

# agenda

Elected Members Briefing  
Session



To: His Worship the Mayor and Councillors

Please be advised that an Elected Members Briefing Session will be held at **6.30pm** on **Tuesday 1 December 2015** in the **Council Chambers**, Administration Centre at 99 Shepperton Road, Victoria Park.

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

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

**27 November 2015**

**ELECTED MEMBERS BRIEFING SESSION****Purpose of Elected Members Briefing Session (EMBS)**

The EMBS is a constituted Committee of the Council in accordance with Section 5.8 of the *Local Government Act 1995*. The function of the EMBS is to inform Elected Members of relevant and material facts and circumstances pertaining to matters to be decided at a forthcoming Ordinary Council meeting.

The EMBS:

1. Has no delegated power to make decisions;
2. Does not make recommendations about the adoption of reports of employees or others to the forthcoming Ordinary Council meeting;
3. Will involve Elected Members, staff, and external advisors (where appropriate) and will be open to the public; and
4. Provides an opportunity for Elected Members to be equally informed and seek additional information on reports, items and matters prior to them being presented to the forthcoming Ordinary Council meeting for formal consideration and decision.

**Procedures for EMBS**

A meeting of the EMBS will be conducted in accordance with the Standing Orders Local Law. The following procedures will also apply:

1. The EMBS will be open to the public except for matters of a confidential nature. The guide for determining those matters of a confidential nature shall be in accordance with the *Local Government Act 1995*.
2. There is no debate amongst Elected Members on any matters raised during the EMBS.
3. Relevant employees of the Town will be available to make a presentation or respond to questions on matters listed on the agenda of the EMBS.
4. A record (brief minutes) shall be kept of all EMBS meetings. As no decisions are made at an EMBS, the record will only be a record of;
  - 4.1 items listed on the agenda by heading and number;
  - 4.2 questions asked and the response provided; and
  - 4.3 any disclosure of interest as declared by individuals.
5. Persons having an interest in or knowledge of matters to be decided by the Council may be invited by the Chief Executive Officer to address an EMBS. Such persons making an address will be limited to 15 minutes. An address must relate to matters listed on the Agenda.

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## 1 OPENING

## 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.

## 3 ATTENDANCE

**Mayor:**

Mr T (Trevor) Vaughan

**Jarraah Ward:**

Cr B (Brian) Oliver (Deputy Mayor)  
Cr J (Jennifer) Ammons Noble  
Cr V (Vince) Maxwell  
Cr V (Vicki) Potter

**Banksia Ward:**

Cr C (Claire) Anderson  
Cr K (Keith) Hayes  
Cr J (Julian) Jacobs  
Cr M (Mark) Windram

**Chief Executive Officer:**

Mr A (Anthony) Vuleta

**Director Future Life & Built Life**

Ms R (Rochelle) Lavery

**Director Renew Life**

Mr W (Warren) Bow

**Director Community Life**

Ms T (Tina) Ackerman

**Director Business Life**

Mr N (Nathan) Cain

**Executive Manager Built Life:**

Mr R (Robert) Cruickshank

**Secretary:**

Mrs A (Alison) Podmore

**Public:**

**3.1 Apologies**

**3.2 Approved Leave of Absence**

**4 DECLARATIONS OF INTEREST**

Declarations of interest are to be made in writing prior to the commencement of the Meeting, (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**

### **5.1 Responses to Questions Raised and Taken on Notice at the Briefing Session held on 3 November 2015**

#### David Crann

Has Reverend Gordon Scantlebury from the Uniting Church been organised to conduct the service at the Centennial Remembrance Service for November 11?

- R. Ms Browne – Executive Manager Communications and Marketing advised that she telephoned Mr Crann to advise that there would be no religious service at the Remembrance Day Celebrations.

### **5.2 Public Questions / Responses, Raised at the Briefing Session on 1 December 2015**

## **6 PUBLIC STATEMENT TIME**

## **7 CONFIRMATION OF MINUTES**

### **RECOMMENDATION**

That the minutes of the Elected Members Briefing Session meeting held on Tuesday, 3 November 2015 be confirmed.

## **8 PRESENTATIONS**

### **8.1 Petitions**

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

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

- 6:35pm Item 11.1 – Aaron McNamara of Doepel Marsh will be in attendance to answer any questions if required.
- 6:40pm Item 11.2 – Ian Marshall of Total metal Recyclers Pty Ltd will be in attendance to answer any questions if required.
- 6:45pm Item 11.3 – Nam Nguyen will be in attendance to answer any questions if required.
- 6:50pm Item 11.4 – Wayne Buffham will be in attendance to answer any questions if required.
- 6:55pm Item 11.5 – Cris and Sarita Leal of Barrio Enoteca Pty Ltd will be in attendance to answer any questions if required.
- 7:00pm Item 11.6 – Bernadette Wayne will be in attendance to answer any questions if required.

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



## **10 CHIEF EXECUTIVE OFFICER REPORTS**

There are no reports from the Chief Executive Officer.

## 11 FUTURE LIFE AND BUILT LIFE PROGRAM REPORTS

### 11.1 1002-1004 (Lots 1 and 2) Albany Highway, East Victoria Park – Change of Use to Unlisted Use (Car Wash)

<b>File Reference:</b>	PR18496
<b>Appendices:</b>	No
<b>Landowner:</b>	GB68 Pty Ltd
<b>Applicant:</b>	Doepel Marsh Architects
<b>Application Date:</b>	7 September 2015
<b>DA/BA or WAPC Ref:</b>	5.2015.455.1
<b>MRS Zoning:</b>	Urban
<b>TPS Zoning:</b>	Residential/Commercial
<b>TPS Precinct:</b>	Precinct P 11 'Albany Highway'
<b>Use Class:</b>	Unlisted Use
<b>Use Permissibility:</b>	Discretionary Use

<b>Date:</b>	19 November 2015
<b>Reporting Officer:</b>	C. McClure
<b>Responsible Officer:</b>	R. Cruickshank
<b>Voting Requirement:</b>	Approval - Absolute Majority Refusal - Simple Majority

#### Executive Summary:

#### Recommendation – Refusal

- Application seeks approval for the change of use of existing premises to an Unlisted Use (Car Wash).
- A 'Car Wash' is not included as a Use Class in the Zoning Table and as such is an 'Unlisted Use'.
- The application was subject to consultation with surrounding property owners and occupiers for 21 days in accordance with Council's Policy GEN3 – Community Consultation. Two (2) submissions were received during the consultation period.
- The proposed Unlisted Use (Car Wash) is inconsistent with the objectives and purposes of the Residential/Commercial zone which seeks to redevelop the Precinct as a mixed use precinct with medium to high density residential together with compatible small scale commercial uses. As such the application is recommended for Refusal.

#### TABLED ITEMS:

- Development application form received 7 September 2015;
- Amended Plans received 29 October 2015;
- Transport Statement received 29 October 2015;
- Consultation letter to owners and occupiers of surrounding properties dated 10 October 2015; and
- Two (2) submissions received during Community Consultation period.

**BACKGROUND:**

A search of Council records indicates that No. 1004 (Lot 1) Albany Highway was previously located in an area classified under the City of Perth "Zoning By-Law No. 63" as Zone 2 (Residential Flats). Non-conforming use rights for No. 1004 Albany Highway as vehicle sales premises were acknowledged in correspondence from Council in 1972. No. 1002 and 1004 were most recently occupied by a car rental and motor vehicle sales company respectively.

**DETAILS:**

Council has received a development application for a Change of Use for two adjacent premises located on the corner of Albany Highway and Oats Street. The two sites measure 1368m<sup>2</sup> in total with vehicle access currently from the Albany Highway and Oats Street frontage as well as Right-of-Way 125 to the north-eastern rear of the lot.

The development proposes to demolish the building on Lot 1 and retain the existing building on Lot 2 for customer reception, office and staff amenities. The new buildings on site will consist of a deck area and associated shade sail, bin store and three (3) car stands consisting of shade sail structures accommodating two (2) bays each for vacuuming, washing and finishing.

The Car Wash is proposed to operate between the hours of 8.00am – 6.00pm seven (7) days a week. Staff numbers are at any one time one (1) full time employee and three (3) part time employees at any one time.

The applicant has provided the following information with regards to the operation of the proposed Car Wash (Unlisted Use) with peak customer hours estimated to occur around the middle of the day.

1. Customers enter the site from the proposed Oats Street crossover and park in one of the seven (7) provided customer car bays;
2. A staff member will greet the customer on arrival (either outside or inside the waiting area) and the customer will advise what type of service package they want for their car (standard wash, vacuum and wash, vacuum, wash and detail etc). The car wash process is entirely done by hand and by staff. There are no automatic washes or stations where customers can wash their own vehicles;
3. The staff member will take the customer keys and begin the service, whilst the customer is directed to the Customer Waiting Area if they would like to wait on site. The waiting customer has the choice of some basic snacks and/or coffee if they choose whilst waiting for their car wash. Once the staff have finalised the car wash, the vehicle is parked back into a customer car bay, and the staff member advises the customer that their vehicle is ready;
4. The customer then pays for the service at the counter / servery; and
5. The customer exits the site via the Right-of-Way.

**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 36 (as amended by Schedule 2, Clause 67 of the Local Planning Scheme Regulation 2015) and Clause 37 of the Scheme Text; and
- Statement of Intent contained in Precinct Plan P11 'Albany Highway Precinct'.

Compliance with Development Requirements

- TPS 1 Scheme Text, Policy Manual and Precinct Plan; and
- Policy 5.1 'Parking and Access Policy'.

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

Item	Relevant Provision	Requirement	Proposed	Compliance
Primary Street Setback (Albany Highway)	Development Standards Precinct Plan 11 'Albany Highway Precinct'	3 metre minimum	3 metres and existing building setback	Compliant
Secondary Street Setback (Oats Street)	Residential Design Codes	1 metre minimum	1 metre	Compliant
Rear Setback North-east (right-of-way)	Residential Design Codes	1 metre minimum	2 metres	Compliant
Plot Ratio	Development Standards Precinct Plan 11 'Albany Highway Precinct'	1:1 (1368m <sup>2</sup> )	0.16:1 (213.4m <sup>2</sup> )	Compliant
Car Parking	Access and Parking (Policy 5.1 'Parking Policy')	No requirement specified – determined at Council's discretion	7 customer bays 3 staff bays	-

The Statement of Intent for the Precinct states the following in part:

*The precinct is to be enhanced as an attractive feature in the metropolitan region. The compatibility of all commercial and retail uses with residential uses within or adjacent to the precinct is to be ensured.*

The stated objective for the 'Residential/Commercial zone' as described in Precinct Plan P11 'Albany Highway' states:

*This area shall be redeveloped as a mixed use area combining both residential and commercial uses. Future development shall be of medium to high density residential together with compatible, small scale commercial uses.*

*Careful control will be exercised over the nature of the commercial uses and their site layout and design in order to minimise potential conflict with residential uses. In particular a high level of visual amenity, security and privacy is to be ensured while noise disturbance will be minimised.*

### **Submissions:**

#### Community Consultation:

As the proposed 'Car Wash' is an "Unlisted Use", Council's Policy GEN3 – Community Consultation requires the application to be the subject of consultation for a 21-day period, with letters being sent to the owners and occupiers of adjoining and surrounding landowners, two signs being placed on the site (Albany Highway and Oats Street) and newspaper advertisements being placed.

At the time of writing this report, the consultation period had not concluded however, two (2) submissions have been received and are summarised below. Any additional submissions received will be included in an updated report prior to the Ordinary Council Meeting.

<b>CONSULTATION SUBMISSIONS</b>	
<i>Submission received 31/157-161 Hubert Street, East Victoria Park</i>	
<b>Comments Received</b>	<b>Officer's Comments</b>
<ul style="list-style-type: none"> <li>Oats St / Hill View Terrace and Albany Highway is a small intersection with lights that has traffic problems already, with Bunnings, and Officeworks located there and a park and school located nearby. There is already a carwash not too far up Albany Highway towards the city, with another one very near the Albany Highway and Shepperton Road intersection (Bentley). Do we need the congestion, noise, etc from another one. Oppose this proposal as being wrongly situated in an already crowded and congested location.</li> </ul>	<ul style="list-style-type: none"> <li>Noted. The proposal is inconsistent with the objectives and purposes of the Residential/Commercial zone which seeks to redevelop the Precinct as a mixed use precinct with medium to high density residential together with compatible, small scale commercial uses.</li> </ul>
<i>Submission from owner/occupant of 20A Camberwell Street, East Victoria Park</i>	
<b>Comments Received</b>	<b>Officer's Comments</b>
<ul style="list-style-type: none"> <li>There will be an even bigger build-up of traffic on Oats Street, in-between Albany Highway and Shepperton Road. This section of road could be clearly marked so it could have two lanes each way.</li> <li>There is a Car Wash already situated behind Franklins Tavern, do we need another one in such a close area? It's going to kill business for the smaller competitors.</li> </ul>	<ul style="list-style-type: none"> <li>Noted. The traffic and access concerns are highlighted in the Officers Comments section of the report. The proposal is inconsistent with the objectives and purposes of the Residential/Commercial zone which seeks to redevelop the Precinct as a mixed use precinct with medium to high density residential together with compatible, small scale commercial uses.</li> </ul>

**Policy Implications:**

Nil

**Sustainability Assessment:**External Economic Implications:

Whilst it is acknowledged that there are a number of other car washes in the surrounding area, this is not a relevant planning consideration.

Social Issues:

Nil

Cultural Issues:

Nil

Environmental Issues:

The applicant's submission states that "a triple interceptor trap will be installed and connected to the wash bay in accordance with water confirmation requirements for industrial use". In addition the use will need to comply with Council's Environmental Health requirements.

**COMMENT:**Use as a Car Wash

A 'Car Wash' represents an 'Unlisted Use' under the Town of Victoria Park Town Planning Scheme No. 1. Clause 37 of the Scheme Text requires applications for Unlisted Uses to comply with Clause 36 (as amended by Schedule 2, Clause 67 of the *Local Planning Scheme Regulations 2015*) and therefore comply with any relevant planning policy, any relevant precinct plan, any State Planning Policies, the orderly and proper planning of the locality and the conservation of amenities of the locality, including the design, scale and relationship to existing buildings and surroundings.

Precinct Plan P11 'Albany Highway Precinct' seeks to revitalise and consolidate the Albany Highway Precinct as a major urban/shopping commercial axis incorporating the "Strip" imagery of its past development along the length of Albany Highway. The objectives outlined in Precinct Plan P11 for the Albany Highway Precinct specifically seek the relocation of large scale, open-air and other commercial uses considered inappropriate to a retail-based node to the general commercial sectors of the Precinct. Whilst the subject application seeks approval of a use which does not fall within the definition of a specific land use classification, it is considered to fall within the same category of inappropriate uses which are envisaged in the Residential/Commercial zone of the Precinct.

The Statement of Intent of the 'Residential/Commercial' zone within Precinct Plan P11 'Albany Highway Precinct' in part states that *"This area shall be redeveloped as a mixed use area combining both residential and commercial uses. Future development shall be of medium to high density residential together with compatible, small scale commercial uses. Careful control will be exercised over the nature of the commercial uses and their site layout and design in order to minimise potential conflict with residential uses."*

The use of the land as a 'Car Wash' is not consistent with the Statement of Intent for the zone to be redeveloped as a mixed use precinct. The 'Residential/Commercial' zone extends along Albany Highway between Dane Street and Oats Street on the northern side and Balmoral Street and Baillie Avenue on the southern side. This 'Residential/Commercial' zone is a transition zone between the 'District Centre' zoned East Victoria Park Shopping Area and East Victoria Park Gateway Shopping area and reflects the existing residential fabric along this section of Albany Highway.

To date, Council and the Urban Planning Business Unit have supported and approved a number of medium-scale mixed use developments incorporating small scale commercial uses on the ground floor such as offices which are generally provided for by the Precinct Plan objectives and development provisions. Whilst the existing land use being a motor vehicle and hire premises is a commercial land use, a 'Car Wash' within this Precinct is considered inappropriate given the objectives of the Precinct and what is envisaged for the redevelopment of land in this locality. The proposed development will not enhance the Precinct and is not considered to be a preferred land use for the site. Furthermore, a Car Wash is considered to be a more intensive commercial use than the previous uses.

It is recognised that the existing land uses on the site do not accord with the intent of the 'Residential/Commercial' zone. However, the proposed development is likely to conflict with the surrounding residential uses, both existing and future, in terms of the emission of noise from the development and the generation of traffic and parking. In considering an application to redevelop the site, it is important that Council have regard to the intent of the zone and the implications for adjoining residents of an intense commercial activity. In this respect it is considered that the proposal is not consistent with the Precinct intent to ensure that commercial uses are compatible with residential uses, particularly given that land on the northern side of Oats Street is to be primarily used for residential purposes.

Finally, the use of the land as a 'Car Wash' is inconsistent with the intended future development of the locality and may set an undesirable precedent for the entrenchment and expansion of such uses along this portion of Albany Highway, contrary to the intended transition of the locality. Accordingly, the approval of the use is considered to be contrary to the orderly and proper planning of the locality.

#### Car Parking

Under the provisions of Council Policy 5.1 'Parking and Access', there is no parking ratio prescribed for a 'Car Wash', and therefore the number of bays required is to be determined by Council.

The development proposes seven (7) customer bays, (3) staff bays and three (3) car stands each accommodating (2) bays each for vacuuming, washing and finishing. The applicant has justified the parking numbers provided as being adequate for the operations of the car wash. However, it is noted that there are only three (3) proposed staff bays with the applicant's submission stating staff numbers are at any one time are one (1) full time employee and three (3) part time employees. In the event that Council is considering approving the application, the applicant should explore options to accommodate an additional staff parking bay so as to provide four (4) staff bays.

In addition to this, given that customers of the proposed development do not access the car cleaning stands immediately upon arrival on the site and rather park their vehicles in one of the bays with an operator then taking the vehicles to the appropriate bay for vacuuming and/or washing and/or detailing, the probability of queuing within the site that could extend onto Oats Street is limited.

#### Transport and Traffic Implication

In accordance with the requirements of the *Transport Assessment Guidelines for Developments* prepared by the Western Australian Planning Commission the applicant has provided a Transport Statement which outlines the transport aspects of the proposed development. The development plans and Transport Statement reflect that it is proposed to close the two existing access crossovers off Albany Highway and to retain the crossover access off Oats Street in a Left-in/Left-out arrangement and to rationalise the existing continuous access off Right-of-Way 125 to a single out egress.

Council's Street Life staff have reviewed the Traffic Statement prepared and do not support this access arrangement with the following comments made:

- Proceeding away from the intersection of Albany Highway and Oats Street, the wide of this section of Oats Street's width narrows down from 6m to 5.5m with no formal line marking to denote one/two lanes and has issues relating to traffic merging heading to Shepperton Road;
- Based on existing road safety issues at other locations within the Town of Victoria Park, ingress/egress on Oats Street is not supported. Access arrangements from Albany Highway are supported in this instance (over Oats Street) with no restrictions on turn movements;
- Main Roads WA and the Town are exploring upgrading the pedestrian facilities at the signalised intersection (Albany Highway/Oats Street) and require a truncation for compliant pram ramps. The truncation may affect the desired crossover (on Oats Street) proposed by the applicant and is not supported;
- It is recommended to remove the cross over location on Oats Street closer to the signalised intersection and provide the main access off Albany Highway (full movements);
- It is also recommended to install a speed hump on Right-of-way 25 at the property boundary south of No. 1000 Albany Highway; and
- The recommended crossover location (onto Albany Highway) will be monitored for safety issues (including efficiency issues at the signal controlled intersection) and if required, the Town will extend the median island on Albany Highway restricting the crossover movements to a Left-in/Left-out scenario.

The applicant has contended that requiring access to Albany Highway would be restricted to a Left-in/Left-out only arrangement due to proximity of the traffic signals. Even if access was not restricted in this location, it would be difficult to turn right into or out of Albany Highway due to queuing associated with the traffic signals. Furthermore, the consultant's report makes reference to a 'rear-end' crash concern and capacity concern with right turning vehicles on Albany Highway impeding through movements due to the single lane layout.



If Council is considering approving the application then further consideration needs to be given to the access arrangements proposed and potential traffic implications as discussed. If the development is supported, Council's Street Life staff have advised that their opinion is that access to the development is to be from Albany Highway and should be restricted to a Left-in/Left-out with exiting off the Right-of-Way. Alternatively, another option that could be explored would be access in via the Right-of-Way and a left turn out onto Oats Street. It should be noted that altered access arrangement/s will impact the way the development functions and as such, amended plans will need to be provided reflecting the preferred access.

