

agenda

Ordinary Meeting of Council



To: His Worship the Mayor and Councillors

Please be advised that an Ordinary Council Meeting will be held at **6.30pm** on **Tuesday 14 August 2012** in the **Council Chambers**, Administration Centre at 99 Shepperton Road, Victoria Park.

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

ATHANASIOS (ARTHUR) KYRON
CHIEF EXECUTIVE OFFICER

10 August 2012

TABLE OF CONTENTS

ITEM	TITLE	PAGE NO
1	OPENING	5
2	ANNOUNCEMENTS FROM THE PRESIDING MEMBER	5
3	ATTENDANCE	5
	3.1 APOLOGIES	6
	3.2 APPROVED LEAVE OF ABSENCE	6
4	DECLARATIONS OF INTEREST	6
5	PUBLIC QUESTION TIME	7
6	PUBLIC STATEMENT TIME	7
7	CONFIRMATION OF MINUTES	7
8	PRESENTATIONS	7
	8.1 PETITIONS	7
	8.1.1 APPLICATION FOR PLANNING APPROVAL FOR RETROSPECTIVE CHANGE OF USE FROM GROUPED DWELLING TO RESIDENTIAL BUILDING FOR THE PURPOSE OF SHORT TERM ACCOMMODATION AT 1C (STRATA LOT 2 ON LOT 8) HAMPTON STREET, BURSWOOD	7
	8.2 PRESENTATIONS (AWARDS TO BE GIVEN TO THE TOWN)	8
	8.3 DEPUTATIONS (PLANNING / EXTERNAL ORGANISATIONS)	8
9	METHOD OF DEALING WITH AGENDA BUSINESS	8
10	CHIEF EXECUTIVE OFFICER REPORTS	9
	10.1 CHANGE THE STATUS OF THE TOWN TO CITY – PUBLIC CONSULTATION	9
	10.2 CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW – <i>CONFIDENTIAL ITEM</i>	18
11	FUTURE LIFE AND BUILT LIFE PROGRAM REPORTS	19
	11.1 23 (LOT 136) BOUNDARY ROAD, ST JAMES – THREE GROUPED DWELLINGS	19
	11.2 1C (STRATA LOT 2 ON LOT 8) HAMPTON STREET, BURSWOOD – RETROSPECTIVE APPROVAL FOR CHANGE OF USE FROM GROUPED DWELLING TO RESIDENTIAL BUILDING FOR SHORT TERM ACCOMMODATION	35

11.3	1017 ALBANY HIGHWAY, ST JAMES – RETROSPECTIVE APPROVAL FOR CHANGE OF USE FROM NON-CONFORMING USE (LIGHT INDUSTRY) TO NON-CONFORMING USE (LIGHT INDUSTRY) & UNLISTED USE (OPEN AIR STORAGE YARD)	51
11.4	19 (LOT 191) FORWARD STREET, EAST VICTORIA PARK – CHANGE OF USE TO UNLISTED USE (CAR PARK)	63
11.5	46 (LOT 346) CARGILL STREET, VICTORIA PARK - EXTENSION OF TRADING HOURS OF EXISTING SHOP, RESTAURANT AND FAST FOOD OUTLET	71
11.6	17 (LOT 44) WESTON STREET, CARLISLE – TWO SINGLE HOUSES	76
11.7	58 (LOT 63) ETWELL STREET, EAST VICTORIA PARK – TWO STOREY SINGLE HOUSE	86
11.8	FINAL APPROVAL OF AMENDMENT NO. 58 TO TOWN PLANNING SCHEME NO. 1 TO PERMIT AN ADDITIONAL USE (MOTOR VEHICLE SALES PREMISES) AT 10-12 (LOT 100) ASQUITH STREET, BURSWOOD	97
11.9	5TH INTERNATIONAL URBAN DESIGN CONFERENCE - MELBOURNE, VICTORIA 10-12 SEPTEMBER 2012	103
11.10	232 ORRONG ROAD, CARLISLE – <i>CONFIDENTIAL ITEM</i>	106
12	RENEW LIFE PROGRAM REPORTS	107
12.1	INVESTIGATION INTO DUAL USE PATH ON THE PERIMETER OF RAPHAEL PARK	107
12.2	VICTORIA PARK COMMUNITY GARDEN LEASE	113
13	COMMUNITY LIFE PROGRAM REPORTS	117
13.1	COMMUNITY SPORTING AND RECREATION FACILITIES FUND (CSRFF) – SMALL GRANTS APPLICATION	117
13.2	DISABILITY ACCESS AND INCLUSION PLAN 2012-2017	122
14	BUSINESS LIFE PROGRAM REPORTS	125
14.1	MINUTES OF PARKING MANAGEMENT COMMITTEE TO BE RECEIVED	125
14.2	SCHEDULE OF ACCOUNTS FOR THE PERIOD 1 JUNE 2012 TO 30 JUNE 2012	127

14.3	FINANCIAL STATEMENTS AND BUDGET VARIATIONS FOR THE PERIOD BETWEEN 1 JUNE AND 30 JUNE 2012	130
14.4	FREE WI-FI ALONG ALBANY HIGHWAY	136
15	APPLICATIONS FOR LEAVE OF ABSENCE	144
15.1	COUNCILLOR R (ROWENA) SKINNER, BANKSIA WARD, 22 SEPTEMBER 2012 TO 21 OCTOBER 2012, INCLUSIVE	144
16	MOTION OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	144
16.1	NOTICE OF MOTION – COUNCILLOR POTTER - AMENDMENT TO TOWN PLANNING SCHEME	144
16.1.1	REPORT FROM EXECUTIVE MANAGER BUILT LIFE – NOTICE OF MOTION COUNCILLOR POTTER - AMENDMENT TO TOWN PLANNING SCHEME	144
16.2	NOTICE OF MOTION – COUNCILLOR POTTER - AMALGAMATION OF 42 FREEHOLD LOTS COMPRISING RAPHAEL PARK.	147
16.2.1	REPORT FROM ADMINISTRATION – NOTICE OF MOTION- CR POTTER, AMALGAMATION OF 42 FREEHOLD LOTS COMPRISING RAPHAEL PARK.	147
16.3	NOTICE OF MOTION – COUNCILLOR POTTER – ACTIVE RESERVE FEES	151
16.3.1	DEVELOPING A PRINCIPLED APPROACH TO ACTIVE RESERVE FEES AND CHARGES	151
17	QUESTIONS FROM MEMBERS WITHOUT NOTICE	156
18	NEW BUSINESS OF AN URGENT NATURE	156
19	PUBLIC QUESTION TIME	156
20	PUBLIC STATEMENT TIME	156
21	MEETING CLOSED TO PUBLIC	156
21.1	MATTERS FOR WHICH THE MEETING MAY BE CLOSED	156
21.1.1	ITEM 10.2 – CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW	156
21.1.2	ITEM 11.10 – 232 ORRONG ROAD, CARLISLE	156
21.2	PUBLIC READING OF RESOLUTIONS THAT MAY BE MADE PUBLIC	156
22	CLOSURE	156

1 OPENING

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

And to Thee, be all blessing and glory forever.

AMEN

Acknowledgement of Country (by Mayor)

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

2 ANNOUNCEMENTS FROM THE PRESIDING MEMBER

3 ATTENDANCE

Mayor:	Mr T (Trevor) Vaughan
Banksia Ward:	Cr C (Claire) Anderson Cr J (John) Bissett (Deputy Mayor) Cr K (Keith) Hayes Cr R (Rowena) Skinner
Jarrah Ward:	Cr D (David) Ashton Cr D V (Vin) Nairn Cr V (Vicki) Potter Cr A (Adam) Vilaca
Chief Executive Officer:	Mr A (Arthur) Kyron
Directors:	Mr (N) Nathan Cain Ms R (Rochelle) Lavery Mr A (Anthony) Vuleta Ms T (Tina) Ackerman
Executive Manager Built Life:	Mr R (Robert) Cruickshank
Secretary:	Ms K (Kathleen) Highfield
Public:	

3.1 Apologies

Nil

3.2 Approved Leave of Absence

Nil

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	Mr Athanasios Kyron – Chief Executive Officer
Item No/Subject	10.2 – 21.1.1 CEO Performance Review
Nature of Interest	Financial Interest
Extent of Interest	Concerns my conditions of employment and overall employment

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.

Nil

5 PUBLIC QUESTION TIME**6 PUBLIC STATEMENT TIME****7 CONFIRMATION OF MINUTES****RECOMMENDATION/S**

- 1. That the minutes of the Ordinary Council Meeting held on Tuesday, 14 August 2012 be confirmed.**
- 2. That the minutes of the Special Council Meeting held on Tuesday 31 July 2012, be confirmed.**

8 PRESENTATIONS**8.1 Petitions****8.1.1 Application for Planning Approval for Retrospective Change of Use from Grouped Dwelling to Residential Building for the purpose of Short Term Accommodation at 1C (Strata Lot 2 on Lot 8) Hampton Street, Burswood**

A 13 signature petition has been received from the owners of Bella Vista, 6 (Lot 8) Hampton Street, Burswood in response to the public consultation for the Application for Planning Approval for Retrospective Change of Use from Grouped Dwelling to Residential Building for the purpose of Short Term Accommodation at 1C (Strata Lot 2 on Lot 8) Hampton Street, Burswood.

The petitioners wish to register their objection to the proposal on the following grounds:

- Inadequate car parking provision within the immediate locality;
- Inadequate capacity to properly supervise guests; and
- General opposition to the concept of Short Term Accommodation within the locality.

A separate report has been included on this agenda for Council to consider the application for planning approval to which the petition relates (Agenda Item 11.2 refers). Details of the petition have been covered within the body of that report, and the recommendation specifies the need to advise the petitioners of Council's decision on that application.

OFFICER RECOMMENDATION/S

1. Council receives the petition containing 13 signatures in response to the invitation to provide comment on the Application for Planning Approval for Retrospective Change of Use from Grouped Dwelling to Residential Building for the purpose of Short Term Accommodation at 1C (Strata Lot 2 on Lot 8) Hampton Street, Burswood.
2. Council considers the concerns raised by the petitioners in its determination of the Application for Planning Approval.
3. The petitioners be advised of Council's decision on the Application for Planning Approval.

8.2 Presentations (Awards to be given to the Town)

Nil

8.3 Deputations (Planning / External Organisations)

Nil

9 METHOD OF DEALING WITH AGENDA BUSINESS

10 CHIEF EXECUTIVE OFFICER REPORTS

10.1 Change the status of the Town to City – Public Consultation

File Reference:	ADM0058
Appendices:	No

Date:	9 July 2012
Reporting Officer:	R. Fishwick
Responsible Officer:	A. Kyron
Voting Requirement:	Simple Majority

<p>Executive Summary: Recommendation – Council supports the change in the designation of the Town to a City.</p> <ul style="list-style-type: none"> • Public consultation for the proposal to change the designation of the Town to a City has been undertaken. • Five submissions were received, all objecting to a change in status. • If the Council Supports change of status it will be necessary to make a submission to the Minister for Local Government. It is considered that 1 July 2013 would be an appropriate date for the change. • The estimated cost to implement the change is \$250,000 which could be amortized over 3 years. 	
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TABLED ITEMS:

- Five submissions received in relation to the public consultation undertaken for a period of 30 days.

BACKGROUND:

The Council at its meeting held on 8 May 2012 when considering a Notice of Motion to change the designation of the Town to City resolved:

“That consultation with the Community be given to seek comments on the proposal to change the status of the Town to City by way of Public Notice, Notice in the Council newsletter, on the website and in media releases. The consultation to be open for 28 days with a view to a report and recommendation being presented to Council at the August meeting.”

In accordance with the Council’s resolution, a notice was published in the Southern Gazette community newspaper on 29 May 2012 outlining the advantages and disadvantages of changing the designation of the Town to a City. The Notice invited comments on the change of name by the close of business on Friday 29 June 2012, being a period of 30 days in which the community had the opportunity to make a submission.

Notices were also placed on the Town’s Website, the Public Notice Boards at the Administration Building and the Victoria Park Library and included in the Town’s June edition of its newsletter ‘Life in the Park’.

DETAILS:

At the close of the advertised submissions period, only 5 submissions were received with 4 opposing the change from a Town to a City and one stating that it was premature in light of the Metropolitan Local Government Review. Details of the submissions made are shown in the following table:

Table showing comments from submissions

Date Received	Support/Object/Defer	Comments
8 June	Object	<i>I'd like to register my disapproval of a possible change to 'city'. I am happy with 'Town' and would like it to remain as such. Like to remain as a Town</i>
19 June	Object	<i>Do not waste any of the Town's money deciding whether to rename us to a City or stay as a Town. It does not really matter and would be an absolute shambles if this issue progressed any further.</i>
21 June	Object	<i>I love that we're a town and am proud to be part of this community. I believe that the friendly feel 'Town' creates has deep and lasting impact on the way people here think and act, and I'd be sad to see this community feeling replaced with city-dom. I don't connect 'town' with 'country town' but rather with 'small and warm and welcoming'. That describes our cafes, our restaurants, our primary school.....A town is somewhere people know their neighbours and smile at each other in the street. Let the rest of Perth scramble to be a city; we can grow our niche as a town</i>
Not dated	Object	Comments implying a waste of money scribed on a copy of the newsletter
14 June	Defer	<i>Isn't talk of changing from a Town to a City somewhat premature? Surely we should wait until the completion of the Metropolitan Local Government Review in July before spending any money on this process. There may no longer even be a Town of Victoria Park!</i>

As there were 5 comments received none of which supported the change from a 'Town' to a 'City', the public consultation is inconclusive to form an opinion either way based on local residents feelings and sentiments about this matter given the population of the Town is approximately 33,000.

If the Council is desirous of changing the status then the requirements of the *Local Government Act 1995* (the Act) needs to be complied with.

The Act prescribes that an area of the State is to be a "District" and is to be designated either a "City", "Town" or "Shire".

A "District" can only be designated a "City" if:

- (a) the District is in the Metropolitan area and has more than 30,000 inhabitants, more than half who live in the urban area; and
- (b) the District is not in the Metropolitan area and has more than 20,000 inhabitants, more than half who live in the urban area - (not applicable to the Town).

Australian Bureau of Statistics (ABS)

The ABS is Australia's official statistical organisation. It assists and encourages informed decision-making, research and discussion within governments and the community, by providing a high quality, objective and responsive national statistical service.

The principal legislation determining the functions and responsibilities of the Australian Bureau of Statistics are the *Australian Bureau of Statistics Act 1975* and the *Census and Statistics Act 1907*.

In 2008 an Information Paper – Population Concepts Australia was released by the ABS (ABS Catalogue No. 3107.0.55.006) which states the following in relation to the Estimated Resident Population (ERP);

'The official measure of Australia's population is the Estimated Resident Population (ERP). The ERP is based on the concept of a person's 'usual residence' for a period of 12 months or more within Australia, regardless of nationality or citizenship, with the exception of foreign diplomatic personnel and their families.'

Further to this, it is noted that an Officer at the ABS Perth Office advised that the Estimated Resident Population projections are based on the current local government boundaries.

Population of the Town

The ABS released data on 7 March 2011 which confirms that the estimated resident population of the Town in June 2009 was 32,256. Since 2005 when the population was 28,943, the Town has experienced an average annual growth rate of approximately 2.7%.

Mayor and Councillors

If the status from Town to City is approved then it is recommended that the current status remain unchanged, that is the current election of the Mayor by the electors to remain unchanged and the number of Councillors to remain unchanged at eight (8), with four (4) in each the Banksia and Jarrah Ward. The number of Council Members complies with the Minister's request not to exceed nine (9).

Submission to the Minister for Local Government

The Minister would consider any submission from the Town, once it is received. The Department of Local Government advised there is no prescribed format for the submission and this can be prepared at the discretion of the local government.

Subject to approval by Council, a submission can be prepared by the Chief Executive Officer, using in-house resources and expertise. Such submission would include, but not be limited to the following matters:

- Population
- Demographics
- Financial and Economic
- Assets
- Significant Infrastructure
- Community of Interest
- Town Planning Scheme
- The number of Council Members
- Governance
- Significant Awards and Achievements.

The Town is also the site for major developments and redevelopments listed hereunder over the next few years which could be included in the submission:

- Burswood International Resort
- Curtin University of Technology
- A major residential development at the Burswood Peninsula
- Two 18 storey developments in the Causeway district
- The redevelopment of the Belmont Park Race Course
- Redevelopment of the Park Centre
- Redevelopment of the largest historical centre in the area in Edward Millen House
- Development of the Lathlain Park and oval
- Redevelopment of the Burswood Dome
- Development of McCallum Park
- Building of a multi-purpose sporting stadium at Burswood
- Possible light rail through the Town
- Main street enhancements
- The adoption of the Plan for the Future for 2011-2026

In addition to these major development projects the Town is planning to establish a major profile in the State and Australia wide as a tourist destination. This will be complemented by a stronger commitment to social programs and a focus on economic vitality.

The Town has within its boundaries a university, the only major entertainment complex in the Perth area (Burswood Casino), a race course track, a major restaurant and shopping strip, river frontage, a WAFL football club and venue, which are common amongst most cities.

Other Local Governments – Change in Designation

The Town has been advised that;

1. The Town of Vincent received approval to change its designation from "Town" to "City".
2. The Shire of Busselton received approval to change its designation from "Shire" to "City", as it has a population of 30,514.
3. The Town of Kwinana is progressing its change of designation from "Town" to City as it has a population of 30,250 (approximately).

Timeline

Previous workshops with Elected Members dealing with this matter have identified a time to change status would more suitably be the Town's 18th Year Anniversary; "its coming of age" which is one suggestion which occurred on 1 July 2012. Alternatively a realistic date of 1 July 2013 would be more suitable. This will allow sufficient time for a submission to be made to the Minister for Local Government and for the Minister to consider the Town's submission and if supported recommend approval to the Governor to make an Order to affect the change of status. The process could take at least 3-4 months. It is also a new financial year and is considered an appropriate date on which to make the change from "Town" to a "City".

If a decision is made, the Town's Administration would immediately plan for the changeover, particularly to minimise costs in relation to ordering of stationery materials and the like.

Town of Victoria Park Logo

It is recommended that no change (other than replace "Town" with "City") be made to the adopted Council Logo, colours and font, as these are considered to be modern, contemporary and reflect the Town's ethos.

Legal Compliance:

The *Local Government Act 1995*, Section 2.5 states:

"District to be a City, Town or Shire;

- (1) An order under Section 2.1 declaring an area of the State to be a District is to include an order designating the district a city, town or shire.*
- (2) The Governor may, by order, change the designation of a district."*

A "District" can only be designated a "City" if;

- (a) the District is in the Metropolitan area and has more than 30,000 inhabitants, more than half who live in the urban area; and*
- (b) the District is not in the Metropolitan area and has more than 20,000 inhabitants, more than half who live in the urban area - (not applicable to the Town)."*

The *Local Government Act 1995*, Section 2.4 states:

- "(5) A district that is not designated a city or a town is to be designated a shire.*
- (6) the number of inhabitants of a district at a particular time is to be taken as that established by the Government Statistician appointed under the Statistics Act 1907 according to the information then available to that person.*
- (7) Despite any change in the number or distribution of a district's inhabitants, the designation of the district continues to apply until it is changed under this section."*

The Town would be required to make a submission to the Minister for Local Government for a change of status. If acceptable to the Minister, he would recommend to the Governor that an order be made for the change.

Policy Implications:

Nil

Strategic Plan Implications:

The Town's designation as a City would reflect the importance and maturity of the local government. Its "City" designation may improve the outcome of future grant applications, as there is a perception that State and Commonwealth Departments prefer to deal with "Cities".

Financial Implications:

Internal Budget:

If the change is approved, there will be a need to complete a rebrand of the Town. The financial impact can be managed by staging the process in a progressive roll out over three years. However, the estimated cost to change will require a full rebranding of facilities such as the Administration Building and library.

The table below contains items that need to be considered resulting in the total costing of \$175,890 however this doesn't include the costs of replacement for many of the outdoor signs which would result in a more factual cost of \$250,000.

Item	Estimated Cost	Comment
Revision of corporate logo and update of branding guidelines.	\$2000	NUDE design would amend the current logo.
Stationary	\$TBA	Done on an as needs basis. Some templates would have to be done immediately though; rates notices,
Fleet Logo Change	\$48630	21 Heavy Fleet – side panels \$800 15 Medium Fleet – side panels \$350 10 Light Fleet – side panels \$150 4 Rangers Vans – back panels \$600
Staff Uniforms	\$TBA	Corporate ties and scarves Leisure Centre staff polo's Depot and Rangers uniforms
Street Furniture	\$18,000	Street Furniture design guidelines and template creation.
Corporate Signage	\$86,410	Replacement of the Great Eastern Hwy entry statement. Albany Hwy Banners (6 sets) Large signage on the building Depot Entry Statement Parking Signage Road Signs Event tear drop banners Spyder display A frame signage

Item	Estimated Cost	Comment
		Indoor custom display Pull up banners Sail Track banners
External Templates	\$6000	Marketforce templates – seek, LG public notices etc Website update Campaign Monitor design templates update x4 Corporate You Tube video template
Library Logo Update	\$14850	Style guide upgrade 6 pull up banners Library Card update Front Counter Sign Internal information signage Library staff badges Library letter head Wifi splash pages
TOTAL	\$175,890	

The estimated cost of \$250,000 to implement the change could be spread over 3 fiscal years as follows:

Financial Year 2013/14	\$100,000
Financial Year 2014/15	\$100,000
Financial Year 2015/16	\$ 50,000

Taking cognisance of the above it would therefore be preferable to implement the change at the commencement of the 2013/14 Financial Year being 1 July 2013.

Subject to consent from the Minister for Local Government to the status change to a City, the expenditure for the above items can be considered as part of the 2013/14 Budget.

Total Asset Management:

Nil

Sustainability Assessment:

External Economic Implications:

Nil

Social Issues:

This matter would have no impact on the residents.

Cultural Issues:

Nil

Environmental Issues:

Nil

COMMENT:

The change in designation from “Town” to “City” reflects the area’s growth and the range of programmes and services offered to the community; however consideration needs to be given to the advantages and disadvantages when deliberating on this matter. A list is provided hereunder:

Advantages

- Increases the profile of the area;
- We will have the same designation as the other councils in the region;
- Major media opportunity associated with the other projects in the Town;
- Recognises the reality of the area as a major player in the Perth region; and
- Positive psychological impact on other local government stakeholders in the region that they have another city in their midst.

Disadvantages

- Gives the psychological impression of an impersonal place; that is cities are perceived as less connected to their people than Towns; and
- Cost of changing signs, stationery, etc.

In addition the following unknowns need to be considered:

- That the people might perceive that they will not get the service levels from a City that they would get from a Town; and
- We do not know if there are any financial advantages.

Notwithstanding the above, the designation “City” whilst having no actual superiority to “Town” in terms of the roles and responsibilities of the local government authority, infers an equal status in the perceptions of the community – putting Victoria Park in the same category as the City of Subiaco and City of Nedlands (these local governments despite having a population less than 30,000 people were designated “City” when established, as they had previously been Road Board Districts). It also puts the Town on the same status as the City of Vincent.

The estimated cost of \$250,000 to implement the change could be amortised over 3 years.

CONCLUSION:

The public consultation revealed that changing the status of the Town to that of a City is not something that the residents are concerned about due to the lack of response with only 5 submissions being received.

If the Council supports the change of status from a Town to a City then it will be necessary to make a submission to the Minister for Local Government.

It is therefore recommended that the status be change from a Town to a City and that the number of elected members with four in each ward and the method of electing the Mayor remain unchanged.

OFFICER RECOMMENDATION/S:**That the Council:**

1. **NOTES** that the Town of Victoria Park now meets the criteria as prescribed in Section 2.4 of the *Local Government Act 1995* to be designated a "City";
2. **SUPPORTS** the change of designation from "Town" to "City" and makes a submission pursuant to Section 2.4 of the *Local Government Act 1995*, to the Minister for Local Government to recommend approval to the Governor of Western Australia to make an Order to affect the change; and
3. **SUBJECT** to 2. above being approved;
 - 3.1 **REQUESTS** the Minister for Local Government and Governor that the change be effective on 1 July 2013;
 - 3.2 **ADVISES** the Minister for Local Government that the current method of election of the Mayor by the electors will remain unchanged and the number of Council Members will also remain unchanged with an elector Mayor and eight (8) Councillors, with four (4) in each of the Jarrah and Banksia Ward;
 - 3.3 **CONSIDERS** any expenditure required to be included in the 2013/14, 2014/15 and 2015/16 Budgets; and
 - 3.4 **AUTHORISES** the Chief Executive Officer and the Mayor to prepare a submission to the Minister for Local Government.

10.2 Chief Executive Officer Performance Review – *Confidential Item*

This Report was distributed with the 7 August 2012 Elected Members Briefing Session Agenda.

11 FUTURE LIFE AND BUILT LIFE PROGRAM REPORTS

11.1 23 (Lot 136) Boundary Road, St James – Three Grouped Dwellings

File Reference:	BOUN23
Appendices:	No
Landowner:	T M Capps
Applicant:	Gemmill Homes
Application Date:	14 December 2011
DA/BA or WAPC Ref:	11/0759
MRS Zoning:	Urban
TPS Zoning:	Residential R30
TPS Precinct:	Precinct P12 'East Victoria Park Precinct'
Use Class:	Grouped Dwellings
Use Permissibility:	'P' use

Date:	30 July 2012
Reporting Officer:	C. Buttle
Responsible Officer:	R. Cruickshank
Voting Requirement:	Simple Majority

Executive Summary:	
Recommendation – Refusal	
<ul style="list-style-type: none"> • Application for three single storey Grouped Dwellings involving demolition of an existing duplex pair within the Residential Character Study Area, but not identified as an 'original dwelling'. • Non-compliant with Council's Local Planning Policy – Streetscape and the Residential Design Codes with regard to Street Walls and Fences, Primary Street Setback, Boundary Setbacks, Setbacks to Communal Street, Open Space, Site Works, Visual Privacy, Incidental Development and Building Design. • Consultation undertaken for 14 days in accordance with Council Policy GEN3 'Community Consultation' with two submissions received. • Proposed development not seen to satisfy relevant objectives of R-Codes and seen to unreasonably impact on adjoining properties and locality generally and therefore recommended for refusal. 	

TABLED ITEMS:

- Development Application form dated 14 December 2011.
- Plans dated 27 April 2012.
- Amended plans dated 31 July 2012.
- Applicants supporting written comments and photographs dated 26 March 2012.
- Consultation letters to adjoining owners and occupiers dated 3 May 2012.
- Response letters from adjoining property owners.
- Photographs of subject site and photographs taken from Outdoor Living Area of dwelling to rear of development site at No. 26A Wyndham Street.

BACKGROUND:

The application was previously considered by Council at its meeting held on 10 July 2012 at which time determination of the application was deferred to the August meeting “*to bring back an amended proposal due to substantial structural changes*”.

Following the July Council meeting, Officers met with the proponents to discuss required design changes and revised drawings incorporating minor changes were subsequently e-mailed to the Town. This report has now been updated to provide further comment in relation to these revised drawings, particularly in the context of the previous areas of non-compliance.

DETAILS:

The application proposes demolition of an existing side by side duplex pair constructed in 1969. The existing dwellings are located within the Residential Character Study Area, but are not identified as ‘original dwellings’.

The replacement dwellings represent a conventional building form with Unit 1 having its own frontage to Boundary Road and Units 2 and 3 sharing a common property access leg located to the left hand side of the development site. An original dwelling with a substantial setback of around 14 metres to Boundary Road exists to the right hand side of the development site while a Council drainage sump is located to the left hand side of the development site. Dwellings on the opposite side of Boundary Road are situated within the City of Canning.

The proposed development incorporates a number of variations from the ‘Acceptable Development’ provisions of the Residential Design Codes, which are each addressed in more detail within the body of the report. The applicant has also provided some supporting written and photographic documentation which will also be discussed further.

Legal Compliance:Relevant General Provisions of Town Planning Scheme No. 1

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

- Clause 36 of the Scheme Text;
- Clause 39 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;
- Residential Design Codes (R Codes); and
- Local Planning Policy – Streetscape (LPPS);

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

Item	Relevant Provision	Requirement	Proposed	Compliance
Density	Table 1 of the R-Codes	270m ² min 300m ² avg	Unit 1: 334m ² Unit 2: 349m ² Unit 3: 359m ² Com Prop: 139m ² Avg: 393.66m ²	Yes
Demolition of existing dwellings	Clause 39 of TPS & Clause 3.2.9 of LPPS	Demolition acceptable where dwelling not identified as an "original place".	Existing dwellings, constructed in 1969 are not identified as an "original place".	Yes
Street Walls and Fences	Clause 3.2.7 of LPPS	Fences to 1.8m where solid portion does not exceed 600mm above ground level with infill pickets being 80mm max width spaced at 30mm min	Street walls and fences to 1.8m with solid portion to 600mm above natural ground level and timber infill of undefined dimensions.	No

Comment on Revised Drawings:

Revised drawings provide an amended detail which notionally satisfies Policy requirements with respect to height, but which lacks detail generally and is non-compliant with respect to infill design (revised drawings now incorporate horizontal infill contrary to Council policy requirements).

Primary Street Setback	Clauses 3.2.1-3.2.3 of LPPS	6.0 metre average setback and generally in keeping with building line.	5.23 metre average and not in keeping with building line.	No
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Comment on Revised Drawings:

The drawings remain unchanged with respect to the front setback. The proposed 5.23 metre average front setback is not in keeping with the open aspect provided to other dwellings within the locality, and particularly within the street block within which the development site is located. The reduced street setback is exacerbated as the development site is situated between an open drainage sump to one side and a house with a street setback of approximately 14 metres to the other side.

<p>Secondary Street Setbacks (Setbacks to internal Communal Street)</p>	<p>Future Life and Built Life Procedure Manual</p>	<p>Fencing not permitted between dwelling and communal driveway.</p>	<p>Fencing forward of building line proposed between Unit 1 and communal driveway and Unit 2 and communal driveway.</p>	<p>No</p>
<p>Comment on Revised Drawings: The drawings remain unchanged. The Town’s Urban Planning Unit would be willing to support the fencing associated with proposed Unit 1, but remain of the position that the fencing of Unit 2 is not acceptable.</p>				
<p>Boundary Setbacks</p>	<p>Clause 6.3.1 of the R-Codes</p>	<p>Side and rear boundary setbacks provided in accordance with Clause 6.3.1 and Tables 1, 2A and 2B of the R-Codes.</p>	<p>Side and rear boundary setbacks provided in accordance with Clause 6.3.1 and Tables 1, 2A and 2B of the R-Codes.</p>	<p>Yes</p>
<p>Comment on Revised Drawings: As a result of the floor level of proposed Unit 3 being reduced, the drawings are now compliant.</p>				
<p>Open Space</p>	<p>Table 1 and Clause 6.4.1 of the R-Codes</p>	<p>45%</p>	<p>Unit 1: 47% Unit 2: 39% Unit 3: 45%</p>	<p>No</p>
<p>Comment on Revised Drawings: No changes have been made to the drawings and accordingly open space provision remains non-compliant. The Town’s Urban Planning Unit would support consideration of the Alfresco area to Unit 2 being classified as open space under the ‘Performance Criteria’ provisions of the R-Codes, subject to the remainder of the floor area of this Unit being reduced by 9m² in order that an overall reasonable level of open space was provided for this dwelling.</p>				
<p>Access and Parking</p>	<p>Clause 6.5.1 of the R-Codes</p>	<p>2 bays per dwelling</p>	<p>2 bays per dwelling</p>	<p>Yes</p>

Site Works	Clause 6.6.1 of the R-Codes	Maximum fill and retaining within 1m of a common boundary behind street setback line	Filling and retaining of up to 816mm above rear boundary adjacent to No. 26A Wyndham Street; and Filling and retaining of up to 816mm adjacent to the Town's drainage sump at No. 25 Boundary Rd.	No
<p>Comment on Revised Drawings: Extent of fill adjacent to the rear property boundary has been reduced to 816mm above natural ground level. However, the extent of filling and retaining remains in excess of the 500mm 'Acceptable Development' provision for filling and retaining, and does not satisfy the associated 'Performance Criteria' due to the adverse amenity impact which the filling and retaining has on the rear neighbour. Accordingly, although improved from what had previously been presented, the application remains non-compliant.</p>				
Building Height (measured from the natural ground level)	Clause 6.7.1 of the R-Codes	Maximum 6m wall and 9m ridge height (accommodates two storey development)	Single storey dwellings proposed.	Yes
Visual Privacy	Clause 6.8.1 of the R-Codes	Where openings are raised more than 500mm above natural ground level: • 6.0 metre setback to Lounge / Dining and Family Room windows; and • 7.5 metres to Elevated Outdoor Living Areas.	Openings raised more than 500mm above natural ground level and unscreened to: • Family Room window with 1.5 metre setback; and • Elevated Outdoor Living Area to Unit 3 with a zero setback.	No
<p>Comment on Revised Drawings: The drawings remain non-compliant with respect to the Family Room window and the elevated Outdoor Living Area of Unit 3.</p>				
Design for Climate	Clause 6.9.1 of the R-Codes	Maximum 35% overshadowing of adjoining property.	Less than 35% overshadow with shadows cast toward adjoining drainage sump.	Yes
Incidental Development	Clause 6.10 of the R-Codes	Provision of 4m ² stores for each dwelling	Adequate store only provided for Unit 2	No

Comment on Revised Drawings:
 The drawings remain non-compliant. A brick store of slightly non-compliant internal dimensions has been incorporated into the design of Unit 3, and satisfactory store details are still yet to be provided for Unit 1. The applicant’s drawings provide a store for unit 1 which does not have any access and required manufacturer details have not been provided, despite numerous requests.

