acceptable to the Town prior to the commencement or occupation of the development.
22. Final details of the proposed external colours, finishes and materials to be used in the construction of the buildings are to be provided to the satisfaction of the Town prior to submission of an application for building permit. The development shall be constructed in accordance with the approved details and shall be thereafter maintained.
23. This approval is valid for a period of twenty four months only. If development is not commenced within this period, a fresh approval must be obtained before commencing or continuing the development.

### **Advice to Applicant:**

1. Noting that the subject lots are to be developed separately from Lots 1 and 2 and with separate vehicle access onto Basinghall Street, the applicant is advised that the Town does not intend upon requiring the provision of right-of-access easements to secure vehicle access over the subject land in favour of Lots 1 and 2, or vice versa.
2. 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 the Council.

In order to confirm compliance with this planning approval and all relevant Town of Victoria Park requirements, approval is to be obtained from the Town's following Business Units prior to submission of a certified application for a building permit:

- Urban Planning Unit; and
- Street Life;
- Park Life

Failure to do so may result in refusal of the application for a building permit.

3. To avoid delays in the issuing of a building permit, the applicant should commence the subdivision/amalgamation procedure without delay. A licensed land surveyor should be engaged for this purpose.
4. The Town will permit the Owner to defer compliance with Condition 8 provided that the Owner enters into a deed of agreement with the Town prepared by the Town's solicitors at the Owner's cost agreeing to complete the amalgamation within 12 months of the issue of the building permit. The agreement shall require the registration of an absolute caveat on the title to the subject land, until such time as the amalgamation has been completed to the Town's satisfaction.
5. All building works to be carried out under this planning approval are required to be contained within the boundaries of the subject lot.

6. During excavations, all necessary precautions to be taken to prevent damage or collapse of any adjacent streets, right-of-way or adjoining properties. It is the responsibility of the builder to liaise with adjoining owners and if necessary obtain consent prior to carrying out work.
7. The owner or occupier is required to display the street number allocated to the property in a prominent location clearly visible from the street and/or right-of-way that the building faces.
8. A demolition permit is required to be applied for and obtained from the Council prior to demolition of the existing building(s) and/or structure(s) on the site.
9. Any modifications to the approved drawings, other than those authorised by the conditions of this approval, may require the submission of an application for Amendment to planning approval and reassessment of the proposal.
10. 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 by the State Administrative Tribunal within 28 days of the date of this decision.

### Background:

Property Address:	6-8A (Lots 137-141) Basinghall Street, East Victoria Park
Zoning	MRS: Urban
	TPS: Residential R30 (however note that the development standards applicable for the Additional Use of Multiple Dwellings states that development is to be in accordance with an R60 coding)
Use Class:	Multiple Dwelling – ‘P’ use
Strategy Policy:	<ol style="list-style-type: none"> <li>1. Local Planning Policy 20 - Design Guidelines for Developments with Buildings above 3 Storeys;</li> <li>2. Local Planning Policy 25 – Streetscape;</li> <li>3. Local Planning Policy 33 - Guide to Concessions on Planning Requirements for Mixed-Use, Multiple Dwelling and Non-Residential Developments.</li> </ol>
Development Scheme:	Town of Victoria Park Town Planning Scheme No. 1.
Lot Size:	3,039m <sup>2</sup>
Existing Land Use:	Residential Dwellings; Consulting Rooms
Value of Development:	\$6.0 million.

On 17 November 2014, Council received a formal request from relevant landowners to initiate an Amendment to Town Planning Scheme No. 1 to allow the use of ‘Multiple Dwellings’ on the land at Nos. 2-8A Basinghall Street. Amendment 67 was initiated by Council at its December 2014 meeting. Council Officers recommended support of Amendment 67 based upon the following factors:

- The site context. In particular the subject sites being adjacent to Albany Highway and located directly opposite The Park Centre Shopping Centre. In this context it was considered that the development of the site with Multiple Dwellings at an increased density and building height would be acceptable if appropriately controlled and designed;

- The lack of residential character in this particular part of Basinghall Street;
- The use of the site for Multiple Dwellings is appropriate given the site context and would not erode the character of this section of street. In this respect, Council Officers were satisfied that the Additional Use of Multiple Dwellings would not be inconsistent with the orderly and proper planning or the amenity of the locality, or adversely affect the amenity of adjoining properties if appropriately designed, having regard to Clauses 17(2) and 17(3) of the Scheme Text;
- There being a Detailed Area Plan prepared to define the building form and minimise the impact upon adjoining properties and the street; and
- The opportunity for a community benefit to be achieved by securing a legal right of access to the rear of the properties fronting Albany Highway.

It should be made clear that the intent of Amendment 67 was to amend the Scheme to allow for the development of the site with Multiple Dwellings, on the basis that a Detailed Area Plan (outlining such matters as allowable building heights, setbacks etc) would be separately prepared, advertised and approved by Council at a later time. It was not intended to determine the built form controls for the site through Amendment 67, as these would instead be determined through the required processes for preparation of a Detailed Area Plan.

Proposed Amendment No. 67 was then advertised for public comments. Notwithstanding that it was intended to separately prepare, advertise and approve (by Council) a Detailed Area Plan at a later time, a draft Detailed Area Plan was made available for viewing as part of the public consultation process, in order to inform the public of the possible form of development that could occur on the site in the future. The key aspects of the draft Detailed Area Plan that was advertised was an increase in density on the site to R60 standards, a height limit ranging from one (1) storey to five (5) storeys, and provision for a shared access way over Lot 1 to provide for access to the Commercial properties fronting Albany Highway from the rear.

The consultation period concluded with 112 submissions being received. Of these submissions six (6) were from statutory authorities with no comments, three (3) were in support of the proposal and 103 were objecting to the proposal.

Key issues raised during the community consultation on the proposed Scheme Amendment included:

<b>Issue</b>	<b>Comments Received</b>
Building Height Excessive	<input type="checkbox"/> Loss of privacy; <input type="checkbox"/> Loss of visual amenity; <input type="checkbox"/> Significant overshadowing; and <input type="checkbox"/> Obstruction of wind and ventilation to surrounding dwellings.
Density Excessive	<input type="checkbox"/> Complete over development of the site; <input type="checkbox"/> Reduce value of surrounding land and dwellings; <input type="checkbox"/> Completely out of character of area with R30 zoning; and <input type="checkbox"/> Density such as this needs to be kept on Albany Highway and existing high density areas.



Traffic, parking and noise issues	<input type="checkbox"/> Increased noise will be result of more vehicles and pedestrians in area; <input type="checkbox"/> More residents will mean less parking available on street; and <input type="checkbox"/> Already a busy intersection at Albany Highway and will only be made worse with such significant increase in population.
Demolition of Original Dwellings	<input type="checkbox"/> Other owners in the area have been forced to maintain their original dwellings and renovate at great cost; and <input type="checkbox"/> Will deteriorate the character of the area.
Lack of respect for surrounding character homes	<input type="checkbox"/> Development of such height and density is so far outside of surrounding residential development will completely erode the character and feel of the area; and <input type="checkbox"/> All surrounding owners have to abide by strict guidelines for building design. This development will ignore those.
Concerns that Multiple Dwellings will attract anti-social behaviour	<input type="checkbox"/> Increase in transient population; and <input type="checkbox"/> Increased crime rates due to increased rental rate.

Recognising the community's concerns, Council Officers were liaising with the applicant in respect to a revised proposal which better responded to the community's concerns. Aspects of a revised Detailed Area Plan that were discussed included (but not limited to) a reduced density, a reduced building height and additional built form controls.

The following Officer comments were contained in the report presented to the Ordinary Council Meeting on 8 September 2015:

*“Council Officers are of the view that there is planning merit in the proposed Amendment which seeks to enable the development of the sites with Multiple Dwellings, in addition to the currently permitted uses of Single Houses and Grouped Dwellings, for the reasons described above. However it is acknowledged that any development of the site with Multiple Dwellings needs to be at a reduced density and scale from the original proposal that was advertised for public comments.”*

In recognition of impending changes to the R-Codes in October 2015 and the introduction of the *Planning and Development (Local Planning Schemes) Regulations 2015* in October 2015, both which would have significant implications for the proposed Amendment, as well as the significant level of community concerns, Council resolved at its meeting on 8 September 2015 to inform the Western Australian Planning Commission that it did not wish to proceed with Amendment 67.

Subsequent to this, the Town received advice from the Western Australian Planning Commission that the then Minister (Minister Day) had approved the Amendment and requires Council to make modifications to the Amendment documents.

The then Minister's decision and requested modifications was against the recommendation of the Department of Planning Officers and the Statutory Planning Committee of the Western Australian Planning Commission.

The requested modifications included:

- Inserting provisions into the Scheme relating to density which effectively changes the applicable density coding from R30 to R60;
- Inserting built form provisions into the Scheme, defining allowable building heights, setbacks etc, rather than leaving this to be determined by Council through a separate planning process being the preparation of a Detailed Area Plan, including opportunities for community input;
- Enabling the site to be developed to a plot ratio of 1.0; and
- Enabling the site to be developed to a maximum building height of 5 storeys, with no provisions regarding the setback of the 5<sup>th</sup> storey from the adjacent residential properties.

The modifications requested by the then Minister resulted in a significantly different Amendment to that initiated by Council. In the opinion of Council Officers, the modified proposal would have resulted in a less acceptable outcome than that contemplated in the advertised draft Detailed Area Plan, which was already being reviewed with a view to reduce the density and building height, and which in any event would be the subject of separate review and Council approval to determine the appropriate built form controls for the site.

A series of meetings and correspondence then occurred between Council Officers, the new Minister (Minister Faragher), and Senior Officers of the Department of Planning, with Council Officers outlining significant concerns regarding the process, and the undesirable built form outcomes that would result from the modifications requested by the former Minister.

Following this, the then Minister requested modifications to that required by the former Minister, principally in relation to reducing the building height to a maximum of 4 storeys and including minimum setback distances from boundaries for the upper floors. Consequently Amendment 67 was gazetted on 5 May 2017. Further details of the final approved content of Amendment 67 and applicable built form controls are contained below.

#### **Details:**

A development application has been received for the construction of 36 Multiple Dwellings at Nos. 6-8A (Lots 137-141) Basinghall Street, East Victoria Park. The total land area of the subject sites is 3039m<sup>2</sup>.