It should be noted that vehicular access to/from Albany Highway would not be consistent with a requirement of the Precinct Plan that vehicle access to Albany Highway is to be limited, with access being obtained via laneways and/or side streets. However variation to this requirement would be considered if there are beneficial safety and traffic outcomes having vehicle access from Albany Highway.

### **CONCLUSION:**

Having regard to the above, it is considered that the Unlisted Use (Car Wash) is inconsistent with the objectives and purposes of the 'Residential/Commercial Zone' and is therefore not supported, in accordance with Clause 16 of the Scheme. The use of the land as a 'Car Wash' is inconsistent with the intended future development of the locality and will negatively impact upon the existing and likely nearby residential properties. It is therefore recommended that the application be Refused. In the event that Council is of the view that the use is appropriate it is recommended that the application be deferred to allow further discussions to occur on the acceptable vehicle access arrangement to and from the site.

### **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 Doepel Marsh Architects on behalf of GB68 Pty Ltd (DA Ref 5.2015.455.1) for Unlisted Use (Car Wash) at 1002-1004 (Lot 1 and 2) Albany Highway, East Victoria Park be Refused for the following reasons:**
  - 1.1 The use of the site as a 'Car Wash' (Unlisted Use) is not consistent with the objectives and purposes of the "Residential/Commercial" zone.**
  - 1.2 Non-compliance with Schedule 2, Clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015* – 'Matters to be Considered by Local Government', - with particular reference to the following:
    - (a) The aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;**
    - (b) The requirements of orderly and proper planning;**
    - (n) The amenity of the locality;****

- (t) The amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety; and
  - (y) Any submissions received on the application.
- 1.3 Non-compliance with Town Planning Scheme No. 1 Clause 37 'Determination of Application for an Unlisted Use', having regard to the matters listed in Clause 36(5) of the Scheme as amended by Schedule 2, Clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015*;
- 1.4 The use of the land as a 'Car Wash' is inconsistent with the Statement of Intent contained in Precinct Plan P11 'Albany Highway Precinct' which seeks to:
- (a) revitalise and consolidate the Albany Highway Precinct as a major urban/shopping commercial axis incorporating the "Strip" imagery of its past development along the length of Albany Highway;
  - (b) maintain the shopping areas as district centres offering a wide range of retail as well as community attractions including leisure and recreation uses, public/civic uses, community and social services;
  - (c) encourage the relocation of large scale, open-air and other commercial uses considered inappropriate to a retail-based node to the commercial sectors of the precinct; and
  - (d) seeks to ensure the compatibility of all commercial and retail uses with residential uses within or adjacent to the precinct;
- 1.5 The use of the land as 'Car Wash' is inconsistent with the objectives specifically outlined in Precinct Plan P11 'Albany Highway Precinct' for the 'Residential/Commercial' zone, which seek to:
- (a) Redevelop the area as a mixed use area combining both residential and commercial uses with future development of medium to high density residential together with compatible, small scale commercial uses.
  - (b) Control the nature of the commercial uses and their site layout and design in order to minimise potential conflict with residential uses.
  - (c) Ensure a high level of visual amenity, security and privacy is to be ensured while noise disturbance will be minimised.
- 1.6 The use of the land as a 'Car Wash' is inconsistent with the intended future development of the locality and may set an undesirable precedent for the entrenchment and expansion of such uses along this portion of Albany Highway, contrary to the orderly and proper planning of the locality;
2. Those persons who lodged a submission regarding the application be advised of Council's decision.



## 11.2 No. 149 (Lot 525) Planet Street, Carlisle – Retrospective Change of Use to Unlisted Use (Collection, Storage & Dispatch of Metal)

<b>File Reference:</b>	PR8039
<b>Appendices:</b>	No
<b>Landowner:</b>	Mustafa Brnjak
<b>Applicant:</b>	Total Metal Recyclers
<b>Application Date:</b>	12 August 2015
<b>DA/BA or WAPC Ref:</b>	5.2015.405.1
<b>MRS Zoning:</b>	Urban
<b>TPS Zoning:</b>	Residential R30
<b>TPS Precinct:</b>	Precinct P8 'Carlisle'
<b>Use Class:</b>	Unlisted Use
<b>Use Permissibility:</b>	Discretionary

<b>Date:</b>	19 November 2015
<b>Reporting Officer:</b>	C. McClure
<b>Responsible Officer:</b>	R. Cruickshank
<b>Voting Requirement:</b>	Approval - Absolute Majority Refusal – Simple Majority

### Executive Summary:

#### Recommendation – Refusal

- Approval is sought for a change of use of an existing building from non-conforming uses of Showroom and Open Air Display (Equipment Business Hire) to Unlisted Use (Collection, Storage & Dispatch of Metal).
- 'Collection, Storage & Dispatch of Metal' is not included as a Use Class in the Zoning Table and as such is an 'Unlisted Use'.
- The application was subject to consultation with surrounding property owners and occupiers for 21 days in accordance with Council's Policy GEN3 – Community Consultation. Six (6) submissions and two (2) group submissions were received during the consultation period.
- The use is inconsistent with the objectives and purposes of the Residential zone and is considered to have an adverse impact on the surrounding residential area. As such the application is recommended for Refusal.

### TABLED ITEMS:

- Development application form dated received 12 August 2015;
- Development plan dated received 12 August 2015;
- Applicant's development submission dated received 12 August 2015;
- Community consultation letter dated received 28 October 2015; and
- Six (6) submissions and two (2) group submissions received.

**BACKGROUND:**

A search of Council and City of Perth records reflects that the subject building was historically developed as a Service Station. Following the gazettal of the *Town of Victoria Park Town Planning Scheme No. 1* in 1998 the land was zoned Residential R30 establishing non-conforming use rights for the property. A Change of Use to Showroom and Open Air Display for (Equipment Hire Business) was approved by Council in May 2007 for the building the subject of this application. A motor vehicle repair business is currently operating from the building adjacent which was approved in November 1982.

In July 2015, the Town received a complaint regarding the subject property from an adjoining land owner concerning the introduction of a 'scrap metal' business at the property creating noise issues. The Town's Compliance Officer investigated the complaint and the owners were notified via letter of the planning breach and instructed to cease the use or submit an application for retrospective planning approval.

**DETAILS:**

Council has received a development application for a Change of Use for an existing building from Showroom and Open Air Display (Equipment Business Hire) to Unlisted Use (Collection, Storage & Dispatch of Metal). The site measures 882m<sup>2</sup> with a motor vehicle repair business operating from the adjacent building on the site with frontage to Oats Street. The application seeks to utilise the existing service station canopy building on the north-eastern corner of the lot with frontages to both Planet and Oats Street.

The applicant has provided the following information regarding the nature of the business activity:

- Total Metal Recycler Pty Ltd operates a city wide non-ferrous metal collection and recycling business with three small metal receiving points and a single processing yard;
- The business at 149 Planet Street is a receiving point for customers to drop off non-ferrous scrap metal;
- The material is weighed, placed (unprocessed) into storage bins, and approximately once a week the material is moved to the processing yard in Rockingham by removing full bins and replacing with empty bins;
- A medium sized SIMS metal bin is on site as an optional extra that allows customers that bring in steel items. Total Metal Recyclers Pty Ltd does not pay for steel items and simply accepts them on a 'no payment' basis provided it is neat and tidy. This tends to reduce local street dumping once customers find out there is no value in it;
- The SIMS Metal Bin is collected and replaced approximately each two to three weeks by SIMS metal;
- The business is open week days from 8.00am to 4.00pm (Monday to Friday);
- The average number of customers dropping off product is currently 6.6 per day with an estimated average of 8 to 11 customers per day once the business is better established; and
- Product removal to the process yard occurs approximately once a week between 10.00am and 1.00pm.

The applicant has advised that in selecting the site for business, they noted the high level of passing traffic, easy access from the road, covered area of receiving product and relatively high level of storage business in the area. The applicant's justification also states that the business provides a service and outlet for a significant amount of material that is either thrown away or dumped in preference to being disposed of correctly in an attempt to support the process of recycling within the community.

### **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 36 (as amended by Schedule 2, Clause 67 of the Local Planning Scheme Regulation 2015) and Clause 37 of the Scheme Text; and
- Statement of Intent contained in Precinct Plan P8 'Carlisle Precinct'.

#### Compliance with Development Requirements

- TPS 1 Scheme Text, Policy Manual and Precinct Plan;
- Policy 5.1 'Parking and Access Policy';
- Policy 5.2 'Loading and Unloading'; and
- Policy 3.5 'Non-Residential Uses in or Adjacent to Residential Areas'.

The Statement of Intent for the Precinct states the following in part:

*The majority of the precinct will continue to accommodate single houses or grouped dwellings at a medium density. Existing appropriate retail and commercial uses will be permitted to continue in their current locations. A limited number of non-residential uses, to serve the immediate needs of the locality, will be permitted throughout the precinct. In the long term, uses considered incompatible with residential uses will be encouraged to relocate.*

The stated objective for the 'Residential zone' as described in Precinct Plan P 8 'Carlisle' states:

*Medium density residential development of single houses and grouped dwellings is considered appropriate for the precinct.*

*A limited number of non-residential uses, that serve the day-to-day needs of residents such as local shops, recreation areas and child area facilities are also appropriate uses for the area. These uses should be designed in a manner that is unobtrusive and of a scale in keeping with surrounding residential development.*

Under the provisions of Council Policy 5.1 'Parking and Access', there is no parking ratio prescribed for a business involving the 'Collection, Storage & Dispatch of Metal', and therefore the number of bays required is to be determined by Council.

The applicant has advised in their submission that customers use the old Service Station canopy to drop product off. Staff parking is provided for next to the SIMS metal bin in a tandem arrangement for two vehicles. When product is being moved out of the site, the truck parks parallel to the road (Oats Street) and is loaded full off the road with the applicant stating that there is no impact on the traffic flow on Oats Street.

**Submissions:****Community Consultation:**

As the proposed use is an “Unlisted Use”, Council’s Policy GEN3 – Community Consultation requires the application to be the subject of consultation for a 21-day period, with letters being sent to the owners and occupiers of adjoining and surrounding landowners, two signs being placed on the site (Planet Street and Oats Street) and newspaper advertisements being placed.

During the consultation period, five (5) submissions and two (2) petitions were received and are summarised below. Additional comments from one submitter were also received after the conclusion of the consultation period and have been included below.

<b>CONSULTATION SUBMISSIONS</b>	
<i>Submission received from owner/occupant of No. 190 Bishopsgate Street, Carlisle</i>	
<b>Comments Received</b>	<b>Officer’s Comments</b>
<ul style="list-style-type: none"> <li>• The business is illegal, it is grossly inappropriate, is causing angst for residents and should not be left operating.</li> <li>• The use is not listed because a metal scrap yard in a residential area with houses around it is most inappropriate. Have no issue with it operating from an industrial site South of Cohn Street.</li> <li>• The activity is inappropriate and degrading to the neighbourhood, a better quality professional activity would result in raising the standard of the location and property values.</li> <li>• There are two huge bulk bins filled to overflow with rubbish on both Planet and Oats Street and further rubbish between in full view of passing traffic and residents. There is illegally erected signage advertising the business which contributes to the visual pollution of this site.</li> <li>• No one will pay top dollar to buy homes right next door to a scrap metal yard. It is inconceivable that Council would consider an application that results in degrading the area and cause a big drop in property values for all immediate neighbours.</li> </ul>	<ul style="list-style-type: none"> <li>• Supported. The use is not consistent with the objectives and purposes of the Residential zone and is considered to have an adverse impact on the surrounding residential area. This includes the developments incompatibility with the prevailing residential land and adverse impacts in terms of noise, traffic and visual amenity.</li> <li>• Noted.</li> </ul>

<i>Further comments received from owner/occupant of No. 190 Bishopsgate Street, Carlisle</i>	
<b>Comments Received</b>	<b>Officer's Comments</b>
<ul style="list-style-type: none"> <li>• A huge advertising sign in yellow colour to further catch the attention of passing cars has been erected.</li> <li>• The business is now operating as a fully-fledged scrap metal yard. The big bin gets emptied 2 or 3 times a week and it is obviously already inadequate for the expanded business. The bin fills up quickly and the overflow collection of scrap metal rubbish is just piled on the ground until the next collection truck arrives.</li> </ul>	<ul style="list-style-type: none"> <li>• Noted. The proponent has erected the signage without the necessary approvals from Council. As indicated by the application in their submission, the increased collection times may be reflective of the further establishment of the business since its commencement.</li> </ul>
<i>Submission from owner/occupant of 160B (Lot 2) Planet Street, Carlisle</i>	
<b>Comments Received</b>	<b>Officer's Comments</b>
<ul style="list-style-type: none"> <li>• Do not feel that the use of the site as a refuge station is appropriate for an urban area, and detracts rather than adds to the urban landscape.</li> <li>• The signage and the large permanent skip bin located on the site is visually jarring, when viewed in an urban context.</li> </ul>	<ul style="list-style-type: none"> <li>• Supported. The use is not consistent with the objectives and purposes of the Residential zone and is considered to have an adverse impact on the surrounding residential area. This includes the developments incompatibility with the prevailing residential land and adverse impacts in terms of noise, traffic and visual amenity.</li> </ul>
<i>Submission from owner/occupant of No.143 Planet Street, Carlisle</i>	
<b>Comments Received</b>	<b>Officer's Comments</b>
<ul style="list-style-type: none"> <li>• The site looks scrappy and is noisy with people dropping junk into the skip bin at all times of day and night, weekdays and weekends. There are often piles of waste dropped externally near the skip as the bin is too full. Often the waste dumped near the skip is not always metal, it is often household waste (old furniture etc), people see this as a quick rubbish drop off area instead of using the appropriate facilities to dump rubbish.</li> <li>• This application to create an industrial business in this location is ludicrous and takes away from the area that we brought into.</li> </ul>	<ul style="list-style-type: none"> <li>• Supported. The use is not consistent with the objectives and purposes of the Residential zone and is considered to have an adverse impact on the surrounding residential area. This includes the developments incompatibility with the prevailing residential land and adverse impacts in terms of noise, traffic and visual amenity.</li> </ul>



<i>Submission from owner/occupant of No.148 Planet Street, Carlisle</i>	
<b>Comments Received</b>	<b>Officer's Comments</b>
<ul style="list-style-type: none"> <li>• Trucks and cars sometimes park on the forecourt at other times they obstruct Planet Street near the intersection of Oats St as they are too large to fit on the forecourt.</li> <li>• Would be happy to consider an appropriate business but not a Scrap Yard. Scrap Yards should operate in industrial zoned areas only.</li> <li>• The business is loud, messy and not in keeping with a residential area. The "mechanics business" next door is relatively quiet, very neat and clean and does not accept customers after hours as do none of the other local businesses located across the road from them. The business at 149 Planet St cannot compare themselves to these other local businesses.</li> <li>• The photos that have been provided with this businesses' application are very misleading. They do not clearly show the giant skip outside the front to try to downplay it size and obtrusive nature. They have also cleaned up the area significantly in their photos, which is not the norm, to try to show that they are a tidy business. They are not. Rubbish blows over to neighbours at all times. A scrap yard cannot by its nature be a tidy, neat business.</li> <li>• People drop off industrial waste 24/7. The noise as metal and other objects are dropped into the bin is extremely loud and very disturbing, with trucks and utes coming anytime from 6.00am to past 11pm at night. This application states the skip is collected "every two to three weeks". The reality is that the bin is full within 5 days and is being collected weekly. Their true hours of</li> </ul>	<ul style="list-style-type: none"> <li>• Noted. In considering the appropriateness of the development, it is reasonable to expect that all vehicles should be contained on site.</li> <li>• Supported. The use is not consistent with the objectives and purposes of the Residential zone and is considered to have an adverse impact on the surrounding residential area. This includes the developments incompatibility with the prevailing residential land and adverse impacts in terms of noise, traffic and visual amenity.</li> <li>• Noted.</li> <li>• Supported. The use is considered to have an adverse impact on the visual amenity of the immediate locality and adjacent residential outlook.</li> <li>• Noted. As the application is retrospective, Council has the opportunity to review the business activity occurring and consider any concerns raised during the community consultation period with regards to the operation of the development.</li> </ul>

<p>operation are 24 hours per day seven days per week as the skips are open to the public at all times. Therefore they cannot say their operating hours are between 8.00m and 4.00pm Monday to Friday as they are unable to maintain their operation within these hours.</p> <ul style="list-style-type: none"> <li>• Scrap left in the large outside bin is collected by a huge truck outside these hours - Often very early in the morning. Twice this has been approximately 6.30am. People also dump their rubbish early on a weekend morning, including Sundays, and often at night during the week when we are in bed.</li> <li>• A business of this kind will have a serious effect on the desirability of the area and also from my personal perspective, in terms of renting and /or selling my home, it will affect the value.</li> </ul>	<ul style="list-style-type: none"> <li>• Noted.</li> </ul>
<p><i>Submission from owner/occupant of No.145 Planet Street, Carlisle</i></p>	
<p><b>Comments Received</b></p>	<p><b>Officer's Comments</b></p>
<ul style="list-style-type: none"> <li>• Strongly against the application to change the use this is a residential area and the business will disturb our normal life.</li> <li>• There is too much noise and we can't sleep. The area is just for residential not industry.</li> </ul>	<ul style="list-style-type: none"> <li>• Supported. The use is not consistent with the objectives and purposes of the Residential zone and is considered to have an adverse impact on the surrounding residential area. This includes the developments incompatibility with the prevailing residential land and adverse impacts in terms of noise, traffic and visual amenity.</li> </ul>

<i>Submission from owner/occupant of No.145 Planet Street, Carlisle</i>	
<b>Comments Received</b>	<b>Officer's Comments</b>
<ul style="list-style-type: none"> <li>The use of this site as a scrap metal yard is grossly inappropriate. The operators of these premises have already turned it into an ugly rubbish tip in a matter of a couple of months with the initially low volume of business.</li> <li>Granting approval for permanent use will inevitably see rubbish multiplying in volume to the detriment of property values for the immediate neighbours such as us.</li> <li>We are about to lodge a Planning Application for a new redevelopment of our property at 192 Bishopsgate Street but having a scrap metal yard at our doorstep will jeopardize the sale of our high quality dwellings.</li> <li>The advertising signage which has also been erected without Council permission is highly detrimental to our properties because potential buyers will invariably create a mental association of our property being next to a scrap metal yard and therefore undesirable</li> </ul>	<ul style="list-style-type: none"> <li>Supported. The use is not consistent with the objectives and purposes of the Residential zone and is considered to have an adverse impact on the surrounding residential area. This includes the developments incompatibility with the prevailing residential land and adverse impacts in terms of noise, traffic and visual amenity.</li> <li>Noted.</li> <li>Noted. The proponent has erected the signage without the necessary approvals from Council.</li> </ul>

## GROUP SUBMISSIONS

Two (2) group submissions have been provided to Council during the consultation period. Whilst appearing as petitions, Council is not being requested to consider them formally as petitions given the formal format/presentation requirements have not been met and instead should consider the documents as group submissions conveying the concern of nearby owners and occupiers regarding the proposal.

### Group Submission 1

- The business is a "scrap yard" and therefore not in keeping with a residential area;
- The giant skip is open to the public 24/7 and attracts use at all times of the day and night;
- The business is messy with waste being dumped in and around the outside skip;
- Noise as industrial metal waste is dumped into the skip often extends outside normal business hours; and
- We've experienced a significant increase in the number of large trucks and utes down Planet Street, at times these trucks block Planet St which is a safety hazard.

Signed by 55 people.

Group Submission 2 (summarised)

- The business opened without seeking planning permission;
- The business is noisy, unsightly and not in keeping with the residential area. It is a scrap yard with a large skip that is routinely filled and replaced at least weekly;
- The skip is open to the public at all times of the day and night. The business can't confine itself to its advertised hours as there are constant comings and goings at any time of the day or night;
- The business can be very noisy during the day akin to noise you would expect in an industrial area. Skips and bins being moved, forklifts, cars coming and going;
- Safety is compromised as large trucks and the SIMS truck cannot fit onto the forecourt and block the road which is dangerous for residents turning in and out of driveways and pedestrians; and
- Local residents are experiencing noisy disturbances early in the morning, late ant night and only weekends as people who drop rubbish rummage through it.

Signed by nine (9) adjoining land owners/occupiers within the immediate vicinity of the development.

**Policy Implications:**

Nil

**Sustainability Assessment:**External Economic Implications:

Nil

Social Issues:

Nil

Cultural Issues:

Nil

Environmental Issues:

Nil

**COMMENT:**Land Use

As the application involves a change of use to an Unlisted Use (Collection, Storage & Dispatch of Metal), the Council must determine the application in accordance with Clause 16 and Clause 37 of Town Planning Scheme No. 1 having regard to the orderly and proper planning of the locality and the conservation of the amenities of the locality, and whether the use is consistent with the intended purpose of the 'Residential' zone in which it is located.