Building Design	Clause 3.2.11 A4 of LPPS	Conventional roof form with 25 degree pitch; Wall height on front elevation similar to adjacent dwellings	Conventional roof form with 25 degree pitch; Wall heights on front elevation well below those of adjoining dwelling at No. 21 Boundary Rd; Lack of eaves and yet to be finalised colours and materials.	No
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Comment on Revised Drawings:
 The finished floor level of Unit 1 has been increased by 200mm, which in turn has the effect of increasing the visible wall height of the front unit as viewed from the street. However, wall heights for the proposed development remain well below those of the adjoining dwelling at No. 21 Boundary Road, contrary to the requirements of Council’s Local Planning Policy, Streetscape.

Eaves have been provided to the garage, however the Lounge Room on the front elevation of the dwelling has still not been provided with eaves.

Information has still not been provided with respect to colours, and in relation to the materials which have been selected (Colorbond roof and rendered walls), compatibility with materials which are predominant within the locality (red face brick and terracotta tile) has not been demonstrated.

Submissions:

Community Consultation:

In accordance with Council’s GEN3 ‘Community Consultation’ Policy and the Residential Design Codes, the proposal was the subject of consultation with adjoining owners and occupiers for a period of 14 days with two submissions received as detailed in the table below.

Consultation Submissions Objection from Owners of No. 26A Wyndham Street	
Comments Received	Officer's Comments
<ul style="list-style-type: none"> The proposed development conflicts with the maximum permissible filling and retaining permitted by the R-Codes. 	<ul style="list-style-type: none"> Agreed. The dwelling at No. 26A Wyndham Street has a small Outdoor Living Area which is located immediately to the rear of proposed Unit 3, the finished floor levels of which are approximately 500mm below the pre-existing levels of the development site. Coupled with the proposed filling of up to an additional 816mm along this boundary, the resultant overall height on the adjoining property is 1316mm. If a standard 1.8 metre high boundary fence were to be constructed along the boundary, the overall height of structure as viewed by the neighbours would be 3116mm. The height of such a structure, coupled with the relatively small area of open space to the rear of the dwelling at No. 26A Wyndham Street would have an unreasonably adverse impact in relation to outlook, view, access to light and building bulk.
<ul style="list-style-type: none"> The proposed reduction in the building setback along with the proposed filling and retaining will reduce access to sunlight for No. 26A Wyndham Street. An increase in the height of the rear boundary fence will compound the issue. 	<ul style="list-style-type: none"> Agreed. While the proposed development satisfies the overshadowing provisions of the R-Codes relative to the adjoining property at No. 26A Wyndham Street, the reduction in setback has an adverse impact in relation to outlook, view and access to sunlight.
<ul style="list-style-type: none"> The proposal does not satisfy requirements relating to visual privacy and may permit the line of sight from the Family, Dining and Bed 1 windows of Unit 3 into the Living Areas of No. 26A Wyndham Street. 	<ul style="list-style-type: none"> Agreed. The proposal does not satisfy visual privacy requirements of the R-Codes. If the applicant's proposed extent of filling and retaining were approved (which is not recommended), and 1.8 metre high fencing were constructed on top of such retaining (which the drawings do not show), this would provide effective screening to the sources of overlooking.

Consultation Submissions	
Submission from Owners of No. 21 Boundary Road	
Comments Received	Officer's Comments
<ul style="list-style-type: none"> • Overall no objection to the proposal, however, would have concern if a variation to the prescribed front setback for the proposed development at No. 23 Boundary Road resulted in the future owners / occupiers of this dwelling objecting to a future proposal to build a garage for the dwelling at No. 23 Boundary Road. • Concerned about perceived differing standards relating to required street setbacks for proposals submitted by developers as opposed to applications submitted by owner occupiers. We have been advised of need to satisfy prescribed street setback requirements. 	<ul style="list-style-type: none"> • Noted. It would not be possible to give any form of assurance relating to the position that future owners/occupiers of proposed Unit 1 would have in relation to any proposal of the owners of No. 21 Boundary Road to build a garage. • Agree that all parties should be treated equally and subject to the same requirements, hence the recommendation that the proposed development be subject to a minimum requirement of achieving a 6m average street setback.

Sustainability Assessment:

External Economic Implications:

No impact

Social Issues:

No impact

Cultural Issues:

No impact

Environmental Issues:

No impact

COMMENT:

Street Walls and Fences

Council's Local Planning Policy – Streetscape permits walls and fences forward of the building line, up to 1.8 metres above natural ground level where:

- The solid portion of the wall or fence is a maximum height of 600mm above natural ground level; and
- In the case of timber picket infill, the pickets are spaced at a minimum gap of 30mm and a maximum of 80% of the width of the picket.

The proposed development incorporates a fence within the primary street setback area which notionally satisfies height requirements, but which lacks required detail and which incorporates a non-compliant infill arrangement.

The proposed development incorporates street walls and fences within the communal street setback area of similar design and dimensions. The proposed fencing does not satisfy Council Policy provisions, although Officers would be prepared to support the fencing between Unit 1 and the communal driveway.

Primary Street Setback

Council's Local Planning Policy - Streetscape specifies requirements for provision of:

- A 6.0 metre average (with a 3.0 metre minimum) setback from the primary street boundary; and
- Setbacks which are generally consistent with the street setback pattern.

The proposed development provides:

- A 5.23m average (with a 3.056 metre minimum) setback from the primary street boundary; and
- Setbacks which are not consistent with the street setback pattern.

In relation to the prescribed street setback, the applicant seeks a concession to the prescribed requirement, and has made the following comments:

- The proposed development has been compared to a recently completed development at No. 17 Boundary Road;
- It is our opinion that the development is consistent with the built form in the locality; and
- The proposed development is of a high standard.

Having regard to an assessment of the plans, consideration of relevant R-Code objectives and provisions, and in response to the comments provided by the applicant, the following Officer comments are provided:

- The Town has consistently required a minimum provision of a 6.0 metre average street setback, which in this case is a far lesser setback requirement than provision of a setback which is "generally consistent with the street setback pattern", noting the 14 metre front setback of the adjoining dwelling at No. 21 Boundary Road and generous street setbacks for other dwellings within the locality;
- Approval of a street setback of less than 6.0 metres would set an undesirable precedent for other similar development within the locality;
- It is appropriate that an average street setback of at least 6.0 metres be provided as this pays greater respect to the existing built form within the locality;
- The development at No. 17 Boundary Road is the exception rather than the norm and is not located within the same street block as the proposed development and accordingly should not be the focus of attention;
- Having regard to the reduced front setback, it is not possible to say that the proposed development is consistent with the built form of the locality. Indeed, with respect to the particular street block that the development site is situated within, the proposed reduced street setback is very much the exception rather than being consistent. Typically existing dwellings in the subject street block are setback 9.0m or more from the front boundary with Boundary Road; and
- The appearance of the design presents as average or representative of a standard development of its kind – there is nothing in particular to suggest that the development is of a higher than average standard.

The proposed primary street setback is not supported as the development does not comply with the relevant Performance Criteria in the Local Planning Policy 'Streetscape' for "buildings set back an appropriate distance to ensure they contribute to the desired streetscape".

Communal Street Setback

In addition to specifying setback requirements between dwellings and a communal street (shared accessway providing access to two or more dwellings), the Town also specifies that there is to be no fencing between any of the dwellings and the communal street.

The proposed development incorporates the following fencing:

- Fencing to Outdoor Living Area of Unit 1 forward of the alignment of the dwelling; and
- Fencing to Outdoor Living Area of Unit 2 forward of the alignment of the dwelling.

In relation to the prescribed setbacks to the communal street, the applicant seeks a concession to the prescribed requirement, and has made the following comments:

- The development at No. 5 Boundary Road has a courtyard wall setback 4 metres from the side property boundary.

Having regard to an assessment of the plans, consideration of relevant R-Code objectives and provisions, and in response to the comments provided by the applicant, the following Officer comments are provided:

- Fencing as proposed blocks the line of sight from the public street toward the central and rear dwellings, lessening the sense of open space, spaciousness for the development and visual surveillance, which is disadvantageous from a crime prevention through environmental design (CPTED) perspective.
- Planning approval for the development at No. 5 Boundary Road was granted 1 October 2008, in advance of the requirements specified above being adopted by the Town.
- The proposed Outdoor Living Areas (OLA's) for the dwellings have a south-westerly orientation. If the OLA's were located to the north of each dwelling, which is the preferred siting from a solar access perspective, the need for fencing forward of the alignment of each dwelling would fall away.

As mentioned, Officer's would be prepared to support the fencing between Unit 1 and the Communal Street, as this is minor and is comparable to the development at No. 5 Boundary Road, but not the fencing between Unit 2 and the Communal Street.

Open Space

Table 1 of the R-Codes specifies a requirement for the provision of a minimum of 45% open space. Unit 1 and Unit 3 are provided with the minimum amount (47% for Unit 1 and 45% for Unit 3), Unit 2 is only provided with 39% open space, being some 22.45m² less than the minimum amount specified.

The applicant provides the following comments in relation to the open space provision for Unit 2:

- The home has generous setbacks around its perimeter;
- Courtyard space is large and spacious in relation to the minimum requirement;
- Reducing the house size will not improve setbacks or improve the occupancy to Units one and three or the neighbouring property; and
- Only asking for a 2% variation (8m²).

Having regard to an assessment of the plans, consideration of relevant R-Code objectives and provisions, and in response to the comments provided by the applicant, the following Officer comments are provided:

- The dwelling is provided with (in part) a zero setback to Unit 1, 1.0 metre setback to Unit 3, and a 2.6 metre setback to the communal street, all of which are less than the ordinary setbacks required under the R-Codes. The dwelling is provided with a 1.57m setback adjacent to the external boundary compared to the minimum prescribed setback of 1.5 metres. Setbacks provided to the perimeter of the dwelling are either at, or below the minimum setback which would ordinarily be expected under the R-Codes;
- An Outdoor Living Area of 36.5m² is provided, however this results in part due to the location of fencing which has not been set back from the communal street in accordance with the Town's requirements;
- An increase in the amount of open space must in turn result in an increase in the space around the dwelling (i.e. increased setbacks), contrary to the applicant's comments; and
- The extent of variation is actually 6% or 22.5m².

Open space provides a setting for buildings and also provides for the recreational needs of the residents of dwellings. While it is acknowledged that the Outdoor Living Area which has been provided for this dwelling exceeds the minimum which is specified in the R-Codes, it must also be noted that the dwelling is designed for family accommodation (4 bed, 2 bath, 2 living areas), and the expectations of such occupants are greater than those who may be attracted to reside in smaller accommodation. The extent of open space provision for Unit 2 is not considered to be reasonable, and would set an undesirable precedent if supported.

Officer's would support consideration of the Alfresco area (13.3 m²) as open space under the Performance Criteria of the R-Codes, which would bring the extent of open space non-compliance to approximately 9m² if the size of the dwelling were reduced correspondingly.

Site Works

During the initial assessment of the application, the Town's Street Life Business Unit specified a minimum finished floor level (FFL) of 9.3 for the dwellings, which was a 90mm increase to the FFL which had originally been proposed. The R-Codes do not limit the filling within the perimeter of the footprint of a building.

In this case, however, the applicant is proposing to fill outside the perimeter of the building and also construct retaining walls along lot boundaries.

While the filling and retaining alongside the Town's drainage sump along the left hand side property boundary and along a portion of the rear boundary adjacent to No. 24 Wyndham Street is not seen to be problematic, filling along the rear portion of the site adjacent to No. 26A Wyndham Street is seen to be problematic due to the adverse amenity impact which results on the owners of this dwelling. These concerns were detailed in the consultation section of the report.

The Town's Street Life Business Unit have now reviewed the amended drawings and are agreeable to the revised levels from an Engineering perspective, and while the revised (lower) levels also make an improvement from a planning perspective, the drawings still incorporate filling adjacent to the rear property boundary in excess of 500mm above natural ground level. In order to receive support of the Town's Urban Planning Business Unit, it would be necessary for the drawings to be modified even further such that filling did not exceed 500mm above natural ground level within the vicinity of the neighbours Outdoor Living Area.

Having regard to the adverse amenity impact which results in relation to the owners of the property at No. 26A Wyndham Street, the proposed extent of filling and retaining is still not supported.

Visual Privacy

The following openings to the rear (north-western) side of Unit 3 vary from the Acceptable Development provisions of the R-Codes, as they are raised more than 500mm above natural ground level:

- Wall with major openings to Family (6.0 metre setback prescribed – 1.5 metre setback proposed); and
- Outdoor Living Area (7.5 metre setback prescribed – Nil setback proposed).

Once again, this matter is very much linked to the matter of site works, and the extent of filling and retaining which is proposed.

If the applicant's proposed extent of filling and retaining is approved, and 1.8 metre high fencing were erected on top of this fill, then an effective screen would be provided and the visual privacy provisions within the R-Codes would be satisfied.

However, if the applicant's proposed extent of filling and retaining were not approved, the floor level of the dwelling would sit up above the ground level around the perimeter of the site and overlooking into the adjoining property would occur. Standard 1.8 metre high boundary fencing would not provide effective screening.

As the Town is not supportive of the proposed extent of filling and retaining due to the perceived adverse amenity impact on the owners to the rear of the development site, visual privacy becomes problematic. Accordingly, the visual privacy variations referred to above are not supported.

Incidental Development

Part 6.10 of the R-Codes specifies a requirement for each Grouped Dwelling to be provided with an enclosed, lockable storage area, constructed in a design and material matching the dwelling where visible from the street, accessible from outside the dwelling, with a minimum dimension of 1.5m with an internal area of at least 4m².

Unit 2 is provided with a store within the garage, and while this store does not satisfy the required minimum 1.5m dimension, its design is supported as it exceeds the required 4m² minimum area, and it is fully accessible and usable (as the entirety of the storage area can be accessed from within the garage).

A brick store has now been incorporated into the design of Unit 3, although its internal dimensions are slightly deficient of the 1.5 metre minimum specified by the R-Codes.

A metal store is shown for Unit 1, however it is deficient in the following areas:

- Manufacturer details, although requested on numerous occasions, have not been provided; and
- No access to the store has been provided.

As has now been provided for Units 2 and 3, a suitably designed store should be integrated into the design of Unit 1 as is standard industry practice.

Building Design

Council's Local Planning Policy – Streetscape requires the following basic design features to be incorporated into the design of buildings for this site. Amongst other requirements, the following summarises the main design requirements for a building on this site:

- Conventional roof form with a minimum 25 degree pitch;
- Wall height on the front elevation similar to adjacent dwellings;
- Eaves matching those predominating within the street block;
- Windows facing the street being of traditional size and shape;
- Dwelling frontages being parallel to, and orientated toward the street; and
- Colours and materials matching those predominant in the street block.

The proposed dwellings incorporate a conventional roof form with a 25 degree pitch, frontage which is parallel to the street and windows of traditional proportions.

Although the finished floor level of Unit 1 has been increased by 200mm, the proposed dwellings do not incorporate wall heights on the front elevation which are similar to adjacent dwellings as the dwellings are provided with only the minimum prescribed floor to ceiling heights, and the floor level for the front dwelling is in part sunk beneath natural ground level. This differs from the older original dwellings within the area which have raised floors on limestone foundations and raised floor to ceiling heights. The proposed dwellings are also deficient in relation to the provision of eaves on the front elevation of Unit 1 and colours and materials are not finalised.

In support of the building design, the applicant makes the following comments:

- The design of Unit 1 incorporates two gable ends on the front elevation which have brickwork of 40 and 41 courses which is representative of building design in older areas;
- The development at No. 17 Boundary Road has minimalistic raised brickwork;
- Nos. 21 and 21A Boundary Road offer the streetscape only one brick gabled end;
- Unit 1 has been designed around keeping a large existing street tree;
- Eaves have been added to the right hand side of Unit 1; we seek further clarification on the requirement for eaves on the left hand side of the dwelling; and
- Colour selection will be sent in at a later date.

In response to the applicant's comments, the following responses are provided:

- While gable ends are characteristic of older dwellings, there is no specific requirement for the provision of such a design feature and many of the dwellings within the street are designed with purely hipped roofs with no gable ends;
- No. 21 does not incorporate any gables facing the street. However, it is not this component of the design that is problematic. No. 21 provides very tall wall heights as seen from the street, while the proposed dwellings do not;
- Retention of the street tree is noted, however it is unclear how this relates to the matter of wall height;
- The design of Unit 1 is non-compliant with Council policy requirements in relation to the lack of eaves to the Lounge; and
- If details of colours and materials are not provided at this stage, then it is not possible to undertake a complete assessment of the proposal.

Having regard to the concerns that have been identified above, there are various aspects of the building design which do not satisfy Council policy requirements and accordingly the overall building design is not supported.

CONCLUSION:

The applicant has made minor changes to the drawings that were the subject of consideration by Council at its July meeting. However, in order to address the concerns that had previously been raised by the Town it was necessary for design changes of greater substance to be made.

While some of the outstanding matters could be addressed as condition of approval, more significant redesign would be required to address the matters of the front setback to Boundary Road, and the provision of open space to Unit 2. It would not be appropriate that these matters be addressed as conditions of approval, and instead given the applicant has maintained their position that they do not wish to modify these aspects of the design, then a conditional planning approval is not appropriate.

Having regard to the extent of variation from standard development requirements in the areas of setbacks (primary street and communal street), open space, site works (filling and retaining), visual privacy and building design, coupled with the potential for the design to unreasonably adversely affect the adjoining properties along with the locality generally, in addition to the undesirable precedent that approval of a development of this kind would have, it is recommended that the application be refused for the reasons identified below.

OFFICER RECOMMENDATION/S:

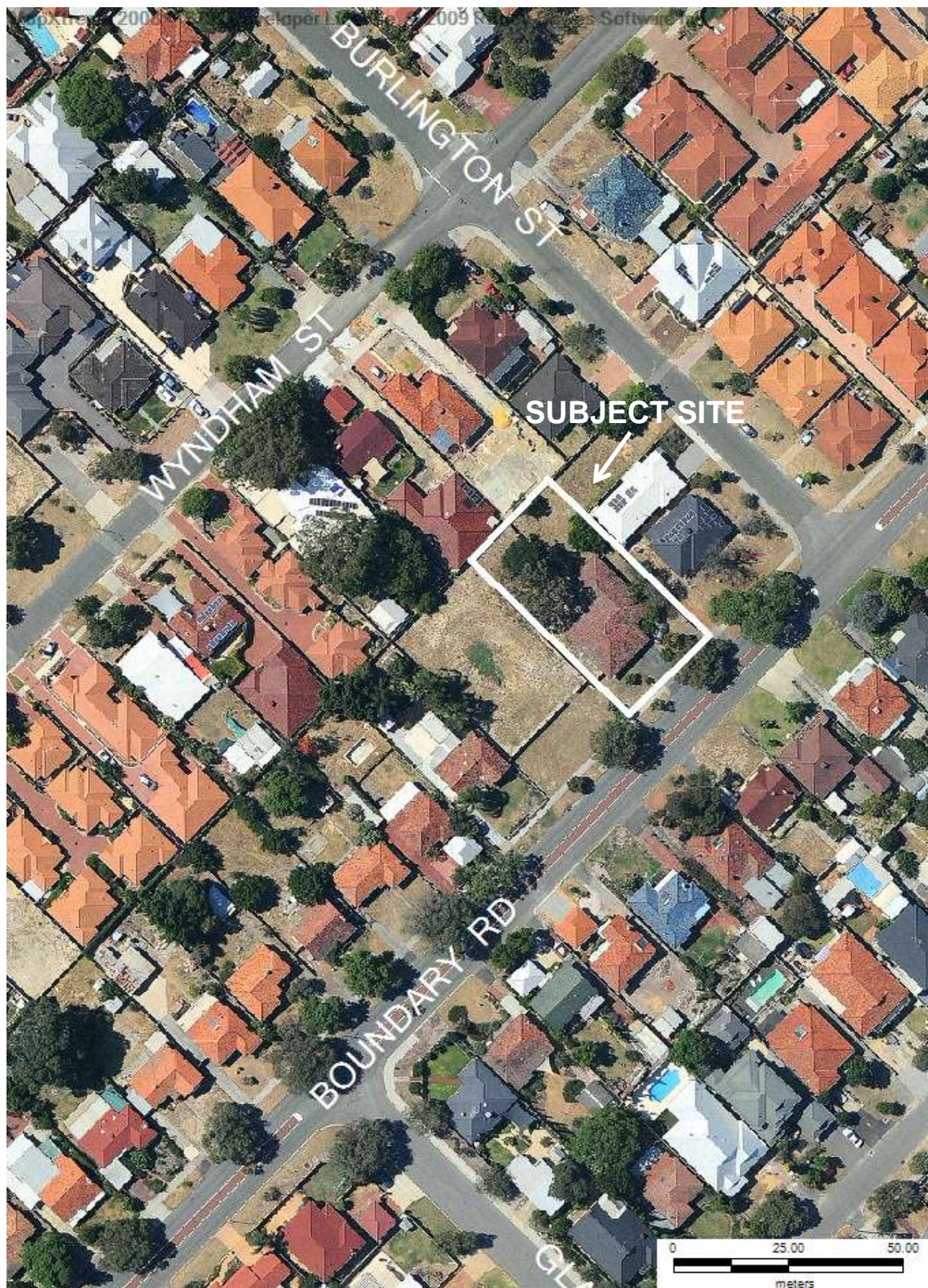
1. In accordance with the Town of Victoria Park Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the application submitted by Gemmill Homes (DA Ref: 11/0759) for Three Grouped Dwellings at No. 23 (Lot 136) Boundary Road, St James as shown on the plans dated 30 July 2012 be Refused for the following reasons:

- 1.1 **Non-compliance with Clause 3.2.1 "Setback of Buildings Generally" of Council's Local Planning Policy – Streetscape in relation to the Primary Street setback of the proposed development.**

- 1.2 **Non-compliance with the Town's requirements in relation to proposed setbacks adjacent to the Communal Street.**
- 1.3 **Non-compliance with Clause 3.2.7 "Street Walls and Fences" of Council's Local Planning Policy – Streetscape.**
- 1.4 **Non-compliance with Part 6.4 of the Residential Design Codes of Western Australia relating to "Open Space Requirements".**
- 1.5 **Non-compliance with Part 6.6 of the Residential Design Codes of Western Australia relating to "Site Works Requirements".**
- 1.6 **Non-compliance with Part 6.8 of the Residential Design Codes of Western Australia relating to "Privacy Requirements".**
- 1.7 **Non-compliance with Part 6.10 of the Residential Design Codes of Western Australia relating to "Incidental Development Requirements".**
- 1.8 **Non-compliance with Clause 3.2.11 "Building Design" (Development within the Residential Character Study Area) of Council's Local Planning Policy – Streetscape in relation to the wall height on the front elevation not being similar to adjacent dwellings, lack of eaves and eaves detailing on the front elevation of Unit 1 and lack of detail relating to proposed Colours and Materials to be used in the proposed development.**
- 1.9 **Adverse impact that approval of the proposed development would have on adjoining properties and the locality generally.**

Advice to Applicant

- 1.10 **Should the applicant be aggrieved by this decision a right of appeal may exist under the provisions of the Town Planning Scheme or the Metropolitan Region Scheme and the applicant may apply for a review of the determination of Council's decision by the State Administrative Tribunal within 28 days of the date of this decision.**
- 1.11 **Those persons who lodged a submission regarding the application be advised of Council's decision.**



11.2 1C (Strata Lot 2 on Lot 8) Hampton Street, Burswood – Retrospective Approval for Change of Use from Grouped Dwelling to Residential Building for Short Term Accommodation

File Reference:	HAMPT1C
Appendices:	No
Landowner:	LT & NM Bowman
Applicant:	LT & NM Bowman
Application Date:	8 August 2012
DA/BA or WAPC Ref:	12/0368
MRS Zoning:	Urban
TPS Zoning:	Residential R40
TPS Precinct:	Precinct P6 'Victoria Park'
Use Class:	Residential Building
Use Permissibility:	'AA' use

Date:	26 July 2012
Reporting Officer:	C. Buttle
Responsible Officer:	R. Cruickshank
Voting Requirement:	Simple Majority

Executive Summary:	
Recommendation – Refusal	
<ul style="list-style-type: none"> • Application for Retrospective Approval for Change of Use from Grouped Dwelling to Residential Building for the purpose of Short Term Accommodation. • A Residential Building is an 'AA' (discretionary) use under the Council's Town Planning Scheme No. 1. • Consultation undertaken for 14 days with surrounding owners / occupiers in accordance with Council Policy GEN 3 'Community Consultation' with 14 written submissions and 1 petition received. • Non-compliant with various provisions contained within Council Policy PLNG17 'Specialised Forms of Accommodation other than Dwellings' 	

TABLED ITEMS:

- Application forms dated 12 & 18 June 2012;
- Applicants supporting documentation comprising:
 - Covering letter;
 - Plans;
 - Management Plan;
 - Guest Information;
 - Holiday Rental Code of Conduct;
 - Photographs of the subject premises; and
 - Media Articles relating to tourist accommodation shortages.
- Correspondence from the Town dated 27 April 2012 and 31 May 2012.
- Consultation letters sent to surrounding property owners and occupiers dated 6 July 2012;
- Photograph of site notice taken 9 July 2012; and
- Submission letters and petition from surrounding owners and occupiers.

BACKGROUND:

In April 2012, the Town received a complaint regarding the operation of the subject property as a Residential Building for Short Stay Accommodation. The complainant indicated that:

- The dwelling was being used in the manner of a hotel / motel with regular turnover of guests;
- On weekends, the property became a 'party' house;
- There were commonly 3 – 4 cars parked at the subject premises, increasing parking congestion within Hampton Street; and
- The use of the building was causing severe disruption to local residents.

The Town's Compliance Officer investigated the complaint and confirmed that the premises were being advertised on the "stayz.com.au" website for short term rental (minimum 3 night stay) for up to 8 persons. This conflicted with the approved 'Grouped Dwelling' use of the property which permits occupation on a permanent basis (6 month minimum period) by a single person, a single family, or no more than six persons who do not comprise a single family.

By way of a letter dated 27 April 2012, the Town wrote to the owners of the subject property and highlighted the planning breach and invited submission of an application for planning approval or a change in the method by which the property was let (i.e. to occupancy periods of not less than 6 months and for no more than 6 persons).

On 31 May 2012, having had no response to the Town's original letter, the Town once again wrote to the owners of the subject property inviting submission of an application for planning approval within a 14 day period or cessation of the Residential Building land use.

An application for planning approval was subsequently received by the Town on 12 June 2012.

DETAILS:

The lot upon which the premises are situated is on the corner of Hampton Street and Teague Street and is developed with four Grouped Dwellings which were approved in 1994. The dwellings are arranged with one facing Teague Street (No. 8 Teague Street), one (the corner most dwelling) with frontage to Teague and Hampton Streets (No. 8B Teague Street) and two with frontage to Hampton Street (Nos. 1B and 1C Hampton Street). The building which is the subject of the application for planning approval sits between the dwelling at No. 1B Hampton Street to its right hand side, the dwelling at No. 8B Teague Street to its left hand side and the dwelling at No. 8A Teague Street to its rear.

The layout of the building which is the subject of the application comprises:

Ground Floor

Single Garage with driveway space to accommodate parking of a second vehicle;
Lounge / Family / Dining / Kitchen / Laundry / Powder Room.

Upper Floor

Bed 1 with Ensuite / Beds 2, 3 and 4 / Bathroom and Balconies to front and rear.

The Council's recently adopted Planning Policy PLNG17 'Specialised Forms of Accommodation other than Dwellings' applies to proposals of this kind. Following receipt of the application, the first matter which had to be resolved was how the proposal would be classified – as Short Term Accommodation or as a Lodging House. Which classification would apply largely turns on the number of people that a building is designed to accommodate, with Short Term Accommodation being a Residential Building occupied on a short term basis by no more than 6 persons at any one time, and a Lodging House being a Residential Building providing accommodation for 7 or more persons.

A Lodging House is subject to registration under the provisions of the Town of Victoria Park Health Local Law which includes the requirement for a keeper / manager to reside on the premises at all times.

The building has four bedrooms which are furnished in the following manner:

- Bed 1 – Queen Size Bed;
- Bed 2 – Queen Size Bed;
- Bed 3 – Two Long Single Beds or One King Size Bed; and
- Bed 4 – Double Bed.

Although the property has the capacity to sleep eight people based upon bedding configuration, the advertisements for the property have subsequently been changed to specify a maximum accommodation of 6 persons, as the property owner wishes to have the proposal considered as Short Term Accommodation rather than a Lodging House. The applicant has provided the following supporting information:

"I appreciate the town's planning policy PLNG17 and the requirement to only accommodate 6 or less people in a residential building. I would appreciate if you could please note in your consideration of our application that we do not wish to be considered under lodging house guidelines as the property is not set up to allow for a caretaker to live onsite and as such we have changed the maximum number of permissible guests to 6 on our website. We will also add into our terms and conditions a clear statement that the maximum number of guests allowed at the property is 6 as per the Town of Victoria Park's planning scheme. We will enforce the maximum number of 6, which has in fact always been our preferred maximum occupancy.

The current bedding configuration of two queen beds, two single beds and one double bed, is however important to many of our guests and is the reason many of them come to stay with us. Our main target group is families, particularly those with 3 or 4 children, as these are the groups that often come from the country and find accommodation in Perth particularly hard to find. Many of our guests are repeat guests and have indicated that they return because of the high standard of accommodation, the fantastic location (close to public transport, shopping) and the bedding configuration allowing their children to have their own space and beds.

A family with four children do require all of the five beds we currently have. If we have to change this bedding configuration then we will no longer be able to cater for these groups. We also often get bookings from extended family groupings (e.g., mum, dad, adult children and grandchildren) who come to Perth mostly for a family member's wedding. Apart from larger families, these extended family groupings would make up the majority of our bookings. These mixed family groups also require the use of all five of the beds we can provide.

The two single beds that we provide in room 3 can be zipped together to make a king size bed - this configuration is often requested even though there is a single person in the room. Another large number of bookings we receive are coming from Singapore, Hong Kong and Malaysia, usually visiting relatives living in the area. These groups of people seem to have a preference for individuals sleeping in a double or queen bed. Our research earlier on included speaking to a variety of hotels and motels regarding their most commonly requested bedding arrangements and by far they were queen and king size beds. Single bed rooms are in very low demand unless they were attached to a queen room as a family unit.

I have looked through our bookings in the past 12 months and the majority of them have been 6 or less people, using all four rooms and four or five of the available beds. I believe this is because we represent very good value accommodation for more than two people and can provide much more room and amenity than staying in separate motel rooms. Our entertaining space and separate lounge area enables family groups to holiday together whilst still enjoying their own space.

It is for these reasons that we would like to request that we be able to retain the current bedding configurations - but will be firmly enforcing the maximum number of guests at 6. The stayz website now clearly shows the maximum number of guests is 6 and a property search for properties catering for more than 6 guests will not bring up our property as an option."

For the purposes of enabling the application to be advertised for public comment, the proposal was described as a Residential Building for the purpose of Short Term Accommodation (i.e. 6 or less persons).

Council Policy PLNG17

The following table summarises the relevant provisions of Policy PLNG17 'Specialised Forms of Accommodation other than Dwellings' and compliance of the proposal with those particular provisions:

Policy Provision	Compliance	Comment
<p><u>Location</u> Applications will be more favourably considered where located:</p> <ul style="list-style-type: none"> i. On a Primary, District or Local Distributor Road; ii. Within 400m of a train station or high frequency bus route; iii. Within 400 metres of an area of tourist potential; iv. In or within 400 metres of a District Centre zone or Commercial Zone providing convenience shopping and access to everyday goods and services; and v. Within 800 metres of a higher education provider, where the Short Term Accommodation is proposed to house students. 	<p>Part Compliance Achieved</p>	<p>Although the property is located within 400 metres of a high frequency bus route stop (subject property is within 400m of Shepperton Road and Albany Highway) and is also located within 400m of land zoned District Centre which provides for convenience shopping and access to everyday goods and services, it is not located on a Primary, District or Local Distributor road, and is not located within 400 metres of an area of tourist potential. As the accommodation is not directed towards students, proximity to a higher education provider is not of relevance in this instance.</p>
<p><u>Design</u> Existing Buildings – there are a maximum of 6 rooms designed for and / or capable of use as bedrooms and the existing building is approved by Council as a Single House or Grouped Dwelling</p>	<p>Yes</p>	<p>The existing building comprises 4 rooms which are designed for use as bedrooms and the existing building is approved as a Grouped Dwelling.</p>
<p><u>Car Parking</u> Applications for Short Term Accommodation shall be subject to the car parking requirements for ‘commercial accommodation’ stipulated by the Scheme Policy Manual.</p>	<p>No</p>	<p>Prescribed parking ratio is 1 bay for every bedroom or 1 for every 3 beds provided whichever is the greater. Having regard to number of bedrooms in premises (4), the prescribed number of car parking bays is 4 whereas only 2 car parking bays are provided.</p>
<p><u>Management Plan</u> The policy specifies a need for a management plan to be submitted which covers a range of matters, supporting application information and maintenance of an on-site register.</p>	<p>Part compliance achieved</p>	<p>Although a management plan has been provided, it does not address all of the matters identified within the Council’s policy; inadequate written supporting information has been provided in an attempt to demonstrate that the location of the accommodation is appropriate in relation to its compatibility with the adjoining area; and no information regarding the provision and maintenance of an on-site register has been provided.</p>

Legal Compliance:

The application proposes to change the use of the approved Grouped Dwelling to a Residential Building for the purpose of Short Term Accommodation for up to 6 people.