The subject sites form part of the land that is the subject of Amendment 67 to TPS 1 that was gazetted in May 2017. While the land is zoned Residential under TPS 1, with a density coding of R30, based upon the provisions that apply to the land through Amendment 67, the density of development is permitted to be in accordance with an R60 coding.

The development can be summarised as follows:

- Contains 36 Multiple Dwellings within a building of up to 4 storeys;
- Comprises one, two and three bedroom units (8, 26 and 2 respectively) ranging in size from 50m<sup>2</sup> to 108m<sup>2</sup>;
- The apartments are designed around a central, open air landscaped atrium;
- The 5 ground floor apartments facing Basinghall Street have direct access to the street via individual pedestrian gates;
- A principal pedestrian entry to the other units is located onto Basinghall Street;
- At-grade car parking accessed from the southern end of the site;
- The at-grade parking is located adjacent to the south-eastern and south-western boundaries, and contains 55 parking bays for residents, and 6 bays for visitors;

- Construction of lightweight carports over each residential car bay;
- Front façade includes growing frames to allow for vertical landscaping;
- The 4<sup>th</sup> storey is setback further from the street than the three (3) levels below;
- The 4<sup>th</sup> storey is setback 14.1m and 19.5m respectively from the south-western and south-eastern boundaries;
- Landscape planting zones to the south-east and south-west boundaries, streetscape, central atrium and between the carpark and the south-eastern apartments;
- Potential provision of two (2) new on-street car bays as result of the removal of existing crossovers that will become redundant;
- Brickwork screening and fence element to Basinghall Street frontage; and
- The estimated value of the building is \$6.0 million.

In support of the application, the applicant has submitted a Transport Impact Assessment Report and a Waste Management Plan, which are both included as Attachments to this report. In the case of traffic, the report concludes that the traffic impact is acceptable in terms of volumes, safety and impact on intersections. The Waste Management Plan details the proposed bin storage and collection arrangements to meet Council requirements.

### **Legislation & policy:**

#### Legislation

- *Planning and Development Act 2005*, S162;
- Town Planning Scheme No. 1 (TPS 1) Clause 29;
- TPS 1 Precinct Plan P12 – ‘East Victoria Park’;
- Metropolitan Region Scheme Text Clause 30; and
- *Planning and Development (Local Planning Schemes) Regulations 2015* – Deemed Clauses 67 and 68.

#### State Government Policies

- State Planning Policy 3.1 - Residential Design Codes (R-Codes); and
- Draft State Planning Policy 7 – Design of the Built Environment, inclusive of Apartment Design Guide.

### **Local Policies:**

- Local Planning Policy 20 - Design Guidelines for Development with Buildings Above 3 Storeys;
- Local Planning Policy 25 – Streetscape; and
- Local Planning Policy 33 – Guide to Concessions on Planning Requirements for Mixed-Use, Multiple Dwelling and Non-Residential Developments;

### **Consultation:**

#### Public Consultation

In accordance with Council’s Local Policy 37 ‘Community Consultation on Planning Proposals’ the proposed development was the subject of community consultation for a period of 21 days, with letters being sent to owners and occupiers of affected properties. The consultation process started on 30 November 2017 and finished on 21 December 2017. During the consultation period, 19 submissions were received, all objecting to the proposed development.

A copy of each of the public submissions received forms part of Attachment 6. The submissions are summarised and responded to in the table below.

Comments Received	Officer's Comments
The application does not tick the boxes required to be granted the bonus plot ratio	Not supported. Refer to Comments section below.
The number of visitors bays provided does not comply with the R-Codes, and includes visitors bays behind security gates. This will result in more on-street parking.	Noted. Refer to Comments section below and recommended conditions of approval.
The setback of the carports from the residential boundaries is not compliant.	Noted. Refer to Comments section below.
The application disregards the Minister's condition to be sympathetic to the streetscape and architectural elements in the street. Other than some red bricks in the front fencing there are no design elements in the proposal that reflect the architectural elements of the street.	Not supported. Refer to Comments section below.
The Council's letter fails to mention the non-compliance of the visitors parking or the conditions imposed by the Minister.	It is acknowledged that there was an oversight and the Town's consultation letter did not refer to the deficiency of three (3) visitors bays. However, Council Officers have recommended through conditions of approval that the on-site visitor parking provision be brought into compliance. While the Council's consultation letter did not explicitly state all of the conditions imposed by the Minister, or all other standards that otherwise apply, this information is publicly available. Additionally when informing interested members of the public of the approval of Amendment 67 (in May 2017), attached was a copy of the notice appearing in the Government Gazette inclusive of all requirements imposed by the Minister.
Other than insignificant token landscaping on boundaries, the application does not protect the amenity of the neighbouring residents as stipulated by the Minister.	Not supported. The siting of the main building with significant setbacks from the adjoining residential boundaries, minimises potential impacts such as building bulk, overshadowing and visual privacy. There is further opportunity to improve the interface between the development and the adjoining residential properties as discussed in the Comments section below.

<p>The proposal of a large car park area and imposing 'cheap-tin' carports at a 0.98m setback, does not comply with the R-Codes. Concern regarding noise impact of vehicles coming and going adjacent to residential properties. The setback of the carpark and carports must comply with the R-Codes, or alternatively some form of sound, security and privacy protection should be provided. Consideration could be given to sound walls and/or parapet walls and/or denser landscaping. Suggested that enclosing the carports would increase their security and thereby be of benefit to the developer when marketing the units.</p>	<p>The required setback of the carports from the south-eastern boundary is a minimum of 1.5m. In response to the concerns expressed, the applicant is reviewing the plans and intends to increase the proposed setback of the carports and increase the width of landscaping strips along the boundaries.</p>
<p>The potential linking of the carpark with any future development of 2-4 Basinghall Street, will have a massive impact on the adjacent residential properties.</p>	<p>It was anticipated that if all of the properties at 2-8A Basinghall Street were developed as one consolidated development, then there would be merit in having all vehicular access over a portion of Lot 1 and therefore minimising access points onto Basinghall Street. However the lots are being developed in stages, and this subject development is to have its own separate vehicular access onto Basinghall Street. This being the case, vehicular access to the subject development over a portion of Lot 1 and 2 is now not only unlikely but becomes complicated and would require the granting of rights-of access over Lots 1 and 2 by the owners of these lots. As such, the best outcome in these circumstances would be to allow the subject lots to be developed and used in isolation without the future need for the sharing of access and parking between the subject lots and Lots 1 and 2.</p>
<p>Criticism of the technical competency of the Town's Planning Department.</p>	<p>Not supported.</p>
<p>Loss of visual privacy.</p>	<p>Not supported. The development complies with the applicable visual privacy provisions of the R-Codes.</p>
<p>Amount of traffic generated by the development will be a problem.</p>	<p>Not supported. The Transport Assessment Report submitted in support of the application demonstrates that post-development the volume of vehicles within Basinghall Street will still be within acceptable levels.</p>

Noise during construction.	Noted. This is governed by separate legislation.
Loss of property value.	Not supported. Not a relevant planning consideration.
Green space should be maximised.	Noted.

**Planning assessment:****Compliance with Development Requirements**

- TPS 1 Scheme Text and Precinct Plan P12;
- Residential Design Codes (R-Codes);
- Local Planning Policy 20 - Design Guidelines for Development with Buildings Above 3 Storeys;
- Local Planning Policy 26 – Boundary Walls; and
- Local Planning Policy 33 – Guide to Concessions on Planning Requirements for Mixed-Use, Multiple Dwelling and Non-Residential Developments

The following is a summary of compliance with key development requirements:

**Site specific Scheme provisions resulting from Amendment 67**

<b>Scheme Provision</b>	<b>Proposal</b>
<p>Development to be in accordance with the following development standards and conditions, with variations permitted subject to achieving the outcomes identified in the relevant section below:</p> <p><u>General</u></p> <ul style="list-style-type: none"> <li>• Where there is an inconsistency between the development standards and conditions applicable to additional use A54 and the provisions of the Scheme, the Residential Codes and/or Council policies, the development standards and conditions applicable to additional use A54 prevail.</li> </ul> <p><u>Residential Density</u></p> <ul style="list-style-type: none"> <li>• Development to be in accordance with the R60 residential code.</li> </ul>	<p>Noted.</p> <p>Under Table 4 of the R-Codes, there is no minimum site area per dwelling for Multiple Dwellings at an R60 density coding, with the number of Multiple Dwellings being indirectly controlled by matters such as plot ratio, building height, setback etc.</p>