*Town of Victoria Park Town Planning Scheme No. 1 – Precinct Plan P8 'Carlisle' Precinct*

The Statement of Intent of the Residential zone within Precinct Plan P8 – ‘Carlisle’ Precinct in part states that: *The majority of the precinct will continue to accommodate single houses or grouped dwellings at a medium density. Existing appropriate retail and commercial uses will be permitted to continue in their current locations. A limited number of non-residential uses, to serve the immediate needs of the locality, will be permitted throughout the precinct. In the long term, uses considered incompatible with residential uses will be encouraged to relocate.*

The objective for the ‘Residential zone’ as described in Precinct Plan P 8 ‘Carlise’ states *Medium density residential development of single houses and grouped dwellings is considered appropriate for the precinct. A limited number of non-residential uses, that serve the day-to-day needs of residents such as local shops, recreation areas and child area facilities are also appropriate uses for the area. These uses should be designed in a manner that is unobtrusive and of a scale in keeping with surrounding residential development.*

The proposed use as ‘Collection, Storage & Dispatch of Metal’ is not a residential land use and is therefore not considered appropriate for the zone. Furthermore, as a non-residential use, the business activity does not serve the day-to-day needs of residents. The development is also not in keeping with the scale of surrounding residential development on a prominent street corner location with a directly adjoining residential interface.

To further highlight the activities incompatibility with the Residential zone, as an Unlisted Use ‘Collection, Storage & Dispatch of Metal’ under the *Planning and Development (Local Planning Schemes) Regulations 2015 – Model Provisions for Local Planning Scheme*, could best be classified as a ‘Warehouse/Storage’ use which is:

*Warehouse/Storage means premises including indoor or outdoor facilities used for —*  
(a) *the storage of goods, equipment, plant or materials; or*  
(b) *the display or sale by wholesale of goods;*

A Warehouse/Storage use would generally have permissibility confined to ‘General Industry’, ‘Light’ and ‘Service Industry’ zones with discretionary ability to approve in ‘Mixed Business’ or similar zones. In the event that the *Town of Victoria Park Scheme No.1* included ‘Warehouse/Storage’ or a similar use such as ‘Storage Yard’ it would be an ‘X’ (not permitted) use in the Residential zone with no legal ability for the Council to approve such an application.

#### *Policy 3.5 ‘Non-Residential Uses in or Adjacent to Residential Areas’*

TPS 1 Policy 3.5 ‘Non-Residential Uses in or Adjacent to Residential Areas’ seeks to ensure the compatibility of non-residential development in close proximity to residential areas and that such uses will not cause undue conflict though the generation of traffic and parking or the emission of noise or any other form of pollution.

As discussed, ‘Collection, Storage & Dispatch of Metal’ can be classified as ‘Industrial’ land use and is likely to be impacting upon the adjacent residential areas in terms of noise from metal being dropped off at the site, storing and sorting of metal (although this activity is occurring inside the building on the site) and collection of metal. During the consultation

period a number of submissions have been received which cite concerns with the noise generated from the development and its impact on the residential amenity of the locality. This is of particular concern as the business operator does not restrict access to the SIMS metal skip bin on site and therefore people are able to drop off metal and other materials at any time of the day and/or night.

In addition to this, it is reasonable to conclude that the business activities have generated an increase in traffic and parking to the locality including large heavy vehicles associated with use in an industrial area. This in turn also contributes to the noise generated on and around the site. Similarly to noise, during the consultation period a number of submissions have been received which cite concerns with the vehicles accessing the site particularly when creating problems with blocking roads access along Oats and Planet Street. Car parking and traffic will be discussed in greater detail below.

### Car Parking & Traffic

Based on the information provided by the applicant, the proposed car parking and vehicular access arrangements can be considered sufficient in terms of volume for the operations of the business however this would rely on a number of operational measures to guarantee functional parking and access arrangements for the development which may include and are not limited to:

- Two (2) staff vehicles being accommodated in the staff parking area given there are two staff members at any one time. It should be noted that only one (1) formal bay can be formally recognised as under Council Policy 5.1 'Parking and Access' given the tandem arrangement. In addition to this, the length requirements for two (2) tandem bays is 10 metres which is not being adhered to (bay length is 9.2 metres);
- Drop off times being staggered and appropriately managed by the site operator so that not more than one vehicle at any given time is accessing the site reducing the potential for queuing and/or over flow parking onto adjoining residential streets;
- Vehicles accessing the site adequately being accommodated on the site thus reducing the likelihood of over flow parking onto adjoining residential streets; and
- Any vehicles that do utilise street parking to access the site not impeding the flow of traffic on the roads or access to adjoining properties.

Even if the above practices are already in place or are introduced, the separation operation and unrestricted access to the SIMS metal bin means that access to the site will be difficult to control. Submissions received during the consultation period also make reference to car parking and access noting that some vehicles are unable to be accommodated on the site and have blocked access on the surrounding road network. As the application is retrospective, Planning staff and Council have the opportunity to review the operations occurring and review any concerns relating to car parking and access.

TPS 1 Policy 5.2 'Loading and Unloading' also contains relevant car parking considerations to be taken into account. The provisions of this policy are generally applicable towards the loading and unloading components of commercial and industrial uses. In the context of this development, the business activities occurring at the subject

site are confined to loading and unloading activities only. The policy provisions aim to ensure that loading/unloading facilities do not adversely affect the amenity of the adjacent area noting that loading/unloading areas should not be located adjacent to any adjoining residential uses which in addition to the general land use incompatibility recognises the impact that loading and unloading can have on residential amenity.

#### **CONCLUSION:**

Having regard to the above, it is considered that the Unlisted Use (Collection, Storage & Dispatch of Metal) is inconsistent with the objectives and purposes of the 'Residential Zone' and is therefore not permitted, in accordance with Clause 16 of the Scheme. Furthermore, as the Use is currently operating, it has been demonstrated that the activities have a detrimental impact on the amenity of the surrounding residential area. It is therefore recommended that the application for retrospective approval be Refused.

#### **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 Total Metal Recyclers P/L on behalf of M & S Brnjak (DA Ref: 5.2014.405.1) for Change of Use to Unlisted Use (Collection, Storage & Dispatch of Metal) at No. 149 (Lot 525) Planet Street, Carlisle as indicated on the plans received 12 August 2015 be Refused for the following reasons:**
  - 1.1 **The proposed Unlisted Use (Collection, Storage & Dispatch of Metal) is not consistent with the objectives and purposes of the 'Residential' Zone.**
  - 1.2 **Non-compliance with Schedule 2, Clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015* – 'Matters to be Considered by Local Government', - with particular reference to the following:**
    - (a) **The aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;**
    - (b) **The requirements of orderly and proper planning;**
    - (n) **The amenity of the locality; and**
    - (y) **Any submissions received on the application.**
  - 1.3 **Non-compliance with Town Planning Scheme No. 1 Clause 37 'Determination of Application for an Unlisted Use', having regard to the matters listed in Clause 36(5) of the Scheme as amended by Schedule 2, Clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015*;**
2. **The applicant being advised of Council's decision and to cease operations within 60 days of Council's decision.**
3. **Those persons who lodged a submission be advised of Council's decision.**





### 11.3 No. 65 (Lot 47) Etwell Street, East Victoria Park – Application for Retrospective Development Approval for Façade Alterations to Existing Building and Proposed Wall Sign

<b>File Reference:</b>	PR10854
<b>Appendices:</b>	No
<b>Landowner:</b>	Mr H & Mr P Nguyen
<b>Applicant:</b>	Mr H & Mr P Nguyen
<b>Application Date:</b>	16 September 2015
<b>DA/BA or WAPC Ref:</b>	5.2015.484.1
<b>MRS Zoning:</b>	Urban
<b>TPS Zoning:</b>	Local Centre
<b>TPS Precinct:</b>	Precinct P12 'East Victoria Park'
<b>Use Class:</b>	'Shop'
<b>Use Permissibility:</b>	'P' use

<b>Date:</b>	19 November 2015
<b>Reporting Officer:</b>	T. Barry
<b>Responsible Officer:</b>	R. Cruickshank
<b>Voting Requirement:</b>	Simple Majority

**Executive Summary:**

**Recommendation – Approval subject to conditions.**

- Signage, façade and wall painting have been completed on the subject commercial building without approval.
- The already installed awning and window signs are exempt from the requirement for development approval. The proposed wall sign and the completed façade and wall painting do require development approval.
- The changes to the subject tenancy façade are supported, however the proposed wall sign, and painting that has occurred to the south eastern wall and wall above awnings are not supported.
- Recommended to approve the application in part subject to conditions that the painting to the south eastern wall and wall above awnings be returned to their original condition or be painted/rendered in a neutral tone. The approval is not to include the proposed signage to the south eastern wall.

**TABLED ITEMS:**

- Development Application Form dated received 16 September 2015;
- Signage Plans & Photographs dated received 16 September 2015;
- Site photographs; and
- Proposed Development Approval Plans.

**BACKGROUND:**

On 7 April 2015 the Town of Victoria Park issued development approval for a wall mural to be painted on the side of the existing commercial building at 65 Etwell Street. This mural was undertaken as part of the FORM Public 2015 Street Art Project. This mural was completed in May 2015. The property owner was required to sign the Planning Application form in this instance and so was aware of the need for development approval for the painting of the south eastern wall of the building.

On 25 June 2015 the Town was advised by the property owner that 'Cloud 9 Smoke Shop' would be opening at 65 Etwell Street. Given that the tenancy was previously occupied by a 'Shop' there was no need for a change of use application to be lodged for determination by the Town. It was at this same time that the Town received a number of complaints regarding the opening of the shop. Due to the use being classed as a 'Shop' under Town Planning Scheme No. 1, there was no requirement for development approval to be obtained for the use of the premises by 'Cloud 9 Smoke Shop'.

It was later identified by the Town that the painting of the façade and south eastern wall of the building was carried out without the prior development approval of the Town. The owner of the property was sent an initial warning letter on 3 July 2015 where they were advised that the signage and façade works they had undertaken constituted development and that they needed to lodge an application for retrospective approval within 14 days.

A further warning letter was sent to the owner on 6 August 2015 as there was no response to the first. The property owner then made contact with the Town and a development application was lodged on 16 September 2015. It appears that in the time between the Compliance Officer attending the address and sending the first warning letter, and the application being lodged, the wall above the awnings over the tenancy frontages facing Etwell Street has also been painted in a bright blue colour consistent with that in the 'Cloud 9 Smoke Shop' rainbows and signage. This too was completed without any prior approval by the Town.

**DETAILS:**

The subject application has been received following the identification of unapproved signage and façade works in relation to one of the tenancies located in the building at 65 Etwell Street, East Victoria Park. The signage and works have been listed below, outlining the compliance or non-compliance of each element of the signage and façade works that have taken place on the property in relation to the 'Cloud 9 Smoke Shop'.

Sign No.	Type of Sign / Façade Alterations	Signs Local Law Standards for Exemption / Town Planning Scheme Exemption	Proposed	Exemption
1.	Awning Sign	1 per frontage of the subject tenancy; Area of 0.4m <sup>2</sup> per 1m of street frontage of the subject tenancy (up to a maximum of 10m <sup>2</sup> ); and Contained within the width of the building.	One (1) Awning sign for the subject tenancy; 2.06m <sup>2</sup> for signage area (2.28m <sup>2</sup> allowed); and Contained within width of tenancy.	Exempt from requirement for development approval
2.	Window Signs	Cover no more than 50% of the window; and Aggregate area of 0.4m <sup>2</sup> per 1m of street frontage of the subject tenancy (up to a maximum aggregate of 10m <sup>2</sup> )	<50% coverage of windows; Approx. 1m <sup>2</sup> aggregate area (2.28m <sup>2</sup> maximum aggregate area allowed).	Exempt from requirement for development approval
3.	Wall Sign (proposed)	Attached or painted on external wall of commercial building; Aggregate area of 0.4m <sup>2</sup> per 1m of street frontage of subject tenancy (up to a maximum aggregate area of 10m <sup>2</sup> )	Attached to end wall of commercial building – not attached to subject tenancy. 7.08m <sup>2</sup> aggregate area (2.28m <sup>2</sup> maximum aggregate area allowed).	Not exempt from requirement for development approval (refer Comments section below.)
4.	Façade Painting	No exemptions to planning approval apply	Bands of colour painted with a 'rainbow' theme approximately 600mm in height.	Not exempt from requirement for development approval (refer Comments section below.)
5.	South Eastern Wall Painting	No exemptions to planning approval apply	Bands of colour painted with a 'rainbow' theme approximately 600mm in height.	Not exempt from requirement for development approval (refer Comments section below.)
6.	Wall above awnings painting	No exemptions to planning approval apply	Blue painted brickwork	Not exempt from requirement for development approval (refer Comments section below.)

As outlined above, the painting that has been undertaken to the façade, the south eastern wall and the wall above the awnings of the building require development approval, as well as the proposed signage on the south eastern wall. In this instance the painting of the façade and side wall are being used as a form of identification, as the rainbow is commonly used as part of the branding and signage for 'Cloud 9 Smoke Shops' around Perth. The wall above the awnings of the building also appears to have been painted in the same bright blue colour as used in the 'Cloud 9 Smoke Shop' signage.

**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 36 of the Scheme Text (as amended by Schedule 2, Clause 67 of the *Planning and Development (Local Planning Schemes (Regulations 2015))*;
- Clause 39A of the Scheme Text; and
- Statement of Intent contained in Precinct Plan P12 'East Victoria Park Precinct'.

Compliance with Development Requirements

- TPS 1 Scheme Text, Policy Manual and Precinct Plan; and
- Town of Victoria Park '*Signs Local Law 2006*'.

**Policy Implications:**

Nil

**Sustainability Assessment:**External Economic Implications:

Nil

Social Issues:

Nil

Cultural Issues:

Nil

Environmental Issues:

Nil

**COMMENT:**

Whilst the awning sign and the two window signs are exempt from the requirement for development approval, the proposed wall sign on the south eastern wall is not exempt and must be considered against Clause 39A of Town Planning Scheme No 1. Further to this, the façade and south eastern wall painting are also not exempt under Clause 31 of Town Planning Scheme No. 1 and Clause 61 of the *Planning and Development (Local Planning Schemes) Regulations 2015*. Therefore, they are to be considered against Clause 36 of Town Planning Scheme No 1.

### Cloud 9 Smoke Shop Tenancy Façade Painting

The façade painting has been undertaken using a rainbow theme, consistent with the south eastern wall. The façade has bands of solid colour of approximately 600mm in thickness that are red, orange, yellow, green, blue, purple and red starting at the top of the wall. The coloured bands are separated by thin white bands to further accentuate the colours. The awning and wall above the awning are both blue in colour.

The façade painting (under the awning) facing Etwell Street is considered to have a minimal impact on the streetscape due to the varied façade colourings on the street facing aspect of the existing building. Whilst the colour scheme is not compatible with the architectural style of the building, the use of colours in facades is common place and given the limited extent of each tenancy façade the use of colour is considered acceptable. The façade is facing other commercial properties on Etwell Street and so the use of colour in the façade is not considered to have any impact on the amenity of the area, and its design is acceptable for this limited portion of the façade.

### South East Wall Sign

The application proposes to install large lettering to the south eastern wall as further signage for the 'Cloud 9 Smoke Shop' located in a tenancy that is not directly attached to that wall. In accordance with Clause 39A of Town Planning Scheme No. 1, it is considered that the signage on this wall is not appropriate due to the size, location away from the subject tenancy, and the potential for the signage to be considered offensive by some people.

The signage proposed for the south eastern wall is in the form of large letters spelling out 'CLOUD 9'. The signage is quite significant (approximately 1.2m high and 5.9m long) on the wall and given that this wall is not connected to the Cloud 9 tenancy, it is not considered appropriate that their signage be placed on the side of the building. Further to this the 'Cloud 9 Smoke Shop' has received numerous complaints in regard to its location in a residential area close to schools and other areas frequented by children. As such, it is considered that signage should be contained to the main façade of the subject tenancy and not be extended unnecessarily as it may be considered offensive by some members of the East Victoria Park community.

### South East Wall Painting

The south eastern wall, previously occupied by a wall mural, has been painted using a large rainbow theme. The bands are of approximately the same thickness as those on the façade of the tenancy and use the same colours. The top and bottom are both bordered with bright blue which is continued to the wall above the awnings of the shop fronts facing Etwell Street.

In accordance with Clause 36 of Town Planning Scheme No.1, it is considered that the colour scheme is not compatible with the architectural style of the building, and the large rainbow bands on the wall do not have a positive impact on the streetscape. The amenity of the residential area that adjoins the 'Local Centre' is largely impacted by the overpowering nature of the wall painting. The rainbow is consistently used as a theme in 'Cloud 9 Smoke Shop' signage and so the wall painted as a rainbow is a form of identification for the shop. The brightly painted wall is also currently having a negative impact on the streetscape. When visiting the site or driving past the building, the wall is extremely overpowering and distracting to all those passing.

### Wall above Awning Painting

The wall above the awnings for the length of the building was painted a bright blue colour after the painting of the south eastern wall. The Town's photographic records show that when the south eastern wall was being painted and the owner was advised that this was not approved, the wall above the awnings was still red face brick and had not been painted.

The painting of the wall above the awnings has been done at some point whilst the remaining of the building was being painted for 'Cloud 9' as the blue is the same as that used in the rainbow, and it was not painted when the Town's Compliance Officer first visited the site to inspect the unapproved signage and painting works. The blue wall above the awning is not in a colour that is consistent with the building or the surrounding area. It is considered to be visually prominent and has resulted in the loss of a part of the character of the commercial building. The large expanse of blue wall is not in keeping with the streetscape and is not considered acceptable in this location.

### **CONCLUSION:**

The awning sign and window signs, which are exempt from development approval, represent ample signage for the existing 'Cloud 9 Smoke Shop'. The proposed signage to the south eastern wall is not required and is not suitable on a wall that is removed from the subject tenancy by another two tenancies. The proposed wall sign on the south eastern wall of the subject building is not supported as part of this application.

The painting of the large blue area above the awning, and the large rainbow coloured bands on the south eastern wall are both considered to have a significantly negative impact on both the streetscape and the architectural style and aesthetics of the existing building. The line of shops on Etwell Street is located in a residential area and so any changes to the appearance of the building must be considered in this context. Due to the impacts on the streetscape and overall amenity of this predominantly residential area, the painting of the south eastern wall and wall above the awnings on the building is not supported and so the paint is recommended to be removed or be painted or rendered over in a neutral tone, to be approved by the Manager Urban Planning.