Relevant General Provisions of Town Planning Scheme No. 1

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

- Clause 36 of the Scheme Text - Determination of Application - General Provisions; and
- Statement of Intent contained in Precinct Plan P6 'Victoria Park Precinct'.

Compliance with Development Requirements

- TPS 1 Scheme Text, Policy Manual and Precinct Plan; and
- Residential Design Codes (R Codes).

Apart from providing the following definition for a Residential Building:

“A building or portion of a building, together with rooms and outbuildings separate from such building but incidental thereto; such building being used or intended, adapted or designed to be used for the purpose of human habitation:

- *Temporarily be two or more persons; or*
- *Permanently by seven or more persons who do not comprise a single family, but does not include a hospital or sanatorium, a prison, a hotel, a motel or a residential school.”*

The Residential Design Codes do not prescribe specific development standards for development of this kind.

Accordingly, apart from the requirement for four car parking spaces to be provided for the building in lieu of the two car parking spaces originally required for the approved Grouped Dwelling, the development requirements which originally applied to matters such as boundary setbacks, open space visual privacy etc. remain unchanged.

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 sent to owners and occupiers within close proximity of the development site (55 letters) and placement of a sign on site during the advertising period.

During the advertising period, 15 submissions were received, summarised as follows:

- 3 letters in support of the proposal;
- 1 letter which offered a conditional 'no objection';
- 10 letters which objected to the proposed development; and
- 1 petition, with 13 signatories, objecting to the proposed development.

CONSULTATION SUBMISSIONS (14 letters and 1 petition)	
<p>Letter of Support from Occupier of No.1A Hampton Street</p> <p>The occupier of No. 1A Hampton Street writes in support of the application and states that:</p> <ul style="list-style-type: none"> • The property is well managed; • There are a large number of people coming and going at all hours within the vicinity of the development site in any case due to the large number of units within the locality; • The use has not caused any problems to the submitters knowledge; and • Short Term accommodation contributes significantly to the development of Victoria Park as an inner city suburb. 	<p>Officer's Comments</p> <p>The submitter does not declare that they are the owner / director of 'Select Stays', an on-line short stay accommodation business that lists properties for rental on a short stay basis.</p> <ul style="list-style-type: none"> • Noted. There is no question that the property is well managed from a physical or appearance perspective; however there is differing views (which the Town is unable to fully qualify) which have been made from submitters in relation to the management of the property from a social perspective. • Agreed – given the large number of units within proximity of the development site and the tendency of such occupants to be in non-traditional family households, it is probable that there would be a higher number of people coming and going generally, and possibly also at varying hours of the day, than would be found in a locality which was comprised of lower density housing and occupied by people in traditional family groupings. • Noted – there is no reason to dispute that this resident is unaware of any concerns having been raised in relation to the operation of the premises. There are, however, a number of submitters who have presented an opposing position. • The basis for this submission (i.e. economic / social) is not clear, so a response to this point is not made.
<p>Form Letter of Objection from:</p> <ul style="list-style-type: none"> • Owner of U1, Nos. 2-4 Hampton St; • Owner of U2, Nos. 2-4 Hampton St; • Owner of U3, Nos. 2-4 Hampton St; • Owner of U4, Nos. 2-4 Hampton St; • Owner of U5, Nos. 2-4 Hampton St; • Owners of U6, Nos. 2-4 Hampton St; • Owners of U7, Nos. 2-4 Hampton St; • Owner of U8, Nos. 2-4 Hampton St; & • Owner of U9, Nos. 2-4 Hampton St. 	<p>Officer's Comments</p>

<p>The objectors make the following comments in relation to the proposed development:</p> <ul style="list-style-type: none"> • Development site is not located on a Primary, District or Local Distributor road; • Development site is not located within 400 metres of an area of tourist potential; • Development site is not within 800 metres of a higher education provider; • Insufficient car parking provision – only 2 bays in lieu of required 4 bays; • Inability to monitor or manage behavior of tenants or how many tenants will stay at the premises; and • Noise impacts from tenants arriving and departing at various hours and ‘partying’. 	<ul style="list-style-type: none"> • Supported – Hampton Street is classified as an Access Road within the Town’s Functional Road Hierarchy. • Supported – the site is approximately 900m from the Swan River Foreshore, Burswood Casino and Brownes Stadium. • Not Supported – There is no evidence to suggest that the accommodation is targeted toward students. • Supported – 2 parking bays are provided in lieu of the 4 required. • Noted - As there is no on site management, guests are essentially left to regulate themselves, although it is acknowledged that there is a management plan, a code of conduct and adjoining neighbours on either side of the development site have been provided with contact details of the property owners in the event that contact needs to be made to report anti-social behaviour. • Supported – as the accommodation is targeted toward people on holiday, there is a higher probability that people staying in the premises will be coming and going at hours which differ from those of permanent residents within the locality, and that there will be a higher probability that they will be engaging in social events.
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Petition Objecting to from Owners of Bella Vista – No. 6 Hampton Street	Officer’s Comments
<p>The petitioners make the following comments in relation to the proposal:</p> <ul style="list-style-type: none"> • Not enough parking; • Inadequate supervision of guests; and • General opposition to short term accommodation 	<p>In response to the petitioners comments, the following Officer responses are provided:</p> <p>Supported. The application does not provide the number of car parking bays specified within Council Policy.</p> <p>Noted. As previously mentioned, this is a particularly difficult matter for Officers to comment upon definitely, as times which are presumably of greatest concern are after hours and on weekends.</p> <p>Noted. Through Policy PLNG17, Council has formalised its position in relation to accommodation of this kind and has stipulated particular circumstances and criteria, which if satisfied, may render a particular property suitable for the provision of accommodation of this kind. Accordingly, while ‘blanket’ opposition to such accommodation cannot be supported, having regard to Council’s adopted policy position, it is acknowledged that there are various areas where this particular application does not satisfy Council’s Policy requirements.</p>

Letter of Conditional No Objection from Owners of No. 6A Teague Street	Officer's Comments
<p>The owners of No. 6A Teague Street have stated that they <i>“would not oppose the application, albeit only with restrictive self-regulating controls put in place to ensure that we can continue the peaceful enjoyment of our own property”</i>.</p> <p>In their submission, these owners make reference to a dwelling at unit 6, No. 26 Harvey Street (directly opposite their residence), which has also been let as short term accommodation, and which is known as the “Lucky House”. The submitter lists various ways by which the “Lucky House” has caused them disturbance in the past, but which has been the subject of fewer causes for concern in recent times, having regard to revised management arrangements and provision of a number which can be called 24 hours a day to make complaints.</p> <p>In summary, the submitters state that:</p> <p><i>“If the property’s use was self-regulated by conditions of hire that are the same or similar as to that of the “Lucky House” and surrounding residents were given a legitimate 24hr contact number to use when problems do occur then we would not oppose the application. However, if no such controls are put in place, then, because we do not want to be put in a position of having to approach prospective offending residents ourselves, and also because the Police and the Town of Victoria Park do not have the resources to pro-actively respond to such instances when they do occur, we would oppose the application based on our experience with the “Lucky House”. That is, with regard to continual infringement of our right to peaceful enjoyment of our own property through noise and disturbance outside of hour 8pm to 7am and, also with regard to their being insufficient off-street parking.”</i></p>	<p>Noted. Officers do not have detail on the conditions of hire which apply to the ‘Lucky House’ (which is separately the subject of compliance action).</p> <p>The applicant has verbally indicated that they would be willing to have their contact details distributed to surrounding property owners.</p>

Letter of Support from Owners of No. 7 Teague Street	Officer's Comments
<p>The owners of No. 7 Teague Street have provided a letter in support of the application and make the following comments:</p> <ul style="list-style-type: none"> • Short term accommodation is expensive and extremely hard to find in Perth; • Location has benefits in relation to proximity to public transport, restaurant strip, shops, parks and Perth; • Parking demand for short stay accommodation is less than the parking demand for ordinary dwellings; and • It is preferable for the dwelling to be occupied rather than left vacant (which is a possible alternative in situations like this where the owner's primary place of residence is in the country). 	<p>It should be noted that these submitters have also made enquiries with the Town about the potential to establish accommodation which would also be controlled by PLNG17 'Specialised Forms of Accommodation other than Dwellings' from the premises which they own at No. 7 Teague Street.</p> <ul style="list-style-type: none"> • Noted - it is acknowledged that shortages of tourist accommodation have been reported in the media, however this has only limited relevance for the consideration of this specific application. When dealing with any application of this kind, it is important to ensure that it is appropriately located and that any potential adverse impacts on surrounding properties are mitigated to the greatest extent possible. • Supported in part. The location has generalised benefits of the kind described, although it is noted that the siting does not satisfy all of the locational requirements which are advocated within Council's adopted policy. • Not supported. For ordinary dwellings, the R-Codes specify a parking requirement of two car bays, but for commercial accommodation, the Town's Policy specifies a parking requirement of four bays. The property provides on-site capacity for the parking of only two vehicles. • Supported in part. While it is acknowledged that there may well be benefit in having a building occupied rather than left vacant, the method by which the building is occupied, and any potential associated adverse impacts that such accommodation may hold, must also be considered.

<p>Letter of Objection from Owner of No. 12A Teague Street</p>	<p>Officer's Comments</p>
<p>This submitter makes reference to the objection letters presented by the owners of Nos. 2-4 Hampton Street, and objects on the same basis.</p>	<p>Refer to responses provided in relation to objection letters from owners of Nos. 2-4 Hampton Street.</p>
<p>Letter of No Objection from Chief Executive Officer and Founder of iHOSTS inc. (Independent Hosts and Operators of Short Term Stays)</p>	<p>Officer's Comments</p>
<p>This submission is made primarily in support of such uses generally, as opposed to making a submission that provides specific comment on the application that is before Council for determination.</p> <p>The following comments in support of short stay accommodation generally are made:</p> <ul style="list-style-type: none"> • The majority of short stay guests are families, family groups and couples; • Short stay properties must be well presented and have good street appeal; • Short stay accommodation adds to the residential amenity of a neighbourhood; • There is a misconception surrounding issues such as parties, parking and excess rubbish; • The occurrence of anti-social behavior is statistically miniscule; • Short stay accommodation compares favourably to standard residential accommodation in terms of impact on residential amenity; and • There is financial benefit to the local economy. 	<p>Noted, albeit that the submission is made in relation to Short Stay Accommodation generally, and is not specific to the application which is the subject of consideration.</p>

Sustainability Assessment:

External Economic Implications:

The proposal may have positive benefit to the local economy, but as indicated in the submission made by iHOSTS, the extent of any such benefit is hard to quantify.

Social Issues:

Local residents have raised concern in relation to the proposed development from a social perspective, however, such concerns have also be disputed by submitters such as iHOSTS. Once again, it is difficult to accurately quantify potential impacts of the development from a social perspective.

Cultural Issues:

No impact

Environmental Issues:

No impact

COMMENT:

The application seeks retrospective approval for use of the approved Grouped Dwelling as a Residential Building.

Existence of the operation was brought to the Town's notice by way of a complaint from a neighbouring resident, as the operations were said to be having a negative impact on their residential amenity.

Consultation undertaken in relation to the proposal resulted in the receipt of 14 written submissions and 1 petition, the majority of which object to the application.

As a result of the growing demand for accommodation of the kind provided by this property, Council recently adopted Policy PLNG17 'Specialised Forms of Accommodation other than Dwellings'.

Although the proposal satisfies a number of provisions contained within the Policy, there are areas of non-compliance including:

- The property being located on a local access road rather than a higher order road;
- Proximity to areas of tourist potential;
- Insufficient car parking provision; and
- Inadequate information to address all required management arrangements.

CONCLUSION:

A Residential Building is an 'AA' (discretionary) use within the Residential zone. In considering whether or not to approve an application of this kind, it is necessary to have regard to compatibility with the surrounding locality and consideration of any potential adverse amenity impacts which may result.

Although it is evident that the proponents have gone to significant effort to establish a well-run business, it is telling that notice of the operations were brought to the Town's attention by way of a complaint and that public consultation has resulted in the receipt of a reasonably large number of submissions, the majority of which have objected to the proposal.

Additionally, while it is evident that the proposal satisfies a number of relevant policy provisions, there are a number of Council requirements which are not satisfied. Accordingly, on balance, it is recommended that the application be refused.

Additionally, it is appropriate that the property owner be instructed to cease the Short Term Accommodation operations, and that the Town be authorised to commence formal enforcement action, should the need arise.

Further Comments:

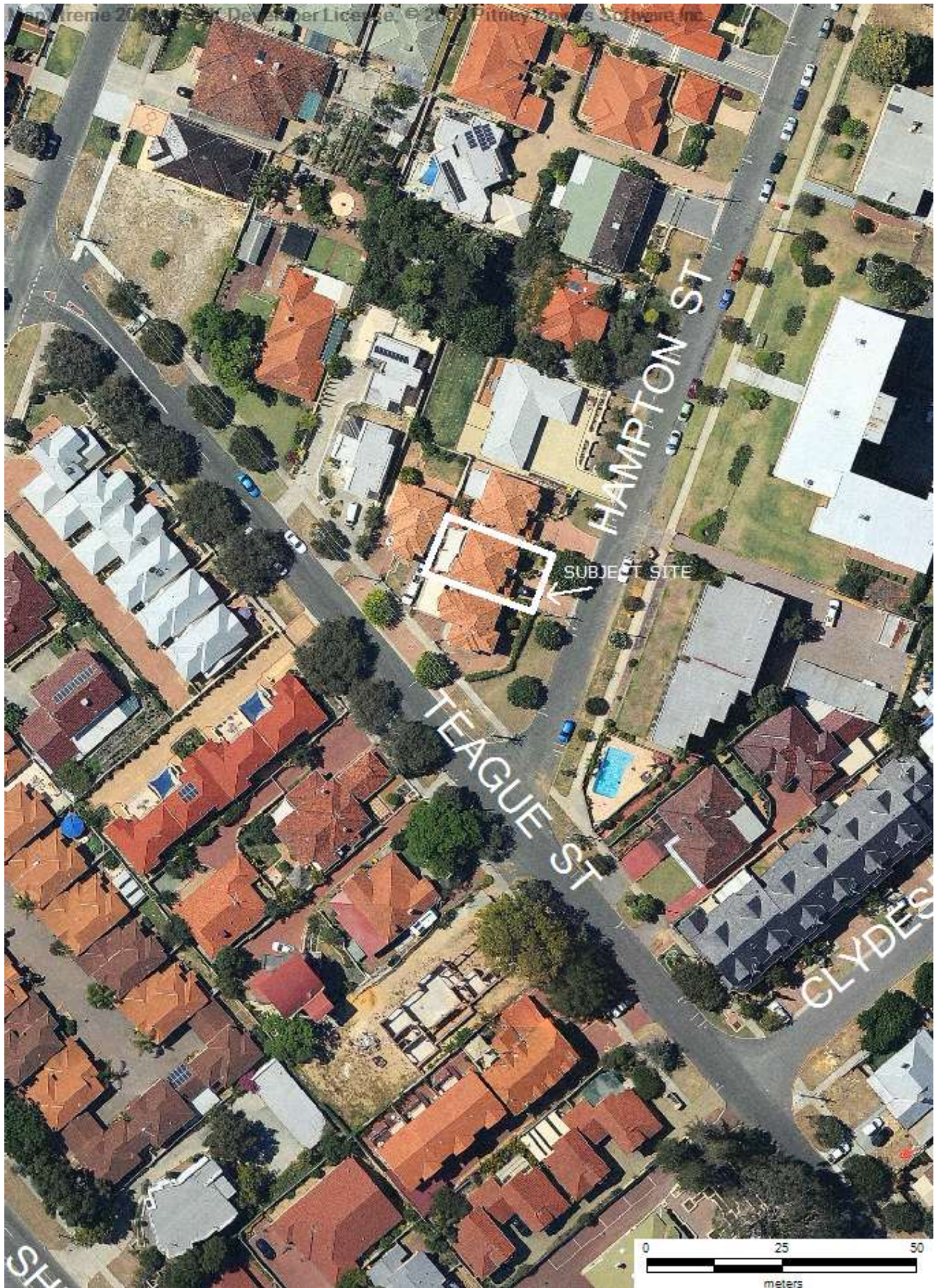
In response to some of the matters raised at the Elected Members Briefing Session on 7 August 2012:

- There is only sufficient space on-site for two compliant car bays, being one in the garage and one in tandem between the garage and the front boundary.
- Contact has been made with the WA Police Service, Council's Rangers and Environmental Health. No complaints have been received in relation to noise emanating from the subject dwelling. Rangers have advised that while there have been traffic issues within Hampton Street, none have been directly attributable to the subject dwelling.
- Council's Planning Officer has endeavoured to contact all 3 adjoining landowners, however only the owner of 8B Teague Street has responded by advising that he has had no issues with the use of the subject dwelling.

OFFICER 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 LT & NM Bowman (DA Ref: 12/0368) for Retrospective Approval for Change of Use from Grouped Dwelling to Residential Building for the purpose of Short Term Accommodation at 1C (Strata Lot 2 on Lot 8) Hampton Street, Burswood as indicated on the plans dated received 12 June 2012 be Refused for the following reasons:
 - 1.1 Non-compliance with Town Planning Scheme No. 1 Clause 36, with respect to the following:
 - The orderly and proper planning of the locality; and
 - The conservation of the amenities of the locality.
 - 1.2 The proposal being non-compliant with the parking requirements specified by Town Planning Scheme No. 1 for 'Commercial Accommodation'.
 - 1.3 The proposal being non-compliant with the provisions of adopted Council Policy PLNG17 'Specialised Forms of Accommodation other than Dwellings' in relation to the siting of the dwelling on a local access road, proximity to areas of tourist potential, and the application not addressing all of the management requirements specified within the Policy.
2. The property owner be instructed to immediately cease operation of the building in the manner of a Residential Building for the purpose of Short Term Accommodation, and reinstate the approved Grouped Dwelling use.

- 3. The Council delegate to the Chief Executive Officer the authority to instruct solicitors McLeods to initiate legal action in respect to the unauthorised use of the site under Clause 54 of the Town of Victoria Park Town Planning Scheme No. 1 and Section 218 and 222 of the Planning and Development Act 2005 and that legal action be taken against the owners and occupiers of the property if and when necessary, should the matter of the unauthorised use of the site remain unresolved, to the satisfaction of the Chief Executive Officer.**
- 4. The petitioners and other persons who made individual written submissions regarding the application be advised of Council's decision.**



11.3 1017 Albany Highway, St James – Retrospective Approval for Change of Use from Non-Conforming Use (Light Industry) to Non-Conforming Use (Light Industry) & Unlisted Use (Open Air Storage Yard)

File Reference:	ALBA1017
Appendices:	No
Landowner:	C.S, D, J.G & S Di Marco
Applicant:	Guy Tristram
Application Date:	20 April 2012
DA/BA or WAPC Ref:	12/0248
MRS Zoning:	Urban
TPS Zoning:	District Centre – ‘East Victoria Park Gateway Shopping Area’
TPS Precinct:	Precinct P11 - ‘Albany Highway Precinct’
Use Class:	Unlisted Use
Use Permissibility:	At Council’s discretion

Date:	31 July 2012
Reporting Officer:	L. Parker
Responsible Officer:	R. Cruickshank
Voting Requirement:	Refusal – Simple Majority Approval – Absolute Majority

Executive Summary:
Recommendation – Refusal

- Application seeks retrospective approval for the use of the rear hardstand area on the site for the open air storage of temporary fencing hire materials.
- In addition to the unauthorised use, the site is also occupied by a Beaurepaires Tyre Service Centre which has been in operation since 1964.
- Consultation was undertaken for 21 days to surrounding property owners and occupiers in accordance with Council Policy GEN3 ‘Community Consultation’. Two (2) submissions were received during the consultation period.
- The proposed Unlisted Use is inconsistent with the objectives for the East Victoria Park Gateway Shopping Area and the District Centre Zone, which seeks to consolidate this portion of Albany Highway as a major retail and shopping node at the southern “gateway” to the Town.
- Recommended that the application be Refused.

TABLED ITEMS:

- Development application form received 20 April 2012;
- Development Site Plan received 18 July 2012;
- Superseded site plan received 20 April 2012;
- Consultation letter to adjoining owners & occupiers dated 25 June 2012;
- Submissions (2) received during community consultation period on 16 July 2012;
- Correspondence to applicant dated 17 May, 30 May, 14 June and 26 July 2012;
- Correspondence from applicant dated 18 April, 22 May, 19 June and 10 July 2012;
- Supporting statement from applicant received 18 July 2012; and
- Submission from applicant received 26 July 2012 amending application to seek temporary approval of the Unlisted Use for two years.

BACKGROUND:

The City of Perth approved the development of a tyre service centre with ancillary office and amenities at 1017 Albany Highway in 1964. Since this date, the site has continuously been occupied by a Beaurepaires Tyre Service Centre.

The Council at its Ordinary Meeting held on 10 July 2001 approved an application for minor internal and external additions to the Beaurepaires Tyre Service Centre. The approval required the provision of seven car parking bays on the site.

In April 2012 the property owner was advised that the Town had become aware that a storage yard for temporary fencing had commenced operating at the rear of the site, without any record of prior Council approval to do so. The owner was instructed to cease the use or submit an application for retrospective planning, resulting in submission of the application the subject of this report.

DETAILS:

An application has been received seeking retrospective approval to carry out an additional use behind the Beaurepaires Tyre Service Centre located at 1017 Albany Highway, St James. The application involves the use of the rear hardstand area for the open air storage of temporary fencing hiring materials. As an 'Open Air Storage Yard' is not a use listed within the Zoning Table of Town Planning Scheme No. 1 it is classified as an 'Unlisted Use'.

The subject site is located within the 'East Victoria Park Gateway Shopping Area' which is intended to serve as the southern "gateway" to Albany Highway and the Town as a whole. Over time, the area is envisaged to transition from a general commercial area to a major retail and shopping node serving the needs of the local and regional population in accordance with its 'District Centre' zoning. The site currently benefits from non-conforming use rights associated with the original approval of the Beaurepaires Tyre Service Centre, as 'Light Industry' is an 'X' (prohibited) use within the 'District Centre' zone under Town Planning Scheme No. 1.

The application seeks retrospective approval for the use of the rear hardstand area on the site as a storage yard for temporary fencing materials used by a fencing contractor, "Tempfence", in the following applications:

- Building and construction sites;
- Demolition sites;
- Outdoor events; and
- Temporary pool fencing.

The proposed storage yard has an overall area of 888m² with the maximum height of stored fencing materials being approximately 2.0 metres. The stored fencing materials consist of galvanised steel posts, galvanised chain link mesh and footings. Incidental materials and equipment are stored inside a storage shed (sea container) located within the storage yard. Vehicular access to the site is via the rear right-of-way adjoining the property, with the fencing materials being collected and returned to the site using a 5 tonne or 2.5 tonne flatbed truck with drop down sides, within the on-site vehicle loading and unloading area indicated on the applicant's amended site plan received on 18 July 2012.

No sales or hire of fencing is conducted from the site, with the fencing materials being stored on site for collection by the fencing contractor only for delivery to construction, building and demolition sites and events in the metropolitan area. Fencing is then returned to the storage yard as projects are completed, pending delivery to a new project site. The applicant has confirmed that the loading and unloading of materials is currently undertaken by hand and hence creates minimal noise. The applicant has stated that a small fork lift may be used on the site in future but is unlikely to result in any significant noise impacts.

In order to provide visual screening of the storage yard the applicant has proposed to provide shade cloth along the chain link mesh fencing along the south-west, north-west and south-east boundaries of the site.

Hours of Operation and Staffing

The proposed hours of operation of the open air storage yard are Monday to Friday between the hours of 7:30am to 6:00pm. The applicant has stated that due to the nature of the business some weekend work is required, such as for events held over weekends or emergency call outs following storm events, etc., which would occur on an occasional basis.

During collection and delivery of fencing materials up to four staff may attend the site (two staff per truck). Staff arrive and depart in the same vehicle and hence no additional staff parking is required other than that to accommodate the loading and unloading of the trucks used to transport the materials. The applicant has confirmed that staff are typically in attendance on the site for a maximum of one hour, with the frequency of collection and delivery of fencing occurring on average twice a day during weekdays.

Fencing to rear right-of-way

During assessment of the application it was identified that development on the site is subject to a 0.5 metre right-of-way widening requirement. However an inspection of the property identified that the new chain link mesh fencing installed by the business operator on the site was located within this widening area.

The applicant has acknowledged the above and has proposed that the existing chain link/galvanised steel post fence, or a fence of the same standard, will be relocated by 0.5 metres so as not to conflict with the future widening of the right-of-way. It is recommended that this be a condition of planning approval should the Council determine to approve the application.

Parking and Vehicular Access for Beaurepaires Tyre Service Centre

The existing, approved car parking for the Beaurepaires Tyre Centre consists of 7 angled car parking bays located along the south-east property boundary of the site that are accessed from Albany Highway. Given the angle of the bays, vehicles parked within them cannot reverse out and exit onto Albany Highway in forward gear directly from the bays. This was not an issue prior to commencement of the unauthorised use as parked vehicles could exit the Beaurepaires Tyre Service Centre bays via the rear right-of-way.

This situation has been discussed with Council's Engineering Technical Officers who have confirmed that the angled car bays are acceptable provided the hardstand area located between the rear of the Beaurepaires Tyre Service Centre and the fenced off storage yard at the rear of the site remains free of obstructions and made available to serve as a vehicle manoeuvring area to allow for the exit of vehicles onto Albany Highway in forward gear. It is recommended that this be a condition of planning approval should the Council determine to approve the application.

Unauthorised access across adjoining property

Inspection of the site identified that a portion of the north-western boundary fencing behind the Beaurepaires Tyre Service building has been removed and allows for staff and customer vehicles to enter/exit the site via the adjoining property's (1013-1015 Albany Highway) vehicular access way and car parking area, rather than via Albany Highway. This was communicated to the applicant along with photographs of the portion of the boundary in question which showed wheel ruts within the adjoining property's car park landscaping strip and the broken base of what appeared to have been a fibro/asbestos dividing fence. It is recommended that this matter be resolved through the imposition of a condition of planning approval should the Council determine to approve the application.

Amendment of Application to Seek Temporary Approval

After being informed of the Urban Planning Unit's recommendation for refusal of the application, the applicant submitted a further written submission on 26 July 2012, amending the application to seek temporary approval of the unauthorised use for a period of two years. The applicant contends that temporary approval of the use is acceptable for the following reasons:

- The use does not involve any substantial building or construction works and hence its discontinuation at the end of the temporary approval period would not be unduly onerous; and
- It enables an interim use for the land whilst not compromising the ability for the longer term planning objectives for the locality to be realised.

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 16 'Unlisted Uses'
- Clause 32 'Unauthorised Existing Developments'
- Clause 35 'Advertising Procedure'
- Clause 36 'Determination of Application – General Provisions'
- Clause 37 'Determination of Application for an Unlisted Use'
- Clause 42 'Temporary Planning Approval'

Compliance with Development Requirements

- TPS 1 Scheme Text, Policy Manual and Precinct Plan;
- Development standards for 'East Victoria Park Gateway Shopping Area' in Precinct Plan P11;
- Policy 3.5 'Non-Residential Uses in or Adjacent to Residential Areas'
- Policy 4.7 'East Victoria Park Gateway Shopping Area Design Guidelines'
- Policy 5.1 'Parking Policy'
- Policy 5.2 'Loading and Unloading'

Town Planning Scheme No. 1 Policy Manual – Policy 4.7 ‘East Victoria Park Gateway Shopping Area Design Guidelines’

Clause 4.7.2 ‘Objectives’ of Policy 4.7 states in part:

- i. To maintain and enhance the traditional “strip” retail character of Albany Highway;*
- ii. To improve the visual amenity of the area;*
- iii. To consolidate activities into a node of retail oriented commercial and shopping uses;*
- iv. To revitalise and support the economic competitiveness of the area;*
- v. To treat the area as the southern “gateway” to the Town of Victoria Park and Albany Highway;”*

Car Parking

Car bays for non-residential development should be provided at the rate specified under Council’s Policy 5.1 ‘Parking Policy’.

As the proposed use is similar in nature to a ‘warehouse/industry’ type activity as specified in Policy 5.1 ‘Parking Policy’, the related on-site car parking requirement was applied to the initial assessment of the proposed Unlisted Use (Open Air Storage Yard), as follows:

Use	Requirement	Provided
Existing Beaurepaires Tyre Service Centre	As for ‘warehouse/industry’ being 3 bays for the first 150m ² of net floor area and thereafter 1 bay for every 75m ² . = 7 bays	7 bays, as per current planning approval for the use.
Unlisted Use ‘Open Air Storage Yard’ (888m ²)	As for ‘warehouse/industry’ being 3 bays for the first 150m ² of net floor area and thereafter 1 bay for every 75m ² . = 12.84 (13) bays	1 loading/unloading bay.
TOTALS	20 bays	8 bays, resulting in 12 bay shortfall.

It should be noted that the community consultation letters sent to surrounding owners and occupiers advertised an on-site car parking shortfall of 13 bays, as information from the applicant confirming the provision of one on-site car bay for the loading/unloading of fencing materials had not yet been received.

Having regard to the additional information received from the applicant on 18 July 2012 confirming the operations of the business, the imposition of the car parking requirements applicable to a ‘warehouse/industry’ use are no longer considered relevant given the use does not attract customers or visitors to the site, and staff will only be present during the loading or unloading of fencing materials. As such the relevant car parking considerations to be taken into account are limited to those identified in Policy 5.2 ‘Loading and Unloading’. As the application has been amended to include a “vehicle loading & unloading area” accessed from the rear right of way for the transport of fencing materials to and from the site the requirements of this Policy are considered to be satisfied.

In view of the above the proposed car parking and vehicular access arrangements are considered sufficient for the operations of the business and to not generate a shortfall in on-site car parking, provided the use is restricted to the existing business operator. It is recommended that this be a condition of planning approval should the Council determine to approve the application.

Submissions:

Community Consultation:

In accordance with Clauses 16, 35 and 37 of Town Planning Scheme No. 1 and Council Policy GEN3 ‘Community Consultation’, the proposed change of use was advertised for a period of 21 days, including letters to surrounding owners and occupiers and the installation of signs at the Albany Highway and right-of-way frontages of the site. The consultation period commenced on 26 June 2012 and closed on 16 July 2012.

Two submissions were received during the consultation period indicating concern in relation to the application, which are summarised and responded to in the table below.

The submissions were received from the owners of two units (Units 6 & 8) within the seven-unit complex at 2 Alday Street, which is located behind the McDonalds fast food outlet at 1035 Albany Highway, St James. The comments made by the owners of Unit 8 were reiterated in full in the submission from the occupier of Unit 6, after receiving a copy of the submission from them.

Submissions	
Submission from owner of 6/2 Alday Street and owner-occupiers of 8/2 Alday Street, St James	Officer Comments
Concerned about potential adverse impacts on amenity of the area	Supported in principle – A use of this nature is inconsistent with the planning objectives for the ‘East Victoria Park Gateway Shopping Area’ which seek to relocate light industrial and large scale open air type uses to the general commercial and industrial areas of the Town.
Various concerns regarding impacts of surrounding existing businesses and the use of their rear car parking areas: <ul style="list-style-type: none"> • McDonalds restaurant - Litter and debris from customers around premises, noise issues associated with cars using drive-thru service. • Supercheap Auto - customers regularly use the rear car parking area to fit parts/purchases to their vehicles, leaving litter/package behind. • Existing prayer hall – car parking area is filled up entirely when services/events are being held. 	Comments noted - The Council’s consideration should have regard to the context of the site and the potential for the use to add to or exacerbate existing problems or pressures in the immediate area. However, as the nature and operations of the use do not generate any need for customers to visit the site, this is not considered to be the case.