<p><u>Setbacks</u></p> <ul style="list-style-type: none"> <li>• Minimum 4.0 metre setback to Basinghall Street.</li> <li>• Minimum 4.0 metre setback from the north-eastern boundary.</li> <li>• Other boundary setbacks as per the Residential Design Codes.</li> </ul> <p><u>Building Height</u></p> <p>Subject to the setback requirements stated above the following building height limits apply:</p> <ul style="list-style-type: none"> <li>• Single storey development on any portion of the site.</li> <li>• Development setback a minimum of 6.5 metres from the south-eastern boundary and setback consistent with Residential Design Codes from the south-western site boundary may comprise 2 storeys up to a maximum wall height of 6 metres.</li> <li>• Development setback a minimum of 10.5 metres from the south – eastern boundary and a minimum of 5.5 metres from the south-western site boundaries may comprise 3 storeys up to a maximum wall height of 9 metres.</li> <li>• Development to a maximum of 4 storeys up to a maximum wall height of 15 metres is permitted, where;</li> </ul>	<p>4.0m proposed. Complies.</p> <p>Provision applies to the north-eastern boundary of Lot 1. Not applicable in this instance.</p> <p>Carports setback 0.98m from south-eastern boundary in lieu of minimum 1.5m. <b>Non-compliant.</b></p> <p>All other side setbacks comply.</p> <p>See Comments below under ‘Boundary Walls’ also, relating to the setbacks of the carports and transformer building from the south-western boundary</p> <p>Single storey elements proposed within 6.5m of the south-eastern and south-western boundaries. Complies.</p> <p>Second storey setback 19.5m from south-eastern boundary and 5.5m from south-western boundary. Complies.</p> <p>Third storey setback 19.5m from the south-eastern boundary and 5.5m from the south-western boundary. Complies.</p>
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<ul style="list-style-type: none"> <li>▪ Adjacent to the Basinghall Street frontage the 4<sup>th</sup> storey is located behind the alignment of the 3<sup>rd</sup> storey within a 45 degree recession plane.</li> <li>▪ The 4<sup>th</sup> storey is setback a minimum of 19.5 metres from the south – eastern boundary.</li> <li>▪ The 4<sup>th</sup> storey is setback a minimum of 14 metres from the south – western boundary.</li> </ul> <p><u>Variations to Development Standards</u></p> <ul style="list-style-type: none"> <li>• Variation to development standards including a plot ratio of up to a maximum of 1.0 may be considered by Council where the variations and resulting development achieve positive design outcomes, positive streetscape outcomes, high levels of amenity in new dwellings, and the protection of the amenity of adjoining residential properties.</li> </ul> <p><u>Vehicular Access</u></p> <ul style="list-style-type: none"> <li>• A 4m wide building setback being applied over Lot 1 from the adjoining boundary of the rear of commercial zoned lots 1,2 and 148 Albany Highway to allow for vehicular access to the properties fronting Albany Highway as a joint benefit. Additional vehicular access will be considered to the site if required as part of the development design, or as part of a staged development provided the number of vehicle access points is minimised as far as practical.</li> </ul>	<p>Fourth storey located behind the alignment of the 3<sup>rd</sup> floor. Minor (550mm) projection outside recession plane for growing frames and walls/roofing to terraces. <b>Non-compliant.</b></p> <p>Fourth storey setback 19.5m from the south-eastern boundary. Complies..</p> <p>Fourth storey setback 14.175m from the south-western boundary. Complies.</p> <p>Plot ratio of 0.978. Compliance discussed further in Comments section below.</p> <p>Provision of vehicular access over Lot 1 not applicable to this application which does not include Lot 1.</p> <p>Vehicular access proposed to the subject sites by way of one access point to the southern end of the site. Complies.</p>
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<p><u>Basinghall Street Façade</u></p> <ul style="list-style-type: none"> <li>• Buildings designed to address Basinghall Street with individual access to the ground floor units to Basinghall Street and with a high degree of surveillance over Basinghall Street are preferred.</li> <li>• The proposed development is to include design elements that reflect the architectural elements and streetscape of the locality.</li> </ul>	<p>Ground floor units facing Basinghall Street are provided with individual and direct pedestrian access to Basinghall Street. Complies.</p> <p>Compliance discussed further in Comments section below.</p>
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Other relevant standards

Item	Relevant Provision	Requirement	Proposed	Compliance
Statement of Intent for Residential Zone	TPS 1 Precinct Plan P12	Single housing with some infill development will occupy the majority of the precinct, with small areas of grouped and multiple dwellings. Redevelopment shall be consistent with existing style, character and scale of dwellings throughout the precinct. Priority will be given to ensuring new development, particularly infill and development at higher densities, does not result in the undue loss of privacy or amenity for existing residents.	Refer to Comments section below.	Refer to Comments section below

Open Space	Clause 6.1.5 of R Codes	Minimum 45% of the site area (1364m <sup>2</sup> )	51.1% (1549m <sup>2</sup> )	Compliant
Outdoor Living Area	Clause 6.3.1 of R-Codes	10m <sup>2</sup> minimum balcony/court per unit with minimum dimension of 2.4 metres	Minimum of 10.0m <sup>2</sup> per unit and compliant dimensions	Compliant
Car Parking	Clause 6.3.3 of R-Codes	Residents - Minimum of 37 car parking bays	55 parking bays for residents	Compliant  <b>Non-compliant</b> (refer to Comments section below)  Compliant
		Visitors - Minimum of 9 car parking bays	6 visitors bays on-site	
		Bicycle Residents 12 spaces	12 spaces	
	Bicycle visitors 4 spaces	4 spaces	4 spaces	
Bicycle Parking	Clause 6.3.3 of R-Codes	Residents – Minimum of 12 spaces	12 spaces	Compliant
		Visitors – Minimum of 4 spaces	4 spaces	Compliant
Dwelling Size	Clause 6.4.3 of R Codes	For 36 Dwellings  Where more than 12 dwellings:		
		Between 20% and 50% of the development for 1 Bed Units  Minimum of 40% for 2 + Bed Units	8 dwellings (22%)  28 dwellings (78%)	Compliant  Compliant

Visual Privacy	Clause 6.4.1 of R Codes	Openings to be screened or setback minimum distances from boundary : Bedrooms/studies – 4.5m; Other habitable rooms – 6m; Balconies – 7.5m	Balconies to Units 105 and 205 setback 5.5m from south-western boundary, but balconies to be provided with privacy screens; All other openings exceed minimum visual privacy setbacks	Compliant
Solar Access	Clause 6.4.2 of R Codes	Overshadowing of up to 35% of adjoining properties permitted at 12 noon on June 21	Small proportion of shadow (2% of site area) cast onto adjoining property to south-west at 12 noon on June 21. No shadowing of any other properties at this time.	Compliant
Boundary wall to south-west boundary	Local Planning Policy – Boundary Walls	Height – no higher than 3.5m, with an average of 3m or less.  Length – no greater than 34.6m.	Height – 2.8m maximum and average.  Length – 6.1m and 25m	Compliant

**Officer Comments:**

In general the proposed development is consistent with the requirements of the Town Planning Scheme No. 1, inclusive of the site specific provisions introduced through Amendment No. 67, as well as the R-Codes and relevant Local Planning Policies.

Those matters requiring the exercise of Council discretion or more detailed consideration are addressed in turn as follows:

**Site Context**

The total land area of the subject sites is 3039m<sup>2</sup>. The site is bounded by a variety of buildings of different scales and uses including:

- Low scale residential dwellings to the south-east and south-west;
- Single houses directly to the north-east, although noting that these properties are also within the area the subject of Amendment 67 and therefore have future development potential for Multiple Dwellings of up to 4 storeys;
- Directly opposite the sites is the rear of The Park Centre shopping centre and associated car parking; and
- Further to the north-east (within 50m) are retail uses facing Albany Highway.

The sites are located within the Town's Residential Character Study Area, with their being an 'original dwelling' on the property at No. 8A (Lot 137) Basinghall Street.

While the property is within the Residential Character Study Area, in previous Council reports associated with the Scheme Amendment for the sites, it was commented that justification for the proposal included :

- *"The site context. In particular the subject sites being adjacent to Albany Highway and located directly opposite The Park Centre Shopping Centre. In this context it was considered that the development of the site with Multiple Dwellings at an increased density and building height would be acceptable if appropriately controlled and designed.*
- *The lack of residential character in this particular part of Basinghall Street."*

While there is a strong residential character on that part of Basinghall Street between Moorgate Street and Berwick Street, comprising a number of original dwellings on both sides of the street, this is not the case for the portion of Basinghall Street within which the subject site sits (Moorgate Street to Albany Highway). Due to the interface with a shopping centre on one side of the road, retail shops at the north-eastern end (towards the corner of Albany Highway) and single storey villas to the south-west of the subject sites, there is not a consistent or identifiable character within this section of the street.

**Plot Ratio**

Under the TPS 1 provisions that apply to the site, the development of Multiple Dwellings is permitted to be in accordance with an R60 density. Having regard to Table 4 of the R-Codes, the applicable maximum plot ratio for Multiple Dwellings at an R60 density is 0.7. However the provisions that apply to the site includes the following:

*“Variation to development standards including a plot ratio of up to a maximum of 1.0 may be considered by Council where the variations and resulting development achieve positive design outcomes, positive streetscape outcomes, high levels of amenity in new dwellings, and the protection of the amenity of adjoining residential properties.”*

Therefore the default plot ratio applicable to the site is 0.7 (equates to 2127m<sup>2</sup>), however there is scope for the plot ratio to be increased to a maximum of 1.0 (3039m<sup>2</sup>) where the development satisfies the aforementioned criteria.

The development proposes a maximum plot ratio of 0.98 (equates to 2,971m<sup>2</sup>).

Having regard to the criteria specified for the granting of a plot ratio variation in this instance, the applicant has provided the following written justification:

*“The development proposes a plot ratio of 0.98. MJA studio believe the proposal is a high quality addition to East Victoria Park and will provide high amenity living. Key outcomes are listed below:*

*Positive design outcome*

- *Finely Articulated built form, with all facades considered;*
- *Front Façade presents as a series of townhouses, reducing the perception of bulk to three storeys; and*
- *Retention of a number of existing trees, subject to an Arborist’s report confirming condition of trees and ability for root zone to accommodate proposed built form.*

*Positive streetscape outcomes*

- *Existing significant trees are retained where possible\* within the front setback, maintaining a green canopy and embedding the proposal;*
- *Front fence design facilitates interaction on the street, opportunities to sit and pause within this public / private transition zone;*
- *Brickwork walls and screening to the pedestrian realm create a rich and tactile environment;*
- *Passive surveillance of street from ground floor apartments;*
- *Illuminated entry statement creates easily identifiable and safe entry; and*
- *Activation of street from ground floor apartments creates townhouse feel to proposal.*

*High level of amenity in new dwellings*

- *Dual aspect, naturally ventilated apartments;*
- *Functional open plan living, dining and kitchen areas;*
- *Access to apartments via landscaped atrium;*
- *Store rooms accessed off internal atrium in most cases (not balconies) to increase glazing to balconies, internal storage maximised where possible; and*
- *Services screened from view.*

*Protection of amenity of adjoining residential properties*

- *Building footprint consolidated, large setbacks to the south east and south west boundaries. Minimal overshadowing to south western residences;*
- *Green buffer proposed, with one tree every 2 bays (Capital Pears proposed) and growing frames integrated into the carports to improve neighbours outlook; and*

- *Consolidated landscape zone to south eastern apartment terraces enables significant planting within this area, further screening the apartments from the residential neighbours and improving amenity to apartments.”*

Council Officers have considered the proposed plot ratio variation and comment as follows