### **RECOMMENDATION/S:**

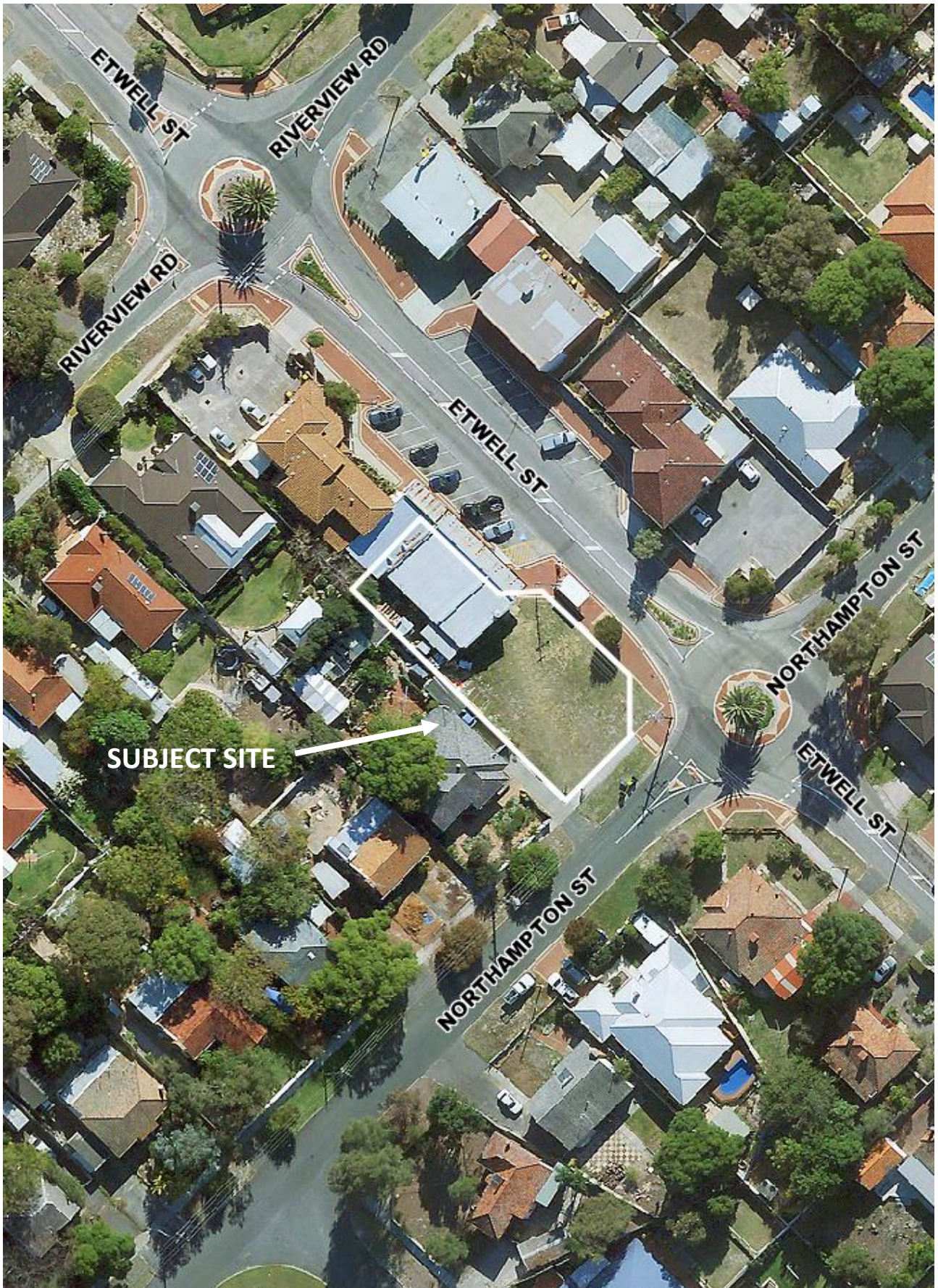
**In accordance with the provisions of the Town of Victoria Park Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the application submitted by Nam Nguyen on behalf of Mr H & Mr P Nguyen (DA Ref: 5.2015.484.1) for Retrospective Approval for Façade Alterations to Existing Building and Proposed Wall Sign at No. 65 (Lot 47) Etwell Street, East Victoria Park as indicated on the plans received 16 September 2015 be Approved subject to the following conditions:**

- 1. The south eastern wall and the wall above the awnings, as indicated on the approved plans, having all paint removed or being painted/rendered in a neutral tone within 90 days of the date of this approval. Details of the proposed new paint or render colour are to be submitted for approval by the Manager Urban Planning prior to commencing these works.**

2. The proposed south eastern wall sign to contain the words 'Cloud 9' is not approved.
3. A Sign Licence for the awning sign and window signs is required to be obtained from the Town within 60 days of the date of this approval.
4. The location and details of the sign(s), and any supporting structure, as shown on the approved plans, must not be altered without the written consent of the Manager Urban Planning.
5. The sign(s) must not be illuminated by external or internal light except with the written consent of the Manager Urban Planning.

#### **Advice to Applicant**

6. The applicant/owner should refer to the Requirements of Other Council Business Units, enclosed with this Development Approval, which are relevant to the submission of a building permit and/or the carrying out of the development for which this approval is granted. This Development Approval does not remove the need to obtain licences, permits or other forms of approval that may be required under other legislation or requirements of Council.
7. Any modifications to the approved drawings forming part of this development approval may require the submission of an application for modification to development approval and reassessment of the proposal.





### 11.4 No. 4 (Lot 69) Camberwell Street, East Victoria Park – Retrospective Development Approval for Additions and Alterations to Existing Dwelling

<b>File Reference:</b>	PR11544
<b>Appendices:</b>	No
<b>Landowner:</b>	Mr W G & Ms L T Buffham
<b>Applicant:</b>	Mr W G Buffham
<b>Application Date:</b>	19 August 2015
<b>DA/BA or WAPC Ref:</b>	5.2015.419.1
<b>MRS Zoning:</b>	Urban
<b>TPS Zoning:</b>	Residential R30
<b>TPS Precinct:</b>	Precinct P12 'East Victoria Park'
<b>Use Class:</b>	Grouped Dwelling
<b>Use Permissibility:</b>	'P' use

<b>Date:</b>	19 November 2015
<b>Reporting Officer:</b>	T. Barry
<b>Responsible Officer:</b>	R. Cruickshank
<b>Voting Requirement:</b>	Simple Majority

#### **Executive Summary:**

#### **Recommendation – Approval subject to conditions.**

- 'Original Weatherboard Dwelling' has had significant renovation work completed without a Development Approval or Building Permit.
- Works include removal and replacement of skillion verandah with a bullnose verandah, and installation of a loft space and significant roof form changes.
- Dwelling is no longer considered to have the traditional characteristics of a weatherboard dwelling and is therefore not consistent with the established Weatherboard Streetscape.
- Recommended that the application be approved subject to conditions requiring changes to the dwelling including the reinstatement of a skillion verandah, the detailing of the small gable to the front elevation and the reinstatement of a hipped roof to ensure consistency with the 'Original Dwelling' that was altered, and the other Weatherboard Dwellings in the streetscape and general area.

#### **TABLED ITEMS:**

- Development application form dated received 19 August 2015;
- Plans and elevations dated received 19 August 2015;
- Site inspection photos; and
- Photograph prior to renovation.

**BACKGROUND:**

In June 2013 the Town received an application for development approval for the construction of a grouped dwelling on the subject property which involved the demolition of the subject dwelling. Council Officers, upon a second inspection of the dwelling, concluded that the existing dwelling was structurally unsound and while it could be demolished, recommended to continue working with the applicant in regard to the design of the replacement dwelling. However the application was refused by Council.

In April 2015 the Town received a query about works that were being undertaken on the property at 4 Camberwell Street, querying whether they were approved. The Town's Compliance Officer then investigated and it was clear that the owner had undertaken unauthorised building work to the existing 'Original Dwelling'. A number of warning letters were sent to the owner advising that the works were unapproved. This resulted in an application being lodged on 19 August 2015 for retrospective approval of the unauthorised building works that have been undertaken on the 'Original Dwelling'.

**DETAILS:**

The subject dwelling is an 'Original Dwelling' in the Town's Residential Character Study Area. The dwelling is also in a Weatherboard Streetscape which is largely intact and has an established character of single storey weatherboard homes with hipped roofs and skillion verandahs. The subject dwelling was significantly altered through a renovation which was unapproved and unauthorised by the Town. The owner of the property did not obtain a development approval or building permit for the works.

The unauthorised works that have been undertaken are to both the internal and external of the 'Original Dwelling' and include the following:

- Remove existing skillion verandah and replace with bullnose verandah;
- Alter internal layout including the relocation of and installation of wall and doors;
- Addition to the rear of the dwelling involving new living area and laundry/bathroom;
- New patio/pergola structure to rear of dwelling;
- Upper floor loft addition and associated stairwell;
- Entire re-roof of dwelling including alteration from hipped roof to gable roof; and
- Recladding and repainting of entire dwelling.

The unauthorised works have resulted in the dwelling being significantly altered from its original character, including the changing of the roof form from a hipped roof to a gable roof, and the removal of the original skillion verandah to be replaced with a bullnose verandah. During the assessment of this application, Council Officers have attempted to reach an agreement with the owner in relation to rectification works to reinstate the verandah and reduce the impact of the gable end, however the owner has advised he does not intend to make any further changes to the dwelling.

**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 36 of the Scheme Text (as amended by Schedule 2, Clause 67 of the *Local Planning Scheme Regulations 2015*); and
- Statement of Intent contained in Precinct Plan P12 'East Victoria Park Precinct'.

Compliance with Development Requirements

- TPS 1 Scheme Text, Policy Manual and Precinct Plan;
- 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
Primary Street Setback	LPPS – Clause 1	Minimum 3.0 metres	Minimum 6.2 metres	Complies
		Average 6.0 metres	Average greater than 6.0 metres	
Open Space	R-Codes Clause 5.1.4	45% (130.5m <sup>2</sup> )	65.5% (190m <sup>2</sup> )	Complies
Building Height (measured from the natural ground level)	R-Codes Clause 5.1.6	Maximum wall height 6.0 metres Maximum ridge height 9.0 metres	3.7 metres wall height 7.1 metres ridge height	Complies
Visual Privacy	R-Codes Clause 5.4.1	Loft Setback Minimum 6.0 metres	6.0 metres minimum setback	Complies
Building Design	LPPS – Clause 11	Roof shapes, height, pitches and material matching with housing predominating in the street.	Changes to roof and front verandah are not consistent with 'Original Dwelling' or predominant Weatherboard Streetscape character.	Non-Compliant (refer to Comments section below)

**Policy Implications:**

Nil

**Sustainability Assessment:**External Economic Implications:

Nil

Social Issues:

Nil

Cultural Issues:

Nil

Environmental Issues:

Nil

**COMMENT:**

The subject site is located within both the Town's Residential Character Study Area and a Weatherboard Streetscape. In this respect the western side of the street is characterised by a strong presence of brick dwellings with zincalume roofs, of a federation style. The eastern side of the street is characterised by single storey weatherboard dwellings. There is a high degree of streetscape consistency on each respective side of the street.

The 'Original Dwelling' at 4 Camberwell Street has been the subject of significant renovations, which have resulted in the dwelling not being consistent with the traditional appearance of a weatherboard dwelling and not being consistent with other weatherboard dwellings in the street. The specific items of concern are the full gable roof form and the bullnose verandah.

Building Design in Weatherboard Streetscape

Council's Local Planning Policy – Streetscape guides residential development in the Town, both new dwellings and additions or alterations to existing dwellings. Clause 11 of the Policy addresses Building Design relating to Weatherboard Houses, Weatherboard Precincts and Weatherboard Streetscapes. The subject dwelling is a weatherboard house in a Weatherboard Streetscape and so the development requirements contained in this clause are to be used when assessing an application.

The intent, or performance criteria, of Clause 11 is that design of development in a Weatherboard Streetscape retains and restores weatherboard houses and ensures that modifications are designed to be sympathetic to, and enhance the existing streetscape. In ensuring that development meets the above intent, it goes on to set out specific ways that this can be achieved.

Roof form, pitch and materials are a key element of any development, new or renovation, to ensure that the character of the 'Original Dwelling' or Weatherboard Streetscape is protected. In this instance, the 'Original Dwelling' had a zincalume hipped roof with a minor gable element, and a skillion verandah to the front extending across the full width of the dwelling. The renovated dwelling has been provided with a zincalume gable roof with two (2) full gable ends (one across the full width of the dwelling and the other to a front room only), and a bullnose verandah to the front extending for the full width of the dwelling. The changes to the roof form have completely altered the appearance of the dwelling from what it was originally, and are not consistent with the roof forms of the other weatherboard dwellings on the street.

The established streetscape is characterised by weatherboard dwellings with zincalume hipped roofs with some small gable elements, with skillion verandahs provided to all or part of the width of the frontage. The existing streetscape is very much in line with the roof form of the subject dwelling prior to renovation, and has created a consistent rhythm of hipped roofs and verandahs which is typical of weatherboard dwellings in the Town. Given

that the roof form of the dwelling is inconsistent with other weatherboard dwellings, in what is a very consistent streetscape, it is recommended that a hipped roof be reinstated on the subject dwelling to replace the large gable end. The smaller gable end is supported subject to decorative detailing as outlined below.

The verandah has also been altered from a skillion verandah to a bullnose verandah.

Whilst bullnose verandahs are often considered to be 'heritage' in appearance, they are not typical of weatherboard dwellings in the Town and are not supported for development in a Weatherboard Streetscape. The use of skillion verandahs on weatherboard dwellings is evident on the remainder of the weatherboard dwellings in the street, with all having skillion verandahs, and none having bullnose verandahs. Given that bullnose verandahs are not typical of weatherboard dwellings, and there are none in the surrounding Weatherboard Streetscape, it is recommended that it be removed and a skillion verandah be reinstated.

Another element of the renovations that is not consistent with the existing Weatherboard Streetscape character is the smaller of the gables, which is blank and has not been provided with any decorative detailing. Weatherboard dwellings which use gable features such as this as small parts of a roof form generally have detailing to the gable end to provide interest and break up the blankness of that portion of wall. Examples of this can be seen in the other dwellings on the street, and it is recommended that the smaller gable end be provided with detailing similar to that on the adjoining weatherboard dwelling at No. 6 Camberwell Street.

#### **CONCLUSION:**

All residential development in the Town is subject to assessment under the Local Planning Policy – Streetscape. In this instance, the Policy requires that development in a Weatherboard Streetscape is to be consistent with, and sympathetic to, other developments in the streetscape. The 'Original Dwelling' which has been modified without approval is located within a Weatherboard Streetscape, and the Residential Character Study Area. It is in a row of intact 'Original Weatherboard Dwellings' which have a distinct character and combine to form one of the best examples of a Weatherboard Streetscape in the Town.

Through renovating the dwelling without any form of approval, the resulting development is not consistent with the character of weatherboard dwellings, and has resulted in a dwelling which is far removed from the form and style of the 'Original Dwelling' on this site. Given the significant changes that have occurred to the dwelling being inconsistent with weatherboard dwellings, and the resulting negative impact on the overall streetscape, it is recommended that the application be approved subject to conditions requiring the roof form, verandah and small gable end to be altered to be more in keeping with a weatherboard dwelling.

Importantly it should be noted that if the applicant had applied for approval of the current works prior to commencing construction, then Council Officers would not have supported the proposal for the same design reasons. The fact that the applicant has constructed the works and may now have to modify the building should have no bearing on Council's decision particularly when the works were undertaken without approval.

**RECOMMENDATION/S:**

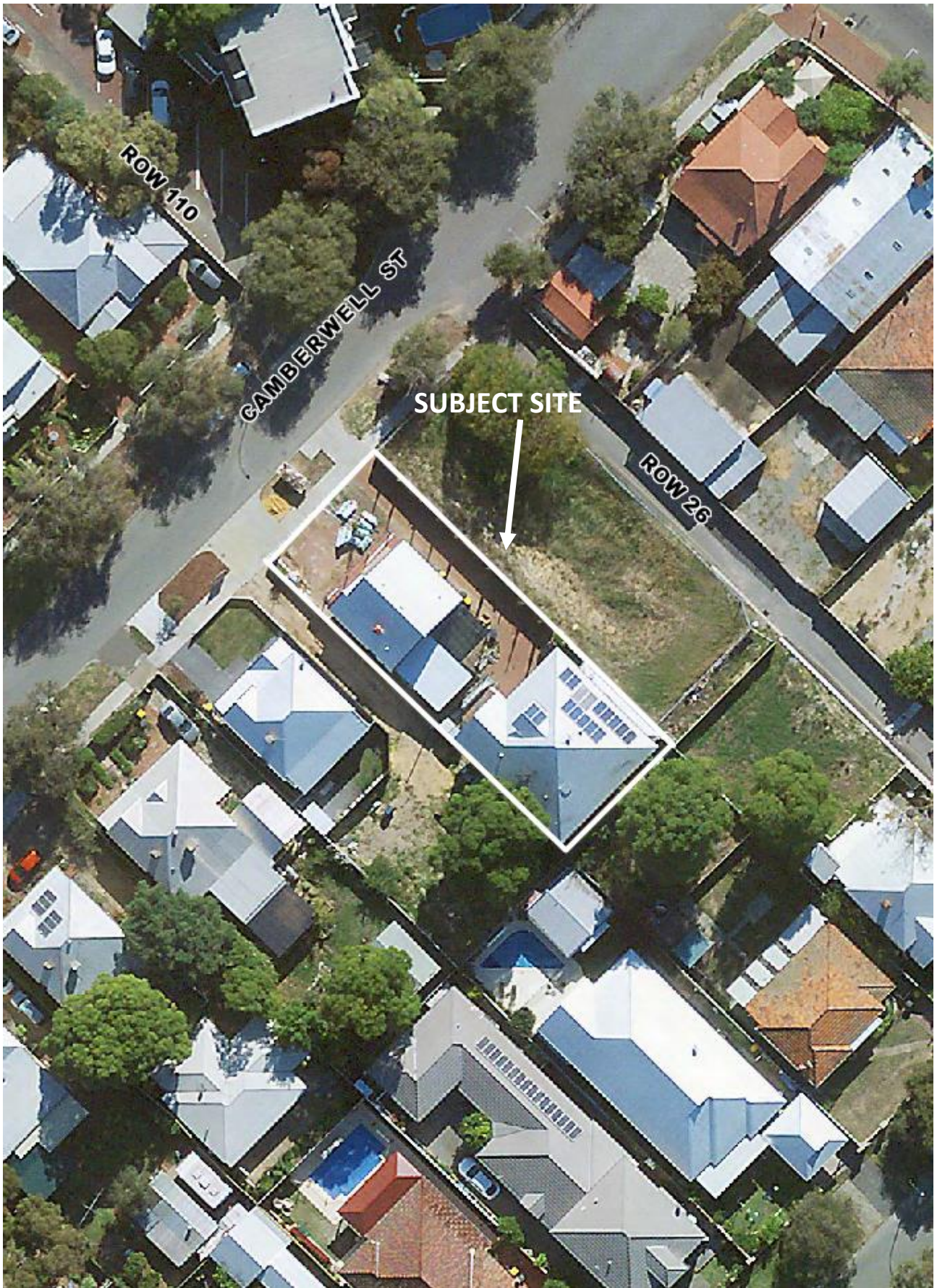
1. In accordance with the provisions of the Town of Victoria Park Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the application submitted by Mr W Buffham (DA Ref: 5.2015.419.1) for Retrospective Development Approval for Additions and Alterations to Existing Dwelling at No. 4 (Lot 69) Camberwell Street, East Victoria Park as indicated on the plans received 19 August 2015 be Approved subject to the following conditions:
  - 1.1 Within 30 days of the date of this approval the owner is to submit amended plans for approval by the Manager Urban Planning incorporating the following amendments:
    - (i) The bullnose verandah to the front of the dwelling being removed and replaced with a skillion verandah; and
    - (ii) The small gable end to the front elevation to incorporate detailing similar to other weatherboard dwellings in the street; and
    - (iii) The large gable end to the front elevation being modified to a traditional hipped roof form consistent with the predominant roof form of other weatherboard dwellings in the street.
  - 1.2 Within 30 days of the date of this approval the owner is to submit an application for a Building Approval Certificate for approval of all unauthorised building works. The issuing of a Building Approval Certificate for all unauthorised works does not negate the need to undertake the rectification works outlined in condition 1.1.
  - 1.3 Within 30 days of the amended plans being approved by the Manager Urban Planning in accordance with condition 1.1, the owner is to submit an application for a building permit for these works, and is not to commence construction of these works until a building permit has been issued by Council.
  - 1.4 Within 90 days of Council issuing a building permit in accordance with condition 1.3, the rectification works referring to in condition 1.1 are to be completed to the satisfaction of the Manager Urban Planning.

**Advice to Applicant**

- 1.5 The applicant/owner should refer to the Requirements of Other Council Business Units, enclosed with this Development Approval, which are relevant to the submission of a building permit and/or the carrying out of the development for which this approval is granted. This Development Approval does not remove the need to obtain licences, permits or other forms of approval that may be required under other legislation or requirements of Council.
- 1.6 A functional chimney is to comply with NCC 2015 Volume 2 Part 3.7.3.3 – Chimney must terminate not less than 300mm above the highest part of the building within a horizontal distance of 3.6 metres of the chimney.