<p>The storage area was previously used as secure car parking. It is fair to say that aside from the aesthetic impact, the stacked fencing materials have no impact on us, however we remain concerned if the storage yard is used for other purposes or other materials – for example sea containers, garden mulch, paper, tyres etc.?</p>	<p>Supported – Should the Council exercise its discretion and resolve to approve the application, it is recommended that any such approval be subject to conditions restricting the use to the storage of temporary fencing materials only by the current business operator, with the business operating as per the applicant’s submitted written information.</p>
<p>On balance we would prefer the status quo to remain – the parking bay issue seems irrelevant and the fencing material is not offensive.</p>	<p>Comment noted – Whilst approval of the existing unauthorised use would maintain the status quo, it is not considered appropriate in the District Centre zone and would set an undesirable precedent for similar uses which do not align with the intended future development for the locality and the relocation of light industrial/open air type uses to the general commercial areas of the Precinct.</p>

Sustainability Assessment:

External Economic Implications:

No impact

Social Issues:

No impact

Cultural Issues:

No impact

Environmental Issues:

No impact

COMMENT:

Clauses 36 and 37 of Town Planning Scheme No. 1

Under Clause 37 ‘Determination of Application for an Unlisted Use’, if the Council is not satisfied by an Absolute Majority that the proposal is consistent with the matters listed in Clause 36(5), the Council cannot grant planning approval for the development. Taking each element of subclause 5 into consideration, the following applies:

<p>Clause 36(5) provisions:</p>	<p>Officer Comments</p>
<p>a) Provisions of Scheme and any other written law applying to Scheme area</p>	<p>Refer to comments below regarding Precinct Plan P11 ‘Albany Highway Precinct’ and Policy 4.7 of the Scheme Policy Manual. Accordingly, the proposed development is not considered to be consistent with the objectives and purposes for the ‘District Centre Zone’ and more specifically the ‘East Victoria Park Gateway Shopping Area’. The Council is therefore recommended to exercise its discretion under Clause 16 of the Scheme to determine that the proposed Unlisted Use (Open Air Storage Yard) is not permitted.</p>

<p>b) Any relevant Planning Policy</p>	<p><u>Policy 3.5 of Scheme Policy Manual</u> 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 through the generation of traffic and parking or the emission of noise or any other form of pollution. As noted in the car parking assessment above the unauthorised use does not generate the need for staff, customers or vehicles to visit the site, with the exception of delivery vehicles loading or unloading fencing materials. As no objections were received from the residential properties adjoining the portion of the right-of-way opposite the site, it is unlikely that the use has caused significant noise or other adverse impacts. Accordingly, the proposed development is considered acceptable in relation to the requirements of this Policy.</p> <p><u>Policy 4.7 of Scheme Policy Manual</u> The provisions of Policy 4.7 'East Victoria Park Gateway Shopping Area Design Guidelines' of the Town of Victoria Park Town Planning Scheme No. 1 Policy Manual seek to improve the visual amenity of the area, and consolidate its activities into a node of retail oriented commercial and shopping uses that serve as the southern "gateway" to the Town of Victoria Park and Albany Highway. The subject Unlisted Use (Open Air Storage Yard) is clearly inconsistent with these objectives. Refer comments below regarding Precinct Plan P11 'Albany Highway Precinct'.</p>
<p>c) Any relevant Precinct Plan</p>	<p>The use of the land as an open air storage yard for temporary fencing materials is inconsistent with the Statement of Intent contained in Precinct Plan P11 'Albany Highway Precinct' which 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. More specifically, it seeks to consolidate the 'East Victoria Park Gateway Shopping Area' as a district centre scale node of retail and commercial uses catering to the needs of the local and regional population, and serving as the southern "gateway" to the Albany Highway retail/commercial strip and the Town.</p> <p>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. Accordingly, the land uses of 'General Industry', 'Light Industry', 'Motor Vehicle and Marine Sales Premises' and 'Open Air Sales and Display' are all 'X' (prohibited) uses within the 'District Centre' zone in which the subject site is located. Whilst the subject application seeks approval of a use which does not fall within the definition of one of these specific land use classifications, it is certainly considered to fall within the same category of inappropriate uses which are envisaged to be relocated and/or cease operating in the locality.</p>
<p>d) Any Statement of Planning Policy of the WAPC</p>	<p>No policies of the Western Australian Planning Commission were identified as having relevance to the Council's consideration of the application.</p>
<p>e) Any planning study approved by the Council</p>	<p>No planning studies approved by the Council were identified as being of relevance to the Council's consideration of the application.</p>

<p>f) Any submission accompanying or related to the application</p>	<p>The submissions received during the consultation period relate to existing concerns regarding the cleanliness and aesthetics of the general parking areas/storage behind the existing buildings fronting Albany Highway between Hill View Terrace and Alday Street, St James. It would seem apparent that the persons making the submissions have taken the invitation to provide comment as an opportunity to comment on the state of the general locality, rather than raising any specific concern or objection in relation to the development itself. As such the submissions are not regarded to raise grounds for refusal of the application.</p>
<p>g) Orderly and proper planning of the locality</p>	<p>The use of the land as an open air storage yard for temporary fencing materials 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 and/or relocation of such uses from the locality. Accordingly, the approval of the unauthorised use is considered to be contrary to the orderly and proper planning of the locality.</p>
<p>h) Conservation of the amenities of the locality</p>	<p>As the unauthorised use has been operating for some time on a site occupied by an existing approved 'Light Industry' use, and no submissions were received from any properties (residential or commercial) within the immediate vicinity of the site during the consultation period, it is not apparent that the use has resulted in any significant adverse impacts on the occupiers or owners of adjoining properties with respect to noise or any other form of pollution. The residential properties located immediately adjacent to the site do not front the right-of-way and have a solid brick wall as their boundary fencing which prevents the subject unauthorised use from having any significant adverse visual impact on these properties.</p> <p>The location of the storage yard at the rear of the Beaurepaires Tyre Service Centre on land surrounded by bituminised car parking area looking onto the rear of the buildings fronting Albany Highway (and their associated bin storage areas, etc.) between Hill View Terrace and Alday Street is not considered to significantly reduce or impact upon the existing (relatively low) visual amenity of the locality. However, the applicant's proposal to screen the materials stored on the site through the fixing of shade cloth to the chain link mesh fencing surrounding the property may aid in reducing the visual impact of the use.</p>
<p>i) Design, scale and relationship to existing buildings and surroundings</p>	<p>Refer to comments above regarding the visual impact of the unauthorised use on the conservation of the amenity of the locality.</p>

Amendment of Application to Seek Temporary Approval

The exercise of discretion of the Council to permit the proposed Unlisted Use is not considered justified in this instance, given the nature, location and operations of the activity are not consistent with the objectives and purposes for the 'District Centre' zone in which the site is located. Whilst it may be commercially advantageous and/or the unauthorised use may have resulted in the clean-up of the site, its approval even for a short-term period of two years does not change or alter this situation. The financial and time implications on the property owner and business operator that may arise as a result of the potential refusal of the application, whilst significant to those parties, are not relevant planning considerations to which the Council should have regard to in determining the acceptability of the use.

It is acknowledged that there is already an existing 'Light Industry' use being carried out on the property, however the intent of Council's Town Planning Scheme for the locality is for such uses to be relocated or phased out of the area over time, rather than allowing the introduction of additional non-preferred uses even on the same sites where such uses are already occurring.

CONCLUSION

Having regard to the above it is considered that the Unlisted Use (Open Air Storage Yard) is inconsistent with the objectives and purposes of the 'District Centre Zone' and is therefore not permitted, in accordance with Clause 16 of Town Planning Scheme No. 1. The applicant's amendment of the development application to seek temporary approval for a period of two years does not bring the use or nature of the development into greater consistency with the provisions of the Scheme. It is therefore recommended that the application for retrospective approval be Refused.

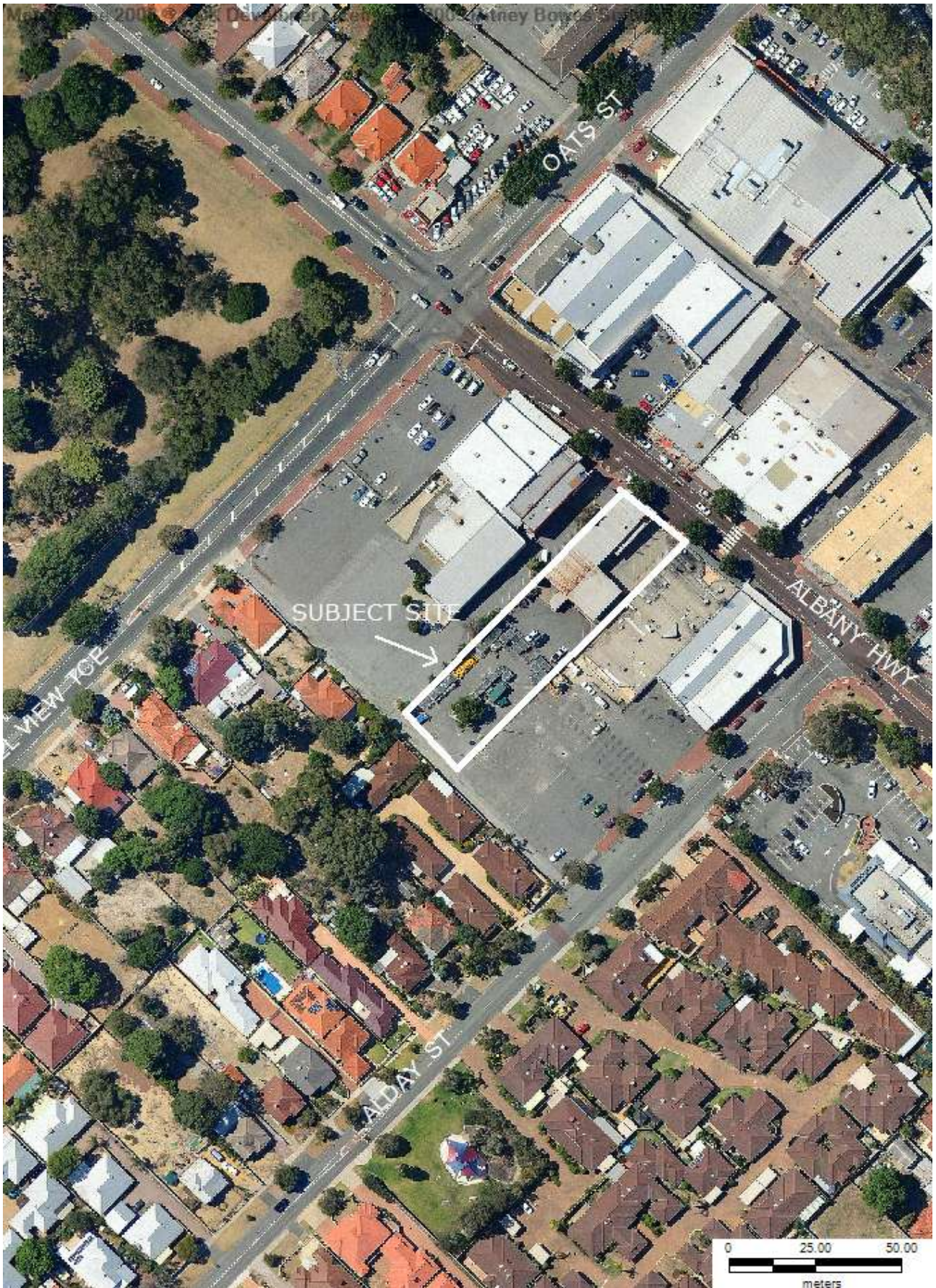
OFFICER RECOMMENDATION/S:

- 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 Guy Tristram on behalf of S, CS, JG & D Di Marco for Retrospective Approval of Change of Use from Non-Conforming Use (Light Industry) to Non-Conforming Use (Light Industry) and Unlisted Use (Open Air Storage Yard) at 1017 (Lot 4) Albany Highway, St James as indicated on the amended plan dated received 18 July 2012 be Refused for the following reasons:**
 - 1.1 In accordance with Town Planning Scheme No. 1 Clause 16(3) 'Unlisted Uses' the use is not consistent with the objectives and purposes of the District Centre Zone and is therefore not permitted.**
 - 1.2 Non-compliance with Town Planning Scheme No. 1 Clause 36(5) – 'Determination of Application – General Provisions', with particular reference to the following subclauses:**
 - (a) the provisions of this Scheme and of any other written law applying within the Scheme area including the Metropolitan Region Scheme;**
 - (b) any relevant planning policy;**
 - (c) any relevant precinct plan; and**
 - (g) the orderly and proper planning of the locality;**
 - 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;**
 - 1.4 The use of the land as an open air storage yard for temporary fencing materials 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 an open air storage yard for temporary fencing materials is inconsistent with the objectives specifically outlined in Precinct Plan P11 'Albany Highway Precinct' for the 'East Victoria Park Gateway Shopping Area', which seek to:
- (a) consolidate the area as a node of retail and commercial uses providing for the needs of the local and regional population and serve as the "gateway" to the Albany Highway retail/commercial strip and the Town;
 - (b) maintain and enhance the existing traditional "strip" form of development; and
 - (c) ensure development style, character and scale is consistent with the existing built form to emphasise the retail function of the area.
- 1.6 The use of the land as an open air storage yard for temporary fencing materials 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; and
- 1.7 Non-compliance with the provisions of Policy 4.7 'East Victoria Park Gateway Shopping Area Design Guidelines' of the Town of Victoria Park Town Planning Scheme No. 1 Policy Manual, which seek to improve the visual amenity of the area, and consolidate its activities into a node of retail oriented commercial and shopping uses that serve as the southern "gateway" to the Town of Victoria Park and Albany Highway;

Advice to Applicant:

- 1.8 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. The Council delegate to the Chief Executive Officer the authority to instruct solicitors McLeods to initiate legal action in respect to the unauthorised use of the site under Clause 54 of the Town of Victoria Park Town Planning Scheme No. 1 and Section 218 and 222 of the Planning and Development Act 2005 and that legal action be taken against the owners and occupiers of the property if and when necessary, should the matter of the unauthorised use of the site remain unresolved, to the satisfaction of the Chief Executive Officer.
3. Those persons who made a submission in respect to the application being advised of the Council's decision.



11.4 19 (Lot 191) Forward Street, East Victoria Park – Change of Use to Unlisted Use (Car Park)

File Reference:	FORW19
Appendices:	No
Landowner:	Gilpin Park Pty Ltd
Applicant:	John Hughes Group
Application Date:	8 August 2012
DA Ref:	12/0381
MRS Zoning:	Urban
TPS Zoning:	Industrial 1
TPS Precinct:	Precinct P9 'Welshpool Precinct'
Use Class:	Unlisted Use
Use Permissibility:	N/A

Date:	7 August 2012
Reporting Officer:	J. Gonzalez
Responsible Officer:	R. Cruickshank
Voting Requirement:	Absolute Majority

Executive Summary:
Recommendation – Approval by Absolute Majority

- Application proposes a Change of Use to Unlisted Use – Car Park.
- The proposed Unlisted Use - Car Park is to be used for staff and customers of the abutting Motor Vehicle Service Centre.
- The proposed Unlisted Use – Car Park was the subject of consultation for 21 days in accordance with Council’s Policy GEN3 – Community Consultation, with letters to owners/occupiers of affected surrounding properties, sign on site and notice in the newspaper.
- During the consultation process only one submission of no objection was received.
- Proposal does not comply with the objectives of the ‘Industrial 1’ zone.
- Proposed Unlisted Use - Car Park will not have any detrimental impact on the surrounding industrial properties.

TABLED ITEMS:

- Application form dated 18 June 2012;
- Plans dated 18 June 2012;
- Correspondence from applicant dated 28 June 2012;
- Correspondence from Council dated 27 June 2012 and 28 June 2012;
- Consultation with adjoining owners and occupiers dated 4 July 2012; and
- Submission received dated 19 July 2012.

BACKGROUND:

A planning approval was granted by Council at its Ordinary Meeting on 16 December 2008 for Alterations to Light Industrial Building (Motor Vehicle Servicing) at 7-17 Forward Street, East Victoria Park, which abuts the property that is the subject of this report.

The subject property located at 19 Forward Street, East Victoria Park was used in the past for 'horse stables'. The property is identified on the review list in the Town's Municipal Heritage Inventory as a property to be considered for inclusion at a later date. The property was sold in June 2012. It is the only property with no industrial use in that area zoned Industrial 1 and Industrial 2 located between Bank Street, Swansea Street East, Oats Street and Welshpool Road, with the exception of a 'sump' on the property at 21 - 23 Forward Street, East Victoria Park owned by the Water Corporation.

Following submission of the application a site inspection was carried out and it was observed that on the property was a portion of a building (half of the building was demolished) in poor condition, built of face brick of different colours with a skillion metal roof sloping to the rear, located approximately 50 metres setback from Forward Street, plus three metal sheds in poor condition. Another site inspection was carried out on Friday 27 July 2012 and was it observed that the brick building was completely demolished and one of the sheds removed.

DETAILS:

The application seeks planning approval for a Car Park with 66 car parking bays taking access from Forward Street. The property's south western boundary abuts 7-17 Forward Street, East Victoria Park where a Motor Vehicle Service Centre is located and in operation. Both properties are owned by Gilpin Park Pty Ltd. The proposed Car Park will be used for staff and customers of the Motor Vehicle Service Centre located at 7-17 Forward Street. The subject property is surrounded by industrial buildings with the exception of the property to the north east that contains a sump.

The applicant has submitted correspondence via email dated 28 June 2012 in support of the proposal, which in summary states:

- The Service Department in the property next door (7-17 Forward Street) have been operating for just over three years.
- The business has grown dramatically and work has substantially increased.
- Additional franchises and staff have been acquired to support the additional work.
- Unused office space within the existing building will be utilised with an additional 30 staff.
- It is expected to add about 65 car bays on the property at 19 Forward Street
- The car parking will used for staff parking and additional parking for service clients.
- In recent months the existing car park has been at capacity (and sometimes beyond) and this results in:
 - Poor efficiency in the business,
 - Increased damage to customers cars,
 - Vehicles being double parked, or parked out on the street, and
 - Disgruntled customers who have difficulty finding a car park.

Legal Compliance

Relevant General Provisions of Town Planning Scheme No. 1

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

- Clause 16 of the Scheme Text – Unlisted Uses;
- Clause 36 of the Scheme Text - Determination of Application – General Provisions;
- Statement of Intent contained in Precinct Plan P9 'Welshpool Precinct'
- Town Planning Scheme No. 1 'Policy Manual'.

Submissions:

Community Consultation:

In accordance with Council’s Policy GEN3 ‘Community Consultation’ the proposed ‘Unlisted Use – Car Park’ was the subject of community consultation with letters being sent by the Council’s Urban Planning Unit to owners and occupiers of affected surrounding properties giving them 21 days to comment on the application. The applicant was requested to place a sign on site for 21 days on 4 July 2012 and also to place a notice of the proposal in the Southern Gazette and Victoria Park Examiner newspapers once a week for three consecutive weeks starting on 4 July 2012 and finishing on 24 July 2012. On closing of the consultation period, only one submission was received.

CONSULTATION SUBMISSIONS	
<i>Submission from owner of No. 21-23 Forward Street</i>	
Comments Received	Officer’s Comments
No objection to the proposed Car Parking but requesting that the ‘drainage’ should be compensated onsite.	Application proposes to contain stormwater on site. Furthermore, conditions will be recommended in this regard.

Sustainability Assessment:

External Economic Implications:

No impact

Social Issues:

No impact

Cultural Issues:

No impact

Environmental Issues:

No impact

COMMENT:

The proposal has been assessed in accordance with Town Planning Scheme No. 1 Clause 37 ‘Determination of Application for an Unlisted Use’, which states that the proposal be granted planning approval unless the Council is satisfied by absolute majority that the proposal is consistent with the matters listed in clause 36 (5). In this regard:

Town Planning Scheme No. 1 - Precinct Plan

The Statement of Intent of the Precinct Plan 9 – ‘Welshpool Precinct’ in part states, “*The Welshpool Precinct shall continue to function as an industrial area, meeting the need for service industry in the inner areas of the city and close to the city centre.....Non-industrial uses shall generally be discouraged from locating in this precinct except where they directly serve the area, or are to be incidental to a primary industrial use.*” In this regard it is considered that the proposed Car Park will be incidental to the use located on the property next door (same owner), a Motor Vehicle Service Centre which is in need of additional car parking and will help to reduce the parking on both Forward Street and Swansea Street East.

A site inspection carried out by a Council's Planning Officer on Friday 6 July 2012 revealed that the existing car park area on the abutting property at 7-17 Forward Street was almost at full capacity and in addition cars were parked along Forward Street, on the carriageway and on the street verge, with a similar situation along Swansea Street East. The proposed Car Park with a proposed 66 bays will alleviate the pressure of cars parking on the adjacent streets.

Among the objectives of the 'Industrial 1 Zone', Precinct Plan P9 states, *"This section of the precinct shall be developed for small scale Industrial uses. Buildings shall be attractively designed so they contribute to a high quality industrial streetscape. The preferred uses shall be industry, Research and development, showrooms and warehouses will be allowed where they are to be complementary to the industrial area."* In this regard the proposed Car Park does not meet the above objectives as the proposed Car Park use is not an industrial use, no building is proposed on site and the proposal does not contribute to improve the industrial streetscape of that section of Forward Street. However considering that the proposal will alleviate the pressure of cars parking on the street and considering the direction being taken with draft Local Planning Scheme No. 2 in relation to land uses in the area, the proposal may be supported with a time limit to allow a future further assessment of the appropriateness of the use. As the finalisation of the draft Local Planning Scheme No. 2 is still likely to be some time away, it is recommended that this application for planning approval for change of use to Unlisted Use – Car Park be approved for a maximum limited time of five years.

Planning Policies

The Parking and Access Policy in the Council's Town Planning Scheme No. 1 Policy Manual, requires for all non-residential parking areas the provision of shade trees (species to be approved by the Council) generally at a rate of one tree for every four bays. This application for a Car Park does not propose any landscaping, therefore a condition will be recommended in this matter.

The Orderly and Proper Planning of the Locality and the Conservation of the Amenities of the Locality

The proposed Car Park is not affecting the current character of the area as it is located between the Motor Vehicle Service Centre car park area and a sump. Instead the character of the area may be improved as the old building and sheds in poor condition on the site will be removed. In addition it will help to alleviate the car parking problem within that locality; it will diminish the parking of cars along both Forward Street and Swansea Street East; and therefore it will improve the amenities of the locality. It is considered that the imposition of a condition limiting the use for five years will allow the interim use of the site as a car park, and still allow for the site to be redeveloped in the future more in keeping with that intended for the locality.

Submissions

During the Community Consultation period only one submission was received stating no objection to the proposal but expressing concerns in relation to drainage. In this regard the application proposes retention of stormwater within the site. In addition, a condition related to retention of stormwater within the site will be recommended.

The Precinct Plan P9 – ‘Welshpool Precinct’ describe some ‘Development Standards’ which in general are not applicable to this proposed Unlisted Use - Car Park. Development Standard No. 2 requires a minimum front setback of 4.5 metres along Forward Street and standard No. 3 makes reference to car parking bays that may be provided in the front setback area to be screened from the street by a landscaped area. In this regard it is considered that a landscaped area at the front of the subject property with a minimum 3.0 metre width shall be provided.

CONCLUSION:

In view of the above, it is considered that the proposed Change of Use to Unlisted Use - Car Park will not have any adverse detrimental impact on the surrounding industrial areas and considering a time limited approval for a maximum of five years, the application is recommended for approval by an Absolute Majority of the Council.

Further Comments:

An email was forwarded by the applicant to Elected Members and Council Officers on 7 August 2012 expressing opposition to recommended conditions 1.1 and 1.6.

In lieu of condition 1.1, the applicant has indicated that they intend to amalgamate the subject site with the adjoining land occupied by the Motor Vehicle Service Centre. While amalgamation of the lots would resolve any potential concern that the subject lot could be used as a car park by a different entity, amalgamation does not resolve the concern that the use of the site as a car park is not an acceptable long-term use consistent with Council’s planning objectives. Even if the lots were to be amalgamated, use of part of the site as a car park beyond a period of 5 years would be restricted by condition 1.1.

In respect to condition 1.6, the applicant has indicated that the provision of shade trees in the car park would not be appropriate given that the car park will be used for the temporary storage of vehicles that have been serviced and cleaned. The applicant has instead suggested that trees can be planted in the landscape area at the front of the property. It is noted that the applicant’s original submission commented that the car bays would be used for staff parking and additional parking for service clients. If Council is agreeable to the planting of trees in the front setback area rather than between car bays, then condition 1.6 can be modified to this effect.

OFFICER RECOMMENDATION/S:

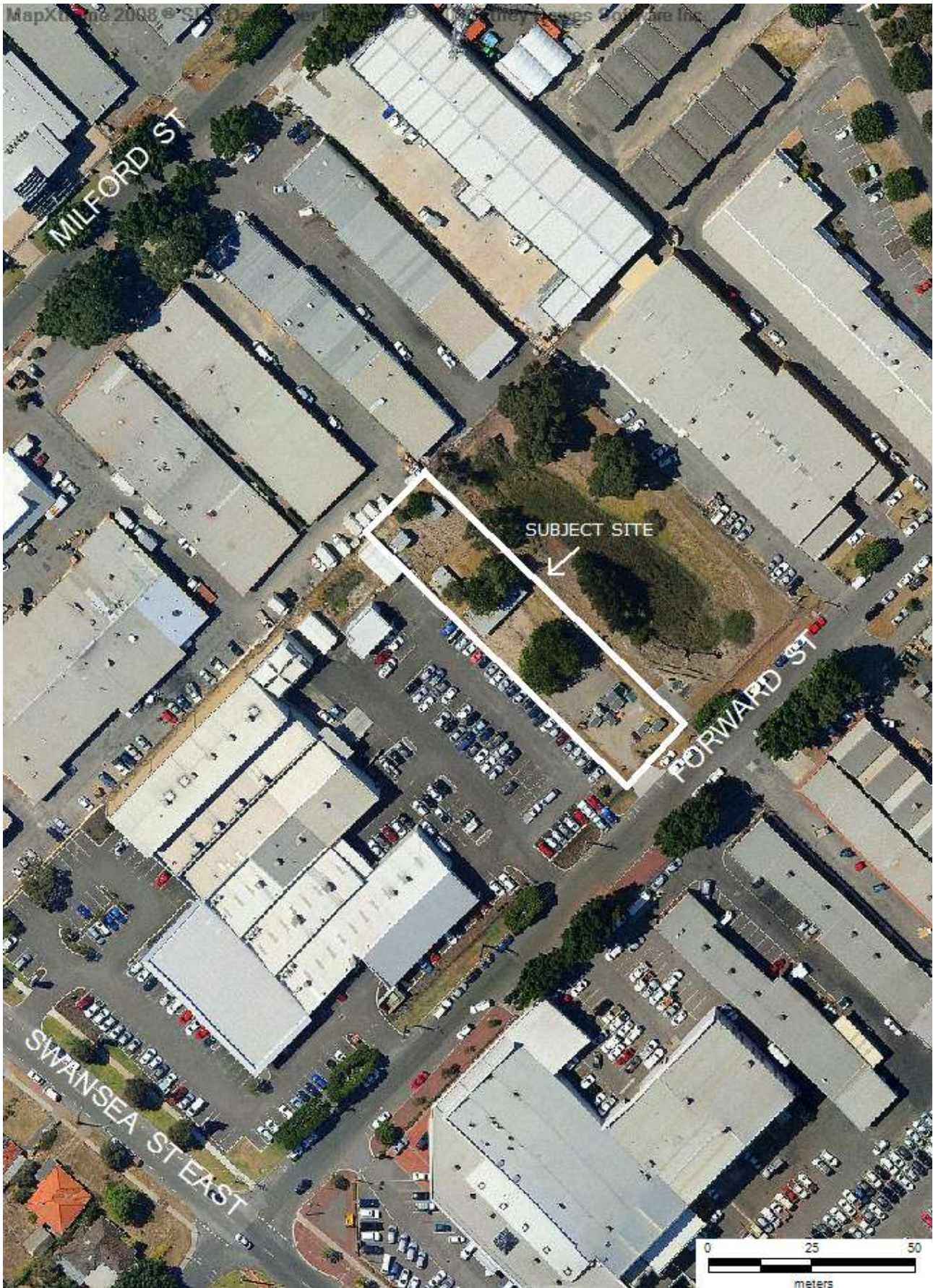
- 1. In accordance with the provisions of the Town of Victoria Park Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the application submitted by John Hughes Group on behalf of Gilpin Park Pty Ltd (DA Ref: 12/0381) for Change of Use to Unlisted Use – Car Park at 19 (Lot 191) Forward Street, East Victoria Park as indicated on the plans dated received 18 June 2012 be Approved by Absolute Majority subject to:**
 - 1.1. The owner entering into a legal agreement with the Town, prepared by the Town’s Solicitors at the owners cost, limiting the use of the subject property for Unlisted Use (Car Park) to a maximum of five years from the date of Planning Approval with an agreement to cease the temporary use at that time should Council not grant a further planning approval for the use. The Legal Agreement is to be executed by all parties and to be secured by Absolute Caveat on the title of the property prior to the commencement of the use.**

- 1.2. Proposed development complying with setbacks, fencing, driveways, landscaping and other details as shown in red on the approved plans.
- 1.3. All stormwater runoff to be retained on site. Detailed drainage design plans showing contours and spot levels, pipe sizes, location and size of soakwells, sumps, etc are to be submitted for approval prior to the construction of the Car Park. Stormwater drainage to comply with the Town's "Stormwater drainage requirements for residential and commercial developments guidelines".
- 1.4. The street verge between the kerb and the property boundary is to be landscaped with waterwise planting and reticulated and thereafter maintained to the satisfaction of the Director Renew Life. (Refer related Advice Note)
- 1.5. The street setback area along the front boundary of the property to be landscaped for a minimum of 3.0 metres in width, as indicated in red on the approved plans.
- 1.6. A landscaping plan detailing size, location and type of planting to be provided to the satisfaction of the Executive Manager Park Life Program prior to the construction of the Car Park, with such landscaping plan to include a minimum of one shade tree per four car parking bays.
- 1.7. A separate planning application is required for any front fence.
- 1.8. Prior to vehicle use of the Car Park, all car parking spaces together with their access aisles to be clearly paved, sealed, marked and drained and thereafter maintained to the satisfaction of the Director Renew Life Program.
- 1.9. During excavations, all necessary precautions to be taken to prevent damage or collapse of any adjacent streets, right-of-way or adjoining properties. It is the responsibility of the builder to liaise with adjoining owners and if necessary obtain consent prior to carrying out work.
- 1.10. Existing crossovers that are not used as part of the development or redevelopment shall be removed and the verge shall be reinstated to the satisfaction of the Director Renew Life Program.
- 1.11. Car parking bays to be lined-marked and designed in accordance with AS2890.1.
- 1.12. 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.
- 1.13. All building works to be carried out under this planning approval are required to be contained within the boundaries of the subject lot.
- 1.14. Compliance with Council's Building and Renew Life requirements.

Advice to Applicant

- 1.15 Failure to maintain the verge by current or future owners or occupiers will render the offender liable to infringement under Section 2.9 of the Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law – Modified penalty \$100.
 - 1.16 Landscaping of the verge requires approval from Council’s Renew Life Program (except lawn planting only). The applicant/owner should obtain a copy of Council’s Sustainable Landscaping Guide 1 “Your Street Verge”.
 - 1.17 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.
 - 1.18 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)



11.5 46 (Lot 346) Cargill Street, Victoria Park - Extension of Trading Hours of Existing Shop, Restaurant and Fast Food Outlet

File Reference:	CARG46
Appendices:	No
Landowner:	M. Mancuso
Applicant:	S. M. Lee
Application Date:	22 June 2012
DA/BA or WAPC Ref:	12/0392
MRS Zoning:	Urban
TPS Zoning:	Residential
TPS Precinct:	Precinct P5 'Raphael Precinct'
Use Class:	Commercial/Residential Building
Use Permissibility:	X use – non-confirming uses

Date:	8 August 2012
Reporting Officer:	D. Rowley
Responsible Officer:	R. Cruickshank
Voting Requirement:	Simple Majority

Executive Summary:
Recommendation – Approval

- Application for extension of trading hours of existing restaurant and fast food component of the business on the subject site for a period of 12 months, from 7:30am to 4:30pm Monday to Friday and 8:30am to 3:30pm Saturday and Sunday (approved to 9:00pm daily).
- Consultation undertaken for 14 days with the surrounding property owners and occupiers in accordance with Council Policy GEN3 'Community Consultation' with no submissions received.
- The subject property is zoned 'Residential' under the Town Planning Scheme No. 1. The approved land use of Shop, Restaurant and Fast Food Outlet was approved by Council on 22 December 2011, having regard to Clause 18 – Non-Conforming Uses of the Town Planning Scheme No. 1, Scheme Text.
- The business has been demonstrated to service the customers and community of the Raphael Park Precinct with no opposing community responses.

TABLED ITEMS:

- Application form dated 22 June 2012;
- Correspondence and Local Resident Survey from applicant, date received by Council on 22 June 2012;
- Consultation with adjoining owners and occupiers dated 9 July 2012; and
- Email from Manager, Health and Regulatory Services dated 26 July 2012

BACKGROUND:

A search of Council's archived records revealed that development approval was granted by the City of Perth in 1953 to extend a small corner shop attached to the original dwelling on the subject located in the corner of Cargill and Washington Streets. Further extensions to the shop were approved in 1985 and an Alfresco Dining Licence was issued in 1994.

More recently, delegated authority was given to the Chief Executive Officer of the Town of Victoria Park at the Ordinary Council Meeting on 13 December 2011 for the determination of an application for retrospective approval for non-conforming use of 'Shop (Deli), Restaurant and Fast Food Outlet' and additional sit down dining area on the subject site (11/0754). While the business had been operating in the manner of the proposal for a period of 17 months, planning approval was retrospectively granted on 22 December 2011 with the following Planning Conditions:

- “1. *The premises shall operate with a 'Shop' component and is not permitted to operate solely as a 'Restaurant' and/or 'Fast Food Outlet' without further planning approval.*
2. *The maximum number of customer seats for the sit down dining element of the use both inside the building and on the footpath shall be restricted to 20.*
3. **The 'Restaurant' and 'Fast Food Outlet' components shall not operate outside the following hours:**
 - **7:30am to 4:30pm, Mondays to Fridays; and**
 - **8:30am to 3:30pm, Saturday and Sunday.**
4. *The use shall be conducted in accordance with the Eating House Licence and Al Fresco Licence issued by the Council's Environmental Health Services. Should a condition of the Eating House Licence and/or Al Fresco Licence conflict with a condition of this Development Approval, the condition of the Development Approval shall prevail.*
5. *The maximum retail floor area of the 'Shop' use shall be restricted to 20.2 square metres.*
6. *The movement of delivery vehicles and activities outside buildings are to be limited to the hours of 7.00am to 7.00pm Monday to Fridays and 8.00am to 12 noon Saturdays.*
7. *The use shall comply with the details and amendments as shown in red on the approved plans.”*

The current planning approval permits a maximum of 20 seats for patrons, being 16 seats inside the restaurant/fast food component of the premises and 4 seats for the Alfresco dining area. The shop area of the premises will continue to provide the sale of constituted foodstuffs and retail goods of domestic nature used by persons living or working in the local area. There are no on-site car bays for the business and on-street parking for the premises has been accepted.