- The main building, with only a minor variation to the building height at the Basinghall Street frontage, is located within the building envelope (defined by heights and setbacks) prescribed for the site;
- The main building is approximately 19.5m from the south-eastern boundary, and from the south-western boundary is 5.5m -14.1m at the second and third storey and 14m at the fourth storey. As such the impact of the additional building bulk on the adjoining residential properties is minimised; and
- There is no significant overshadowing of adjoining properties resulting from the additional building bulk.
- Council’s Local Planning Policy 33 ‘Guide to Concessions on Planning Requirements for Mixed Use, Multiple Dwelling and Non-Residential Developments’ provides guidance on the exercise of discretion on matters such as plot ratio, and outlines the superior design measures that should be incorporated by applicants into developments where plot ratio variations are being sought. The development satisfies many of the criteria outlined in this Policy to achieve superior design outcomes including the following:
  - The development integrates well into its local context by locating the height and bulk of the bulk towards the front and centre of the site, well away from the adjacent residential properties;
  - Positive contribution to the streetscape through a well resolved form, massing, detailing, finishes and landscaping;
  - Transition space between the footpath and ground floor apartments creates a clear definition between the public and private domain;
  - Demonstrates good manners in its relationship with neighbouring properties through significant setbacks and/or a stepping in height;
  - All elevations are well resolved;
  - Public art is proposed to be integrated into the design;
  - The screen fencing and landscaping edge to Basinghall Street is of a high standard and creates an interesting and pleasant interface;
  - The entry to the building is clearly defined and legible;
  - The units are designed around a central atrium which is wide, naturally lit and well ventilated, and creates pleasant approach to the dwellings;
  - Recognising the residential interface, the bulk of the building is located towards the front of the site;
  - The approach to apartments minimises the need to walk past bedroom windows of other units, including the use of void spaces for separation;
  - No bedrooms with a dimension less than 3m;
  - Ceiling heights in excess of 2.7m;
  - Good natural light and ventilation to all habitable rooms, with high level windows minimised;
  - Balconies of a size exceeding the minimum area required under the R-Codes;
  - Balconies have an outlook of the street or the rear setback area;
  - Recessed entries to some units;
  - An entry arrival space within each unit rather than arriving directly into a living area;
  - Good natural cross ventilation to units;
  - Direct natural light and ventilation to living areas; and
  - Mechanical plant and services are well integrated into the building.

Having regard to the above, it is considered that the proposed development does achieve positive design outcomes, positive streetscape outcomes and a high level of amenity for the dwellings.

In terms of the requirement to protect the amenity of adjoining residential properties, it is considered that the development largely achieves this requirement for the reasons described above, namely the large setbacks to the residential boundaries, the landscaping solution along the site boundaries, the minimal overshadowing, and the setting back of windows/balconies from boundaries well in excess of the visual privacy requirements of the R-Codes.

However the concerns expressed by a number of submitters with respect to the proposed interface between the adjoining residential properties and the car parking and landscaping zone along the south-west and south-east boundaries, is noted and accepted. Council Officers have met with the project architect and discussed opportunities for the setback of the carports from the boundaries to be increased, and for the width of the landscaping strips to be increased. At the time of writing this report, the architect has confirmed their intent to do so (likely 1.4m setback to carports), with amended drawings to follow. The architect has also verbally indicated that there would be opportunity for the fence height along the common boundaries to be increased to up to 2.4m if that was considered to be an acceptable outcome.

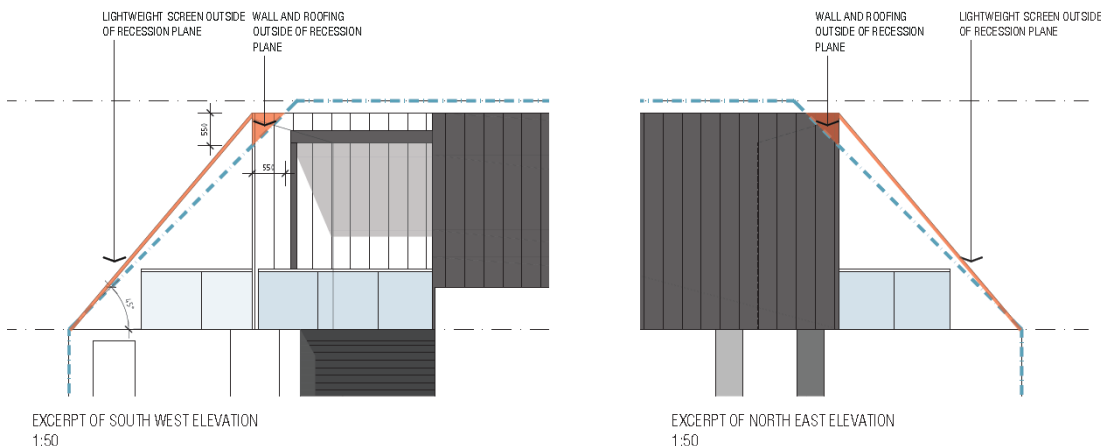
Another option that was discussed was the potential conversion of some car bays along both the south-eastern and south-western boundaries to be converted to landscaping so as to minimise the length of these boundaries occupied by car parking. There is scope for this to occur noting that 55 car bays are provided for the residents of the units, whereas a minimum of 37 car bays are required to be provided. At the time of writing this report, Council Officers are awaiting a response from the applicant on this option.

It is considered that with further refinements to the plans, in conjunction with the design measures already proposed, that the development satisfies the requirement to protect the amenity of the adjoining residential properties.

In view of the above, the proposed plot ratio of 0.98 is supported.

#### Building Height

The proposed development is compliant with the building height provisions applicable to the site under TPS 1, with the exception of a minor variation to an element of the fourth storey facing Basinghall Street, which projects outside the 45 degree plane. As illustrated in the image below, the non-compliant portions are the two lightweight growing frames and a 550mm portion wall/roof to the terraces.



In support of this variation, the applicant has provided the following written justification :

*A minor setback variation is sought to the shading elements proposed to the fourth storey. The purpose of the 45 degree recession plane is to reduce the bulk of the proposal on the street to three storeys. The building line of the fourth storey is setback beyond the 45 degree recession plan. The setback intrusion of 550mm ensures shading to the fourth storey terraces. The thin edge proposed aids in lighting the top storey.*

The proposed variation to the building height is adjacent to Basinghall Street and has no impact upon the adjoining residential properties. The variation is minimal and still achieves the intent for the 4<sup>th</sup> floor to be setback. The growing frames provide additional interest to the front elevation and to require the non-compliant elements to be modified to comply with the building height provisions would not result in any discernible improvements to the streetscape, but would instead compromise the enjoyment of the terraces through a reduction in the extent of roof cover.

On this basis, the minor building height variation is supported.

### Boundary Setback

A setback variation is proposed in relation to the proposed carports from the rear (south-eastern) boundary. A setback of 0.975m is proposed in lieu of a minimum setback of 1.5m. The length of the carport structures at the reduced setback is 44.7m, with the height of the carports above the finished ground level ranging from 2.4m to 2.8m.

The applicant has provided the following comments in support of this setback variation:

*The proposal is seeking a variation to the rear setback. This is to consolidate the inground planting opportunities, facilitating larger landscape areas to the rear of the South east facing units. Landscaping is proposed to the rear setback at a rate of one tree per two car bays, in excess of the required one tree per four car bays. This creates a green buffer between the proposal and the rear neighbours, achieving the design outcomes of the rear setback.*

As described above, the architect is reviewing the plans with the intent of increasing the setback of the carports from the boundary. While amended drawings are yet to be received at the time of writing this report, it is anticipated that the carport setbacks will be increased to around 1.4m.



Noting this increased setback, the proposed increase in the width of the landscaping strip between the carport and the residential properties, the intent to plant one shade tree for every two car bays, and opportunities for an increase in the fence height along the common boundary, this will reduce any adverse perceived visual impact of the carports.

Having regard to the relevant R-Codes Design Principle relating to side setbacks, it is considered that the proposed carport setbacks, particularly at the greater setback now proposed, satisfies the relevant criteria.

### Car Parking

Under the provisions of the R-Codes, a minimum of 37 on-site car bays are required for residents, and a minimum of 9 bays are required for visitors. The development provides 55 bays for residents and 6 bays for visitors. Therefore relative to the R-Codes standards, there is a surplus of parking bays for the residential occupants, but a deficiency of visitors bays.

In support of the reduced provisions of visitors bays, the applicant has provided the following written justification:

*A reduced number of visitor bays to the R code requirements are proposed. The number of visitor bays complies with the requirements of the Draft Apartment Design Guidelines, Design WA. In addition there is ample public parking available in the vicinity, including to both sides of Basinghall street and a public car park located off Albany highway (200m walk).*

Additionally, the drawing submitted by the applicant depicts that with the removal of two existing crossovers onto Basinghall Street, that opportunity exists to provide two additional on-street car bays immediately in front of the site.

The applicant's reference to the draft Apartment Design Guidelines, forming part of Design WA and draft State Planning Policy 7.3 is noted. Based upon the advertised version of this document, a minimum of 6 residential visitors bays would be required for the development.

However it is noted that the Apartment Design Guidelines are only in draft form, and the Department of Planning have not advised of the extent of any changes that may be made, if any, following the advertising of the draft proposal. Therefore it is contended that it is not appropriate to place much weight on this draft proposal, as the final version of the Guidelines is unknown.

Noting the surplus of resident parking bays provided, there is opportunity for 3 resident bays to be converted to visitors bays, which would then result in the number of both resident and visitors car bays being in compliance. This is considered appropriate and a condition of approval is recommended to this effect.

Should the visitor parking requirements of the current R-Codes be replaced and reduced upon the approval and introduction of the Apartment Design Guidelines, then the applicant can at that time seek an amendment to the approval.

As outlined above, noting the surplus of car bays provided for residential occupants, even with the conversion of three bays for use by visitors, there is additional opportunity for some resident bays to be converted to landscaping so as to reduce the extent of car parking adjacent to the residential properties to the south-east and south-west.

While little weight should be given to the draft Apartment Design Guidelines, as outlined above, it is interesting to note that under the draft proposal the number of on-site car bays to be provided would be further reduced, being from a minimum of 37 bays to a minimum of 27 bays (being a requirement of 0.75 bays per dwelling).

The provision of 55 car bays for residents of the development, therefore not only exceeds the minimum requirement under the current R-Codes (37 bays required) but would further exceed the proposal under the draft Apartment Design Guidelines (27 bays required).