- 1.7 A separate development application is required for any fence forward of the building line. Any fencing forward of the building line is to comply as follows:**

  - (i) where the overall fence height is greater than 1.2 metres, the fencing is to be open style above a height of 600mm above natural ground level; or**
  - (ii) not exceed an overall fence height of 1.2 metres above natural ground level.**
- 1.8 All stormwater runoff to be retained on site. Stormwater drainage to comply with the Town's "Stormwater drainage requirements for residential and commercial developments guidelines", which are available from the Town or the Town's website.**
- 1.9 Any modifications to the approved drawings forming part of this development approval may require the submission of an application for modification to development approval and reassessment of the proposal.**
- 2. Council grant delegation to the Director Future Life and Built Life Programs to commence prosecution action against the owner should there be a failure to comply with the conditions of this approval.**





## 11.5 834 (Lot 7) Albany Highway, East Victoria Park – Change of Use from Restaurant to Tavern

<b>File Reference:</b>	PR9884
<b>Appendices:</b>	No
<b>Landowner:</b>	L. Guazzelli
<b>Applicant:</b>	Barrio Enoteca Pty Ltd
<b>Application Date:</b>	2 October 2015
<b>DA/BA or WAPC Ref:</b>	5.2015.506.1
<b>MRS Zoning:</b>	Urban
<b>TPS Zoning:</b>	District Centre
<b>TPS Precinct:</b>	Precinct P11 'Albany Highway'
<b>Use Class:</b>	'Tavern'
<b>Use Permissibility:</b>	'AA' (Discretionary) use

<b>Date:</b>	19 November 2015
<b>Reporting Officer:</b>	H. Stenning
<b>Responsible Officer:</b>	R. Cruickshank
<b>Voting Requirement:</b>	Approval – Absolute Majority, Refusal – Simple Majority

### Executive Summary:

#### Recommendation – Approval by Absolute Majority, subject to conditions.

- Application seeks approval for the change of use of an existing Restaurant to a 'Tavern'. The applicant proposes to continue operating the premises in its current form, but requires approval as a Tavern in order to allow the sale of packaged liquor to be taken away, and for patrons to consume liquor while standing.
- The Town of Victoria Park Town Planning Scheme No.1 Zoning Table includes a 'Tavern' as an "AA" (Discretionary) Use within the 'District Centre' zone;
- The application was subject to consultation with surrounding property owners and occupiers for 14 days in accordance with Council's Policy GEN3 – Community Consultation. No submissions were received.
- The application proposes a three (3) bay increase to the existing on-site car parking shortfall.
- Council Officers consider that the use of the site as a 'Tavern' for the purposes proposed by the applicant to be consistent with the intent of the 'District Centre' zone, and that the proposal will not generate additional parking. As such the application is recommended for Approval.

### TABLED ITEMS:

- Development application form received 2 October 2015;
- Plans and supporting information received 2 October 2015; and
- Consultation with owners and occupiers of surrounding properties dated 2 November 2015.

**BACKGROUND:**

Council granted planning approval for a Change of Use from 'Restaurant' to Unlisted Use (Small Bar) at the subject premises on 20 September 2011. However, as the applicant could not gain the relevant approvals from the Department of Racing, Gaming and Liquor for a Small Bar Licence, the premises could not operate in line with the Council approval.

As such, a Change of Use from Unlisted Use (Small Bar) to 'Restaurant' was approved by Council on 12 May 2012.

**DETAILS:**

Council has received a development application for a Change of Use at the subject property, situated to the north-eastern side of Albany Highway between Mint Street and Dane Street. The property is located approximately 25 metres from the Albany Highway – Mint Street intersection, with vehicular access provided from the rear via Right-of-Way 52A, which abuts the Hubert Street public car park.

The premises is currently operating as a licensed Restaurant with an Extended Trading (Liquor Without a Meal) Permit, which restricts liquor consumption to table service (i.e. seated patrons only), and alcohol is not permitted to be sold for takeaway purposes.

The application seeks planning approval for a Change of Use to 'Tavern' at the subject property. The applicant has outlined that the premises will continue to operate in its current form, trading predominantly as a Restaurant and providing table service for food and drinks with the following changes proposed:

- Patrons of the venue would be permitted to purchase a limited amount of packaged, 'specialised' alcohol, including craft beers and organic, biodynamic and minimal intervention wines for takeaway purposes; and
- Patrons of the venue would be given the opportunity to stand whilst consuming liquor on the premises.

A Change of Use to 'Tavern' is required in order to obtain the relevant Tavern Licence from the Department of Racing, Gaming and Liquor, which will permit alcohol to be served to patrons who are not seated, and also for limited packaged liquor to be sold for takeaway purposes.

The applicant has provided the following supporting information with the application, dated received 02 October 2015, pertaining to the proposed use of the premises as a 'Tavern':

*"The Precinct aims to make available a selection of wines and craft beers that are not often available for purchase at standard liquor stores as the producers often only sell their products via their Cellar Doors. The aim is not to become a liquor store or compete with any existing liquor stores nearby, but rather provide patrons with another option where they are able to purchase these hard to source wines and craft beers.*

*The Precinct Restaurant does not intent to operate as a 'pub' or 'beer barn' and therefore will enforce relevant measures to ensure that the style, vibe and reputation of The Precinct is retained at all times.*

*As the licensee, Barrio Enoteca Pty Ltd propose the following conditions in order to ensure all guidelines are met in regards to harm minimisation and the responsible consumption of liquor in respect of The Precinct's Alcohol Management and Harm Minimisation Plan:*

- *Limit of 4 bottles of wine per transaction per person;*
- *Limit of 2 six-packs per transaction per person for bottled/can craft beers;*
- *Liquor sold for takeaway purposes must be concealed and sealed at all times. Street drinking will not be encouraged or tolerated; and*
- *Patrons must provide ID at all times upon request from staff when making a purchase for takeaway purposes."*

There are no internal or external façade changes proposed as part of this application, nor will there be changes to the operating hours of the premises, being 9:00am – 12:00am Monday – Friday; 8:00am – 12:00am Saturday; and 8:00am – 12:00am Sunday.

The subject site is zoned 'District Centre' under the Town of Victoria Park Town Planning Scheme No. 1, and is located within the Albany Highway Precinct's East Victoria Park Shopping Area. A 'Tavern' is an "AA" (Discretionary) Use within the 'District Centre' zone, and as such, the appropriateness of the use will be determined at Council's discretion.

#### **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 36 (as amended by Schedule 2, Clause 67 of the *Local Planning Scheme Regulations 2015*) of the Scheme Text;
- Clause 38 of the Scheme Text; and
- Statement of Intent contained in Precinct Plan P11 'Albany Highway Precinct'.

##### Compliance with Development Requirements

- TPS 1 Scheme Text, Policy Manual and Precinct Plan; and
- Policy 5.1 'Parking and Access Policy'.

The Statement of Intent for the Precinct states the following in part:

*"The Albany Highway Precinct will be revitalised and consolidated as a major urban/shopping commercial axis incorporating the "strip" imagery of its past development along the length of Albany Highway.*

*The precinct has three retail nodes connected by general commercial areas. A wide range of uses serving both the local and regional populations shall be permitted, with emphasis on the consolidation and integration of existing uses.*

*The shopping areas are to be maintained as district centres offering a wide range of retail as well as community attractions including leisure and recreation uses, public/civic uses, community and social services."*

The stated objective for the East Victoria Park Shopping Area within the 'District Centre' zone, as described in Precinct Plan P11 'Albany Highway' Precinct states in part:

*“This area shall be consolidated as a centre containing retail, civic, community and recreational facilities. New development shall enhance the integration of these activities in the one general area, as well as providing various facilities to improve the public domain.*

*Residential uses are also permitted, but should not front Albany Highway at street level. Uses shall complement each other so as to attract people into the location for a number of activities.*

*The Council may relax on-site parking requirements for new retail development where warranted by site constraints and/or proximity to a public car park. In such instances the Council may seek a financial contribution where it is considered to be appropriate.”*

**Submissions:**Community Consultation:

As the proposed ‘Tavern’ is an “AA” (Discretionary) Use within the ‘District Centre’ zone, Council’s Policy GEN3 – Community Consultation requires the application to be the subject of consultation for a 14-day period to owners and occupiers of adjoining and surrounding properties. This required a sign to be placed on the site for the entire duration of the consultation period, as well as notices to be mailed to surrounding property owners and occupiers inviting their comment.

No submissions were received during the consultation period.

**Policy Implications:**

Nil

**Sustainability Assessment:**External Economic Implications:

Nil

Cultural Issues:

Nil

Environmental Issues:

Nil

**COMMENT:**Car Parking

Council records indicate an existing 19 bay on-site parking shortfall for the existing ‘Restaurant’ use. Under the provisions of Council Policy 5.1 ‘Parking and Access’, there is no parking ratio prescribed for a ‘Tavern’. However, the Policy makes provision for ‘Licensed drinking areas – Bar areas’ at a ratio of 1 bay required for every 2m<sup>2</sup> of net drinking area.

As the premises will continue to operate in its current form, trading predominantly as a Restaurant and providing table service for food and drinks, Council Officer’s consider the ‘Licensed drinking areas – Bar areas’ ratio of 1 bay per 2m<sup>2</sup> net drinking area appropriate to be applied to the 6.79m<sup>2</sup> portion of bar service area proposed to be utilised as a stand-up drinking area, as denoted on the submitted plans. On this basis, the inclusion of this additional drinking area generates a need for three (3) additional car bays.

Due to the low-impact changes that are proposed, Council Officer's consider the three (3) bay parking shortfall increase to be acceptable in this instance. It is not anticipated that the proposed Change of Use will present any potential for adverse impact to occur, nor increase the parking demand at the subject site, as the venue will continue to operate in its current form, with no changes proposed to the internal floor area or venue capacity. The proposed additional activities that will occur are providing an additional service to existing patrons, and are not expected to generate additional patrons or car parking.

While it is not expected that there will be any increase in car parking demand, any potential impacts are lessened by the availability of public transport along Albany Highway, and the location of the public car park at 55-63 Hubert Street, directly behind the subject building, which can be accessed from the same right-of-way as the subject site.

#### Clauses 36 & 38 of Town Planning Scheme No. 1

Having regard to the acceptability of the proposed discretionary use, regard must be given to the general matters listed under Clause 36 of the Scheme, as amended by Clause 67 of the *Local Planning Scheme Regulations 2015*, as well as those matters listed under Clause 38 of the Scheme for non-complying applications, given the car parking shortfall as previously discussed. These include general matters concerning the orderly and proper planning of the locality, the conservation of amenities of the locality and whether the proposed development would have an adverse impact on the development's occupiers/users, the inhabitants of the locality or the future development of the locality. More specifically, these matters include the development's consistency with the Statement of Intent contained in Precinct Plan P11 for the Albany Highway Precinct, and the intent of Council Policy 5.1 'Parking and Access'.

As discussed previously, the proposed development is not considered to present any significant potential for adverse impact to occur as a result of car parking demand generated by the change of use. Despite the increase in car parking requirement as a result of the proposed changes, which relate to the sale of packaged alcohol from the premises and the capability of patrons to consume alcohol whilst standing, no changes to operating hours, trading practices, patron numbers or trading floor area is proposed.

Further, as the applicant is proposing to sell 'speciality' alcohol, and restrictions will be imposed including limiting the number of transactions per person, the premises will not function as a Liquor Store, and as such the sale of alcohol is considered to be ancillary to the general operation of the premises. Any potential impact to parking and access generated as a result of the development are considered to be minimal, and will be further lessened by the location of the public car park directly behind the subject building and the provision of public transport along Albany Highway.

The proposed 'Tavern' is consistent with the intent for the 'District Centre' zone contained in Precinct Plan P11, which seeks to redevelop this portion of Albany Highway by offering a wide range of retail and activity-generating uses at street level, including shops, restaurants, cafes and other active uses.

In view of the above, the proposed change of use to Tavern is considered to be consistent with the requirements and matters that the Council is required to have regard to in determination of the application by Clauses 36 (as amended by Clause 67 of the *Local Planning Scheme Regulations 2015*) and 38 of the Scheme.

### Use as a Tavern

The subject premises received approval from Council to operate as a 'Small Bar' in September 2011, however, the use could not be realised due to issues in gaining the appropriate approvals from the Department of Racing, Gaming and Liquor. The proposed operation of a 'Tavern' from the subject premises is the same as the previously approved application to operate a Small Bar, with the only change being the proposal to sell alcohol from the premises.

As previously discussed, the limitations that are being imposed on the sale of alcohol will ensure that the premises does not function as a Liquor Store, and the applicant has outlined that relevant measures will be enforced, in line with the venue's Alcohol Management and Harm Minimisation Plan, to ensure that the style and reputation of the venue is maintained at all times. Council Officer's consider the sale of specialty alcohol to be acceptable in this instance, as it will be ancillary to the primary use of the premises.

Considering the acceptability of allowing patrons to stand whilst consuming alcohol, the applicant has outlined that customers will still be encouraged to make use of the available tables, chairs and stools provided. A small bar area of approximately 6.79 metres in length will be accessible for bar service, and Council Officer's consider this area to be minor, and complementary to the primary function of the premises. The opportunity for patrons to stand whilst consuming alcohol is in accordance the approval that was granted for the Change of Use to Unlisted Use (Small Bar), and is not considered to result in an adverse impact on amenity or the functional capabilities of the venue.

### Signage and Façade Alterations

This application does not deal with the provision of any signage, or any alterations to the façade of the existing building.

### **CONCLUSION:**

The proposal is generally consistent with the requirements of the Town of Victoria Park Town Planning Scheme No. 1 and relevant policies, with the exception of the amount of on-site car parking bays provided. While there is a technical shortfall of three (3) additional bays, given the nature of the proposed new activities it is expected that there will actually be no increase in parking demand.

It is considered that the application for Change of Use to Tavern at the subject site is consistent with the intent of the Town Planning Scheme No. 1, and is therefore recommended for Approval, subject to conditions.

### **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 Bario Enoteca Pty Ltd (DA5.2015.506.1) on behalf of L. Guazzelli, F. Guazzelli, F. Valdrighi & The Executor of the Estate of M. Guazzelli for Change of Use to Tavern at 834 (Lot 7) Albany Highway, East Victoria Park, as indicated on the plans and written information dated received 2 October 2015 be Approved by Absolute Majority subject to the following conditions:**

- 1.1 Operation of the Tavern to be in accordance with the details provided in the application dated received 02 October 2015. Any changes to the operations will require lodgement of a new application for planning approval for consideration by Council.
- 1.2 This approval is valid for a period of twenty four months only. If development is not substantially commenced within this period, a fresh approval must be obtained before commencing or continuing the development.

#### **Advice to Applicant**

- 1.3 The applicant/owner should refer to the Requirements of Other Council Business Units, enclosed with this Planning 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 Planning Approval does not remove the need to obtain licences, permits or other forms of approval that may be required under other legislation or requirements of Council.
- 1.4 This approval does not include the approval of any alterations to the front façade of the building. Any alterations to the front façade will require further Planning Approval to be obtained from the Council.
- 1.5 This approval does not include the approval of any signage. Any signage for the development to be the subject of a separate sign licence application, in accordance with Council's Signs Local Law. Please also note that should any signage not comply with the Signs Local Law further Planning Approval will need to be obtained prior to a sign licence application being submitted to the Council.
- 1.6 Any modifications to the approved drawings forming part of this planning approval may require the submission of an application for modification to planning approval and reassessment of the proposal.
- 1.7 Should the applicant be aggrieved by this decision a right of appeal may exist under the provisions of the Town Planning Scheme or the Metropolitan Region Scheme and the applicant may apply for a review of the determination of Council by the State Administrative Tribunal within 28 days of the date of this decision.

**(Absolute Majority Required)**

2. Those persons who lodged a submission regarding the application be advised of Council's decision.





## 11.6 No. 20A (Lot 4) Bishopsgate Street, Lathlain – Retrospective Approval for Home Occupation (Graphic Design)

<b>File Reference:</b>	PR16721
<b>Appendices:</b>	No
<b>Landowner:</b>	Ms C. A. Brabazon
<b>Applicant:</b>	Ms B. Wayne
<b>Application Date:</b>	26 October 2015
<b>DA/BA or WAPC Ref:</b>	5.2015.542.1
<b>MRS Zoning:</b>	Urban
<b>TPS Zoning:</b>	Residential R20
<b>TPS Precinct:</b>	Precinct P7 'Lathlain'
<b>Use Class:</b>	Home Occupation (Graphic Design)
<b>Use Permissibility:</b>	'AA' (Discretionary)

<b>Date:</b>	19 November 2015
<b>Reporting Officer:</b>	D. Rowley
<b>Responsible Officer:</b>	R. Cruickshank
<b>Voting Requirement:</b>	Approval - Absolute Majority; Refusal – Simple Majority

### Executive Summary:

#### Recommendation – Approval by Absolute Majority subject to conditions.

- Application for Retrospective Planning Approval for Home Occupation (Graphic Design).
- The Home Occupation (Graphic Design) Business is non-compliant with TPS 1 Policy Clause 3.4 'Home Occupation' in relation to their being two (2) employees, in addition to the occupier of the property.
- Application was advertised for 14 days in accordance with Council's Policy GEN3 'Community Consultation'. One (1) submission was received at the time of writing this report.
- The application is recommended for Approval by Absolute Majority subject to conditions.

### TABLED ITEMS:

- Application form dated 26 October 2015;
- Plans and documentation dated 26 October 2015;
- Community Consultation letter dated 12 November 2015: and
- Public submission received 25 November 2015.

### BACKGROUND:

The subject site consists of two (2) residential dwellings in a front-rear arrangement, located towards the northern part of Bishopsgate Street, near Rutland Avenue. No. 20A Bishopsgate Street is situated on the front lot with approval being granted by Council for a brick and tile dwelling in 2002.

**DETAILS:**

An application has been received by Council for a retrospective Home Occupation at 20A Bishopsgate Street for a graphic design business.

The submission of the application was a result of Council's Compliance Officer receiving a complaint from a neighbouring property owner concerning vehicles related to the Home Occupation regularly parking on Council's verge and in the on-street car bay in front of the subject site. The complaint also expressed concerns regarding loud voices from the persons conducting the Home Occupation.

The applicant, who is the property occupier, states that she has lived in the Lathlain area for over thirty (30) years and claims that she was unaware of the need for Council approval for a Home Occupation business.

The subject business activity, comprising of graphic design has been operational on the premises since December 2013. The business is conducted via email and by telephone only, operating between the hours of 9am to 5pm Monday to Friday. There are no customer visits to the premises.

The applicant employs two (2) staff members in relation to the Home Occupation, of which one member is employed full time and the second employee works predominantly three (3) days until 3pm but the working days/hours may increase as required.

The applicant confirmed with Council's Planning Officer on 10 November 2015 by telephone that there was no opportunity to reduce the number of persons employed with the home occupation or alter the working hours of the employees to one employee occupying the premises at any one time, as the two (2) employees are required for the nature of the business and that she is providing employment to persons who would otherwise be unemployed.

The operational area located within the residential dwelling is limited to one area of less than 8m<sup>2</sup>. There is no processing or machinery other than two (2) computers and a fax machine associated with the 'Home Occupation (Graphic Design) business and no requirement for delivery vehicles to and from the premises.

The applicant has submitted a list of contact persons within the local community, including the subject property owner and the Monsignor from the local Catholic Church in support of the 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 36 of the Scheme Text (as amended by Clause 67 of the Local Planning Schemes Regulations 2015);
- Clause 38 of the Scheme Text – Determination of Non-complying Applications; and
- Statement of Intent contained in Precinct Plan P7 'Lathlain Precinct'.

Compliance with Development Requirements

- TPS 1 Scheme Text, Policy Manual and Precinct Plan;

TPS 1 Policy 3.4 'Home Occupation' outlines Council's aim, objective and policy guidelines for the use of residential premises for a Home Occupation.

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

Item	Relevant Provision	Requirement	Proposed	Compliance
Land Use Permissibility	Precinct Plan P7 'Lathlain Precinct'	Home Occupation Use - AA Discretionary Use	Home Occupation is of small scale and unobtrusive.	Complies
Home Occupation	Sub-Clause 3.4.3 (a)	The use should not impose a load on any public utility greater than ordinarily required by a residential dwelling.	Four (4) car bays provided - Two additional car parking bays can be provided on the subject site, in addition to two residential bays located within the existing garage.	Complies
	Sub-Clause 3.4.3 (b) (i)	No more than one person other than an occupier of the dwelling to be employed	Two (2) persons employed other than the occupier of the dwelling	Non-compliant
	Sub-Clause 3.4.3 (b) (ii)	Any vehicle which is used in connection with the home occupation to not: <ul style="list-style-type: none"> <li>a) Exceed 6m long, 2m wide and 2.3m high and</li> <li>b) Be seen from any street when parked.</li> </ul>	No commercial vehicles required.	Complies

Home Occupation	Sub-Clause 3.4.3 (b) (iii)	No advertisements, advertising hoarding, illuminated sign or other advertising device or erection, to be placed on the land with respect or in connection with the home occupation	No advertising on subject site	Complies
	Sub-Clause 3.4.3 (b) (iv)	Area not to exceed 20m <sup>2</sup>	Approximately 8m <sup>2</sup> area	Complies
	Sub-Clause 3.4.3 (c)	The proposed use will not cause injury to or adversely affect the amenity of the neighbourhood.	No adverse effect to neighbourhood	Complies

**Submissions:**Community Consultation:

In accordance with Council's Policy GEN3 'Community Consultation' the proposal was the subject of community consultation for a period of 14 days, with letters being sent to owners and occupiers of affected properties. Advertising concludes on 27 November 2015. At the time of writing this report, one submission was been received. Should any further submissions be received, they will be included in the Officers report to the Ordinary Council Meeting.