DETAILS:

Clause 18 of Scheme Text - Non-conforming use provisions

The subject property is zoned 'Residential' under Town Planning Scheme No. 1. Notwithstanding that a Shop, Restaurant and Fast Food land uses are prohibited uses on Residential zoned land under Town Planning Scheme No. 1, the premises has non-conforming use rights.

In addition, Clause 18(3) of Town Planning Scheme No. 1 provides that Council may permit a change of use from one non-conforming use to another non-conforming use if satisfied that the proposed use is less detrimental to the amenity of the locality than the previous use, and closer to the intended purpose of the zone.

Scheme Policy 5.1 'Parking Policy'

The premises has operated for some time without the provision of any on-site car parking. This application does not involve an increased car parking requirement for the site.

Council Policy GEN3 'Community Consultation'**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. During the consultation period, no submissions were received.

Sustainability Assessment:External Economic Implications:

No impact

Social Issues:

The business has made a positive contribution to the surrounding community in terms of turning a disused and poorly maintained building into an attractive place, catering for the needs of the local customers and community of the Raphael Park Precinct in the Town of Victoria Park and providing a social meeting point.

Cultural Issues:

No impact

Environmental Issues:

No impact

COMMENT:

This application is for the extension of the restricted trading hours of the restaurant/fast food component of the commercial premises. Whilst the shop component of the business on the subject site does not have a restriction on its operating hours and has been operating from 8:00am to 9:00pm, the restaurant/fast food component of the business has restricted trading hours in accordance with the Town's December 2011 planning approval. The applicant wishes to extend the operating hours of the restaurant/fast food component of the business until 9:00pm daily, to coincide with the operating hours of the shop.

The applicant has submitted a Local Resident Survey for the proposed extension of trading hours of the restaurant/fast food component of the business premises. Four (4) pages of customer and local residents' signatures were present in support of the proposal.

In accordance with Council Policy GEN3 'Community Consultation' the application was also advertised for public comments for a minimum of 14 days, where no comments were received by the expiry date of 24 July 2012.

Council's Manager, Health and Regulatory Services has advised that no complaints or parking issues related to the current business premises exist. However, it was advised

that the future impact onto residential properties by the proposal could not be predicted.

CONCLUSION:

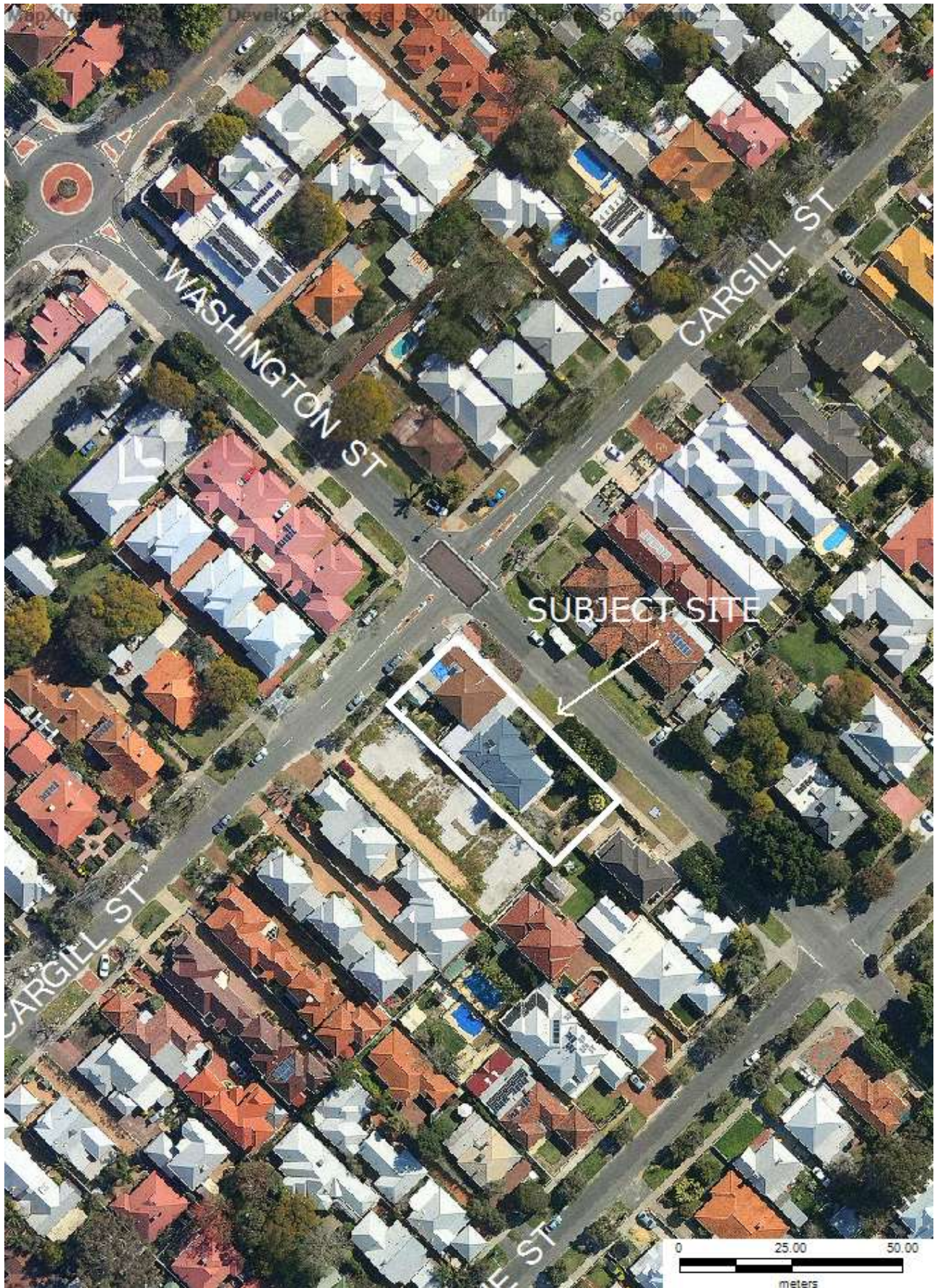
The operation of the Shop, Restaurant and Fast Food land use on the subject site was approved by Council on 22 December 2011 and has demonstrated to be a beneficial service to the local customers and community. It is anticipated that the proposed extension of trading hours of the restaurant and fast food component of the premises for consistency with trading hours to that of the shop trading hours, will not result in an increased car parking requirement. While it is not expected that the extension of trading hours will negatively impact upon surrounding properties, it is considered that this approval be for a period of 12 months initially, which would enable the actual impact to be further considered at a later time.

OFFICER 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 Siam Mooi Lee (DA Ref: 12/0392) for Extension of Trading Hours for the Shop, Restaurant and Fast Food Outlet at 46 (Lot 346) Cargill Street, Victoria Park be Approved subject to the following conditions:**
 - 1.1 **This approval is for the business to operate from 7.30am to 9:00pm Monday to Friday, and 8.30am to 9.00pm Saturday and Sunday, until 14 August 2013 only. Following 14 August 2013, the operating hours are to revert back to those hours specified in the Town's planning approval of 22 December 2011, unless a further planning approval is obtained from Council for extended trading hours.**
 - 1.2 **This approval for extended trading hours is applicable to the operation of the business primarily by Siam Mooi Lee only.**
 - 1.3 **Compliance with all other conditions of planning approval DA 11/0754 dated 22 December 2011.**

Advice to Applicant

- 1.4 **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.**
- 1.5 **This approval is for the use of the premises as a Shop, Fast Food Outlet and Restaurant, being for the sale of retail products, and the service of drinks, light food etc and is not an approval for the serving of full meals in the manner of a Restaurant.**



11.6 17 (Lot 44) Weston Street, Carlisle – Two Single Houses

File Reference:	WEST17
Appendices:	No
Landowner:	Valiant Bay Holdings P/L, JL and LM Wright
Applicant:	Joseph Aloï
Application Date:	23 May 2012
DA/BA or WAPC Ref:	12/0324
MRS Zoning:	Urban
TPS Zoning:	Residential R30
TPS Precinct:	Precinct P8 - 'Carlisle'
Use Class:	Single House
Use Permissibility:	'P' use

Date:	7 August 2012
Reporting Officer:	J. Gonzalez
Responsible Officer:	R. Cruickshank
Voting Requirement:	Simple Majority

Executive Summary:	
Recommendation – Approval	
<ul style="list-style-type: none"> • Application seeks demolition of a Pre-1945 dwelling and its replacement with two Single Houses. • Non-compliant with the Local Planning Policy – Streetscape with regard to retention of the existing dwelling. • Non-compliant with the Residential Design Codes in relation to minimum rear setback for Unit 1. • Consultation undertaken for 14 days with affected property owners in accordance with Council Policy GEN3 'Community Consultation', with no submissions received. • Recommended that the application be Approved subject to conditions. 	

TABLED ITEMS:

- Application form dated 23 May 2012;
- Plans dated 23 May 2012;
- Amended plans and elevations dated 27 June 2012;
- Photographs of the existing dwelling; and
- Consultation with abutting property owners dated 4 July 2012.

DETAILS:

The application proposes two Single Houses and involves demolition of an existing original dwelling built before 1945, located in an area zoned Residential R30 with potential for two Single Houses or two Grouped Dwellings.

Existing Dwelling

Council's Local Planning Policy – Streetscape provides a strong emphasis in retaining existing character dwellings within the Town, particularly for 'original' dwellings and pre-1945 dwellings as such dwellings make a strong contribution to the character of the Town of Victoria Park. The subject property falls outside the Residential Character Study Area, Weatherboard Precinct and does not form part of a Weatherboard Streetscape. No records have been found of the original approval of the existing dwelling which has been modified with the addition of a front verandah that extends to one side; and a rear extension, with no records of approval of these additions.

The only records found for the property are for a toilet approved in 1954 located at the rear, outside and detached from the dwelling and for a garage approved in 1967 which is detached and located at the side of the dwelling close to the common boundary with 19 Weston Street.

A site inspection revealed that the front part of the original dwelling has been built with thin concrete 'walls' simulating blocks painted in a white colour; contains two rooms, each with a door opening to the front but no windows; and a passage way in between the rooms from the front door leading to the middle section. The middle section has been built in asbestos and contains one more room and a living area that connects with the rear section. The rear extension has been built with brick walls and asbestos and is in poor condition with the asbestos coming apart; this section contains a kitchen and a bathroom; this addition has been provided with a rear door and side door. The roof is tiled in a brown colour which does not look like an original roof for that era; it is suspected that the original roof was metal. The front verandah has been added with concrete floor, tiled brown roof held by steel tubular posts. In general the existing dwelling is in poor condition.

It is considered that the dwelling is not typical of the traditional character dwellings built in that era. There are no traditional features or architectural details on the existing dwelling and it does not contribute to the character of the streetscape.

Existing Streetscape

The streetscape contains a mixture of styles and dwellings of varying ages, and is characterised mainly by single storey dwellings. There are few original dwellings in the street.

Proposed Single Houses

The application proposes to subdivide the subject property into two lots of 442.5m² each and replace the existing dwelling by building a Single House on each lot. Each Single House is single storey of a contemporary design of rendered brick walls and colorbond roof. The front walls will be rendered in grey colour and the roof will be colorbond 'Woodland Grey'.

The proposal in general complies with the Residential Design Codes and with the Council's Local Planning Policy – Streetscape, with the exception of a rear setback for Unit 'A' that proposes a 1.0 metre setback from the common boundary with 18 O'Dea Street, in lieu of 1.5 metres.

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;
- Statement of Intent contained in Precinct Plan P8 ‘Carlisle Precinct’
- Clause 39 of the Scheme Text

Compliance with Development Requirements

- TPS 1 Scheme Text, Policy Manual and Precinct Plan;
- Policy Manual, Policy 3.1 – Residential Design Guidelines
- 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	Clause 3.2.1 of LPPS	3.0m minimum 6.0m average	4.6m 6.0m	Compliant
NW Boundary Setbacks	Clause 6.3.1 of R Codes	1.0m/1.5m	1.0m/2.4m	Compliant
SE Boundary Setbacks	Clause 6.3.1 of R Codes	Nil/1.0m/1.5m	Nil/1.0m/1.6m	Compliant
Rear Boundary Setbacks	Clause 6.3.1 of R Codes	1.5m/1.0m	1.0m/1.0m	Non-compliant (refer to Comments below)
Open Space	Clause 6.4.1 of R Codes	45% minimum	52.4% each Unit	Compliant
Site Works	Clause 6.6.1 of R Codes	Excavation or filling within street setback 500mm maximum Filling behind street setback 500mm maximum	Filling 100mm Filling 212mm	Compliant
Building Height (measured from the natural ground level)	Clause 6.7.1 of R Codes	Walls 6.0m Roof 9.0m	3.2m 5.4m	Compliant

Demolition of existing dwelling	Carlisle Precinct , Clause 3.1.6.1 of Scheme Policy 3.1 ‘Residential Design Guidelines’; and Clause 3.2.9 of LPPS	Retention of existing dwelling where possible or demolition may be considered where proposed replacement development is of a suitable standard.	Demolition of existing dwelling and replacement with two Single Houses.	Compliant (refer to Comments below)
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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 letter being sent to owners of the affected property located at the rear of the subject property. During the consultation period, no submissions were received.

Sustainability Assessment:

External Economic Implications:

No impact

Social Issues:

No impact

Cultural Issues:

No impact. The existing dwelling has no typical elements from its era of construction and it is considered that its demolition will not have any adverse impact on the streetscape along that section of Weston Street.

Environmental Issues:

No impact

COMMENT:

Demolition of the Existing Dwelling

One of the objectives of the Council’s Local Planning Policy – Streetscape is to retain existing character dwellings and particularly pre-1945 dwellings as such dwellings make a strong contribution to the character of the Town of Victoria Park. However in this instance the subject dwelling is not listed on the State Register of Heritage Places nor listed in the Municipal Inventory nor identified in the Town of Victoria Park Residential Character Study; it is not located within a Weatherboard Precinct or Weatherboard Streetscape and it is hard to determine the dwelling’s era of construction and its design style.

The Statement of Intent in Precinct Plan P8 – ‘Carlisle Precinct’ states, *“The retention and restoration of original housing which contributes to the character of the precinct will be encouraged.”* As above the subject dwelling does not contribute to the character of the streetscape or the character of the ‘Carlisle Precinct.’

The streetscape along this portion of Weston Street does not have a traditional character but a mixture of new dwellings with some duplex and some ‘character dwellings’ of different styles and materials. As stated above, this portion of Carlisle and Weston Street is under development and most of the dwellings have been built after 1945.

As no records of the original dwelling have been found nor approvals for the main modifications, it is very hard to establish its original style and any significant features that may have existed. The thin concrete walls of the front part of the dwelling are not consistent with the styles of earlier housing.

The following criteria have been assessed to determine the acceptability of demolition of the dwelling:

Criteria	Comment
(a) The architecture of the existing building; and	The dwelling does not have architectural features that are typical of its era.
(b) The degree of intactness of the original building fabric of the dwelling; and	No records have been found of approved alterations or additions to the actual dwelling; the front verandah has been added and is not typical of its era; the origin of the front part built with concrete walls is unknown and that type of walls were not typical of the era. The existing tiled roof is suspected to be originally a metal roof.
(c) The condition of the existing dwelling; and	The dwelling is in poor condition however it is acknowledged that it is structurally sound. Asbestos walls are coming apart and natural ventilation and lighting is very poor to the front rooms.
(d) The streetscape context and in particular the importance to the streetscape of retaining the existing dwelling; and	The streetscape along that section of Weston Street does not have a traditional character.
(e) The location of the existing dwelling on the site; and	The dwelling is located on the middle of the lot.
(f) The effect of retention of the existing dwelling upon the development potential of the site; and	It would be not possible to develop two side by side Single Houses or Grouped Dwellings. However it is possible to have an additional Grouped Dwelling at the rear of the existing dwelling.
(g) Whether retention of the existing dwelling could be achieved through the granting of variations to development requirements; and	As above.

Criteria	Comment
(h) Whether the proposed new development contributes positively to the character of the streetscape in which the development is set and is an appropriate replacement for the original dwelling proposed to be demolished.	It is considered that the proposed development of two Single Houses would enhance the appearance of the streetscape.

Replacement of the Existing Dwelling

The two proposed single storey dwellings will integrate with the mixture of dwelling styles located along Weston Street. The Single Houses are not incorporating features of the existing original dwelling as there is a lack of distinguishable design features and the streetscape character is very mixed. This is acceptable in this instance.

The replacement dwellings are proposed to be setback from the street a minimum of 4.6 metres for Unit “A” Portico and a minimum setback of 5.1 metres for Unit “B”.

In general the two Single Houses comply with the requirements of the Town of Victoria Park Town Planning Scheme No. 1 and the Residential Design Codes with the exception of the rear setback for Unit “A” which is proposed to have a 1.0 metre setback from the rear boundary in lieu of 1.5 metres required by the Residential Design Codes. In this regard the proposal was the subject of consultation in accordance with Council Policy GEN3 “Community Consultation”. The owner of the rear property at 18 O’Dea Street was contacted by letter and given 14 days to make comments on the proposed variation. No submission was received during or after the consultation period.

It is considered that this reduced setback by 0.5 metre will not have any detrimental impact on the dwelling located on the rear property which is located approximately 13.0 metres setback from the rear common boundary plus there is dense vegetation along the boundary and therefore the 1.0 metres setback from the rear boundary for Unit “A” is supported for approval.

CONCLUSION:

While it is difficult to determine the era of construction of the existing dwelling and having no notable architectural features, the existing original dwelling does not make any positive contribution to the Weston Street streetscape. Therefore it is considered that the demolition of the existing dwelling would not have an adverse impact on the appearance of the streetscape and that its replacement with two Single Houses of an appropriate standard, is acceptable. Accordingly, it is recommended that the application for Two Single Houses involving demolition of the existing dwelling at 17 (Lot 44) Weston Street, Carlisle be Approved subject to conditions.

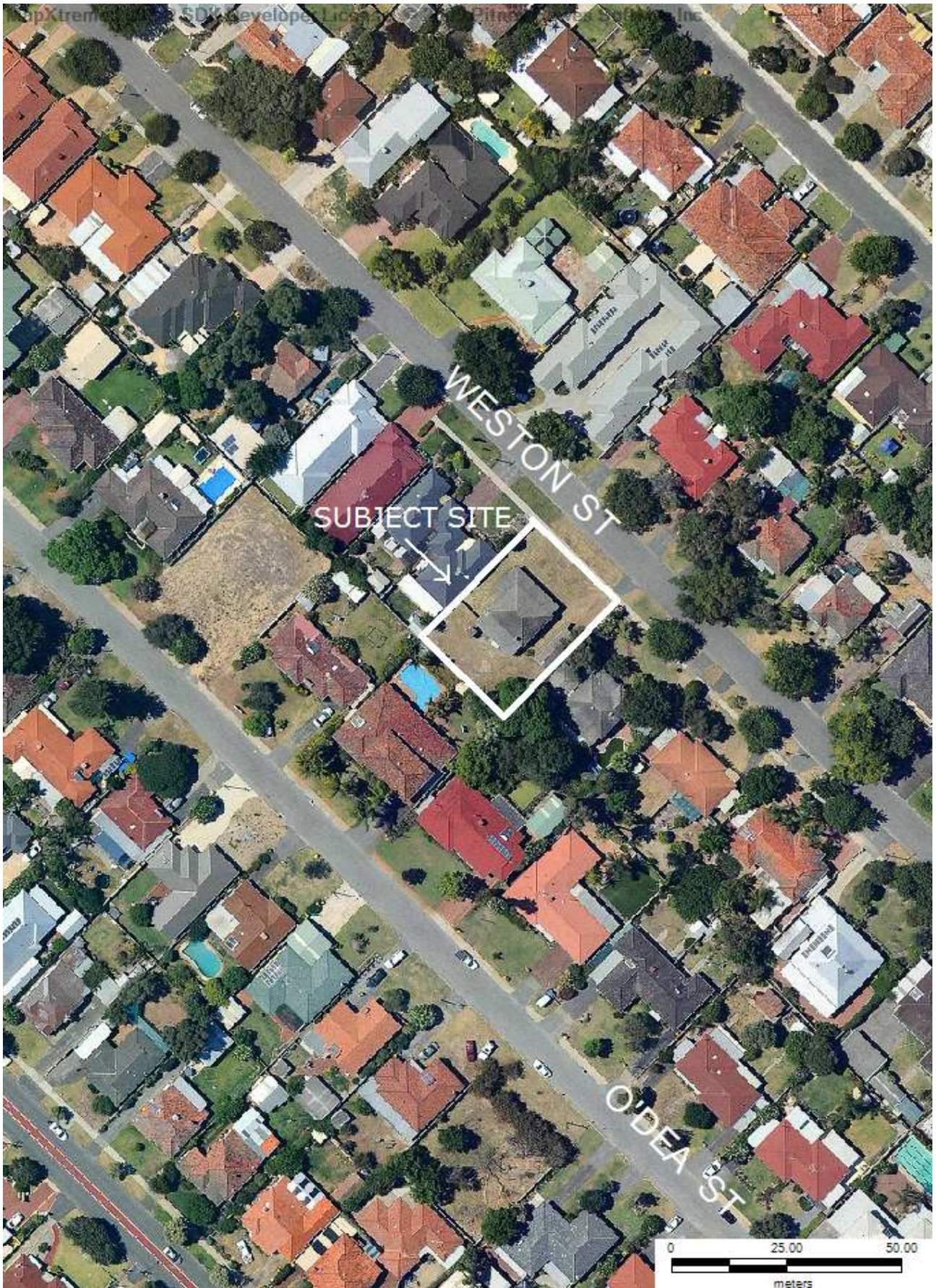
OFFICER RECOMMENDATION/S:

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 Joseph Aloï on behalf of Valiant Bay Holdings P/L and JL and LM Wright (DA Ref: 12/0324) for Two Single Houses at 17 (Lot 44) Weston Street, Carlisle as indicated on the amended plans dated received 27 June 2012 be Approved subject to:
 - 1.1. In order to confirm compliance with this planning approval and all relevant Council requirements, approval is to be obtained from the following Council Business Units prior to the submission of a certified application for a building permit:
 - Urban Planning; and
 - Street Life;Failure to do so may result in refusal of the application for a building permit (refer related Advice Note).
 - 1.2. A photographic record of the existing dwelling to be prepared by a registered Heritage Architect and submitted for the Town's approval prior to the issue of a demolition license for the existing dwelling or a building license for the subsequent development, whichever occurs first.
 - 1.3. Proposed development complying with setbacks, fencing, driveways, landscaping and other details as shown in red on the approved plans.
 - 1.4. The street verge between the kerb and the property boundary is to be landscaped with waterwise planting and reticulated prior to occupation or strata titling of the building(s) whichever occurs first and thereafter maintained to the satisfaction of the Director Renew Life Program. (Refer related Advice Note)
 - 1.5. A minimum of 50% of the front setback area of the front unit is to be softly landscaped. Landscaping is to be installed prior to occupation of the building(s) or strata titling whichever occurs first and subsequently maintained to the satisfaction of the Manager Park Life Program.
 - 1.6. A separate planning application is required for any fence forward of the building line.
 - 1.7. Fencing on side boundaries forward of the building line is not to exceed a height of 1.2 metres and may be constructed of brick, limestone, pickets, wrought iron, colorbond or fibro cement sheeting, with Council approval.
 - 1.8. All fencing to be provided in accordance with the Dividing Fences Act and all boundary fencing behind the front building line to be a minimum of 1.8 metres and a maximum of 2.4 metres in height (or such other height agreed to in writing by the relevant adjoining land owners) at any point along the boundary, measured from the highest retained ground level.

- 1.9. The existing boundary fencing shall not be removed, until such time as the required new fencing is to be erected.**
- 1.10. During excavations, all necessary precautions to be taken to prevent damage or collapse of any adjacent streets, right-of-way or adjoining properties. It is the responsibility of the builder to liaise with adjoining owners and if necessary obtain consent prior to carrying out work.**
- 1.11. All driveways and car parking bays to be constructed of brick paving, liquid limestone, exposed aggregate or any alternative material approved by the Manager Urban Planning.**
- 1.12. External colours, finishes and materials to be used in the construction of the building are to be in accordance with the colour schedule date stamped approved 14 August 2012, attached with the approved plans.**
- 1.13. External fixtures, including but not restricted to airconditioning units, satellite dishes and non-standard television aerials, but excluding solar collectors, are to be located such that they are not visible from the primary street, secondary street or right-of-way.**
- 1.14. A zero lot gutter to be provided for the boundary wall adjoining the common boundary with 19 Weston Street, Carlisle.**
- 1.15. The surface of the boundary wall on the common boundary with 19 Weston Street, Carlisle to be the same finish as the approved external wall finish for the remainder of the dwelling, unless otherwise approved.**
- 1.16. The owner or occupier is required to display the street number allocated to the property in a prominent location clearly visible from the street and/or right-of-way that the building faces.**
- 1.17. All building works to be carried out under this planning approval are required to be contained within the boundaries of the subject lot.**
- 1.18 Existing crossovers that are not used as part of the development or redevelopment shall be removed and the verge and kerb shall be reinstated to the satisfaction of the Director Renew Life Program.**
- 1.19 Compliance with Council's Building, Environmental Health and Technical Services requirements.**
- 1.20 This approval is valid for a period of twenty four months only. If development is not commenced within this period, a fresh approval must be obtained before commencing or continuing the development.**

Advice to Applicant

- 1.20 In regards to Condition No. 1 where a Council Building Surveyor is issuing the Certificate of Design Compliance (Application Form TVP1 to be submitted) then the approval of Council Business Units will be obtained by the Council Building Surveyor. Where a private certifier is engaged to issue the Certificate of Design Compliance, then it is the responsibility of the owner/builder/certifier to submit a separate application (Form TVP2) for the approval of Council Business Units. This form is available on the Town's website and at the front counter of Council's Offices.
- 1.21. Failure to maintain the verge by current or future owners or occupiers will render the offender liable to infringement under Section 2.9 of the Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law – Modified penalty \$100.
- 1.22. Landscaping of the verge requires approval from Council's Renew Life Program (except lawn planting only). The applicant/owner should obtain a copy of Council's Sustainable Landscaping Guide 1 "Your Street Verge".
- 1.23. With regards to Condition No. 10 above, the following are minimum requirements of the Town of Victoria Park: Brick paving 60mm minimum thick clay or concrete pavers laid on 30mm bedding sand and Base of 100mm compacted limestone.
- 1.24 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.
- 1.25. 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.



11.7 58 (Lot 63) Etwell Street, East Victoria Park – Two Storey Single House

File Reference:	ETWE58
Appendices:	No
Landowner:	K-A T Truong
Applicant:	K-A T Truong
Application Date:	30 March 2012
DA/BA or WAPC Ref:	12/0212
MRS Zoning:	Urban
TPS Zoning:	Residential R20
TPS Precinct:	Precinct P12 'East Victoria Park Precinct'
Use Class:	Single House
Use Permissibility:	'P' use

Date:	31 July 2012
Reporting Officer:	C. Buttle
Responsible Officer:	R. Cruickshank
Voting Requirement:	Simple Majority

Executive Summary:

Recommendation – Approval

- Application for a two storey Single House.
- Originally non-compliant with Council's Local Planning Policy – Streetscape and the Residential Design Codes with respect to Boundary Setbacks, Building Height, Visual Privacy and Site Works.
- Consultation undertaken for 14 days in accordance with Council Policy GEN3 'Community Consultation' with objection letters received from owners of property on either side of development site.
- Revised Drawings received 31 July 2012 suitably address concerns that had originally been held by the Town, although application relies upon Performance Criteria determination for Building Height, Site Works and Visual Privacy.

TABLED ITEMS:

- Development Application form dated 30 March 2012.
- Plans dated 31 July 2012.
- Consultation letters to adjoining owners and occupiers dated 23 April 2012 and 26 June 2012.
- Response letters from adjoining property owners.
- Photographs of subject site.

DETAILS:

The application involves the demolition of an existing fibro and tile dwelling and replacement with a new two storey Single House. The Town's records show that the existing dwelling was constructed in 1955 and the development site is located outside of the Residential Character Study Area and Weatherboard Precinct.

The proposed development is largely compliant with requirements stipulated within the Residential Design Codes (R-Codes) and Council policies. However the application does not comply with the ‘Acceptable Development’ (AD) provisions of the R-Codes with respect to:

- Building Height;
- Site Works; and
- Visual Privacy.

The application satisfactorily addresses the relevant R-Code Performance Criteria for each of these areas as described within the report and accordingly the application is recommended for approval.

Legal Compliance:

Relevant General Provisions of Town Planning Scheme No. 1

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

- Clause 36 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;
- 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
Demolition of Existing Dwelling	Clause 39 of TPS & Clause 3.2.9 of LPPS	Demolition acceptable where dwelling is wholly clad in fibro cement or asbestos wall cladding or where dwelling is constructed after 1945 and located outside the Residential Character Study Area and not in a Weatherboard Streetscape.	Existing Dwelling is wholly clad in fibro cement or asbestos, was constructed in 1955, is located outside of the Residential Character Study Area and is not in a Weatherboard Streetscape.	Yes
Primary Street Setback	Clauses 3.2.1-3.2.3 of LPPS	6.0 metre average setback and generally in keeping with building line.	6.0 metre minimum setback to primary street provided.	Yes

Boundary Setbacks	Clause 6.3.1 and Tables 1, 2A and 2B of the R-Codes	Setbacks provided in accordance with Clause 6.3.1 and Tables 1, 2A and 2B of the R-Codes.	Setbacks provided in accordance with Clause 6.3.1 and Tables 1, 2A and 2B of the R-Codes.	Yes
Open Space	Table 1 and Clause 6.4.1 of the R-Codes	50% of 768m ² site = 384m ² open space required.	55% of 768m ² site = 420m ² open space provided.	Yes
Access and Parking	Clause 6.5.1 of the R-Codes	Two parking spaces	Two parking spaces within garage plus additional 2 spaces within setback area behind garage.	Yes
Site Works	Clause 6.6.1 of the R-Codes	Maximum 500mm fill and retaining within 1m of a common boundary behind the street setback line.	Filling of up to 810mm proposed adjacent to 146 Westminster Street along the left hand (north-western) property boundary.	No
Building Height (measured from the natural ground level)	Clause 6.7.1 of the R-Codes	Maximum 6m wall and 9m ridge height.	Portions of wall height up to 6.664m	No
Visual Privacy	Clause 6.8.1 of the R-Codes	Where openings are raised more than 500mm above natural ground level:	Front balcony and raised verandah rely on Performance Criteria assessment as they are set back less than the 7.5 metres required by the 'Acceptable Development' provisions of the Codes	No
Design for Climate	Clause 6.9.1 of the R-Codes	Maximum 25% (192m ²) overshadowing of adjoining property	76.5m ² or 10% overshadowing of adjoining property	Yes

Submissions:

Community Consultation:

In accordance with Council’s GEN3 ‘Community Consultation’ Policy and the Residential Design Codes, the proposal was the subject of consultation with adjoining owners and occupiers for two separate 14 day periods. In response to the most recent consultation, two submissions were received as detailed in the table below.

CONSULTATION SUBMISSIONS Objection from Owners of 146 Westminster Street (Dwelling to left hand side of development site)	
Comments Received	Officer’s Comments
<ul style="list-style-type: none"> Dining Room window will be overlooking back yard and pool. 	<ul style="list-style-type: none"> Submitter’s comments supported, but concerns now suitably addressed by way of revised drawings. Drawings which were the subject of consultation incorporated a finished floor level of 11.9 which was raised much higher than the fence height along the side boundary which would have facilitated overlooking into the neighbours property. Revised drawings dated 31 July 2012 lower the finished floor level of the dwelling to 11.4. Proposed retaining wall (top of wall height 11.2) and associated fencing along this boundary will now provide effective screening and prevent overlooking from the Dining Room window into the adjoining property.
<ul style="list-style-type: none"> Object to retaining wall of up to 1.21 metres in height. Retaining wall should be limited in height to 500mm above natural ground level. 	<ul style="list-style-type: none"> Submitter’s comments supported, based upon retaining wall height of 1.21 metres, however concerns now adequately addressed by way of revised drawings. Retaining wall height has been reduced from 1.21 metres to a maximum height of 810mm above natural ground level adjacent to the property at 146 Westminster St. This is considered reasonable noting: <ul style="list-style-type: none"> the significant cross-fall of approximately 2 metres across the frontage of the development site; the location of the development site to the southern side of the submitter’s property, which minimises adverse amenity impacts from a solar perspective; and the fact that the adjoining dwelling is situated within spacious surrounds on a large 818m² block.
CONSULTATION SUBMISSIONS Objection from Owners of 60 Etwell Street (Dwelling to right hand side of development site)	
Comments Received	Officer’s Comments
<ul style="list-style-type: none"> Objection is on the grounds that it (the proposed dwelling) does not meet current Residential Design Codes. I particularly object to the change in building height and visual privacy issues. 	<ul style="list-style-type: none"> Submitter’s comments not supported. As explained within the body of the report, the variations to the Acceptable Development provisions of the R-Codes with respect to building height are relatively minor and occur mainly toward the portion of the development site which is located on the far (lower) side from the submitter’s property. The proposed dwelling presents as a conventional two storey dwelling and is fully compliant with street setback requirements and overshadowing, so in this respect the

	<p>proposed variations to building height are not seen to adversely impact upon the adjoining property owner.</p> <ul style="list-style-type: none"> • Submitter’s comments not supported. The visual privacy non-compliance relates to a balcony at the front of the dwelling which facilitates overlooking of the front setback area of the adjoining property. As this space can readily be seen by anybody who is facing the submitter’s property from within the public realm, the proposed development is seen to satisfy the relevant Performance Criteria provisions of the R-Codes as will be explained further within the body of the report.
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Sustainability Assessment:

External Economic Implications:

No impact

Social Issues:

No impact

Cultural Issues:

No impact

Environmental Issues:

No impact

COMMENT:

Site Works

The Acceptable Development provision of Clause 6.6.1 of the R-Codes permits filling behind a street setback line and within 1m of a common boundary up to 500mm in height.