In relation to the proposed location of the visitors bays, it is noted that two visitors bays are located forward of the security gates and the remainder are secured. While locating visitors bays forward of any security gates is the deemed-to-comply standard under the R-Codes and allows for easy access to the bays, there have been a number of instances where Council has approved applications involving visitors bays located behind security gates, on the basis that a security intercom system is provided so as to enable visitors to access the bays. Accordingly a condition of approval is recommended to ensure the installation of a suitable intercom system.

### Streetscape

As stated above, the site is bounded by a variety of buildings of different scales and uses.

As stated in the Officer's report to the Ordinary Council Meeting of 9 December 2014, relating to initiation of the Scheme Amendment:

*"The subject site is unique in that its main interface is with the Park Centre Shopping Centre on the opposite side of Basinghall Street. The subject sites directly face a 12 metre high blank wall of the rear of the Park Centre Shopping Centre. Additionally it is noted that as part of any future redevelopment of the shopping centre it would be reasonably expected that there would be buildings of comparable height.*

*While the properties are located within the Town's Residential Character Study Area, there is not an identifiable residential character in the section of Basinghall Street between Albany Highway and Moorgate Street. This section of street is located between commercial properties on Albany Highway and a large Grouped Dwelling site at No. 12 Basinghall Street. The relevant section of street contains a medical consulting building with some residential buildings, none of which are considered to make a significant contribution to the character of the street. Therefore it is considered that redevelopment of these properties with Multiple Dwellings would not negatively impact upon the Residential Character Study Area, and given the interface to the Shopping Centre across the road and the proximity to Albany Highway, would result in positive outcomes. "*

While the dwellings at Nos. 2, 4 and 8A Basinghall Street are all identified as 'original dwellings' within the Town's Residential Character Study Area, it was considered that these particular dwellings did not make a significantly positive contribution to the streetscape in the context of the varied streetscape character, and therefore it was considered acceptable for their replacement with Multiple Dwellings. Furthermore, and as a result of the introduction of the *Planning and Development (Local Planning Schemes) Regulations 2015*, there is no level of protection provided for these dwellings.

Noting the varied character and form of development within the relevant section of Basinghall Street, it was anticipated that any redevelopment of the site with Multiple Dwellings would be of a more contemporary form and not of a traditional residential character that exists elsewhere within Basinghall Street and nearby streets within the Residential Character Study Area.

Site specific provisions do apply to the site include the following:

*“The proposed development is to include design elements that reflect the architectural elements and streetscape of the locality.”*

The applicant submits that the proposed development satisfies this requirement as follows;

- *The exposed brickwork is a reference back to the significant brick buildings within the precinct including the Balmoral Hotel and Victoria Park Hotel. The vertical cladding to the upper floor is a contemporary interpretation of weatherboard cladding. The mix aesthetic of the surrounding site context is an opportunity to reinterpret the local aesthetic”; and*
- *The built form has been designed to read as a series of townhouses rather than one monolithic façade, an appropriate typology as the land use progresses from commercial premises adjoining Albany Highway to residential dwellings along Basinghall Street.*

The building form and appearance is of a more contemporary form rather than a traditional residential character. While a number of submissions suggest that there is a need for the building to be designed to meet the residential character design guidelines that would apply elsewhere in the Precinct, this was not expected nor considered appropriate given the varied nature of the streetscape at the northern end of Basinghall Street. While there is a need for the development to reflect some architectural elements and be sympathetic to the streetscape, the appropriate reference point for streetscape purposes should be the section of street within which the development sits. As described above, this is varied.

Council Officers note some design and/or architectural elements within the proposed development which reflect some of the existing elements within the streetscape at the northern end of Basinghall Street, including:

- The use of red brickwork within the fencing and screen wall elements along the Basinghall Street frontage;
- Individual pedestrian entry points to the ground floor units providing direct access to Basinghall Street;
- A landscaped street setback area;
- The principal use of white coloured walls within the building façade; and
- High degree of passive surveillance of the street.

While not extensive, in the context of the existing streetscape character at the northern end of Basinghall Street, it is considered that the inclusion of these elements is sufficient and that the development responds appropriately to the streetscape context.

**Design Review Committee Comments:**

Both prior to submission of the formal development application, and following, Council's Design Review Committee (DRC) have reviewed the proposal.

At a meeting on 18 October 2017, the DRC made the following comments on the proposed development:

- Concerns regarding the gap creating in the Basinghall Street streetscape at the southern end (note - there was no upper floor over the parking area at that time);
- Like the solution of the central atrium allowing good cross ventilation for most units, and can be further improved for the middle rear units;
- Good separation of the southern facing units from adjacent car bays;
- A transitional bin store station should be considered due to the main bin store being located way from apartments;
- In general good internal layout of the apartments;
- The top floor is still unresolved - colour is too dark - gives the appearance of two different designs - no logic for the 45 degree mansard roof;
- Architectural treatment to facades is good; and
- Services require further review including: fire escape distances; requirements for switch board; need for a transformer; location of air conditioning units per floor or on the roof; air condition within the store room doesn't work.

In response, amended drawings were received, with the principal amendments being the inclusion of an upper floor over the car park so as to reduce the perceived gap in the streetscape, and changes to the treatment of the fourth storey including the roof form.

A further meeting of the DRC was held on 15 December 2017, where there was a general level of support for the proposal and the further amendments that had been made. Some further suggested amendments included: improving the bedroom window facing the car parking; and deleting one (1) of the visitor's car bays in the front setback area so as to improve the landscaping area.

A formal meeting of the DRC is to be held on 17 January 2018, at which the DRC will make a formal recommendation in relation to the proposed development.

**Conclusion:**

There has been a significant level of public interest in the potential redevelopment of the sites through both the Town Planning Scheme Amendment process, and this development application process.

Through the Town Planning Scheme Amendment process, the Minister ultimately determined the appropriate built form controls that any redevelopment of the site should occur within. As described above in this report, the proposed development largely satisfies the development standards that apply to the site.

In response to some of the community concerns expressed during advertising of the development application, the applicant is reviewing further amendments to the plans which will be a positive outcome.

It is considered that the proposed building is of a high architectural standard that delivers positive outcome for its occupants and the streetscape, while also protecting the amenity of the adjacent residential properties.

The proposed building has been designed in such a way that it will provide a high level of amenity for prospective occupants whilst creating an acceptable relationship with surrounding buildings and the streetscape. In view of the above, it is recommended that the application be approved by the Metro Central Joint Development Assessment Panel, subject to conditions.

## 7.2 No. 94 (Lot 446) Rutland Avenue, Lathlain – Amendment to Development Approval for Demolition and Construction of Six (6) Multiple Dwellings

<b>File Reference:</b>	PR5349
<b>Appendices:</b>	No
<b>Attachments:</b>	No
<b>Landowner:</b>	New-J Pty Ltd
<b>Applicant:</b>	W. Baston (New-J Pty Ltd)
<b>Application Date:</b>	07 November 2017
<b>DA/BA or WAPC Ref:</b>	5.2017.902.1
<b>MRS Zoning:</b>	Urban
<b>TPS Zoning:</b>	Residential R40/60
<b>TPS Precinct:</b>	Precinct P7 'Lathlain Precinct'
<b>Use Class:</b>	Multiple Dwellings
<b>Use Permissibility:</b>	'P' (permitted) use

<b>Date:</b>	11 January 2017
<b>Reporting Officer:</b>	D. Rowley
<b>Responsible Officer:</b>	R. Cruickshank
<b>Voting Requirement:</b>	Simple Majority

**Executive Summary:**

**Recommendation – Approval subject to conditions**

- Development approval was granted for Demolition and Construction of Six (6) Multiple Dwellings on the subject property under delegated authority on 17 December 2015. The development has not commenced. The Applicant seeks to amend the approved plans and requests a time extension of the approval period for an additional two (2) years, to 17 December 2019.
- Community consultation on this application for an amendment to the approval was carried out for 14 days, consisting of letters to surrounding owners and occupiers. Three (3) submissions were received during the consultation period including one (1) submission also attaching a standard letter signed by five (5) parties.
- It is considered that the proposed amendments will not result in any adverse impact upon the amenity of surrounding and adjoining properties. Therefore, the amendment to the development approval is supported, with the approval period to be extended to 17 December 2019.

**TABLED ITEMS:**

- Development application form and plans dated 7 November 2017;
- Further Amended Plans and Overshadowing Plan date received 15 December 2017;
- Development Approval and Approval Plans dated 17 December 2015;
- Community Consultation letters to adjoining owners and occupiers dated 28 November 2017;
- Submitters letters dated 9 December 2017 and 11 December 2017; and
- Map showing the Area of Consultation.

**BACKGROUND:**

Development approval was issued by Council Officers under delegated authority for the construction of six (6) Multiple Dwellings on the subject site, on 17 December 2015.

The approved development consists of three (3), two (2) bedroom x two (2) bathroom dwellings and three (3), two (2) bedroom x one (1) bathroom dwellings. Two (2) dwellings are proposed to be located on the ground level, with four (4) dwellings being located on the upper level. A communal central vehicle and pedestrian access way provides entry to all the dwellings and access to six (6) residential parking bays located to the rear of the site. Two (2) visitors parking bays are located at the front of the property.