**Sustainability Assessment:**External Economic Implications:

Nil

Social Issues:

Nil

Cultural Issues:

Nil

Environmental Issues:

Nil

**COMMENT:**

The application seeks retrospective planning approval for a Home Occupation (Graphic Design) business, which has been operational since 2013. The application proposes one (1) variation to the provision of the TPS 1 Policy 3.4 'Home Occupation' namely:

- Two (2) persons other than the occupier of the dwelling being employed in relation to the Home Occupation.

#### Town Planning Scheme No. 1 - Clause 38

As the proposed development is non-compliant with the requirement of TPS 1, the Council is required to consider the matters listed in Part (4) of the Scheme if approval were to be granted.

In this regard the Council cannot grant planning approval for a non-complying application unless the Council is satisfied by an Absolute Majority that, if approval were to be granted, the development would be consistent with the following:

- The orderly and proper planning of the locality. The conservation of the amenities of the locality.

A 'Home Occupation (Graphic Design)' business has been operating on the subject premises for almost two (2) years. The use is low impact and discrete and will not affect the residential amenity of the area. There is opportunity to park up to four (4) cars on the subject site. A condition is proposed to require the car parking related to the Home Occupation to be contained within the subject site, so as to ensure that any potential traffic and car parking will not affect the nearby residential area.

It is considered that in this instance a variation to allow the business to operate with two (2) employees in addition to the property occupier does not have an adverse impact upon the street character or adjoining properties, as the use is considered small scale and not obtrusive to adjoining properties.

- The statement of intent set out in the relevant Precinct Plan.

The Statement of Intent of the Precinct Plan P7 – Lathlain Precinct' in part states, "*The Lathlain Precinct will remain and further develop as a predominantly low to medium density residential area*". In this regard the 'Home Occupation (Graphic Design) business' being a "AA' (Discretionary) use in a 'Residential R20' zoned area is considered to have an insignificant impact on the low density residential area and is compliant in regards to the scale and the provision of car parking requirements.

The non-compliance issues would not have any undue adverse effect on:

- The occupiers or surrounding properties in the inhabitants of the locality.

It is considered that the non-compliance of having an additional employee will not have an adverse impact on the occupiers or adjoining properties, subject to parking being contained on-site.

#### **CONCLUSION:**

Having regard to the Statement of Intent contained within Precinct Plan P7 for the Lathlain Precinct and the small scale nature of the subject Home Occupation use, the use is considered to be appropriate and consistent with the zone within which it is located.

The 'Home Occupation (Graphic Design)' business provides a service to the local community and the employment of an additional employee within a low scale business will have no impact on the amenity of the surrounding vicinity. Any noise and additional car

parking in relation to the business would not be out of the context of a conventional residential dwelling and can be managed. On this basis, the application is recommended for Approval by Absolute Majority, subject to conditions.

#### **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 Ms Bernadette Wayne (DA5.2015.542.1) for Retrospective Home Occupation (Graphic Design) at 20A (Lot 4) Bishopsgate Street, Lathlain, as indicated on the plans and written information dated received 26 October 2015 be Approved by an Absolute Majority subject to the following conditions:**

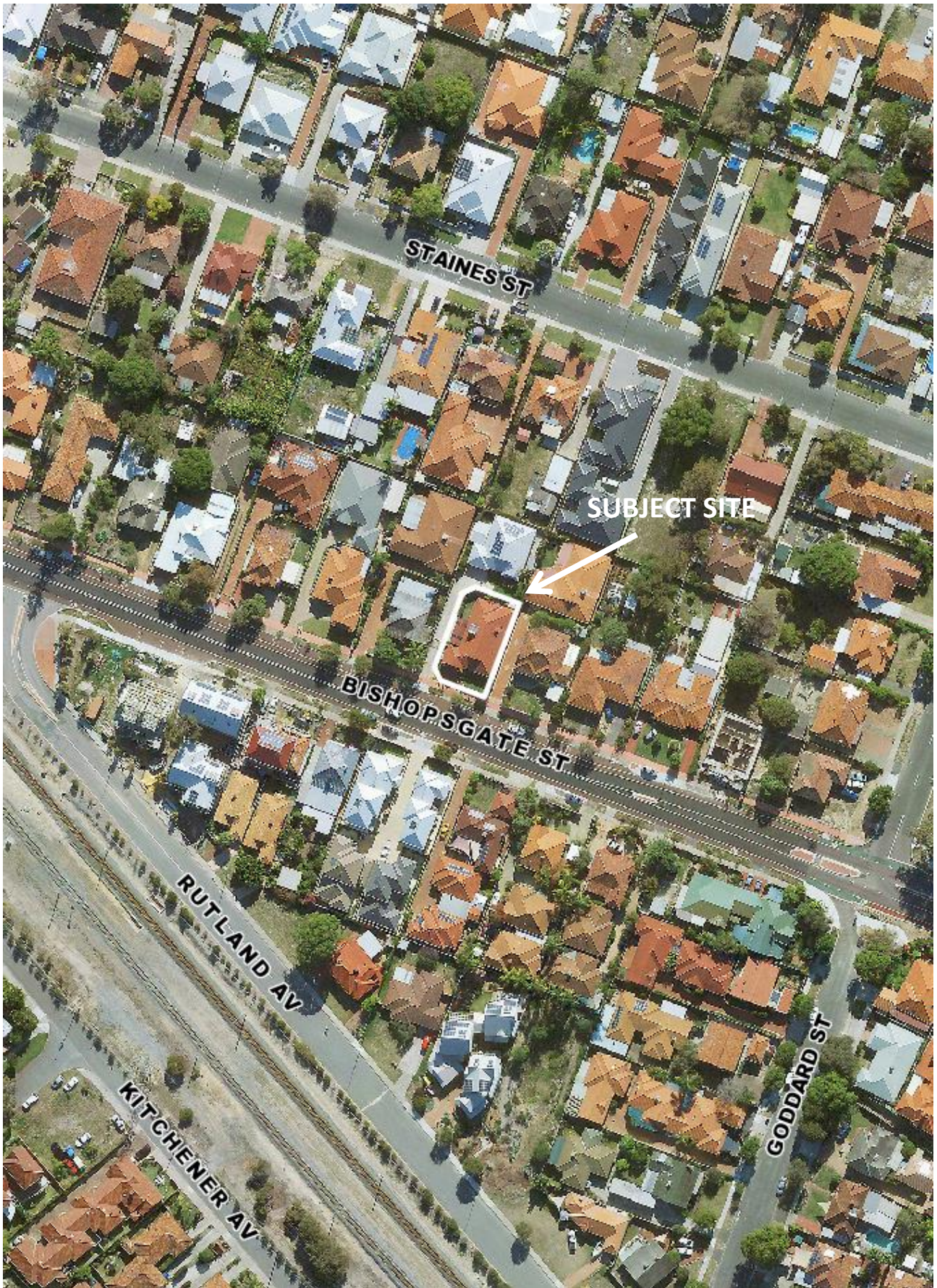
- 1.1 Operation of the Home Occupation (Graphic Design) business is to be in accordance with the details provided in the application dated received 26 October 2015. Any changes to the operations will require lodgement of a new application for planning approval for consideration by Council.**
- 1.2 Car parking in relation to the Home Occupation (Graphic Design) business is to be in accordance with the details provided on the plans received 26 October 2015 with all employee parking to be wholly contained within the site during operational times.**
- 1.3 Renewal of Planning Approval after the expiry of 12 months from the date of Planning Approval is required.**
- 1.4 Customers/Clients/Visitors to the site in relation to the Home Occupation activity are not permitted.**
- 1.5 No signage is to be erected or installed on the site in connection with the home Occupation.**

#### **Advice to Applicant**

- 1.6 The applicant/owner should refer to the Requirements of Other Council Business Units, enclosed with this Planning 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 Planning Approval does not remove the need to obtain licences, permits or other forms of approval that may be required under other legislation or requirements of Council.**
- 1.7 The development approval is granted on the merits of the application under the provisions of the Town of Victoria Park Town Planning Scheme No. 1 and does not constitute approval for the purposes of the Strata Titles Act 1985 or its subsidiary regulations nor affect any requirement under the by-laws of the body corporate in relation to a proposed development pursuant to such legislation.**

- 1.8 Any modifications to the approved drawings forming part of this planning approval may require the submission of an application for modification to planning approval and reassessment of the proposal.**
  - 1.9 Should the applicant be aggrieved by this decision a right of appeal may exist under the provisions of the Town Planning Scheme or the Metropolitan Region Scheme and the applicant may apply for a review of the determination of Council by the State Administrative Tribunal within 28 days of the date of this decision.**
- 2. Those persons who lodged a submission regarding the application be advised of Council's decision.**

**(Absolute Majority Required)**





**11.7 1/12-16 (Lot 1) Milford Street, East Victoria Park – Application for Retrospective Approval for Change of Use from factory Unit/Warehouse to Unlisted Use (Club Premises) – Section 31 Reconsideration – *Confidential Item***

This Report is issued under a separate cover.

## 12 RENEW LIFE PROGRAM REPORTS

### 12.1 Greywater Re-use Rebate Program

<b>File Reference:</b>	GOR/15/0011~02
<b>Appendices:</b>	No
<b>Date:</b>	23 October 2015
<b>Reporting Officer:</b>	G. Wilson
<b>Responsible Officer:</b>	W. Bow
<b>Voting Requirement:</b>	Simple Majority
<b>Executive Summary:</b>	
<b>Recommendation –</b>	
<ol style="list-style-type: none"> <li>1. <b>Request the Chief Executive Officer develop a Greywater Re-use Rebate Program for the Town.</b></li> <li>2. <b>List for consideration the amount of \$2,360 in the draft Budget for the financial year 2015/16 to fund the program, with such funds to be drawn from the Environmental Programs budget (17564.1152).</b> <ul style="list-style-type: none"> <li>• Factors such as decreasing rainfall and water supply combined with an increasing population and water demand means that efforts to conserve water are needed more now than ever before. Greywater re-use is an action that can aid in improving water efficiency and water conservation.</li> <li>• The Town's endorsed Environmental Plan 2013 - 2018 encourages the installation of greywater re-use systems.</li> <li>• Officer recommendation to develop Greywater Re-use Rebate Program (based on the City of Fremantle model).</li> </ul> </li> </ol>	

#### **TABLED ITEMS:**

Nil

#### **BACKGROUND:**

The South-West of Western Australia has experienced a decrease in annual rainfall of 15% since the mid-1970s, which has resulted in a greater reduction in stream flow into dams. Conversely, population has increased rapidly in recent years with higher population growth predicted for the future.

Factors such as decreasing rainfall and water supply combined with an increasing population and water demand means that efforts to conserve water are needed more now than ever before. Greywater re-use is an action that can aid in improving water efficiency and water conservation.

#### **What is Greywater?**

Greywater is the wastewater from the laundry, kitchen and bathroom (shower, bath and bathroom basins) arising from daily activities such as washing clothes, washing dishes, showering, brushing teeth, washing hands and other activities that result in water going down the 'drain'. It does not contain blackwater (wastewater from toilets) or nitrogen and phosphorus rich yellowwater (water collected from urinals or urine diversion toilets).

If treated and disinfected, such as through a Department of Health-approved Greywater Treatment System, greywater may be used for surface irrigation, toilet flushing and cold water laundry washing machine use. Greywater is most commonly used for sub-surface irrigation of lawns and gardens, delivering water at least 10cm below the surface of the soil or mulch, minimising the risk of direct contact with pathogens or contaminants in the greywater itself.

There are many benefits to the installation of greywater re-use systems, including:

- Reducing the pressure on existing freshwater sources;
- Reducing the amount of sewage discharged to the ocean or rivers;
- Reducing the impacts associated with development of new water sources such as desalination plants, and associated running impacts; and
- Increasing groundwater recharge.

### Approvals

Greywater re-use systems must be approved prior to installation. The Department of Health must approve the type of system allowed, and provides a list of approved systems on its website. Local Government can approve the siting and installation of said systems for:

- single dwellings; or
- any other building that produces not more than 540 litres of sewage per day.

The Department of Health must approve the siting and installation of a system servicing any other building type. Therefore the rebate will only apply to the above buildings.

### Rebate Programs

The Town's endorsed Environmental Plan 2013 - 2018 encourages the installation of greywater re-use systems, namely:

*9.2.4.4 Consider promoting the re-use of grey water within the Town (e.g. through application rebates).*

Currently there are very few residents making application for greywater re-use systems within the Town, nor is there active promotion of such systems.

The City of Fremantle has a well-established greywater re-use system rebate scheme to encourage installation of greywater treatment systems. This scheme is based on the following:

1. An application is made for the installation of a greywater re-use system.
2. The Environmental Health Officer advises the applicant of the applicable fees, prescribed under the *Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974*:
 

a.	Application fee	\$118
b.	Permit to use an apparatus fee	\$118
	Total (paid upfront)	\$236

The Environmental Health Officer advises the applicant that a rebate is available following approval to operate the system. This encourages the applicant to follow the process through to completion – like operating a ‘bond system’.

3. The application is processed by the Environmental Health Officer and an ‘*Approval to Construct or Install an Apparatus for the Treatment of Sewage*’ is issued granting installation of the system.
4. Once installed, the Environmental Health Officer conducts an inspection. If installation is compliant the Environmental Health Officer will issue a ‘*Permit to Use Apparatus*’ allowing the system to be operated. The Environmental Health Officer advises the applicant that a rebate for \$236 can now be granted. .
5. The Environmental Health Officer completes a ‘*Cheque/EFT Payment Request*’ form and submits it to Finance to authorise the payment of the rebate into the applicant’s nominated account.

Participation in the scheme can be measured by the number of rebates that are paid.

These systems are limited to one rebate per property that meets the installation criteria. Thus, this has not been a significant impost on the City of Fremantle, with approximately five applications received/year.

#### **DETAILS:**

A modified version of the City of Fremantle’s Greywater Re-use Rebate Program could be adopted by the Town of Victoria Park.

Based upon a rebate of the application fee of \$236 provided by the Town of Victoria Park, together with the anticipated low frequency of applications being received, a budget of \$2,360 to subsidise the program is proposed. This would allow for approximately 10 applications per annum being subsidised.

The proposed Greywater Re-use Rebate Program was raised at the at the May 2015 meeting of the Community Environmental Working Group, which supported the development of the program.

#### **Legal Compliance:**

- *Health Act 1911;*
- *Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974; and*
- *Code of Practice for the Reuse of Greywater in Western Australia 2010.*

#### **Policy Implications:**

Nil

#### **Strategic Plan Implications:**

The Town’s *Strategic Community Plan* sets the strategic direction for the Town. The proposal aligns with the following objective:

- *Provide leadership on environmental, transport and infrastructure solutions.*

**Financial Implications:**Internal Budget:

Based upon a rebate of the application fee of \$236 provided by the Town of Victoria Park, together with the anticipated low frequency of applications being received, a budget of \$2,360 to subsidise the program is proposed.

Funds from the Environmental Programs budget (17564.1152) could be used to fund the project.

**Sustainability Assessment:**External Economic Implications:

Nil

Social Issues:

Social benefits to the re-use of greywater include:

- Reducing demand on potable water;
- Providing an example of sustainability-in-action to the community; and
- Providing a means for the Town to engage with the community and encourage water savings.

The development of a Greywater Re-use Rebate Program will demonstrate to the community the Town's commitment to providing leadership on environmental issues.

Cultural Issues:

Nil

Environmental Issues:

Environmental benefits to the re-use of greywater include:

- Reducing the pressure on existing freshwater sources;
- Reducing the amount of sewage discharged to the ocean or rivers;
- Reducing the impacts associated with development of new water sources such as desalination plants, and associated running impacts; and
- Increasing groundwater recharge.

There are a number of risks associated with greywater re-use systems that need to be taken into account. Many consider greywater to be relatively clean as it does not contain any blackwater. However there are environmental and health risks associated with re-use of greywater due to possible high levels of substances such as disease causing organisms including bacteria, suspended matter, organic matter, oils, fats, lint, food, hair, body cells, traces of faeces, urine, blood and a range of chemicals including nutrients and salts coming from soaps, shampoos, toothpaste, mouthwash, dyes, bleaches and disinfectants (Department of Health, 2010).

With use of greywater friendly products, regular and thorough monitoring and compliance with the *Code of Practice for the Reuse of Greywater in Western Australia* (Department of Health, 2010), these risks can be minimised.

**COMMENT:**

Promotion of greywater re-use and the installation of approved systems within the Town, through provision of a rebate system, can significantly reduce potable water use within households and businesses.

To complement this, community engagement, including an awareness and education program, may be required to ensure acceptance, and proper use of greywater systems.

**RECOMMENDATION/S:****That Council:**

1. Request the Chief Executive Officer develop a Greywater Re-use Rebate Program for the Town.
2. List for consideration the amount of \$2,360 in the draft Budget for the financial year 2015/16 to fund the program, with such funds to be drawn from the Environmental Programs budget (17564.1152).

## 12.2 Proposed Sub-Lease of Portion of Premises at 18 Kent Street, East Victoria Park, to Area 5 Football Pty Ltd.

<b>File Reference:</b>	PR3351
<b>Appendices:</b>	No.

<b>Date:</b>	19 November 2015
<b>Reporting Officer:</b>	T. McCarthy
<b>Responsible Officer:</b>	W. Bow
<b>Voting Requirement:</b>	Simple Majority

**Executive Summary:**

**Recommendation – Portion of premises at 18 Kent Street, East Victoria Park, currently leased to Victoria Park Carlisle Bowling Club Inc. be sub-leased to Area 5 Football Pty Ltd for a term of five years with an option for a further five year term at the Head Lessor's option.**

- The Victoria Park Carlisle Bowling Club Inc. wishes to sub-lease portion (the north east green) of the property to Area 5 Football Pty Ltd.
- A draft sub-lease has been prepared by Area 5 Football Pty Ltd and is tabled.

**TABLED ITEMS:**

- Draft sub-lease document for the sub-lease of Premises at 18 Kent Street, East Victoria Park, to Area 5 Football Pty Ltd. (**Area 5**).
- Valuation dated 18 September 2014 of Victoria Park Carlisle Bowling Club lease area premises at 18 Kent Street, East Victoria Park.
- Extract from the Minutes of the Ordinary Meeting of Council held 14 July 2015.
- Extract from the Minutes of the Ordinary Meeting of Council held 13 October 2015.

**BACKGROUND:**

At its Ordinary Meeting held 14 July 2015, Council resolved:

*That Council:*

1. *Agrees in principle to establishing Area 5 Football within the Town of Victoria Park.*
  
2. *Requests the Chief Executive Officer to present a report on the financial and opportunity costs of co-locating Area 5 football at the Victoria Park Carlisle Bowling Club at 18 Kent Street, East Victoria Park and any future relocation cost and potential future development of the site or other site(s) within the Town that may necessitate the re-location of Area 5 Football assets to the August 2015 Elected Members Workshop.*

At its Ordinary Meeting held 13 October 2015, Council resolved:

*That:*

1. *The Clubhouse Premises and Bowling Greens at 18 Kent Street, East Victoria Park, currently occupied by Victoria Park Carlisle Bowling Club Inc. be leased to Victoria Park Carlisle Bowling Club Inc. for a term of five (5) years commencing 1 November 2015 and concluding 31 October 2020, with a further five (5) year option in favour of the Lessor. The rent is to be \$1,500.00 (excluding GST) per quarter payable in advance. The rent is to be increased on 1 July each year by an amount of 3%.*
2. *The lease document is to contain a redevelopment clause which would allow the Town to cancel the lease and issue six (6) months' notice to the Lessee to vacate the premises should it be necessary for the Town to have possession of the premises.*
3. *The Mayor and the Chief Executive Officer be authorised to execute the lease document for the lease of the Clubhouse Premises and Bowling Greens at 18 Kent Street, East Victoria Park, to the Victoria Park Carlisle Bowling Club Inc.*
4. *Any income derived from the lease of the Clubhouse Premises and Bowling Greens at 18 Kent Street, East Victoria Park, to the Victoria Park Carlisle Bowling Club Inc be placed in the Future Projects Reserve.*
5. *The Town of Victoria Park and the Victoria Park Bowling Club Inc. by mutual agreement determine the current lease of the Clubhouse Premises and Bowling Greens at 18 Kent Street, East Victoria Park, prior to execution of the proposed new five (5) year lease.*

In accordance with Council's resolution, a new five year lease of the Clubhouse Premises and Bowling Greens has been executed. As reported to Council at its Ordinary Meeting of 13 October 2015, the new lease resulted from a request from the Victoria Park Carlisle Bowling Club Inc. (**the Club**) for a longer lease term than it previously had in order that the Club could sub-lease one of the bowling greens to Area 5. Because of the amount of capital required to establish a five a side soccer pitch on one of the greens, Area 5 was not prepared to enter into a sub-lease for any term less than five years.