The plans which were the subject of neighbour consultation incorporated fill of up to 1.21 metres in height alongside the boundary with the adjoining property owner at 146 Westminster Street, and an objection was received in response to the proposed extent of filling and retaining.

Revised drawings received 31 July 2012 reduce the extent of filling adjacent to the left hand side boundary with 146 Westminster Street (the low side of the site) to 810mm maximum, and introduce cutting, or excavation, adjacent to the right hand side boundary with 60 Etwell Street (the high side of the site).

Although an objection to filling adjacent to 146 Westminster Street has been received, it is recommended that the proposed level of filling and retaining be supported for the following reasons:

- There is a cross fall of almost 2 metres across the frontage of the development site, meaning that there will have to be an extent of cutting, and an extent of filling;
- The front setback area will not be subject to filling and retaining, assisting in retention of the impression of natural ground level in accordance with R-Code 'Performance Criteria' provisions;
- The proposed finished floor level (11.4) has been reduced 500mm from that which was previously proposed (11.9) and which formed the basis of the plans upon which the neighbours were invited to comment;
- The proposed finished floor level has been established so as to generally equalise cutting and filling, which is common building practice in the case of a sloping site;
- The development site is located to the southern side of the property at 146 Westminster Street, so solar access to the adjoining site will not be affected by filling and retaining in excess of the 500mm 'as of right' allowance; and
- Impacts of filling and retaining are minimised as the adjoining dwelling is situated on a large lot of 818m² in area with generous setbacks to property boundaries.

Building Height

The Residential Design Codes permit the development of two storey buildings with 6 metre wall height and 9m ridge height.

As the block slopes steeply and a two storey building with greater than minimum prescribed floor to ceiling heights is proposed, there are some small portions of the building which exceed the 6m wall height catered for by the Acceptable Development provisions of the R-Codes.

Although the height of the building has been reduced from that which was shown on the plans which were the subject of neighbour consultation, there are still minor areas where the wall height of the building exceeds 6m as identified below:

- Front balcony – the section of balcony between the pair of feature columns has a wall height of 74c which equates to a height ranging between 6.364 metres above natural ground level on the right hand side of the balcony where the natural ground level is higher and 6.664 metres above natural ground level on the left hand side of the balcony where the natural ground level is lower;
- The left hand side of the front balcony (forward of the upper floor Retreat) has a wall height of 69c which equates to a maximum height of 6.684 metres above natural ground level facing the house at 146 Westminster Street; and
- The upper floor left hand side of the dwelling alongside the Retreat and the Bar has a wall height of 61c which equates to a maximum height of 6.046 metres above natural ground level facing the house at 146 Westminster Street.

Although an objection to building height has been received from the owner of 60 Etwell Street, it is recommended that the height of the building be supported for the following reasons:

- The R-Codes and Council policy both contemplate construction of two storey dwellings within this locality, and the proposed dwelling fits with this expectation;
- The difficult topography and cross fall in ground levels of approximately 2 metres across the frontage of the site ensures a need for some level of filling, and it is this

filling, along with taller than minimum floor to ceiling heights, which are predominantly responsible for the variation to the 6m wall heights accommodated by the Acceptable Development provisions of the R-Codes;

- The main component of the building which has a wall height of more than 6m is the balcony at the front of the building which could be described as an architectural feature of the proposed dwelling;
- Wall height of the building adjacent to the submitter's property at 60 Etwell Street is compliant with Acceptable Development provisions as this side of the building is 'cut' into the block with the proposed finished floor level sitting around 500mm below natural ground level at the boundary;
- Overshadowing is fully compliant with R-Code provisions and visual privacy is supported pursuant to the Performance Criteria, as detailed under the next heading; and
- Having regard to all of the factors described within the preceding points, it is not anticipated that the increased wall heights will adversely affect the amenity of adjoining property owners or the locality generally.

Visual Privacy

The following openings within the proposed dwelling incorporate variations to the setbacks specified within the Acceptable Development provisions of the R-Codes and require consideration against the relevant Performance Criteria:

- Unscreened left hand side of the upper floor balcony / ground floor verandah adjacent to 146 Westminster Street; and
- Unscreened right hand side of upper floor balcony adjacent to 60 Etwell Street.

The neighbour at 146 Westminster Street expressed concern about the ground floor Dining Room window facing their property; however the legitimate concerns that were previously held in relation to this window have now been addressed via the revised drawings which are the subject of Council's current consideration.

In relation to the unscreened left hand side of the upper floor balcony / ground floor verandah adjacent to 146 Westminster Street, the following comments are made:

- With the exception of the submission in relation to the Dining Room window, the adjoining owner has clearly stated during the assessment process that they had no objection to the front portions of the building (verandah / balcony) from which overlooking could occur;
- The side setback (Etwell St) area of the property at 146 Westminster Street is visible to pedestrians walking past the property, having regard to open fencing which exists along this side of the property;
- Overlooking from the ground floor will be prevented by a 1.8 metre side fence which will be constructed on top of the retaining wall to be constructed along this side of the proposed dwelling; and
- Overlooking from the upper floor will predominantly be over, rather than into, the adjoining dwelling at 146 Westminster Street.

The neighbour on the right hand side of the development site at 60 Etwell Street has also expressed concern in relation to visual privacy, but the submission has not made specific reference to the particulars of the concerns that are held.

In relation to the unscreened right hand side of the upper floor balcony adjacent to 60 Etwell Street, the following comments are made:

- The majority of the overlooking is into the front setback area of the dwelling which is already open to view to pedestrians walking past the property;
- There is an angle of view from the proposed balcony to a window on the side wall of the dwelling at 60 Etwell Street. Once again, however, this window is already visible to pedestrians walking past the property, so the balcony should not be subject to screening requirements in relation to this opening;
- No other portions of the adjoining property can be viewed from the balcony; and
- Although less than the designated 7.5 metre setback at which Acceptable Development compliance is achieved, a setback of 6.27 metres is provided between this side of the balcony and the adjoining property boundary.

CONCLUSION:

Having regard to the information which has been presented within the report, it is recommended that the application be supported, and that the aspects of the development which require determination against the Performance Criteria of the Codes, notably Building Height, Filling and Retaining and Visual Privacy be approved as proposed.

OFFICER RECOMMENDATION/S:

- 1. In accordance with the Town of Victoria Park Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the application submitted by K-A T Truong (DA Ref: 11/0212) for a Two Storey Single House at 58 (Lot 63) Etwell Street, East Victoria Park as shown on the plans dated 31 July 2012 be Approved subject to the following conditions:**
 - 1.1 In order to confirm compliance with this planning approval and all relevant Council requirements, approval is to be obtained from the following Council Business Units prior to the submission of a certified application for a building permit:**
 - Urban Planning;
 - Street Life;
 - Environmental Health;Failure to do so may result in refusal of the application for a building permit (refer related Advice Note).
 - 1.2 A minimum of 50% of the front setback area of the dwelling is to be softly landscaped. Landscaping is to be installed prior to occupation of the building(s) or strata titling whichever occurs first and subsequently maintained to the satisfaction of the Manager Park Life Program.**
 - 1.3 A separate planning application is required for any fence forward of the building line.**
 - 1.4 The use of sheet fencing, such as colorbond or fibro cement sheeting, in front of the building line is not permitted.**

- 1.5 All fencing to be provided in accordance with the Dividing Fences Act and all boundary fencing behind the front building line to be a minimum of 1.8 metres and a maximum of 2.4 metres in height (or such other height agreed to in writing by the relevant adjoining land owners) at any point along the boundary, measured from the highest retained ground level.**
- 1.6 The existing boundary fencing shall not be removed, until such time as the required new fencing is to be erected.**
- 1.7 Any letterbox, structure, wall or fence located within a 1.5 metre x 1.5 metre visual truncation at the intersection of any driveway and the front property boundary, is not to exceed a height of 750mm with the exception of:
 - (i) one brick pier (maximum dimensions 350mm by 350mm); and/or**
 - (ii) wrought iron or similar metal tubing style infill fencing.****
- 1.8 During excavations, all necessary precautions to be taken to prevent damage or collapse of any adjacent streets, right-of-way or adjoining properties. It is the responsibility of the builder to liaise with adjoining owners and if necessary obtain consent prior to carrying out work.**
- 1.9 All driveways and car parking bays to be constructed of brick paving, liquid limestone, exposed aggregate or any alternative material approved by the Manager Urban Planning.**
- 1.10 Existing crossovers that are not used as part of the development or redevelopment shall be removed and the verge and kerb shall be reinstated to the satisfaction of the Director Renew Life Program.**
- 1.11 Complete details of the proposed external colours, finishes and materials to be used in the construction of the buildings are to be provided to the satisfaction of the Manager Urban Planning prior to submission of an application for building permit. The development shall be constructed in accordance with the approved details and shall be thereafter maintained.**
- 1.12 External fixtures, including but not restricted to air-conditioning units, satellite dishes and non-standard television aerials, but excluding solar collectors, are to be located such that they are not visible from the primary street, secondary street or right-of-way.**
- 1.13 A zero lot gutter to be provided for the boundary wall adjoining the common boundary with 60 Etwell Street.**
- 1.14 The surface of the boundary wall on the common boundary with 60 Etwell Street to be the same finish as the approved external wall finish for the remainder of the dwelling, unless otherwise approved.**

- 1.15 All building works to be carried out under this planning approval are required to be contained within the boundaries of the subject lot.
- 1.16 Compliance with Council's Building, Environmental Health, Street Life and Park Life requirements.

Advice to Applicant

- 1.17 In regards to Condition No. 1, where a Council Building Surveyor is issuing the Certificate of Design Compliance (Application Form TVP1 to be submitted) then the approval of Council Business Units will be obtained by the Council Building Surveyor. Where a private certifier is engaged to issue the Certificate of Design Compliance, then it is the responsibility of the owner/builder/certifier to submit a separate application (Form TVP2) for the approval of Council Business Units. This form is available on the Town's website and at the front counter of Council's Offices.
 - 1.18 Failure to maintain the verge by current or future owners or occupiers will render the offender liable to infringement under Section 2.9 of the Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law – Modified penalty \$100.
 - 1.19 With regards to Condition No. 9 the following are minimum requirements of the Town of Victoria Park: Brick paving 60mm minimum thick clay or concrete pavers laid on 30mm bedding sand and Base of 100mm compacted limestone.
 - 1.20 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.
 - 1.21 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. Adjoining property owners who lodged a submission during the public consultation period be advised of Council's decision.



11.8 Final Approval of Amendment No. 58 to Town Planning Scheme No. 1 to Permit an Additional Use (Motor Vehicle Sales Premises) at 10-12 (Lot 100) Asquith Street, Burswood

File Reference:	PLA0003/58
Appendices:	No
Landowner:	Peters Investments Pty Ltd
Applicant:	Allerding & Associates
MRS Zoning:	Urban
TPS Zoning:	Office/Residential
TPS Precinct:	Precinct P3 'Causeway Precinct'

Date:	30 July 2012
Reporting Officer:	L. Parker
Responsible Officer:	R. Cruickshank
Voting Requirement:	Simple Majority

Executive Summary:
Recommendation – Council resolve to adopt Amendment 58 to Town Planning Scheme No.1 without modifications and forward Amendment 58 to the WAPC for final approval.

- Amendment 58 proposes to amend Schedule 2 – Additional Uses of Town Planning Scheme No. 1 by inserting the use of 'Motor Vehicle Sales Premises' as a permitted use on the site.
- The Amendment proposes to limit the operation of the Additional Use to ten years from the granting of a development approval to carry out the use (or other further period agreed to by the Council) or upon the demolition/destruction of 75% or more of the value of the existing buildings on the site, whichever occurs first.
- The proposed restrictions on the Additional Use will ensure that the envisaged future redevelopment of the site in accordance with the objectives of the Causeway Precinct is not compromised, whilst facilitating the upgrade of the currently aged and disused buildings on the site.
- Amendment publicly advertised for 42 days. Five (5) submissions received during advertising period.
- Recommended that Council grants Final Approval to adopt Amendment No. 58 to Town Planning Scheme No. 1, without modifications.

TABLED ITEMS:

- Submissions (2) received 23 June 2012;
- Letter dated 5 June 2012 from Environmental Protection Authority (EPA);
- Letter dated 23 May 2012 from the Western Australian Planning Commission;
- Letter dated 28 June 2012 from MainRoads WA;
- Letter dated 20 July 2012 from the Water Corporation;
- Minutes of the Ordinary Council Meeting held on 8 May 2012; and
- Amendment 58 documents to Town Planning Scheme No. 1.

BACKGROUND:

A request was received on 11 April 2012 from Allering & Associates on behalf of the owner of 10-12 Asquith Street for the Council to initiate an amendment to Town Planning Scheme No. 1 to permit the use of Motor Vehicle Sales Premises on the above site.

The Council at its Ordinary Meeting held on 8 May 2012 resolved to initiate Amendment No. 58 to Town Planning Scheme No. 1 for the purpose of amending 'Schedule 2 – Additional Uses' by inserting the use of 'Motor Vehicle and Marine Sales Premises' as a permitted use on the property.

A letter dated 5 June 2012 was received from the Environmental Protection Authority (EPA) advising the Town that the proposed amendment "should not be assessed under Part IV Division 3 of the Environmental Protection Act 1986 (EP Act) and that is not necessary to provide any advice or recommendations."

DETAILS:

Public advertising of Amendment No. 58 to Town Planning Scheme No. 1 has been completed following the Council's resolution to initiate the Amendment at its Ordinary Meeting held on 8 May 2012.

Amendment No. 58 was advertised for 42 days. The public advertising period commenced on 18 June 2012 and closed on 30 July 2012. Five (5) submissions were received during the advertising period, from the occupier of 2 and 2A Shepperton Road (John Hughes Prestige dealership), stating the words "No objection".

Letters from MainRoads WA, Department of Health, and the Water Corporation were received on 28 June, 3 August 2012 and 20 July 2012 advising of no objection to the proposed Scheme Amendment.

Legal Compliance:Town of Victoria Park Town Planning Scheme No. 1

Clause 47 (1) of the Town Planning Scheme Text states that:

"Council may only amend or revoke a Scheme Document with the exception of a Council Register in accordance with the procedures applying to a Town Planning Scheme Amendment set out in Section 7 of the Act."

Town Planning Regulations 1967

Under regulations 17(1) & (2) and 25(fb) of the Town Planning Regulations 1967, the Council must consider all submissions received on the amendment and resolve whether the amendment will be adopted with or without modifications or whether it does not wish to proceed with the amendment within 42 days of the end of the advertising period or such longer period as the Minister may approve.

Under regulation 18(1) of the Town Planning Regulations 1967, the Council must forward the amendment to the Western Australian Planning Commission for a decision on final approval within 28 days of passing a resolution under regulation 17(2).

The Western Australian Planning Commission will consider the Amendment and any submissions received and make a recommendation to the Hon Minister for Planning concerning determination. Upon receipt of the Western Australian Planning Commission's recommendation the Hon Minister will consider the matter then make a determination on the outcome of the Amendment, which may include finalisation of the Amendment, or modifications to the Amendment that may or may not require readvertising or refusal to finalise the Amendment.

Sustainability Assessment:

External Economic Implications:

No Impact

Social Issues:

No Impact

Cultural Issues:

No Impact

Environmental Issues:

No Impact

COMMENT:

The subject site is intended to play a gateway role within the Causeway Precinct and be redeveloped as one of six tower sites of up to 18 storeys in height. It is considered reasonable for the Council to permit the interim use of the subject site for the sale and display of motor vehicles given the current uncertain economic climate and the fact it is located between two existing motor vehicle sales premises which are likely to continue operation for the foreseeable future given the significant investments in land and buildings that has occurred on these sites.

The proposed Additional Use will be subject to a condition restricting the sale and display of vehicles sold from the site to the inside of the existing buildings. These restrictions ensure that the site does not become a location for the open air sale and display of vehicles which is less desirable than their confinement within a contained showroom environment. They also facilitate the investment in and refurbishment of the existing buildings on the site for this purpose, resulting in the visible improvement of the site. The Amendment includes provisions for the extinguishment of the Additional Use after ten years or upon the demolition, destruction or redevelopment of the buildings on the site to prevent the entrenchment of the use.

No objections or submissions raising concerns were received during public advertising of the Scheme Amendment.

CONCLUSION:

The Additional Use is compatible with adjoining properties on which the same use is carried out and will result in the upgrade of the currently aged and disused buildings on the site. The proposed Amendment includes development standards and conditions restricting the length and manner of operation of the Additional Use to prevent the entrenchment of the use and to facilitate positive streetscape outcomes.

It is recommended that Council resolve to adopt Amendment 58 to the Town of Victoria Park Town Planning Scheme No. 1 for Final Approval, without modifications.

OFFICER RECOMMENDATION/S:

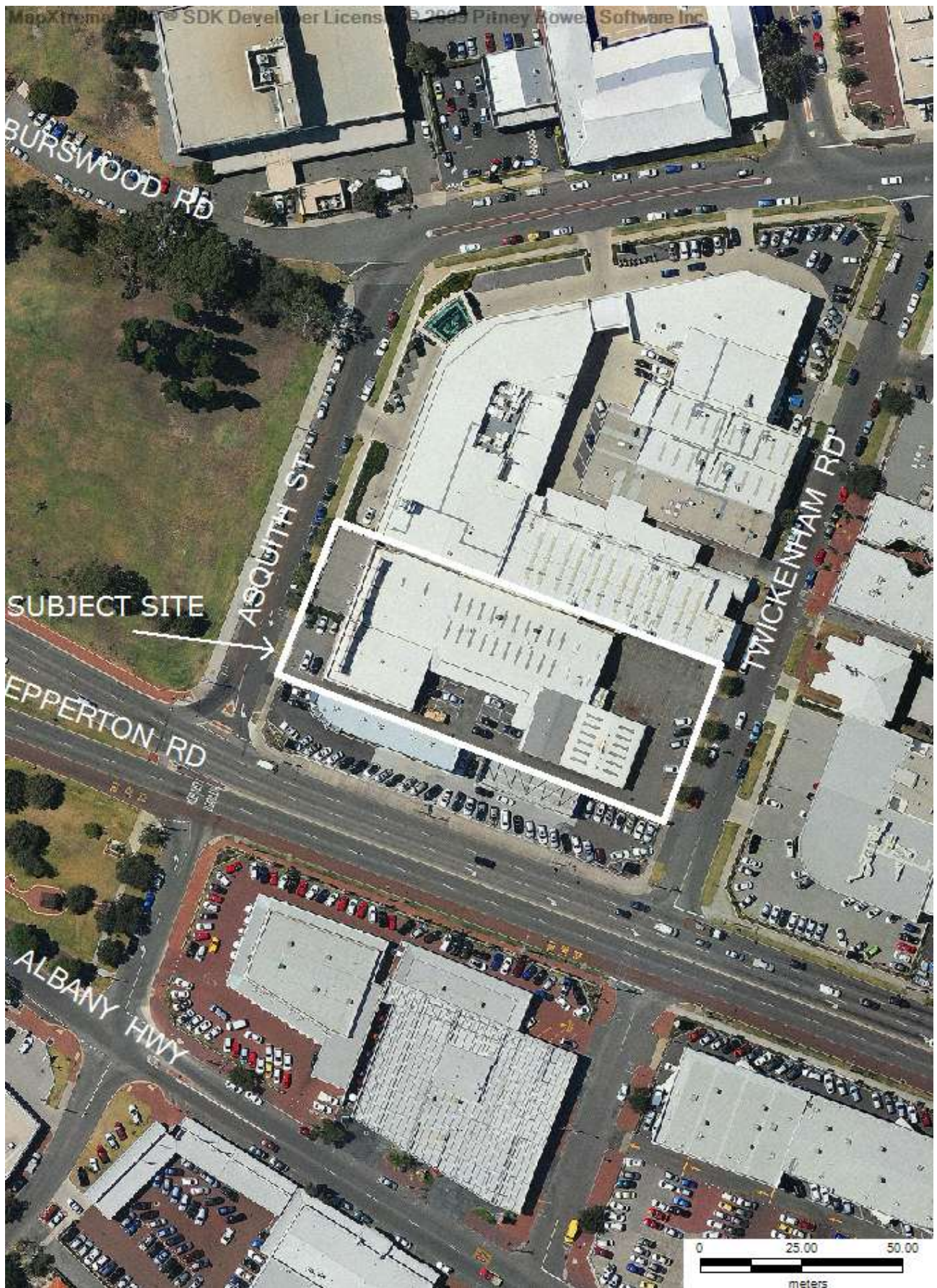
1. Council resolve pursuant to Section 75 of the Planning and Development Act 2005 to adopt Amendment No. 58 to amend the Town of Victoria Park Town Planning Scheme No. 1 for final approval without modifications as follows:

1.1 Inserting into Schedule 2: Additional Uses

Ref No.	Land Particulars	Permitted Uses	Development Standards/Conditions
3	No. 10-12 (Lot 100) Asquith Street, Burswood on Diagram 72633, Volume 1781, Folio 957	Motor Vehicle and Marine Sales Premises	1. The Additional Use of Motor Vehicle and Marine Sales Premises shall extinguish in the following circumstances: (a) upon the expiry of ten (10) years from the date that an application for planning approval for the use is first granted by the Council, except where a further application(s) for planning approval has been granted for the continued operation of the use whereby the Additional Use shall extinguish upon the expiry of that approval(s); or (b) upon the demolition, destruction or redevelopment of seventy-five (75) per cent or more of the value of the building(s) on the land

			<p>approved to carry out the use; whichever occurs first.</p> <p>2. The sale and display of vehicles is to occur within the building(s) approved to carry out the use at all times.</p> <p>3. The open air sale and display of vehicles is not permitted.</p> <p>4. The use of any part of the existing building(s) on the site other than as a Motor Vehicle and Marine Sales premises is restricted to the storage of vehicles incidental to the use only, or as otherwise permitted by a valid planning approval for the site.</p> <p>5. The existing building being externally upgraded to the satisfaction of the Town.</p>
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- 2. **The Chief Executive Officer and Mayor be authorised to execute the Town Planning Scheme No. 1 Amendment No. 58 documents and to have the Common Seal affixed.**
- 3. **Amendment No. 58 be forwarded to the Western Australian Planning Commission for final approval.**



11.9 5th International Urban Design Conference - Melbourne, Victoria 10-12 September 2012

File Reference:	ADM0058
Appendices:	No

Date:	27 July 2012
Reporting Officer:	R. Lavery
Responsible Officer:	R. Lavery
Voting Requirement:	Simple Majority

Executive Summary:	
Recommendation	
<ul style="list-style-type: none"> • Elected Member _____ be approved to attend 5th International Urban Design Conference - Melbourne, Victoria 10-12 September 2012 • The 5th International Urban Design Conference • Director Future Life & Built Life Programs and Senior Strategic Planner will be attending and there is an opportunity for an Elected Member to attend. 	

TABLED ITEMS:

- Conference Program

DETAILS:

The theme of this year’s conference, Opportunistic Urban Design, invites us to consider innovative urban design solutions that respond to a specific context.

The context of the Conference is as follows *“If the act of planning is to legitimise ‘what should be done’, opportunistic design thinking seeks to action ‘what can be done’. Indeed, the focus of planning may enable it to be read as one form of catalyst for thinking opportunistically. That is, a process of creative thinking leading to more flexible, more inventive and more contextually responsive strategies of intervention into the urban environment.*

City leaders in Australia and internationally are, to varying degrees, endeavouring to respond to the aftermath of the GFC, effects of climate change, dramatic population movements, peak oil speculation, emerging social media and the influences on how we socialise and connect with each other, and a search for meaning (to name a few !).

Growth, flux, and decay are inherent aspects of urban systems. As changing financial, political, environmental, technical and social conditions influence urban life, it is apparent that urban design will have to become increasingly opportunistic and creative in approach, formulation and delivery.

This trend is manifesting itself across a broad range of disciplines, scales and intents. It is most popularly evident in innovative place making projects and strategies such as the High Line in NYC, tactical urbanism, a multiplicity of fluid uses of public spaces (eg pop ups).”

The conference will focus on ideas and projects that are visionary despite, or maybe because of, the current context.

Confirmed Keynote Presenters:

- Alexandros Washburn, Director of Urban Design, Department of City Planning, New York City.
- Chris Bailey, Head of Partnerships & Innovation, Westway Development Trust, London
- John Suckling, Chairman, ReStart, Christchurch, New Zealand
- Dorte Ekelund. Executive Director, Major Cities Unit, Department of Infrastructure and Transport.
- Andrew Tongue, Departmental Secretary, Department of Planning and Community Development, Victorian Government
- Marcus Westbury, founder Renew Australia, a new national social enterprise designed to catalyse community renewal, economic development, the arts and creative industries across Australia

Forum Panel moderated by Justine Clark, Architectural Writer, Editor, Critic and Curator:

- Mr Gary White, Government Planner, Growth Management Queensland, Department of State Development, Infrastructure and Planning, QLD
- Professor Rob Adams, Director City Design, City of Melbourne VIC
- Mr Giovanni Cirillo, Executive Director, Urban Renewal & Major Sites, Department of Planning and Infrastructure NSW Government, NSW

Legal Compliance:

Nil

Policy Implications:

ADM 6, an opportunity exists for an Elected Member to attend the conference, as contained in the recommendation.

Strategic Plan Implications:

Nil

Financial Implications:

Internal Budget:

The total estimated cost for one Councillor to attend with

Registration	\$1,090
Accommodation (4 nights)	\$ 960
Flights	\$ 850
Total	\$2,900

Total Asset Management:

Nil

Sustainability Assessment:

External Economic Implications:

Nil

Social Issues:

Improved understanding of

- Urban design outcomes and community
- Placemaking and sustainable communities

Cultural Issues:

Improved understanding of:

- Connecting people and places
- Harnessing social capital

Environmental Issues:

Improved understanding of:

- Innovations in urban design
- Urban renewal - green buildings
- Population growth
- Urban landscapes, public spaces
- Working with climate change, energy consumption, generation and other challenges
- Innovation in urban design

COMMENT:

The conference program is tabled and covers a wide range of topics relating to urban design, with a number of international speakers. The conference is relevant to the Town as it seeks to accommodate increased population and pressures of a changing community.

CONCLUSION:

The Conference is an opportunity for an Elected Member to gain a greater understanding of urban design issues, however it is acknowledged that many of the topics may be of a more technical nature.

OFFICER RECOMMENDATION/S:

The attendance of Elected Member _____ at the 5th International Urban Design Conference - Melbourne, Victoria 10-12 September 2012 at a total estimated value of \$2,900 be approved and funded from the GL No's. 500000.625.4128.

11.10 232 Orrong Road, Carlisle – Confidential Item

This report will be issued under a separate cover.

12 RENEW LIFE PROGRAM REPORTS

12.1 Investigation into dual use path on the perimeter of Raphael Park

File Reference:	RES0026
Appendices:	No

Date:	17 July 2012
Reporting Officer:	F. Squadrito
Responsible Officer:	A. Vuleta
Voting Requirement:	Simple Majority

Executive Summary:
Recommendation – That the proposed dual use path plan on Raphael Park be received.

- Previous Notice of Motion has required a report on a proposed dual use path on Raphael Park.
- External funding, strategic alignment, design and feasibility of the project has been investigated.
- It is not recommended to proceed with the project at this point in time.

TABLED ITEMS:

Nil

BACKGROUND:

In October 2011 a Notice of Motion regarding the investigation into the provision of a dual use path on the perimeter of Raphael Park was submitted.

Raphael Park is bounded by Armagh Street, Geddes Street, Gloucester Street, and Washington Street, Victoria Park and is located near Canning Highway and the Swan River foreshore reserve. It is surrounded by mainly residential properties and several schools.

There is a concept landscape plan for Raphael Park incorporated in the Raphael Precinct Structure Plan which was prepared by the Town’s consultant in 2002, Taylor Burrell Town Planning and Design. This plan depicts a pathway along the perimeter of the park.

As part of the 2012/2013 Perth Bicycle Network grant submissions the Town submitted three projects including the installation of a dual use path in Raphael Park. The project was nominated on the basis it would integrate with the continued signed bicycle route (SE 26) along Washington Street and would encourage children to cycle to school in a safe and more comfortable environment. Unfortunately, the project was unsuccessful and therefore it was not considered feasible for the Town to fund the full scope of the project which is estimated to cost \$747,713.

DETAILS:

At the Council Meeting held on 11 October 2011 the view was expressed that residents in the Raphael Park precinct have raised their desire for a dual use pathway to be constructed around the Park.

Raphael Park is the premier recreational reserve in the P5 Precinct. It was noted that P5 indicates the park land will be 'used, maintained and enhanced as parklands.' Providing a dual use pathway will enhance the area's amenity and may lead to greater recreational use of the park. Raphael Park is a community park with playground equipment and barbeque facilities but also serves as an active reserve for organised sport. Cycling and walking are recreational activities which may be enjoyed by local residents around the park in a manner which will not compromise the existing Moreton Bay Fig trees.

A technical investigation needs to be undertaken to ensure that the proposed dual use pathway is situated and constructed in a manner which does not interfere with existing recreational activities on the park (cricket, football, etc) and the path is not damaged by the vigorous root systems of the Moreton Bay Fig trees. The plan also refers to 'safe, accessible movement for cyclists and pedestrians,' as a priority.

The Town's Bike Plan adopted on 7 September 2010 endorses allocating 1% of rates revenue per annum to alternative transport infrastructure within the Town, including cycling infrastructure.

At this stage the proposal examines the installation of a 2.5m wide concrete path with an approximate length of 870m in total in accordance with the attached precinct plan. Faux brick stencilling will also be applied. Additionally a red asphalt path has been considered as an option however is not viable due to the cost being significantly more than the above mentioned concrete construction.

Legal Compliance:

Nil

Policy Implications:

Nil

Strategic Plan Implications:

The Town's Plan for the Future does not include any specific reference to this project, and as such staff are of the opinion that this does not constitute a strategic project.

This pathway is depicted in the Raphael Precinct Structure Plan dated September 2002.

Financial Implications:Internal Budget:

The Project is estimated to cost \$747,713 (including lighting). There is currently no funding allocated for this project in the 2012/2013 budget. Should the project be deemed a priority as part of the normal shortlisting process used to identify Multi Modal Transport Capital Works projects, Council will need to reallocate funds to undertake the project.

This project was included in the initial draft of the 2012/2013 budget, but was not included in the budget finally adopted by Council on 31 July 2012. The project was to be included on Council's "B-List" of projects.

Total Asset Management:

New pathways and lighting will be added to the Town's asset register and will be an on-going maintenance and renewal burden on the Town's operating budget.

Sustainability Assessment:**External Economic Implications:**

The Town assessed the eligibility of this project for external funding through 2012/13 funding programs including Perth Bike Network program. However, the Town was not successful in securing any funding for this particular project.

Social Issues:

A dual use path may result in greater patronage of the park for recreational users. Additionally a path would encourage increased physical activity and improved health outcomes in the area as well.

Cultural Issues:

Nil

Environmental Issues:

Tree root issues will need to be assessed on-site prior to finalising design to reduce stress on existing trees.

COMMENT:

The Town supports initiatives aimed at improving facilities that encourage the use of alternative modes of transport and activities that promote a healthy lifestyle. The Town's Plan for the Future and Bike Plan both indicate the need to fund infrastructure works that will accommodate alternative modes of transport which include walking and cycling.

The transport and traffic components of the Town's precinct structure plans are due for review to ensure alignment with current best practices and the Town's Integrated Movement Network Strategy which is currently being developed.

The installation of a dual use path around Raphael Park of approximately 870m in length is consistent with the concept plan provided in the Town's Raphael Precinct Structure Plan dated September 2002 and the general public health promotional objectives of the Town's Plan for the Future and Bike Plan (2009).

The Town's Bike Plan has identified many strategic bike routes requiring installation and upgrades but does not have this proposed path listed as a project to be implemented.

The project construction cost is estimated to cost \$747,713 (including lighting). The entire 2012/2013 Multi Modal Transport reserve has already been allocated to the various multi modal infrastructure components of the 2012/2013 Capital Works projects including the Perth Bike Network funded projects.