The approved development included variations to development standards, which were the subject of community consultation. Four (4) objections were received. The concerns raised by the submitters and the Officers response are outlined below:

<b>Concern</b>	<b>Description</b>	<b>Officer's Comments</b>
Plot ratio	The application proposed a plot ratio of 0.63 in lieu of 0.6, being a variation of 23m <sup>2</sup>	Council Officers were satisfied that the development met the relevant Performance Criteria of the R-Codes relating to building bulk, noting that the building height complied (three (3) storeys permitted; two (2) storeys proposed), the side setbacks largely complied and the overshadowing complied, as well as other nearby developments also being approved with comparable plot ratio variations (84 Rutland Avenue – variation of 34m <sup>2</sup> approved at OCM; 7 Roberts Road – variation of 45m <sup>2</sup> approved at OCM).
Side setback of Unit 5 wall from boundary with 92 Rutland Avenue	A side setback of 2.102m was proposed in lieu of a minimum setback of 2.2m	The approved plans incorporate the side setbacks being increased to comply.
Rear setback of carports from boundary with 3-7 Bishopsgate Street	A rear setback of 0.95m being proposed in lieu of a minimum setback of 1.5m	A variation to a single storey wall was considered to not have any impact upon the amenity of the adjoining properties and considered to meet the relevant Performance Criteria of the R-Codes

Overshadowing	Overshadowing of 6% of the property at 96 Rutland Avenue	The application met the deemed to comply requirements of the R-Codes which permit up to 35% of the adjoining property to be in shadow at 12 noon on June 21. Accordingly, there was no basis for Council to uphold concerns regarding overshadowing.
Vehicular and pedestrian access	Single width vehicle access in the centre of the site with two way access possible at the front and rear of the site. No pedestrian path separate from the vehicular access.	Council Officers were satisfied that given the scale of the development (i.e. six (6) on-site car bays at the rear) there would be little likelihood of vehicle conflict, furthermore noting the ability for vehicles to pass each other at the front and rear of the site. In terms of pedestrian access, the applicant has proposed a different paving treatment/material to delineate a pedestrian path. On this basis, Council Officers were satisfied that the proposal met the relevant Performance Criteria of the R-Codes.
Landscaping	Less than 50% of the front setback area being landscaped	Council Officers were satisfied that the imposition of a condition requiring additional landscaping planting within the verge (not just lawn) and the submission of a detailed landscaping plan, the landscaping provision would be acceptable and meet the relevant Performance Criteria of the R-Codes.

After considering the objections received and in view of the above, Council Officers were satisfied that the development met the relevant Performance Criteria of the R-Codes and the application was approved under delegated authority on 17 December 2015. A condition of the approval included that the development is to substantially commence within two (2)



years i.e by 17 December 2017. The development has not commenced, and therefore the applicant has submitted this application to amend the approval including a requested time extension and modifications to the development.

#### **DETAILS:**

An amendment to the development approval was received by the Council on 7 November 2017, to modify the approved plans for the property at 94 Rutland Avenue, Lathlain. The application also requests a time extension for a further two (2) year period.

While the proposed development is largely consistent with the initial approved development, the amendments to the approved development includes the following:

- Four (4), 2 x 2 dwellings and two (2) 2 x 1 dwellings proposed;
- Waste bin storage area has been relocated to the rear of the property;
- Car parking bays have been reallocated to have three (3) bays on each side;
- Ground floor dwelling courtyards have been relocated to provide separation to balconies of upper floor dwellings;
- Store 2 has been moved to the rear of the property;
- Propose additional soakwells (total of 4);
- Wet areas being arranged to be adjacent to each other;
- Access gate to be one vehicle gate and one pedestrian entry gate;
- Floor plans slightly modified including additional bathroom to Unit 5 and Three (3) bathroom being modified in floor areas;
- Separation of ground floor bedrooms to driveway and access areas;
- Brickwork to front elevation and finishes modified;
- Reduced front setback; and
- Some modified setbacks to side boundaries.

The applicant states that *“Overall, a superior design and more balanced proportions to the site and its location is proposed by the amendment application.”*

#### **Legal Compliance:**

##### Relevant General Provisions of Town Planning Scheme No. 1

In assessing and determining this application, Council is to have regard to the following general provisions of the Scheme:

- Clause 67 ‘Matters to be considered by local government’ of the *Planning and Development (Local Planning Schemes) Regulations 2015* (‘the Regulations’);
- Clause 68 ‘Determination of Applications’ of the Regulations;
- Clause 77 ‘Amending or cancelling development approval’ of the Regulations; and
- Statement of Intent contained in Precinct Plan P7‘Lathlain Precinct’.

##### Compliance with Development Requirements

- Town Planning Scheme No. 1 Scheme Text and Precinct Plan P7;
- Residential Design Codes (R Codes);
- Local Planning Policy – Streetscape (LPPS); and
- Local Planning Policy – Boundary Walls.

The following is a summary of compliance with key development requirements:

Item	Relevant Provision	Requirement	Proposed	Compliance
Plot Ratio	Precinct Plan P7	Maximum 0.6	0.63 (no change to approved development)	Non-compliant (refer to Comments section below)
Building Height	Precinct Plan P7	Three (3) storeys, 7.5m permitted	Two (2) storeys, 5.59m proposed	Compliant
Primary Street Setback (Rutland Avenue)	LPPS	3m minimum	2.3m minimum to Unit 2 ground floor Alfresco	Non-compliant (refer to Comments section below)
		6m average	Approximately 6.7m average	Compliant
Landscaping	LPPS	Minimum 50% (47m <sup>2</sup> ) of front setback area being landscaped	46.5% Approx. 43.7m <sup>2</sup>	Non-compliant - Conditioned on current DA to comply

<p>Boundary Setbacks</p>	<p>R-Codes Clause 6.1.4</p>	<p>In accordance with Table 2a/2b</p>	<ul style="list-style-type: none"> <li>• Ground Floor Unit 1 Alfresco to Ensuite wall - 1.5m setback required to the eastern boundary, 1.237m setback proposed;</li> <li>• Ground Floor Unit 2 Alfresco to ensuite wall - 1.5m setback to the western boundary required; 1.2m proposed.</li> <li>• Unit 5 parking to Store 2 wall to northern rear boundary - 1.5m setback required, 1.258m minimum proposed (note: previously approved 0.95m setback to this wall.</li> <li>• All other setbacks to the ground floor and upper floor development being compliant.</li> </ul>	<p>Non-compliant (refer to comments section below)</p>
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Open Space	R-Codes Clause 6.1.5	In accordance with Table 4 – minimum 45% (274.5m <sup>2</sup> )	Approximately 309.5m <sup>2</sup> (49.4%) open space	Compliant
Street Surveillance	R-Codes Clause 6.2.1	Clearly definable entry points visible and accessed from the street.  The building has habitable room windows or balconies that face the street.	<ul style="list-style-type: none"> <li>• Ground floor Units 1 &amp; 2 – Bed 2 &amp; Living Rooms with surveillance to street;</li> <li>• 1<sup>st</sup> Floor Units 3 &amp; 4 - Bed 2 &amp; Living Rooms with surveillance to street;</li> <li>• Units 5 &amp; 6 with surveillance to approach from Living Room through balcony. (no change to approved plans)</li> </ul>	Compliant
Outdoor Living Areas	R-Codes Clause 6.3.1	Each unit is to be provided with at least one balcony or equivalent with a minimum area of 10m <sup>2</sup> and a minimum dimension of 2.4m	Unit 1 – 14.7m <sup>2</sup> courtyard (min. 2.5m) Unit 2 – 28m <sup>2</sup> courtyard (min. 2.5m) Unit 3 – 13.8m <sup>2</sup> balcony (min. 2.9m) Unit 4 – 15m <sup>2</sup> balcony (min 2.9m) Unit 5 – 11.1m <sup>2</sup> balcony (min.3.2m) Unit 6 – 14.4m <sup>2</sup> balcony (min. 3.8m)	Compliant

<p>Parking</p>	<p>R-Codes Clause 6.3.3</p>	<p><b>Residential:</b> Less than 110m<sup>2</sup> and/or 1 or 2 bedrooms: 6 bays required</p> <p><b>Visitors:</b> Visitor car parking spaces (per dwelling) 0.25 bays x 6 dwellings 1.5 (2) visitor bays required</p> <p>1 bicycle space to each 3 dwellings: 2 bike bays required</p>	<p>Residential – 6 bays provided</p> <p>2 visitor bays provided.</p> <p>2 x 2 bike bays (4 bays) under stairwells)</p>	<p>Compliant</p>
<p>Vehicular Access</p>	<p>R-Codes Clause 6.3.5</p>	<p>To be taken from Rutland Avenue with two way access way required (i.e 5.5m width)</p>	<p>Access from Rutland Avenue – with single 4m wide access way (no change to approved plans</p>	<p>Non- compliant</p>
<p>Visual Privacy</p>	<p>R-Codes Clause 6.4.1</p>	<p>7.5m minimum setback to outdoor active habitable spaces (balconies); 6.0m minimum setback to major openings to habitable rooms other than bedrooms and studies; 4.5m minimum setback from bedrooms and studies</p>	<p>Upper floor Unit 3 Living Room window on front elevation to eastern boundary - 6m cone of vision setback required; 3.3m setback proposed. All other openings are compliant.</p>	<p>Non- compliant</p>

Solar Access	R-Codes Clause 6.4.2	On adjoining properties coded R30 to R40 inclusive – Maximum 35 per cent overshadowing of the site area (293m <sup>2</sup> )	Overshadowing of 37.68m <sup>2</sup> (4.49%), which has been reduced from the previous approval being 50.326m <sup>2</sup> or (6%)	Compliant
External Fixtures	R-Codes 6.4.5	Location of external fixtures including but not limited to air conditioning units, clothes drying areas, tv aerials, services not being visible from any streets, and not be visually obtrusive.	Air conditioning not visible from the street but proposed to be located to the eastern and western sides of the building. Notwithstanding proposed screening, considered to be visually obtrusive.	Non-Compliant
Boundary Walls	LPP- Boundary Walls	<p><u>Height</u></p> <ul style="list-style-type: none"> <li>• Maximum 3.5m;</li> <li>• Average not to exceed 3.0m.</li> </ul> <p><u>Length</u></p> <ul style="list-style-type: none"> <li>• Up to ⅔ length of boundary behind front setback line</li> </ul>	<ul style="list-style-type: none"> <li>• 2.7m maximum and 2.25m average height; 6.2m length proposed to the northern rear boundary, (13.4m length permitted)</li> <li>• 2.94m maximum and average height; 11.8m length proposed on eastern side boundary (19.34m length permitted)</li> </ul>	Compliant

**Submissions:**Community Consultation:

In accordance with Council's Local Planning Policy 37 – 'Community Consultation on Planning Proposals', the variations forming part of the amendment application were consulted with adjoining owners/occupiers for a period of 14 days. The consultation period commenced on 28 November 2017 and concluded on 14 December 2017. Three (3) submissions were received during the consultation period, with one (1) of those submissions also including a standard letter signed by five (5) separate parties.