#### **DETAILS:**

The Club occupies an area of approximately 11,500m<sup>2</sup> at Kent Street, East Victoria Park. The Club lease area is over several lots all owned in fee simple by the Town and all are zoned "Parks and Recreation" under the Town of Victoria Park Town Planning Scheme No. 1, excepting a 5.0m wide strip along the Kent Street boundary of each lot, which is zoned "Other Regional Roads" under the Metropolitan Region Scheme.

The area proposed to be sub-leased to Area 5 is comprised of one bowling green and is depicted in this report and in the attached draft sub-lease document. The area of the proposed sub-lease may vary slightly from that depicted in order to include a buffer area around the green for the installation of lighting and netting.



**Legal Compliance:**

The proposed sub-lease of portion of the premises to Area 5 would not be a disposition of property by the Town. The Town has disposed of the premises occupied by the Club by means of the Club lease document. Advertisement of the proposed sub-lease under Section 3.58 of the *Local Government Act 1995* is therefore not required. Legal advice obtained indicated that it is not necessary to advertise the proposed sub-lease under Section 3.58 of the *Local Government Act 1995*.

**Policy Implications:**

Nil

**Strategic Plan Implications:**

The Club lease document contains a redevelopment clause which would allow the Town to cancel the lease and issue six months' notice to the Club to vacate the premises should it be necessary for the Town to have possession of the premises in order to redevelop the property. The draft sub-lease document contains no redevelopment clause. The draft sub-lease includes the Town as a party to the document in order that the Town as Head Lessor has its approval to the sub-lease recorded within the sub-lease document. It is recommended that a redevelopment clause be included in the sub-lease document, in order that the sub-lease synchronises with the lease.

At its Ordinary meeting held 10 December 2013, Council resolved:

1. *That Council receives the minutes of the Healthy Life Working Group:*
2. *Receive the Sport and Recreation Facilities Strategy as contained within the Appendices:*
3. *Request the Administration seek feedback from the Department of Sport and Recreation regarding the Strategy's recommendations: and*
4. *Request the Administration to assess and reprioritise the Strategy's recommendations and present to the Healthy Life Working Group in 2014 for consideration.*

Contained within the report to Council on 10 December 2013 were details of recommendations from the Sport and Recreation Facilities Strategy which included:

**High Priority – Short Term (1-4 Years):**

- *Victoria Park / Carlisle Bowls Club: Investigate amalgamation opportunities for the Club with bowls clubs located in surrounding catchment (in particular South Perth and Como Bowling and Recreation Clubs who potentially lay within the amalgamation boundary identified for the Town of Victoria Park and City of South Perth.*

In accordance with Council's resolution of 10 December 2013, feedback was sought from the Department of Sport and Recreation regarding the Strategy's recommendations. The Department of Sport and Recreation has advised by letter dated 15 September 2014 that, in respect to the above recommendation contained in the Sport and Recreation Facilities Strategy regarding amalgamation opportunities for the Club:

- *The department recommends that prior to considering sporting club amalgamations that the Town conducts a review into their usage to determine future club locations, needs and structures (as per recommendation 32).*
- *The department encourages the Town to continue providing club development support to local sporting clubs and reconsider applying for the Club Development Officer Funding Scheme in the future.*
- *The Town should work collaboratively with the City of South Perth to investigate the amalgamation of these sporting clubs.*

The Department of Sport and Recreation letter dated 15 September 2014 was presented to the meeting of the Healthy Life Working Group held 12 November 2014. At that meeting, the working group recommended:

1. *The Healthy Life Working Group received the reprioritised recommendations contained within the Sport and Recreation Facilities Strategy.*
2. *The Healthy Life Working Group supports the Administration's recommendation to engage a consultant to undertake work on a Hockey Project Plan.*

At its Ordinary meeting held 10 February 2015, Council resolved:

1. *Receive the reprioritised recommendations from the Sport and Recreation Facilities Strategy as contained within the Appendices.*
2. *Engage a consultant, as a cost no greater than \$15,000 to undertake work on a Hockey Project Plan, being the first stage of a Feasibility Study and that a report comes back to the Ordinary Council Meeting on 12 May, 2015.*
3. *Request the Administration liaises with the City of South Perth and Department of Sport and Recreation to seek contributions to the cost incurred in engaging a consultant.*

Included within the Sport and Recreation Facilities Strategy received by Council is the following recommendation:

**HIGH PRIORITY - SHORT TERM (ORIGINAL):**

*12) Victoria Park Carlisle Bowls Club: Investigate amalgamation opportunities for the club with bowls clubs located in surrounding catchment (in particular South Perth and Como Bowling and Recreation Clubs who potentially lie within the amalgamation boundary identified for the Town of Victoria Park and South Perth)*

**HIGH PRIORITY – SHORT TERM (REVISED):**

*Pending outcome of Business Case for Town Centre redevelopment, which will determine the future of the piece of land where the club is located. Club is working to improve its short/medium term sustainability.*

**Financial Implications:**Internal Budget:

The Town would receive no revenue from the sub-lease rental. The sub-lease proposes rental payment of \$12,000 (exclusive of GST) per annum, payable to the Club. Rental payments are to be reviewed annually and increased by the Perth All Ordinaries Consumer Price Index (CPI).

The Town receives rental income of \$6,000.00 (exclusive of GST) per annum, increasing by 3% annually, from the Club.

Total Asset Management:

A valuation carried out in September 2014 of the Club premises by a licensed valuer determined that the current market rental, excluding outgoings and GST, for the premises as \$60,000 per annum.

The building valuation carried out in June 2013 for asset management purposes by APV Valuers determined the Gross Current Replacement Cost of the main building at the Club premises as \$2,410,000 with a Reinstatement With New Value (for insurance purposes) of \$2,700,000.

For clarification, the figures in the two preceding paragraphs refer to the Club lease, not to the area specified to be sub-leased to Area 5.

**Sustainability Assessment:**External Economic Implications:

Nil

Social Issues:

The Club is now the only bowling club within the Town and provides a valuable sporting and social function for the community to participate in. It is expected that the establishment of a five a side soccer pitch and scheduling of team games will introduce younger people to the Club and that those younger people will bring a vibrancy to the Club and to nearby restaurants and cafes.

Cultural Issues:

The Club is now the only bowling club within the Town and provides a valuable sporting and social function for the community to participate in. The introduction of five a side soccer at the Club will bring an additional cultural and sporting venue to the Club and to the Town.

Environmental Issues:

Nil

**COMMENT:**

Area 5 has requested that a five year sub-lease with an option of a further five year term be granted. Area 5 would make a significant capital investment in installing infrastructure at the Club, and would not make such a significant investment unless there is some certainty of tenure. A five year sub-lease is considered by Area 5 to be a minimum term of tenure, and it is recommended that the sub-lease tenure be in alignment with the term of the Club lease. To that end, it is recommended that the option for a further five year term be at the Head Lessor's option i.e. at Council's option.

Legal advice was obtained on how best to administer the proposed sub-lease and enable the capital investment by Area 5. In summary, the advice received indicated that the Town should be party to the sub-lease between Area 5 and the Club. The sub-lease should determine the on-going maintenance and management responsibilities, and the ownership of infrastructure and equipment installed at the site. The Town can confer responsibility for installation of infrastructure and equipment to Area 5 via sub-lease, including provision to make good. The sub-lease should also consider the treatment of any "rent" paid by Area 5 to the Club.

In order to clarify various issues with Area 5, the Director Renew Life Program put several questions to Area 5, the responses to which were included in a Memo dated 28 August 2015 sent to Elected Members. The responses received from Area 5 are summarised as:

- The direct and indirect benefits to the Club and to the Town of Area 5 locating to the Club site are that Area 5 will bring patrons who would not normally come to the Town or venue and they will use the facility for not only Area 5 but to utilise the bar and food on offer. They would also flow over into the Town with all the restaurants available in the Town. The Area 5 business plan estimates that the five a side football activities will have 1150 participants per year in 64 teams per season.
- The total cost of installing the pitch and infrastructure at the Club will be approximately \$320,000, which will be fully funded by Area 5. The infrastructure/equipment to be installed will be comprised of:
  - Base materials;
  - Synthetic grass;
  - Steel for infrastructure;
  - Boards on outer fields;
  - Nets; and
  - Concrete.
- Area 5 requests a five year sub-lease with an option for a further five years. If a five year sub-lease is granted without an option for a further five year term, Area 5 would expect to be paid market value for the established operation or alternatively, allowed to reclaim the assets it has placed at the site. If a five year sub-lease is granted without an option for a further five year term and prior to completion of that term the Town required Area 5 to vacate the site, Area 5 would expect to be paid market value for the established operation or alternatively, allowed to reclaim the assets it has placed at the site.

- The preference of Area 5 is for a sub-lease of the site, as opposed to a lease or licence, in order that the Club can gain more patrons and improve financial stability for the Club. Area 5 would make all players in competitions social members of the Club which is paid as a player's registration which in turn would be seen as rent paid by Area 5. Anticipated payments are:
  - First season \$20 per player (registration);
  - Second season in a row \$10 per player (registration);
  - Third season in a row \$10 per player (registration); and
  - Fourth season in a row reset to \$20 per player (registration).
- Area 5 would consider a direct lease with the Town over the area of the proposed Area 5 soccer pitch; however that is not the preferred option of Area 5 as the Area 5 business plan allows for all parties involved to have the opportunity to win. The Club is not financial enough, and Area 5 brings another demographic in to the venue to help with revenue directly to the Club.
- If Area 5 is required to relocate to another site, the estimated cost of removing the infrastructure/equipment is difficult to quantify and is dependent on what would be re-usable after a five year term, but the estimate would be between \$5,000 and \$50,000. Area 5 is prepared to work with the Town in investigating a Master Planning exercise over Higgins Park. Area 5 would support, in principle, re-location to Higgins Park with a five year plus five year option lease or sub/lease. Area 5 would like to approach the Town for financial assistance to re-locate should that eventuate.
- Area 5 considers that it would have ownership of materials and equipment installed and will maintain the sub-leased area and infrastructure once agreed terms are met. Area 5 will install a sub-meter to determine power usage and will pay for electricity used.

The draft sub-lease document tabled has been prepared on behalf of Area 5. It is proposed to have the sub-lease document re-drafted by the Town's lawyers. The re-drafted sub-lease will contain clauses as recommended by the Town's legal advisers.

#### **CONCLUSION:**

It is recommended that Council approve sub-lease of portion (the north east green) of premises at 18 Kent Street, East Victoria Park, currently leased to Victoria Park Carlisle Bowling Club Inc., to Area 5 Football Pty Ltd for a term of five years with an option for a further five year term at the Head Lessor's option.

#### **RECOMMENDATION/S:**

**That:**

1. **Council approves the sub-lease of the north east green of the Victoria Park Carlisle Bowling Club Inc. to Area 5 Football Pty Ltd for a term of five years with an option for a further five year term at the Head Lessor's option.**

2. **The sub-lease document relating to the proposed sub-lease of the north east green of the Victoria Park Carlisle Bowling Club Inc. to Area 5 Football Pty Ltd for a term of five years with an option for a further five year term at the Head Lessor's option is to be drawn up by the Town's lawyers.**
3. **The sub-lease document for the sub-lease of the north east green of the Victoria Park Carlisle Bowling Club Inc. to Area 5 Football Pty Ltd for a term of five years with an option for a further five year term at the Head Lessor's option contain clauses specifying that Area 5 Football Pty Ltd is to obtain all necessary approvals and permits for installation of the artificial turf soccer pitch, lighting, netting and other associated infrastructure prior to commencement of any works associated with the installation, and that all costs associated with the installation and subsequent removal of the artificial turf pitch and associated infrastructure, if necessary, at the termination of the sub-lease are to be borne by Area 5 Football Pty Ltd.**
4. **The sub-lease document for the sub-lease of the north east green of the Victoria Park Carlisle Bowling Club Inc. to Area 5 Football Pty Ltd for a term of five years with an option for a further five year term at the Head Lessor's option contain a redevelopment clause similar to the redevelopment clause (Clause 11.9) contained in the Victoria Park Carlisle Bowling Club Inc. lease document.**
5. **The Mayor and the Chief Executive Officer be authorised to execute the sub-lease document for the lease of the north east green of the Victoria Park Carlisle Bowling Club Inc. to Area 5 Football Pty Ltd for a term of five years with an option for a further five year term at the Head Lessor's option.**



## 13 COMMUNITY LIFE PROGRAM REPORTS

### 13.1 Tender TVP/15/09 Delivery of 2016 John Hughes Slopestyle Event

<b>File Reference:</b>	TVP/15/09
<b>Appendices:</b>	No

<b>Date:</b>	24 November 2015
<b>Reporting Officer:</b>	K. Griggs
<b>Responsible Officer:</b>	T. Ackerman
<b>Voting Requirement:</b>	Simple Majority

#### Executive Summary:

**Recommendation – That Council awards tender TVP/15/09 for the John Hughes Slopestyle event to TriEvents Event Management and that approval be given to the Chief Executive Officer to execute a contract for \$98,000 (plus GST) in accordance with the tender specifications.**

- A Tender was called for suitably qualified organisations to coordinate and manage the end-to-end delivery of 2016 John Hughes Slopestyle Event.
- An evaluation of the tender submission against the prescribed criteria has been completed and it is recommended that Council accepts the tender submission from TriEvents Event Management ('TriEvents')

#### TABLED ITEMS:

- Tender assessment documents.

#### BACKGROUND:

In April 2015 the Town of Victoria Park (the Town) was proud to host the inaugural 'Slopestyle' event, being the first event of its kind in Australia.

This Town event was sponsored in 2015, and again is set to be sponsored in 2016, by Mr John Hughes (car dealer in Victoria Park) for \$25,000, which supports naming rights for the event. The event is referred to as *John Hughes Slopestyle*.

The event is a family friendly mountain biking and BMX event, which in 2015 took place on the site of Edward Millen Park, 999 Albany Highway, East Victoria Park. The 2015 event saw both professional and amateur riders competing on a purpose built course, thrilling spectators with dare devil tricks such as jumping on and off sea containers, over a John Hughes Car and through the trees. Competitors were judged both on style and speed, with the event attracting local, regional, national, interstate and international competitors. Spectators on the day are estimated to have been 5,000, with the 2016 event, also to be hosted at the Edward Millen Park, expected to attract over 10,000 people.

In 2015, the main event was supported by a number of sub-events including the Thank God It's Friday (TGIF) Hawkers Markets, Bunnings free activity table, Rock and Roll free Mountain Bike Clinics, Red Bull DJ and BMX demonstration by Freestyle Now. The event concluded with an invite only VIP party at the Crown Casino Sports Bar.



**DETAILS:**

Municipal funds of \$86,000 are allocated towards the event on the 2015/2016 Budget. External sponsorship of \$25,000 has been secured from Mr John Hughes. Total funds available - \$111,000.

Options for the event delivery:

Option	Financial cost	Considerations/ Impacts	Intangible benefits
<p><b>1: Outsource the event by tender process.</b></p>	<p><b>\$98,000 + GST</b> inclusive of end-to-end coordination and event equipment.</p> <p><b>\$13,000</b> Town contingency funds and miscellaneous event expenditure.</p> <p><b><u>Total \$111,000</u></b></p>	<p>Event management company responsible for all event insurance; course design and construction; bump in and bump out; risk assessment; traffic management; human resources; course marshals; rider insurance; rider coordination and briefing; stakeholder management.</p> <p>Value adding components of engaging an events management company include capacity building initiatives; communications and marketing; event equipment.</p> <p>Additional resources provided by the Town are minimal - approximately 50 hours of staff time = \$1,800.</p>	<ul style="list-style-type: none"> <li>• Access to TriEvents Public Relations channels including: State-wide television, radio, digital news, magazine.</li> <li>• Access to TriEvents existing commercial Sponsors.</li> <li>• Use of equipment including a large screen LED TV for advertising of Town material.</li> <li>• Dedicated and experienced human resource team to coordinate the practice day and event day, course construction and bump out.</li> <li>• Links to existing networks, not currently held by the Town.</li> </ul>
<p><b>2: In-house delivery.</b></p>	<p><b>\$33,000</b> Appointment of full time Event Manager/ project Manager for fixed term of five months (based on \$70,000 pro rata).</p> <p><b>\$12,000</b> appointment of Marketing and Communications Officer (based on 120 hours x \$100 = \$12,000)</p>	<p>Additional human resources required for the following tasks, as resources are not available in-house:</p> <ul style="list-style-type: none"> <li>• Event Management/ Project Management.</li> <li>• Communication and Marketing officer.</li> <li>• Event delivery team.</li> </ul> <p>Shortfall of <u>\$39,000</u> will need to be identified within the budget and reallocated to Slopestyle.</p>	<ul style="list-style-type: none"> <li>• Nil: as additional funds are required.</li> </ul>

	<p><b>\$15,000</b> for event delivery coordination team due to the scale of the event (based on 2015 event).</p> <p><b>\$90,000</b> for event equipment, course build, traffic management etc.</p> <p><b><u>Total \$150,000</u></b></p>		
<b>3: Drop the event</b>	<p><b>Total Savings \$86,000</b> based on option 1</p> <p>or</p> <p><b>\$125,000</b> based on option 2.</p>	<ul style="list-style-type: none"> <li>• Potential impact on existing sponsorship/partnership between the Town and Mr John Hughes.</li> <li>• Community disappointment due to expectation and desire for the event to take place.</li> </ul>	<ul style="list-style-type: none"> <li>• Nil.</li> </ul>

TVP/15/09 was advertised in The West Australian on Wednesday 4 November 2015. The Tender closed at 2pm on Friday 20 November 2015, with one submission received from TriEvents Event Management ('TriEvents').

- 'Buzz Marketing' advised that it did not have capacity to take on the entire end-to-end coordination and delivery of the event. As such would not be submitting a tender.
- 'P Squared Communications' expressed an interest in the tender; however did not meet compliance criteria of 'must have proven 5 years' experience delivering competitive sports events, which have registered participants of an amateur and professional level, which attract 5,000 spectators or more. As such did not submit a tender.
- 'Westforce Construction' sought information on the tender and was directed to the tender link. Reason unknown for lack of tender submission.

#### Description of Compliance Criteria

Compliance Criteria for TVP/15/09 included tenderers being able to answer the questions listed below:

- Must have proven 5 years' experience delivering competitive sports events, which have registered participants of an amateur and professional level, which attract 5,000 spectators or more.

- Tenderer has provided all information, as requested in this Tender document, enabling Town of Victoria Park to evaluate the tender submission, including selection criteria.
- Tenderer has completed and provided following signed documents:
  - Part 4 – ‘Form of Tender’ as provided in CL.1 of this document; and
  - No Deviation Form’ as provided as Schedule 1 of this document.
- Tenderer has provided response as ‘Yes’ to all the following questions:
  - Are you presently able to pay all your debts in full, as and when they fall due?
  - Will you be able to fulfil the Financial Requirements from your own resources or from resources readily available to you to pay all your debts in full as and when they fall due?

#### Description of Selection criteria

The Selection Criteria for TVP/15/09 included the submission being assessed against six criteria, which are as listed below. Tenderer submissions were assessed individually by members of an assessment panel, who gave the submission a score out of possible 100 points.