CONCLUSION:

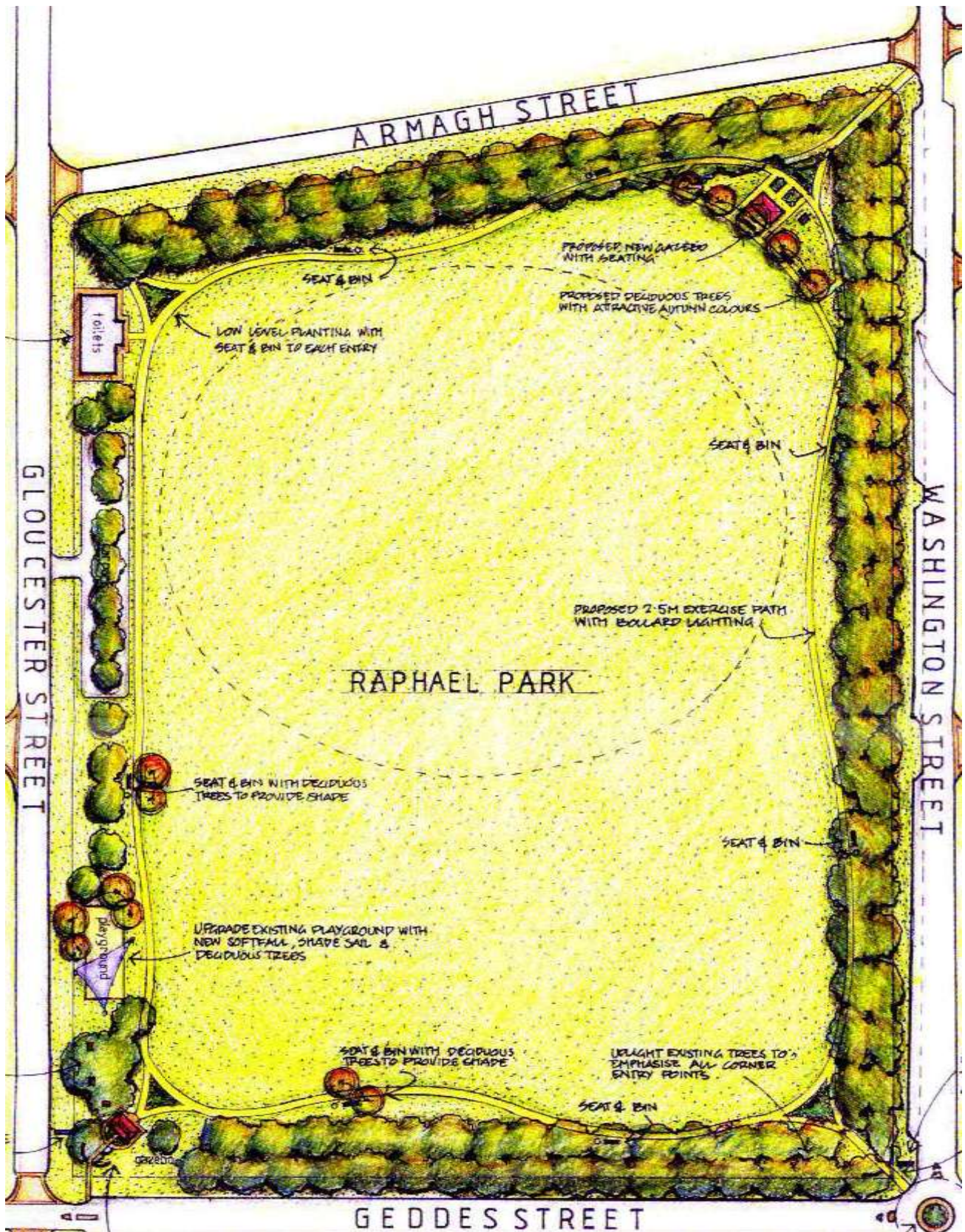
Effectively the proposed path affords easier pedestrian and bicycle access around Raphael Park, but delivers no linkage to the Town's existing bicycle network.

It is the Administration's view that this project, though having some merit for aesthetic and access reasons, does not warrant the expenditure of \$747,713. It is the Administration's view that such an amount of money would more appropriately be allocated to existing strategic projects such as McCallum Park Master Plan, Lathlain Park Precinct Master Plan or improving the bicycle network.

Council may wish to revisit funding this project as part of the 2012/2013 budget review process in December/January or assign a higher priority to this project in preference over other strategic projects listed on the Town's Plan for the Future.

OFFICER RECOMMENDATION/S:

That the proposed shared path plan for Raphael Park be received and that the actions of the Administration in undertaking further design and investigating external funding and feasibility of the project be noted.



12.2 Victoria Park Community Garden Lease

File Reference:	ORG0134
Appendices:	No.

Date:	30 July 2012
Reporting Officer:	T. McCarthy
Responsible Officer:	A. Vuleta
Voting Requirement:	Simple Majority

Executive Summary:

Recommendation – Portion of Read Park currently occupied by the Victoria Park Community Garden Association Inc. be leased to the Victoria Park Community Garden Association Inc. until 30 June 2017, with an option for a further lease term of five (5) years.

TABLED ITEMS:

- Draft lease document for the lease of portion of Read Park to Victoria Park Community Garden Association Inc.
- Email dated 4 July 2012 from representative of the Victoria Park Community Garden Association Inc.

BACKGROUND:

At its meeting held 9 June 2009, Council resolved:

1. *A Community Garden be constructed in Read Park, subject to the satisfaction of the Director Technical Services and Planning approval being obtained.*
2. *A lease be drafted for the utilisation of portions of Read Park as a community garden, and that the lease be presented to Council for consideration.*
3. *Owners and occupiers directly adjacent to Read Park be consulted on the proposed community garden with a report being presented back to Council for consideration if any adverse comments are received.*

A draft lease document was prepared, in accordance with the general terms and conditions of the standard lease document normally used in Town leases, and forwarded to Victoria Park Community Garden Association Inc. (VPCGA) for review and consideration. VPCGA discussed with the Town several aspects of the draft lease document which were of concern to VPCGA. Following several meetings and communication, the points of discussion have been agreed and the lease document is now presented for Council approval in accordance with the previous resolution.

DETAILS:

VPCGA currently occupies an area of approximately 700m² at Read Park, and the lease allows for an additional area of 225m² to be occupied for use as a demonstration garden.

Legal Compliance:

The proposed lease of the portions of Read Park to VPCGA would be an exempt disposition under Section 3.58 of the *Local Government Act 1995* and advertisement of the proposed lease is therefore not required.

Policy Implications:

Nil

Strategic Plan Implications:

Nil

Financial Implications:Internal Budget:

Funding and resources required to develop and maintain the garden will be the responsibility of VPCGA, funded in part by membership fees and the charging of a fee for rental of an allotment.

Total Asset Management:

VPCGA is aware of its responsibility to provide the Town with on-going reports regarding development, usage and condition of the site.

Sustainability Assessment:External Economic Implications:

Nil

Social Issues:

The already developed community garden provides an opportunity for members of the public to garden, especially residents that live in apartments and high rise developments. The garden provides a public space for learning, social interaction, cultural exchange and a sense of community ownership and pride. The garden also brings a high level of positive activity to Read Park, and delivers increased usage of the playground and park areas.

Cultural Issues:

Residents from a diverse range of cultures make use of the community garden facility.

Environmental Issues:

The existing, developed community garden already enhances what was an underutilised reserve from an environmental perspective.

COMMENT:

The proposed lease is for five years from 1 July 2012 to 30 June 2017, with an option for a further five year term expiring 30 June 2022. The recommended amount of rent payable is \$1.00 per annum. This is in keeping with the general philosophy of providing assistance to non-profit community groups that exist to benefit the community by providing means to socially interact and establish contact between people from diverse backgrounds.

VPCGA has established a community garden in the designated lease area at Read Park. The community garden appears to be a success and is enjoyed by those participating. The designated lease area is kept in a neat and tidy condition and has not adversely impacted on use of Read Park by the general public, and has, to some extent, improved the appearance and general ambience of the park.

No objections to the established community garden, which is now in its third year of operation, have been received.

It is not known when VPCGA will exercise the option to utilise the demonstration garden portion of the lease area.

CONCLUSION:

VPCGA has demonstrated the ability to establish and maintain a community garden at Read Park and it is recommended that the Town enter into a lease agreement with VPCGA.

OFFICER RECOMMENDATION/S:

- 1. Two portions of Read Park totalling 925m² be leased to Victoria Park Community Garden Association Inc for a five year term commencing 1 July 2012 and concluding 30 June 2017, with an option for a further five year term expiring 30 June 2022, for the purpose of “Community Garden” and “Demonstration Garden” in accordance with the terms and conditions contained in the tabled draft lease document. The rent is to be \$1.00 (excluding GST) per annum.**
- 2. The Mayor and the Chief Executive Officer be authorised to execute the lease document for the designated lease areas at Read Park to the Victoria Park Community Garden Association Inc.**



13 COMMUNITY LIFE PROGRAM REPORTS

13.1 Community Sporting and Recreation Facilities Fund (CSRFF) – Small Grants Application

File Reference:	CMS0048
Appendices:	No

Date:	20 July 2012
Reporting Officer:	J. Thomas
Responsible Officer:	T. Ackerman
Voting Requirement:	Simple Majority

Executive Summary:
Recommendation – the Town endorse submitting a grant application to the Department of Sport and Recreation through the CSRFF scheme for one-third of the total project costs to construct an additional storage room at Higgins Park Clubrooms.

- It is proposed to submit a Small Grant application to the Department of Sport and Recreation’s Community Sport and Recreation Facilities Fund (CSRFF) for one-third of the total project costs to construct an additional storage room at the Higgins Park Clubrooms, East Victoria Park.
- This report seeks Council support, priority and ranking for the Higgins Park Clubrooms storage project which is a requirement for grant eligibility prior to CSRFF application lodgement by 31 August 2012.
- This report seeks Council endorsement of receipt of the grant if the application is approved by the Department of Sport and Recreation.

TABLED ITEMS:

- Correspondence from the Victoria Park Raiders Football Club received 15 June 2012
- Victoria Park Raiders Junior Football Club – Strategic Business Plan (May 2012)
- CSRFF Small Grants Application Form (draft)

BACKGROUND:

The purpose of the Community Sport and Recreation Facilities Fund (CSRFF), which is administered by the Department of Sport and Recreation (DSR), is to provide financial assistance to community groups and Local Government Authorities to develop basic infrastructure for sport and recreation.

The program aims to increase participation in sport and recreation, with an emphasis on physical activity, through rational development of sustainable, good quality, well-designed and well-utilised facilities.

The maximum standard CSRFF grant approved will be no greater than one-third of the total estimated cost (excluding GST) of the applicant's project. If the applicant is registered for GST, the grant is increased to reflect the GST amount. The CSRFF program operates on a reimbursement system. Grantees are required to demonstrate that they have expended the funds equivalent to the full cost of project before CSRFF grants will be paid in full.

There are three types of grants available through the CSRFF scheme:

Grant Type	Level of Planning	Grant Available	Grant Deadline
Small	Basic	\$2,500 - \$50,000	31 August 2012 & 29 March 2013
Annual	Medium	\$50,001 - \$166,666	28 September 2012
Forward Planning	High Level	\$166,667 - \$4,000,000	28 September 2012

This report seeks Council support for the submission of a Small Grant seeking a one third contribution to upgrade the Higgins Park Clubrooms with construction of an additional storage room.

DETAILS:

It is intended to submit a CSRFF Small Grant application in August 2012 for the construction of additional storage at the Higgins Park Clubrooms, Playfield Street, East Victoria Park.

The proposed additional storage room has been designed to complement aesthetically the existing external building and surrounding landscape. The extension is proposed for construction on the North-East side of the building, measuring 8m x 4m (32 square metres in total).

The purpose of the additional storage space is to support the operations and functionality of community sporting clubs that use Higgins Park, mainly Victoria Park Raiders Junior Football Club, South Perth Junior Cricket Club and Carlisle Cricket Club. The junior clubs using Higgins Park can demonstrate a steady increase in membership, with the latest winter football season having a spike in membership attributed to the recently introduced \$200 KidSport initiative for low income families.

Currently, the clubrooms have limited space available for the storage of equipment throughout the season. The impact of this lack of storage has resulted in items being stored in change-rooms, the accessible toilet or over-stacked in existing storage areas in an unsafe manner. This is causing sports equipment to be broken, lost or stolen. Communication from the Victoria Park Raiders Junior Football Club throughout 2012 has highlighted the need for increased storage at the site; confirmed in correspondence received from the Club formally requesting the construction of additional storage by the Town (tabled).

The addition of a storage room to the Higgins Park Clubroom is intended to support local clubs and increase physical activity through:

- Better retention and quality of equipment will enable increased human and financial resources to be directed into promoting the sports at a grass roots level.
- Ability to purchase more equipment because there is space to store it, subsequently can satisfy and service the equipment needs of more members.
- Easier, quicker and safer access on game day to equipment by volunteers.
- Improved occupational health and safety of those transferring equipment in/out of storage areas.
- Ability to purchase and store extra equipment to match the growing number of members at the clubs (a significant increase can be evidenced through the introduction of KidSport).
- Once the equipment is stored correctly more appropriately, players and visitors will have a better experience in the clubroom, with existing areas such as change-rooms, toilets and social space cleared of equipment.

It is a requirement of grant eligibility that all CSRFF applications are ranked and prioritised by the relevant Local Government Authority prior to being submitted to the Department of Sport and Recreation. The Town has not received any CSRFF grant applications for assessment from local sporting clubs. Consequently, the Administration has ranked the application for storage at Higgins Park Clubrooms as 'one out of one' applications.

A suitable level of needs identification and consultation with the clubs has been undertaken by the Administration which has determined that the project is a high priority and has been well planned.

The grant deadline is 31 August 2012. Indication from the Department of Sport and Recreation is that successful grants will be announced in November 2012. If successful, it is a requirement that the grant funding be acquitted by 30 June 2012. As a result of the short timeframe to complete the work, this report also seeks Council approval to accept the grant in order that work can be commenced immediately.

Legal Compliance:

Nil

Policy Implications:

Nil

Strategic Plan Implications:

The project is consistent with several objectives across Program areas in the Town's *Plan for the Future 2011-2026*:

- We will connect people to services, resources, information, facilities and experiences that enhance their physical and social well-being.
- We will improve and provide infrastructure, services and environmental leadership that focus on the public domain and which is delivered to a standard that meets community expectations and contributes to a Vibrant Lifestyle.
- We will effectively manage, maintain and renew the Town's assets.
- We will optimise use of the Town's property assets.

Financial Implications:

Internal Budget:

Final quotes have yet to be received for the project; however it is estimated that the total cost will be approximately \$75,000. Part funding has been allocated in the 2012/13 Capital Budget for the project, with the remainder of the monies being sought through CSRFF grant funding. In this instance, as the clubs that utilise Higgins Park as their home ground are junior clubs they would not be expected to make a financial contribution to the project.

Total Asset Management:

The Town's *Service and Asset Management Plan – Buildings*, identified the long life structure of the Higgins Park Clubrooms as a condition 3 (1 = good; 10 = poor) with a renewal value of \$914,140. Building extension works will bring the total renewal of the facility to approximately \$1million.

Building works will comprise standard brick wall, timber framed and iron roof construction and building maintenance obligations will increase marginally over time as a result of the building additions.

Additional storage area will enable more efficient and appropriate use of the existing Clubroom facility.

Sustainability Assessment:

External Economic Implications:

Nil

Social Issues:

Additional storage will support functionality of the clubs, especially on games days making for a more rewarding experience for all participants. Improved storage will support spaces within the clubrooms being used for their prescribed purpose, rather than other areas being used for storage which reduces space available, increases the risk of equipment being lost, damaged or stolen, and increases the safety hazard risk. As a result, this project is considered a high priority.

Cultural Issues:

Nil

Environmental Issues:

The design includes a skylight to optimise natural light, and will comply with energy efficiency requirements of the Building Code of Australia.

COMMENT:

The proposal to increase storage at the Higgins Park Clubrooms has already been supported by the Town through its commitment to place some capital funds on the 2012/13 Budget for this purpose. A CSRFF grant would ensure that the project can be delivered consistent with draft plans. The clubs that would benefit from the increased storage have growing numbers and a viable future. The extra storage is deemed highly needed and suitably planned.

If the grant is successful, the project would need to progress without delay to ensure that it can be completed by June 2013. As a result, Council endorsement to receive the grant funding at an estimated value of \$25,000 is sought.

CONCLUSION:

The construction of additional storage at Higgins Park is well planned and needed by the community. The project meets eligibility criteria and supports the core purpose of the CSRFF Small Grant scheme, which is to increase physical activity.

OFFICER RECOMMENDATION/S:

- 1. The Town submit a Small Grant application to the Department of Sport and Recreation through the Community Sport and Recreation Facilities Fund (CSRFF) for one-third of the total project costs to construct an additional storage room at Higgins Park Clubrooms with a ranking of 'High' and priority 'one out of one' applications.**

- 2. The Town endorse receiving CSRFF Small Grant funding of approximately \$25,000 should the grant application to construct additional storage space at the Higgins Park Clubrooms be successful.**

13.2 Disability Access and Inclusion Plan 2012-2017

File Reference:	CMS0152
Appendices:	Yes

Date:	25 July 2012
Reporting Officer:	N. Tomkins
Responsible Officer:	T. Ackerman
Voting Requirement:	Simple Majority

Executive Summary:

Recommendation - the draft Disability Access and Inclusion Plan 2012-2017 be endorsed.

- The draft *Disability Access and Inclusion Plan 2012-2017* is presented for Council endorsement.
- The endorsed *Disability Access and Inclusion Plan 2012-2017* be lodged with the Disability Services Commission.

TABLED ITEMS:

- Report presented at the 25 June 2012 Disability Access Working Group meeting – *Draft Disability Access and Inclusion Plan 2012-2017*.

BACKGROUND:

The Town has a legislative responsibility under the Disability Services Act 1993 (amended 2004) to develop and implement a Disability Access and Inclusion Plan (DAIP).

The Town has previously endorsed the *Disability Access and Inclusion Plan 2008-2013*. This Plan has been reviewed to better align with the Town's *Plan for the Future 2011-2026*, as well as to extend the timeframe for the Plan. This review has resulted in the Draft *Disability Access and Inclusion Plan 2012-2017* (contained within the Appendices) for Council consideration.

DETAILS:

The draft *Disability Access and Inclusion Plan 2012-2017* ('the Plan') was developed following a comprehensive community consultation process with staff, residents and members of the public that visit or work in the Town.

The Plan lists actions over a 5 year period that address the following seven outcome areas:

1. People with disabilities have the same opportunities as other people to access services and events organised by the Town of Victoria Park.
2. People with disabilities have the same opportunities as other people to access buildings and facilities in the Town of Victoria Park.
3. People with disabilities receive information from the Town of Victoria Park in the format that will enable them to access the information as readily as other people are able to access it.

4. People with disabilities receive the same level and quality of service from the staff of the Town of Victoria Park as other people without disabilities.
5. People with disabilities have the same opportunities as other people to make complaints, participate in grievance mechanisms and decision making processes.
6. People with disabilities have the same opportunities as other people to participate in any public consultation.
7. People with disabilities have the same opportunities as other people to be employed.

Feedback from the community consultation was collated by Administration and incorporated into the draft Plan which was advertised and made available for public comment from Tuesday 10 July 2012 to Tuesday 24 July 2012. Subsequently the Plan was reviewed by the Disability Access Working Group and their feedback taking in to account before finalising the draft of the Plan which is now presented to Council for consideration.

Legal Compliance:

The *Disability Service Act 1993 (amended 2004)* requires the Town to develop and implement a Disability Access and Inclusion Plan.

Policy Implications:

Nil

Strategic Plan Implications:

The Town's *Plan for the Future 2011-2026* Community Life Program objectives state that:

- We will connect people to services, resources, information, facilities and experiences that enhance their physical and social well-being.
- We will create a vibrant Town that is a place of social interaction, creativity and vitality.
- We will promote access and equity in service provision for all members of the community.

Financial Implications:Internal Budget:

The draft *Disability Access and Inclusion Plan 2012-2017* includes a five year Action Plan. The majority of these actions can be implemented using existing resources; however over the five years of the Plan there are actions in Outcome Area 2 – *People with disabilities have the same opportunities as other people to access buildings and facilities of the Town of Victoria Park* - that require an additional \$170,000 in funding, a figure that could potentially be reduced if alternative sources of funding can be identified. \$3,000 of this \$170,000 has been included in the 2012/13 Budget for the Renew Life team to develop Disability Action Plans for leased buildings as required. Funding beyond 2012/13 will be factored into annual budget deliberations by relevant Program areas.

Total Asset Management:

Actions are either provided for under existing asset management resources or have been allocated funding within the Plan. Ongoing asset management will be absorbed by relevant Program areas.

Sustainability Assessment:External Economic Implications:

Nil

Social Issues:

The *Disability Access and Inclusion Plan 2012-2017* will have a direct impact on the issues experienced by people with disabilities that live, work and visit the Town.

Cultural Issues:

Nil

Environmental Issues:

Nil

COMMENT:

The Administration has undertaken a thorough community consultation process to ensure members of the public were provided a range of opportunities to give feedback on issues to be included in the Plan and to comment on the draft Plan.

The Plan meets legislative requirements and aligns with the Town's strategic direction outlined in the *Plan for the Future 2011-2026* which promotes access and equity as priority issues.

Financial implications have been considered within the Plan and will be included in annual budget deliberations.

CONCLUSION:

The draft *Disability Access and Inclusion Plan 2012-2017* is consistent with the Town's outcomes stated in the *Plan for the Future 2011-2026* and meets legislative requirements under the *Disability Service Act*.

OFFICER RECOMMENDATION/S:

1. The draft *Disability Access and Inclusion Plan 2012-2017* be endorsed.
2. The *Disability Access and Inclusion Plan 2012-2017* be lodged with the Disability Service Commission.

14 BUSINESS LIFE PROGRAM REPORTS

14.1 Minutes of Parking Management Committee to be Received

File Reference:	ADM0058
Appendices:	Yes
Date:	27 July 2012
Reporting Officer:	R. Bruno
Responsible Officer:	N. Caine
Voting Requirement:	Simple Majority
Executive Summary: Recommendation – Minutes of the Parking Management Committee as detailed in the appendices be received.	

TABLED ITEMS:

Nil

BACKGROUND:

The Parking Management Committee was formed by Council on the 8 May 2012.

DETAILS:

To date the Committee has had three meetings on:

1. 17 May 2012;
2. 21 June 2012; and
3. 26 July 2012.

The minutes of the first two meetings have been confirmed. The minutes of the last meeting are unconfirmed.

Legal Compliance:

These minutes are presented in accordance with the *Local Government Act 1995*.

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:

The Parking Management Committee will continue to meet to progress the development of parking management changes however no further recommendations to Council are expected for a number of Months.

CONCLUSION:

It is recommended that the Council receive the minutes for the Parking Management Committee from its meetings held on 17 May 2012, 21 June 2012 and 26 July 2012.

OFFICER RECOMMENDATION/S:

Council receives the Committee minutes of the Parking Management Committee dated 17 May 2012, 21 June 2012, and 26 July 2012.

14.2 Schedule of Accounts for the Period 1 June 2012 to 30 June 2012

File Reference:	FIN0015
Appendices:	Yes

Date:	27 July 2012
Reporting Officer:	G. Pattrick
Responsible Officer:	N. Cain
Voting Requirement:	Simple Majority

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

1. The List of Accounts Paid for the period 1 June 2012 to 30 June 2012.
2. Direct lodgement of payroll payments to the personal bank accounts of employees;
3. Deposits and withdrawal, of investments to and from accounts in the name of the Local Government.

This report provides an overview of payments made by the Town during the month of June 2012.

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 Regulation 12(1) of 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 by the CEO in accordance with Regulation 13(1) of the Local Government (Financial Management) Regulations 1996 as contained within the Appendices be confirmed.

FUND	CHEQUE NUMBERS / PAY PERIODS	AMOUNTS \$
Municipal Account		
Recoup Advance Account		0.00
Automatic Cheques Drawn	603048 - 603128	198,568.89
Creditors – EFT payments		2,601,454.42
Payroll		1,106,494.80
Bank Fees		0
Corporate Mastercard		7,074.75
		3,913,592.86
Advance Account		
Bank Fees		1.72
		1.72
Trust Account		
Cheques Drawn	2788 - 2791	1,575.00
		1,575.00

Legal Compliance:

This report and the attached list are submitted in accordance with Regulation 13 of the Local Government (Financial Management) Regulations 1996.

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 the payments made for the month of June 2012 be confirmed.

OFFICER RECOMMENDATION/S:

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

1. The List of Accounts Paid for the period 1 June 2012 to 30 June 2012 as shown in the Appendices.
2. Direct lodgement of payroll payments to the personal bank accounts of employees.
3. Deposits and withdrawal, of investments to and from accounts in the name of the Local Government.

14.3 Financial Statements and Budget Variations For The Period Between 1 June and 30 June 2012

File Reference:	FIN0015
Appendices:	Yes

Date:	2 August 2012
Reporting Officer:	G. Pattrick
Responsible Officer:	N. Cain
Voting Requirement:	Simple Majority

Executive Summary:
Recommendation – That the Financial Statements for the period ending 30 June 2012 be received.

- This report provides an analysis of the financial statements for the period ending 30 June 2012 identifying negative operating variances over \$10,000 and negative capital variances over \$1,000.

TABLED ITEMS:

- Nil

BACKGROUND:

The Town is required by the *Local Government (Financial Management) Regulations 1996* to prepare, and present to Council monthly financial statements of a prescribed kind. The following report contains these monthly financial statements, and also provides comments on significant operating and capital expenditure variances.

NOTE:

The financial information as shown in this report (June 2012) 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 year ended 30 June 2012.

DETAILS:

A review of the monthly financial statements has been undertaken and the significant variances are detailed below.

The Office of the Chief Executive

2011-2012 Budget and Year to Date Results

	Budget YTD	Actual YTD	\$Variance YTD
Operating Income	0	15,637	15,637
Operating Expenditure	1,950,982	1,307,637	643,345
Capital Expenditure	Nil	Nil	Nil

There are no variances to report on this month for the Office of the Chief Executive.

Business Life

2011-2012 Budget and Year to Date Results

	Budget YTD	Actual YTD	\$Variance YTD
Operating Income	28,752,249	28,172,744	(579,505)
Operating Expenditure	2,401,647	2,890,096	(488,449)
Capital Expenditure	Nil	Nil	Nil

Variance Type	Budget YTD	Actual YTD	\$Variance YTD
406000: General Purpose Funding	1,000,592	783,037	(217,555)

The timing of grant funding needs to be reviewed to implement an improved reallocation program when it is receipted.

Variance Type	Budget YTD	Actual YTD	\$Variance YTD
411000: Animal Control	39,970	28,577	(11,393)

Variance has occurred due to a once off write off of aged debts

Variance Type	Budget YTD	Actual YTD	\$Variance YTD
412000: Ranger Services	26,560	9,280	(17,280)

Variance is due to a lower than predicted number of identified offences and a once off write off of aged debts

Variance Type	Budget YTD	Actual YTD	\$Variance YTD
406000: General Purpose Funding	1,000,592	783,037	(217,555)

The timing of grant funding needs to be reviewed to implement an improved reallocation program when it is receipted.

Variance Type	Budget YTD	Actual YTD	\$Variance YTD
474500: Parking	566,962	294,016	(272,946)

Due to delays in implementing hotspots parking changes, expected revenue has not been met. A withdrawal has been made of bulk aging infringements totalling \$97,375.

Variance Type	Budget YTD	Actual YTD	\$Variance YTD
490600: Business Development	60,000	0	(60,000)

This is grant funding that has not yet been received. It is expected to be received prior to the end of the financial year.

Variance Type	Budget YTD	Actual YTD	\$Variance YTD
591000: Information Technology	2,934	48,705	(45,771)

Accumulated Depreciation is a 'non-cash' transaction and does not influence the year-end position

Community Life

2011-2012 Budget and Year to Date Results

	Budget YTD	Actual YTD	\$Variance YTD
Operating Income	3,765,637	3,648,295	(117,342)
Operating Expenditure	7,752,452	6,406,702	1,345,750
Capital Expenditure	Nil	Nil	Nil

Variance Type	Budget YTD	Actual YTD	\$Variance YTD
433300: Recreational Swimming	700,366	653,063	(47,303)

This account is offset by a positive variance to single entry attendance.

Variance Type	Budget YTD	Actual YTD	\$Variance YTD
433600: Memberships	1,210,700	943,030	(267,670)

Variance due to over estimation of proposed revenue

Variance Type	Budget YTD	Actual YTD	\$Variance YTD
437100: Sporting Life	223,988	212,209	(11,779)

Variation has occurred due to a mistiming of CPI increases in comparison to the budget estimates.

Variance Type	Budget YTD	Actual YTD	\$Variance YTD
439000: Bingo Op Rev	744,500	717,298	(27,202)

Variance due to a power outage, variance is also offset, in part, by a positive variance in expenditure.

Variance Type	Budget YTD	Actual YTD	\$Variance YTD
535500: Aqualife Café	168,524	207,669	(39,145)

Variance comprises standing order with café suppliers and over estimation of staff requirements during the summer months. A review of casual staff expenditure has been undertaken and rostered hours have been adjusted to ensure minimum spending for the remaining few months.

Variance Type	Budget YTD	Actual YTD	\$Variance YTD
457500 : Edward Millen Reserve	61,280	0	(61,280)

Variance due to Lottery West Grant not yet received.

Variance Type	Budget YTD	Actual YTD	\$Variance YTD
464500: Events Op Rev	62,510	7,112	(55,398)

Variance due to a shortfall of estimated revenue of events, variance will be partially off set by Lotterywest in May 2012

Variance Type	Budget YTD	Actual YTD	\$Variance YTD
664506: Music by Moonlight	85,000	106,010	(21,010)

Variance is a timing issue. This project is now complete.

Built Life/Future Life

2011-2012 Budget and Year to Date Results

	Budget YTD	Actual YTD	\$Variance YTD
Operating Income	579,032	470,156	(108,876)
Operating Expenditure	2,239,248	1,538,389	700,859
Capital Expenditure	Nil	Nil	Nil

Variance Type	Budget YTD	Actual YTD	\$Variance YTD
428000: Urban Planning Op Rev	3385,040	287,691	(97,349)
Revenue from planning applications is less than anticipated, which is a direct reflection of the conditions in the property development market			

Variance Type	Budget YTD	Actual YTD	\$Variance YTD
47800: Building Op Rev	723,790	589,988	(133,802)
Revenue from building applications is less than anticipated, which is a direct reflection of the conditions in the property development market			

Renew Life

2011-2012 Budget and Year to Date Results

	Budget YTD	Actual YTD	\$Variance YTD
Operating Income	1,242,325	677,036	(565,289)
Operating Expenditure	13,149,276	11,568,774	1,580,502
Capital Expenditure	Nil	Nil	Nil

Variance Type	Budget YTD	Actual YTD	\$Variance YTD
442500: Brownes Stadium	41,000	25,943	(15,057)
Variance due to timing issues, revenue is expected to equalise before the end of the financial year			

Variance Type	Budget YTD	Actual YTD	\$Variance YTD
479000: Underground Power	1,1176,877	342,028	(834,849)
Not all 7 cells will be processed this financial year and therefore a corresponding change in timing of receipts will occur.			

Variance Type	Budget YTD	Actual YTD	\$Variance YTD
487500: Parks Plant	13,636	807	(12,829)
Variance due to plant disposal funds not yet receipted			

Variance Type	Budget YTD	Actual YTD	\$Variance YTD
547500: Macmillan Park	43,668	57,710	(14,042)
Variance due to over expenditure on building cleaning and grounds maintenance. Funds to be reallocated from Operating Master Account 555000.670			

Variance Type	Budget YTD	Actual YTD	\$Variance YTD
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552000: Patterson Park	32,660	51,457	(18,797)
Variance due to the requirement of additional maintenance resources on bollard installation and irrigation upgrade Funding to be reallocated from other areas			
Variance Type	Budget YTD	Actual YTD	\$Variance YTD
556500: Higgins Park	103,106	129,539	(26,433)
Variance is due to additional maintenance works. Funding to be reallocated from other areas			
Variance Type	Budget YTD	Actual YTD	\$Variance YTD
566500: Footpaths	620,932	725,759	(104,827)
Variance is due to costs related to tree root damage. Funding to be reallocated from other areas			

580000: Private Works	19,912	186,894	(166,982)
City of South Perth has decided to continue with the street sweeping services provided by the Town. Revenue to Private Works Operating Revenue will therefore increase by \$60,000.			

Variance Type	Budget YTD	Actual YTD	\$Variance YTD
671001: Contaminated Site Investigate	32,500	59,000	(26,500)
Variance is due to timing. This project is complete.			

Legal Compliance:

This report satisfies the requirements of Regulation 34 of the *Local Government (Financial Management) Regulations 1996*, pursuant to section 6.4 of *Local Government Act 1995* and *Local Government (Financial Management) Amendment Regulations 2005*.

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 the financial statements for the month ended 31 May 2012 as contained in the Appendices be received.

OFFICER RECOMMENDATION/S:

That Council, pursuant to Regulation 34 of The *Local Government (Financial Management) Regulations 1966 (as amended)*, accept the Statement of Financial Activity for the period ended 30 April 2012 as shown in the Appendices.

14.4 Free Wi-Fi Along Albany Highway

File Reference:	AM0191
Appendices:	No

Date:	24 July 2012
Reporting Officer:	K Bel-Bachir
Responsible Officer:	N Cain
Voting Requirement:	Simple Majority

Executive Summary:

Council initiates a pilot project approach to provide access to high speed (100 Mbps) wireless internet in designated areas of the Town. Expressions of interest d be sought from telecommunication providers to evaluate the most financially viable way for Council to deliver this service.