<b>CONSULTATION SUBMISSIONS</b>	
<b>Comments Received</b>	<b>Officer's Comments</b>
<ul style="list-style-type: none"> <li>The development extension is not supported on the grounds that the approved development must be substantially commenced. No work has commenced on the site</li> </ul>	<ul style="list-style-type: none"> <li>The development has not commenced. The Regulations allow for an application to be made to extend the time period of an approval where a development has not commenced.</li> </ul>
<ul style="list-style-type: none"> <li>Objection raised in 2015 during consultation relate to plot ratio; setbacks on the rear (northern) boundary, pedestrian access; vehicular access and landscaping. The objections and concerns raised in 2015 to the current amendment development proposal are valid and should be taken into consideration.</li> </ul>	<ul style="list-style-type: none"> <li>Noted. For the reasons described elsewhere in this report, these variations were supported. Furthermore there have been no changes to the planning framework to now justify refusal of these same variations.</li> </ul>
<ul style="list-style-type: none"> <li>The approval process for this DA for this subject site under delegated authority in 2015 highlighted issues and concerns about transparency and good governance for planning approvals...Considering the history of the approval...the decision should be referred to Council and should not be made by the planning staff under delegated authority.</li> </ul>	<ul style="list-style-type: none"> <li>Not Supported. However the application has been 'called-in' for Council consideration.</li> </ul>
<ul style="list-style-type: none"> <li>Objection to the 2.3m minimum street setback. Non-compliance is a direct result of the bulk and size of the development including plot ratio, landscaping, vehicular and pedestrian access non-compliance as raised in 2015.</li> </ul>	<ul style="list-style-type: none"> <li>Comments Noted. Refer to Officers comments below.</li> </ul>
<ul style="list-style-type: none"> <li>Objection to the 1.2m boundary setback variation to the boundary in common with 92 Rutland Avenue. Reducing the boundary setbacks negatively impacts the usability of the space and proximity to our lot.</li> </ul>	<ul style="list-style-type: none"> <li>Comments Noted. Refer to Officers comments below.</li> </ul>
<ul style="list-style-type: none"> <li>Objection to the 1.237m boundary setback variation to the boundary in common with 96 Rutland Avenue. The non-compliance is again a result of the bulk and size of the development. In addition, it will negatively impact the use of our private courtyards at Unit 2, 96 Rutland Avenue.</li> </ul>	<ul style="list-style-type: none"> <li>Comments Noted. Refer to Officers comments below.</li> </ul>

<ul style="list-style-type: none"> <li>Strongly object to non-compliance with visual privacy of the unscreened major opening on the front elevation where a 3.3m setback is proposed. The occupants will be able to look down into the private courtyard of Unit 2, 96 Rutland Avenue where there is an outdoor shower from this unscreened major opening.</li> </ul>	<ul style="list-style-type: none"> <li>Comments Noted. Refer to Officers comments below.</li> </ul>
<ul style="list-style-type: none"> <li>Three (3) air-conditioning units are shown on the plans on the boundary walls with 96 Rutland Avenue. We have strong concerns about the visual and noise impacts of these units.</li> </ul>	<ul style="list-style-type: none"> <li>Comments Noted. Refer to Officers comments below.</li> </ul>

**Policy Implications:**

Nil

**Risk management considerations:**

Risk & Consequence	Consequence Rating	Likelihood Rating	Overall Risk Analysis	Mitigation / Actions
The proponent has a right of review to the State Administrative Tribunal against Council's decision, including any conditions.	Moderate	Likely	High	Ensure that Council is provided with information to make a sound decision based upon relevant planning considerations including the Scheme and applicable Local Planning Policies.

**Strategic Plan Implications:**

Environment:

EN1 – Land Use Planning that puts people first in Urban Design, allows for different housing options for people with different housing needs and enhances the Town's character.

**Sustainability Assessment:**

External Economic Implications:

Nil

Social Issues:

Nil



Cultural Issues:

Nil

Environmental Issues:

Nil

**COMMENT:**

In approving the previous development application for the subject site, Council Officers considered the concerns raised by adjoining property owners and deemed that the development will not result in any adverse impact upon the amenity of surrounding and adjoining properties, and satisfied relevant performance criteria. This is discussed elsewhere in this report.

This application seeks a time extension to the existing development approval and modifications to the approved plans which the applicant states *“has a superior design and more balanced proportions to the site and its location”*.

In considering this application to amend the approval, relevant considerations are addressed as follows:

Time Extension

In accordance with the Regulations, an application to extend the validity of an approval can be made either prior to or after an approval has expired. Therefore, the Council is bound to receive and assess an application for a time extension, regardless of when the approval expired and whether the development has substantially commenced.

There are State Administrative Tribunal (SAT) decisions that have established the following principles as matters that the decision-maker should have regard to when assessing applications seeking a time extension:

- Whether the planning framework has substantially changed since the development approval was granted;
- Whether the development would likely receive approval now; and
- Whether the applicant has actively and relatively pursued the implementation of the development approval.

There have been no relevant changes implemented to the R-Codes, Town Planning Scheme No.1 or Local Planning Policies since the application was approved in December 2015, and therefore the same development would be recommended for approval today.

The applicant has provided to Council Officers information that the owners have undertaken activities to actively pursue the implementation of the development approval as listed below:

1. Negotiation of Building Contract with former builder, Aveling Homes;
2. Negotiated finance with bank for pre-sale conditional finance offer (requirement to pre-sell two units);
3. Appointment of selling agent to secure presale of two units;
4. Market downturn impacted ability to pre-sell unbuilt units;
5. Liaisons with loan brokers to establish building loan without preselling

- commitments;
6. Review of build cost by external building surveyor;
  7. Change builder to Inspired Homes;
  8. Finance being now offered by financial institute; and
  9. Extension to development approval timeframe being sought and change concept plan in line with new Builder improved layout.

Council Officers are satisfied that the application passes the above assessment criteria for the requested time extension based on the above information. Therefore the requested two (2) year time extension is supported.

In relation to the specific variations proposed to development standards, the following assessment is provided.

#### Plot Ratio

In supporting a 0.63 plot ratio (in lieu of 0.6) as part of the December 2015 development approval, Council Officers were satisfied that the development met the relevant Performance Criteria of the R-Codes relating to building bulk, noting that: the building complied based on three (3) storeys permitted on the site and two (2) storeys proposed; the side setbacks complied; the overshadowing complied; and other nearby developments also being approved with comparable plot ratio variations (84 Rutland Avenue – variation of 34m<sup>2</sup> approved at the Ordinary Council Meeting (OCM) and 7 Roberts Road – variation of 45m<sup>2</sup> approved at OCM).

This amendment application proposes a 0.63 plot ratio that is consistent with the approved development on the site. In considering the plot ratio variation further in this instance, the following is noted:

- The development is compliant with the height limit as prescribed by the Precinct Plan and therefore does not result in undue height on the site.
- The amenities for the future occupants, including the outdoor living areas ensure a high standard of amenity for future residents.
- The proposed development is positioned on the lot, having regard for the building footprint positioning and orientation so that it minimises any potential overshadowing or direct impact of bulk onto adjoining properties and their outdoor living spaces.
- The development proposes alternative materials and colours throughout the façade, which provides visual interest and reduces the impact of the additional bulk on adjoining properties and the streetscape.
- The site is located adjacent to other Multiple Dwelling buildings on Rutland Avenue (84 Rutland Avenue and 1 Bishopsgate Street, which also fronts Rutland Avenue) making a positive contribution and providing additional housing type in the vicinity and improving the streetscape.
- It is considered that the relevant design principles of the R-Codes is satisfied by the development, as the building is of a bulk and scale indicated in the local planning framework (i.e. high density; maximum 3 storeys) and is consistent with the wider locality and desired built form.
- The additional plot ratio equates to 23m<sup>2</sup>. A reduction in the plot ratio by 23m<sup>2</sup> would be difficult to visually perceive and would compromise the liveability of the units.

### Primary Street Setback

The proposed amendments include a variation to Council's Local Planning Policy – Streetscape (LPPS) with regard to the 2.3 metre minimum setback to the ground floor Alfresco of Unit 1, in lieu of a 3 metre minimum setback required to the Rutland Avenue frontage.

It should be noted that the frontage to the subject site is angled, the Alfresco to the ground floor of Unit 1 is unenclosed and the reduced setback is at the western end of the site for a portion of the alfresco only.

The development on 84 Rutland Avenue, which also fronts Bishopsgate Street, containing Two Grouped Dwellings and Five Multiple Dwellings was granted approval at the OCM on 12 November 2013 with a 1.5 metre minimum setback to Rutland Avenue, in lieu of a 3.0 metre minimum setback. In addition, the existing dwellings on 88A and 92 Rutland Avenue also have a front setback of approximately 1.5 metres to 2.0 metres. Notably the property at 92 Rutland Avenue is located directly adjacent to the portion of the alfresco at the reduced setback, in which case the reduced setback to the proposed alfresco is consistent with the setback of the adjoining dwelling.

In view of the above, it is considered that the reduced metre primary street setback of 2.3 metres will not adversely impact the existing established street setback pattern of Rutland Avenue and is considered to meet the relevant R-Codes Design Principles.

### Boundary Setback

The proposed amendments include boundary setback variations to the eastern and western sides and northern (rear) boundaries, all including ground floor portions of wall.

While a 0.95 metre minimum setback to the northern (rear) boundary of the development was approved on the 17 December 2015 plans, in lieu of 1.5 metre setback required, this application proposes to increase the setback to the rear boundary to 1.258 metres, reducing the impact to the adjoining property.

The 1.2 metre setback of the development to the western boundary in common with 92 Rutland Avenue, in lieu of 1.5 metre setback required is to the ground floor wall and is not considered to be detrimental to the adjoining property as the reduced setback does not adversely affect adequate daylight, direct sun and ventilation, and open space associated with the buildings. Furthermore, a dividing fence of approximately 1.8 metres height separates the lots at this location, which will provide privacy and screening from the adjoining buildings.