Selection Criteria	Weightage Score
<p><b>Tenderer’s Past Experience and Performance in delivering recent project/event of a similar nature:</b></p> <ul style="list-style-type: none"> <li>• Description and relevance to the tendered project; Project Name;</li> <li>• Role of the tenderer in the event;</li> <li>• What was the event/project cost ;</li> <li>• Duration of the project/ event;</li> <li>• Completion date and/ or extensions granted; and</li> <li>• Provide a minimum of two professional referees in the format as provided in ‘Schedule 3 - Project Reference Sheet’ of this document.</li> </ul> <p>Tenderers must address the required information in an attachment and label it: <b>(Past Experience and Performance)</b>.</p>	<b>25</b>
<p><b>Tenderer’s capability/ capacity to deliver:</b></p> <ul style="list-style-type: none"> <li>• Organisational structure, details of staff; and</li> <li>• Technical/ commercial skills of the employees and tools/ assets.</li> </ul> <p>Tenderers must address the required information in an attachment and label it: <b>(Organisational Capability)</b>.</p>	<b>20</b>

<p><b>Tenderer's Strategy and Plan to Deliver:</b> Tenderer to provide Event Delivery Plan which consists of at least following:</p> <ul style="list-style-type: none"> <li>• Provide an event concept plan which includes overview of:</li> <li>• bike riding course and categories;</li> <li>• bike rider insurance strategy;</li> <li>• communication and marketing strategy;</li> <li>• community engagement strategies;</li> <li>• stakeholder management;</li> <li>• any additional revenue or sponsorship value-add components to the project event;</li> <li>• risk matrix (understanding of risks including course construction and deconstruction phase, and bike rider and spectator safety);</li> <li>• project milestones/ critical dates; and</li> <li>• overview of evaluation framework to support project closure.</li> </ul> <p>Tenderers must address the required information in an attachment and label it: <b>(Strategy and Plan to Deliver)</b>.</p>	<b>25</b>
<p><b>Occupational, Health and Safety Capability</b></p> <ul style="list-style-type: none"> <li>• Tenderer to provide completed Schedule 2 of this document - 'Occupational Safety and Health Management System Questionnaire'.</li> </ul> <p>Tenderers must provide the required information, including information sought in 'OS&amp;H Management System Questionnaire' and label it: <b>(Occupational, Health and Safety Capability)</b>.</p>	<b>10</b>
<p><b>Tendered Price</b></p> <ul style="list-style-type: none"> <li>• Price Quoted as provided by tenderer in Cl. 4 'Price Schedule' of this document.</li> </ul> <p>Tenderers must address the required information in an attachment and label it: <b>(Tendered Price)</b>.</p>	<b>20</b>
<b>TOTAL</b>	<b>100</b>

The price criteria was assessed and based on a lump sum amount of \$98,000 (plus GST). The Tender assessment panel met on Friday 23 November 2015, with the scores provided by each member of the panel shown below.

<b>Tenderer TriEvents</b>	
Panel Member 1	89/100
Panel Member 2	90/100
Panel Member 3	91/100
<b>Average Total Score</b>	<b>90</b>

**Legal Compliance:**

Local Government Act 1995 Section 3.57; and  
Local Government (Functions and General) Regulations 1996 Division 2 Part 4.

In accordance with Part 4 of the Local Government (*Functions and General*) Regulations 1996 ('the Regulations'), tenders shall be invited before the Town enters into a contract for another person to supply goods or services if the consideration under the contract is or is expected to exceed \$150,000.

**Policy Implications:**

Council Policy FIN4 Purchase of Goods and Services has been complied with. It is noted that the aforementioned Regulations have recently been amended to increase the tender threshold to \$150,000, however Council Policy FIN4 still requires procurements over \$100,000 to be undertaken via a public tender process.

'Buzz Marketing' was the event management company contracted to deliver the 2015 John Hughes Slopestyle. A tender process was undertaken for the 2016 *John Hughes Slopestyle* as a precautionary measure to open to the market.

**Strategic Plan Implications:**

Nil.

**Financial Implications:**Internal Budget:

The Town has allocated \$86,000 under Work Order 1393 Slopestyle, which includes provision for minor event equipment, support with VIP after party and marketing and promotion. This amount was allocated with a view of seeking external sponsorship to progress the event.

External Sponsorship:

The John Hughes Group has allocated \$25,000 towards Slopestyle, for naming rights of the event.

Total budget: \$111,000.

Total Asset Management:

Not applicable.

**Sustainability Assessment:**External Economic Implications:

Nil.

Social Issues:

TriEvents would like to explore the opportunity for a local licenced establishment (pub or bar) to operate and grow their client base, through offering products unique to their establishment for those spectators watching the completion throughout the day. The licenced area would have a restricted patronage and would be closely monitored by professional security. Should the offer not be taken up by local business, TriEvents has indicated that it has a strong relationship with 'Bar Pop', a professional pop-up bar business which regularly provide pop-up bars around Perth as an alternative.

Cultural Issues:

Edward Millen House is a Heritage listed facility. A thorough risk assessment and mitigation strategies will be developed and implemented to preserve its current condition.

Environmental Issues:

It will be the responsibility of the event management company to ensure Edward Millen Reserve is maintained and returned to the same condition.

**COMMENT:**

The assessment of this tender covered not only the cost of delivering the event; it also took into consideration the experience, resources, risk assessment, and 'value-adding' ideas/concepts, including involving local community groups and businesses within the event.

In relation to TriEvents indicating that they would like to explore the opportunity to have a small licenced area, the event closure report from 2015 John Hughes Slopestyle Event listed the following points:

- spectators brought alcohol onto the site, and consumed it in the presence of families and children as a controlled licenced area was not provide;
- external contractor 'Market Mouse' recommended in its event closure report that a secure and controlled licensed area be provided at any future Slopestyle event to minimise the risk of anti-social behaviour;
- Spectator feedback surveys requested a licenced area; and
- Spectator feedback surveys identified that the event caters for all age ranges, opposed to a child/family focused event.

Competitors would not be allowed to consume alcohol during the active phase of the event. TriEvents has submitted a strong marketing and communication plan, sponsorship strategy and links with existing sport networks, which would be advantageous to the event and the Town.

**CONCLUSION:**

It is concluded that the TVP/15/09 2016 John Hughes Slopestyle tender as submitted by TriEvents be accepted as the most advantageous to the Town.

**RECOMMENDATION/S:**

**That Council:**

1. **Awards tender TVP 15/09 to TriEvents Event Management for the delivery of John Hughes Slopestyle in April 2016 at a cost of \$98,000 (plus GST).**
2. **Gives approval for the Chief Executive Officer to execute a contract with TriEvents Event Management for the amount of \$98,000 (plus GST) to conduct the John Hughes Slopestyle event in April 2016.**

## 14 BUSINESS LIFE PROGRAM REPORTS

### 14.1 Schedule of Accounts for 31 October 2015

<b>File Reference:</b>	FIN/11/0001~09
<b>Appendices:</b>	Yes
<b>Date:</b>	17 November 2015
<b>Reporting Officer:</b>	A. Thampoe
<b>Responsible Officer:</b>	N. Cain
<b>Voting Requirement:</b>	Simple Majority
<b>Executive Summary:</b>	
<b>Recommendation - That Council confirms the schedule of Accounts paid for the month ended 31 October 2015.</b>	
<ul style="list-style-type: none"> <li>• The Accounts Paid for 31 October 2015 are contained within the Appendices;</li> <li>• Direct lodgement of payroll payments to the personal bank accounts of employees are also included.</li> </ul>	

#### TABLED ITEMS:

Nil

#### BACKGROUND:

Council has delegated to the Chief Executive Officer the authority to make payments from the Municipal and Trust funds in accordance with the *Local Government (Financial Management) Regulations 1996*.

Under Regulation 13(1) of the *Local Government (Financial Management) Regulations 1996*, where a local government has delegated to the Chief Executive Officer the exercise of its power to make payments from the Municipal fund or the Trust fund, each payment from the Municipal fund or the Trust fund is to be noted on a list compiled for each month showing:

- a) The payee's name;
- b) The amount of the payment
- c) The date of the payment; and
- d) Sufficient information to identify the transaction

That list should then be presented at the next Ordinary Meeting of the Council following the preparation of the list, and recorded in the minutes of the meeting at which it is presented.

#### DETAILS:

The list of accounts paid in accordance with *Regulation 13(1) of the Local Government (Financial Management) Regulations 1996* is contained within the Appendices, and is summarised as thus -

<b>Fund</b>	<b>Reference</b>	<b>Amounts</b>
<b>Municipal Account</b>		
Recoup Advance Account		
Automatic Cheques Drawn	607223-607307	157,996
Creditors – EFT Payments		3,187,311
Payroll		908,007
Bank Fees		24,725
Corporate MasterCard		2,544
		<b>4,280,583</b>
<b>Trust Account</b>		
Automatic Cheques Drawn	3137-3152	70,991
		<b>70,991</b>

**Legal Compliance:**

Section 6.10 (d) of the Local Government Act 1995 refers, ie.-

6.10. Financial management regulations

Regulations may provide for —

(d) the general management of, and the authorisation of payments out of —

(i) the municipal fund; and

(ii) the trust fund,

of a local government.

Regulation 13(1), (3) & (4) of the Local Government (Financial Management) Regulations 1996 refers, ie.-

13. Lists of Accounts

(1) If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared —

(a) the payee's name;

(b) the amount of the payment;

(c) the date of the payment; and

(d) sufficient information to identify the transaction.

(3) A list prepared under subregulation (1) is to be —

(a) presented to the council at the next ordinary meeting of the council after the list is prepared; and

(b) recorded in the minutes of that meeting.

**Policy Implications:**

Nil

**Strategic Plan Implications:**

Nil



**Financial Implications:**Internal Budget:

Nil

Total Asset Management:

Nil

**Sustainability Assessment:**External Economic Implications:

Nil

Social Issues:

Nil

Cultural Issues:

Nil

Environmental Issues:

Nil

**COMMENT:**

All accounts paid have been duly incurred and authorised for payment as per approved purchasing and payment procedures and it is therefore recommended that the payments, as contained within the Appendices, be confirmed.

**RECOMMENDATION/S:**

That Council, pursuant to Regulation 13 of the *Local Government (Financial Management) Regulations 1996 (as amended)*, confirm:

1. The Accounts Paid for 31 October 2015 as contained within the Appendices; and
2. Direct lodgement of payroll payments to the personal bank accounts of employees.

## 14.2 Financial Statements for the Month ending 31 October 2015

<b>File Reference:</b>	FIN/11/0001~09
<b>Appendices:</b>	Yes

<b>Date:</b>	17 November 2015
<b>Reporting Officer:</b>	A. Thampoe
<b>Responsible Officer:</b>	N. Cain
<b>Voting Requirement:</b>	Simple Majority

### Executive Summary:

**Recommendation - The Council accepts the Financial Activity Statement Report – 31 October 2015, as contained within the Appendices.**

- The Financial Activity Statement Report is presented for the Month ending 31 October 2015. The report complies with the requirements of Regulation 34 (Financial activity statement report) of the *Local Government (Financial Management) Regulations 1996*.

### TABLED ITEMS:

Nil

### BACKGROUND:

Each month officers are required to prepare monthly financial reports, covering prescribed information, and present these to Council for acceptance.

### DETAILS:

Presented is the Financial Activity Statement Report – 31 October 2015.

*The financial information as shown in this report (31 October 2015) does not include a number of end-of-financial year adjustments that are still yet to occur, as well as the final approval by the Auditor. The figures stated should therefore not be taken as the Town's final financial position for the period ended 31 October 2015.*

For the purposes of reporting material variances from the Statement of Financial Activity (as contained in the Report), the following indicators, as resolved by Council, have been applied –

#### Revenue

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

## Expense

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

For the purposes of explaining each material variance, a three-part approach has been applied. The parts are –

1. **Period Variation**  
Relates specifically to the value of the variance between the Budget and Actual figures for the period of the Report.
2. **Primary Reason(s)**  
Explains the primary reason(s) for the period variance. Minor contributing factors are not reported.
3. **End-of-Year Budget Impact**  
Forecasts the likely financial impact on the end-of-year financial position. It is important to note that figures in this part are 'indicative only' at the time of reporting, for circumstances may subsequently change prior to the end of the financial year.

### **Legal Compliance:**

Regulation 34 (Financial activity statement report) of the *Local Government (Financial Management) Regulations 1996* states –

- (1) *A local government is to prepare each month a statement of financial activity reporting on the revenue and expenditure, as set out in the annual budget under regulation 22(1)(d), for that month in the following detail –*
  - (a) *annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c);*
  - (b) *budget estimates to the end of the month to which the statement relates;*
  - (c) *actual amounts of expenditure, revenue and income to the end of the month to which the statement relates;*
  - (d) *material variances between the comparable amounts referred to in paragraphs (b) and (c); and*
  - (e) *the net current assets at the end of the month to which the statement relates.*
- (2) *Each statement of financial activity is to be accompanied by documents containing –*
  - (a) *an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets;*
  - (b) *an explanation of each of the material variances referred to in subregulation (1)(d); and*
  - (c) *such other supporting information as is considered relevant by the local government.*

- (3) *The information in a statement of financial activity may be shown —*
- (a) *according to nature and type classification; or*
  - (b) *by program; or*
  - (c) *by business unit.*
- (4) *A statement of financial activity, and the accompanying documents referred to in subregulation (2), are to be —*
- (a) *presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and*
  - (b) *recorded in the minutes of the meeting at which it is presented.*
- (5) *Each financial year, a local government is to adopt a percentage or value, calculated in accordance with the AAS, to be used in statements of financial activity for reporting material variances.*

**Policy Implications:**

Nil

**Strategic Plan Implications:**

Nil

**Financial Implications:**Internal Budget:

The Statement of Financial Activity, as contained in the body of the Financial Activity Statement Report, refers and explains.

Total Asset Management:

Nil

**Sustainability Assessment:**External Economic Implications:

Nil

Social Issues:

Nil

Cultural Issues:

Nil

**COMMENT:**

It is recommended that the Financial Activity Statement Report – 31 October 2015 be accepted.

**RECOMMENDATION/S:**

**That Council, pursuant to Regulation 34 of the *Local Government (Financial Management) Regulations 1996*, accepts the Financial Activity Statement Report – 31 October 2015 as contained within the Appendices.**

### 14.3 Audit Committee Meeting – 23 November 2015

<b>File Reference:</b>	FIN/11/0001~09
<b>Appendices:</b>	Yes

<b>Date:</b>	25/11/2015
<b>Reporting Officer:</b>	A. Thampoe
<b>Responsible Officer:</b>	N. Cain
<b>Voting Requirement:</b>	Simple Majority

#### Executive Summary:

**Recommendation – That Council acknowledges the recommendation of the Audit Committee to accept the:**

1. Auditor's Interim Audit Report – 2014-2015 Financial Year; and
2. Independent Audit Report and Annual Financial Report – 2014-2015 Financial Year.

#### TABLED ITEMS:

Nil

#### BACKGROUND:

An amendment to the *Local Government Act 1995* in 2005 introduced a requirement that all local governments establish an Audit Committee. Such Committees are to provide an independent oversight of the financial systems of a local government on behalf of the Council. As such, the Committee will operate to assist Council to fulfil its corporate governance, stewardship, leadership and control responsibilities in relation to the local government's financial reporting and audit responsibilities.

#### DETAILS:

The Audit Committee of Council met on Tuesday 23 November 2015 to consider the following items –

1. Auditor's Interim Audit Report – 2014-2015 Financial Year; and
2. Independent Audit Report and Annual Financial Report – 2014-2015 Financial Year.

By way of further explanation –

1. Each year, as part of Council's audit process, an Interim Audit is undertaken to ascertain areas of potential review associated with Council's financial systems / processes. The advice received through the interim audit is then assessed by Management who note the comments and take action as required. The findings of the Interim Audit, together with responses from Management, are presented to the Audit Committee for consideration and recommendation to Council.

2. Each year, as part of Council's audit process, an Independent Audit is undertaken to assess Council's Annual Financial Report and the legitimacy and accuracy of Council's accounts. An Independent Audit Report is then produced by the Auditor and provided to the Chief Executive Officer, Mayor and the Minister / Department for Local Government and Communities. The Report is included in Council's Annual Report. Any issues arising from the Independent Audit Report are to be investigated and action taken to resolve those issues.

**Legal Compliance:**

- *Local Government Act 1995* and associated Regulations;
- Australian Accounting Standards; and
- International Financial Reporting Standards.

**Policy Implications:**

Nil

**Strategic Plan Implications:**

Nil

**Financial Implications:**Internal Budget:

Nil

Total Asset Management:

Nil

**Sustainability Assessment:**External Economic Implications:

Nil

Social Issues:

Nil

Cultural Issues:

Nil

Environmental Issues:

Nil

**COMMENT:**

It is recommended that Council acknowledges the recommendation of the Audit Committee to accept the:

1. Auditor's Interim Audit Report – 2014-2015 Financial Year; and
2. Independent Audit Report and Annual Financial Report – 2014-2015 Financial Year.

**RECOMMENDATION/S:**

**That Council acknowledges the recommendation of the Audit Committee to accept the:**

- 1. Auditor's Interim Audit Report – 2014-2015 Financial Year; and**
- 2. Independent Audit Report and Annual Financial Report – 2014-2015 Financial Year.**

## 14.4 Annual Report 2014-2015

<b>File Reference:</b>	FIN/11/0001~09
<b>Appendices:</b>	Yes

<b>Date:</b>	25 November 2015
<b>Reporting Officer:</b>	A. Thampoe
<b>Responsible Officer:</b>	N. Cain
<b>Voting Requirement:</b>	Absolute Majority

### Executive Summary:

#### Recommendation – That Council:

1. **Accepts the Annual Report 2014-2015, and**
2. **Confirms the date, time and place of the 2015 Annual General Meeting of Electors.**
  - The item outlines the requirement for Council to produce and accept an Annual Report, and the processes and determinations associated with the holding of the Annual General Meeting of Electors.

### TABLED ITEMS:

Nil

### BACKGROUND:

Each year a local government is required to produce an Annual Report and to hold an Annual General Meeting of Electors.

### DETAILS:

The Annual Report is to contain –

1. A report from the Mayor or President;
2. A report from the Chief Executive Officer;
3. An overview of the Plan for the Future of the District made in accordance with Section 5.56 of the *Local Government Act 1995*, including major initiatives that are proposed to commence or to continue in the next financial year;
4. The financial report for the financial year;
5. Such information as may be prescribed in relation to the payments made to employees;
6. The Auditor's report for the financial year;
7. A matter on which a report must be made under Section 29(2) of the *Disability Services Act 1993*;
8. Details of entries made under Section 5.121 of the *Local Government Act 1995* during the financial year in the register of complaints; and
9. Such other information as may be prescribed.



The Annual General Meeting of Electors is to be held not more than 56 days after the local government accepts the Annual Report for the previous financial year. The Chief Executive Officer is to convene the Annual General Meeting of Electors by providing at least 14 days' local public notice and providing each Elected Member at least 14 days' notice of the date, time, place and purpose of the meeting.

Council recently resolved to hold the Annual General Meeting of Electors on Tuesday 15 December 2015 at 6:00pm, in the Council Chambers (99 Shepperton Road, Victoria Park WA 6100) for the purpose of consideration of the Annual Report 2014-2015 and then any other general business. Public advertising, in accordance with the requirements, has been undertaken to advise of the meeting. Additionally the social media channels of the Town will also advertise the meeting. This timeframe is still appropriate.

**Legal Compliance:**

The *Local Government Act 1995* refers, in particular:

1. Section 5.27 – Electors' General Meeting;
2. Section 5.32 – Minutes of electors' meetings;
3. Section 5.33 – Decisions made at electors' meetings;
4. Section 5.53 – Annual Reports;
5. Section 5.54 – Acceptance of Annual Reports; and
6. Section 5.55 – Notice of Annual Reports.

The *Local Government (Administration) Regulations 1996*, also refers:

- a. Regulation 19B – Annual report to contain information on payments to employees.

**Policy Implications:**

Nil

**Strategic Plan Implications:**

Nil

**Financial Implications:**Internal Budget:

Sufficient funds have been allocated in Council's Budget to cover all costs associated with the preparation of the Annual Report 2014-2015 and the holding of the Annual General Meeting of Electors.

Total Asset Management:

Nil

**Sustainability Assessment:**External Economic Implications:

Nil

Social Issues:

Nil

Cultural Issues:

Nil

Environmental Issues:

Nil

**CONCLUSION:**

The Annual Report, as contained in the Appendices, has been prepared in accordance with all required legislative matters having been considered.

The date identified for conducting the Annual General Meeting of Electors will provide sufficient time for the final bound copy of the Annual Report to be produced as well as permit the meeting to occur prior to the Christmas recess of Council.

**RECOMMENDATION/S:****That Council:**

- 1. Accepts the Annual Report 2014-2015 as contained within the Appendices, and**
- 2. Confirms the details for the 2015 Annual General Meeting of Electors as being held on Tuesday 15 December 2015 at 6:00 pm, in the Council Chambers (99 Shepperton Road, Victoria Park WA 6100) for the purpose of consideration of the Annual Report 2014-2015 and then any other general business.**

**(Absolute Majority Required)**

**15 APPLICATIONS FOR LEAVE OF ABSENCE**

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

**17 QUESTIONS FROM MEMBERS WITHOUT NOTICE**

**18 NEW BUSINESS OF AN URGENT NATURE**

**19 PUBLIC QUESTION TIME**

**20 PUBLIC STATEMENT TIME**

**21 MEETING CLOSED TO PUBLIC**

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

- 21.1.1 1/12-16 (Lot 1) Milford Street, East Victoria Park – Application for Retrospective Approval for Change of Use from factory Unit/Warehouse to Unlisted Use (Club Premises) – Section 31 Reconsideration – *Confidential Item*

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

**22 CLOSURE**



**DECLARATION OF  
FINANCIAL INTEREST / PROXIMITY 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</i></span> Proximity Interest* <span style="float: right;"><i>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”.