Free Wi-Fi is supported in principle as a possible means of stimulating economic, social and cultural benefits in the Town. An Expression of Interest process will be required to engage a suitable telecommunications provider.

As technology advances, users will be able to do more and more with their wireless devices. If the Town is to commit to a 24 month contract with a telecommunications provider, it would be preferable to connect a smaller area to a high speed (100Mbps) service than to cover a large area with a basic service (256 kbps).

TABLED ITEMS:

Nil

BACKGROUND:

At the Ordinary Council Meeting held on Tuesday 8 November 2011, when considering a Notice of Motion, Council resolved:

“That the installation of Wi-Fi along Albany Highway be fully costed and investigated with a report being presented to Council in February 2012.”

The Notice of Motion moved by Councillor Vilaca suggested that the introduction of Wi-Fi service in Victoria Park had the potential to lift the productivity of people visiting and working in the Town and it would enhance the Victoria Park café strip as a place to socialise and do business.

Whilst a preliminary report was tabled at the Elected Member Briefing Session held on 7 February 2012, it was not included on the Ordinary Council Meeting (OCM) Agenda for the meeting to be held 14 February 2012 pending further research and costing information.

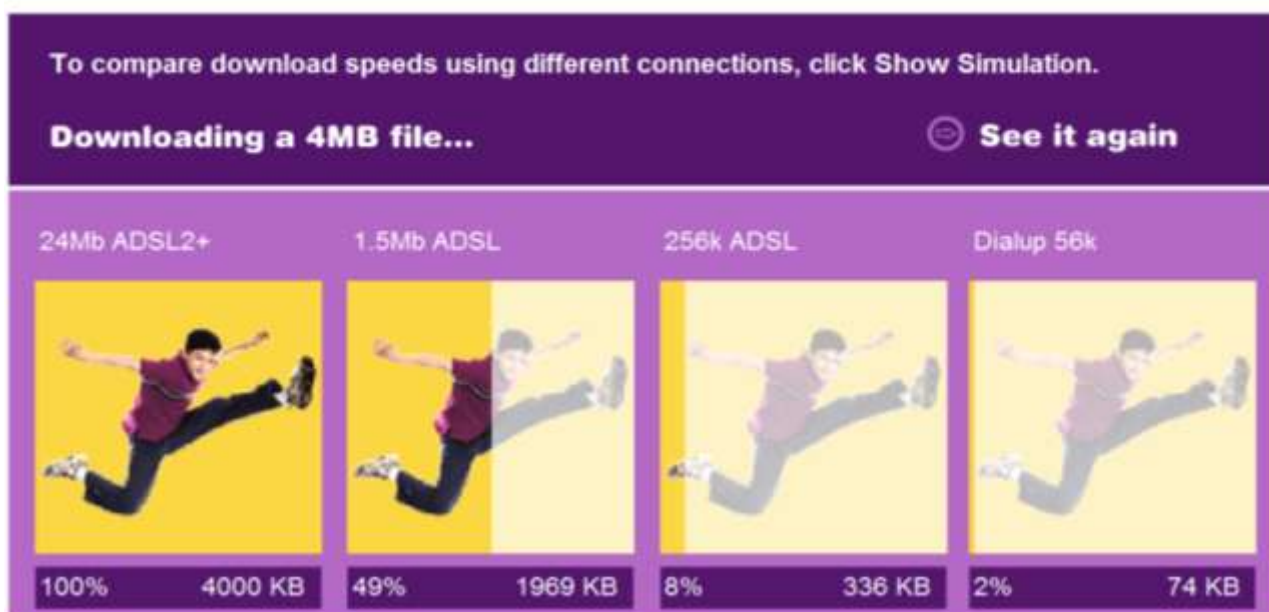
DETAILS:

The Administration has undertaken an investigation of the potential ways a Free Wi-Fi service could be delivered in the Albany Highway Commercial Districts. This included reviewing a number of other local governments that have implemented a similar service.

A preliminary cost indication was developed by obtaining quotes for both a high speed (100 Mbps) Wi-Fi service and a basic (256kbps) Wi-Fi service.

The link below demonstrates the speed at which a 4MB file (a common file size) is downloaded at both the high speed and 256kbps speeds.

<http://www.tpg.com.au/dslam/speeddemo.swf>



A high speed ADSL2+ user will see the image in less than 2 seconds while the basic 256 kbps user will be waiting more than two minutes to fully download the image and would not be able to access video or other streaming content.

Wi-Fi access in public places is one of the fastest growing venues for Wi-Fi consumption. Consumers are increasingly demanding the ability to access information and services ‘on the go at commercial wireless network speeds. The availability of smartphones and laptops with built-in Wi-Fi access is enabling people to change the way they work and access information outside the walls of the office or the home.

The future availability of the National Broadband Network along areas of Albany Highway in Victoria Park may further enhance the data speeds demonstrated above. As NBN co is not currently provisioning direct connections to non-addressed locations such as street lights, the Town would have to negotiate a connection from a business premise to the Wi-Fi wireless access points to deliver an NBN enabled service.

As local governments try to meet this growing demand, some have offered free or reduced Wi-Fi services using a variety of business models. However most of these attempts have not been sustainable in the long-term unless the service was subsidised by the council.

Many local governments are investigating the best business strategy to provide free wireless broadband service to residents and visitors in their communities without relying on rates to fund the venture.

Despite the challenges, offering limited Wi-Fi in public areas where people congregate would be beneficial to the residents and visitors to the area.

The provision of a council funded free Wi-Fi service will require the support of local business which already offer free Wi-Fi as a draw card to attract customers. Commercial broadband access suppliers may see a Council funded free Wi-Fi service as anti-competitive to their own businesses.

Quotes have been sourced based on based on a basic (256kbps) and high speed (100 Mbps) service level. Below are indicative costs to install approximately 15 wireless access points along areas of Albany Highway.

Wi-Fi Hotspot Data Rates	Upfront fee	Monthly Fee 24 m contract	Total
Basic 256 kbps (0.001 mbps)	\$40,000	\$2,930	\$110,320
High speed 100 mbps	NIL	\$9,400	\$225,600

What is the difference between Wi-Fi and Mobile Broadband (3G or 4G)?

3G and Wi-Fi are communication technologies that provide wireless internet access and services to users. 3G and wireless are commonly used by devices such as laptop computers, smartphones and PDAs, and other entertainment devices.

The major difference between Wi-Fi and 3G is the way they connect to the internet.

W-Fi connects to the internet through a wireless network and has a short range. You may have a private wireless network set up at home, its range depends on your vicinity to your computer router.

3G is a type of cellular network and connects to the internet where ever there is mobile phone service. This means its range is a lot wider than a wireless network. Costs to access the mobile broadband network would vary from person to person based on their personal preference and budget.

Unless the Free Wi-Fi service is at least as good as the commercial 3G wireless broadband services, people may choose not to use that service.



Cisco Wireless Access Point

Power Point

Fibre to Ethernet Converter

What does a Wireless Access Point look like? (above)

Pictured above, street light poles have been used to mount Wireless Access Points. Use of the street light poles along Albany Highway is dependant on Western Power granting the Town permission to use their assets for this purpose. In the event that the light poles are not available the alternative would be to seek an arrangement with a local business premise to connect to their NBN connection and mains power.

Funding Models to provide Free Wi-Fi

The following funding models could be considered as a means to fund Wi-Fi in designated areas of the Town.

1. Fully funded by Council;
2. Ad-supported business model, where consumers get free Wi-Fi access and in exchange are exposed to advertising which offsets the cost of providing service;
3. A sponsorship approach model to bring free Wi-Fi to parks and open spaces that incorporate wireless carriers and make them partners in the area. (ie allow them to display their logo as a partner of the initiative). Users will be directed to a landing page displaying partner logos; and
4. A combination of ad-supported, sponsorship and council support.

An ad-supported approach on its own may not be sustainable as online advertising is extremely cheap compared to other advertising mediums. The amount businesses are willing to spend advertising online is likely to fluctuate and not be a dependable source of income.

The reality is that the Wi-Fi user usually navigates away from advertising material as quickly as possible. They are also likely to become irritated by intrusive pop-up ads that prevent them from getting to the information they want. The challenge with the ad-supported model is that users might prefer the “Free Wi-Fi with purchase” service just to avoid the advertising.

In addition, most mobile devices, unless they are connected to mains power, have a limited battery life before they require recharging. A slow download service drains battery reserves making the device useless unless it can be recharged.

It may be preferable to enter into a 'sponsorship' agreement where logos and signage are displayed in public places.

An innovative 'place making' approach that takes advantage of the Town's assets, existing network facilities and private/public sector relationships could drive a successful free Wi-Fi deployment in open spaces. For example, a recent project in New York City has converted out dated payphones to Wi-Fi Hotspots.

The city's Department of Information Technology and Telecommunications (DoITT) has worked with Van Wagner and Titan, the advertising companies that work to provide the ads on the booths, to provide the service. Those companies have absorbed the cost of the project, including installation, management, and customer service; there is no additional cost to the city or to the public. And wireless capabilities won't replace the actual pay phones.



<http://abcnews.go.com/Technology/york-city-pay-phone-booths-now-free-wifi/story?id=16756016>

An Expression of Interest process with a more flexible approach could allow service providers to evaluate the provision of high speed (100 Mbps) Wi-Fi services in designated areas in the Town. While this approach may mean that some areas go uncovered it would give service providers the opportunity to build their business strategies around areas that are likely to provide them with a return on investment over time.

In addition to the Albany Highway commercial zones, other areas that might be attractive to service providers may include the McCallum Park Foreshore, including the skate park and basketball courts, the Town's club houses in active reserves, and open spaces such as Memorial Park and GO Edwards Park.

Case Studies - High Speed Wi-Fi Hotspots

City of Perth

There are a number of free Wi-Fi spots in the city, with some provided by the City of Perth in the Northbridge Piazza and Grand Lane, and others belonging to private businesses.

In March 2012, the Northbridge Piazza became the first public park in Australia to offer free fourth-generation Wi-Fi. The free service is available from 7am to 7pm. This initiative was partly sponsored by Vivid Wireless.

The City of Perth is currently in the process of preparing a tender to procure a Wi-Fi strategy for the CBD area. The roll-out, costing and funding of the service, as well as the number of Wi-Fi hotspots, would be part of the City's proposed Wi-Fi strategy. If approved by council, the strategy should be ready to roll out in the 2013-14 financial year.

Case Studies – Basic 256 kbps Wi-Fi Hotspots

July 2012, City of Joondalup

The City of Joondalup has recently introduced a Free Wi-Fi Zone covering the City Centre from Central Park in the South to Shenton Avenue in the North, from Lakeside Drive in the East to Mc Larty Avenue in the West.

This initiative is fully funded by the City of Joondalup and is being trialled on a 24 month contract.

March 2011, City of Fremantle

The free Fremantle Wi-Fi service FREBytes has been extended to the Moores building in Henry Street. FREBytes now covers Kings Square, High Street Mall, the Library, Fremantle Arts Centre, the Fishing Boat Harbour and the nearby Esplanade.

There are also a significant amount of private businesses offering free Wi-Fi as a draw card to attract customers.

The City of Fremantle is currently experiencing technical issues with the Free Wi-Fi service and is working with the service provider to restore access.

October 2010, City of Swan

The City of Swan together with its Chamber of Commerce and the Midland Redevelopment Authority launched a twelve month trial of free WI-FI with the aim of "Breathing life into the old part of Midland around the Town hall". The Chamber of Commerce operate the service with the City of Swan contributing part of the funding. The twelve month trial has not translated into an appreciable increase in traffic to the retail and café area.

The only technical difficulties experienced were in relation to interference from other WI-FI networks, which are growing and cannot be contained within a building. A decision has been made to extend the trial for a further twelve month period.

Legal Compliance:

As the indicative costs exceed \$100,000, a Tender and/or Expression of Interest process will be required to engage a suitable telecommunications provider.

Policy Implications:

Nil

Strategic Plan Implications:

The project is linked directly to vision of the Plan for the Future by reinforcing the theme of Vibrant Lifestyle as well as contributing to the mission of being Creative, Attractive, Friendly and Environmentally sustainable.

Financial Implications:

Internal Budget:

Wi-Fi Hotspot Data Rates	Upfront fee	Monthly Fee 24 m contract	Total
Basic 256 kbps	\$40,000	\$2,930	\$110,320
High speed 100 mbps	NIL	\$9,400	\$225,600

Total Asset Management

The chosen service supplier must supply, install and operate all the network equipment and the Town would need to negotiate the mounting of wireless access points to light poles or business premises along Albany Highway.

Sustainability Assessment:

External Economic Implications:

The provision of free Wi-Fi will improve the experience of visitors to designated areas in the Town by allowing them convenient access to the internet for business or personal use. It will provide opportunities for our local businesses to innovate new ways of attracting business and visitors to the area. It could also provide Council with valuable statistics about who is visiting the area and the purpose for their visit. This information can be used to develop tourism strategies at a regional, national and international level.

Social Issues:

Provision of Free Wi-Fi will create a new channel for Council to engage and communicate with the community. It is anticipated that Free Wi-Fi will have a positive impact on the use of public spaces, which along with the proposed marketing and communication items such as banners, footpath markers and lighting will enhance the feeling of sense of place and contribute to the area’s individual character.

There are a number of premises offering free WI-FI along Albany Highway. Some large franchises like Dome will continue to offer its own where a code is supplied with your coffee. The response from a few café/restaurant owners approached was similar to the City of Swan experience that owners are happy to have the service as long as it is secure and they don’t have to contribute significantly to the cost.

Cultural Issues:

Statistics gathered from the analytic data could enable Council to deliver multilingual information and services to new migrants and CALD (Culturally and Linguistically Diverse) members of the community.

Environmental Issues:

Energy consumption / efficiency of the system could be reduced by using renewable energy; solar options are available but have not been costed.

COMMENT:

As technology advances, users will be able to do more and more with their wireless devices. If the Town is to commit to a 24 month contract with a telecommunications provider, it would be preferable to connect a smaller area to a high speed (100 Mbps) service than to cover a large area with a basic service (256 kbps). As the Town will be the first metropolitan area to be connected to the National Broadband Network, the local user may have a higher expectation of data speeds than they would in the other local government areas (City of Swan, City of Fremantle and City of Joondalup) which have subscribed to the slower 256 kbps service. Users of the slower service have reported that the data speeds did not meet their expectations and they were also disappointed that they were not able to access streaming media sites like YouTube, iTunes or Skype.

CONCLUSION:

Free Wi-Fi is supported in principle as a possible means of stimulating economic, social and cultural benefits in the Town. An Expression of Interest process will be required to engage a suitable telecommunications provider that can provide a high speed Wi-Fi (100mbps) solution.

OFFICER RECOMMENDATION/S:

- 1. Council initiates a pilot project approach to provide a high speed Wi-Fi (100 Mbps) service in designated areas of the Town.**
- 2. Expressions of interest be sought from telecommunication providers to evaluate the most financially viable way for Council to deliver this service.**

15 APPLICATIONS FOR LEAVE OF ABSENCE

15.1 Councillor R (Rowena) Skinner, Banksia Ward, 22 September 2012 to 21 October 2012, inclusive

OFFICER RECOMMENDATION:

That leave of Absence for Councillor Rowena Skinner be approved from 22 September 2012 to 21 October 2012 inclusive.

16 MOTION OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

16.1 Notice of Motion – Councillor Potter - Amendment to Town Planning Scheme

Councillor Potter has requested the following Notice of Motion be considered by Council:

That Council's Urban Planning Business Unit present a report by no later than the October round of Council Meetings, to initiate an Amendment to Town Planning Scheme No. 1 to change the permissibility of 'Motor Vehicle Sales Premises' from 'AA' (discretionary) use to 'X' (prohibited) use in the Commercial zoned land known as 'Albany Highway Gateway' and 'Albany Highway Central' in Precinct P11 'Albany Highway Precinct'.

16.1.1 Report from Executive Manager Built Life – Notice of Motion Councillor Potter - Amendment to Town Planning Scheme

File Reference:	PLA0003/60
Appendices:	No

Date:	8 August 2012
Reporting Officer:	R. Cruickshank
Responsible Officer:	R. Cruickshank
Voting Requirement:	Simple Majority

Executive Summary:
Recommendation – That Council's Urban Planning Business Unit prepare a report to the October round of Council Meetings in accordance with the Notice of Motion from Councillor Potter.

TABLED ITEMS:

Nil

BACKGROUND:

Cr Potter has given notice that she intends to move the following motion:

"That Council's Urban Planning Business Unit present a report by no later than the October round of Council Meetings, to initiate an Amendment to Town Planning Scheme No. 1 to change the permissibility of 'Motor Vehicle Sales Premises' from 'AA' (discretionary) use to 'X' (prohibited) use in the Commercial zoned land known as 'Albany Highway Gateway' and 'Albany Highway Central' in Precinct P11 'Albany Highway Precinct'."

DETAILS:

Albany Highway from the Causeway to the intersection of Shepperton Road and Welshpool Road, is zoned either 'District Centre', 'Commercial' or 'Residential/Commercial'. The land use 'Motor Vehicle Sales Premises' is already an 'X' (prohibited) use in both the 'District Centre' zone and 'Residential/Commercial' zone. However 'Motor Vehicle Sales Premises' is an 'AA' discretionary use within the areas zoned 'Commercial', being the following areas:

- 'Albany Highway Gateway' being generally from the Causeway to the intersection of McMaster Street and Harvey Street; and
- 'Albany Highway Central' being generally from Temple Street to Sussex Street.

Particularly in the case of the area known as 'Albany Highway Gateway', the use of land for 'Motor Vehicle Sales Premises' is not consistent with the objectives outlined in the Town Planning Scheme for this area, including *"appropriate uses are offices and/or residential on upper levels, with ground level tenancies preferably occupied by uses such as banks, restaurants, local shops, cafes and lunch bars."*

Legal Compliance:

In accordance with the provisions of the Planning and Development Act 2005, an amendment to the Town's Town Planning Scheme No. 1 would need to be initiated to modify the Scheme to prohibit the use of Commercial zoned land for the purposes of Motor Vehicle Sales Premises. Should Council resolve to initiate an Amendment, then statutory processes would need to be followed including advertising of the proposal for public comments for a period of 42 days. Ultimately the Hon. Minister for Planning will be responsible for determining whether to approve the Scheme Amendment.

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:

The use of 'Commercial' zoned land along Albany Highway for the purposes of 'Motor Vehicle Sales Premises' is no longer considered to be a use that is consistent with Council's desire for Albany Highway to be an activated and vibrant street. There is merit in initiating a Town Planning Scheme Amendment as proposed in the Notice of Motion from Councillor Potter.

CONCLUSION:

Councillor Potter's Notice of Motion is supported by Council's Urban Planning Business Unit, and the presentation of a report to the October round of Council Meetings is achievable.

OFFICER RECOMMENDATION:

That Council's Urban Planning Business Unit present a report by no later than the October round of Council Meetings, to initiate an Amendment to Town Planning Scheme No. 1 to change the permissibility of 'Motor Vehicle Sales Premises' from 'AA' (discretionary) use to 'X' (prohibited) use in the Commercial zoned land known as 'Albany Highway Gateway' and 'Albany Highway Central' in Precinct P11 'Albany Highway Precinct'.

16.2 Notice of Motion – Councillor Potter - Amalgamation of 42 Freehold Lots Comprising Raphael Park.

“That Administration progress the amalgamation of the 42 freehold lots comprising Raphael Park into a single freehold lot.”

16.2.1 Report from Administration – Notice of Motion- Cr Potter, Amalgamation of 42 Freehold Lots Comprising Raphael Park.

File Reference:	RES0026
Appendices:	No

Date:	08 August 2012
Reporting Officer:	T. McCarthy
Responsible Officer:	A. Vuleta
Voting Requirement:	Simple Majority

<p>Executive Summary: Recommendation – Administration progress the amalgamation of the 42 freehold lots comprising Raphael Park into a single freehold lot.</p> <ul style="list-style-type: none"> • Cr Potter intends to move a notice of motion requesting the Administration to progress the amalgamation of the 42 freehold lots comprising Raphael Park into a single freehold lot. • The Administration believes this is an appropriate action to take, but is not of high priority. • The estimated cost of amalgamating the 42 lots is \$10,000. • The project has not been allowed for in the current budget and could be carried out in the current financial year if funds can be sourced from savings in other areas of the budget. 	
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TABLED ITEMS:

- Registrar’s caveat over the subject land.

BACKGROUND:

Cr Potter has given notice that she intends to move that the Council adopt the following:

“That Administration progress the amalgamation of the 42 freehold lots comprising Raphael Park into a single freehold lot.”

DETAILS:

The intent of the Notice of Motion is to progress the amalgamation of the 42 freehold lots comprising Raphael Park into a single freehold lot. All 42 lots are currently owned in fee simple by the Town on two separate Certificates of Title, Volume 391 Folio 92 and Volume 406 Folio 58. There is a Registrar’s caveat registered on both Certificates of Title requiring the land to be used for the recreation of the people. The caveat was originally lodged by the City of Perth in 1941 when it declared that the City of Perth holds the said lands in trust for the purpose of recreation for the people, and that the said lands should be held for all time for such purpose.

Legal Compliance:

Amalgamation of lots can be carried out only by a licensed surveyor, and must be approved by the Western Australian Planning Commission before a new Certificate of Title can be issued for the proposed new single lot.

The Registrar's caveat must be removed from the existing Certificates of Title and would be registered on the new Certificate of Title before the new Certificate of Title is issued.

Policy Implications:

Nil

Strategic Plan Implications:

Nil

Financial Implications:Internal Budget:

A licensed surveyor has provided advice that the estimated cost to amalgamate the lots would be \$8,000. In addition, there would be legal fees of approximately \$2,000 to remove the registrar's caveat from the existing Certificates of Title and register the caveat on the new Certificate of Title. This total estimated cost of \$10,000 would require refinement when quotes to carry out the work are obtained.

Total Asset Management:

Nil

Sustainability Assessment:External Economic Implications:

Nil

Social Issues:

Nil

Cultural Issues:

Nil

Environmental Issues:

Nil

COMMENT:

The Administration is of the opinion that amalgamation of the separate freehold lots into a single amalgamated lot is a desirable objective. It has not been previously considered as a priority, as there is a financial cost involved and there is no clear benefit in carrying out the amalgamation. The land is protected by Registrar of Titles caveat, and would continue to be protected by the same caveat following amalgamation. The land is held in fee simple and is always hypothetically subject to taking by a government authority, although extremely unlikely, for a public work. Whether the land is held in the current form of 42 separate lots, or as a single amalgamated lot, would make no difference to whether a portion of it could potentially be taken by a government authority for a public work.

When any subdivision or amalgamation of lots occurs, the proposal is forwarded to public utility authorities and the local government for comment. Those authorities and the local government have the opportunity at that time to impose conditions on the proposal and those conditions, unless challenged and overturned or modified, must then be met by the proponent before the subdivision or amalgamation is given final approval by the Western Australian Planning Commission. In this instance, the Town would be expected to impose a condition that land be ceded free of cost for the truncating of each corner of the amalgamated lot. The truncations will each be 6m x 6m and would result in a nett loss of 72m² of land for dedication as road reserve. Additionally, Western Power may require excision of some portions of land for dedication as road reserve for the purpose of siting ground level transformers. The Water Corporation would require an easement to be registered on the Certificate of Title in order to protect its interests over the existing sewer main that traverses the land.

The amalgamation of the lots will afford no additional protection to the land being preserved in trust for the purpose of recreation for the people. The existing caveat provides that protection. Land cannot be dealt on (sold) whilst there is a caveat registered on the Certificate of Title. The Registrar of Titles will not remove the caveat unless there is compelling reason to do so, and any proposed dealing on the land would not be a compelling reason as the caveat is registered to prevent that occurring. The Registrar of Titles will remove the caveat to allow the lots to be amalgamated, provided that it is immediately re-registered on the new Certificate of Title for the single amalgamated lot prior to issue of the new Certificate of Title to the registered owner of the land.

CONCLUSION:

Amalgamation of the separate freehold lots into a single amalgamated lot is a desirable objective, but there is no clearly identified benefit to the Town in carrying out the amalgamation. The estimated cost of \$10,000 carrying out the amalgamation has not been included in the current budget. The amalgamation could be carried out in the current financial year if savings in other areas can be achieved. If funding is not available in the current financial year, the project could be considered for inclusion in the 2013/2014 budget.

OFFICER RECOMMENDATION/S:

- 1. The Administration progress the amalgamation of the 42 freehold lots comprising Raphael Park into a single freehold lot.**
- 2. The amalgamation of the 42 freehold lots comprising Raphael Park into a single freehold lot be carried out in the current financial year if the estimated cost of \$10,000 can be sourced from savings in other areas of the budget, or allocated subsequent to the annual budget review.**
- 3. If funds to carry out the amalgamation are not available in the 2012/2013 financial year, the project to be considered for inclusion in the draft 2013/2014 budget.**



16.3 Notice of Motion – Councillor Potter – Active Reserve Fees

The council remove the following fee from the 2012/13 schedule of fees and charges.

"Reserve Hire for Sports Carnivals, inter school tournaments, inter school Sport (within the town) per event".

Any invoices that have been sent are to be withdrawn and fees paid should be refunded.

I am aware that local government is not in the business of providing sports grounds for schools however, our schools are in a different situation to most in other councils, in that they for the most part don't have any playing fields on site, and we have a history of working together with them. I for one would hate to see this partnership fall over.

REASON:

Schools have previously used reserves free of charges and as such have not budgeted for this fee.

16.3.1 Developing a Principled Approach to Active Reserve Fees and Charges

File Reference:	CMS0058
Appendices:	No

Date:	8 July 2012
Reporting Officer:	J. Thomas
Responsible Officer:	T. Ackerman
Voting Requirement:	Simple Majority

Executive Summary:	
Recommendation – The Town remove reserve hire charges listed in the 2012/13 Budget for school sports carnivals and consider hire by schools as part of a broader review to establish a principled approach to the setting of fees and charges for reserves.	

TABLED ITEMS:

- Correspondence sent to all schools within the Town advising of the introduction of a sports carnival fee 12 July 2012.

BACKGROUND:

The Town of Victoria Park has not previously charged schools for the use of its parks and reserves for general activities, sports training or special events such as carnivals. A new fee was introduced this financial year for sports carnivals and tournaments.

The Town was advised on 6 August 2012 by Cr Potter of the intention to move a motion at Council on 14 August 2012 to remove the newly introduced charges for school carnivals.

The purpose of this report is to consider a course of action regarding the request to withdraw the carnival fee listed on the budget.

DETAILS:

In the preparation of the fees and charges schedule for 2012/13, the Administration proposed a new reserve hire fee of \$220 (schools within the Town) or \$330 (schools outside the Town) for sports carnivals and interschool tournaments.

The purpose of the fee was to promote a level of cost recovery for special events that heightened wear and tear to the reserve, both by participants and spectators. The fee was deemed reasonable (in most cases less than \$1 per child). The Administration considered it upheld a strong position in supporting junior participation by ensuring general use by schools remained free of charge throughout the term. There were also several interschool tournaments where the majority of students benefitting from the free hire were from outside the Town.

The Council supported the new carnival fee through its 2012/13 Budget deliberations, with the Schedule of Fees and Charges being endorsed at the 12 June 2012 Ordinary Council Meeting. At the beginning of July 2012 a letter was sent to all local schools (tabled) advising them of the new charges.

Since 1 July 2012, officers have taken reserve bookings for school carnivals and invoiced schools consistent with the fees and charges endorsed by Council. To date, a total of five carnival bookings have been processed (equating to \$1,100 including GST).

On 7 August 2012, the Administration was advised by Cr Potter of the intention to move the following motion at Council on 14 August 2012:

"The Council remove the following fee from the 2012/13 schedule of fees and charges - Reserve hire for Sports Carnivals, inter school tournaments, inter school Sport (within the Town) per event".

It included a notation that any invoices already sent be withdrawn and any fees paid should be refunded. Information provided suggested school staff and parents are upset by the introduction of the charge. It was noted that part of the concern was due to the schools already setting their school budgets for the year. The potential to postpone the introduction of the fee to the new calendar year to assist the schools to budget appropriately was considered but not a preferred option.

It was noted that the Chief Executive Officer has delegated authority to provide a 10% discount should a school communicate undue hardship given that notification of the fee was part-way through the school year after school budgets were established.

The Administration has proposed to remove the reserve hire fee from the 2012/13 Budget for carnivals and tournaments for schools located within the Town of Victoria Park. Consequently, existing bookings will have their invoices cancelled or refunds arranged. Administration would ensure that all schools are notified of the change.

It is planned to address the fees for school carnivals as part of a broader review into the charges for all hirers of sporting fields. The setting of fees and charges is a complex issue, especially given the often competing priorities of Council and a wide variety of user groups. It is acknowledged that the existing reserve hire fee schedule is lacking a guiding set of principles underpinning the amounts listed.

The Administration propose to review all charges associated with active reserve hire, developing a principled approach to establishing fees and charges in preparation for 2013/14 Budget. The review will commence in 2012 and include consultation with Elected Members, local governments in the south east metropolitan region, Department of Sport and Recreation, seasonal sporting clubs, schools and other regular user groups such as group fitness businesses.

Legal Compliance:

If the amendment was to be introduced effective immediately consideration would need to be given to the *Local Government Act 1995* in relation to the setting of fees as follows:

Section 6.16. Imposition of fees and charges

- (1) A local government may impose* and recover a fee or charge for any goods or service it provides or proposes to provide, other than a service for which a service charge is imposed.
* Absolute majority required.
- (2) A fee or charge may be imposed for the following —
 - (a) providing the use of, or allowing admission to, any property or facility wholly or partly owned, controlled, managed or maintained by the local government;
 - (b) supplying a service or carrying out work at the request of a person;
 - (c) subject to section 5.94, providing information from local government records;
 - (d) receiving an application for approval, granting an approval, making an inspection and issuing a licence, permit, authorisation or certificate;
 - (e) supplying goods; and
 - (f) such other service as may be prescribed.
- (3) Fees and charges are to be imposed when adopting the annual budget but may be —
 - (a) imposed* during a financial year; and
 - (b) amended* from time to time during a financial year.* Absolute majority required.

Section 6.19. Local government to give notice of fees and charges

If a local government wishes to impose any fees or charges under this Subdivision after the annual budget has been adopted it must, before introducing the fees or charges, give local public notice of —

- (a) its intention to do so; and
- (b) the date from which it is proposed the fees or charges will be imposed.

Policy Implications:

Nil

Strategic Plan Implications:

The project is consistent with several objectives across Program areas in the Town's *Plan for the Future 2011-2026*:

- We will connect people to services, resources, information, facilities and experiences that enhance their physical and social well-being.
- We will effectively manage, maintain and renew the Town's assets.
- To improve the economic vitality of the Town while maintaining the principles of sustainability.

Financial Implications:Internal Budget:

The Town budgeted to receive approximately \$2,000 in revenue attributed to the introduction of a school sports carnival fee. Withdrawing the school carnival fee would not see this amount realised. The shortfall in revenue will be addressed in the midyear budget review in February 2012.

Total Asset Management:

Nil

Sustainability Assessment:External Economic Implications:

Nil

Social Issues:

The Town has a social responsibility to encourage junior participation in sport to promote physical activity and all the benefits that can be associated with this for individuals and the wider community. The Town has many different avenues for promoting active junior participation (most recently the introduction of KidSport). The waiving of fees for reserve hire for special events such as school carnivals could be considered above the general level of necessary community provision, especially as it core business for the State Government through Department of Education.

Cultural Issues:

Nil

Environmental Issues:

Nil

COMMENT:

It is considered that addressing the issue of school sports carnival fees in isolation of charges to other reserve user groups would continue an ad-hoc approach to the setting of fees charges without the solid foundation of a clear philosophy or position by Council.

It would be prudent to review all fees and charges associated with active reserve hire, including school carnivals, seasonal sporting clubs, personal trainers, clubroom hire, floodlighting, casual hire, juniors and out of season charges.

It is deemed the most advantageous course of action would be to develop a principle-based approach to the setting and evaluating of fees and charges for sporting fields and associated amenities. This investigation would include consultation with stakeholders to develop guiding principles upon which to set fees (such as a combination of cost recovery and discounts for specific target groups like juniors).

In the meantime, it would be practicable to withdraw the carnival fees for schools located within the Town of Victoria Park and retain the \$330 fee for schools outside the Town. The financial impact of this decision in terms of lost revenue is minimal.

CONCLUSION:

The proposal to withdraw the school carnival fees for the current financial year is suitable whilst a principled approach to active reserve fees and charges is being developed.

OFFICER RECOMMENDATION/S:

1. **The Town remove the charges listed in the 2012/13 Budget for the hire of reserves for school sports carnivals, interschool tournaments and interschool sport for schools within the Town only;**
2. **The Town cancel invoices currently outstanding for any bookings taken this year for carnivals and organise refunds accordingly; and**
3. **Charges to schools for carnivals and other activities be considered in context of developing a broader principled approach to establishing fees and charges for all hirers of parks and reserves.**

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 Item 10.2 – Chief Executive Officer Performance Review

21.1.2 Item 11.10 – 232 Orrong Road, Carlisle

21.2 Public Reading of Resolutions That May be Made Public

22 CLOSURE



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

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

Name & Position	
Meeting Date	
Item No/Subject	
Nature of Interest	Financial Interest* <i>(*Delete where not applicable)</i> Interest that may affect impartiality*
Extent of Interest	
Signature	
Date	

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”.