The 1.237 metre setback to the development to the eastern boundary in common with 96 Rutland Avenue, in lieu of 1.5 metre setback required is to the ground floor wall and is also not considered to be detrimental to the adjoining property. While the submitter's concerns relate to the development negatively impacting the use of the private courtyard of Unit 2, 96 Rutland Avenue, the existing dividing fence also provides privacy to the amenity of 96 Rutland Avenue, and the reduced setback does not adversely affect adequate daylight, direct sun and ventilation to the courtyard area. It is also worth noting that the reduced setback relates to a ground floor wall, as the upper floor over (at the same setback) complies. If the ground floor setbacks were to be made compliant this would be of little benefit as any issues of building bulk, shadowing or the like would be caused by the upper floors, however the upper floor at a 1.237 metre setback, complies.

Council Officers consider that in these circumstances where there is adequate natural light and ventilation for the proposed building and existing buildings on the adjoining properties, ensuring direct sun and access to daylight is sufficient, the setback variations meet the relevant R-Codes design principles and is therefore supported in this instance.

#### Visual Privacy

The amendments include the variation of an approximately 3.3 metre visual privacy setback from the upper floor Living Room window of Unit 3 to the eastern boundary in common with 96 Rutland Avenue, in lieu of a minimum of 6.0 metres.

It should be noted that the subject major opening is located on the southern face of the dwelling and the 45 degree cone-of-vision from this window would largely be to the streetscape and to the single storey garage roof and bike store on 96 Rutland Avenue.

While the submitters concern is that this window would overlook a courtyard and outdoor shower, the plans have been assessed and it has been determined that based upon a 45 degree cone-of-vision (as per the R-Codes) neither the courtyard or outdoor shower will be overlooked.

In light of the above, Council Officers consider that the visual privacy setback variation is not detrimental to the adjoining property on the eastern side and meets the Design Principles of the R-Codes and therefore supported in this instance.

#### External Fixtures

In accordance with the R-Codes, the location of external fixtures including but not limited to air conditioning units, clothes drying areas, tv aerials, services are not to be visible from any street, and are to be integrated and designed to not be visually obtrusive.

While submitters have raised concern in relation to the proposed location of the air conditioning units on the upper floor being located to the side boundaries and their visual and noise impact, the applicant has proposed to screen the upper floor air conditioning units.

Council Officers have advised the applicant to look at opportunities to relocate these air conditioning units at ground floor level as to not to be visually obtrusive. In this instance, Council Officers recommend a condition be imposed, requiring the units to be ground mounted so that they are not visually obtrusive to ensure the impact to the adjoining properties is minimised. In terms of noise, the operation of the units will need to comply with the requirements of the relevant Noise Regulations.

#### Landscaping

The landscaping proposed as part of this amendment application remains consistent with the 2015 approval. The Council Officers response on this matter has been provided further above.

#### Pedestrian access way and Vehicle access

The pedestrian access way and vehicle access design proposed as part of this amendment application also remains consistent with the 2015 approval. The Council Officers response on this matter has also been provided further above.

**CONCLUSION:**

The proposed development is largely consistent with the approved development of 17 December 2015, and will make a positive contribution to the Rutland Avenue streetscape.

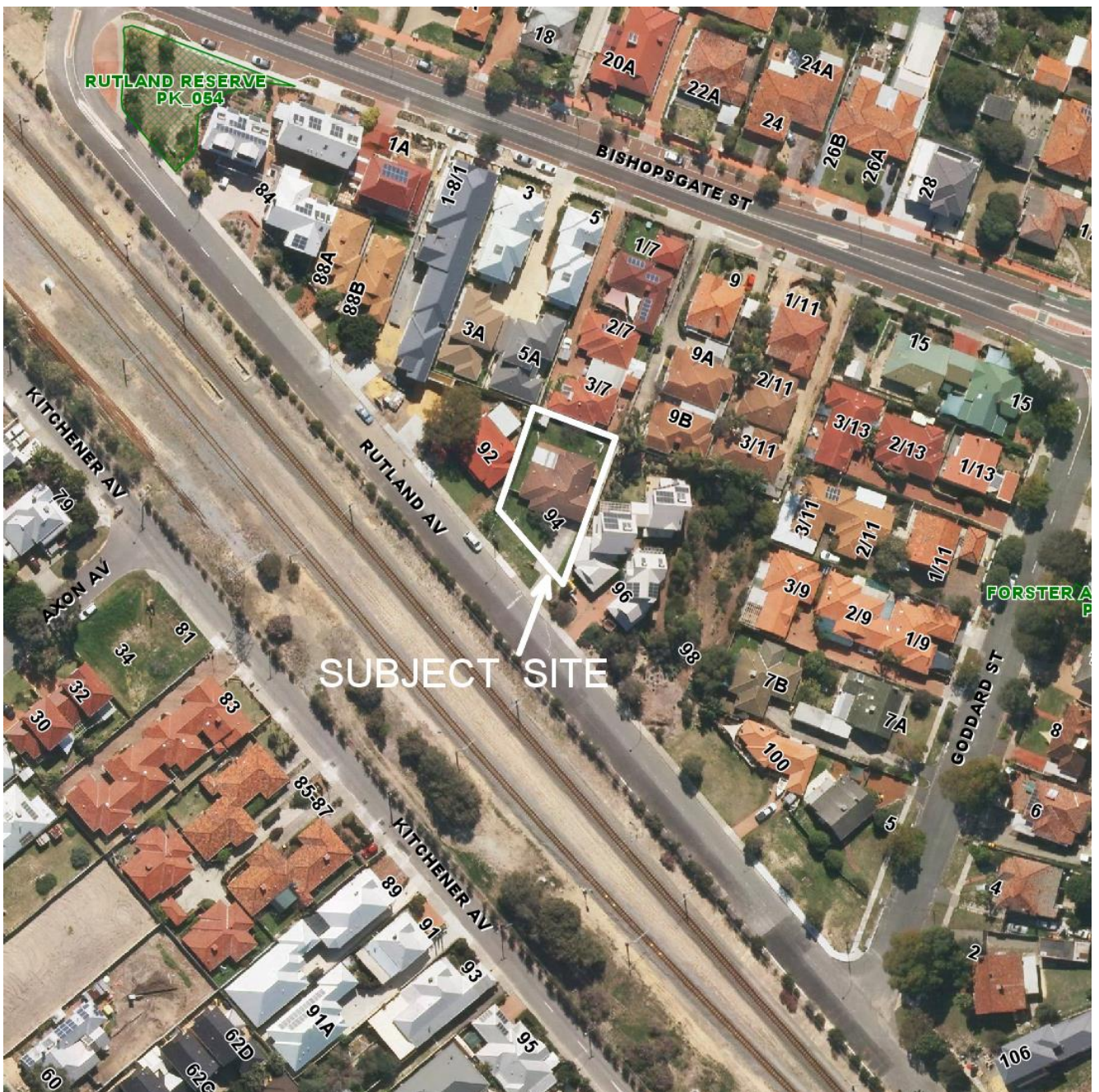
As outlined in this report, the proposed variations are supported having regard to the impact of the variations on the streetscape and adjoining properties, and noting the nature of the surrounding developments, and considering the variations against the relevant Design Principles of the R-Codes.

It is noted that some of the proposed variations have remained unchanged from those approved in 2015. Given there has been no relevant changes to the planning framework, it would be unreasonable for Council to no longer support these variations, and if this were to occur, there would be difficulty in defending such a decision should the applicant appeal to the SAT.

In view of the above, it is recommended that the application be approved.

**RECOMMENDATION/S:**

1. **In accordance with the provisions of the Town of Victoria Park Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the application submitted by W Baston on behalf of New-J Pty Ltd (DA Ref: 5.2017.902.1) for Amendment to Development Approval for Demolition and Construction of Six (6) Multiple Dwellings at 94 (Lot 446) Rutland Avenue, Lathlain as indicated on the revised plans date stamped received 15 December 2017 be Approved subject to the following conditions:**
  - 1.1 **This approval is valid until 17 December 2019 only. If development is not substantially commenced within this period, a fresh approval must be obtained before commencing or continuing the development.**
  - 1.2 **Remainder of development complying with Development Application DA No. 5.2015.188.1 approved on 17 December 2015.**
  - 1.3 **The proposed hot water and air conditioning units shown for installation at the first floor level, are to be installed at ground level only.**
  - 1.4 **Sound levels created are not to exceed the provisions of the Environmental Protection (Noise) Regulations 1997.**
2. **Those persons who lodged a submission regarding the application be advised of Council's decision.**



**8 PUBLIC QUESTION TIME (ITEMS RELATING TO THE AGENDA ONLY)**

**9 PUBLIC STATEMENT TIME (ITEMS RELATING TO THE AGENDA ONLY)**

**10 MEETING CLOSED TO PUBLIC**

**10.1 Matters for Which the Meeting May be Closed**

Nil

**10.2 Public Reading of Resolutions That May be Made Public**

N/A

**11 CLOSURE**



**DECLARATION OF  
FINANCIAL INTEREST / INTEREST THAT MAY AFFECT IMPARTIALITY**

**TO: CHIEF EXECUTIVE OFFICER  
TOWN OF VICTORIA PARK**

<b>Name &amp; Position</b>	
<b>Meeting Date</b>	
<b>Item No/Subject</b>	
<b>Nature of Interest</b>	Financial Interest* <span style="float: right;"><i>(*Delete where not applicable)</i></span> Interest that may affect impartiality*
<b>Extent of Interest</b>	
<b>Signature</b>	
<b>Date</b>	

Section 5.65(1) of the Local Government Act 1995 states that:

“A member who has an interest in any matter to be discussed at a Council or Committee meeting that will be attended by that member must disclose the nature of the interest:

- (a) in a written notice given to the CEO before the meeting; or
- (b) at the meeting immediately before the matter is discussed”.



ALTERNATE MOTION / AMENDMENT SUBMISSION

To: HIS WORSHIP THE MAYOR:



Please be advised that I wish to move an ALTERNATE MOTION / AMENDMENT

**Name of Elected Member:**

**Signature:**

**Date of Submission:**

**Council Meeting Date:**

**Item Number:**

**Item Title:**

**Alternate Motion / Amendment:** *(strike out which is not applicable)*

**Note: Motions to Stand Alone**

All decisions of the council must be in the form of motions that are clear in their intent and enable a person to understand what has been decided without reference to another motion or information contained in the body of a report.

**Reason:**

**Note: Explanation for changes to Recommendations**

Administration Regulation 11 requires the minutes to include written reasons for each decision that is significantly different from the written recommendation. Members must therefore provide a written reason in the space provided above.